

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
JANUARY 11, 2016**

**Planning Application 2014-7736
701, 711, 717, 729 E. Evelyn Ave.**

(APNs 209-01-009, 209-01-010, 209-01-011, 209-01-012, 209-01-013, 209-01-014, 209-01-029)

Special Development Permit to allow a modification to the previously-approved Special Development Permit (2014-7656) for a 204-townhome unit development to add a 0.37-acre parcel and 11 additional units at 711 E. Evelyn Avenue, including extending the previously-approved Variance for concierge trash service to the modified area. The modified overall project would total 11.41 acres and 215 townhome units.

Vesting Tentative Map to allow a modification to the previously-approved Vesting Tentative Map (2014-7656) to include the 711 E. Evelyn Avenue parcel in the project and add an additional lot, two common area parcels, and 11 condominium units; and reconfigure the location of six previously-approved lots and 27 condominium units on and around the included parcel.

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

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

<p>GC: THE FOLLOWING GENERAL CONDITIONS AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.</p>

GC-1. PREVIOUS CONDITIONS OF APPROVAL (PLANNING APPLICATION 2014-7656):

All conditions of approval associated with Planning Application 2014-7656 shall apply to this application, unless otherwise amended by these conditions of approval. [COA] [PLANNING, PUBLIC WORKS]

GC-2. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

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

GC-3. PERMIT EXPIRATION:

The permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date and is approved by the Director of Community Development. [SDR] [PLANNING]

GC-4. INDEMNITY:

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

GC-5. NOTICE OF FEES PROTEST:

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

GC-6. ON-SITE AMENITIES:

Swimming pools, pool equipment structures, play equipment and other accessory utility buildings, except as otherwise subject to Planning Commission review, may be allowed by the Director of

Community Development subject to approval of design, location and colors. [COA] [PLANNING]

GC-7. BMR OWNERSHIP HOUSING COMPLIANCE:

This condition amends Condition GC-6 of Planning Application 2014-7656. This project is subject to the City's Below Market Rate (BMR) Housing requirements as set forth in Sunnyvale Municipal Code Chapter 19.67 and the BMR Program Guidelines, both as may be amended. Developer shall enter into a BMR Developer Agreement in a form provided by the City, to be recorded against the property before issuance of building permits or recordation of a final map, whichever occurs first. When dwelling units in the project are made available for sale, the overall 215-unit project shall provide 26 BMR dwelling unit for sale and pay a fractional in-lieu fee of 0.875 units in compliance with the BMR requirements set forth in SMC 19.67 and the BMR Program Guidelines. [SDR][HOUSING]

GC-8. STORMWATER MANAGEMENT PLAN:

Project is subject to Provision C3, of the Municipal Regional Stormwater Permit Order No. R2-2009-0074, as determined by a completed "Stormwater Management Plan Data Form", and therefore must submit a Stormwater Management Plan as per SMC 12.60.140 prior to issuance of the building permit. [SDR] [PLANNING]

GC-9. PUBLIC IMPROVEMENTS:

In conjunction with Planning Application 2014-7656 Condition GC-10, and not contrary to the subject conditions of approval, the developer shall install all public improvements within the public right-of-way with one phase, prior to occupancy of the first building located on any of the lots on either Planning Application 2014-7656 or this application, whichever occurs first, unless otherwise approved by the Director of Public Works with an approved construction phasing plan(s). [COA][PUBLIC WORKS]

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

PS-1. EXTERIOR MATERIALS REVIEW:

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

PS-2. BMR STANDARD PERMIT CONDITION:

The developer shall complete a "BMR Standard Conditions Form" provided by the Housing Division and submit it with a site plan to the Housing Division for review before submitting building permit

applications for the project. The site plan must describe the number, type, size and location of each unit on the site. This information will be used to complete the Developer Agreement. [SDR] [HOUSING/BMR Administrative Guidelines]

PS-3. PREVIOUS CONDITION PS-3A OF PLANNING APPLICATION 2014-7656:

Condition PS-3a of Planning Application 2014-7656 is hereby removed, since pedestrian access from Buildings 22 and 23 (northern portion of the project) have sufficient walkway access and design with the approved plans in this Planning Application, 2015-7736. [COA] [PLANNING]

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

BP-1. CONDITIONS OF APPROVAL:

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

BP-2. RESPONSE TO CONDITIONS OF APPROVAL:

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

BP-3. NOTICE OF CONDITIONS OF APPROVAL:

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

For purposes of determining the record owner of the property, the applicant shall provide the City with evidence in the form of a report from a title insurance company indicating that the record owner(s) are

the person(s) who have signed the Notice of Conditions of Approval.
[COA] [PLANNING]

BP-4. BLUEPRINT FOR A CLEAN BAY:

