

Date: January 19, 2006
For Agenda Of: January 25, 2006
Agenda Item: 1

REPORT TO: The Planning Commission

FROM: The Development Review Committee

LOCATION: 15350 Winchester Boulevard
Planned Development Application PD-06-2
Subdivision Application M-06-2
Architecture and Site Applications S-06-12

Requesting approval of a minor Planned Development amendment to add one additional lot as permitted by the approved Planned Development, approval of the subdivision for the additional lot, approval to construct a single family residence on the new lot and approval to install a temporary sales trailer/model home office for property zoned RM:5-12:PD. APNS 424-29-024 through 026

PROPERTY OWNER/APPLICANT: Santa Clara Development Co.

DEEMED COMPLETE: January 18, 2006 (Based on submittal date of revised plans)

FINAL DATE TO TAKE ACTION: July 18, 2006

FINDINGS: As required by Section 66474 of the State Subdivision Map Act.

CONSIDERATIONS: As required by Section 29.20.150 of the Town Code for Architecture and Site applications.

ACTION: The decision of the Planning Commission is final unless appealed within ten days.

ENVIRONMENTAL ASSESSMENT: A Mitigated Negative Declaration has been previously made for the approved Planned Development for this site. It has been determined that this project will not have additional environmental impacts and an addendum to the Mitigation Declaration was prepared.

EXHIBITS:

- A. Ordinance No.2141 (Exhibit B not included).
- B. Letter of Justification (two pages) received January 18, 2006.
- C. Excerpts for relinquishment of parking easement (pages 11 and 14).
- D. DRC minute excerpts from the meeting of December 6, 2005.
- E. Letter from Adele Guerzon (one page) received November 30, 2005.
- F. Letter from Robert Peter Liljegren (one page) received December 1, 2005.
- G. Letter from Sydney and Peggy Levin (one page) received December 6, 2005.
- H. Addendum to Mitigated Negative Declaration.

- I. Required findings and considerations.
- J. Recommended conditions of approval for the Subdivision Application.
- K. Recommended conditions of approval for the Architecture and Site Application.
- L. Shadow Study.
- M. Ordinance 2141 Amendment (including development plans) received January 18, 2006.

A. BACKGROUND

On April 4, 2005, Town Council adopted Ordinance No. 2141 (Exhibit A) for a Planned Development (PD) at the subject site (Villa Felice). This PD allows the following uses:

- Demolition of the existing one story duplex, detached garage and shed.
- Demolition of the Villa Felice restaurant including administrative offices and support services and the motel.
- Construction of 28 market rate single family residences and five Below Market Price (BMP) units. One additional unit may be permitted if the applicant and the adjacent Villa Felice Townhouse development agree to eliminate the existing parking easement. The addition of this unit will require a minor amendment to the Planned Development and Architecture and Site approval, both of which may be approved by the DRC.

On July 19, 2005, the DRC approved the tentative map for the subdivision and the architecture and site applications for the 28 market units and five BMP units. The existing buildings have been demolished and subdivision improvements are under construction. Building permits have been filed for the units.

An agreement has been reached between the applicant and the adjacent Villa Felice Townhouse development to eliminate the existing parking easement (Exhibit C). Therefore, the applicant filed applications for the additional unit as permitted by the approved PD. The applicant had met with the neighbors prior to submittal and had thought that all issues of concern had been met. The DRC considered this matter on December 6, 2005 where several neighbors raised concerns regarding the visual impacts of the proposed house (Exhibit D). These concerns were raised based on the installation of the story poles which made the scope of the project more clear to the neighbors. It appeared that the neighbors concerns could not be completely mitigated; therefore, the matter has been referred to the Planning Commission for consideration.

Please note, for security and safety reasons, the development is gated and locked. To make arrangements to visit the site, please contact applicant, Rick Knauf at 345-1767 (work) or 761-5188 (cell).

B. REMARKS - ADDITIONAL UNIT

1. Application Request

Planned Development - The applicant is requesting approval to amend the approved PD to add one additional lot and residential unit for a total of 29 market rate single family residences and five BMP units on 5.91 acres. The additional unit will not trigger an increase in the number of required BMP units. The approved density of the development for the subject site is 4.7 units per acre (excluding the BMP units). The proposed density is 4.9 (excluding the BMP units). The site is bounded by condominiums to the south, condominiums and single family residences to the west and north and Vasona Lake County Park to the east. As stated above, the approved PD allowed one additional unit if the adjacent Villa Felice Townhouse development agreed to eliminate the existing parking easement. The applications are consistent with the approved PD. Pursuant to the approved PD, this request is a minor amendment and is not required to be forwarded to Town Council.

Subdivision - The proposed lot will contain 8,070 square feet. The approved lots range in size from 2,152 square feet to 6,915 square feet. The minimum lot size required for the underlying zone is 8,000 square feet.

Architecture and Site - The applicant is requesting approval of plans to construct a 2,248 square foot two story single family residence with a 445 square foot attached garage. The approved market rate units range in size from 2,165 to 2,943 square feet. The maximum height of the proposed residence is 22 feet two inches. The heights for the approved two story units range from 23.5 to 25 feet. The subject house has been designed with a lower height in an attempt to mitigate neighbor concerns. Exterior materials will consist of plaster and stone siding, wood and copper trim and a clay tile roof.

The floor plan, architectural style, colors and materials of the proposed house are similar to an approved house plan, but have been modified slightly in an attempt to mitigate neighbor concerns as discussed further in this report. During the PD process, staff and the Town's Consulting Architect concluded that the proposed house designs were good, the houses relate well to each other and the proposed siting and landscaping produce a good environment. The proposed setbacks are consistent with the approved setbacks for the other parcels.

2. Traffic

The traffic generated from the approved PD and this proposal is less than the traffic credit that is assigned to the property, based on the previous uses as set forth in the Town's Traffic Impact Policy.

3. Parking

The required parking for this site with the additional unit is 102 parking spaces, at a ratio of three spaces per unit. The applicant is proposing a total of 122 spaces at a ratio of 3.7 spaces per unit.

The existing Villa Felice town homes have a parking easement for 19 existing parking spaces and a turnaround along the western property line of the subject properties for guest parking during daylight hours. These spaces are not required parking for the town homes. As stated earlier in this report, an agreement has been reached between the applicant and the adjacent Villa Felice Townhouse development to eliminate the existing parking easement. The applicant proposes to utilize a major portion of this area to add an additional lot and house. Eight parking spaces will remain in this area.

4. Grading

Aside from the grading required to lower the building pad as a mitigation to reduce the visual impact, no additional grading will be required for this project since the area of construction is currently improved with a level parking lot.

5. Trees

No additional trees will be impacted as a result of this project. As part of the approved PD, the applicant will plant 11 - 36 inch box European Olive trees along the property line adjacent to the existing Villa Felice town home development for screening purposes.

6. Environmental Assessment

A Mitigated Negative Declaration has been previously made for the approved Planned Development for this site. The subject application was referred to the Town's Environmental Consultant to determine whether or not the work proposed required additional environmental review. It has been determined that this project will not have additional environmental impacts and an addendum to the Mitigated Negative Declaration was prepared (Exhibit H).

7. Neighborhood Concerns

The grade of the adjacent Villa Felice town houses is approximately four feet lower than the existing grade at Villa Felice. The approved PD for the Villa Felice town houses indicate that the required and proposed rear setback for these units is 24 feet. The Town has received three letters of concerns from adjacent neighbors (Exhibits E, F and G). The major concerns expressed by the neighbors deal with loss of privacy and light. Photographs of the story poles were also submitted by an adjacent neighbor, who is closest to the proposed house, to illustrate the privacy impacts into his yard and home. There is approximately a 34 foot distance between this neighbor's house and the proposed house. This neighbor will be impacted with a one or two story home. The photographs do not copy clearly, so they will be provided at the hearing.

