MEETING DATE: 06-19-2006
AGENDA ITEM: 7A.
DESK ITEM

COUNCIL AGENDA REPORT

DATE: June 19, 2006

TO: MAYOR AND TOWN COUNCIL

FROM: ORRY P. KORB, TOWN ATTORNEY

SUBJECT: ADOPT AN ORDINANCE OF THE TOWN OF LOS GATOS AMENDING PLANNED DEVELOPMENT PD-99-02 RELATIVE TO GRADING AND REPEALING ORDINANCE 2097 FOR THE SHANNON VALLEY RANCH PROJECT AT SHANNON & HICKS ROADS (PREVIOUSLY ADDRESSED AS 17101 HICKS ROAD AND 14045 SHANNON ROAD). APNS 537-18-001, 567-23-042 AND 567-24-008. PROPERTY LOCATION: 17101 HICKS ROAD. FILE # PD-06-04. PROPERTY OWNER: GHC SHANNON VALLEY RANCH, LLC.

The conditions of approval attached to the proposed ordinance do not contain a condition added by Council limiting grading up slope of the retaining walls on Lots 6 through 11 and adding a deed restriction to that effect. The revised ordinance, attached hereto, includes a new condition 25 addressing these issues. The remaining conditions are renumbered accordingly.

Staff will make clear on the record that the approval of item 7A. as part of the consent calendar includes this revised ordinance.

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY OPK:/wp [N:\ATY\Shannon Valley Ranch Project (Greenbriar)\desk item Greenbriar Ord.wpd]

Reviewed by: ___ Town Manager PSS Assistant Town Manager ___ Clerk Administrator
___ Finance ___ Community Development

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File# 301-05

ORDINANCE OF THE TOWN OF LOS GATOS
AMENDING PLANNED DEVELOPMENT PD-99-02 RELATIVE TO GRADING AND REPEALING ORDINANCE 2097 FOR THE SHANNON VALLEY RANCH PROJECT AT SHANNON & HICKS ROADS
(PREVIOUSLY ADDRESSED AS 17101 HICKS ROAD AND 14045 SHANNON ROAD)

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 on property at Shannon and Hicks Roads (Santa Clara County Assessor Parcel Numbers 567-24-010 through 025) as shown on the map attached hereto as Exhibit A, and is part of this Ordinance, from HR-5:PD (Hillside Residential, 5 Acres per Dwelling Unit, Planned Development) to HR-5:PD (Hillside Residential, 5 Acres per Dwelling Unit, Planned Development).

SECTION II

The PD (Planned Development Overlay) zone established by Ordinance 2097 is hereby amended **to** authorizes the following construction and use of improvements:

1. Demolition of two existing pre-1941 and two post-1941 single family residences and one pre-1941 barn.
2. Construction of 13 new single-family dwelling units and reconstruction of one single-family dwelling that was destroyed by fire.
3. Landscaping, streets, trails, and other improvements shown and required on the Official Development Plan.
4. Dedication of 45.4 acres of hillside and riparian open space as shown on the Official Development Plans.
5. Dedication of trail easements to the Town of Los Gatos as shown on the Official Development Plans.
6. Revised grading shown on the plan attached as Exhibit D.
7. Ordinance 2087 is hereby repealed.

8. Uses permitted are those specified in the HR (Hillside Residential) zone by Sections 29.40.235 (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. However, no use listed in Section 29.20.185 is allowed unless specifically authorized by this Ordinance, or by a 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 and Subdivision Approval is required before construction work for the dwelling units is performed, 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 Town Code.

SECTION V

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

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. EXPIRATION/USE OF APPROVAL. The approval for the requested grading modifications shall expire two years from the date of approval unless the application has been vested pursuant to Town Code Section 29.20.320.
2. ARCHITECTURE AND SITE APPROVAL REQUIRED. A separate Architecture and Site application and approval is required for the residential units proposed.

3. OFFICIAL DEVELOPMENT PLANS. The Official Development Plans provided are conceptual in nature. Final footprints and building designs shall be determined during the architecture and site approval process.

4. HOUSE SITING. The siting of the homes shall be determined during the Architecture & Site approval process.

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 and the issuance of any building permits.

6. TREE REMOVAL PERMIT. A Tree Removal Permit shall be obtained for the removal of any ordinance sized tree prior to the issuance of a Building, Grading or Encroachment Permit.