The building permit plans shall include a "Blueprint for a Clean Bay" on one full sized sheet of the plans. [SDR] [PLANNING]

BP-5. BMR DEVELOPMENT AGREEMENT:

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

In the event that any Below Market Rate dwelling unit or any portion thereof in the development is destroyed by fire or other cause, all insurance proceeds therefrom shall be used to rebuild such units, which will remain subject to the terms of the Developer Agreement and the BMR requirements. Grantee hereby covenants to cause the City of Sunnyvale to be named an additional insured party to all fire and casualty insurance policies pertaining to said assisted units. [SDR] [HOUSING/BMR Administrative Guidelines]

BP-6. BUILDING PERMIT ISSUANCE/FINAL MAP RECORDATION:

This condition amends Condition BP-6 of Planning Application 2014-7656. Prior to building permit issuance for the building on Lot 14 and the trash enclosure and final map recordation, the existing 10' Pacific Gas & Electric (PG&E) easement along the eastern and southern project limits shall be quitclaimed with a recordation document, unless otherwise approved by the City. [COA] [PUBLIC WORKS]

BP-7. DEMOLITION/CONSTRUCTION/RECYCLING WASTE REPORT FORM:

To mitigate the impacts of large projects on local waste disposal and recycling levels, demolition waste weights/volumes, construction weights/volumes, and recycling weights/volumes are to be reported to the city, per city's "waste & recycling reporting form" (electronic copy available) or a similar chart approved by the city. As part of the project's construction specifications, the developer shall track the type, quantity, and disposition of materials generated, and forward a

complete report to the department of environmental services, solid waste division both periodically and at project completion. [COA][ENVIRONMENTAL SERVICES]

BP-8. RECYCLING AND SOLID WASTE ENCLOSURE (COMPACTOR):

The building permit plans shall include details for the installation of the (compactor) recycling and solid waste enclosure that are consistent with SMC 19.38.030. The required solid waste and recycling enclosure shall:

- a) Match the design, materials and color of the main building;
- b) Be of masonry construction;
- c) Be screened from view;
- d) All gates, lids and doors shall be closed at all times;
- e) Shall not conflict with delivery/receiving areas;
- f) Shall be consistent with the approved Waste and Recycling Management Plan, or as modified per the approved concierge service;
- g) Waste and recycling diversion systems shall be incorporated into the facilities and tenant improvements.
- h) The hours of operation of the trash compactor is limited to 9:00 a.m. to 1:00 p.m. [COA][ENVIRONMENTAL SERVICES/PLANNING]

BP-9. SOLID WASTE DISPOSAL PLAN:

A detailed recycling and solid waste disposal plan, as described in the approved trash management plan (concierge trash service), shall be submitted for review and approval by the Director of Community Development prior to issuance of building permit. The solid waste disposal plan and building permit plans shall demonstrate compliance with current City requirements and guidelines for residential projects. [COA] [PLANNING/ENVIRONMENTAL SERVICES]

BP-10. STORMWATER MANAGEMENT PLAN:

Submit two copies of a Stormwater Management Plan subject to review and approval by Director of Community Development, pursuant to SMC 12.60, prior to issuance of building permit. The Stormwater Management Plan shall include an updated Stormwater Management Data Form. [COA] [PLANNING/ENVIRONMENTAL SERVICES]

BP-11. STORMWATER MANAGEMENT PLAN THIRD-PARTY CERTIFICATION:

Third-party certification of the Stormwater Management Plan is required per the following guidance: City of Sunnyvale – Stormwater Quality BMP Applicant Guidance Manual for New and Redevelopment Projects - Addendum: Section 3.1.2 Certification of Design Criteria Third-Party Certification of Stormwater Management Plan Requirements. The third-party certification shall be provided prior to

building permit issuance. [SDR] [PLANNING/ENVIRONMENTAL SERVICES]

BP-12. UNDERGROUND UTILITIES:

All utilities shall be undergrounded per Sunnyvale Municipal Code Chapter 19.38.095. [SDR] [PLANNING/PUBLIC WORKS]

BP-13. MECHANICAL EQUIPMENT (EXTERIOR):

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

BP-14. LANDSCAPE PLAN:

Final landscape and irrigation plans shall be in conformance with the approved entitlement plans and shall comply with Sunnyvale Municipal Code Chapter 19.37 requirements:

- a) All areas not required for parking, driveways or structures shall be landscaped.
- b) Ten percent (10%) shall be 24-inch box size or larger and no tree shall be less than 15-gallon size.
- c) Any “protected trees”, (as defined in SMC 19.94) approved for removal, shall be replaced with a specimen tree of at least 36-inch box size.
- d) Ground cover shall be planted so as to ensure full coverage 18 months after installation.
- e) Backflow device and other appurtenances are to include screening and covers as approved by the Director of Community Development. This includes all devices (irrigation, DCDA, etc.) located in the front yard landscape areas. Covers should be black, metal mesh with rounded top covers (e.g. “mailbox style”).
- f) Decorative paving shall be used on the drive aisles and on pedestrian walkways crossing streets/drive aisles. The paving design shall distinguish the pedestrian walkways from the vehicular drive aisles.
- g) Modifications from the approved entitlement plans will require a separate staff-level permit, subject to review and approval by the Director of Community Development. [COA] [PLANNING]

BP-15. PRE-APPROVED WATER-EFFICIENT LANDSCAPE PLANS:

The developer must install all common landscaping and irrigation per approved water-efficient landscape plans, and must submit a Landscaping Certificate of Completion, Irrigation Audit Report and Irrigation Schedule, and Landscaping Maintenance Schedule. Modifications to the pre-approved water-efficient landscape plan will require a separate staff-level permit. [COA] [PLANNING]

BP-16. TREE PROTECTION PLAN:

Prior to issuance of a Demolition Permit, a Grading Permit or a Building Permit, whichever occurs first, obtain approval of a tree protection plan from the Director of Community Development. Two copies are required to be submitted for review. The tree protection plan shall include measures noted in Title 19 of the Sunnyvale Municipal Code and at a minimum:

- a) An inventory shall be taken of all existing trees on the plan including the valuation of all 'protected trees' by a certified arborist, using the latest version of the "Guide for Plant Appraisal" published by the International Society of Arboriculture (ISA).
- b) All existing (non-orchard) trees on the plans, showing size and varieties, and clearly specify which are to be retained.
- c) Provide fencing around the drip line of the trees that are to be saved and ensure that no construction debris or equipment is stored within the fenced area during the course of demolition and construction.
- d) The tree protection plan shall be installed prior to issuance of any Building or Grading Permits, subject to the on-site inspection and approval by the City Arborist and shall be maintained in place during the duration of construction and shall be added to any subsequent building permit plans. [COA] [PLANNING/CITY ARBORIST]

BP-17. BEST MANAGEMENT PRACTICES - STORMWATER:

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

- a) Storm drain stenciling. The stencil is available from the City's Environmental Division Public Outreach Program, which may be reached by calling (408) 730-7738.
- b) Landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, minimizes the use of pesticides and fertilizers, and incorporates appropriate sustainable landscaping practices and programs such as Bay-Friendly Landscaping.

- c) Appropriate covers, drains, and storage precautions for outdoor material storage areas, loading docks, repair/maintenance bays, and fueling areas.
- d) Covered trash, food waste, and compactor enclosures.
- e) Plumbing of the following discharges to the sanitary sewer, subject to the local sanitary sewer agency's authority and standards:
 - i) Discharges from indoor floor mat/equipment/hood filter wash racks or covered outdoor wash racks for restaurants.
 - ii) Dumpster drips from covered trash and food compactor enclosures.
 - iii) Discharges from outdoor covered wash areas for vehicles, equipment, and accessories.
 - iv) Swimming pool water, spa/hot tub, water feature and fountain discharges if discharge to onsite vegetated areas is not a feasible option.
 - v) Fire sprinkler test water, if discharge to onsite vegetated areas is not a feasible option. [SDR] [PLANNING]

BP-18. EXTERIOR LIGHTING PLAN:

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

- a) Sodium vapor (or illumination with an equivalent energy savings).
- b) Pole heights to be uniform and compatible with the areas, including the adjacent residential areas. Light standards shall not exceed 8 feet in height around the periphery or as otherwise deemed appropriate. The intent is to prevent light glare to adjoining properties.
- c) Provide photocells for on/off control of all security and area lights.
- d) All exterior security lights shall be equipped with vandal resistant covers.
- e) Wall packs shall not extend above the roof of the building.
- f) Lights shall have shields to prevent glare onto adjacent residential properties. [COA] [PLANNING]

BP-19. PHOTOMETRIC PLAN:

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

BP-20. LIGHTING SPACING:

Installation of lights shall be at a minimum of 50 feet intervals along the private street/drive aisle. [COA] [PLANNING]

BP-21. PARKING MANAGEMENT PLAN (RESIDENTIAL MULTI-FAMILY):

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

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

BP-22. GREEN BUILDING:

The plans submitted for building permits shall demonstrate the project achieves a minimum of 110 points (incentive to increase building height to 40 feet) on the Green Point Rated checklist, or the minimum points required effective at the time of building permit submittal. The project plans shall be accompanied with a letter from the project’s Green Point Rater/LEED AP verifying the project is designed to achieve the required points. [COA] [PLANNING] [BUILDING]

BP-23. CONSTRUCTION MANAGEMENT PLAN:

The project applicant shall implement a Construction Management Plan (CMP) to minimize impacts of construction on surrounding residential uses to the extent possible. The CMP shall be subject to review and approval by the Director of Community Development prior to issuance of a demolition permit, grading permit, or building permit. The CMP shall identify measures to minimize the impacts of construction including the following:

- a) Measures to control noise by limiting construction hours to those allowed by the SMC, avoiding sensitive early morning and evening

hours, notifying residents prior to major construction activities, and appropriately scheduling use of noise-generating equipment.