The applicant has met with the neighbors in an attempt to mitigate their concerns. The following changes have been made to the plans subsequent to the DRC review (Exhibit B):

- **Grade Change** - The grade of the proposed lot has been lowered 1.3'. This will result in a grade differential of approximately three feet between the adjacent Villa Felice town houses and Villa Felice as opposed to the existing four feet.
- **Single Story Elements** - Two single story elements have been lowered by utilizing a gable roof.
- **Deck Removal** - The second story deck has been eliminated
- **Windows** - All of the second story windows along the Villa Felice town house western property line are clerestory with the exception of two windows in a secondary bedroom which are 55 feet from the property line. Clerestory windows were required for several of the approved units to mitigate privacy concerns.

Since one of the neighbors was opposed to a new residence and some of the neighbors expressed an interest in a one story structure, it is questionable if these changes will mitigate neighbor concerns. The story poles reflect the original and current proposal. The orange netting shows the original proposal and the green netting represents the modifications discussed above.

8. Sales Trailer and Model Homes

The applicant is also requesting approval to allow two of the approved units to be used as model homes (Lots 30 and 31) and that a sales trailer with guest parking be permitted in the existing parking easement area, adjacent to the proposed lot. Since this pad is existing, is near the entrance of the development and is outside the area of construction, it is the most logical and safe location for the trailer. The applicant is analyzing options on where to locate the trailer within this pad area and how to reduce the height of the trailer to reduce visual impacts to the adjacent neighbors, while meeting all building code/ADA requirements. The applicant will discuss their findings on this matter at the hearing. Conditions have been included that require the model homes to be converted to residential units prior to occupancy and that the sales trailer be removed from the site prior to occupancy of the last unit.

C. RECOMMENDATION

If the Planning Commission finds merit with the proposal, they should:

1. Make the required findings and considerations (Exhibit I).
2. Approve Ordinance 2141 Amendment to amend the PD (Exhibit M).
3. Approve the Subdivision Application subject to conditions (Exhibit J).
4. Approve the Architecture and Site Application subject to conditions (Exhibit K).


If the Commission has concerns with the applications, they can:

1. Continue the matter to a date certain with specific directions.

January 25, 2006

2. Approve the request for a sales trailer and model homes and deny the request for an additional lot and unit.
3. Deny the entire request.

The applications cannot be bifurcated.

A handwritten signature in black ink, appearing to read 'Bud N. Lortz', is written over a horizontal line.

Bud N. Lortz, Director of Community Development

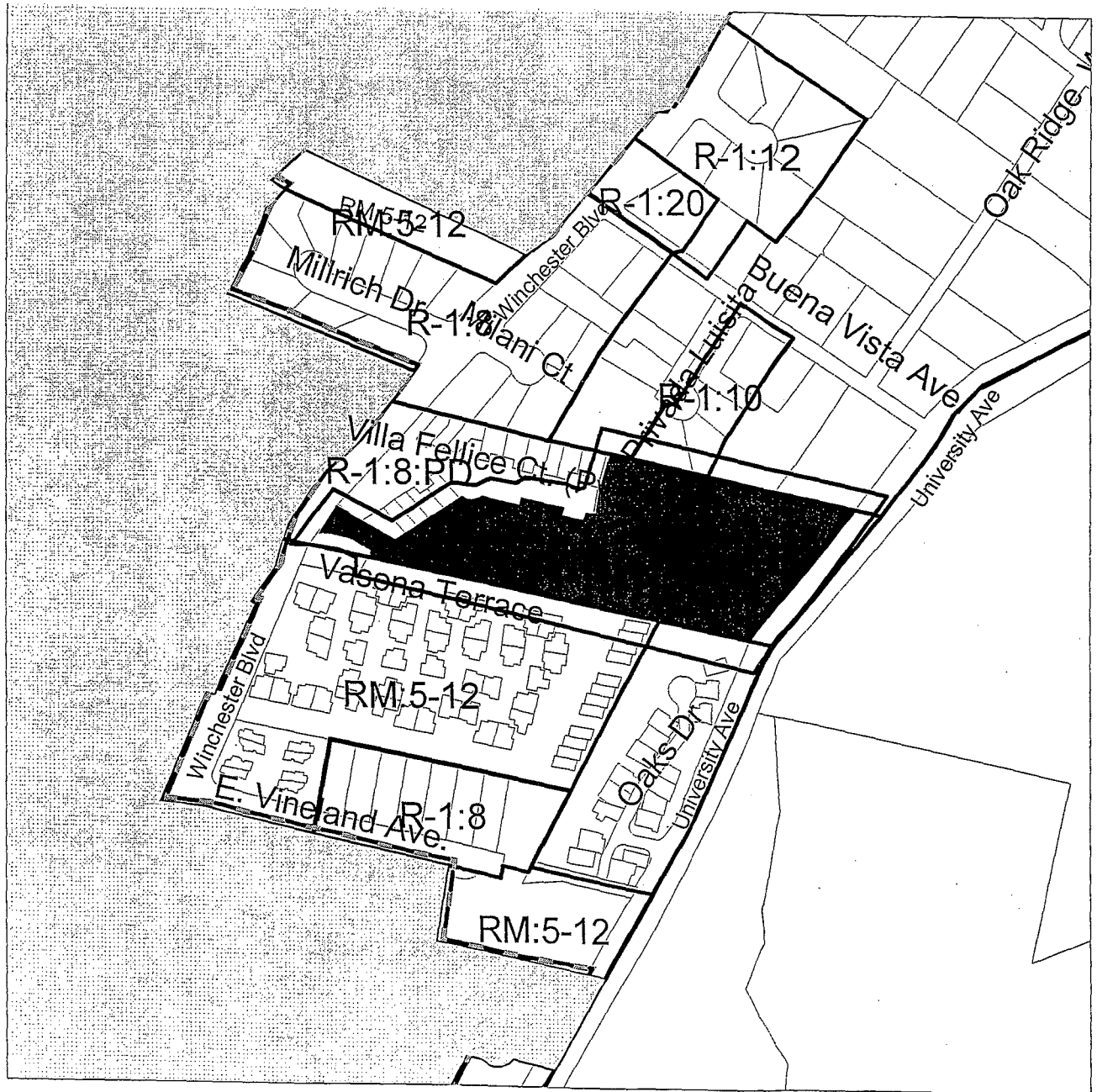
Prepared by: Sandy L. Baily, Associate Planner

BNL:SLB:mdc

cc: Santa Clara Development Co, 2185 The Alameda, San Jose, CA 95126

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15350 Winchester Blvd.



ORDINANCE 2141

ORDINANCE OF THE TOWN OF LOS GATOS AMENDING ORDINANCE NO. 1396 AND ORDINANCE NO. 2092 RELATING TO THE DEVELOPMENT OF THE EXISTING COMMERCIAL PORTION OF THE SITE AND AMENDING THE ZONING MAP FROM R-1:8:PD TO RM:5-12 PD FOR THE PROPERTY LOCATED AT 15350 WINCHESTER BLVD.

THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS FOLLOWS:

SECTION I

The Town Code of the Town of Los Gatos is hereby amended to change the zoning at 15350 Winchester Blvd as shown on the map which is attached hereto marked Exhibit A and is part of this Ordinance from R-1:8:PD (Single Family Residential, minimum lot size 8,000 square feet, Planned Development) to RM:5-12 PD (Multiple Family Residential, 5 to 12 dwelling units per acre, Planned Development).

