



STAFF REPORT

TO: PLANNING COMMISSION

PREPARED BY: Corey Simon, Senior Planner

GENERAL INFORMATION

OWNER/ APPLICANT: Anthony Will; Bob Kendall, Designer/Engineer

LOCATION: 4958 Alhambra Valley Road (vacant acreage, southwest of existing residences at 4950 and 4954 Alhambra Valley Road)

PROPOSAL: Construction of a new single-family residence. The applicant is requesting approval of a Use Permit to allow a maximum building height of approximately 30' where a maximum of 25' is permitted; and Design Review for building elevations and landscaping.

GENERAL PLAN: LAND USE ELEMENT: Open Space/Conservation Use: Up to one unit per acre
OPEN SPACE/CONSERVATION ELEMENT: Visually Significant Hillside.

ZONING: ECD-R-100 (Environmental Conservation - One-Family Residential: 100,000 sq. ft. minimum lot area)

ENVIRONMENTAL REVIEW: Staff proposes that the Planning Commission find that this permit be categorically exempt (CLASS 3 - Section 15303; New Single-family Residences) from the requirements of CEQA. If the Planning Commission adopts this proposed finding, no further environmental review would be required by State law.

RECOMMENDATION

Approve Use Permit #08-09 and Design Review #08-14, subject to the attached conditions of approval.

CONTEXT and SITE DESCRIPTION

The vacant acreage has steep varied topography, ranging in elevation from approximately 220' elevation (at the point of access behind the existing residences at 4946 & 4950 Alhambra Valley Road) up to 415' elevation at the southerly property line. Except for the neighboring properties and a small frontage along Alhambra Valley Road, the wedge shaped property is surrounded by the Mt. Wanda unit of the John Muir National Historic Site (managed by the National Park Service). The general plan and zoning designations of the property reflect the need to preserve the natural appearance of the property; development potential is limited to one single home per each pre-existing legal lot, with the remainder to be left in a natural condition.

The nearest neighboring residence, the Brashers' at 4954 Alhambra Valley Road, was approved by the Planning Commission, upon the recommendation of the Design Review Board, in 2005. At that time, the Brasher property consisted of 4 parcels, approximately 12 acres in total, surrounded by the Mt. Wanda portion of the John Muir National Historic Park and all owned by Brasher. As "condition of approval" for the Brasher residence, over a third of the 12 acre property was placed within a "scenic easement." Neither the Brasher residence nor current application site is readily visible from off-site, and neither can be seen from Alhambra Valley Road.

Subsequent to the construction of the Brasher residence in 2007, the Zoning Administrator approved a lot line adjustment between the Brasher's 4 legal parcels, establishing the current configuration of the four lots, with one of the four ("parcel 4 with approximately 3.8 acres) now being purchased by the applicants. As per the "older" neighboring Brasher residence (now "parcel 3" with approximately 3.7 acres), issues of concern may be limited to tree preservation and removal. It should be noted that the current applicant is using the same design professional and arborist as did the Brashers.

The proposed homesite is on the same minor ridge, running along the southerly property line, as the "older" Brasher residence. The ridge continues rising westward into the Mt. Wanda Park site. The average slope at the homesite is approximately 10% to 15%. (Refer to Site Context Map and aerial photo attached).

PROJECT INTRODUCTION

The applicant proposes to construct a 5,028 square foot multi-level residence, which a 630 square foot "casita" (game room/guest quarters, possible "secondary housing unit). The residence would be within an approximately 40,000 square foot development area, which would include the entry court "turn-around" (as required by Fire District), proposed terraces on the south side of the house, and proposed pool area on the west side of the house. Access to the proposed homesite from Alhambra Valley Road would be via a former fire road, improved Fire District requirements at the time the Brasher residence was built.