- b) Use 'quiet' models of air compressors and other stationary noise sources where such technology exists.
- c) Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- d) Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from residences or other noise-sensitive land uses.
- e) Locate staging areas and construction material areas as far away as possible from residences or noise-sensitive land uses.
- f) Route all construction traffic to and from the project site via designated truck routes where possible. Prohibit construction-related heavy truck traffic in residential areas where feasible. Obtain approval of proposed construction vehicle truck routes from the Department of Public Works.
- g) Manage construction parking so that neighbors are not impacted by construction vehicles. When the site permits, all construction parking shall be on-site and not on the public streets.
- h) Prohibit unnecessary idling of internal combustion engine-driven equipment and vehicles.
- i) Notify all adjacent business, residents, and noise-sensitive land uses of the construction schedule in writing. Notify nearby residences of significant upcoming construction activities at appropriate stages in the project using mailing or door hangers.
- j) Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint and will require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- k) Comply with Climate Action Plan and Dust Control measures contained in DC-3 and CD-4. [COA] [PLANNING]

BP-24. FEES AND BONDS:

This condition amends Condition BP-26 of Planning Application 2014-7656. The following fees and bonds shall be paid in full prior to issuance of building permit.

- a) PARK IN-LIEU - Pay Park In-lieu fees for the overall 215-unit project estimated at \$8,091,705.60 (based on 5 acres per 1,000

population and \$96 fair market value), prior to approval of the Final Map or Parcel Map. (SMC 18.10). [SDR] [PLANNING]

BP-25. COMPACT SPACES:

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

BP-26. INTERIOR NOISE:

Final construction drawings shall incorporate all mitigation measures related to interior noise as set forth under “Mitigation Measures” in the approved environmental document and as noted below. [COA] [PLANNING]

MITIGATIONS – Interior Noise

WHAT:

- (1) Maintain closed at all times all bedroom windows and bedroom glass doors within 240 feet of the centerline of the railroad tracks and with a direct or side orientation toward the tracks. At bedrooms within 180 feet of the centerline of the tracks, install windows and glass doors rated minimum Sound Transmission Class (STC) 35. These windows and doors must have at least one pane of 1/4 inch (7/32 inch nom.) laminated glass and single-strength glass is not permitted. At bedrooms between 180 feet and 240 feet of the tracks, install windows and glass doors rated minimum STC 30. Single-strength glass is not permitted in the windows and doors.
- (2) Provide mechanical ventilation for all living spaces with the closed window or glass door condition.
- (3) Through-the-wall air conditioners, “Z-ducts” or other openings in noise impacted facades may compromise the acoustical integrity of the building shell. Should any type of opening be created in the building shell in a noise impacted façade, special provisions may be necessary. Consult a qualified acoustician to ensure that the acoustical integrity of the building shell will be maintained.
- (4) When windows are maintained closed for noise control, mechanical ventilation to assure a habitable environment must be provided. The windows specified to be maintained closed are to be operable, as the requirement does not imply a “fixed” condition. All other windows of the project and all bathroom windows may have any type of glazing and may be kept opened as desired unless the bathroom is an integral part of a living space without a closeable door.

- (5) In addition to the required STC ratings, the windows and doors shall be installed in an acoustically-effective manner. To achieve an acoustically-effective window construction, the sliding window panel must form an air-tight seal when in the closed position and the window frames must be caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound infiltration. Exterior doors must seal air-tight around the full perimeter when in the closed position.
- (6) The acoustical test report of all sound rated windows and doors should be reviewed by a qualified acoustician to ensure that the chosen windows and doors will adequately reduce traffic and rail noise to acceptable levels.

WHEN: These mitigations shall be incorporated into conditions of approval for the Special Development Permit (SDP) prior to its final approval by the City's Planning Commission. The conditions will become valid when the SDP is approved and prior to building permit issuance.

WHO: The project applicant or property owner shall be solely responsible for implementation and maintenance of these mitigation measures.

