

RESOLUTION R2006 184

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA,
STATE OF CALIFORNIA, APPROVING A USE PERMIT, DESIGN
REVIEW AND A TENTATIVE SUBDIVISION MAP FOR LOS ROBLES
SUBDIVISION (#04-0259)

WHEREAS, Victor Van Koten submitted an application for a Use Permit to allow an increase in density within the Hillside Overlay District; Design Review of the Tentative Subdivision Map and dwellings; and a Tentative Subdivision Map to divide the property into 5 lots at 21 Los Robles Drive; and

WHEREAS, the Planning Commission of the City of Napa, State of California, held a noticed public hearing on June 15, 2006 on the subject application and recommended approval of the development application; and

WHEREAS, the City Council of the City of Napa, State of California, held a noticed public hearing on November 14, 2006 on the subject application and recommended approval of the development application; 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 the facts set forth in the recitals to this resolution are true and correct, and establish the factual basis for the City Council's adoption of this resolution.

Section 2. The City Council hereby finds that this project is exempt from CEQA pursuant to Section 15332 of the CEQA Guidelines which exempts infill development projects.

Section 3. The City Council makes the following Use Permit findings:

1. The proposed use is in accord 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.

As addressed in the Planning Commission staff report Analysis, the proposed project has been found to be consistent with the Single Family Residential General Plan designation and the RS-20:HS, Residential: Hillside Overlay District regulations. The proposed 5 lots is well below the maximum of 9 lots that would be allowed under the Hillside Overlay's slope density formula.

2. The proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the City.

Staff has determined that the three additional dwellings that would result from this subdivision would not have any detriments to the public health, safety and welfare.

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

As addressed in the Planning Commission staff report Analysis, the proposed project has been found to be consistent with the RS-20:HS, Residential: Hillside Overlay zoning of the property.

Section 4. The City Council makes the following Design Review findings:

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

The proposed Tentative Subdivision Map improvements and single-family use of the property are consistent with the Single Family Residential General Plan as discussed in the Analysis above.

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

The design of the Tentative Subdivision Map appears consistent with the Hillside Design Guidelines and Residential Design Guidelines as discussed in the Planning Commission staff report Analysis.

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 Design Review permit is consistent with Title 17 of the Municipal Code (Zoning Ordinance), and staff has not identified any effects of from this 5-lot subdivision that would have an adverse affect on public health, safety or welfare.

Section 5. The City Council makes the following Tentative Subdivision Map findings:

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

The proposed subdivision, improvements and single family use of the property are consistent with the Single Family Residential General Plan designation as discussed in the Planning Commission staff report Analysis.

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 configuration allows for passive heating and cooling opportunities with building orientation and landscaping.

Section 6. The City Council hereby approves a Use Permit to allow an increase in density within the Hillside Overlay District; Design Review of the Tentative Subdivision Map and dwellings; and a Tentative Subdivision Map to divide the property into 5 lots as described in Exhibits A - 0 prepared by Riechers Spence & Associates, date stamped April 4, 2006, and attached to the staff report of June 15, 2006 which is on file in the Community Development Department – Planning Division, subject to the following:

SPECIAL CONDITIONS:

City Council.

1. The City Council approves the project as proposed with a public street extension of Cayetano Drive to the east property line of the project site. However, if the three property owners of 21 Los Robles Drive, 33 Los Robles Drive and 45 Los Robles Drive agree in writing to a plan for an unrestricted private street connection between the existing terminus of Cayetano Drive and the existing terminus of Molina Drive and that plan is approved by the Traffic Advisory Committee, then said road extension may be a private street. The circulation plan shall include provisions for extensions of all necessary utilities. If the private street extension plan is approved by the Traffic Advisory Committee, it shall take precedence over any other conditions of approval herein which conflict with such an approved alternative plan.

Community Development Department – Planning Division.

2. Building plans for Lots 1, 2 and 3 shall reflect full compliance with the base setback and yard requirements of the RS-20 zoning district.
3. In order to break up the repetitive house design on Lots 1, 2 and 3, a significantly different house plan shall be submitted for Lot 2 for Planning Division approval.
4. All exterior colors shall be subject to Planning Division approval.