The design for the residence is generally in a contemporary/bungalow-craftsman theme, with stucco walls, extensive use of stone veneer accents, and broad hipped roofs. To

help the structure blend into the natural setting, the house will have a medium beige body color and a dark brown standing seam metal roof. The bulk of the house appropriately “parallels” the hillside, placing single story elements toward the outward facing south and east elevations. The Design Review Committee recommended approval of the plan, and applicant’s tree removal and tree replacement/landscape plans on September 30, 2008. The Committee was generally very supportive of the proposed plans, and recommended approval, as it appears to effectively fit into the open space and rural residential context.

ZONING COMPLIANCE

The property is within the ECD-R-100 Zoning District, which is basically the Single-family residential R-100 district, with an “Environmental Conservation District” as a “companion” type overlay. The supplemental regulations of the ECD District only apply to conditional uses, and do not apply to the construction of single family dwellings on pre-existing parcels. The table on the following page provides the code requirements applicable to the development of this lot. A “Y” in the table indicates conformance.

ZONING COMPLIANCE TABLE

“ECD-R-100” CRITERIA	MINIMUM REQUIRED OR (MAXIMUM ALLOWED)	PROPOSED	CONFORMITY
Front yard	50 feet	60 feet	Y
Side yard	40 feet	200+feet/150+feet	Y
Rear yard	25 feet	25 feet	Y
Building Height	25 feet (<i>maximum</i>)	up to 30 feet	Use Permit Req’d
Lot Coverage	5%	4% (approx)	Y

STAFF ANALYSIS

Specific issues of concern are outlined below:

- **Off-site visibility and Use Permit to exceed 25’ height limit**

The homesite is approximately 800’ away from Alhambra Valley Road, and will not be visible from the roadway itself. The General Plan’s “visually significant hillside” hillside designation reflects the visibility of the forested east facing slope, and this slope will be nearly undisturbed by the proposed project. Topography and tree cover will somewhat screen the homesite and structure from most off-site view points; and the National Park Service has endorsed the project as currently proposed (letters attached). Given the large scale of the parcel and home, and combined with the limited off-site visibility, the proposed maximum building height of up to 30’ appears appropriate as proposed. It should be noted that a maximum building height of 32’ (using a roof pitch of 6:12) was

originally proposed; a subsequent design changed proposed by the applicant (endorsed by the Design Review Committee and now as illustrated in the current plans), lowered the roof pitch from 6:12 to 3:12, and thus lower the maximum building height from 32' to approximately 30'.

- **Tree removal, preservation and replacement**

The applicant has provided an arborists report (attached) for those trees adjacent to proposed work (the homesite and access road). Of the "protected" (6½" diameter) oak trees investigated, 8 oak trees are proposed for removal, due to grading for either the road or residence. To mitigate the tree removal, the applicant proposed to plant approximately 24 to 30 new oak trees (a mixture of *coast live*, *blue*, *black* and *valley* oak varieties, 15 gallon size. The Committee did recommend approval of the tree removal and replacement proposal, but request, as a "condition of approval" that the arborist be onsite during any grading, or excavation, to assure owner's "follow through" on the arborist's recommendations.

- **Night lighting**

As per requests from the National Park Service, John Muir National Historic Site park Superintendent, and Design Review Committee, a "Condition of Approval" has been proposed, requiring all exterior lighting to be shielded, casting all light downward rather than outward. A similar restriction was placed on the Brasher residence when it was approved.

ATTACHMENTS

Site Context Map and Aerial Photo
Correspondence, National Park Service – John Muir National Historic Site Martha Lee Superintendent
Design Review Committee comments
Resolution PC 08-06 [DRAFT]
Conditions of approval for UP 08-09 and DR 08-14 [DRAFT]

