

RESOLUTION R2006 180

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA,  
STATE OF CALIFORNIA, AUTHORIZING A USE PERMIT, DESIGN  
REVIEW AND TENTATIVE SUBDIVISION MAP FOR FOOTHILL  
ESTATES SUBDIVISION (05-232)

APPLICANT: Meritage Builders  
Attn: LC Waddell  
4225 Solano Avenue #684  
Napa, CA 94558

APN 004-450-005

PROPERTY Michael Mourad  
OWNER: 5 Abruzzini Court  
Napa, CA 94558

WHEREAS, Meritage Builders submitted an application to subdivide a 3.6 acre parcel into 10 residential lots, and a commercial remainder, for the property located at 2750 Old Sonoma; and

WHEREAS, the Planning Commission of the City of Napa, State of California, held a noticed public hearing on August 17, 2006 on the subject application and recommended approval of the project; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City staff, and any information provided during public meetings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Napa as follows:

Section 1. The City Council hereby finds that this project is exempt from CEQA pursuant to §15332 of the CEQA Guidelines.

Section 2. The City Council makes the following Use Permit findings and hereby approves the use of the Small Lot Development Standards:

1. The proposed use, building, structure, or development is consistent with the General Plan, applicable specific plans, the objectives of the Zoning Ordinance and the purposes of the district and overlay district in which the site is located.

The proposed Parcel Map is consistent with the Single Family Infill General Plan designation of the property, and the specified residential density of 4 to 7 units per acre. The Pedestrian Friendly Street Standards are consistent with the Zoning Ordinance and the reduced front setbacks are consistent with the Small Lot Development Standards.

2. The proposed use or structure will not be detrimental to the health, safety and welfare of the community.

The proposed construction of a 10 lot single family subdivision and their uses are not expected to introduce any detrimental impacts to the surrounding area.

3. The proposed use complies with each of the applicable provisions of the Zoning Ordinance.

Staff has reviewed the project for compliance with the standards of Section 17.08, Residential Districts, and has found that it meets all applicable standards.

Section 3. The City Council makes the following Design Review findings and approves Design Review for the subdivision layout and house plans:

1. The project design is in accord with the General Plan and any applicable Specific Plan design policies.

Based upon the General Plan Analysis above, staff believes that the Tentative Subdivision Map improvements and single-family home designs comply with all applicable policies of the General Plan.

2. The project design is consistent with applicable Design Review Guidelines adopted by the City Council.

Based upon the Analysis contained in the staff reports, staff believes the project is consistent with the Residential Design Guidelines.

3. The Design Review permit is in accord with provisions of this Title and will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare.

The project is consistent with the provisions of Title 17 (Zoning Ordinance) and staff has determined that the creation of the ten single family lots and commercial remainder will not have an adverse affect on public health, safety, or welfare.

Section 4. The City Council makes the following Tentative Subdivision Map findings and approves the subdivision of the 3.6 acres into 10 single family lots and a commercial remainder:

1. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan.

The Foothill Estates single family residential subdivision is Consistent with the General Plan and the Subdivision Map Act.

2. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities in the subdivision, as described in the State Subdivision Map Act and any guidelines promulgated by the council.

The proposed lot size and configuration allow for passive heating and cooling opportunities with building orientation and landscaping.

Section 5. The City Council hereby approves the application to develop a 3.6 acre parcel into 10 residential lots, and one commercial remainder, for the property located at 2750 Old Sonoma as described in the staff report of October 3, 2006 which is on file in the Community Development Department - Planning Division, subject to the following:

**SPECIAL CONDITIONS:**

City Council:

1. The City Council accepts the applicant's acknowledgement that no subdivision directional signs shall be placed within any street right-of-way advertising the proposed subdivision.

2. The City council accepts the applicant's offer to construct a six foot tall double sided fence with two feet of lattice along the southern property line.

3. The City Council accepts the applicant's offer to provide the neighboring property owner to the south, Mr. Gorman with an appropriate number of evergreen trees to provide additional privacy between the two properties.

4. The applicant shall provide a minimum five foot wide landscape strip between the proposed driveway serving Lots 2-4 and the property to the south. This area shall be landscaped prior to occupancy of the corresponding house.

5. The City Council accepts the applicant's offer to construct the future house on Lot 10 with a stepped foundation to eliminate the need for retaining walls along the property lines.

Planning Commission:

6. The Planning Commission accepts the applicant's offer to work with the neighboring property owner Mr. Hemmerlin on a fence/wall design that is agreeable to both parties.

7. Prior to the start of any site work on the property, the developer shall provide his contact information to all adjacent neighbors.

Community Development Department – Planning Division:

8. The Planning Commission delegates to the Planning Manager the determination of "substantial conformance" with the approved plans.

9. The front yards and side-on landscaping of the residential units shall be landscaped prior to issuance of a Certificate of Occupancy for the corresponding unit.

10. All project signage for the project shall be subject to a separate review and approval.

11. All proposed and required fencing shall be installed prior to the issuance of a Certificate of Occupancy for the corresponding unit.