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5. Approval of this project shall be subject to the requirements of (and all improvements shall be constructed in accordance with) the Napa Municipal Code, the Public Works Department Standard Specifications and Standard Plans, the Manual on Uniform Traffic Control Devices – 2003 Edition (and its California Supplement) and the Caltrans Highway Design Manual.
6. 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.
7. 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) under the Community Development Department Development Engineering Division menu.
8. The following items shall be installed by the Developer and shown on the improvement plans prior to approval of the plans:
 - A. The project shall conform to Caltrans sight distance and the City's visibility triangle (Standard Detail S-25) requirements. In particular, a minimum 10-foot visibility triangle shall be maintained at the intersection of the project driveways with the public streets. Any shrubs, bushes, fences, walls, or other structures within this triangle shall conform to the requirements of Standard Detail S-25. Existing Vegetation that fails to meet this standard shall be trimmed or removed as needed to provide the necessary visibility triangle.
 - B. Because of limited sight distance caused by the crest of the hill on Seville Drive east of the project, parking shall be prohibited by means of red curb on Seville Drive for 20 feet to the east of each driveway.
 - C. Cayetano Drive Extension.
 - (1) The developer shall design, install and dedicate as a public street on the final map the extension of Cayetano Drive from the current eastern end to the east boundary of Lot 4. In particular, the portion of the Cayetano Drive extension within the subject property shall generally follow the existing access road, include two knuckles (similar to the August 24, 2006 preliminary drawing titled "Cayetano Extension Plan Line Drawing" prepared by Riechers Spence & Associates) and shall be designed for a minimum face-of-curb to face-of-curb roadway width of 20 feet plus curb and gutter on both sides and a 5.5 foot curb adjacent sidewalk on the east and south side. The improvements shall lie within a right of way that is at the back of sidewalk on the south side and back of curb on the north side. The street vertical and horizontal alignment shall conform to City of Napa Standards. Street widths shall be wider if necessary to accommodate Fire Department ladder truck turning movements as to be demonstrated on the improvement plans by the plotting of the ladder truck turning template.
 - (2) The design for the proposed portion of Cayetano Drive that extends across Lot 4 shall continue far enough onto the neighboring property to the east as necessary to demonstrate that the proposed street alignment is properly located to allow for the planned future extension east.
 - (3) The actual construction of the Cayetano Drive extension by the Developer may end short of the eastern property line as necessary to provide a logical temporary conform to the existing road alignment on the neighboring property as to be determined based on a design that is submitted by the Developer for review and approval by the CDD Engineering Division. The developer shall provide a bond in an amount that covers the costs associated with any portion of the ultimate street as it crosses the proposed Lot 4 that is not constructed due to conform issues. The bond amount shall be determined based on a construction costs estimate that is submitted by the Developer for review and approval by the

CDD Engineering Division. The ultimate right of way dedication shall be provided on the final map and shown on the improvement plans.

D. Two standard parallel parking spaces shall be provided at the eastern end of the new portion of Cayetano Drive near the access drive to the residence, or (to minimize grading and retaining wall impacts) the two parking spaces can be located at an alternate location further from the house to the west near the 90 degree bend in the proposed street as shown on the August 24, 2006 preliminary drawing titled "Cayetano Extension Plan Line Drawing" prepared by Riechers Spence & Associates. The alternate location is acceptable only if an onsite pedestrian path that has been approved by the CDD Engineering and Planning Divisions is provided as a direct access from the house to the parking spaces. Parking shall be prohibited on the Cayetano Drive extension at all other locations. Related signs (R26F - No Stopping Fire Lane) shall be placed at 100 foot intervals along both sides of the street.

E. Curb, gutter, standard sidewalk, street paving, street lights, driveway approaches, drainage facilities, barricades and street trees shall be installed on the development's public street frontages.

F. The driveway approaches for the driveway which leads to the proposed house from the new portion of Cayetano Drive and the driveway which leads to the Lot 5 existing house shall be designed and constructed consistent with City of Napa Standard Plan S-5 or curb returns may be installed with a 10 foot wide stamped concrete strips on the project parcels along the public street right of way line. The driveways (as they extend across the proposed Lots) shall be constructed to City of Napa standards and are to include a minimum 12 foot pavement width and a pavement structural section equivalent to a minimum of 3 inches of asphalt concrete on 10 inches of Class 2 aggregate base material.