EXHIBITS

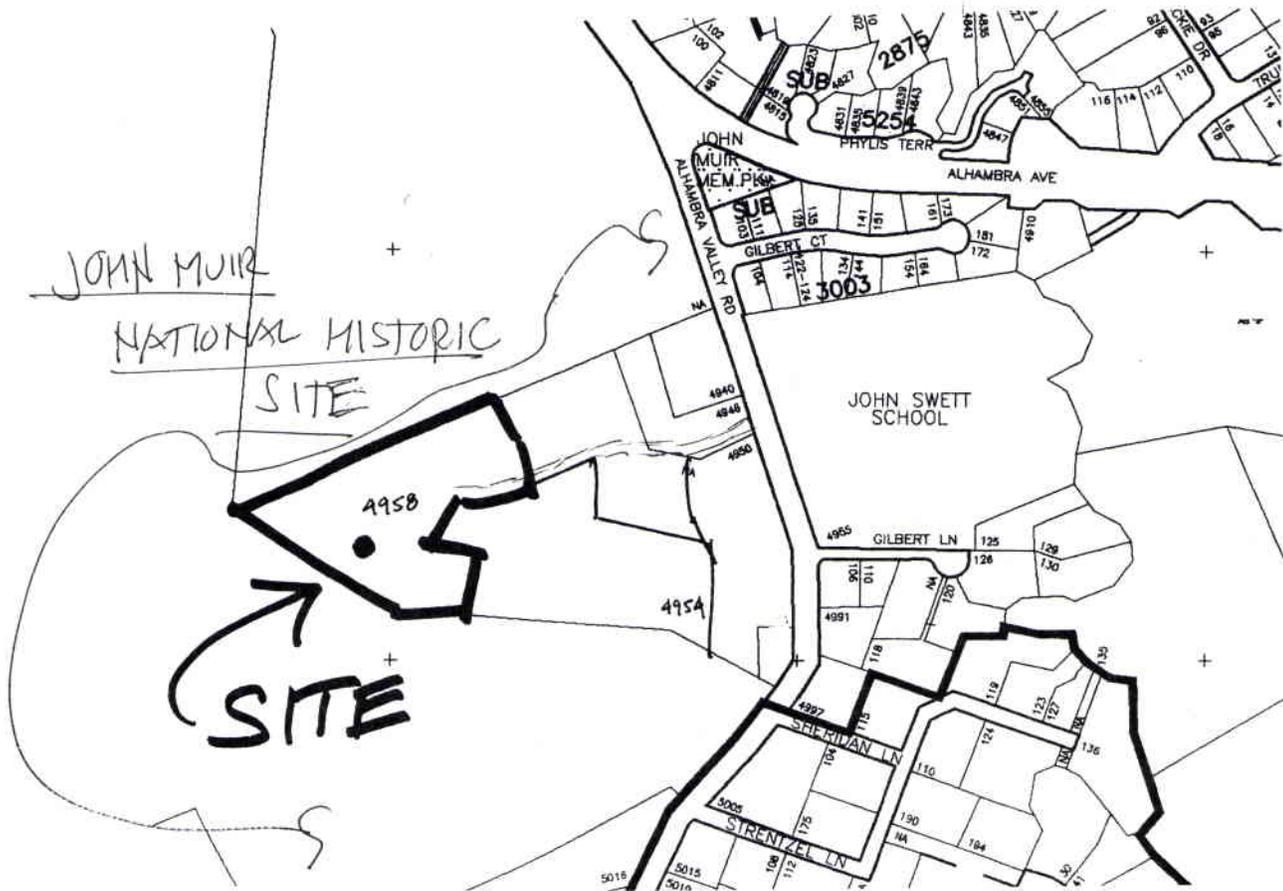
Site, Architectural, Landscape and Tree Inventory Plans
Arborist's report