12. All exterior colors shall be subject to Planning Division approval.

Community Development Department – Development Engineering:

13. Approval of this project shall be subject to the requirements of (and all improvements shall be constructed in accordance with) the Napa Municipal Code and the Public Works Department Standard Specifications and Standard Plans.

14. The Developer shall construct all on and offsite improvements in accordance with improvement plans and supporting calculations that are prepared by a registered civil engineer and reviewed and approved by the City of Napa Community Development Department (CDD) Engineering Division. The improvement plans and supporting calculations shall include detailed designs for all utilities, water, grading, drainage, erosion control and paving. The plans and calculations must be approved by the City Engineer prior to the approval of the Final Map.

15. The improvement plans shall be prepared in accordance with (and submittals shall be accompanied by) the "Initial Submittal Checklist", the "Improvement Plan Checklist", and the "Subdivision Map Checklist". The checklists are available on the City of Napa Website ([www.cityofnapa.org](http://www.cityofnapa.org)) under the Community Development Department Development Engineering Division menu.

16. The following items shall be installed by the Developer and shown on the improvement plans prior to approval of the plans:

- a. The curb on the north side and west side of Sophia Court, and on the cul-de-sac bulb and returns shall be painted red and signed to prohibit parking (R26F - No Stopping Fire Lane).
- b. Although 20 feet is the minimum allowable access width for a two-way access drive serving up to 10 homes, this does not provide for effective two-way turning movements at intersections. Thus, the width of Sophia Court at the intersection with Roosevelt Street shall be a minimum of 25 feet.
- c. The Developer shall install City of Napa standard pedestrian ramps on each side of the street at the Sophia Court knuckle in a location approved by the Transportation Engineering Division.
- d. Lot grading and drainage system improvements shall be installed by the developer as part of the subdivision improvements. Constructed lot pad elevations shall not deviate more than 0.5 feet from the pad elevations shown on the tentative map.
- e. All required public frontage and street improvements shall be designed and built in accordance with City of Napa ordinances and the Public Works Department Standard Specifications. Street improvements shall include street paving, curbs, gutter, 4 foot sidewalk, 6 foot planting strip, streetlights, street trees, driveway approaches, drainage facilities and barricades. The frontage improvements shall be constructed along all public street project frontages (Old Sonoma Road, Foothill Boulevard and Roosevelt Street), including the residential and remainder parcels.
- f. Public street access points and street corners shall be designed to satisfy Caltrans site distance standards and the City of Napa Visibility and Fencing Standard (Std. Detail S-25). The site distance and visibility triangle lines shall be shown on the grading and drainage plans. The visibility height limits are measured from the top of curb of the fronting street to the top elevation of the obstruction. The 50 foot street intersection visibility standard applies to the Sophia Court Street Knuckle and the Sophia Court /Roosevelt Street intersection.
- g. A grading and drainage plan shall be prepared for the project that includes a design that allows for a 100-year overland release. All graded building pads shall be above the 100-year overland release elevation.
- h. On-site storm drains, outside of City right-of-way, shall be made of SDR-35 plastic or reinforced concrete pipe.
- i. The grading plans provided by the Developer for review shall include the existing topography shown with contour line labeled at one foot intervals and extending a minimum of 100-feet beyond the limits of the site, or a sufficient distance to indicate impacts on adjacent properties.
- j. All street pavement structural section installations shall include a minimum of 3 inches of Asphalt Concrete over 10 inches of Class 2 Aggregate Base material for the private street (Sophia Court) and Roosevelt Street, and 3 inches of Asphalt Concrete over 15 inches of Class 2 Aggregate Base material for Foothill Boulevard, and 4 inches of Asphalt Concrete over 20 inches of Class 2 Aggregate Base material for Old Sonoma Road.
- k. Private drives shall be clearly distinguishable from public streets. To accomplish this, either a standard driveway approach shall be installed on Roosevelt Street at the Sophia Court entrance to the site or a 10 foot wide stamped concrete strip shall be installed on the project parcel along the right of way line at the Sophia Court entrance.
- l. In accordance with the Public Works Department Standard Specifications and Standard Plans and the Napa Municipal Code site circulation shall be designed to allow vehicles to exit the site in a forward motion. A minimum 25 foot backup turn-around area shall be provided for all required parking spaces, including tandem spaces.

m. The Developer shall grant 10 foot wide public utility easements adjacent to the street right-of-way. The easement shall be dedicated and shown on the Final Map and shown on the improvement plans.

n. Any retaining walls which are greater than one foot in height, which are adjacent to a property line, shall be masonry or concrete. Wood retaining walls shall not be installed adjacent to property lines.

o. Side yards of each lot shall have of a minimum unobstructed width of five (5) feet. No building encroachments, door landings or mechanical equipment shall be placed in this unobstructed area without the review and approval of the Community Development Department Engineering Division in order to assure adequate drainage.

