



MEETING DATE: 1/20/04
ITEM NO. 10

COUNCIL AGENDA REPORT

DATE: January 15, 2004

TO: MAYOR AND TOWN COUNCIL

FROM: ORRY P. KORB, TOWN ATTORNEY *ok*

SUBJECT: ADOPT RESOLUTION GRANTING AN APPEAL OF A DECISION OF THE PLANNING COMMISSION OF A DECISION OF THE PLANNING COMMISSION DECISION TO DENY APPLICATIONS TO REMOVE THE EXISTING RESERVOIR AND FACILITIES AND TO APPROVE A FOUR LOT SUBDIVISION NO PROPERTY ZONED R-1:20. NO SIGNIFICANT ENVIRONMENTAL IMPACTS HAVE BEEN IDENTIFIED AS A RESULT OF THIS PROJECT AND A MITIGATED NEGATIVE DECLARATION IS RECOMMENDED. ARCHITECTURE & SITE APPLICATION: S-01-77. SUBDIVISION APPLICATION: M-01-013. NEGATIVE DECLARATION: ND-01-11. PROPERTY LOCATION: RESERVOIR ROAD. PROPERTY OWNER/APPLICANT/APPELLANT: SAN JOSE WATER COMPANY

RECOMMENDATION:

Adopt resolution confirming Council action on January 5, 2004.

DISCUSSION:

On December 15, 2003, Council granted the appeal of a decision of the Planning Commission concerning the property at Reservoir Road. The resolution was considered for final adoption on January 5, 2004, at which time Council commented on the proposed conditions of approval. Pursuant to those comments, staff revised the Subdivision and Architecture and Site Conditions of Approval (Exhibits A and B to the attached resolution) concerning transportation and traffic measures, plan review and issuance of permits, the permit replacement of trees, the import of fill, and a weekly neighborhood e-mail notification program to provide project status updates. The changes appear in bold on the conditions of approval. The resolution has not been changed.

Attachments: Resolution

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

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Reviewed by: *[Signature]* Town Manager *PSJ* Assistant Town Manager _____ Clerk
_____ Finance _____ Community Development

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MAYOR AND TOWN COUNCIL

SUBJECT: PROPERTY LOCATION: RESERVOIR ROAD. PROPERTY OWNER/APPLICANT/APPELLANT:
SAN JOSE WATER COMPANY

January 15, 2004

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RESOLUTION

RESOLUTION GRANTING AN APPEAL OF A PLANNING COMMISSION DECISION TO DENY APPLICATIONS TO REMOVE THE EXISTING RESERVOIR AND FACILITIES AND TO APPROVE A FOUR LOT SUBDIVISION ON PROPERTY ZONED R-1:20. NO SIGNIFICANT ENVIRONMENTAL IMPACTS HAVE BEEN IDENTIFIED AS A RESULT OF THIS PROJECT AND A MITIGATED NEGATIVE DECLARATION IS RECOMMENDED

ARCHITECTURE & SITE APPLICATION: S-01-77

SUBDIVISION APPLICATION: M-01-013

NEGATIVE DECLARATION: ND-01-11

PROPERTY LOCATION: RESERVOIR ROAD

PROPERTY OWNER / APPLICANT / APPELLANT: SAN JOSE WATER COMPANY

WHEREAS:

A. This matter came before Council for public hearing on December 15, 2003, on an appeal by San Jose Water Company (appellant) from a decision of the Planning Commission and was regularly noticed in conformance with State and Town law.

B. Council received testimony and documentary evidence from the appellant and all interested persons who wished to testify or submit documents. Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Reports dated August 14, 2003, August 15, 2003, November 26, 2003, December 10, 2003, Desk Items dated August 18, 2003 and December 1, 2003, and Addendum dated December 12, 2003, along with subsequent reports and materials prepared concerning this application.

C. The applicant is seeking Architecture and Site approval to remove an existing pre-1941 gunite-lined reservoir and the related facilities. The applicant is also seeking to subdivide the 2.6 acre property into four lots.

D. On August 18, 2003, the Town Council considered an appeal of the Planning Commission's decision and the matter was continued to the November 17, 2003 meeting. The matter was again continued to December 1, 2003, to allow the applicant and Town staff to complete the analysis of issues raised by the

Council at the August 18, 2003 meeting. At the neighbors request, Council continued the hearing to December 15, 2003, to allow time to review and respond to the December 1, 2003 staff report.

E. The appellants allege that the Planning Commission erred or abused its discretion and that the decision was not based on evidence in the record.

F. Council finds as follows:

1. Pursuant to Town Code section 29.20.300, this application raised issues of the sanitary sewer alternative alignments, soil import volume, traffic impacts to the neighborhood and business community and, consequently, required interpretation of policies over which the Planning Commission did not have the discretion to modify or address, but which are vested with Council for modification or decision.

2. Pursuant to Town Code Section 29.20.150, the considerations for approval of Architectural and Site applications have been made.

3. Pursuant to Town Code section 29.20.09030(c) and 29.10.09030(e), the considerations for demolition of the existing historical reservoir have been made.

4. Pursuant to the Town's In-Fill Policy, the proposed reclamation of the abandoned reservoir and a four lot subdivision demonstrates a strong community benefit in that it removes an existing surplus reservoir facility that is an eyesore and potential health and safety hazard and will restore the site to more natural soil contour, shall provide improved fire, sanitary sewer and storm drainage infrastructure, shall provide traffic controls, and shall contribute to the further development of the surrounding neighborhood by allowing a residential development that is consistent with all existing Town planning rules and policies.

5. The proposed reclamation of the abandoned reservoir and a four lot subdivision are consistent with the Town's General Plan and Hillside Specific Plan ("HSP"), including, but not limited to, land use goals and policies to recognize property rights and provide housing in a manner that will not adversely affect the mountain environment (HSP 1.2 and 1.3), which are guaranteed here by allowing a residential

subdivision that is consistent with all existing land use rules and policies and that minimizes grading and tree removal; land use implementation policies regarding traffic, energy, the preservation of privacy and safety of area residents and residential densities (HSP 1.4); facilities and services goals and policies regarding adequate services, especially water (HSP 2.2), which are to be constructed new ; circulation goals and policies for the design of hillside roads and driveways to be in harmony with the topography and ecology of the area (HSP 3.2, 3.3, and 3.4), all of which are to comply with Town and Fire Department standards, while also minimizing grading and tree removal; open space goals and policies for the preservation of trees (HSP 4.3 and 4.4), in that the removal of trees shall be limited by the location of building pads in the least effected area of each parcel; and safety goals and policies, specifically concerning adequate water for fire protection and suppression (HSP 5.2, 5.3, and 5.4).

RESOLVED:

1. The appeal of the decision of the Planning Commission on Architecture and Site Application S-01-77, Negative Declaration ND-01-11, Subdivision Application M-01-13 is granted.
2. Revised Conditions of Approval for the Subdivision Application and Architecture and Site Application, are attached hereto as Exhibit A and Exhibit B, and are applied to these Applications. The revised Conditions of Approval incorporate the following:
 - A. Attachment 44 of the report dated December 1, 2003 shall be used to guide the review of future Architecture and Site applications with an emphasis on preserving as many trees as possible and limiting the building envelopes and footprints of future homes.
 - B. The demolition of the reservoir and site remediation shall occur in two phases. Staff shall require the work to be phased to provide strategic delays and breaks to minimize disruption to residents and businesses. Staff will carefully identify windows of opportunity when work will create the least impace on residents and businesses.

3. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by Section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure Section 1094.6, or such shorter time as required by state or federal law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California held on the day of , 2003 by the following vote.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST

CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

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CONDITIONS OF APPROVAL FOR THE SUBDIVISION APPLICATION

Reservoir Road

Subdivision Application M-01-13

Negative Declaration ND-01-11

Requesting approval of plans to remove the existing reservoir and facilities and a four lot subdivision on property zoned R-1:20. No significant environmental impacts have been identified as a result of this project and a Mitigated Negative Declaration is recommended. **PROPERTY OWNER/APPLICANT: San Jose Water Company**

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT

(Planning Section):

1. **APPROVAL EXPIRATION:** Zoning approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the application is vested.
2. **APPROVAL.** This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved and noted as Exhibit KKK in the report to the Planning Commission dated June 18, 2003. Any changes or modifications made to the approved plans **are subject to review and approval** by the Director of Community Development or the Planning Commission **or Town Council**, depending on the scope of the change(s). **Any change that will result in the import of fill exceeding 4,000 cubic yards will require Town Council approval.**
3. ***MITIGATION#1(AESTHETICS):** Subsequent to reservoir removal and prior to acceptance of the subdivision improvements, landscape trees and shrubs shall be planted along the site perimeter to allow landscaping to mature prior to future home development. This would help maximize visual screening of new homes when they are ultimately constructed. The selection and location of landscape trees and shrubs shall be subject to review and approval by the Town as part of the tree removal process, not future Architecture and Site approvals for individual homes.
4. **REPLACEMENT TREES: 24" box trees shall be planted for mitigation unless other sizes are deemed appropriate by the Consulting Arborist and the Director of Community Development.**
5. ***MITIGATION #3(BIOLOGICAL RESOURCES):** The project applicant (as part of the Tree Removal Permit application) and future homeowners (as part of future Architecture and Site review for each home) shall be required to replace trees that are proposed to be removed with native tree species and also include planting of native understory species to increase habitat value of the site.
6. ***MITIGATION #4(BIOLOGICAL RESOURCES):** During construction of the proposed project and future homes, all 18 recommendations contained in the report by Barrie D. Coate and Associates (dated November 5, 2001) for the proposed project (included in Attachment 2 of the Initial Study) shall be required in order to minimize potential damage to trees that are proposed to be retained. These recommendations shall be supplemented and revised as per the Town Arborist's recommendations (included in Attachment 2 of the Initial Study).
7. ***MITIGATION #5(BIOLOGICAL RESOURCES):** To minimize the potential for damage to

trees that are proposed to be retained, tree protection zones shall be established around trees identified by Barrie D. Coate and Associates (dated June 27, 2002) with setback clearances also specified in that report (included as Attachment 2 of the Initial Study). Project construction as well as future home design and construction shall avoid these zones.

8. *MITIGATION #6(CULTURAL RESOURCES): Demolition of the reservoir shall be monitored by a qualified historical consultant to study the history of the construction and profile the basin soils.
9. *MITIGATION #7(CULTURAL RESOURCES): Photodocumentation shall be conducted as the cover is removed and the framework is dismantled. This written and photographic record of construction techniques should be placed in the Los Gatos History Museum.
10. *MITIGATION #8(CULTURAL RESOURCES): The rock walls and stairway shall be preserved for possible incorporation into future residential development. Where the walls are in disrepair, the remnants shall be incorporated into future landscaping or be made into an element for an entryway into the subdivision.
11. *MITIGATION #12(HAZARDS AND HAZARDOUS MATERIALS): After the existing reservoir is removed, soils below the reservoir shall be tested for the presence of chlorine or chlorine byproducts. These soils shall be tested prior to the commencement of the fill operation and remediated as necessary.
12. COMMUNITY BENEFIT. The applicant shall enter into an agreement with the Town for provision of the community benefits being offered with the project (Removing an attractive nuisance; Improve fire infrastructure; Improve Sanitary sewer infrastructure; and Improve storm drainage infrastructure; and Traffic controls). The agreement shall include details on the timing and implementation of each item and shall be approved by the Town Attorney and the Director of Community Development prior to issuance of any building permits for the project.
13. FUTURE ARCHITECTURE AND SITE APPROVALS: The trees to be removed and building envelopes shown on Attachment 44 of the Town Council Report dated December 1, 2003 shall be used **along with the compact disc recordings of the December 15, 2003 and January 5, 2004 Council meetings to guide** future Architecture and Site approvals. **This includes the use of foundation systems that cause the least impact to trees and grading activities such as pier and grade beam foundation systems.**
14. **TREE #90: Reasonable efforts shall be made to save this tree until the future Architecture and Site application for Lot 3 is filed, at which time the tree will be re-evaluated by the Town's Consulting Arborist. Final disposition of this tree shall be made by the Planning Commission or Town Council during the Architecture and Site application review for Lot 3.**

TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS:

(Engineering Division):

15. DEVELOPMENT AGREEMENT. The Applicant shall enter an agreement to construct public improvements in accordance with Town Code §24.40.020.
16. SECURITY AND FEES. The Applicant shall provide all security and pay all fees prior to issuance of any permit or recordation of the Final Map.

17. **PUBLIC IMPROVEMENT SECURITY.** The applicant shall supply suitable securities for all public improvements that are a part of the development in a form acceptable to the Town in the amount of 100% (performance) and 100% (labor and material) prior to issuance of any permit. Applicant shall provide two (2) copies of documents verifying the cost of the public improvements to the satisfaction of the Engineering Division of the Parks and Public Works Department.
18. **PRIVATE IMPROVEMENT SECURITY.** The applicant shall supply suitable securities for all private site improvements that are a part of the development in a form acceptable to the Town in the amount of 100% (performance) and 100% (labor and material) prior to issuance of any permit. Applicant shall provide two (2) copies of documents verifying the cost of the private improvements to the satisfaction of the Engineering Division of the Parks and Public Works Department.
19. **INSURANCE.** One million dollars (\$1,000,000) of liability insurance holding the Town harmless shall be provided in a format acceptable to the Town Attorney before recordation of the Final Map.
20. **TRAFFIC IMPACT MITIGATION FEE (RESIDENTIAL).** The developer shall pay a proportional the project's share of transportation improvements needed to serve cumulative development within the Town of Los Gatos. The fee amount will be based upon the Town Council resolution in effect at the time the request of Certificate of Occupancy is made. The fee shall be paid before issuance of the Certificate of Occupancy. The traffic impact mitigation fee for this project using the current fee schedule is \$5,730 per house. The final fee shall be calculated from the final plans using the rate schedule in effect at the time of the request for a Certificate of Occupancy.
21. **PLAN CHECK FEES.** Plan check fees shall be deposited with the Town prior to submittal of plans to the Engineering Division of the Parks and Public Works Department.
22. **INSPECTION FEES.** Inspection fees shall be deposited with the Town prior to issuance of any Permit or recordation of the Final Map.
23. **PARCEL MAP.** A parcel map shall be recorded prior to issuance of any permit. Two copies of the parcel map shall be submitted to the Engineering Division of the Parks & Public Works Department for review and approval. Submittal shall include closure calculations, title reports, all backup documents and appropriate fee.
24. **DEDICATIONS.** The following shall be dedicated on the parcel map. The dedication shall be recorded before any permits are issued.
 1. Reservoir Road. A 20-foot half-street right-of-way.
 2. Public Service Easement (PSE). Ten (10) feet wide, next to the new street right-of-way and the Reservoir Road right-of-way.
 3. Ingress-egress, storm drainage, overland release, and sanitary sewer easements, as required.
25. **PRIVATE EASEMENTS.** Agreements detailing rights, limitations, and responsibilities of involved parties shall accompany each private easement. The easements and associated agreements shall be recorded simultaneously with the final map.
26. **PUBLIC IMPROVEMENTS.** The Applicant shall install the following improvements. Plans

for those improvements shall be prepared by a California registered civil engineer, reviewed and approved by the Town, and guaranteed by contract, Faithful Performance Security and Labor & Materials Security before the issuance of a building permit or the recordation of a map. The improvements must be completed and accepted by the Town before a Certificate of Occupancy for any new building can be issued.

1. Reservoir Road. Curb, storm drain, storm drain inlets, street lights, and energy dissipater as required. The Engineering Division of the Parks and Public Works Department shall determine improvement limits. Improvements shall be provided at the intersection of Reservoir Road and Prospect Avenue to insure that the public right of way overland release remains in the right of way. No overland release through the project site will be allowed. The applicant shall also remove existing lights from power poles and provide Town standard lights on the opposite side of the street.

Note: Rolled curb and gutter shall be provided rather than vertical curb wherever feasible. No sidewalk shall be provided.