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SITE VICINITY MAP

HILL RESIDENCE

4958 ALHAMBRA VLY. RD.



UP 08-09 / DR 08-14

VISUAL ENVIRONMENT



---> MAJOR SCENIC ROUTES

X MAJOR VISUAL GATEWAYS

☀ VISUALLY SIGNIFICANT HILLTOPS AND RIDGES

≡ VISUALLY SIGNIFICANT HILLSIDE

▤ VISUALLY SIGNIFICANT RIPARIAN VEGETATION

▨ VISUALLY SIGNIFICANT SKYLINE VEGETATION

▩ MARSH

▧ OLD ORCHARD

SOURCE: ANALYSIS BY SEDWAY/COOKE

THE CITY OF
MARTINEZ
CALIFORNIA

SEDWAY/COOKE

URBAN AND ENVIRONMENTAL
PLANNERS AND DESIGNERS

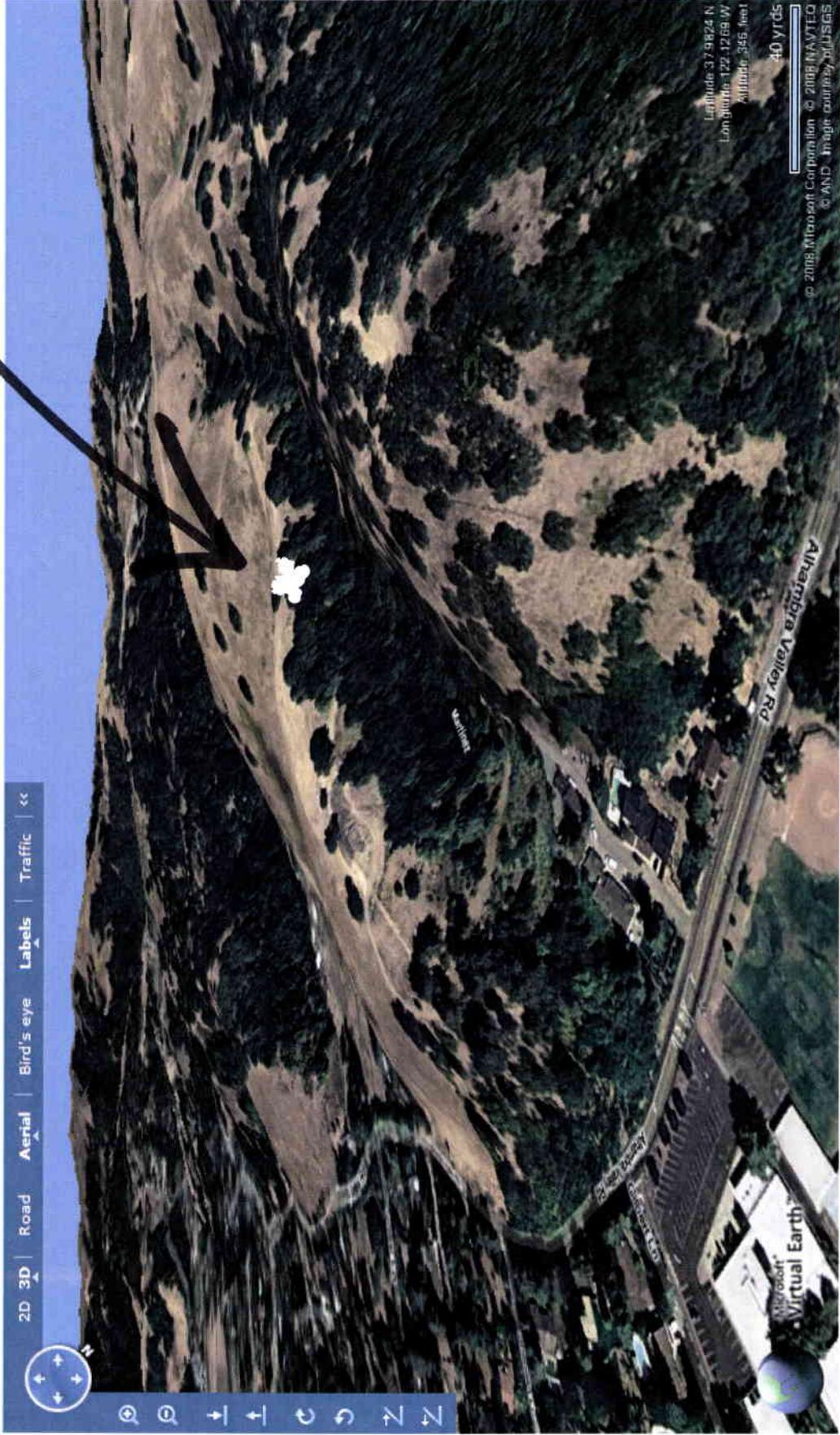


scale (1000 feet)
0 1 2 3 4

26

SITE

WILL RESIDENCE, 4958 Alhambra Valley Road: UP 08-09/DR 08-14



United States Department of the Interior



NATIONAL PARK SERVICE
John Muir National Historic Site
4202 Alhambra Avenue
Martinez, CA 94553