p. In general, it is the City's policy to require all new parcels to be graded to drain independently from adjoining parcels. If surface drainage is currently passing from adjoining properties onto the subject property, the grading plan for the project shall be designed to continue to accept such drainage and easements shall be established to allow such drainage patterns to continue. All surface drainage must be collected and conveyed to a public street, storm drain or approved outfall.

q. The Developer shall replace any existing non-standard drainage inlets, such as Type S-110, with a City Standard drainage inlet, such as Type D-2. On arterial and collector streets in a sag vertical curve, two Type D-1 inlets with each 50 feet from the sag point shall flank a Type D-1 inlet at the low point.

r. The improvement plans shall include a Joint Trench Plan.

s. The improvement plans shall include an Erosion Control Plan.

t. The improvement plans shall include a Construction Traffic Control Plan.

u. The improvement plans shall include a Public Street Repair Plan (showing the repair details and limits of repair) for all improvement installations that will result in the cutting, demolition, destruction, etc. of any existing improvements within the public right of way including but not limited to the installation of curb, gutter, sidewalk, utilities (water, sewer, storm drain, electrical, cable TV, telephone, etc.). This plan shall be updated during the construction process as necessary to reflect any unanticipated street repairs. Associated with said plan are the following requirements:

i. The Developer shall resurface the existing street pavement whenever a street is cut, either by a longitudinal or transverse cut, for utility or other improvement installations. The resurfacing shall extend a sufficient distance beyond any cut to ensure a smooth transition and shall consist of either a 1 inch asphalt concrete overlay, or petromat with a minimum 1 ½ inch asphalt concrete overlay, depending upon the extent of the proposed pavement cuts and the condition of the existing pavement section, as determined by the City Engineer. Developer shall also provide digouts and reconstruction of any potholed and/or alligatored areas. Installation of street paving by the Developer shall include reconstruction of the existing pavement section as required to provide adequate conforms. The limits of such reconstruction shall be reviewed by the Community Development Department Engineering Division and approved by the City Engineer as part of the construction plan review.

ii. The Developer shall repair all pavement, curb, gutter and sidewalk that are damaged by the construction process in accordance with The Public Works Department Standard Specifications and Standard Plans.

iii. Any unanticipated street cuts that become evident following improvement plan approval shall be included by way of revisions to the Street Repair Plan.

iv. The Developer shall provide a set of the project improvement plans to the Water Division for review and approval of the following items:

i. The plans shall show all existing and proposed public water facilities and easements within a minimum of 50 feet of the proposed project boundaries.

ii. All existing service laterals to the project parcel shall be used prior to the installation of new services from the City water main.

iii. Any unused service shall be abandoned at the City water main.

v. All services for Lots 1 through 9 shall be served off of the new water main on Sophia Court. Lot 10 shall be served off of the 6" water main on Foothill Boulevard. Any new service required for the existing commercial building(s) shall come off of the 6" water main on Foothill Boulevard. No new services shall come off of the 36" water main on Foothill Boulevard, or the 8" or 36" water mains on Old Sonoma Road.

iv. New water mains shall be installed within the public street section at a minimum of 5-feet from the face of curb.

v. A new fire hydrant shall be installed at the end of the proposed water main on Street A and used as the blow-off for the main.

vi. All new and existing public water facilities, including but not limited to water meters, backflow devices, service laterals, and fire hydrants, shall be located outside of all driveways and driveway approaches.

vii. Approved backflow prevention devices shall be installed on all new and existing domestic, commercial, irrigation, and fire water services.

viii. All commercial service backflow devices shall be installed above ground.

ix. If a fire service is required for the commercial property, the backflow device shall be placed outside City right-of-way, but if taken from the water main on Foothill Boulevard, it may be placed on the outer wall or within the proposed structure in a location closest to the service lateral (not to exceed 20-feet from the public right-of-way) as approved by the City of Napa Water Division. If any device is proposed to be placed inside, the Developer shall submit plans to the Water Division with specific details of the utility closet and device installation specifications, for review with the civil improvement plans.

x. If any fire service double check backflow device is to be installed in a vault, the plans shall include the vault specifications and shall specify which backflow device(s) are proposed to be placed in a vault.

xi. If new sidewalk and curb and gutter are required to be installed along the commercial property frontage, all existing water facilities (including but not limited to water meters and fire hydrants) shall be relocated to the new back of curb per Public Works Standard Specifications.

xii. No signs, fences, trees, foundations, street lights, or other permanent structures shall be installed within 10 feet of a City water main or water facility, or within a public water utility easement.

xiii. Proposed separations between public water facilities and other utilities shall meet the required minimum separations as specified by the Department of Health and the City of Napa Public Works Standards and shall be approved by the City of Napa Water Division.

xiv. All proposed hot taps to an existing City water main shall be marked out as "Hot Tap By City Forces at Contractor's Expense".

w. For trenching within existing roadway areas, the Developer's engineer shall ascertain the location of all underground utility systems and shall design any proposed subsurface utility extensions to avoid disrupting the services of such systems.