27. UTILITY SERVICE. The Applicant shall submit letters from all project utility service providers stating their willingness to serve the project and their approval of easements and maintenance access prior to recordation of a Final Map. This shall include West Valley Sanitary District's approval of the line relocated out of the 10 Reservoir Road property **in accordance with Alternative F as referenced in the Council report for the meeting on December 1, 2003.**
28. GRADING PERMIT. Multiple grading permits are required. The initial permit shall address rough grading for both the public street and private lots. Subsequent permits shall address fine grading of the private lots. Separate grading permit applications (independent of Building Permits) shall be made to the Engineering Division of the Parks & Public Works Department. Grading plans shall include final grading, drainage retaining wall location, driveway, utilities and interim erosion control. Unless specifically allowed by the Director of Parks and Public Works, the grading permit will be issued concurrently with the building permit. Retaining wall construction requires a Building Permit.
29. *MITIGATION #9(GEOLOGY AND SOILS): The project design shall incorporate all applicable recommendations in ENGeo's geotechnical investigations (September, 2001; May, 2002) for the proposed project (included as Attachment 3 of the Initial Study) in order to minimize the potential impacts resulting from regional seismic activity and soil engineering constraints. Prior to the issuance of permit(s), ENGeo shall review the final plans to ensure that designs for foundations, retaining walls, site grading, and site drainage are in accordance with their recommendations, and provide a plan review letter to the Town.
30. *MITIGATION #10(GEOLOGY AND SOILS): If oversteepened, undocumented fill slopes of the existing fill embankment are to remain, ENGeo shall confirm that future failures will not pose a hazard to the proposed development or off-site areas and that the proposed building envelopes lie entirely within areas of acceptable stability by current standards. Depending on the grading concept ultimately developed, ENGeo shall depict either a setback line or an acceptable building envelope if substantial existing fill is to remain. If proposed building

envelopes vary from those indicated on the current site plan (July, 2002), and tree removals and building setbacks from trees to be retained vary from those identified in this Initial Study, the arborist report should be revised accordingly and reviewed by the Town Arborist.

31. *MITIGATION #11(GEOLOGY AND SOILS): During construction, all excavations and grading shall be inspected by ENGEO prior to placement of concrete and/or backfill so they can verify that actual conditions are as anticipated in the design-level geotechnical report, and recommend appropriate changes in the recommendations contained in that report, if necessary. Once the reservoir is removed and any additional subsurface exploration is needed to establish the depth of the competent bedrock, a better estimate of the amount of import material (**Maximum of 4,000 cubic yards**) should be made and the Town Traffic Engineer shall verify that the truck traffic mitigation measures in this Initial Study are still appropriate. The results of the construction observation and testing should be documented in an "as-built" letter/report prepared by ENGEO and submitted to the Town before final approval is granted.
32. GRADING AND IMPROVEMENT PLANS. Multiple plan sets will be required. The first plan set shall address rough grading, backbone infrastructure, and off-site improvements. Subsequent plans shall address individual lot development. Initial plans shall reflect all public and quasi-public improvements needed to serve the project including, but not limited to: rough grading for both the road and private lot pads, the public road improvements, public storm drain and sanitary sewer improvements including stubs to private lots, water, joint trench, street lights, signing, striping, and off-site improvements. Private pad rough grading shall include winterization improvements. Subsequent plans shall include private improvement required for individual lot development such as fine grading, driveway and landscape paving, and private utilities. A civil engineer licensed in the State of California shall prepare the plans. The Applicant's soils engineer shall also sign a statement on the plans indicating his review and approval.

An over-excavation plan shall be included in the grading plan drawing set. The plan shall reflect keyway locations, widths, and depths, subdrain layout and size, and remedial grading required to mitigate differential settlement and soft soils issues.

33. EROSION CONTROL. Final erosion control plans shall be prepared and submitted to the Engineering Division of the Parks & Public Works Department as part of each grading permit submittal. Erosion control plans shall be prepared by a civil engineer licensed in the State of California and shall be approved by the Applicant's Soils Engineer prior to submittal to the Town. Locations of recommended Best Management Practices shall be shown on the plans. A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the San Francisco Bay Regional Water Quality Control Board. The Applicant shall submit interim erosion control plans for Town approval by September 1st and shall implement the approved plan by October 15th. Winter grading erosion control plans shall detail precautions proposed to meet the statutes of the Clean Water Act. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on an area if grading is allowed to go on during the rainy season. In addition, straw bales and plastic sheeting shall be stored on-site for emergency control, if needed.
34. NONPOINT SOURCE POLLUTION PREVENTION. Site stormwater discharge shall comply

with Provision C.3, New and Redevelopment Performance Standards of Order No. 01-024 of the NPDES permit program. Filtration devices shall be required in catch basins or a grease/oil separator shall be required at the project's downstream most inlet. Roof rainwater leaders shall be discharged onto energy dissipaters (splash blocks) that are designed to spread the flow so that it enters the landscaping as sheet flow.

35. **SANITARY SEWER LATERAL.** Any existing sanitary sewer lateral proposed for reuse must be televised by West Valley Sanitation District and approved by the Town before reuse. A sanitary sewer lateral cleanout shall be installed at the property line, if one does not already exist within two (2) feet of the property line.
36. **TREE PROTECTION.** Prior to issuance of a Grading Permit, protective fences shall be constructed at the dripline of any tree to remain. The Town Arborist shall approve all protective fencing. Any trenching with the dripline of a tree to remain shall be hand dug and so noted on the plans.
37. **TREE REMOVAL.** A tree removal permit shall be obtained prior to issuance of a Grading Permit.
38. **UNDERGROUNDING.** The Applicant shall construct all utilities serving the site, including telephone, electric power and all other communications lines underground as required by Town Code §27.50.015(b). Cable television capability shall be provided to all new lots.
39. **SUBDRAINS.** Subdrains and associated outfalls shall be shown on the plans. Subdrain cleanouts shall be provided with an approximate 300-foot spacing and at bends. Cleanouts shall be placed within the public right of way where possible or maintenance access easements shall be provided. Subdrain as-built plans shall be submitted to the Town prior to release of bonds. Removable screening shall be provided at subdrain outfalls to prevent rodent intrusion into the pipe.
40. **EXISTING WELLS.** Pursuant to Santa Clara Valley water District Ordinance 75-6, the owner shall show any existing well(s) on the plans. Register well(s) with the District and maintain or abandon them following District standards. Improperly constructed or abandoned wells can be hazards and may be a source of ground water contamination. Wells shall be sealed according to District standards unless they are used for the proposed development, after proper testing and inspection. Call the Santa Clara Valley Water District at 265-2600, Extension 380, for information regarding permits and the registering of or abandonment of any wells. The Applicant shall provide written confirmation regarding the existence of any wells and their proposed disposition prior to issuance of a Grading Permit.
41. **GENERAL.** All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according

to this condition may result in the Town performing the required maintenance at the developer's expense.

42. **ENCROACHMENT PERMIT.** All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security.
43. **PUBLIC WORKS INSPECTOR.** The applicant shall fund a full time public works inspector for the duration of the demolition and grading operations. The applicant will be charged on a time and materials basis. A deposit for the full amount, to be estimated by the Town based on the Contractor's approved schedule, shall be paid prior to issuance of the demolition permit.
44. **PUBLIC WORKS INSPECTIONS.** The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting any work pertaining to on-site drainage facilities, grading or paving, and all work in the Town's right-of-way. Failure to do so will result in rejection of work that occurred without inspection.
45. **GRADING INSPECTIONS.** The soils engineer or her/his qualified representative shall continuously inspect all grading operations. The soils engineer shall submit a final grading report before occupancy/Certificate of Completion.
46. **SURVEYING CONTROLS.** Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer qualified to practice land surveying, for the following items:
 1. Retaining wall--top of wall elevations and locations
 2. Toe and top of cut and fill slopes
 3. Top of curb
47. **DUST CONTROL.** Blowing dust shall be reduced by timing construction activities so that paving and building construction begin as soon as possible after completion of grading, and by landscaping disturbed soils as soon as possible. Further, water trucks shall be present and in use at the construction site. All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the Town, or a minimum of three times daily in order to insure proper control of blowing dust for the duration of the project. Watering on public streets shall not occur. Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the Town Engineer, or at least once a day. Watering associated with on-site construction activity shall take place between the hours of 8 a.m. and 5 p.m. and shall include at least one late-afternoon watering to minimize the effects of blowing dust. All public streets soiled or littered due to this construction activity shall be cleaned and swept on a daily basis during the workweek to the satisfaction of the Town.
48. ***MITIGATION #2(AIR QUALITY):** Demolition or earthwork activities shall be halted when wind speeds (instantaneous gusts) exceed 25 MPH. All trucks hauling soil, sand, or other loose debris shall be covered.
49. **SILT AND MUD IN PUBLIC RIGHT-OF-WAY.** It is the responsibility of the Applicant's contractor to remove all dirt tracked into the public right-of-way on a daily basis. Mud, silt, concrete and other construction debris **SHALL NOT** be washed into the Town's storm drains.