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

BP-27. CONSTRUCTION-RELATED NOISE:

Final construction drawings shall incorporate all mitigation measures related to construction-related noise as set forth under "Mitigation Measures" in the approved environmental document and as noted below. [COA] [PLANNING]

MITIGATIONS – Construction-Related Noise

WHAT:

- (1) All internal combustion engines used at the project site must be equipped with a type of muffler recommended by the vehicle manufacturer. All equipment must be in good mechanical condition so as to minimize noise created by faulty or poorly maintained engine, drive-train and other components.
- (2) Construction operations must comply with the limits of the City of Sunnyvale Municipal Code.
- (3) Place long-term stationary equipment as far away from the residential areas as possible.

- (4) Demolish the northerly portions of the existing buildings first leaving the walls of the buildings closest to the residences up for as long as possible as these walls will act as sound barriers.
- (5) Keep mobile equipment (haul trucks, concrete trucks, etc.) off of local streets as much as possible.
- (6) Orient the concrete crusher so that the hopper (noise end) faces away from noise sensitive receptors.
- (7) Use scrapers as much as possible for earth removal, rather than the noisier loaders and hauling trucks.
- (8) Use a motor grader rather than a bulldozer for final grading.
- (9) Power saws should be shielded or enclosed where practical to decrease noise emissions. Nail guns should be used where possible as they are less noisy than manual hammering.
- (10) Use generators and compressors that are housed in acoustical enclosures rather than weather enclosures or none at all.

WHEN: These mitigations shall be incorporated into conditions of approval for the Special Development Permit (SDP) prior to its final approval by the City's Planning Commission. The conditions will become valid when the SDP is approved and prior to building permit issuance.

WHO: The project applicant or property owner shall be solely responsible for implementation and maintenance of these mitigation measures.

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

BP-28. **BIOLOGICAL RESOURCES:**

Final construction drawings shall incorporate all mitigation measures related to biological resources as set forth under "Mitigation Measures" in the approved environmental document and as noted below. [COA] [PLANNING]

MITIGATIONS – Biological Resources

WHAT:

- (1) If construction commences anytime during the nesting/breeding season of native bird species (typically February through August), a qualified biologist must conduct a preconstruction survey of the project vicinity for nesting/breeding birds at least 30 days prior to the start of construction activities. The intent of the survey is to determine if active raptor nests or other species protected by the

Migratory Bird Treaty Act are present within the construction zone or within 250 feet of construction zone for raptors and 50 feet of the construction zone for other migratory birds. The survey area must include all trees and shrubs within zones that have the potential to support nesting birds.

- (2) If active nests are found in the area that could be directly affected or are within 250 feet of construction for raptors and 50 feet for other migratory birds, a no-disturbance buffer zone must be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. Once the young have fledged, tree removal and other construction activities may commence.

WHEN: These mitigations shall be incorporated into conditions of approval for the Special Development Permit (SDP) prior to its final approval by the City's Planning Commission. The conditions will become valid when the SDP is approved and prior to building permit issuance.

WHO: The project applicant or property owner shall be solely responsible for implementation and maintenance of these mitigation measures.

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

BP-29. HISTORIC AND CULTURAL RESOURCES:

Final construction drawings shall incorporate all mitigation measures related to historic and cultural resources as set forth under "Mitigation Measures" in the approved environmental document and as noted below. [COA] [PLANNING]

MITIGATIONS – Historic and Cultural Resources

WHAT:

- (1) An archeological monitor and a Native American representative must monitor ground disturbing demolition, grubbing, scraping, grading, trenching and any other excavation within the project site. Archeological monitoring must be continued until the archeologist and Native American monitors are satisfied that no significant cultural deposits will be impacted by the project.
- (2) If human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and the County Coroner as well as a qualified archeologist (if not already present) must be notified immediately so that an evaluation can be performed. Procedures at this point are prescribed by law. If the remains are deemed to be Native American and prehistoric, the

Native American Heritage Commission must be contacted by the Coroner so that a "Most Likely Descendant" can be designated. Once the Most Likely Descendant has inspected the discovered remains, the remains can be reinterred with appropriate dignity.

- (3) Archeological monitoring must be conducted following the procedures specified below in the event that potentially significant cultural deposits or human burials are found during the development:
 - (a) Monitoring will consist of directly watching the major excavation process. Monitoring will occur during the entire work day, and will continue on a daily basis until a depth of excavation has been reached at which resources could not occur. This depth is estimated as usually about 5 feet below grade at the beginning of the project, but may require modifications in specific cases, and will be determined by the monitoring archeologist based on observed soil conditions.
 - (b) Spot checks will consist of partial monitoring of the progress of excavation over the course of the project. During spot checks all soils material, open excavations, recently grubbed areas, and other soil disturbances will be inspected. The frequency and duration of spot checks will be based on the relative sensitivity of the exposed soils and active work areas. The monitoring archeologist will determine the relative sensitivity of the parcel.
 - (c) If prehistoric human interments (human burials) are encountered within the project area, all work must be halted in the immediate vicinity of the find. The County Coroner, project superintendence, and the Agency Liaison should be contacted immediately. The procedures to be following at this point are prescribed by law.
 - (d) If significant cultural deposits other than human burials are encountered, the project should be modified to allow the artifacts or features to be left in place, or the archaeological consultant should undertake the recovery of the deposit or feature. Significant cultural deposits are defined as archaeological features or artifacts that associate with the prehistoric period, the historic era Mission and Pueblo Periods and the American era up to about 1900.
 - (e) Whenever the monitoring archaeologist suspects that potentially significant cultural remains or human burials have been encountered, the piece of equipment that encounters the suspected deposit will be stopped, and the excavation inspected by the monitoring archaeologist. If the suspected remains prove to be non-significant or non-cultural in origin, work will