SECTION II

The PD (Planned Development Overlay) zone established by this Ordinance authorizes the following construction and use of improvements:

1. Demolition of the existing one story duplex, detached garage and shed.
2. Demolition of the Villa Felice restaurant including administrative offices and support services and the motel.
3. Construction of 28 market rate single family residences and five Below Market Price units.
4. Landscaping, streets, parking, open space and other site improvements shown and required on the Official Development Plan.
5. All other residential uses and improvements listed in Ordinance No. 1396 for the existing Villa Felice Townhouse development are still valid.
6. Uses permitted are those specified in the underlying RM (Multiple Family Residential) zone by Sections 29.40.610 (Permitted Uses) and 29.20.185 (Conditional Uses) of the Zoning Ordinance, as those sections exist at the time of the adoption of this Ordinance, or as they may be amended in the future, subject to any restrictions or other requirements specified elsewhere in this ordinance including, but not limited to, the Official Development Plan.

However, no use listed in Section 29.20.185 is allowed unless specifically authorized by this Ordinance, or by Conditional Use Permit.

SECTION III

COMPLIANCE WITH OTHER DEVELOPMENT STANDARDS

All provisions of the Town Code apply, except when the Official Development Plan specifically shows otherwise.

SECTION IV

Architecture and Site Approval is required before the demolition of the duplex and construction work for the new dwelling units, whether or not a permit is required for the work and before any permit for construction is issued. Construction permits shall only be in a manner complying with Section 29.80.130 of the Zoning Ordinance.

SECTION V

The attached Exhibit A (Map) and Exhibit B (Development Plans), are part of the Official Development Plan. The following must be complied with before issuance of any grading, demolition or construction permits:

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT (Planning Division)

1. **ARCHITECTURE AND SITE APPROVAL REQUIRED.** The Official Development Plans and this ordinance establish the allowed uses and intensity of development. The Official Development Plans are conceptual in nature such that minor deviations may be approved through the Architecture and Site approval process if necessary to achieve architectural excellence. These deviations may include finished floor elevations, minor grade changes, increase of separation between houses, plate height reductions and other design features which reduce the intensity of the development without impacting the quality of the life for the future residents. The Development Review Committee may be the deciding body of the Architecture and Site applications.
2. **SETBACKS.** The minimum setbacks permitted are documented on the approved Horizontal Control Plan attached as Exhibit B.
3. **HOUSE SIZES.** No additional square footage shall be permitted for any of the units.
4. **TREE REMOVAL PERMIT.** A Tree Removal Permit shall be obtained prior to the issuance of a Building, Grading or Encroachment Permit.
5. **RECYCLING.** All wood, metal, glass and aluminum materials generated from the demolished

structures shall be deposited to a company which will recycle the materials. Receipts from the company(s) accepting these materials, noting type and weight of material, shall be submitted to the Town prior to the Town's demolition inspection.

6. TENTATIVE MAP. The Development Review Committee may be the deciding body of the tentative map.
7. *EXISTING MASONRY WALL. Existing masonry walls along project boundaries should be maintained at all times during construction to protect all adjacent residents from construction noise. The existing masonry wall along the northern project boundary that is proposed to be replaced either, 1) should be retained until the noisier phases of project construction are complete (ie: grading, paving, house framing, etc) or 2) should be replaced at the commencement of project construction, prior to project grading activities.
8. FENCES. All fencing and walls shall be reviewed during the Architecture and Site approval process.
9. *CONSULTING ARBORIST. All recommendations identified in the Arborist Report and prepared by Arbor Resources, dated December 17, 2004, and any other supplemental report(s) by the Arborist in relationship to this project, shall be implemented and incorporated during the Architecture and Site approval process and in the final building plans. The applicant shall continue to work with the consultant regarding the grade changes around existing trees prior to Architecture and Site approval.
10. FINAL LANDSCAPE PLAN. The Town's Consulting Arborist shall review the final plans during the Architecture and Site approval process. At that time, the arborist shall determine the required tree protection measures and the proposed tree removal mitigation which shall be incorporated in the final building plans.
11. ADDITIONAL TREES. To mitigate the removal of the Monterey Pine trees along the southern property boundary, 15 -36 inch box trees and five 48 to 86 inch box trees shall be planted in the backyards of Lots 1 through 12. Twelve additional 36 inch box trees shall be planted along the northern property line. The applicant shall work with the adjacent homeowner associations to determine the tree specie(s). These trees shall be included in the final landscape plan.
12. GENERAL. All existing trees shown to remain on the plan and newly planted trees are specific subjects of approval of this plan and must remain on site.
13. NEW TREES. The new trees to be planted shall be double-staked, using rubber tree ties and shall be planted prior to occupancy.
14. *RAPTORS. If it is not possible to schedule construction between September and January, the project applicant shall be required to conduct a pre-construction survey for nesting raptors by a qualified ornithologist in order to ensure that no raptor nests will be disturbed during project construction. This survey will be conducted no more than 15 days prior to the initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees in and immediately adjacent to the impact areas for raptor nests. If an active raptor nest is found close enough to the construction area to be disturbed by these activities, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest.
15. NEIGHBORHOOD SIGN. A neighborhood identification sign is permitted and shall be reviewed during the Architecture and Site approval process.
16. SHARED DRIVEWAYS. Small scale residential no driveway parking signs shall be installed where there are shared driveways. These signs and placement will be reviewed during the Architecture and Site approval process and shall be installed prior to final occupancy of those units.

17. **BMP UNITS.** The developer shall work with the Director of Community Services during the Architecture and Site approval process to make the required arrangements for the BMP units. The BMP units must receive approved building permits prior to the issuance of the building permit for the 28th market rate unit. The BMP contract shall be completed prior to issuance of a building permit.
18. **DEED RESTRICTION.** Prior to issuance of a building permit, a deed restriction shall be recorded by the applicant with the Santa Clara County Recorder's office, stating that the required BMP units must be sold as a below market priced unit pursuant to the Town's BMP regulations.
19. **SOLAR.** During the Architecture and Site approval process, all new residences, to the extent feasible, shall be designed to take full advantage of passive solar opportunities.
20. **WINDOWS.** All second story windows with a north orientation along the northern property line (lots 17 through 21), shall be recessed high clerestory windows. All first and second story windows along a side elevation which immediately abuts a yard of a neighboring property, shall be recessed high clerestory windows or frosted to allow for privacy. These windows shall be further reviewed during the Architecture and Site approval process.
21. **ADDITIONAL UNIT.** One additional unit may be permitted if the applicant and the adjacent Villa Felice Townhouse development agree to eliminate the existing parking easement. The addition of this unit will require a minor amendment to the Planned Development and Architecture and Site approval, both of which may be approved by the Development Review Committee. Additional environmental review may be required for this unit.
22. **GATE CONNECTIONS.** During the Architecture and Site process, the applicant shall explore the possibility of providing gate connections to the northern and southern neighborhoods. The applicant shall meet with and receive input from these neighborhoods regarding the connections.
23. **HOUSE SIZES.** No additional square footage shall be permitted for any of the units except for cellars if approved during the initial Architecture and Site approval process.
24. **PARKING.** During the Tentative Map/Architecture and Site process, the applicant shall explore the possibility of adding "pocket" visitor parking spaces. These spaces shall not impact the proposed ambiance of the main roadway the ambiance of a living unit nor shall it impact pedestrian circulation.