50. **RESTORATION OF PUBLIC IMPROVEMENTS.** The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.
51. **DESIGN CHANGES.** The Applicant's registered Engineer shall notify the Town Engineer, in writing, at least 72 hours in advance of all differences between the proposed work and the design indicated on the plans. Any proposed changes shall be subject to the approval of the Town before altered work is started. Any approved changes shall be incorporated into the final "as-built" drawings.
52. **AS-BUILT PLANS.** After completion of the construction of all work in the public right-of-way or public easements, the original plans shall have all changes (change orders and field changes) clearly marked. The "as-built" plans shall again be signed and "wet-stamped" by the civil engineer who prepared the plans, attesting to the changes. The original "as-built" plans shall be review and approved the Engineering Construction Inspector. A Mylar of the approved "as-built" plans shall be provided to the Town before the Faithful Performance Security is released.
53. **SITE SECURITY.** Prior to commencement of any site work or the introduction of any earth moving equipment or building materials onto the site, the applicant shall insure that a temporary fence constructed of materials and located to the satisfaction of the Director of Community Development has been constructed. This fence shall be in place as approved until the Director of Community Development shall allow it to be removed or changed. The fence may only be expanded or contracted in size upon approval of the Director of Community Development. Failure to adhere to this condition of approval shall result in the permit being brought to the Planning Commission for its review and introduction of stricter site and building construction regulations.
54. **PRECONSTRUCTION MEETING.** Prior to issuance of any permit or the commencement of any site work, the general contractor shall:
 1. Along with the project applicant, attend a pre-construction meeting with the Town Engineer to discuss the project conditions of approval, working hours, site maintenance and other construction matters;
 2. Acknowledge in writing that they have read and understand the project conditions of approval, and will make certain that all project sub-contractors have read and understand them prior to commencing work and that a copy of the project conditions of approval will be posted on site at all times during construction.
55. **EARTH MOVEMENT PLAN.** Prior to issuance of a Grading Permit, the applicant shall develop an earth movement and management program under the supervision of a licensed soils engineer for review and approval by the Engineering Division of the Department of Parks and Public

Works.

56. CONSTRUCTION MANAGEMENT PLAN. The Applicant shall submit a construction management plan that shall incorporate at a minimum the Earth Movement Plan, Traffic Control Plan, Project Schedule, site security fencing, employee parking, construction staging area, construction trailer, and proposed outhouse locations.
57. GOOD HOUSEKEEPING. Good housekeeping practices shall be observed at all times during the course of construction. Superintendence of construction shall be diligently performed by a person or persons authorized to do so at all times during working hours. The storing of goods and/or materials on the sidewalk and/or the street will not be allowed unless a special permit is issued by the Engineering Division.
58. SITE SUPERVISION. The General Contractor shall provide qualified supervision on the job site at all times during construction.
59. *MITIGATION #13(TRANSPORTATION AND TRAFFIC): Prior to the issuance of the building permit, the project applicant and the Town will complete a pavement condition survey documenting the extent of existing pavement defects using a 35-mm camera. In addition, a pavement deflection analysis will be performed to determine pavement strength. This analysis may indicate which streets can better withstand the traffic with minimal damage. After project construction, the project applicant and the Town will conduct another pavement condition survey and pavement deflection analysis to determine whether any road damage occurred as a result of project construction and whether there were any changes in pavement strength. Using State of California analysis procedures for deflection analysis, the rehabilitation requirements of the pavement before and after heavy usage can be determined. The project applicant will be responsible for completing any required road repairs prior to acceptance of the subdivision improvements.
60. PRECONSTRUCTION PAVEMENT SURVEY. Prior to issuance of a Grading Permit, the project Applicant shall complete a pavement condition survey documenting the extent of existing pavement defects using a 35-mm or digital video camera. The survey shall extend the full length of Prospect and College Avenues as well as Reservoir Road. In addition, a pavement deflection analysis conforming to the same limits as the photographic survey shall be performed to determine pavement strength. The results shall be documented in a report and submitted to the Town for review.
61. POSTCONSTRUCTION PAVEMENT SURVEY. The project Applicant will complete a pavement condition survey and pavement deflection analysis to determine whether road damage occurred as a result of project construction and whether there were changes in pavement strength. Rehabilitation improvements required to restore the pavement to pre-construction condition and strength shall be determined using State of California procedures for deflection analysis. The results shall be documented in a report and submitted to the Town for review and approval. The Applicant shall be responsible for completing any required road repairs prior to release of the faithful performance bond.
62. *MITIGATION #14(TRANSPORTATION AND TRAFFIC): The project sponsor will be

required to work with the Engineering Division of the Parks and Public Works Department to develop a traffic control plan for incorporation into the construction bid documents (specifications), and this plan will include, but not be limited to, the following measures:

- **Construction activities shall be strategically timed and coordinated to minimize traffic disruption for schools, residents, businesses, and special events. The schools located on the haul route shall be contacted to help with the coordination of the trucking operation to minimize traffic disruption.**
- Flag persons shall be placed at locations necessary to control one-way traffic flow on College Avenue, Prospect Avenue, and Reservoir Road. All flag persons shall have the capability of communicating with each other to coordinate the operation.
- Prior to construction, advance notification of all affected residents and emergency services shall be made regarding one-way operation, specifying dates and hours of operation.
- All construction traffic shall not exceed the speed of 15 MPH. Trucks moving downhill on Reservoir Road shall be restricted to 3 MPH and shall use their lowest gears.
- Trucks shall use the on- and off-ramps on SR 9 to access the SR 17 Freeway. Trucks shall not use the ramps on Santa Cruz Avenue to access the SR 17 Freeway for any reason. If necessary, trucks could use ramps on Lark Avenue to access this freeway.

63. DESIGN SPEED. The new driveways shall be designed for a minimum 25 MPH design speed. Deviations from this design speed may be authorized by the Town Engineer if the Applicant's civil engineer provides written documentation that implementation of this criteria would result in environmental impacts not addressed in the project Negative Declaration. The Applicant shall also design intersection improvements to ensure 25 MPH sight distances are provided at the intersection of Reservoir Road with the new driveways.

64. SIGHT DISTANCE AT LOT 1 DRIVEWAY. A deed restriction shall be recorded on Lot 1 to limit planting within the 20 MPH view corridor. Specific planting height and placement restrictions will be determined by the Town traffic engineer at the time of Lot 1 Architectural and Site Review. Minor grading shall be provided adjacent to tree numbers 1 and 2, and the driveway shall be raised as needed to allow a 20 MPH sight distance with up to a 2-foot high groundcover within the view corridor. The applicant shall work with the Town arborist to determine the grading constraints.

65. STORM DRAINAGE. A civil engineer licensed in the State of California shall prepare hydrologic and hydraulic calculations. Hydraulic calculations shall be based on the 10-year storm with no surcharge, and the 100-year storm with 1-foot of freeboard. The calculations shall address pipe size, inlet size and spacing, energy dissipater size, rock riprap gradation and pad size, overland release channel section, and any surface drainage swale sizing. Should calculations show that the two existing inlets proposed for re-use near the intersection of Reservoir Road and Prospect Avenue are inadequate, the Applicant shall provide new inlets of adequate size. Overland releases shall be protected by a hardened surface approved by the Town and the project soils engineer. Storm drain pipe shall be HDPE. Manhole locations shall be adjusted when final