7. FENCING. Fence locations shall be reviewed and approved during the Architecture & Site review(s), including privacy and yard fencing. Developer will include in the CC&R's for the project a restriction limiting the home owners from replacing the fence type as installed by the Developer and as shown on the Official Development Plans, or as otherwise approved during the Architecture & Site review(s). Any replacement or addition of other fence types shall be restricted to open fence types including wood with wire mesh and wood or concrete split-rail fencing. Solid fencing will be permitted only where installed by the Developer and as shown on the approved development plans. CC&R's shall require fences to be set back a minimum of 10 feet for from property lines.

8. BUILDING SQUARE FOOTAGE. All project homes will be limited to a maximum size of 4,850 square feet with an average of 4,650 square feet, and at least 2/3 of the homes shall be limited to a one story design. Final building design and size will be determined during Architecture and Site review. No further expansion of the homes will be allowed unless this Ordinance is amended by the Town Council. Lot 14 shall be developed under guidelines of a replacement structure and shall be similar is size, mass and scale to the original home that was destroyed by fire.

9. SETBACKS. The minimum setbacks are those specified by the HR-5 zoning district.

10. HEIGHT. The maximum height for single-story homes shall be 25 feet and the maximum height for two-story homes shall be 30 feet.

11. EXTERIOR LIGHTING. All exterior lighting shall be reviewed and approved as part of the Architecture & Site review(s). Lighting shall be down directed, and no street lighting shall be included in the development. If it is determined that lighting is needed for safety reasons at the intersection of Hicks Road and the new road into the development, a street light may be required, but only if there is not alternative safety devices that can adequately delineate the intersection. If it is determined that a new light must be installed, it shall be designed to only illuminate the minimum area necessary for safety.

12. **BIOLOGICAL RESOURCES MITIGATION MEASURE 6-3a. During the design phase, the property owner/developer shall implement the following measures:

    a. Any plan affecting trees shall be reviewed by the Consulting Arborist to ensure that improvement plans, utility and drainage plans, grading plans, landscape and irrigation plans, and demolition plans will not adversely affect the tree to be retained.

    b. The horizontal and vertical elevations of trees to be preserved within development areas shall be established and included on all plans.

    c. The Consulting Arborist shall identify a Tree Protection Zone for trees to be preserved in which no soil disturbance is permitted. For design purposes, the Tree Protection Zone shall be defined by the dripline. Where development must encroach within the dripline, the Consulting Arborist shall identify an appropriate Tree Protection Zone.

    d. No underground services including utilities, sub-drains, water or sewer shall be placed in the Tree Protection Zone.

    e. Tree Preservation Notes shall be included on all plans.

    f. Any herbicides placed under paving materials must be safe for use around trees and labeled for that use.

    g. Irrigation systems must be designed so that no trenching will occur within the Tree Protection Zone.

13. **BIOLOGICAL RESOURCES MITIGATION MEASURE 6-3b. During the pre-construction phase, the property owner/developer shall take the following measures:

a. A fence shall be constructed around all trees to be retained and it shall completely enclose the Tree Protection Zone prior to demolition, grubbing, or grading. Fencing shall be 6-foot chain link or equivalent. Fencing shall be placed at the dripline or as otherwise directed by the Consulting Arborist. Fences are to remain until all grading and construction is completed.

b. All trees to be retained shall be pruned within and adjacent to development areas shall be reviewed by a certified arborist to determine which trees should be pruned to clean the crown, reduce end weight and/or provide clearance. Tree #201 will require pruning to reduce weight throughout the crown. Clearance shall be provided by selectively thinning low-hanging lateral branches.

c. All pruning shall be performed by a Certified Arborist or Tree Worker in accordance with the Tree Pruning Guidelines of the International Society of Arboriculture.

d. Prior to the start of any demolition and clearing, the Consulting Arborist will meet with the demolition, grading and other relevant contractors to review limits of construction activity, identify areas requiring fencing, identify trees to be removed and review work procedures.

14. **BIOLOGICAL RESOURCES MITIGATION MEASURE 6-3C. Prior to the construction phase of the project, the applicant shall take the following measures:

a. Any grading, construction demolition, or other work within the Tree Protection Zone shall be monitored by the Consulting Arborist.

b. Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the Consulting Arborist.

c. If any injury to a tree should occur during construction, it should be evaluated as soon as possible by the Consulting Arborist so that appropriate treatments can be made.

d. Root-injured trees have a limited capacity to absorb water. Therefore, it is important to ensure adequate soil moisture in the area of active roots. One to several irrigations may be needed for trees that are at risk of impacts. Irrigations shall be specified by the Consulting Arborist.

e. No excess soil, chemical, debris, equipment or other materials shall be dumped or stored within the Tree Protection Zone.

f. Any additional pruning required to provide clearance during construction shall be performed by a Certified Arborist and not construction personnel.