IN REPLY REFER TO:

L1425

September 3, 2008

Mr. Anthony Will
West Coast Welding, Inc.
818 Grayson Road, Suite 101
Pleasant Hill, California 94523

Dear Mr. Will,

This letter is to confirm the discussions on the tour of your property conducted on the August, 28, 2008 with Deputy Superintendent Tom Leatherman. I understand your meeting included the architect, Mr. Brasher (the former owner) and yourself and involved a tour of the site, a review of the plans for the house, and a discussion of our concerns. The primary concerns of the park are view shed impacts and light pollution.

As expressed at the meeting, the view shed on Mt. Wanda is an important part of the historic landscape of John Muir National Historic Site. We appreciate your recognition of this fact in your design of your new residence. The terracing of the house on the slope, and the fact that you are minimizing the number of trees you are removing, makes it clear that you have thought about this issue. Additionally, it was nice to see that you have chosen to plant native oak trees around the residence to further screen the residence while blending in with the existing native vegetation. Although there will be an increased visual intrusion from the presence of this new structure, the plans show that you have included a consideration of these issues in the design. We feel that if the final construction of the residence includes these considerations you have taken appropriate measures to minimize these impacts as much as possible.

The second issue discussed was the effect on dark night skies from light pollution. Experiencing dark night skies on Mt. Wanda, through nighttime walks, is one of the activities visitors enjoy and is increasingly difficult to find. The location of Mt. Wanda is unique in being able to provide this experience in such close proximity to an urban center. In addition to reducing the light pollution, fixtures which direct light downward and are night sky friendly also increase visibility (by not shining light into peoples eyes) and are often more energy efficient. We hope that you will take these concerns into account when planning the lighting on and around your residence.

We appreciate your approaching us to discuss our concerns and for minimizing the impacts to the view shed and night skies in the design and construction of your new residence.

Sincerely,



Martha J. Lee
Superintendent



CITY OF MARTINEZ
DESIGN REVIEW COMMITTEE
COMMENT FORM

PROJECT: Will Residence

DATE: 9/10/08

REVIEW COMMENTS:

I recommend approval for this project w/ the following conditions:

① Arborist to be on-site during digging and installation of water/fire line and bio-swales, and provide written approval to City.

② Provide details for finish for retaining walls

③ Address drainage from driveway to prevent concentrated flow crossing over existing road below.

DO YOU WISH TO SEE THIS PROJECT AGAIN AT DRC?

YES
 NO

④ Verify no light pollution from any site lighting - provide shields/cut-off lens, etc.

This project can be recommended for approval if the following conditions of approval are incorporated into the plans prior to Planning Commission hearing:

1. ⑤ Verify upper floor and roof line not visible from southern views. If visible, mitigate w/ additional taller trees to filter view of house.
- 2.
- 3.
- 4.
- 5.

COMMITTEE MEMBER

Brian Miami



CITY OF MARTINEZ
DESIGN REVIEW COMMITTEE
COMMENT FORM

PROJECT: WILL RESIDENCE

DATE: 9/30/08

REVIEW COMMENTS:

1. PROVIDE FINISH SPECIFICATION FOR SITE
RETAINING WALLS (i.e. FLAXED STONE, FINISHED CONCRETE)

DO YOU WISH TO SEE THIS PROJECT AGAIN AT DRC?

YES
 NO

NO ADDITIONAL COMMENTS AT THIS TIME

This project can be recommended for approval if the following conditions of approval are incorporated into the plans prior to Planning Commission hearing: YES

- 1.
- 2.
- 3.
- 4.
- 5.