- grading plans are prepared. The overland release easement over Lot 1 shall be private. Additionally, the Joint Aquatic Resource Permit Application (JARPA) process must be completed or letters must be provided from the agencies in JARPA stating that their review is not required.
66. **UTILITY TRENCHES.** The Applicant's soils engineer shall develop recommendations, subject to Town Engineer review and approval, for trench cutoff walls and diversion of surface water for utility trenches with longitudinal slopes greater than 10-percent.
67. **UTILITY SETBACKS.** House foundations shall be set back from utility lines a sufficient distance to allow excavation of the utility without undermining the house foundation. The Town Engineer shall determine the appropriate setback based on the depth of the utility, input from the project soils engineer, and the type of foundation.
68. **UTILITY EASEMENTS.** Deed restrictions shall be placed on lots containing utility easements. The deed restrictions shall specify that no trees, fences, or hardscape are allowed within the easement boundaries, and that maintenance access must be provided. The Town will prepare the deed language and the Applicant's surveyor shall prepare the legal description and plat. The Applicant shall pay any recordation costs.
69. **MAINTENANCE ACCESS.** The applicant shall propose maintenance access improvements for the Town Engineer to review, comment on, and approve. The Engineering Division shall approve the surface materials over each public easement.
- 70. NEIGHBORHOOD CONSTRUCTION COMMUNICATION PLAN:** The applicant shall initiate a weekly neighborhood e-mail notification program to provide project status updates. The e-mail notices will also be posted on a bulletin board placed in a prominent location along the project perimeter.
- 71. PLAN REVIEW:** The applicant shall arrange a neighborhood meeting to present the proposed design for each application (reclamation, grading, and landscape). The meeting(s) shall occur after the Town has had an opportunity to review the plans. The applicant shall provide a designated neighborhood representative with a plan set at the meeting. The neighborhood representative shall schedule a meeting with the Town and applicant within 10-working days of receipt of the plans to discuss questions and present comments. Additional plan review and meetings will be conducted as deemed appropriate by the Director of Parks and Public Works.
- 72. PERMIT ISSUANCE:** Permits for each phase; reclamation, landscape, and grading, shall be issued simultaneously.
- 73. COVERED TRUCKS:** All trucks transporting materials to and from the site shall be covered.

* Required Mitigation Measure of the Negative Declaration for this project.

Reservoir Road / M-01-13, ND-01-11

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CONDITIONS OF APPROVAL FOR THE ARCHITECTURE AND SITE APPLICATION

Reservoir Road

Architecture and Site Application S-01-77

Negative Declaration ND-01-11

Requesting approval of plans to remove the existing reservoir and facilities and a four lot subdivision on property zoned R-1:20. No significant environmental impacts have been identified as a result of this project and a Mitigated Negative Declaration is recommended.

PROPERTY OWNER/APPLICANT: San Jose Water Company

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT

(Planning Section):

1. **APPROVAL EXPIRATION:** Zoning approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the application is vested.
2. **APPROVAL.** This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved and noted as Exhibit LLL in the report to the Planning Commission dated June 18, 2003. However, a maximum of 4,000 cubic yards of fill is approved as illustrated in Attachment 44 of the Town Council Report dated December 1, 2003. Any minor changes or modifications made to the approved plans **are subject to review and approval** by the Director of Community Development other changes will be approved by the Planning Commission or **Town Council**, depending on the scope of the change(s). **Any change that will result in the import of fill exceeding 4,000 cubic yards will require Town Council approval.**
3. **TREE REMOVAL PERMIT:** A Tree Removal Permit shall be obtained for any trees proposed for removal prior to the issuance of a Building or Encroachment Permit.
4. ***MITIGATION#1(AESTHETICS):** Subsequent to reservoir removal and prior to acceptance of the subdivision improvements, landscape trees and shrubs shall be planted along the site perimeter to allow landscaping to mature prior to future home development. This would help maximize visual screening of new homes when they are ultimately constructed. The selection and location of landscape trees and shrubs shall be subject to review and approval by the Town as part of the tree removal process, not future Architecture and Site approvals for individual homes.
5. **REPLACEMENT TREES: 24" box trees shall be planted for mitigation unless other sizes are deemed appropriate by the Consulting Arborist and the Director of Community Development.**
6. ***MITIGATION #3(BIOLOGICAL RESOURCES):** The project applicant (as part of the Tree Removal Permit application) and future homeowners (as part of future Architecture and Site review for each home) shall be required to replace trees that are proposed to be removed with native tree species and also include planting of native understory species to increase habitat value of the site.
7. ***MITIGATION #4(BIOLOGICAL RESOURCES):** During construction of the proposed project and future homes, all 18 recommendations contained in the report by Barrie D. Coate and

Associates (dated November 5, 2001) for the proposed project (included in Attachment 2 of the Initial Study) shall be required in order to minimize potential damage to trees that are proposed to be retained. These recommendations shall be supplemented and revised as per the Town Arborist's recommendations (included in Attachment 2 of the Initial Study).

8. *MITIGATION #5(BIOLOGICAL RESOURCES): To minimize the potential for damage to trees that are proposed to be retained, tree protection zones shall be established around trees identified by Barrie D. Coate and Associates (dated June 27, 2002) with setback clearances also specified in that report (included as Attachment 2 of the Initial Study). Project construction as well as future home design and construction shall avoid these zones.
9. *MITIGATION #6(CULTURAL RESOURCES): Demolition of the reservoir shall be monitored by a qualified historical consultant to study the history of the construction and profile the basin soils.
10. *MITIGATION #7(CULTURAL RESOURCES): Photodocumentation shall be conducted as the cover is removed and the framework is dismantled. This written and photographic record of construction techniques should be placed in the Los Gatos History Museum.
11. *MITIGATION #8(CULTURAL RESOURCES): The rock walls and stairway shall be preserved for possible incorporation into future residential development. Where the walls are in disrepair, the remnants shall be incorporated into future landscaping or be made into an element for an entryway into the subdivision.
12. *MITIGATION #12(HAZARDS AND HAZARDOUS MATERIALS): After the existing reservoir is removed, soils below the reservoir shall be tested for the presence of chlorine or chlorine byproducts. These soils shall be tested prior to the commencement of the fill operation and remediated as necessary.
13. COMMUNITY BENEFIT. The applicant shall enter into an agreement with the Town for provision of the community benefits being offered with the project (Removing an attractive nuisance; Improve fire infrastructure; Improve Sanitary sewer infrastructure; and Improve storm drainage infrastructure; and Traffic controls). The agreement shall include details on the timing and implementation of each item and shall be approved by the Town Attorney and the Director of Community Development prior to issuance of any building permits for the project.
14. DEMOLITION AND FILL OPERATIONS: The demolition of the existing reservoir and the fill/**reclamation** operation shall be divided into two separate components.
15. NOTIFICATION: The neighbors and merchants along the entire truck route shall be notified at least 30 days in advance of both the demolition and fill operations. The neighbors and merchants shall be notified three separate times 30, 20, and 10 days prior to the beginning of both the demolition and fill operations.
16. **TREE #90: Reasonable efforts shall be made to save this tree until the future Architecture and Site application for Lot 3 is filed, at which time the tree will be re-evaluated by the Town's Consulting Arborist. Final disposition of this tree shall be made by the Planning Commission or Town Council during the Architecture and Site application review for Lot 3.**

(Building Department):

17. PERMITS REQUIRED: A demolition permit shall be required for each structure to be

removed.

18. **CONSTRUCTION PLANS:** The Conditions of Approval shall be stated in full on the cover sheet of construction plan submitted for building permit.
19. **SIZE OF PLANS:** The maximum size of construction plans submitted for building permits shall be 24 in. X 36 in.
20. **PLANS:** The construction plans for this project shall be prepared under direct supervision of a licensed architect or engineer. (Business and Professionals Code Section 5538)
21. **DEMOLITION REQUIREMENTS:** Contact Bay Area Air Quality Management District (415-771-6000) and complete their process as necessary before obtaining a building permit for demolition of such work from the Town Building Division/. As part of the permit application process two (2) site plans shall be provided to include all existing structures, existing utility service lines such as water, sewer and P.G. & E.
22. **SPECIAL INSPECTIONS:** When a special inspection is required by UBC Section 1701, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the Building Permits, in accordance with UBC Section 106.3.5. Please obtain Town Special Inspection form from the Building Department Service Counter. The Town Special Inspection schedule shall be blue-lined on the construction plans.

TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS:

(Engineering Division):

23. **DEVELOPMENT AGREEMENT.** The Applicant shall enter an agreement to construct public improvements in accordance with Town Code §24.40.020.
24. **SECURITY AND FEES.** The Applicant shall provide all security and pay all fees prior to issuance of any permit or recordation of the Final Map.
25. **PUBLIC IMPROVEMENT SECURITY.** The applicant shall supply suitable securities for all public improvements that are a part of the development in a form acceptable to the Town in the amount of 100% (performance) and 100% (labor and material) prior to issuance of any permit. Applicant shall provide two (2) copies of documents verifying the cost of the public improvements to the satisfaction of the Engineering Division of the Parks and Public Works Department.
26. **PRIVATE IMPROVEMENT SECURITY.** The applicant shall supply suitable securities for all private site improvements that are a part of the development in a form acceptable to the Town in the amount of 100% (performance) and 100% (labor and material) prior to issuance of any permit. Applicant shall provide two (2) copies of documents verifying the cost of the private improvements to the satisfaction of the Engineering Division of the Parks and Public Works Department.
27. **INSURANCE.** One million dollars (\$1,000,000) of liability insurance holding the Town harmless shall be provided in a format acceptable to the Town Attorney before recordation of the Final Map.
28. **TRAFFIC IMPACT MITIGATION FEE (RESIDENTIAL).** The developer shall pay a proportional the project's share of transportation improvements needed to serve cumulative

development within the Town of Los Gatos. The fee amount will be based upon the Town Council resolution in effect at the time the request of Certificate of Occupancy is made. The fee shall be paid before issuance of the Certificate of Occupancy. The traffic impact mitigation fee for this project using the current fee schedule is \$5,730 per house. The final fee shall be calculated from the final plans using the rate schedule in effect at the time of the request for a Certificate of Occupancy.

29. **PLAN CHECK FEES.** Plan check fees shall be deposited with the Town prior to submittal of plans to the Engineering Division of the Parks and Public Works Department.
30. **INSPECTION FEES.** Inspection fees shall be deposited with the Town prior to issuance of any Permit or recordation of the Final Map.
31. **PARCEL MAP.** A parcel map shall be recorded prior to issuance of any permit. Two copies of the parcel map shall be submitted to the Engineering Division of the Parks & Public Works Department for review and approval. Submittal shall include closure calculations, title reports, all backup documents and appropriate fee.
32. **DEDICATIONS.** The following shall be dedicated on the parcel map. The dedication shall be recorded before any permits are issued.
 1. Reservoir Road. A 20-foot half-street right-of-way.
 2. Public Service Easement (PSE). Ten (10) feet wide, next to the new street right-of-way and the Reservoir Road right-of-way.
 3. Ingress-egress, storm drainage, overland release, and sanitary sewer easements, as required.
33. **PRIVATE EASEMENTS.** Agreements detailing rights, limitations, and responsibilities of involved parties shall accompany each private easement. The easements and associated agreements shall be recorded simultaneously with the final map.
34. **PUBLIC IMPROVEMENTS.** The Applicant shall install the following improvements. Plans for those improvements shall be prepared by a California registered civil engineer, reviewed and approved by the Town, and guaranteed by contract, Faithful Performance Security and Labor & Materials Security before the issuance of a building permit or the recordation of a map. The improvements must be completed and accepted by the Town before a Certificate of Occupancy for any new building can be issued.
 1. Reservoir Road. Curb, storm drain, storm drain inlets, street lights, and energy dissipater as required. The Engineering Division of the Parks and Public Works Department shall determine improvement limits. Improvements shall be provided at the intersection of Reservoir Road and Prospect Avenue to insure that the public right of way overland release remains in the right of way. No overland release through the project site will be allowed. The applicant shall also remove existing lights from power poles and provide Town standard lights on the opposite side of the street.

Note: Rolled curb and gutter shall be provided rather than vertical curb wherever feasible. No sidewalk shall be provided.
35. **UTILITY SERVICE.** The Applicant shall submit letters from all project utility service providers

stating their willingness to serve the project and their approval of easements and maintenance access prior to recordation of a Final Map. This shall include West Valley Sanitary District's approval of the line relocated out of the 10 Reservoir Road property **in accordance with Alternative F as referenced in the Council report for the meeting on December 1, 2003.**

36. GRADING PERMIT. Multiple grading permits are required. The initial permit shall address rough grading for both the public street and private lots. Subsequent permits shall address fine grading of the private lots. Separate grading permit applications (independent of Building Permits) shall be made to the Engineering Division of the Parks & Public Works Department. Grading plans shall include final grading, drainage retaining wall location, driveway, utilities and interim erosion control. Unless specifically allowed by the Director of Parks and Public Works, the grading permit will be issued concurrently with the building permit. Retaining wall construction requires a Building Permit.
37. *MITIGATION #9(GEOLOGY AND SOILS): The project design shall incorporate all applicable recommendations in ENGEO's geotechnical investigations (September, 2001; May, 2002) for the proposed project (included as Attachment 3 of the Initial Study) in order to minimize the potential impacts resulting from regional seismic activity and soil engineering constraints. Prior to the issuance of permit(s), ENGEO shall review the final plans to ensure that designs for foundations, retaining walls, site grading, and site drainage are in accordance with their recommendations, and provide a plan review letter to the Town.
38. *MITIGATION #10(GEOLOGY AND SOILS): If oversteepened, undocumented fill slopes of the existing fill embankment are to remain, ENGEO shall confirm that future failures will not pose a hazard to the proposed development or off-site areas and that the proposed building envelopes lie entirely within areas of acceptable stability by current standards. Depending on the grading concept ultimately developed, ENGEO shall depict either a setback line or an acceptable building envelope if substantial existing fill is to remain. If proposed building envelopes vary from those indicated on the current site plan (July, 2002), and tree removals and building setbacks from trees to be retained vary from those identified in this Initial Study, the arborist report should be revised accordingly and reviewed by the Town Arborist.
39. *MITIGATION #11(GEOLOGY AND SOILS): During construction, all excavations and grading shall be inspected by ENGEO prior to placement of concrete and/or backfill so they can verify that actual conditions are as anticipated in the design-level geotechnical report, and recommend appropriate changes in the recommendations contained in that report, if necessary. Once the reservoir is removed and any additional subsurface exploration is needed to establish the depth of the competent bedrock, a better estimate of the amount of import material (**Maximum of 4,000 cubic yards**) should be made and the Town Traffic Engineer shall verify that the truck traffic mitigation measures in this Initial Study are still appropriate. The results of the construction observation and testing should be documented in an "as-built" letter/report prepared by ENGEO and submitted to the Town before final approval is granted.
40. GRADING AND IMPROVEMENT PLANS. Multiple plan sets will be required. The first plan set shall address rough grading, backbone infrastructure, and off-site improvements. Subsequent plans shall address individual lot development. Initial plans shall reflect all public and quasi-

public improvements needed to serve the project including, but not limited to: rough grading for both the road and private lot pads, the public road improvements, public storm drain and sanitary sewer improvements including stubs to private lots, water, joint trench, street lights, signing, striping, and off-site improvements. Private pad rough grading shall include winterization improvements. Subsequent plans shall include private improvement required for individual lot development such as fine grading, driveway and landscape paving, and private utilities. A civil engineer licensed in the State of California shall prepare the plans. The Applicant's soils engineer shall also sign a statement on the plans indicating his review and approval.

An over-excavation plan shall be included in the grading plan drawing set. The plan shall reflect keyway locations, widths, and depths, subdrain layout and size, and remedial grading required to mitigate differential settlement and soft soils issues.

41. **EROSION CONTROL.** Final erosion control plans shall be prepared and submitted to the Engineering Division of the Parks & Public Works Department as part of each grading permit submittal. Erosion control plans shall be prepared by a civil engineer licensed in the State of California and shall be approved by the Applicant's Soils Engineer prior to submittal to the Town. Locations of recommended Best Management Practices shall be shown on the plans. A Notice of Intent (NOD) and Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the San Francisco Bay Regional Water Quality Control Board. The Applicant shall submit interim erosion control plans for Town approval by September 1st and shall implement the approved plan by October 15th. Winter grading erosion control plans shall detail precautions proposed to meet the statutes of the Clean Water Act. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on an area if grading is allowed to go on during the rainy season. In addition, straw bales and plastic sheeting shall be stored on-site for emergency control, if needed.
42. **NONPOINT SOURCE POLLUTION PREVENTION.** Site stormwater discharge shall comply with Provision C.3, New and Redevelopment Performance Standards of Order No. 01-024 of the NPDES permit program. Filtration devices shall be required in catch basins or a grease/oil separator shall be required at the project's downstream most inlet. Roof rainwater leaders shall be discharged onto energy dissipaters (splash blocks) that are designed to spread the flow so that it enters the landscaping as sheet flow.
43. **SANITARY SEWER LATERAL.** Any existing sanitary sewer lateral proposed for reuse must be televised by West Valley Sanitation District and approved by the Town before reuse. A sanitary sewer lateral cleanout shall be installed at the property line, if one does not already exist within two (2) feet of the property line.
44. **TREE PROTECTION.** Prior to issuance of a Grading Permit, protective fences shall be constructed at the dripline of any tree to remain. The Town Arborist shall approve all protective fencing. Any trenching with the dripline of a tree to remain shall be hand dug and so noted on the plans.
45. **TREE REMOVAL.** A tree removal permit shall be obtained prior to issuance of a Grading Permit.