x. Post Construction Water Quality Measures – In accordance with the Residential "City of Napa Public Works Department: Policy and Procedure for Post-Construction Best Management Practices, Storm Water Pollution Prevention" (adopted by the City Council July 6, 2004 to clarify the NPDES General Permit requirements), the developer shall incorporate post development measures (BEST MANAGEMENT PRACTICES (BMP'S)) into the project design to mitigate project impacts to water quality.

i. The post construction BMP measures shall be installed by the developer and designed by a registered civil engineer in accordance with an accepted design method (that has been reviewed and approved by the CDD Engineering Division) such as that which is outlined in the "California Storm Water Quality Association BMP (CSWQA-BMP) Handbook".

ii. All post-construction BMP's shall be shown and listed on the project improvement plans.

iii. Additional potential BMP's are listed in the CSWQA-BMP Handbook and "Start at the Source" (a design guidance manual for storm water quality protection prepared for the San Francisco Bay Area Storm water Management Agencies Association).

iv. The project post-construction BMP's shall include but not be limited to the items listed in the City Council adopted Policy and Procedure document and shall conform to the design criteria limits listed.

y. Storm drainage detention system – The Developer shall install storm drain Detention system improvements as required to maintain post development 10 year, 25 year and 100 year runoff from the site at pre-development levels.

i. The Developer shall install detention system storm drain inlets sized to pass at a minimum the 100-year flows.

ii. Detention facilities shall be located entirely on private property (outside of the public rights of way) and shall be privately maintained through the required homeowners association.

17. Overhead utilities along the project frontage shall be placed underground to the first poles lying offsite. In accordance with Municipal Code Section 16.36.090(E), the City Street Improvement Fee will be reduced to account for this in-lieu work, i.e., a portion of the utility underground component of the street improvement fee, up to the cost of the associated improvements, will be waived.

18. The Developer is responsible for all coordination with utility companies and the design of all utility service installations that are required to serve the project, including utility layout, design and costs associated with any necessary facilities upgrades, revisions, relocations and/or extensions. The developer shall relocate or underground any overhead utilities that conflict with the new improvements.

19. Any work performed on neighboring properties shall be done in accordance with temporary construction easements from the impacted neighbor(s). The easements shall be obtained with copies submitted to the CDD Engineering Division for review prior to the approval of the improvement plans.

20. The Developer shall connect the project to the Napa Sanitation District for sanitary sewer service. Sewer services shall show on the improvement plans and shall be installed in accordance with Napa Sanitation District standards and reviewed and approved by the Napa Sanitation District.

21. The Developer and the construction contractor shall satisfy the requirements stated in the following notes. The Developer's engineer shall include the following notes on the improvement plans prior to approval of the plans by the CDD Engineering Division:

a. No grading and/or excavation shall be performed except in accordance with the approved erosion control plan and schedule. The contractor shall hydro-seed slopes and install the appropriate erosion control measures prior to October 1, and shall provide sufficient maintenance and irrigation of the slopes such that growth is established by November 1.

b. During the course of the project construction (including non-working hours), the contractor is to provide appropriate signage, flashers, and barricades for open trenches that are approved by the Community Development Department Engineering Division Construction Inspector to warn oncoming motorists, bicyclists, and pedestrians of potential safety hazards.

c. Any pedestrian access through and/or adjacent to the project site shall remain unobstructed during the project construction or an alternate route shall be established as approved by the Police Chief and City Engineer.

d. During the course of the project construction, all project-related grading, trenching, backfilling, and compaction operations shall be conducted in accordance with the City of Napa Public Works Department Standard Specifications.

e. All construction activities shall meet the Uniform Building Code regulations for seismic safety (i.e., reinforcing perimeter and/or load bearing walls, bracing parapets, etc.).

f. Grading and construction equipment shall be shut down when not in use.

g. For all construction activity the contractor shall control dust in accordance with the requirements of the City of Napa Public Works Department Standard Specifications and Standard Plans (Part II – General Provisions – Dust Control); the National Pollution Discharge Elimination System requirements; and the California Department of Transportation Construction Manual (Chapter 4 – Construction Details – Section 10 Dust Control). Use of any City of Napa water for this purpose shall be from a metered source that is approved by the City of Napa Water Division and shall be requested in writing by the Contractor.

h. During the construction/demolition/renovation period of the project, the contractor shall use the franchised garbage hauler for the service area in which the project is located to remove all wastes generated during project development, unless contractor transports project waste. If the contractor transports the project's waste, the contractor must use the appropriate landfill for the service area in which the project is located.

i. The contractor shall provide for the source separation of wood waste for recycling. The contractor shall use the franchised garbage hauler for the service area in which located for collection of such wood waste, unless the contractor transports such wood waste to a location where wood waste is recycled.

22. The overall project grading involves an area of disturbed surface soil that is greater than or equal to one acre, therefore the project property owner shall file a Notice of Intent (NOI) with the State Water Resources Control Board and prepare a Construction Storm Water Pollution Prevention Plan prior to any construction activity.