15. **BIOLOGICAL RESOURCES MITIGATION MEASURE 6-3d. Following construction, a comprehensive management plan for the trees shall be developed that considers the broad objectives of development as well as the needs of the specific species. This management plan shall specify pruning, fertilization, mulch, pest management, replanting and irrigation requirements. In addition, provisions for monitoring both tree health and structural stability following construction must be made a priority. As trees age, the likelihood of failure of branches or entire trees increases. Therefore, the management plan must include an annual inspection for hazard potential.

16. **BIOLOGICAL RESOURCES MITIGATION MEASURE 6-4. To minimize impacts on nesting raptors, the applicant shall complete necessary pre-construction surveys and monitoring. If it is not possible to schedule construction between August and February, then pre-construction surveys for nesting raptors will be conducted 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 biologist 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.

17. **BIOLOGICAL RESOURCES MITIGATION MEASURE 6-5a. To minimize impacts on yellow warblers, the property owner/developer shall retain sycamore riparian habitat along Shannon Creek and shall maintain setbacks of at least 50 feet between proposed development and sycamore riparian habitat. If a small amount of development encroaches into this 50-foot setback, then this encroachment (indirect impact) shall be mitigated by planting riparian habitat at a 1:1 ratio.

18. **BIOLOGICAL RESOURCES MITIGATION MEASURE 6-5b. The property owner/developer shall implement the following measures to minimize potential impacts on any roosting bats:

a. Surveys shall be conducted up to one year in advance of building demolition and tree removal, if possible, to determine if active roosts are present. These surveys shall not substitute for pre-construction/pre-disturbance surveys for nesting raptors, as bats could move on or adjacent to the site between survey periods. If roosting bats are found during these surveys, either avoidance of the maternity roost season, establishment of buffer zones or exclusion of bats shall be implemented as appropriate.

b. Avoidance: Construction activities involving potential roost sites shall be conducted outside the maternity roost season if the project commences after young are volant by July 31 and finished before the formation of maternity roosts begins (as early as March 1).

c. Pre-demolition Surveys and Buffer Zones: If the project schedule does not allow for early detection surveys to occur, a pre-demolition survey for roosting bats shall be conducted by a qualified bat biologist 14 days prior to construction as determined by a Memorandum of Understanding with the California Department of Fish & Game (CDFG) prior to any removal of buildings, particularly those with closed areas such as an attic space, or trees 12 inches in diameter. No activities that would result in disturbance to active roosts shall proceed prior to the completed surveys. If no active roosts are found, then no further action is warranted. If a maternity roost were present, a qualified bat biologist shall determine the extent of construction-free zones around active nurseries located during surveys. CDFG shall also be notified of any active nurseries within the construction zone.

d. Surveys: Initial surveys can be conducted any time prior to the pre-demolition surveys to establish if a particular location has supported, or supports, roosting bats. A survey for indications of nursery roosts shall be conducted prior to March 1. If indications of a maternity roost are present, the structure can be removed or modified before a maternity roost becomes reestablished.

e. Exclude Bats Prior to Construction Near Roost: Bats can be excluded after July 31 and before March 1 to prevent the formation of maternity colonies. Such non-breeding bats can be safely evicted, under the direction of a qualified bat biologist, by sealing crevices and providing them one-way exclusion doors. Such a device should be employed in all expansion joints during dark hours as a temporary device to prevent the formation of a maternity colony. In order not to exclude all potential maternity roost habitat at once, only one-half of the expansion joints should be sealed at any one given time during the maternity colony-nesting season. This should allow bats to leave during dark hours, thus increasing their chance of finding new roosts with a minimum of potential predation during daylight. After construction, all exclusion devices shall be removed to allow bats to re-establish habitat for colonies.

19. **BIOLOGICAL RESOURCES MITIGATION MEASURE 6-6. The property owner/developer shall implement the following protection measures to mitigate impacts to the red-legged frog *(see Addendum to the project EIR for additional details)*:

a. Avoidance to the extent possible.

b. Minimization. The project shall be designed, built and operated in the following ways that will minimize both direct and indirect impacts to these species. Any construction near or adjacent to the Shannon Creek drainage will be preceded by a pre-construction survey. The existing culvert over the Shannon Creek drainage will not be widened and will only be used as an EVA road. The primary egress and ingress for the project will be off of Hicks Road. In addition, impacts relating to the construction of the outfalls for the project are likely to be covered by the Programmatic Section 7 for the red-legged frog. If formal consultation (via Section 7) for the red-legged frog is required, then the project applicant shall implement all of the Minimization measures outlined in the Programmatic Section 7 Biological Opinion.