recommence immediately. If the suspected remains prove to be part of a significant deposit, all work should be halted in that location until removal has been accomplished. If human remains (burials) are found, the County Coroner must be contacted so that they (or a designated representative) can evaluate the discovered remains and implement proper contacts with pertinent Native American representatives.

- (f) Equipment stoppages will only involve those pieces of equipment that have actually encountered significant or potentially significant deposits, and should not be construed to mean a stoppage of all equipment on the site unless the cultural deposit covers the entire building site.
- (4) During temporary equipment stoppages brought about to examine suspected remains, the archaeologist should accomplish the necessary tasks with all due speed.

WHEN: These mitigations shall be incorporated into conditions of approval for the Special Development Permit (SDP) prior to its final approval by the City's Planning Commission. The conditions will become valid when the SDP is approved and prior to building permit issuance.

WHO: The project applicant or property owner shall be solely responsible for implementation and maintenance of these mitigation measures.

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

BP-30. HAZARDS AND HAZARDOUS MATERIALS:

This condition amends Condition BP-31 of Planning Application 2014-7656. Final construction drawings shall incorporate all mitigation measures related to hazards and hazardous materials as set forth under "Mitigation Measures" in the approved environmental document and as noted below. [COA] [PLANNING]

MITIGATIONS – Hazards and Hazardous Materials

WHAT:

- (1) Install vapor barrier sheeting beneath the slabs of all residential structures on-site.
- (2) Remove all materials from the 711 E. Evelyn (0.37 acre parcel) site. If indications of suspect conditions are observed during removal, the project hazardous material consultant shall be contacted to determine if additional characterization is required.

WHEN: These mitigations shall be incorporated into conditions of approval for the Special Development Permit (SDP) prior to its final approval by the City's Planning Commission. The conditions will become valid when the SDP is approved and prior to building permit issuance.

WHO: The project applicant or property owner shall be solely responsible for implementation and maintenance of these mitigation measures.

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

BP-31. NOISE REDUCTION:

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

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

EP-1. AMENDMENT OF EXISTING ENCROACHMENT PERMIT:

Developer shall not commence the off-site improvements associated with this application until Condition of Approval TM-4 has been met and incorporated into Encroachment Permit # 2014-9132. [COA][PUBLIC WORKS]

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

TM-1. SANITARY SEWER ANALYSIS:

Developer shall submit an updated focused sanitary sewer analysis identifying the overall project impact to the City's existing sanitary sewer main(s) for City's approval. This includes, but is not limited to, the following:

- a) A detailed estimate of water consumption in gallons per day or estimate of sanitary sewer discharge in gallons per day; and
- b) Any incremental impact that will result from the new project in comparison to the existing sewer capacity of the immediate downstream mainline as needed, and allocation of wastewater discharge from the project site to each of the proposed laterals. Any deficiencies in the existing system in the immediate vicinity of

the project will need to be addressed and resolved at the expense of the developer as part of the off-site improvement plans. Sewer flow data may be required as needed. [COA] [PUBLIC WORKS]

TM-2. STORM DRAIN DESIGN

Developer shall provide an updated storm drain hydrology and hydraulic calculations for City's approval based upon a 10-year storm event to justify the size of the with a flow depth not exceeding 75% in the main. The new storm drain main line shall be minimum 18 inches diameter. [COA][PUBLIC WORKS]

TM-3. AMENDMENT OF OFF-SITE IMPROVEMENT PLAN:

Developer shall submit amended off-site improvement plans associated with Planning Application 2014-7656 that incorporate the improvements associated with this planning application for review and approval by the Department of Public Works. [COA] [PUBLIC WORKS]

TM-4. PUBLIC WORKS DEVELOPMENT FEES:

Developer shall pay all applicable Public Works development fees associated with the project addition of 11 units (4 low occupancy, 7 standard occupancy), including but not limited to, utility frontage and/or connection fees, off-site improvement plan check and inspection fees, prior to map recordation or any permit issuance, whichever occurs first. The exact fee amount shall be determined based upon the fee rate at the time of fee payment. [COA] [PUBLIC WORKS]