23. Construction Water Quality Measures – The developer shall incorporate water quality Best Management Practices (BMP's) into the project construction process. The improvement plans shall include an erosion control plan and a list of BMP's and construction notes that will be incorporated into the construction process as water quality measures as follows:

a. The contractor shall manage the construction activities; and handle, store and dispose of all hazardous and non-hazardous waste in a manner that eliminates or minimizes (to the maximum extent practicable) the discharge of pollutants (e.g. motor oil, fuels, paints/stains and solvents, asphalt products, concrete, herbicides and pesticides, etc.) to the storm drains, ground water, and/or waterways.

b. The contractor shall incorporate spill prevention and cleanup measures into the construction operation. All discarded materials shall be removed from the site and disposed of at an approved disposal facility. The contractor shall incorporate protected and designated equipment cleanup and fueling areas into the construction operation.

c. The project property owner shall pay all cleanup, testing, disposal and City administrative costs associated with the discharge of pollutants into the storm drains and/or waterways as a result of the project construction activity.

d. The project Storm Water Pollution Prevention Plan (SWPPP) is to be available at the construction site. The contractor and project property owner are responsible for insuring that all individuals involved in the construction process have access to the SWPPP and are educated in the plan content details and their particular responsibilities within the plan.

24. Prior to approval of the improvement plans for the project the Developer shall submit documentation to the CDD Engineering Division for review and approval that indicates that the following items have been addressed:

a. The Developer shall pay all water connection fees to the Water Division prior to the approval of the improvement plans. No inspections or water service from the Water Division will be initiated until all connection fees for the project have been paid. Fees can be paid at the Water Division office, 1340 Clay Street, in Napa.

b. Developer shall provide an erosion and sediment control plan and a schedule for implementation of approved measures to the CDD Engineering Division for review and approval with the first improvement plans submitted for review. A grading permit shall not be issued until the erosion control plan is approved.

c. The Developer shall submit storm drain system design calculations that are prepared by a registered civil engineer for review and approval by the CDD Engineering Division. Storm drain system design flows shall be calculated based on the requirements listed in the City of Napa Public Works Department Standard Specifications and Standard Plans. The calculations shall include a drainage basin map showing basin limits and area in acres, hydrology and system hydraulic calculations, pipe size calculations, inlet capacity calculations, and other information necessary to support the proposed design. Storm drains will be sized to carry the flows generated by the design storm per City of Napa Standards. The storm drain system design calculations shall show that the pipes have a self-cleaning minimum velocity of three feet (3') per second when flowing half full (Design Manual Concrete Pipe, Page 7 and Caltrans Highway Design Manual, Page 830-15).

d. The Developer shall submit storm drain detention system supporting calculations for review and approval by CDD Engineering Division prior to improvement plan approval.

e. Grassy swales, bio-retention areas, underground treatment vault systems, and all other treatment systems are to be sized in accordance with calculations that conform to the General Permit criteria and are to be reviewed and approved by the Bridge and Urban Drainage Division.

f. The Developer shall submit copies of the NOI (including the State Water Resources Control Board WDID Number) and the Storm Water Pollution Prevention Plan (SWPPP) (along with a copy of the transmittal that went along with this material to the SWRCB) to the Community Development Department Engineering Division prior to the commencement of any project construction activity and the issuance of a building permit, grading permit or improvement plan approval.

g. The Developer shall submit to the Community Development Department Engineering Division a Soils Investigation/Geotechnical Report in accordance with Section 16.36.200 of the City of Napa Municipal Code with the first improvement plan submittal. The improvement plans shall incorporate all design and construction criteria specified in the report. The geotechnical engineer shall sign the improvement plans and approve them as conforming to their recommendations prior to improvement plan approval. The geotechnical engineer shall also assume responsibility for inspection of the work and prior to acceptance of the work shall certify to the City that the work performed is adequate and complies with their recommendations. Additional soils information may be required by the Chief Building Inspector during the plan check of building plans in accordance with Title 15 of the City of Napa Municipal Code.

25. The Developer shall submit the project Final Map for review by the CDD Engineering Division and approval by the City Engineer.

26. The Owner of the property shall either record CC&R's and establish an incorporated homeowner's association to provide long-term maintenance of the storm water detention system and structural storm water pollution reduction devices or treatment control Best Management Practices (BMPs) that are incorporated as part of the project improvements; or the owner of the property may record CC&Rs establishing an incorporated maintenance association to provide long-term maintenance of the improvements in lieu of a homeowner's association.

a. The City Engineer and City Attorney must approve the substance and form of the CC&R's and associated documents prior to the approval of the final map.

b. The documents shall be recorded contemporaneously with the final map.

c. The CC&R's and homeowners association must provide a detailed outline of responsible parties, inspections, maintenance procedures, the perpetual maintenance and replacement of the improvements, monitoring documentation and annual reporting to the City Public Works Department, and procedures for administration and oversight.