c. Compensation by Wetland Creation. Any impacts from the project (i.e., outfalls) shall be mitigated by creating habitat on-site at a minimum of 1:1 ratio.

d. Compensation by Riparian Restoration. A riparian restoration plan for mitigation shall be developed by a qualified biologist. The mitigation area(s) should be

designed to expand existing riparian vegetation and re-create high quality riparian habitat along the Shannon Creek drainage and northern drainage. The mitigation goal is to create and enhance riparian habitat with habitat functions and values equal to, or greater than those existing along the Shannon Creek drainage and northern drainage. The final species selection and configuration shall be determined during final mitigation design. The trees and shrubs to be installed should be of local origin, preferably contract grown from seed or cuttings from within five miles of the site.

e. A detailed monitoring plan including specific success criteria shall be developed and submitted to The Town of Los Gatos for approval. The mitigation area will be monitored in accordance with the plan approved by the Town. The basic components of the monitoring plan are final success criteria, performance criteria, monitoring methods, data analysis, as-built plans, monitoring schedule, contingency/remedial measures and reporting requirements.

f. Specific success criteria and characteristics shall be developed during preparation of the mitigation and monitoring plan. At a minimum, the final success criteria shall include absolute percent cover by native trees and shrubs of 60% and 40%, respectively. The performance criteria should include tree and shrub survival at three years of 80% of the original planting. If the final encroachment estimates exceed 1.0 acre, monitoring of the mitigation site shall be conducted for 10 years. Annual monitoring reports shall be sent to the appropriate agencies. If the required mitigation planting is less than 1.0 acres, monitoring shall be conducted annually for five years.

g. During the development of the riparian restoration plan, an appropriate area (or areas) shall be identified to replace encroachment impacts at a 1:1 basis.

h. Maintain Water Quality of the Watershed. The project shall be designed, constructed and built in such a way as to maintain the water quality in the adjacent drainage channels and ponds. Appropriate best management practices (BMPs) shall be developed for the project.

20. SOLAR WATER SYSTEM. Each residence shall be pre-plumbed for a solar water heater system prior to issuance of a certificate of occupancy.

21. COLOR REFLECTIVITY DEED RESTRICTION. Prior to the issuance of a building permit, a deed restriction shall be recorded by the applicant with the Santa Clara County Recorder's Office that requires all exterior paint colors to be maintained in conformance with the Town's Hillside Development Standards.

22. SUBDIVISION REQUIRED. A separate tentative map application submittal and approval is required for the proposed project prior to the issuance of building permits.

23. BELOW MARKET PRICE (BMP) IN-LIEU FEE: A Below Market Price (BMP) in-lieu fee shall be paid by the property owner/developer pursuant to Town Code Section 29.10.3025 and any applicable Town Resolutions. The fee amount shall be based upon the Town Council fee resolution in effect at the time a final or vesting tentative map is approved.

24. FINAL CC&R's. Final CC&R's shall be approved by the Town Attorney prior to the recording of the Final Map. The CC&R's shall include provisions for traffic circulation, vehicle parking enforcement procedures, and landscaping, exterior lighting and fencing restrictions. The approved CC&R's shall become conditions of this Ordinance.

25. GRADING & REAR YARD RETAINING WALLS. Grading and/or earth disturbance of any kind is prohibited upslope of the retaining walls on Lots 6 through 11 as shown on Exhibit D of the Planned Development Ordinance unless otherwise approved by the Town. Planting of native species is permitted upslope of the retaining walls within the landscape zones. A deed restriction shall be recorded on each lot reciting this condition. This condition shall be effectuated upon construction of the retaining walls.

Building Division

26. PERMITS REQUIRED. A building permit application shall be required for each proposed structure. Separate Electrical/Mechanical/Plumbing permit shall be required as necessary.

27. CONSTRUCTION PLANS. The Conditions of Approval shall be stated in full on the cover sheet of the construction plan submitted for building permit.

28. SIZE OF PLANS. The maximum size of construction plans submitted for building permits shall be 24 inches by 36 inches.

29. PLANS. The construction plans for this project shall be prepared under direct supervision of a licensed architect or engineer (Business and Professionals Code Section 5538).

30. DEMOLITION REQUIREMENTS. Contact the Bay Area Air Quality Management District at (495) 771-6000 and complete their process as necessary before obtaining a demolition permit from the Town Building Department. No demolition work shall be done without first obtaining a demolition permit from the Town.