G. Required onsite parking areas are to be installed in accordance with City of Napa Standards.

H. The grading and drainage plans 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.

I. The Developer shall install an underground storm drain system that satisfies the requirements of Policy Resolution No. 17. On-site storm drains, outside of City right-of-way, shall be made of SDR-35 plastic or reinforced concrete pipe.

J. Through curb drains (Std. Detail D5) shall be installed and connected to back of sidewalk drain inlets for each lot. Over sidewalk storm water runoff is not allowed.

K. The Grading and Drainage Plan is to address storm water runoff from lot 5 onto lots 1-3.

L. 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.

M. All public 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 local streets.

N. At the new eastern dead-end of Cayetano Drive (east boundary of Lot 4) a sign that has been reviewed and approved by the Public Works Department shall be installed which indicates that the street will be extended to Molina Street in the future in accordance with the City of Napa General Plan Section T-1.9c.

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

P. 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.

Q. 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.

R. 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.

- S. The improvement plans shall include a Joint Trench Plan.
- T. The improvement plans shall include an Erosion Control Plan.
- U. The improvement plans shall include a Construction Traffic Control Plan.
- V. 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:

(1) 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.

(2) 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.

(3) Any unanticipated street cuts or other street repair items that become evident following improvement plan approval shall be included by way of revisions to the Street Repair Plan.

W. Storm Drainage Detention System.

(1) 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 proposed construction on Lots 1, 2, 3 and 4 at pre-development levels. It is assumed that no new construction (impervious surfaces) will occur on Lot 5.

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

(3) 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.

X. Post Construction Water Quality Measures.

(1) 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.

(2) The post-construction BMP's shall be shown on the project improvement plans.

(3) As a basis for developing BMP's it is recommended that the Developer's engineer utilize the "California Storm Water Association 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).

(4) 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.

(5) 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.

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

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

(2) The existing 8" water main in Cayetano Drive shall be extended to the end of the new public street section (the east boundary of Lot 4). A new fire hydrant shall be installed at the end of the

new public water main and shall be used as the blow-off for the main. All services shall be placed within the public right-of-way with private service laterals extending to the point-of-use.

(3) Water services to Lots 1, 2, and 3 shall be taken off of the existing water main on Seville Drive.

(4) Any unused service shall be abandoned at the City water main.

(5) On-site fire hydrants, if required, shall be privately owned and maintained. Service shall be provided by a dedicated fire service from the City water main.

(6) Approved backflow prevention devices shall be installed on all new and existing domestic and fire water services.

(7) If any domestic and/or 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.

(8) No signs, fences, trees, foundations, or other permanent structures shall be installed within 10 feet of a City water main, or within a public water utility easement.

(9) 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.

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

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

9. 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.

10. 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.

11. 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.

12. Construction Water Quality Measures.

A. In accordance with the NPDES Construction General Permit, the Developer shall incorporate water quality Best Management Practices (BMP's) into the project construction process.

B. The construction BMP's shall be shown on the project erosion control plans.

C. The overall project grading involves an area of disturbed surface soil that is greater than one acre, therefore the project property owner shall file a Notice of Intent (NOI) with the State Water Resources Control Board prior to any construction activity.

D. The property owner shall prepare a Storm Water Pollution Prevention Plan.

E. The property owner is responsible for incorporating water quality measures into the project construction operation. The project property owner shall insure that the contractor manages all construction activities; and handles, stores and disposes 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. The project property owner shall insure that the contractor incorporates 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 project property owner shall insure that the contractor incorporates protected and designated equipment cleanup and fueling areas into the construction operation. 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.

13. 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 designed to carry a 10-year storm. 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. 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.

F. Grassy swales, bio-retention areas, underground treatment vault systems, and all other flow or treatment based BMP 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.

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.

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

15. The Owner of the property shall record CC&R's and establish an incorporated homeowner's association to provide long term maintenance, financing and monitoring for the storm water detention system and any other structural storm water pollution reduction devices or treatment control Best Management Practices (BMPs) that are incorporated as part of the project. If the project does not include commonly owned property, then 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 (or maintenance association if applicable) 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 homeowners association (or maintenance association if applicable) 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.

16. 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.

17. Prior to approval of the Final Map, the Developer shall furnish the Community Development Department Engineering Division with proof of the payment of the mapping service fee as required by Napa County Board of Supervisors Resolution No. 92-119.