COMMITTEE MEMBER

JIM PASCAGLIA



CITY OF MARTINEZ
 DESIGN REVIEW COMMITTEE
 COMMENT FORM

PROJECT: <i>LULL RESIDENCE</i>	DATE: <i>9/30/08</i>
REVIEW COMMENTS: <i>I RECOMMEND APPROVAL OF PROJECT. REVISE PROJECT DRAWINGS TO SHOW FOLLOWS:</i>	
<i>• IDENTIFY PAVING MATERIALS</i>	
<i>• IDENTIFY RETAINING WALL MATERIALS AND SHOW ON SITE PLAN.</i>	
<i>I ALSO RECOMMEND HAVING ARBORIST ON SITE DURING TRENCHING TO MINIMIZE DAMAGE TO (E) TREES.</i>	
DO YOU WISH TO SEE THIS PROJECT AGAIN AT DRC?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
This project can be recommended for approval if the following conditions of approval are incorporated into the plans prior to Planning Commission hearing:	
1.	<i>HAVE ARBORIST ON - SITE DURING CONSTRUCTION</i>
2.	
3.	
4.	
5.	

COMMITTEE MEMBER

RESOLUTION NO. PC 08-06 [DRAFT]

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MARTINEZ,
APPROVING USE PERMIT AND DESIGN REVIEW REQUESTS TO ALLOW A
SINGLE-FAMILY RESIDENCE, WITH AN EXCEPTION TO THE MAXIMUM
PERMITTED HEIGHT IN THE ECD-R-100 ZONING DISTRICT, TO BE LOCATED ON A
VACANT 3.8 ACRE PARCEL LOCATED SOUTHWEST OF EXISTING RESIDENCES
AT 4950 & 4954 ALHAMBRA VALLEY RD
(APN: 367-070-011, part)
UP 08-09 and DR 08-14

WHEREAS, the City of Martinez has received a request for Use Permit and Design Review approvals to allow construction of a new single family residence with an exception to the maximum height limit of 25 feet; and

WHEREAS, the proposal is consistent with General Plan policies and with the land use designation which is Open Space/Conservation Use: Up to one unit per acre and

WHEREAS, the zoning applicable to the property is ECD-R-100 (Environmental Conservation - One-Family Residential: 100,000 sq. ft. minimum lot area) which allows for single family structures with a Minimum Site Area of 100,000 sq. ft.; and

WHEREAS, the new single family residence is generally consistent with development standards of the ECD-R-100 designation and the requirements for the granting of exceptions to those regulations where applicable; and

WHEREAS, the project is categorically exempt from the requirements of CEQA, under Sections 15305 CEQA Guidelines; and

WHEREAS, the Planning Commission held a duly noticed public hearing on October 28, 2008, in regards to the said actions and has considered public testimony and all other substantial evidence in the record; and

NOW, THEREFORE, the Planning Commission of the City of Martinez resolves as follows:

1. That the above recitals are found to be true and constitute part of the findings upon which this resolution is based
2. The proposed maximum building height of 30' requires the approval of a Use Permit allowing an exception to the maximum permitted 25 foot height limit of the ECD-R-100 Zoning District. To approve the Use permit, the Planning Commission must make the following findings, which it hereby does:
 - a. **The proposed location of the conditional use is in accord with the objectives of this title, and the purposes of the district in which the site is located.** The proposed residence with a maximum height of 30' is to be located in a largely rural area surrounded by open space. The design of the

proposed residences places the hipped roof peak with the 30' height at the center of the building, achieving the intent of the height limitations by lowering the apparent height that will be viewed from off-site. Furthermore, the distance between the proposed structure and any neighboring structure makes the proposed increase in building height inconsequential in the how the building will be perceived from the limited possible off-site views.