(Building Division)

25. ***CULTURAL RESOURCES.** In the event that archaeological traces are encountered, all construction within a 50-meter radius of the find will be halted, the Community Development Director will be notified, and an archaeologist will be retained to examine the find and make appropriate recommendations.
26. ***REMAINS.** If human remains are discovered, the Santa Clara County Coroner will be notified. The Coroner will determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he will notify the Native American Heritage Commission, who will attempt to identify descendants of the deceased Native Americans.
27. ***REPORT.** If the Community Development Director finds that the archaeological find is not a significant resource, work will resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted. Provisions for identifying descendants of a deceased Native American and for reburial will follow the protocol set forth in Appendix K of the CEQA Guidelines. If the site is found to be a significant archaeological site, a mitigation program will be prepared and submitted to the Community Development Director for

consideration and approval, in conformance with the protocol set forth in Section 15064.5 of the CEQA Guidelines.

28. *FINAL REPORT. A final report will be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report will include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions.
29. PERMITS REQUIRED: A building permit shall be required for demolition of existing structures and the construction of the new residences. Separate building permits are required for site retaining walls; separate electrical, mechanical, and plumbing permits shall be required as necessary.
30. CONDITIONS OF APPROVAL: The Conditions of Approval for the Architecture and Site applications must be blue-lined in full on the cover sheet of the construction plans.
31. SIZE OF PLANS: Four sets of construction plans, maximum size 24" x 36."
32. DEMOLITION REQUIREMENTS: Obtain a Building Department Application and a Bay Area Air Quality Management Application from the Building Service Counter. Once the demolition form has been completed and all signatures obtained, return the completed form to the Building Service Counter with the J# Certificate, three (3) sets of site plans to include all existing structures, existing utility service lines such as water, sewer, and PG&E. No demolition work shall be done without first obtaining a permit from the Town.
33. *GREASE TRAP. The abandoned grease trap and affected surrounding soils shall be removed as part of the demolition process.
34. *LEAD-BASED PAINT. Lead-based paint should be handled in compliance with federal and state OSHA requirements as described in the lead survey report.
35. STREET NAMES & HOUSE NUMBERS: The developer shall submit requests for new street names and/or house numbers from the Office of the Town clerk prior to the building permit application process.
36. SOILS REPORT: A soils report, prepared to the satisfaction of the Building Official, containing foundation and retaining wall design recommendations, shall be submitted with the building permit application. This report shall be prepared by a licensed civil engineer specializing in soils mechanics. ALTERNATE: Design the foundation for an allowable soils 1,000 psf design pressure. (Uniform Building Code Volume 2 - Section 1805)
37. FOUNDATION INSPECTIONS: A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project building inspector at foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report; and, the building pad elevation, on-site retaining wall locations and elevations are prepared according to approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer for the following items:
 - a. Building pad elevation
 - b. Finish floor elevation
 - c. Foundation corner locations
38. RESIDENTIAL TOWN ACCESSIBILITY STANDARDS: The residences shall be designed with adaptability features for single family residences per Town Resolution 1994-61:
 - a. Wooden backing (2" x 8" minimum) shall be provided in all bathroom walls, at water closets, showers and bathtubs located 34 inches from the floor to the center of the backing, suitable for the installation of grab bars.
 - b. All passage doors shall be at least 32 inches wide on the accessible floor.

- c. Primary entrance shall have a 36-inch wide door including a 5' x 5' level landing, no more than 1 inch out of plane with the immediate interior floor level with an 18-inch clearance.
 - d. Door buzzer, bell or chime shall be hard wired at primary entrance.
- 39. TITLE 24 ENERGY COMPLIANCE: California Title 24 Energy Compliance forms CF-1R and MF-1R must be blue-lined on the plans.
- 40. TOWN FIREPLACE STANDARDS: New wood burning fireplaces shall be an EPA Phase II approved appliance as per Town Ordinance 1905. Tree limbs shall be cut within 10-feet of chimneys.
- 41. 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 permit. The Town Special Inspection form must be completely filled-out, signed by all requested parties and be blue-lined on the construction plans. Special Inspection forms are available from the Building Division Service Counter or online at www.losgatosca.gov.
- 42. NONPOINT SOURCE POLLUTION STANDARDS: The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program shall be part of the plan submittal as the second page. The specification sheet is available at the Building Division Service Counter for a fee of \$2 or at San Jose Blue Print.
- 43. PLANS: The construction plans shall be prepared under the direct supervision of a licensed architect or engineer. (Business and Professionals Code Section 5538)
- 44. APPROVALS REQUIRED: The project requires the following agencies approval before issuing a building permit:
 - a. Community Development: Sandy Baily at 354-6873
 - b. Engineering Department: Fletcher Parsons at 395-3460
 - c. Parks & Public Works Department: (408) 399-5777
 - d. Santa Clara County Fire Department: (408) 378-4010
 - e. West Valley Sanitation District: (408) 378-2407
 - f. Local School District: (Contact the Town Building Service Counter for the appropriate school district and to obtain the school form.)
 - g. Bay Area Air Quality Management District: (415) 771-6000

TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS
(Engineering Division)

- 45. NPDES MAINTENANCE COVENANT. The homeowner's association shall enter into a maintenance covenant with the Town for maintenance of the stormwater filtration device. The covenant will specify that certain routine maintenance shall be performed by the homeowner's association and will specify maintenance reporting requirements. The covenant shall be recorded prior to release of the first occupancy permit.
- 46. ABOVE GROUND UTILITY LAYOUT. The applicant shall submit a 75-percent progress printing to the Town for review of above ground utilities including backflow prevention devices, fire department connections, gas and water meters, off-street valve boxes, hydrants, site lighting, electrical/communication/cable boxes, transformers, and mail boxes. Above ground utilities shall be reviewed and approved by the Community Development Department prior to issuance of the grading permit.

47. JOINT TRENCH PLANS. Joint trench plans shall be reviewed and approved by the Town prior to issuance of the grading permit.
48. 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 recordation of the final map. 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.
49. PUBLIC IMPROVEMENTS. The following improvements shall be installed by the developer. 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 prior to release of the final three Certificates of Occupancy.
 - a. Winchester Boulevard Sidewalk. The pedestrian travel path at the project entrance shall be modified to comply with ADA cross-slope requirements. This may require realignment of the public sidewalk as well.
 - b. Private Fire Service. The FDC and valve boxes associated with the private fire service shall be removed under the demolition permit. The curved portion of walk in the vicinity of the valve boxes shall be removed and replaced in a straight alignment prior to acceptance of the public improvements.
50. GRADING PERMIT. A grading permit is required for site grading and drainage. The grading permit application (with grading plans) shall be made to the Engineering Division of the Parks & Public Works Department located at 41 Miles Avenue. The grading plans shall include final grading, drainage, retaining wall location, driveway, utilities and interim erosion control. Grading plans shall list earthwork quantities and a table of existing and proposed impervious areas. Unless specifically allowed by the Director of Parks and Public Works, the grading permit will be issued concurrently with the building permit. The grading permit is for work outside the building footprint(s). A separate building permit, issued by the Building Department on E. Main Street is needed for grading within the building footprint.
51. PRECONSTRUCTION MEETING. Prior to issuance of a grading or demolition permit or the commencement of any site work, the general contractor shall:
 - a. 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;
 - b. 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.
52. RETAINING WALLS. A building permit, issued by the Building Department at 110 E. Main Street, may be required for site retaining walls. Walls are not reviewed or approved by the Engineering Division of Parks and Public Works during the grading permit plan review process.
53. SOILS REPORT. One copy of the soils report shall be submitted with the grading permit application. The soils report shall include specific criteria and standards governing site grading, drainage, pavement design, retaining wall design and erosion control. The reports shall be signed and "wet stamped" by the engineer or geologist, in conformance with Section 6735 of the California Business and Professions Code.