31. SOILS REPORT. Two copies of 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.

32. FOUNDATION INSPECTIONS. A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project building inspector upon foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report and the building pad elevation and 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. Pad elevation

    b. Finish floor elevation

    c. Foundation corner locations

33. RESIDENTIAL TOWN ACCESSIBILITY STANDARDS. The residences shall be designed with adaptability features for single-family residences per Town Resolution 1994-61.

    a. Wooden backing (no smaller than 2-inches by eight-inches) shall be provided in all bathroom walls at water closets, showers and bathtub, located at 34-inches from the floor to the center of the backing, suitable for installation of grab bars.

    b. All passage doors shall have a 36-inch wide door including a five foot by five foot level landing no more than one-inch out of plane with the immediate interior floor level, with an 18-inch clearance at interior strike edge.

    c. Door buzzer, bell or chime shall be hard wired.

34. SOLAR HOT WATER HEATING. The residences shall be pre-plumbed for solar hot water heating. The plans shall show the location of a stub and valve located in the attics for solar heating use.

35. TITLE 24 ENERGY COMPLIANCE. California Title 24 Energy Compliance forms CR-IR and MF-IR shall be printed on the construction plans.

36. HAZARDOUS FIRE ZONE. This project requires Class A roofing assembly.

37. TOWN FIREPLACE STANDARDS. New fireplaces shall be EPA Phase II approved appliances per Town Ordinance 1905. Tree limbs within 10 feet of chimneys shall be cut.

38. 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 any building permits, in accordance with UBC Section 106.3.5. Please obtain Town Special Inspection form from the Building Division Service Counter. The Town Special Inspection schedule shall be printed on the construction plans.

39. NON-POINT SOURCE POLLUTION STANDARDS. The Town standard Santa Clara Valley Non-point Source Pollution Control Program specification sheet shall be part of plan submittal. The specification sheet is available at the Building Division service counter.

40. ADDITIONAL AGENCY APPROVALS REQUIRED. The project requires the following agencies approval before issuance of a building permit:

    a. West Valley Sanitation District 378-2407

    b. Santa Clara County Fire Department: 378-4010

    c. Lots 1-13: Los Gatos School District: 335-2000

    d. Lot 14: Union School District: 377-8010

    Note: Obtain the school district forms from the Town Building Department, after the Building Department has approved the building plans.

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

Engineering Division

41. GRADING. Grading shall be kept to a minimum to construct the roads within the project. Any future grading will be considered at the time of Architecture & Site review(s).

42. GRADING PERMIT. A grading permit is required for all on-site grading, erosion control and improvements (roadway, storm drainage, utilities, lighting, etc.). A separate application for a grading permit (with grading plans) shall be made to the Engineering Division of the Parks & Public Works Department. The grading plans shall include final grading, drainage, retaining wall location, driveway, utilities and interim erosion control. Unless specifically allowed by the Director of Parks & Public Works, the grading permit will be issued concurrently with the building permit.

43. SOILS REPORT. One copy of the soils and geologic 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 report shall be signed and "wet stamped" by the engineer or geologist, in conformance with Section 6735 of the California Business and Professions Code.

44. 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. The submittal shall include closure calculations, title report and appropriate fees. The map shall be recorded prior to issuance of any building permits for the project.

45 DEDICATIONS. The following shall be dedicated prior to issuance of any permits:

a. Hicks Road. A 40-foot half street right-of-way with the chord of a 20-foot radius at the intersection with the new street.

b. Shannon Road. A 20-foot half street right-of-way.

c. New interior streets. A 40-foot street right-of-way with the chord of a 20-foot radius at all intersections and a standard 42-foot radius cul-de-sac.

d. Public Service Easement (PSE). Ten (10) feet wide, next to the new street right-of-ways.

e. Ingress-egress, storm drainage and sanitary sewer easements, as required.

f. Trail Easement. Ten (10) to twenty (20) feet wide, as shown on the Official Development Plan.

g. Emergency Access Easement. Twenty (20) feet wide, from the new public road to Shannon Road, as shown on the Official Development Plans.

46. 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 before a Certificate of Occupancy for any new building can be issued.

a. New Streets. Curb, gutter, new street paving, signing, striping, storm drainage and sanitary sewers, as required. Curbs shall be rolled concrete to the satisfaction of the Director of Parks and Public Works.

47. 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.