- b. **The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.** The context of the proposed structure is that of private open space, and the proposed increase in height allows for a structure "in scale" with the expansive setting. The massing and colors of the proposed building adequately minimize the possible visual intrusion of a structure into the natural setting, which is nearly surrounded by the Mt. Wanda Unit of the John Muir Nation Historic Site. The local Superintendent of the National Park Service and the Alhambra Valley Improvement Association has indicated their support of the project as designed.
 - c. **The proposed conditional use will comply with each of the applicable provisions of this title.** The proposed building's design complies with all other applicable provisions including Design Review criteria.
3. In order to approve the Design Review application for the proposed units, the Commission must make the following findings, which it hereby does:
- a. **The project complies with all other applicable provisions of the Martinez Municipal Code involving the physical development of buildings, structures and property, including use restrictions,** in that the development standards for the ECD-R-100 District are generally complied with, and where applicable, the applicant standards for the granting exceptions to those standards are met.
 - b. **The project provides a desirable surrounding for the occupants and neighbors,** in that the proposed residence is designed as to minimize visual intrusion into the open space setting. The building's massing and colors echo the hill form and natural earth tone colors, limiting its visibility from off-site.
 - c. **The project has a harmonious relationship with existing and proposed neighboring development,** in that there is little potential for additional development, the proposal reflects a more solitary "rural residential" character.
 - d. **The palette of exterior colors is harmonious and architecturally compatible with the surrounding environment,** in that earth tone stucco and stone accents, with a dark brown standing seam metal roof, will blend in to the landscape

- e. **A limited number of materials is used on the exterior of the project**, in that all stucco siding and stone wainscoting and accent details are proposed.
- f. **The project has exterior lighting appropriately designed with respect to convenience, safety, and effect on occupants as well as neighbors**, in that as a single family home, only minimal exterior lighting is proposed. As per the requesting of the neighboring property owner, the national Park Service, all exterior lighting is to be directed inward and downward to prevent conflict with Mt. Wanda area trail users.
- g. **Effectively concealing work areas, both inside and outside of buildings, in the case of non-residential facilities.**(not applicable)
- h. **Undergrounding all utility boxes unless it can be shown that they can be effectively screened from the view of the general public.** (No utility boxes are proposed as part of the project.)
- i. **Designing the type and location of planting with respect to the preservation of specimen and landmark trees, water conservation as set forth in Chapter 22.35, and maintenance of all planting.** There are several protected oak trees and other indigenous trees on the property. Of the several trees adjacent to or within the development area, all but 8 oak are to be preserved. As per the arborist's report and proposed landscape plan, approximately 24 to 30 replacement oaks are to be provided.
- j. **Establishing a circulation pattern, parking layout and points of ingress and egress (both vehicular and pedestrian), designed to maximize pedestrian safety and convenience and to minimize traffic congestion resulting from the impediment of vehicular movement. When applicable, access for handicapped individuals should be considered;** (Not applicable or needed for proposed project.)
- k. **Ensuring that all signs be designed so that they are in scale with the subject development, and will not create a traffic hazard. Emphasis is placed upon the identification of the use or building rather than the advertising of same.** (No advertising is proposed with the project.)
- l. **Views are substantially preserved from nearby properties**, in that in that the proposed residences is set within a tree covered minor ridge, limiting its visibility from off-site. The building's mass will generally not be visible from Alhambra Valley Road or Alhambra Valley neighborhoods. The National Park Service has found that views of the proposed development from inside the Mt. Wanda Unit of the John Muir National Historic Site will not be objectionable.

NOW, BE IT FURTHER RESOLVED that the Planning Commission approves UP 08-09 and DR 08-14 subject to conditions of approval, incorporated herein by this reference

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the Planning Commission of the City of Martinez at a regular meeting of said Commission held on the 28th day of October, 2005:

AYES:

NOES:

ABSENT:

ABSTAINED:

BY: _____
Frank Kluber
Planning Commission Chair

Corey M. Simon
Senior Planner

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CONDITIONS OF APPROVAL
AS APPROVED BY PLANNING COMMISSION

NOTE: Changes and additions to Standard City conditions are in **boldface type**

Project Name: Will Residence

Site Location: Alhambra Valley Road (vacant acreage, APN 367-070-011, part)

I. Description of Permit

These conditions apply to and constitute the approval of:

- A. Use Permit 08-09 to allow a building height of up to 30', where a maximum of 25' is typically allowed; and
- B. Design Review 08-14 to approve of the proposed site plan, and design of proposed residences and landscaping.