54. SOILS REVIEW. Prior to issuance of any permit, the applicant's soils engineer shall review the final grading and drainage plans to ensure that designs for foundations, retaining walls, site grading, and site drainage are in accordance with their recommendations and the peer review comments. The applicant's soils engineer's approval shall then be conveyed to the Town either by letter or by signing the plans.
55. SOILS ENGINEER CONSTRUCTION OBSERVATION. During construction, all excavations and grading shall be inspected by the applicant's soils engineer prior to placement of concrete and/or backfill so they can verify that the actual conditions are as anticipated in the design-level geotechnical report, and recommend appropriate changes in the recommendations contained in the report, if necessary. The results of the construction observation and testing should be documented in an "as-built" letter/report prepared by the applicants soils engineer and submitted to the Town before final release of any occupancy permit is granted.
56. *GEOTECHNICAL RECOMMENDATIONS. The geotechnical recommendations presented in the report titled "Geotechnical Report, Villa Felice Residential, 15350 Winchester Blvd, Los Gatos, CA" shall be incorporated into the final design.
57. FINAL MAP. A final map shall be recorded. Two copies of the final 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 and appropriate fee. The map shall be recorded before grading or building permits are issued.
58. FINAL CC&R'S. Final CC&R's shall be approved by the Town Attorney prior to recordation of the final map. The CC&R's shall include provisions for road improvements, vehicle parking enforcement procedures and the use and restrictions for the side yard easements.
59. EXISTING EASEMENTS. Existing easements shall be abandoned concurrently with recordation of the final map.
60. 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.
61. UTILITY COMPANY REVIEW. Letters from the electric, telephone, cable, and trash companies indicating that the proposed improvements and easements are acceptable shall be provided prior to recordation of the final map.
62. DEMOLITION. Existing buildings shall be demolished prior to recordation of the final map.
63. 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.
64. SIDEWALK/CURB IN-LIEU FEE. A curb and sidewalk in-lieu fee of \$13,275 shall be paid prior to Map recordation. This fee is based on 295-feet of 4.5-foot wide sidewalk at \$10/SF in accordance with Town policy and as specified in the Town FY2004-05 Comprehensive Fee Schedule. This measurement corresponds to the University Avenue property frontage.
65. PRIVATE SIDEWALK. The on-site private sidewalk shall be connected to the public sidewalk on Winchester Boulevard.
66. PUBLIC SIDEWALK. The public sidewalk in the vicinity of the project entrance shall be modified to comply with ADA cross-slope requirements.
67. 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.

68. 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 map.
69. 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.
70. INSPECTION FEES. Inspection fees shall be deposited with the Town prior to issuance of any Permit or recordation of the Final Map.
71. TREE REMOVAL. Copies of all necessary tree removal permits shall be provided prior to issuance of a demolition permit.
72. 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.
73. 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.
74. 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 went on without inspection.
75. 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:
 - a. Retaining wall--top of wall elevations and locations
 - b. Toe and top of cut and fill slopes
76. NEIGHBOR ACCESS. Access to neighboring properties shall be maintained at all times during construction.
77. EROSION CONTROL. Interim and final erosion control plans shall be prepared and submitted to the Engineering Division of the Parks & Public Works Department. 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 for projects disturbing more than one acre. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on an area if grading is allowed during the rainy season. Interim erosion control measures, to be carried out during construction and before installation of the final landscaping shall be included. Interim erosion control method shall include, but are not limited to: silt fences, fiber rolls (with locations and details), erosion control blankets, Town standard seeding specification, filter berms, check dams, retention basins, etc. Provide erosion control measures as needed to protect downstream water quality during winter months. The grading, drainage, erosion control plans and SWPPP shall be in compliance with applicable measures contained in the amended provisions C.3 and C.14 of Order 01-024 of the amended Santa Clara County NPDES Permit.
78. 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, or apply (non-toxic) soil stabilizers on

all unpaved access roads, parking areas, and staging areas at construction sites 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. 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.

79. *DUST CONTROL (SITES > 4 ACRES). The following measures shall be implemented at construction sites greater than four acres in area:
- a. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
 - b. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)
 - c. Limit traffic speeds on unpaved roads to 15 mph.
 - d. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - e. Replant vegetation in disturbed areas as quickly as possible.
80. 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.
81. CONSTRUCTION STREET PARKING. No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior approval from the Town Engineer (§ 15.40.070).
82. SITE DRAINAGE. Rainwater leaders shall be discharged to splash blocks. No through curb drains will be allowed.
83. NONPOINT SOURCE POLLUTION PREVENTION. Stormwater treatment measures shall be certified in accordance with C3 requirements. On-site drainage systems shall include filtration devices such as a bio-swales, sediment basins and/or permeable pavement. Infiltration trenches shall be provided along the private street system. Filtration systems shall satisfy C.3 numeric sizing criteria.
84. STORM DRAINAGE. Private storm drain systems shall be designed to accommodate the 10-yr peak storm runoff within the pipe, and the 100-yr peak within the street (between curbs). One-foot minimum freeboard shall be provided between the 100-yr water surface elevation and the adjacent finished floor elevation. The overland release path between the new private street (near Lot 16) and University Avenue shall be "hardened" to accommodate the 100-year event. As an alternative to "hardening" the surface, gallery inlets and underground pipe capable of accommodating the 100-year event may be provided. Surface drainage at Lots 12 through 16 shall be directed towards the new street and away from the top of slope. The overland release path and "hardened" surface and surface drainage for Lots 12 through 16 shall be evaluated as part of the Architecture and Site review.
85. SILT AND MUD IN PUBLIC RIGHT-OF-WAY. It is the responsibility of contractor and home owner to make sure that all dirt tracked into the public right-of-way is cleaned up on a daily basis.

Mud, silt, concrete and other construction debris SHALL NOT be washed into the Town's storm drains.

86. UTILITIES. The developer shall install all utility services, including telephone, electric power and all other communications lines underground, as required by Town Code §27.50.015(b). All new utility services shall be placed underground. Underground conduit shall be provided for cable television service.
87. 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.
88. FENCING. Any fencing proposed within 200-feet of an intersection shall comply with Town Code Section §23.10.080.
89. AS-BUILT PLANS. After completion of the construction of all work, 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 Inspector. A Mylar and AutoCAD disk of the approved "as-built" plans shall be provided to the Town before the Faithful Performance Security or final Occupancy Permit is released. The AutoCAD file shall include only the following information and shall conform to the layer naming convention: a) Building Outline, Layer: BLDG-OUTLINE; b) Driveway, Layer: DRIVEWAY; c) Retaining Wall, Layer: RETAINING WALL; d) Swimming Pool, Layer: SWIMMING-POOL; e) Tennis Court, Layer: TENNIS-COURT; f) Property Line, Layer: PROPERTY-LINE; g) Contours, Layer: NEWCONTOUR. All as-built digital files must be on the same coordinate basis as the Town's survey control network and shall be submitted in AutoCAD version 2000 or higher.
90. SANITARY SEWER LATERAL. Sanitary sewer laterals are televised by West Valley Sanitation District and approved by the Town of Los Gatos before they are used or reused. Install a sanitary sewer lateral clean-out at the property line.
91. CONSTRUCTION NOISE. Between the hours of 8:00 a.m. to 8:00 p.m., weekdays and 9:00 a.m. to 7:00 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.
92. *HAULING OF SOIL. Hauling of soil on or off-site shall not occur during the morning or evening peak periods (between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m.). Prior to the issuance of a building permit, the developer shall work with the Town Building and Engineering Department Engineering Inspectors to devise a traffic control plan to ensure safe and efficient traffic flow under periods when soil is hauled on or ff the project site. This may include, but is not limited to provisions for the developer/owner to place construction notification signs noting the dates and time of construction and hauling activities, or providing additional traffic control.
93. SITE LIGHTING. Site lighting on the Planned Development drawings is conceptual. Site lighting shall be reviewed during Architecture and Site review. Fixture details, mounting heights, and site