d. In addition, the CC&R's and association must provide for appropriate provisions relating to enforcement options, the right of the City to access the property to perform work, the right of the City to recover its costs, indemnification and enforcement provisions, as well as any other provisions deemed necessary or convenient to accomplish the City's objectives. The City of Napa shall either be a signatory to the agreement or a third party beneficiary to the agreement with the right but not the obligation to enforce the obligations and secure attorney's fees for legal counsel to enforce such obligations.

e. The Developer shall record within the CC&R's of the subdivision, approved by the City of Napa, which includes the following language:

(1) Maintenance of Easement Improvements: Declarant has given City a public water utility easement in the Private Street known as \_\_\_\_\_ for the purpose of installing, maintaining, and reconstructing public water facilities, including but not limited to water mains, fire hydrants, water meters and valves to serve. The City's responsibilities associated with such Private Street shall be and is limited

to complying with the City of Napa Public Works Standards for trench work necessary to maintain its public water facilities. Overlaying and all other maintenance of the Easement Improvements shall be the responsibility of the owner(s) of said Private Street.

27. The Developer shall dedicate on the Final Map a "Public Water Utility Easement" across the full width of the private cul-de-sac to the back of sidewalk (or to 5-feet beyond back of curb, whichever applies), as approved by the Water Division.

28. The private street that serves this development has the potential for providing access to future development of the neighboring parcels (004-511-005 & 010) to the south of Lot 4. The developer shall execute a reciprocal access and maintenance agreement that covers all parcels that will use the proposed private street including the identified neighboring parcels. The agreement shall include an offer of reciprocal access to those owners and the City of Napa shall be a third party to the agreement. The agreement shall be in a form approved by the City Attorney and shall be recorded with the Final Map.

29. Prior to approval of the Final Map, the Developer shall either install all onsite and offsite improvements or work with the CDD Engineering Division to execute the City's Standard Improvement Agreement, provide bonds and provide proof of workers compensation insurance and general liability insurance in the forms and amounts as required by the Risk Manager and City Attorney. Typically one million dollar general liability insurance is required.

30. Type C drainage easements shall be established for the drainage facilities shown on the plans in accordance with the City of Napa Public Works Department Standard Specifications and Standard Plans, Drainage Easements. Drainage easements shall have a minimum width of 15-feet for pipes with diameters of 12 inches and greater and 10 feet for pipes with diameters less than 12 inches. Pipes exceeding 24-inches in diameter or deeper than 5-feet will require wider easements as determined by the Public Works Director. All drainage easements must be shown on the grading plans and offered for dedication to the City on the Final Map.

31. Any additional right-of-way necessary to accommodate the project public street improvements shall be dedicated to the City by the Developer on the Final Map.

32. Type C drainage easements shall be established for the drainage facilities shown on the plans in accordance with the City of Napa Public Works Department Standard Specifications and Standard Plans, Drainage Easements. Drainage easements shall have a minimum width of 15-feet. Pipes exceeding 24-inches in diameter or deeper than 5-feet will require wider easements as determined by the Public Works Director. All drainage easements must be shown on the grading plans and offered for dedication to the City on the Final Map.

33. The Developer shall furnish proof satisfactory in form to the City Attorney of the acquisition of all rights of entry, permits, easements, etc., necessary to construct the project or to satisfy required project mitigation measures and/or conditions prior to Final Map.

34. The developer shall obtain approval from all parties owning an interest in any existing rights-of-way or easements within the subdivision, which are proposed to be changed, modified, or deleted. Deeds shall be recorded concurrently with the Final Map to reflect the proposed revision, modification or removal of any existing rights-of-way or easements. The deeds shall be submitted to the CDD Engineering Division and shall be in forms approved by the City Attorney.

35. Prior to the issuance of the individual building permits for the project, in order to mitigate the cumulative impact of the traffic generated by the subject project on the City's arterial and collector street system, the Developer shall pay a Street Improvement Fee in accordance with Napa Municipal Code Chapter 15.84 and implementing resolutions to pay for the traffic improvements identified therein. Such fee shall be payable at the rate in effect at the time of payment. The findings set forth in the ordinance and implementing resolutions are incorporated herein. The City further finds that the calculation of the fees in accordance with the trip generation capacity of development demonstrates there is a

reasonable relationship between the amount of the fees imposed and the cost of the street improvements attributable to this project.

a. Per the Standard Fees and Charges for Fiscal Year 2005/2006 (Policy Resolution 16), the current rate for the Street Improvement Fee for this project is \$4,723 per new dwelling unit. This fee amount is provided based on the current rates. City fee amounts are updated periodically. The developer shall pay the fees based on the rate in effect at the time of payment.