46. **UNDERGROUNDING.** The Applicant shall construct all utilities serving the site, including telephone, electric power and all other communications lines underground as required by Town Code §27.50.015(b). Cable television capability shall be provided to all new lots.
47. **SUBDRAINS.** Subdrains and associated outfalls shall be shown on the plans. Subdrain cleanouts shall be provided with an approximate 300-foot spacing and at bends. Cleanouts shall be placed within the public right of way where possible or maintenance access easements shall be provided. Subdrain as-built plans shall be submitted to the Town prior to release of bonds. Removable screening shall be provided at subdrain outfalls to prevent rodent intrusion into the pipe.
48. **EXISTING WELLS.** Pursuant to Santa Clara Valley water District Ordinance 75-6, the owner shall show any existing well(s) on the plans. Register well(s) with the District and maintain or abandon them following District standards. Improperly constructed or abandoned wells can be hazards and may be a source of ground water contamination. Wells shall be sealed according to District standards unless they are used for the proposed development, after proper testing and inspection. Call the Santa Clara Valley Water District at 265-2600, Extension 380, for information regarding permits and the registering of or abandonment of any wells. The Applicant shall provide written confirmation regarding the existence of any wells and their proposed disposition prior to issuance of a Grading Permit.
49. **GENERAL.** All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.
50. **ENCROACHMENT PERMIT.** All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security.
51. **PUBLIC WORKS INSPECTOR.** The applicant shall fund a full time public works inspector for the duration of the demolition and grading operations. The applicant will be charged on a time and materials basis. A deposit for the full amount, to be estimated by the Town based on the Contractor's approved schedule, shall be paid prior to issuance of the demolition permit.
52. **PUBLIC WORKS INSPECTIONS.** The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting any work pertaining to on-site drainage facilities, grading or paving, and all work in the Town's right-of-way. Failure to do so will result in rejection of work that occurred without inspection.
53. **GRADING INSPECTIONS.** The soils engineer or her/his qualified representative shall continuously inspect all grading operations. The soils engineer shall submit a final grading report before occupancy/Certificate of Completion.

54. **SURVEYING CONTROLS.** Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer qualified to practice land surveying, for the following items:
1. Retaining wall--top of wall elevations and locations
 2. Toe and top of cut and fill slopes
 3. Top of curb
55. **DUST CONTROL.** Blowing dust shall be reduced by timing construction activities so that paving and building construction begin as soon as possible after completion of grading, and by landscaping disturbed soils as soon as possible. Further, water trucks shall be present and in use at the construction site. All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the Town, or a minimum of three times daily in order to insure proper control of blowing dust for the duration of the project. Watering on public streets shall not occur. Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the Town Engineer, or at least once a day. Watering associated with on-site construction activity shall take place between the hours of 8 a.m. and 5 p.m. and shall include at least one late-afternoon watering to minimize the effects of blowing dust. All public streets soiled or littered due to this construction activity shall be cleaned and swept on a daily basis during the workweek to the satisfaction of the Town.
56. ***MITIGATION #2(AIR QUALITY):** Demolition or earthwork activities shall be halted when wind speeds (instantaneous gusts) exceed 25 MPH. All trucks hauling soil, sand, or other loose debris shall be covered.
57. **SILT AND MUD IN PUBLIC RIGHT-OF-WAY.** It is the responsibility of the Applicant's contractor to remove all dirt tracked into the public right-of-way on a daily basis. Mud, silt, concrete and other construction debris SHALL NOT be washed into the Town's storm drains.
58. **RESTORATION OF PUBLIC IMPROVEMENTS.** The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.
59. **DESIGN CHANGES.** The Applicant's registered Engineer shall notify the Town Engineer, in writing, at least 72 hours in advance of all differences between the proposed work and the design indicated on the plans. Any proposed changes shall be subject to the approval of the Town before altered work is started. Any approved changes shall be incorporated into the final "as-built" drawings.
60. **AS-BUILT PLANS.** After completion of the construction of all work in the public right-of-way or public easements, the original plans shall have all changes (change orders and field changes)

clearly marked. The "as-built" plans shall again be signed and "wet-stamped" by the civil engineer who prepared the plans, attesting to the changes. The original "as-built" plans shall be review and approved the Engineering Construction Inspector. A Mylar of the approved "as-built" plans shall be provided to the Town before the Faithful Performance Security is released.

61. **SITE SECURITY.** Prior to commencement of any site work or the introduction of any earth moving equipment or building materials onto the site, the applicant shall insure that a temporary fence constructed of materials and located to the satisfaction of the Director of Community Development has been constructed. This fence shall be in place as approved until the Director of Community Development shall allow it to be removed or changed. The fence may only be expanded or contracted in size upon approval of the Director of Community Development. Failure to adhere to this condition of approval shall result in the permit being brought to the Planning Commission for its review and introduction of stricter site and building construction regulations.
62. **PRECONSTRUCTION MEETING.** Prior to issuance of any permit or the commencement of any site work, the general contractor shall:
 1. Along with the project applicant, attend a pre-construction meeting with the Town Engineer to discuss the project conditions of approval, working hours, site maintenance and other construction matters;
 2. Acknowledge in writing that they have read and understand the project conditions of approval, and will make certain that all project sub-contractors have read and understand them prior to commencing work and that a copy of the project conditions of approval will be posted on site at all times during construction.
63. **EARTH MOVEMENT PLAN.** Prior to issuance of a Grading Permit, the applicant shall develop an earth movement and management program under the supervision of a licensed soils engineer for review and approval by the Engineering Division of the Department of Parks and Public Works.
64. **CONSTRUCTION MANAGEMENT PLAN.** The Applicant shall submit a construction management plan that shall incorporate at a minimum the Earth Movement Plan, Traffic Control Plan, Project Schedule, site security fencing, employee parking, construction staging area, construction trailer, and proposed outhouse locations.
65. **GOOD HOUSEKEEPING.** Good housekeeping practices shall be observed at all times during the course of construction. Superintendence of construction shall be diligently performed by a person or persons authorized to do so at all times during working hours. The storing of goods and/or materials on the sidewalk and/or the street will not be allowed unless a special permit is issued by the Engineering Division.
66. **SITE SUPERVISION.** The General Contractor shall provide qualified supervision on the job site at all times during construction.
67. ***MITIGATION #13(TRANSPORTATION AND TRAFFIC):** Prior to the issuance of the building permit, the project applicant and the Town will complete a pavement condition survey

documenting the extent of existing pavement defects using a 35-mm camera. In addition, a pavement deflection analysis will be performed to determine pavement strength. This analysis may indicate which streets can better withstand the traffic with minimal damage. After project construction, the project applicant and the Town will conduct another pavement condition survey and pavement deflection analysis to determine whether any road damage occurred as a result of project construction and whether there were any changes in pavement strength. Using State of California analysis procedures for deflection analysis, the rehabilitation requirements of the pavement before and after heavy usage can be determined. The project applicant will be responsible for completing any required road repairs prior to acceptance of the subdivision improvements.

68. **PRECONSTRUCTION PAVEMENT SURVEY.** Prior to issuance of a Grading Permit, the project Applicant shall complete a pavement condition survey documenting the extent of existing pavement defects using a 35-mm or digital video camera. The survey shall extend the full length of Prospect and College Avenues as well as Reservoir Road. In addition, a pavement deflection analysis conforming to the same limits as the photographic survey shall be performed to determine pavement strength. The results shall be documented in a report and submitted to the Town for review.
69. **POSTCONSTRUCTION PAVEMENT SURVEY.** The project Applicant will complete a pavement condition survey and pavement deflection analysis to determine whether road damage occurred as a result of project construction and whether there were changes in pavement strength. Rehabilitation improvements required to restore the pavement to pre-construction condition and strength shall be determined using State of California procedures for deflection analysis. The results shall be documented in a report and submitted to the Town **Engineer** for review and approval. The Applicant shall be responsible for completing any required road repairs prior to release of the faithful performance bond.
70. ***MITIGATION #14(TRANSPORTATION AND TRAFFIC):** The project sponsor will be required to work with the Engineering Division of the Parks and Public Works Department to develop a traffic control plan for incorporation into the construction bid documents (specifications), and this plan will include, but not be limited to, the following measures:
 - **Construction activities shall be strategically timed and coordinated to minimize traffic disruption for schools, residents, businesses, and special events. The schools located on the haul route shall be contacted to help with the coordination of the trucking operation to minimize traffic disruption.**
 - Flag persons shall be placed at locations necessary to control one-way traffic flow on College Avenue, Prospect Avenue, and Reservoir Road. All flag persons shall have the capability of communicating with each other to coordinate the operation.
 - Prior to construction, advance notification of all affected residents and emergency services shall be made regarding one-way operation, specifying dates and hours of operation.
 - All construction traffic shall not exceed the speed of 15 MPH. Trucks moving downhill on Reservoir Road shall be restricted to 3 MPH and shall use their lowest gears.