48. TRAFFIC IMPACT MITIGATION FEE (RESIDENTIAL). The developer shall pay a proportional the project's share of transportation improvements needed to serve cumulative development within the Town of Los Gatos. The fee amount will be based upon the Town Council resolution in effect at the time the request of Certificate of Occupancy is made. The fee shall be paid before issuance of the Certificate of Occupancy. The traffic impact mitigation fee for each new house in this project using the current fee schedule is $5,730. The final fee shall be calculated from the final plans using the rate schedule in effect at the time of the request for a Certificate of Occupancy. Credit shall be given for the house on Lot 14, where a house was previous located, and for the three residences to be demolished.

49. GENERAL. All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications or as otherwise approved by the Director of Parks and Public Works. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be

allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.

50. ENCROACHMENT PERMIT. All work in the public right-of-way will require a Construction Encroachment Permit. All work over $5,000 will require construction security.

51. PUBLIC WORKS INSPECTIONS. The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting an 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 ow work that went on without inspection.

52. GRADING MORATORIUM. No grading or earth-disturbing activities shall be initiated in hillside areas between October 1 and April 15 of each year. For grading operations commenced before October 1, all grading or earth-disturbing activities shall cease October 15 and will not be allowed to restart until April 15. Grading permits will not be issued between September 15 and April 15. These limitations include, but are not limited to these items: driveways, building pads, foundation trenches and drilled piers, retaining walls, swimming pools, tennis courts, outbuildings and utility trenches. Install interim erosion control measures, shown on the approved interim erosion control plan, by October 1, if final landscaping is not in place. Maintain the interim erosion control measures throughout the October 1 to April 15 period.

53. GRADING INSPECTIONS. The soils engineer or her/his qualified representative shall continuously inspect all grading operations. The soils engineer shall submit a final grading report before occupancy/Certificate of Completion.

54. SURVEYING CONTROLS. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer qualified to practice land surveying, for the following items:

    a. Retaining wall--top of wall elevations and locations.

    b. Toe and top of cut and fill slopes.

    c. Top of future curb along one side of the new street.

55. EROSION CONTROL. Interim and final erosion control plans shall be prepared and submitted to the Engineering Development Division of the Parks & Public Works Department. A Notice of Intent (NOI) shall be submitted to the San Francisco Bay Regional Water Quality Control Board. A Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the Town Engineering Division concurrently with the grading permit application. Grading activities shall be limited to the period of least rainfall (April 15 to October 1). A maximum of two weeks is allowed between clearing of an area/building on an area if grading is allowed during the rainy season. In addition, straw bales and plastic sheeting shall be stored on-site for emergency control, if needed. Install fiber berms, check dams, retention basins, silt fences, erosion control blankets and fiber rolls as needed on the project site, to protect down stream water quality during winter months.

56. 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 or creeks.

57. NPDES REQUIREMENTS. All work within the project shall be in conformance with the National Pollution Discharge Elimination System permit issued to local agencies within Santa Clara County by the San Francisco Bay Regional Water Quality Control Board on October 17, 2001.

58. FISH & GAME REQUIREMENTS. A "1603" permit shall be obtained for the California Department of Fish & Game for proposed improvements in or near riparian areas within that agency's jurisdiction. A copy of the permit shall be provided to the Parks & Public Works Department before any permits are issued/final map is recorded.

59. 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). Cable television capability shall be provided to all new lots.

60. 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.

61. DRIVEWAY APPROACH. The developer shall install a minimum of one (1) Town standard residential driveway approach for each lot. The new driveway approaches shall be constructed per Town Standard Detail.

62. LOT 14 DRIVEWAY. The driveway to Lot 14 shall be the minimum width required to provide fire access. The intent is to minimize the visibility of the driveway.

63. AS-BUILT PLANS. After completion of the construction of all work in the public right-of-way or public easements, the original plans shall have all changes (change orders and field changes) clearly marked. The "as-built" plans shall again be signed and "wet-stamped" by the civil engineer who prepared the plans, attesting to the changes. The original "as-built" plans shall be review and approved the Engineering Construction Inspector. A Mylar of the approved "as-built" plans shall be provided to the Town before the Faithful Performance Security is released.

64. 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 of each new lot.

65. SIDEWALK REPAIR. The developer shall repair and replace to existing Town standards any sidewalk damaged now or during construction of this project. Sidewalk repair shall match existing color, texture and design, and shall be constructed per Town Standard Detail. The limits of sidewalk repair will be determined by the Engineering Construction Inspector during the construction phase of the project.