18. Developer shall execute and submit to the CDD Engineering Division a reciprocal access and maintenance agreement for the private access drive that crosses over Lot 4 to serve the neighbor to the east. The agreement is to include the owner of the neighboring parcel to the east. Should the owner of the adjoining property be unwilling to enter into the agreement, the agreement shall include an offer of reciprocal access to that owner. The agreement shall be in a form approved by the City Attorney and shall be recorded with the Final Map. Associated easements shall be shown on the Final map.

19. 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.

20. Type C drainage easements shall be established for the drainage facilities or lot to lot runoff in accordance with the City of Napa Public Works Department Standard Specifications and Standard Plans, Drainage Easements. Drainage easements for pipes 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 on the Final Map.

21. Prior to issuance of the building permit for the project the Developer shall submit documentation to the Building Division for review and approval that indicates that the following items have been addressed:

A. 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.

(1) 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.

B. In accordance with the results of the Shurtleff Avenue/Terrace Drive Area Wide Traffic Study the project is to pay a fair share contribution toward improvements identified in said study at the Third Street/East Avenue/Silverado Trail/Coombsville Road intersection and the future Silverado Trail/Saratoga Drive intersections to mitigate the cumulative impact of the traffic generated by the subject project. The City 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 improvements attributable to this project.

(1) The fair share costs for improvements identified in the Shurtleff Avenue/Terrace Drive Area Wide Traffic Study is \$471 per new dwelling unit for the Third Street/East Avenue/Silverado Trail/Coombsville Road intersection and \$221 per new dwelling unit for the future Silverado Trail/Saratoga Drive improvements.

C. The above fee amounts are 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.

D. The above per-dwelling-unit fee amounts shall be paid prior to issuance of the individual building permits.

22. 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:

A. 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.

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

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

D. 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.

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

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

G. 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.

23. 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 Parcel Map approval or occupancy if no map is required.

24. Prior to initiation of water service:
- A. The Developer shall have all backflow devices shall be 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.
 - B. 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 Marshal.

25. 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.

26. Fire apparatus access shall:
- A. Be paved to City Standards
 - B. Have a minimum 13'-6" overhead clearance
 - C. Be free of speed bumps
 - D. Not be interrupted by gates or barriers
 - E. Shall be provided to within 150' of the furthest point of the structure as measured by an approved route

27. Access roads shall be completed with all-weather surfaces prior to combustible construction.

28. All new buildings shall have an automatic fire sprinkler installed in accordance with the National Fire Protection Association Standard 13D. Plans and calculations shall be submitted and approved prior to the issuance of a building permit.

29. Applicants are responsible for securing information regarding water supply and pressure for the purpose of designing the fire sprinkler systems.

30. Combustible vegetation that would tend to increase the spread of fire shall not be permitted within 30' of structures.

Community Resources Department.

31. Applicant shall provide a statement which discloses whether any protected native trees exists on the property and if so, describing each such tree, its species, size, drip line area, and location. This requirement shall be met by including the information on plans submitted in connection with the application.

32. If applicant is proposing to remove a protected native tree, in addition to the above requirement, applicant shall show on the plans and identify by species the location of all other trees on the site and in adjacent public right-of-way that are within thirty (30) feet of the area proposed for development, and any trees located on adjacent property with canopies overhanging the project site.

33. If applicant is proposing to retain protected native tree(s), in addition to the requirement in 1) above, a permit is required from the Community Resources Director for any activity affecting protected native trees listed in Section 12.45.054 of the Napa Municipal Code.

34. All trees to be retained including those in the public right of way shall be protected from construction impacts as per City of Napa Standard Specifications.

CITY GENERAL CONDITIONS:

Community Development Department – Planning Division.

35. 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.

36. 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.

37. 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.

38. 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.

Housing Authority.

39. 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.

40. 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).

41. 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.

42. 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.

43. 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.

44. 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.

45. 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.

46. 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.

47. 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.

48. 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.

Section 7. The City Council hereby finds that the facts set forth in the recitals to this resolution are true and correct, and establish the factual basis for the City Council's adoption of this resolution.

Section 8. This Resolution shall take effect immediately upon its adoption.

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 14th day of November, 2006 by the following roll call vote:

AYES: Techel, Block, Martin, van Gorder and Krider

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST:

Sara J. Cox
CITY CLERK OF THE CITY OF NAPA