- photo metrics should be included for review in the Architecture and Site application package.
94. PERMIT SEQUENCING. Flexibility in the sequencing of permits as specified in these conditions will be allowed subject to the approval of both the Director of Community Development and the Director of Parks and Public Works. A bond will be required for the demolition work if demolition is allowed to occur subsequent to map recordation.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT

95. PUBLIC FIRE HYDRANTS. Public fire hydrant(s) shall be provided at location(s) to be determined 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 residual, with spacing not to exceed 500 feet. Prior to applying for a building permit, the applicant shall 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.
96. HYDRANT LOCATION IDENTIFIER. Prior to project final inspection, the general contractor shall ensure that an approved ("Blue Dot") fire hydrant location identifier has been placed in the roadway, as directed by the Fire Department.
97. TIMING OF REQUIRED WATER SUPPLY HYDRANTS. Installations of required fire service(s) and fire hydrant(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.
98. FIRE ACCESS ROADS. The applicant shall provide access roadways with a paved all weather surface, a minimum unobstructed width of 20 feet, vertical clearance of 13 feet six inches, minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%. Installations shall conform with Fire Department Standard Details and Specifications sheet A-1.
99. FIRE LANE MARKINGS. The applicant shall provide marking for all roadways within the project. Markings shall be per fire department specifications. Installations shall also conform to Local Government Standards and Fire Department Standard Details and Specifications A-6.
100. TIMING OF 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 combustible materials shall not be delivered to the site until installation is complete. During construction, emergency access roads shall be maintained clear and unimpeded unless alternative solutions are approved by the Fire Department. Prior to issuance of a building permit, the developer shall contact the Fire Department to discuss their plan for maintaining the emergency access road during construction. Note that building permit issuance may be withheld until installations are completed.
101. PREMISES IDENTIFICATION. Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background.

*Required as Mitigation Measures

SECTION VI

In the event that any part of this ordinance is held to be invalid, the invalid part or parts shall be severed from the remaining portions which shall remain in full force and effect.

SECTION VII

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on March 21, 2005, and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on April 4, 2005 and takes effect 30 days after it is adopted.

COUNCIL MEMBERS:

AYES: Steve Glickman, Diane McNutt, Joe Pirzynski, Mayor Mike Wasserman

NAYS: Barbara Spector

ABSENT: None

ABSTAIN: None

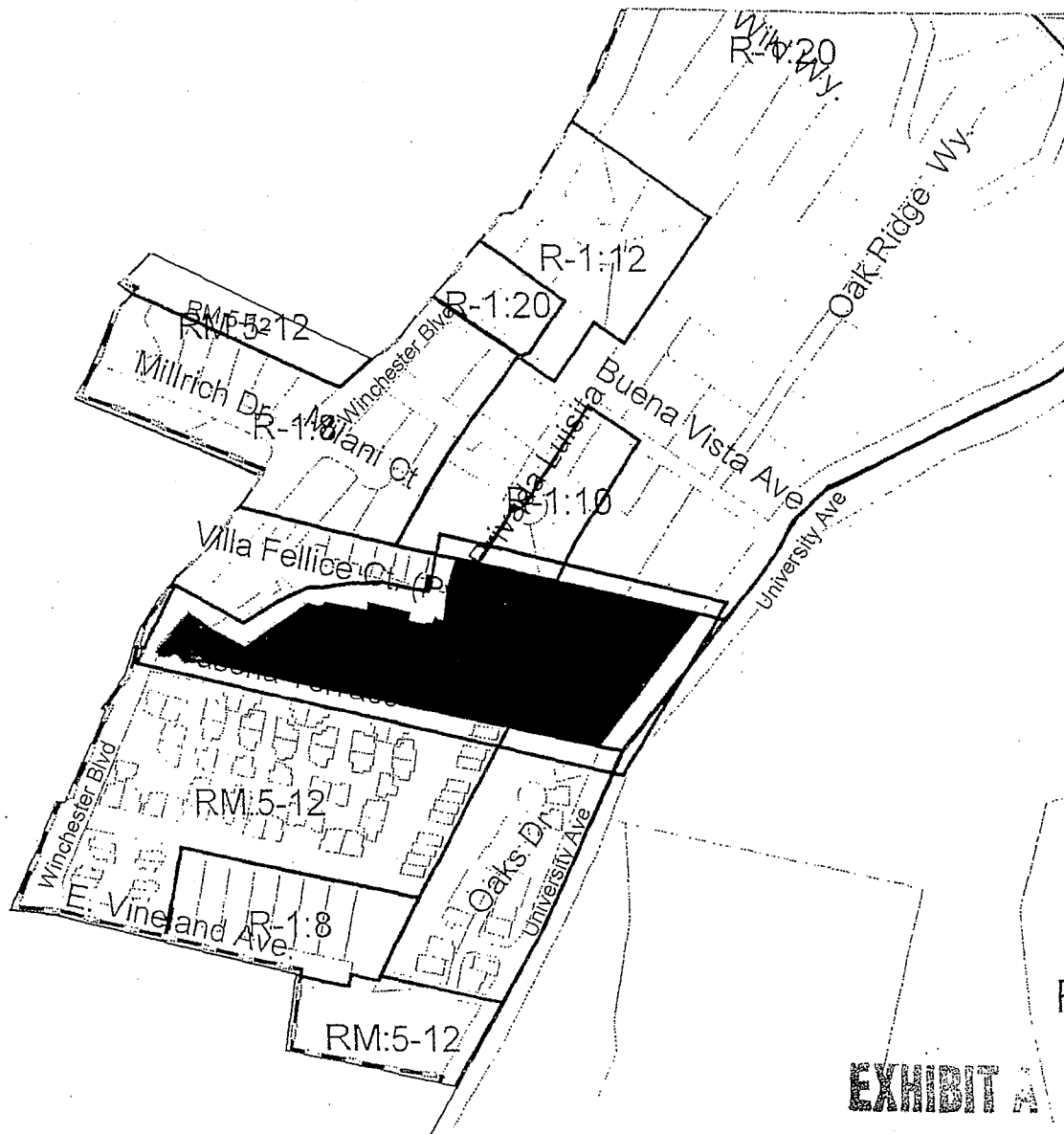
SIGNED:


MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

15350 Winchester Blvd.



TOWN OF LOS GATOS

Application No. PD-04-5. Change of zoning map
amending the Town Zoning Ordinance.

☒ Zone Change
☐ Rezoning

from R-1:8 PD to RM-5-12 PD
to _____

Forwarded by Planning Commission

date 2/9/05

Approved by Town Council

date 4-4-05

Ord. 2141

Town Clerk Marilyn Kauffman

Mayor Mark W. Johnson

EXHIBIT A



SANTA CLARA DEVELOPMENT

An affiliate of Robson Communities

January 10, 2005

RECEIVED

JAN 18 2006

TOWN OF LOS GATOS
PLANNING DIVISION

Mr. Bud Lortz
Director of Community Development
Town of Los Gatos
110 E Main Street
Los Gatos, CA

Re: Villa Felice Project - 15350 Los Gatos Boulevard, Los Gatos

Dear Mr. Lortz:

The purpose of this letter is to request a minor amendment to the approved PD Zoning and Architectural and Site approval for the Villa Felice Development to add one additional residential home and allow for a temporary sales trailer. The number of dwelling units for this project would increase from 33 to 34 and the density would remain within the approved density of 5-12 units per acre range. The density for the property increases from 5.58 to 5.75 units per acre.

Background

Town Ordinance 2141 amended the PD Zoning for this property to RM:5-12PD and specifically addresses the potential addition of a unit in article 21 "Additional Unit". The ordinance states: "One additional unit may be permitted if the applicant and the adjacent Villa Felice Townhome development agree to eliminate the existing parking easement. The addition of this unit will require a minor amendment to the Planned Development and Architecture and Site approval, both of which may be approved by the Development Review Committee. Additional environmental review may be required for this unit."