66. CURB AND GUTTER. The developer shall repair and replace to existing Town standards any curb and gutter damaged now or during construction of this project. New curb and gutter shall be constructed per Town Standard Detail. The limits of curb and gutter repair will be

determined by the Engineering Construction Inspector during the construction phase of the project.

67. CURB RAMPS. The developer shall construct curb ramp according to State Standard Drawings at all intersections. The actual "Case" as shown on the standard to be used will be decided by the Engineering Construction Inspector during the construction phase of the project.

68. **HYDROLOGY AND WATER QUALITY MITIGATION MEASURE 7-3. Energy dissipaters should be provided at the outfalls of proposed storm drains to minimize the increased potential for erosion hazards due to project development.

69. **HYDROLOGY AND WATER QUALITY MITIGATION MEASURE 7-4. A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared prior to start of construction. The SWPPP and project plans shall be reviewed by the Town Engineering staff. The SWPPP shall be in conformance with the Santa Clara County NPDES Permit as amended by the San Francisco Bay Regional Water Quality Control Board (RWQCB) on October 17, 2001. The SWPPP shall be approved concurrently with the grading, drainage and erosion control plans. Reference the Addendum to the EIR for additional details.

70. **HYDROLOGY AND WATER QUALITY MITIGATION MEASURE The project design shall incorporate water quality mitigation measures in accordance with current NPDES requirements. Water quality measures should include use of biofilters, drainage swales, and detention facilities to mitigate non-point source impacts. In addition, the SCVWD and RWQCB recommend the incorporation of site planning design measures to help reduce potential contributions of urban pollutants from the project. See the Addendum to the EIR for additional details.

71. **TRANSPORTATION AND TRAFFIC MITIGATION MEASURE 8-2. In order to minimize potential traffic safety impacts the property owner/developer shall take the following measures:

   a. Adequate sight distance shall be provided for the project access road/Hicks Road intersection through removal of vegetation and grading of the embankment.

   b. A stop sign shall be installed to control traffic on the project access road to Hicks

Road. The stop sign for the proposed driveway shall be located along and parallel to the north edge of pavement on Hicks Road.

c. Warning signs shall be installed indicating a "T" intersection along Hicks Road approaching the new driveway. These signs shall be located approximately 300 feet east and west of the project entrance/Hicks Road intersection.

d. Traffic reflectors shall be installed on the south side of Hicks Road at the intersection with the entrance road to the project.

72. **TRANSPORTATION AND TRAFFIC MITIGATION MEASURE 8-3. A separate pedestrian trail shall be installed along the north side of Hicks Road.

73. **TRANSPORTATION AND TRAFFIC MITIGATION MEASURE 8-4. Use of trails by bicyclists, particularly the trail parallel to Hicks Road, shall be considered during Architecture and Site review. In addition, design issues such as the appropriateness of trail widths, pavement versus compacted earth, and trailhead facilities shall be considered during Architecture and Site Review.

74. GEOTECHNICAL REVIEW OF SUBDIVISION IMPROVEMENT PLANS. The project geotechnical consultant shall review and approve all geotechnical aspects of the subdivision improvement plans to ensure that their recommendations have been properly incorporated. The results of the plan review shall be summarized by the geotechnical consultant in a letter and submitted to the Town Engineer for review, prior to issuance of permits for construction of subdivision level improvements.

75. GEOTECHNICAL PLAN REVIEW (LOTS 1 THROUGH 13). The project geotechnical consultant shall review and approve all geotechnical aspects of the project building and grading plans for individual residences on Lots 1 through 13. To ensure that their recommendations have been properly incorporated. The consultant shall verify that recommended measures to address potential debris flows on Lot 6, and potential co-seismic ground deformation on Lots 1 and 13 have been incorporated.

76. GEOTECHNICAL INVESTIGATION (LOT 14). The project geotechnical consultant shall complete a site specific soil and foundation investigation as a basis for preparing recommended geotechnical design parameters for Lot 14 residential improvements. The

results of this investigation shall be submitted to the Town for review by the Town Engineer and Town Geotechnical Consultant prior to approval of a site specific development plan.

77. GEOTECHNICAL FIELD INVESTIGATION. The project geotechnical consultant shall inspect, test (as needed), and approve all geotechnical aspects of the project construction. The results of these inspections and the as-built conditions of the project shall be described by the project geotechnical consultant in a letter and submitted to the Town Engineer for review prior to final inspection.

For further detail on conditions 71 through 74, see the letter from Cotton, Shires & Associates dated February 12, 2002.

Parks Division

78. AERATION TUBES. All impervious surface encroaching under the dripline of existing trees shall have aeration tubes installed and these tube locations shown on the plans.