TM-5. SUBDIVISION AGREEMENT AND IMPROVEMENT SECURITIES:

Developer shall execute an amendment to the Subdivision Agreement and provide an amended amount of improvement securities and/or cash deposit(s) for all proposed public improvements prior to final map recordation or any permit issuance, whichever occurs first. [COA] [PUBLIC WORKS] (SMC 18.20.250 and SMC 18.20.260)

TM-6. OFF-SITE IMPROVEMENT COST ESTIMATE:

Provide an updated itemized engineer's estimate for all off-site public improvements for the entire project. [COA] [PUBLIC WORKS]

TM-7. CONDITIONS, COVENANTS AND RESTRICTIONS (CC&Rs) (DRAFT REVIEW):

This condition amends Condition TM-11 of Planning Application 2014-7656. Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney. Four (4) sets of the CC&Rs including all information required below shall be submitted to the Engineering Division of the Public Works

Department for routing. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:

- a) Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
- b) The owners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.
- c) All public/private easements pertaining to the project shall be identified and/or defined and made aware to the homeowners in the CC&R's.
- d) The Homeowners Association shall maintain parkstrip landscaping in perpetuity along the public street fronting the project site. (SMC 13.08.370 and SMC 13.08.380)
- e) The developer shall maintain all private utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to a Homeowners Association, following the sale of at least 75% of the units, whichever occurs first. (Subdivision Agreement)
- f) Homeowners are prohibited from modifying drainage facilities and/or flow patterns of their lots without first obtaining permission from the City.
- g) There shall be provisions of post construction Best Management Practices in the CC&R's in regards to the storm water management. (SMC 12.60.200)
- h) The Standard Development Requirements and Conditions of Approval included as part of the approved Planning Application, Permit #2014-7656 and #2015-7736, and associated map shall be incorporated into the CC&Rs as an exhibit or attachment. The included map shall clearly indicate all public/private easements as disclosure for property owners. The CC&Rs shall include a list of all attachments and/or exhibits.
- i) The CC&Rs shall include the provisions of the Parking Management Plan as approved by the Director of Community Development.
- j) The CC&Rs shall contain the following language:
 - i) "Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair

only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each lot in the Project.

- ii) It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.
- vi) It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
- vii) It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.
- viii) No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
- ix) Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property."
- x) Language or intent subject to the approval of the Santa Clara Valley Water District (SCVWD) regarding discharge and drainage facilities.

- k) The Association may not discontinue use of the concierge trash service, as described in the approved trash management plan, without the prior approval by the City of Sunnyvale through a separate permit, which may require significant site modifications.
 - l) Rights and responsibilities of residents and the Association to implement and maintain the concierge trash service, as described in the approved trash management plan, must be properly documented in the CC&Rs, including proper storage of trash and recycling bags (may not obstruct ability to park inside garages), staging during collection (may not obstruct driveway clearances and must not be visible from the public right-of-way), and available resources for bulk and hazardous waste removal. [COA] [PUBLIC WORKS/PLANNING/CITY ATTORNEY]
- TM-8. HOA CREATION:
The developer/Owner shall create a Homeowner's Association that comports with the state law requirements for Common Interest Developments. [COA] [PLANNING]
- TM-9. HOA TRANSFER:
At the time the homeowners association is transferred from the developer to the individual property owners (typically at election of board members or officers), the developer shall schedule a meeting between the board members or officers, the City of Sunnyvale and the developer to review the Conditions of Approval of the development and other applicable City requirements. [COA] [PLANNING]
- TM-10. COMMON LOTS/PRIVATE STREET NAME:
Common lots shall be assigned a private street name in accordance with the official Street Name System, as selected by the Community Development Department, and be shown on the final map. The private street shall be designated as "Terrace". [COA] [PLANNING/PUBLIC WORKS]

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

- PF-1. LANDSCAPING, IRRIGATION, COMMUNITY ROOM
All landscaping and irrigation as contained in the approved building permit plan shall be installed prior to occupancy. The community room shall be installed prior to final inspection of the 75th dwelling unit. [COA] [PLANNING]

PF-2. CONDITIONS, COVENANTS AND RESTRICTIONS (CC&RS) (RECORDATION):

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

PF-3. HOA ESTABLISHMENT:

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

PF-4. BMR COMPLETION 60 ADVANCE DAY NOTICE:

The Developer/Owner must provide a written "Notice of Intent to Sell" to the Affordable Housing Manager for each BMR unit to be provided in the development sixty days (60) prior to the request for a certificate of occupancy or receipt of a DRE report for the unit, whichever is later. Upon receipt of this Notice, the Housing Division will inform the developer of the current maximum BMR sales price applicable to the unit, based on number of bedrooms, as published in the Administrative Procedures and updated annually. The developer must also request and pass a site inspection by the Affordable Housing Manager to verify that the BMR units have been completed in compliance with the BMR Development Agreement. [COA] [HOUSING]