- Trucks shall use the on- and off-ramps on SR 9 to access the SR 17 Freeway. Trucks shall not use the ramps on Santa Cruz Avenue to access the SR 17 Freeway for any reason. If necessary, trucks could use ramps on Lark Avenue to access this freeway.
71. DESIGN SPEED. The new driveways shall be designed for a minimum 25 MPH design speed. Deviations from this design speed may be authorized by the Town Engineer if the Applicant's civil engineer provides written documentation that implementation of this criteria would result in environmental impacts not addressed in the project Negative Declaration. The Applicant shall also design intersection improvements to ensure 25 MPH sight distances are provided at the intersection of Reservoir Road with the new driveways.
 72. SIGHT DISTANCE AT LOT 1 DRIVEWAY. A deed restriction shall be recorded on Lot 1 to limit planting within the 20 MPH view corridor. Specific planting height and placement restrictions will be determined by the Town traffic engineer at the time of Lot 1 Architectural and Site Review. Minor grading shall be provided adjacent to tree numbers 1 and 2, and the driveway shall be raised as needed to allow a 20 MPH sight distance with up to a 2-foot high groundcover within the view corridor. The applicant shall work with the Town arborist to determine the grading constraints.
 73. STORM DRAINAGE. A civil engineer licensed in the State of California shall prepare hydrologic and hydraulic calculations. Hydraulic calculations shall be based on the 10-year storm with no surcharge, and the 100-year storm with 1-foot of freeboard. The calculations shall address pipe size, inlet size and spacing, energy dissipater size, rock riprap gradation and pad size, overland release channel section, and any surface drainage swale sizing. Should calculations show that the two existing inlets proposed for re-use near the intersection of Reservoir Road and Prospect Avenue are inadequate, the Applicant shall provide new inlets of adequate size. Overland releases shall be protected by a hardened surface approved by the Town and the project soils engineer. Storm drain pipe shall be HDPE. Manhole locations shall be adjusted when final grading plans are prepared. The overland release easement over Lot 1 shall be private. Additionally, the Joint Aquatic Resource Permit Application (JARPA) process must be completed or letters must be provided from the agencies in JARPA stating that their review is not required.
 74. UTILITY TRENCHES. The Applicant's soils engineer shall develop recommendations, subject to Town Engineer review and approval, for trench cutoff walls and diversion of surface water for utility trenches with longitudinal slopes greater than 10-percent.
 75. UTILITY SETBACKS. House foundations shall be set back from utility lines a sufficient distance to allow excavation of the utility without undermining the house foundation. The Town Engineer shall determine the appropriate setback based on the depth of the utility, input from the project soils engineer, and the type of foundation.
 76. UTILITY EASEMENTS. Deed restrictions shall be placed on lots containing utility easements. The deed restrictions shall specify that no trees, fences, or hardscape are allowed within the easement boundaries, and that maintenance access must be provided. The Town will prepare the

deed language and the Applicant's surveyor shall prepare the legal description and plat. The Applicant shall pay any recordation costs.

77. **MAINTENANCE ACCESS.** The applicant shall propose maintenance access improvements for the Town Engineer to review, comment on, and approve. The Engineering Division shall approve the surface materials over each public easement.
78. **NEIGHBORHOOD CONSTRUCTION COMMUNICATION PLAN:** The applicant shall initiate a weekly neighborhood e-mail notification program to provide project status updates. The e-mail notices will also be posted on a bulletin board placed in a prominent location along the project perimeter.
79. **PLAN REVIEW:** The applicant shall arrange a neighborhood meeting to present the proposed design for each application (reclamation, grading, and landscape). The meeting(s) shall occur after the Town has had an opportunity to review the plans. The applicant shall provide a designated neighborhood representative with a plan set at the meeting. The neighborhood representative shall schedule a meeting with the Town and applicant within 10-working days of receipt of the plans to discuss questions and present comments. Additional plan review and meetings will be conducted as deemed appropriate by the Director of Parks and Public Works.
80. **PERMIT ISSUANCE:** Permits for each phase; reclamation, landscape, and grading, shall be issued simultaneously.
81. **COVERED TRUCKS:** All trucks transporting materials to and from the site shall be covered.

(Parks & Forestry Department):

82. **TREE PROTECTION FENCING:** Tree protection fencing shall be placed at the dripline of existing trees to be saved in the area of construction. Fencing shall be four feet high chain link attached to steel poles driven two feet into the ground when at the dripline of the tree. If the fence has to be within eight feet of the trunk of the tree, a fence base may be used, as in a typical chain link fence that is rented. The fencing must be inspected and approved by the Parks Superintendent and must be installed prior issuance of a grading and/or building permit.
83. **IMPERVIOUS SERVICE AERATION:** All impervious surfaces encroaching under the dripline of existing trees shall have aeration tubes installed and these tube locations shown on the plans.
84. **IRRIGATION SYSTEMS:** All newly planted landscaping shall be irrigated by an in-ground irrigation system. Special care shall be taken to avoid irrigation which will endanger existing native trees and vegetation.
85. **TREES:** All existing trees to remain and newly-planted trees shown on the plan are specific subjects of approval of this plan, and must remain on site.
86. **STAKING:** All newly planted trees are required to be double staked according to Town standards prior to final occupancy.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

87. **REQUIRED FIRE FLOW:** Required fire flow for this project is 1,000 GPM at 20 psi residual pressure. The required fire flow appears to be available from area water mains and fire hydrant(s) which are spaced at the required spacing. The applicant shall be advised that for homes in excess of 3,600 square feet, the fire flow requirement rises.
88. **PUBLIC FIRE HYDRANT(S) REQUIRED.** Provide 1 public fire hydrant(s) at location(s) to be determined jointly by the Fire Department and the San Jose Water Company. Hydrant(s) shall have a minimum single flow of 1,000 GPM at 20 psi, with spacing not to exceed 500 feet. Prior to applying for building permit, provide civil drawings reflecting all fire hydrants serving the site. To prevent building permit delays, the developer shall pay all required fees to the water company ASAP.
89. **FIRE APPARATUS (Hydrant).** Prior to project inspection, the general contractor shall ensure that a "Blue" dot has been placed in the roadway, as directed by the fire department.
90. **TIMING OF REQUIRED WATER SUPPLY INSTALLATIONS.** Installations of required fire service(s) and fire hydrants(s) shall be tested and accepted by the Fire Department, prior to the start of framing or delivery of bulk combustible materials. Building permit issuance may be withheld until required installations are completed, tested, and accepted.
91. **FIRE APPARATUS (ENGINE) TURN-AROUND REQUIRED.** Provide an approved fire department engine roadway turnaround with a minimum radius of 36 feet outside and 23 feet inside. Installations shall conform with Fire Department Standard Details and Specifications A-1. Cul-De-Sac Diameters shall be no less than 72 feet.
92. **FIRE APPARATUS (Hydrant).** Portions of the structure(s) are greater than 150 feet of travel distance from the centerline of the roadway containing public fire hydrants. Provide an on-site hydrant or provide an approved fire department sprinkler system throughout all portions of the building.
93. **TIMING OF REQUIRED ROADWAY INSTALLATIONS.** Required access roads, up through first lift of asphalt, shall be installed and accepted by the Fire Department prior to the start of construction. Bulk materials shall not be delivered to the site until installation is complete. During construction, emergency access roads shall be maintained clear and unimpeded. Note that building permit issuance may be withheld until installations are completed.
94. **PREMISES IDENTIFICATION.** Approved numbers or addresses shall be placed on all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property. The numbers shall contrast with their background.

* Required Mitigation Measure of the Negative Declaration for this project.