We concluded our Agreement with the Villa Felice Townhome Association to eliminate the parking easement (western portion of site), and recorded a quitclaim deed and Amendment to the CC&R's on July 25, 2005. This Agreement included our intention to develop and construct a house on a portion of the parking easement area; the house is to be compatible with other houses we are constructing on the property.

In December 2004, the Association requested to see a plan for the 34th lot; we showed them the proposed plan and they approved the same. The plan we have submitted to the Town is for the same home in the same location as was shown to the Association.

We met with the Development Review Committee on December 6, 2005 to present our plans, and at that meeting, the adjacent homeowners from the Villa Felice Townhome Association voiced concerns over the design and layout of the additional home. The primary concerns were:

- . The two-story home
- . The loss of privacy

Response to the concerns

Since the December DRC meeting, we have adjusted the design of the home in an effort to alleviate the concerns posed by members of the Villa Felice Townhome Association.

2185 The Alameda, Suite 150 • San José, California 95126-1109
Tel (408) 345-1767 Fax (408) 345-1768

Exhibit B

To lower the home, we modified the grading plan and lowered the pad elevation 1.3 feet. It should also be noted that the height of this home is 22 ¼ feet, which is low for a two-story home.

We have made several modifications to the elevation of the home facing the Association residents (left elevation) to address concerns over the potential loss of privacy:

- . The deck on the second floor has been removed.
- . All of the second story windows are clerestory windows with the exception of two windows in a secondary bedroom which are 55 feet from the property line, a generous condition in Los Gatos.
- . Both single story elements have been lowered utilizing a gable roof.

There are additional details of our plan that provide a buffer between the new development and the neighboring townhomes:

- . 11 fruitless olive trees (36" box trees) will be planted along the western property line. The Association has approved the species.
- . The minimum distance from the proposed home to the western property line is 10 feet, and this portion of the home is a one-story element. The minimum distance to any second story element is 21 feet.

The story poles have been modified to reflect the changes described above. The orange netting shows the original conditions and the green netting represents our modifications as outlined in this letter. As the site is currently gated and locked, please call me at (408)345-1767 (cell # is (408)761-5188) prior to your visit so I can make sure you have the proper access to view the story poles.

In closing, we have acted in good faith about our intentions from the start (going back to December 2004). In the spirit of cooperation we have lowered the pad elevation of the home, removed the deck and modified several windows to address the neighbors concerns. Please consider this in your review of this application.

Sincerely,
Santa Clara Development Company


Rick Knauf

(a) In the event Buyer closes escrow under the Bersano Sale Agreements described above and under this Agreement, then Buyer intends to develop and construct a house on a portion of the original Parking Easement area referred to in Recital D above that is adjacent to the Parking Area referred to in the CC&R Amendment (and such house shall be architecturally compatible with the other houses contemplated to be constructed by Buyer on the Purchase Property). The Homeowners Association acknowledges Buyer's right to develop and construct such house as described in the immediately preceding sentence and has no objection to the same. The Homeowners Association, on behalf of itself and its members, agrees not to object to or oppose the development or construction of such house as described above.

(b) Principals and affiliates of Buyer are real estate brokers or salespersons licensed in the State of Arizona.

ARTICLE 8 NOTICES

All notices called for pursuant to these instructions shall be given in writing by personal delivery, or by facsimile (with copy of such notice sent not later than the next day by mail or overnight private courier in accordance with the provisions herein) or by overnight mail or overnight private courier. Facsimile notices shall be deemed received on the day sent if sent prior to 6:00 p.m. Pacific Time or if sent after 6:00 p.m. Pacific Time, then deemed received on the next day. Overnight mail or couriered notices shall be deemed received the day following deposit into the U.S. mail or delivery to the private courier. Mailed or couriered notices shall be addressed as set forth below, but either party may change its address by giving written notice thereof to the other in accordance with the provisions of this Article.

To Homeowners Association: Villa Felice Homeowners Association
c/o Angius & Terry
1990 N. California Blvd., Suite 950
P.O. Box 8077
Walnut Creek, CA 94590
Attn: Daniel Angius
Facsimile No.: (925) 939-9934

To Buyer: Santa Clara Development Company
2185 The Alameda
San Jose, CA 95126
Attn: Mark Robson
Facsimile No.: (408) 761-5188

With a copy to: Berliner Cohen
10 Almaden Boulevard, 11th Floor
San Jose, CA 95113
Attn: Sam Farb, Esq.
Facsimile No.: (408) 998-5388

10.10 Assignment. Buyer shall have a right to assign this Agreement and its rights and obligations hereunder subject to the prior written approval of the Homeowners Association (which approval shall not be unreasonably withheld or delayed). The preceding notwithstanding, without the Homeowners Association's prior written consent but upon written notice to the Homeowners Association, Buyer may assign its rights and obligations under this Agreement to any affiliate of Buyer or an entity controlled by, controlling or in common control with Buyer.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date(s) written below.

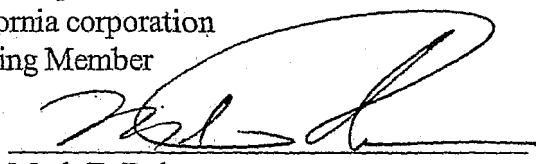
BUYER:

Dated: June 1, 2005

ROBSON HOMES, LLC,
a California limited liability company

By: Robson Properties, Inc.,
a California corporation

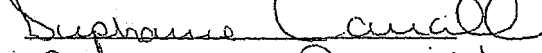
Its: Managing Member

By: 
Name: Mark E. Robson
Its: President

HOMEOWNERS ASSOCIATION:


Dated: June 2, 2005

VILLA FELICE HOMEOWNERS ASSOCIATION,
a California nonprofit mutual benefit corporation

By: 
Name: Stephanie Carroll
Its: President
By: Brian North
Name: Brian North
Its: Secretary

The undersigned hereby accepts and agrees to follow the escrow instructions contained in this Agreement.

FIRST AMERICAN TITLE COMPANY

By: 
Name: Renee Stenesen
Its: AVP

RECEIVED

NOV 1 2005

TOWN OF LOS GATOS
PLANNING DIVISION

Excerpt from DRC Minutes
December 6, 2005
-2-

PUBLIC HEARING

ITEM 2: 15350 Winchester Boulevard
Planned Development Application PD-06-2
Subdivision Application M-06-2
Architecture and Site Applications S-06-12

Requesting approval to amend a Planned Development from 33 residential lots to 34 residential lots, approval of the subdivision for the extra lot and approval to construct a single family residence on the new lot and to install a temporary sales trailer/model home office for property zoned RM:5-12:PD. APNS 424-29-024 through 026
PROPERTY OWNER/APPLICANT: Santa Clara Development Co.

1. *Chair Baily* opened the public hearing.
2. Staff gave report on proposed project.
3. Applicant was introduced.
4. Members of the public were present:

Peggy Levine, Unit #15, expressed concern for her neighbors.

Adele Guerzor, Unit #2, stated that story poles emphasized the impact which would reduce her privacy. She would favor a single story.

Barbara Summers, Unit #1, expressed concern for her neighbors.

Leonard Ataide, property management company representing Unit #3, expressed concern over the height of the building.

Christine Kuhn, Unit #14, expressed concern for neighbors.

Peter Liljegren, Unit #5, believes he's most impacted. He provided photos. Loss of privacy and light are his biggest issues. He is also concerned with the loss of property values. A cellar was recommended instead of a second floor.