PF-5. COMPLETION OF PUBLIC IMPROVEMENTS:

Developer shall complete all required public improvements in accordance with City approved plans, prior to any building occupancy for the lots on either Planning Application 2014-7656 or this application, whichever comes first, unless otherwise approved by the Director of Public Works. [COA] [PUBLIC WORKS]

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

DC-1. BLUEPRINT FOR A CLEAN BAY:

The project shall be in compliance with stormwater best management practices for general construction activity until the project is completed and either final occupancy has been granted. [SDR] [PLANNING]

DC-2. TREE PROTECTION:

All tree protection shall be maintained, as indicated in the tree protection plan, until construction has been completed and the installation of landscaping has begun. [COA] [PLANNING]

DC-3. CLIMATE ACTION PLAN – OFF ROAD EQUIPMENT REQUIREMENT:

OR 2.1: Idling times will be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]), or less. Clear signage will be provided at all access points to remind construction workers of idling restrictions.

OR 2.2: Construction equipment must be maintained per manufacturer's specifications.

OR 2.3: Planning and Building staff will work with project applicants to limit GHG emissions from construction equipment by selecting one of the following measures, at a minimum, as appropriate to the construction project:

- a) Substitute electrified or hybrid equipment for diesel- and gasoline-powered equipment where practical.
- b) Use alternatively fueled construction equipment on-site, where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane, or biodiesel.
- c) Avoid the use of on-site generators by connecting to grid electricity or utilizing solar-powered equipment.
- d) Limit heavy-duty equipment idling time to a period of 3 minutes or less, exceeding CARB regulation minimum requirements of 5 minutes. [COA] [PLANNING]

DC-4. DUST CONTROL:

At all times, the Bay Area Air Quality Management District's CEQA Guidelines and "Basic Construction Mitigation Measures Recommended for All Proposed Projects", shall be implemented. [COA] [PLANNING]

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

AT-1. RECYCLING AND SOLID WASTE:

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

AT-2. EXTERIOR EQUIPMENT:

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

AT-3. LANDSCAPE MAINTENANCE:

All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices. [COA] [PLANNING]

AT-4. PARKING MANAGEMENT:

On-site parking management shall conform to the approved Parking Management Plan. [COA] [PLANNING]

AT-5. UNENCLOSED STORAGE (PROHIBITED):

Unenclosed storage of any kind shall be prohibited on the premises. [COA] [PLANNING]

AT-6. ON-SITE PARKING MAINTENANCE:

- a) Off-street parking for both residents and guests shall be maintained at all times in accordance with approved plans.
- b) Garage and carport spaces shall be maintained at all times so as to allow for parking of vehicles.
- c) Clearly mark all assigned, guest, and compact spaces (as specified on the Building Permit plans and completed prior to occupancy).
- d) Maintain all parking lot striping and marking.
- e) Maintain parking lot lighting and exterior lighting to ensure that the parking lot is maintained in a safe and desirable manner for residents. [COA] [PLANNING]

AT-7. HOA REVIEW AND APPROVAL:

In common interest developments, any future applications to the City for physical modifications on commonly owned property shall require consent of the board of directors of the homeowners association, architectural review committee or similar committee; applications for physical modifications on privately owned property shall require the individual property owner's signature. Individual property owners submitting an application for physical modifications on private property shall comply with any approval processes outlined as such in the conditions, covenants & restrictions (CC&Rs) of their respective development. [COA] [PLANNING]

AT-8. HOA RESPONSIBILITIES:

The chairperson, secretary or principal officer of any committee or association shall notify the Planning Division and the Neighborhood and Community Resources Division of any change in officers and provide the names, addresses and telephone numbers of the new officers within thirty (30) days after the change becomes effective. [COA] [PLANNING DIVISION/NEIGHBORHOOD AND COMMUNITY RESOURCES DIVISION]

AT-9. BMP MAINTENANCE:

The project applicant, owner, landlord, or HOA, must properly maintain any structural or treatment control best management practices to be implemented in the project, as described in the approved Stormwater Management Plan and indicated on the approved building permit plans. [SDR] [PLANNING]

AT-10. BMP RIGHT OF ENTRY:

The project applicant, owner, landlord, or HOA, shall provide access to the extent allowable by law for representatives of City, the local vector control district, and the Regional Water Quality Control Board, strictly for the purposes of verification of proper operation and maintenance for the stormwater treatment best management practices contained in the approved Stormwater Management Plan.[SDR] [PLANNING]