36. Prior to issuance of a certificate of occupancy for the project the Developer shall submit documentation to the Building Division for review and approval that indicates that the following items have been completed as reviewed and approved by the CDD Engineering Division:

b. The Developer shall complete the water demand mitigation requirements of this project as specified by the City of Napa Water Division. The Developer will be contacted by the City of Napa Water Division after obtaining a building permit specifying the requirements for the proposed project.

c. The improvements identified on the Public Street Repair Plan shall be completed.

d. All road surfaces shall be restored to pre-project conditions after completion of any project-related pipeline installation activities.

e. Installation of street paving by the Developer shall be completed and shall include reconstruction of the existing pavement section as required to provide adequate conforms. The limits of such reconstruction shall be reviewed by the CDD Engineering Division and approved by the City Engineer as part of the construction plan review. Any necessary pavement conforms shall be installed prior to occupancy.

f. Developer shall replace any damaged curb and gutter along street frontages in accordance with Public Works Department Standard Specifications prior to occupancy.

g. All onsite and offsite improvements shall be installed prior to occupancy.

h. The Developer shall submit to the CDD Engineering Division all improvement plans in digital auto-cad format, compatible with the City's current version, and tied to the City's coordinate system for all storm drain facilities, water lines, lot lines, sanitary sewer lines, sidewalks and streets. Auto-cad files shall be updated for as-built information and submitted to and approved as complete by the Community Development Department Engineering Division prior to occupancy.

37. Prior to initiation of water service:

i. The Developer shall have all backflow devices installed. The Developer shall have all backflow devices tested by an AWWA certified tester from a list of testers provided by the City of Napa. The test results shall be submitted by the Developer to the City of Napa Water Division.

j. The Developer shall pay all meter set fees and hot tap fees to the Water Division at the time of installation. Fees shall be paid at the Water Division office, 1340 Clay Street, in Napa.

Fire Marshall:

33. In recognition of the need to meet additional emergency services generated by the cumulative development created by this project, the developer shall pay the Paramedic and Fire Development fee required by the Napa Municipal Code. Fees shall be paid prior to the issuance of a building permit.

34. Fire access shall:

A. Have an all-weather surface prior to combustible construction.  
B. Have a minimum 13'-6" overhead clearance  
C. Have an unobstructed width of 20'. Parking shall be restricted to one side of the roadway for streets having a minimum width of 28'.

35. All new buildings shall have an automatic fire sprinkler systems installed in accordance with provisions set forth in the Uniform Fire Code as amended by the City. Plans and calculations shall be submitted and approved prior to the issuance of a building permit.

36. Parcel splits and/or subdivisions of parcels where additional building sites or parcels are created shall require that all buildings that exist on the original parcel be retrofitted with automatic fire sprinklers. Prior to the recordation of the parcel map, the exiting buildings shall have fire sprinkler systems installed in accordance with the appropriate National Fire Protection Association Standard.

37. Fire hydrants and required fire flow shall be in accordance with Appendix III-A and III-B of the Uniform Fire Code. Hydrants shall be installed and in-service prior to combustible construction. A fire hydrant shall be located at the corner of Roosevelt and "B" Street.

#### Community Resources:

38. Street trees are required on all public streets as per Policy Resolution 27.

39. Napa County Environmental Management Department:

40. If any wells are to be destroyed, a well destruction permit must be obtained by a licensed well driller, from the Napa County Department of Environmental Management.

#### Napa Sanitation District:

41. Each parcel shall be served by a separate sanitary sewer lateral.

42. The private street area shall also be dedicated to the Napa Sanitation District as a sanitary sewer easement.

43. A plan and profile of the required sanitary sewer improvements shall be prepared by a registered civil engineer conforming to NSD standards, and shall be submitted to the District for approval.

44. The owner/developer shall enter into a subdivision agreement with the District, and post the appropriate bonds covering the sanitary sewer work.

45. The proposed development would be subject to the following fees, based on the rates in effect at the time they are paid:

- a. Plan Check Fees (presently \$40.00 per lot)
- b. Inspection Fees (presently \$1.25 per lineal foot for main lines and \$35.00 per each 4" street lateral and \$35.00 per each 4" onsite lateral)
- c. Connection Fees (presently \$5,660.00 per single family dwelling)

#### CITY GENERAL CONDITIONS:

##### Community Development Department – Planning Division:

46. Unless otherwise specifically provided, each condition of this approval shall be satisfied prior to issuance of a building permit, or if a building permit is not required, prior to the commencement of use;

however, in the event the subject approval is for a tentative subdivision map or parcel map, each condition shall be satisfied prior to final map approval. Applicant's (and land owner, if different) execution of the City's improvement agreement with required security may be accepted in lieu of condition completion.

47. No use authorized by a use permit or planned development permit may commence until after the Developer executes any required permit agreement.

Community Resources Department:

48. Developer shall submit a conceptual street tree planting plan (to be included in any required improvement plan) for all public streets for approval by the Public Works Director; in the event Developer utilizes a curb adjacent sidewalk, Developer shall submit a conceptual private tree planting plan for approval. For subdivision projects, Developer shall enter into an agreement satisfactory in form and security to City to plant and maintain the required street trees prior to the approval of a Final or Parcel Map. For projects other than subdivisions, Developer shall plant trees shown on the City's approved Street Tree List in accordance with the Standard Specification for Public Improvements and approved conceptual tree planting plans prior to City's issuance of an occupancy permit or commencement of the use.