79. IRRIGATION. All newly planted landscaping shall be irrigated by an in-ground irrigation system. Special care shall be taken to avoid irrigation which will endanger existing native trees and vegetation.

80. BUILDING FOUNDATIONS: Any buildings under the dripline of existing trees shall have a foundation built from pier and grade beam to minimize impaction on existing trees.

81. TREE STAKING: All newly planted trees are required to be double staked to Town standards.

82. GENERAL. All existing and newly planted trees shown on the plan are specific subjects of approval of this plan and must remain on site.

83. IRRIGATION SYSTEM. Water efficient irrigation systems shall be utilized to conserve water in all project irrigation of publicly landscaped areas.

84. VEGETATIVE SCREENING. Vegetative screening shall be used along the development edges, where appropriate, to soften views of peripheral buildings and to integrate landscaping and native vegetation.

85. WATER EFFICIENT ORDINANCE. This project is subject to the Town's Water Efficient Ordinance. A fee of $472 is required when the landscape, irrigation plans, and water calculations are submitted for review.

86. TREE PROTECTION. Tree protection fencing shall be placed at the dripline of existing trees to be saved in the area of construction. Fencing shall be four feet high chain link attached to steel poles driven two feet into the ground when at the dripline of the tree. If the fence has to be within eight feet of the trunk of the tree a fence base may be used, as in a typical chain link fence that is rented. The fencing must be inspected and approved by the Parks Superintendent and must be installed prior to issuance of a grading and/or building permit.

87. ORNAMENTAL LANDSCAPING. All formal landscaping shall be within 30 feet of the perimeter of the houses. Any planting beyond the 30-foot perimeter shall be native vegetation that is drought and fire resistant, and planted in natural clusters.

88. LANDSCAPE GUIDELINES. The adopted landscape guidelines and native plant lists shall include the recommendations of the Town consulting arborist, except that lawn areas shall not exceed 5,000 square feet. The landscape guidelines are attached as Exhibit C.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

89. WATER SUPPLY. Two water tanks with a capacity of 10,000 Gallons and one wharf style hydrant shall be provided unless the proposed public water system can be extended to provide appropriate lot protection, or other acceptable means of fire protection can provided as authorized by the Fire Department. Installations shall conform with Fire Department Standard Details and Specifications W-1.

90. FIRE APPARATUS(ENGINE) ACCESS. Provide access roadways with a paved all weather surface and a minimum unobstructed width of 20 feet, vertical clearance of 13 feet 6 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 A-1.

91. FIRE APPARATUS (ENGINE) TURN-AROUND REQUIRED. Provide an approved fire department engine roadway turnaround with a minimum radius of 36 feet outside and 23 feet inside. Installations shall conform with Fire Department Standard Details and Specifications A-1. Cul-De-Sac Diameters shall be no less than 64 feet.

92. FIRE APPARATUS (HYDRANT). Where buildings exceed 150 feet travel distance from the street either an on-site (private) hydrant or an approved residential fire sprinkler system shall be provided.

93. PUBLIC FIRE HYDRANT(S) REQUIRED. Provide public fire hydrant(s) at location(s) to be determined jointly by the Fire Department and the San Jose Water Company. Maximum hydrant spacing shall be 500 feet, with a minimum single hydrant flow of 1,750 GPM at 20 psi, residual. Consult with San Jose Water Company relative to main sizing requirements and hydrant spacing. Prior to applying for building permit, provide civil drawings reflecting all fire hydrants proximal to the site. To prevent building permit delays, the developer shall pay all required fees to the water company as soon as possible.

94. TIMING OF REQUIRED WATER SUPPLY INSTALLATIONS. Installations of required fire service(s) and fire hydrants(s) shall be tested and accepted by the Fire Department, prior to the start of framing or delivery of bulk combustible materials. Building permit issuance may be delayed until required installations are completed, tested, and accepted.

95. TIMING OF REQUIRED ROADWAY INSTALLATIONS. Required driveways and/or access roads up through first lift of asphalt shall be inspected and accepted by the Fire Department prior to the start of construction. Bulk combustible materials shall not be delivered to the site until installations are completed as stated above. Building permit issuance may be delayed until installations are completed.

96. FIRE APPARATUS (HYDRANT). Prior to project inspection, the general contractor shall ensure theat a "Blue" dot has been placed in the roadway as directed by the Fire Department.

97. HOUSE NUMBERS. 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.

SECTION VI

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on June 5, 2006, 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 June 19, 2006. This ordinance becomes effective 30 days after it is adopted.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

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