Mary Bogatellos, Unit #26, on the south side of the development, expressed concern regarding loss of parking and wanted to make sure the applicant was aware that townhouse developments always seem to struggle with parking demands.

The applicant responded that they are willing to get rid of the deck and eliminate windows. They may be able to clip the roof and possibly drop one foot. They may also be able to drop the plate of the dining room. However, they prefer to keep the second floor.

5. Public hearing closed.
6. *Ghiossi* moved to forward the matter to the Planning Commission.
7. *Parsons* seconded, motion passed unanimously.



November 27, 2005

RECEIVED

NOV 30 2005

RE: Proposed Planned Development Changes At 15350 Winchester Blvd

TOWN OF LOS GATOS
PLANNING DIVISION

Town Of Los Gatos
Los Gatos Planning Commission
110 E. Main St
Los Gatos, CA 95031

Dear Los Gatos Planning Commission,

Santa Clara Development Co.'s proposal to add a two story home behind Villa Felice Units #4 and #5 (15300 Winchester Blvd) is a bad plan. The addition of a two story home is a gross invasion of privacy for units #4 and #5 but also my residence at Villa Felice Unit #2. This proposed home with balcony can be seen from my living/dining room, 2nd bedroom and my backyard. The story poles helped clarify the impact of this poor proposal.

I respectfully ask that the request to add a two story home in that specific location be rejected. I would suggest that a one story home is more appropriate for that particular location.

Thank you for your time and attention on this matter. I have received the public notice to review this subject on December 6th @ 9:00 AM. I will plan to attend the public hearing.

Sincerely,



Adele Guerzon
Villa Felice Homeowner, Unit #2
(408) 354-9920

ALG

cc: Santa Clara Development Co.
Villa Felice HOA Board of Directors
Villa Felice Homeowners, Units 1-5
Jones and Forrest, Inc.

Exhibit E

November 30, 2005

RE: Proposed Request to Amend Planned Development From 33 Residential Lots to 34 Residential Lots at 15350 Winchester Blvd.

Town of Los Gatos
Los Gatos Planning Commission
110 East Main Street,
Los Gatos, CA 95031

Dear Los Gatos Planning Commission,

Development REVIEW Committee

Santa Clara Development Corporation's proposal to add a two story home behind Villa Felice Units #5 and #4 (15300 Winchester Blvd.) is a bad proposal. The addition of a two story unit and the precise placement of that balconied Unit on the Easement – only 10 feet from our boundary wall: adversely impacts lighting, privacy, esthetics and near & long term property values of Units #5 through #1 in total dollar amounts far greater than \$300,000. The greatest damage would be to Unit #5, then Unit #4 then #3, #2 and #1. While two story drawings indicate a damaging impact, the story- poles clarifies this threat of turning our environment into something comparable to a high density low rent student ghetto.

I respectfully ask that the Planning Commission reject the requested amendment to increase approved residential lots from 33 to 34. Open space is a better use of this land. My initial suggestion: reject all requests to increase lot density until: a) a specific building is architected and 'foot printed' to the ground (a general example: a small single story with a living basement), b) any specific building and site plan must be unanimously approved by Units #5, #4, #3, #2, and #1 and c) any City approval to increase lot size is rescinded if Santa Clara Development Corporation later revises building and site plans that were approved by Units #5, #4, #3, #2 and #1.

Thank you for your time and attention on this matter. I have received the public notice to review this subject on December 6th at 9:00 AM. I plan to attend the public hearing. Do your best to schedule it early on your calendar, as I have work obligations later in the morning.

Sincerely,

R. Peter Liljegren

Robert Peter Liljegren, cell: 650 346 3267
Villa Felice Homeowner, Unit #5

cc: Santa Clara Development Corporation
Villa Felice HOA Board of Directors
Villa Felice Homeowners, Units #1-5
Jones and Forrest, Inc.

RECEIVED
DEC 1 2005
TOWN OF LOS GATOS
BUILDING DIVISION

Exhibit F

Exhibit Submitted
at DRC

Sydney & Peggy Levin
15300 Winchester Blvd., #15
Los Gatos, CA 95030
408-395-6738

RECEIVED

DEC 6 2005

TOWN OF LOS GATOS
PLANNING DIVISION

December 1, 2005

Re: Proposed Planned Development Changes at 15350 Winchester Blvd.

Dear Los Gatos Planning Commission,

Thank you for the story poles showing the height of the proposed two-story building at 15350 Winchester Blvd., Los Gatos. They helped clarify the height and the obtrusiveness of the proposed building. We would like to register our particular concern for the owners of Units 2 through 5 (parallel to Winchester Blvd.) and our complaint as owners of Unit #15.

The construction of a two-story home at this new lot site is a gross invasion of privacy for Units 2 – 5 because the second story provides views into their living rooms, bedrooms and patios. A one-story building would be more appropriate.

The Planning Commission has expressed former concern with "intensity and density" of this project at planning commission meetings. Please view personally the story poles for this two-story proposed structure to appreciate the intensity and the impact this building will have on the neighborhood.

Thank you for your attention to this matter. We plan to attend the meeting in response to your notice of public hearing on December 6 at 9 a.m.

Sincerely,

Sydney and Peggy Levin
Villa Felice Residences, Unit 15
408-395-6738

Cc: Santa Clara Development
Villa Felice Homeowners
Jones & Forrest

Exhibit G

Addendum to the Mitigated Negative Declaration for Villa Felice Project

Planned Development Application PD-06-2 Subdivision Application M-06-2 Architecture and Site Application S-06-12

The Town of Los Gatos adopted a Mitigated Negative Declaration (MND) for the Villa Felice residential development project on March 21, 2005. The adopted MND and its supporting Initial Study (IS) provide the environmental analyses for the project as required under the California Environmental Quality Act (CEQA). The MND and IS also specify required mitigation measures that ensure the project's impacts are reduced to less-than-significant levels during and after completion of the project.

Subsequent to the approval of the proposed project, the project applicant prepared a revised project plan that incorporates certain changes into the project design. Under CEQA, the lead agency, the Town of Los Gatos, must make a determination regarding the potential environmental impacts resulting from such changes. CEQA *Guidelines* Sections 15162 and 15164 provide direction and guidance for the further evaluation of the project. Under certain circumstances, a subsequent EIR or negative declaration will need to be prepared for the proposed project (Section 15162). Alternatively, Section 15164(b) states:

"An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred."

The revised Villa Felice project proposes to develop 34 residential units rather than the 33 units originally specified by project design. The additional residential unit would be developed on a portion of the site that would have been developed with one residence and proposed parking (Lot 33). The additional residential unit would be consistent with the design plans for the previously proposed 33 units. The revised project design would reduce parking by 11 spaces; however, the revised project plans would still conform to the Town's parking requirements.

A review of the proposed project revisions was conducted in order to determine whether the revisions constituted substantial changes that will require major revisions to the MND. Under Section 15162 of CEQA, major revisions of a negative declaration are required if such substantial changes result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The review of the revised project indicated that the addition of one residential unit would not constitute a substantial change in the project and that the development of the additional residence would not involve new significant environmental effects or substantially increase the severity of previously identified significant effects. Consequently, the preparation of an addendum to the MND is appropriate for the revised project.

In order to address the project revisions, the adopted MND and IS were revised to account for the addition of one residential unit. The revised MND and IS are attached. No new significant environmental effects were identified during this review. The significant environmental effects identified under the adopted MND would not substantially increase in severity as a result of the

project revisions. The review identified potential environmental effects for aesthetics and parking. The environmental impact resulting from the addition of one residential unit to the proposed project was determined to be consistent with the impacts previously identified for the project; these environmental effects would be reduced to less-than-significant levels by the adopted mitigation measures. No new mitigation measures would be warranted for the revised project design.