49. Developer shall maintain (which term includes replacement) the trees in a healthy, vigorous and growing condition for a period of three (3) years from the date of planting. If at the end of the three (3) year period the trees are not in a healthy, vigorous and growing condition, at the option of the Community Resources Director, the Developer shall replace the tree(s) and/or the Developer's maintenance obligation may be extended for an additional one (1) year period.

50. Developer shall submit to and receive approval from the Community Resources Department of a plan for privately funded long-term maintenance of the side-on and/or back-on landscaping for any subdivision. Prior to final map approval, documents or other evidence assuring implementation of the plan satisfactory to the City Attorney shall be in place.

Housing Authority:

51. Unless otherwise provided, Developer shall, in the case of new non-residential development projects, pay the required Housing Impact Fee or, in the case of residential development projects, construct the affordable unit(s) or pay the In-Lieu Fee in accordance with the terms of NMC Chapter 15.94. Fees shall be payable at the rate in effect at the time of payment. The findings set forth in NMC Chapter 15.094 and Resolution No. R1999 161 are incorporated herein. The City further finds that there is a reasonable relationship between the fees imposed and the costs of the facilities attributable to this project.

General:

52. Developers shall pay all applicable fees and charges at the required time and at the rate in effect at time of payment (see Policy Resolution 16 as amended for a partial listing of applicable fees and Policy Resolution 16 or individual departments regarding the timing of fee payment requirements).

53. The authorized project is limited to the project as described in Developer's application, correspondence and final submitted plans and specifications and in accordance with the Developer's representations and agreements made at the public hearing(s) on the project. All project development, including the design and construction of improvements, shall be consistent with the same. Any future additions, expansions, remodeling, including changes in style, size, height, color, bulk, shall be subject to future review by City.

54. Developer shall design and construct all improvements and facilities shown on any approved tentative map, site plan, or other documents submitted for permit approval, all representations made by Developer, and with the plans and specifications submitted to and approved by City, to comply with the

General Plan, any applicable Specific Plan, the Napa Municipal Code (NMC), City ordinances and resolutions, the "Standard Specifications" of the Public Works and Fire Departments, as well as any approved tentative map, site plan or other documents submitted for permit approval, all representations made by Developer, and with the plans and specifications submitted to and approved by City.

55. The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitations period is specified by any other provision. Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred.

56. The Developer shall defend and indemnify and hold the City, its agents, officers, and employees harmless of any claim, action or proceedings to attack, set aside, void or annul the approval so long as the City promptly notifies the Developer of any such claim, action, or proceedings, and the City cooperates fully in the defense of the action or proceedings.

57. To the full extent permitted by law, the Developer shall indemnify, defend, release and hold City, its agents, officers, and employees from and against any claims, suits, liabilities, actions, damages, penalties or causes of action by any person, including Developer, for any injury (including death) or damage to person or property or to set aside, attack, void or annul any actions of City, its agents, officers and employees, from any cause whatsoever in whole or in part arising out of or in connection with (1) the processing, conditioning or approval of the subject property; (2) any failure to comply with all applicable laws and regulations; or (3) the design, installation or operation of project improvements and regardless whether the actions or omissions are alleged to be caused by City or Developer so long as City promptly notifies Developer of any such claim, etc., and the City cooperates in the defense of same.

58. Developer shall pay all fees related to filing of environmental documents for the project with the County Clerk.

59. If the Developer is not the owner of the subject property, all agreements required to be executed by the City must be executed by the Owner(s) as well as the Developer.

60. The Developer shall pay all City staff development fees, which are or may become due to City pursuant to Napa Municipal Code Section 2-204, et seq.

61. The conditions (and mitigations) of project approval set forth herein include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020(d)(1), these conditions (and mitigations) constitute written notice of the statement of the amount of such fees and a description of the dedications, reservations, and other exactions. You are hereby notified that the 90-day period in which you may protest those fees, the amount of which has been identified herein, dedications, reservations and other exactions has begun. If you fail to file a protest complying with all the requirements of Section 66020, you will be legally barred from later challenging such exaction.

62. Violation of any term, condition, mitigation measure or project description relating to this approval is unlawful, prohibited and a violation of the Napa Municipal Code and can result in revocation or modification of this approval and/or the institution of civil and/or criminal enforcement and/or abatement proceedings.

63. Project approval would not have been granted but for the applicability and validity of each and every one of the specified mitigations and conditions, and if any one or more of such conditions and mitigations is found to be invalid by a court of law, this project approval would not have been granted without requiring other valid conditions and/or mitigations consistent with achieving the purpose and intent of such approval.

I HEREBY CERTIFY that the foregoing resolution was duly and regularly adopted by the City Council of the City of Napa at a regular meeting of said City Council held on the 17<sup>th</sup> day of October, 2006 by the following roll call vote:

AYES: Councilmembers Krider, Martin, Vice Mayor Block, and Mayor Techel.

NOES: Councilmember van Gorder.

ABSENT: None

ABSTAIN: None

ATTEST:

Sara J. Cox  
CITY CLERK OF THE CITY OF NAPA