II. Exhibits

The following exhibits are incorporated as conditions of approval, except where specifically modified by these conditions:

EXHIBIT	DATE RECEIVED	PREPARED BY	PAGES
Context, Site, Tree Preservation, removal & replacement, and Architectural Plans	Oct 21, 2008	Robert Kendall Assoc w/ Steven Ormond, Certified Arborist	10
Arborist's tree inventory and recommendations for tree removal and protection	Oct 21, 2008	Steven Ormond, Certified Arborist	21

All construction plans shall conform to these exhibits, expected as modified by these conditions. Where a plan or further information is required by these conditions, it is subject to review and approval by the Planning Division, Engineering Division and/or Building Department, or as noted.

III. Site Plan

A. Lighting

- 1. **All exterior lighting shall be directed downward and inward as to minimize "light pollution" that otherwise would be disruptive when viewed from off-site, and especially from the Mt. Wanda area of the John Muir national Historic Site. All fixtures shall be glare-shielded.**
- 2. Energy-saving fixtures shall be used.

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B. Tree Preservation

All existing trees within the project boundaries shall be preserved, except where specifically designated for removal within the report by Steven Ormond, Certified Arborist received October 22, 2008. The following procedures shall be required:

1. All trees to be preserved shall be clearly indicated on the grading plan, site plan, composite plans and landscape plans.
2. All trees to be saved shall be fenced at the drip line with three-strand barbed wire or other approved fencing prior to grading and construction activities. Prior to grading or construction, the developer's contractor shall request City inspection of fencing.
3. The Arborist shall be present on site during excavation phase of construction, and the developer shall follow the Arborist's protective measures to be taken, prior to, during and after construction, including on site inspection during excavation under drip lines of trees identified for preservation, and to prune and/or treat roots that might otherwise damage trees during excavation. The arborist shall also supervise any drenching for drainage lines through the area identified as "dense trees" on the site plan. Exact drainline location shall be adjusted to minimize tree damage, and replacement tree(s) may be required if tree damage is unavoidable and removal is required. The arborist shall have the authority to require measures to protect the roots and stop construction if necessary to protect the trees. Upon completion of construction, the arborist shall prepare a report outlining the further methods for tree protection if any are required.
4. Dead wood shall be pruned from existing trees.

C. Landscape Plan

Final landscape plans shall be reviewed and approved prior to issuance of building permit. The plan shall:

1. Be prepared in accordance with the City's adopted water conservation and landscaping ordinance (Martinez Municipal Code Chapter 22.35).
2. Use primarily drought-resistant plants.
3. Show all non-plant features: walls, patios, benches, lights, paths, pools, etc.

4. Include an irrigation plan.
5. Shrubs shall be minimum *5 gal.* size.
6. Trees shall be at minimum *15 gal.* size, unless larger sizes otherwise noted on approved plans and/or required as a condition of approval.
7. **A minimum of 24-30 15 gallon size replacement oaks shall be provided as per the arborist's report and conceptual landscape plan approved as UP 08-09/DR 08-16 (a mix of *Quercus agrifolia* - coast live oak; *Q. lobata* - valley oak; *Q. kelloggii*- black oak and *Q. douglasii* - blue oak), or equivalent as approved by staff.**

D. Landscape Walls and Fences

1. All fencing, retaining walls, barriers, etc., shall be shown on the site and landscape plan.
2. The maximum height for all walls, fences and/or fences on retaining walls shall be 6 feet, unless otherwise approved as shown on approved site plan. **All retaining walls adjacent to access drive/court shall have a decorative masonry "stone" veneer finish, with decorative trim cap (to match finishes on house) .or, or equal as approved by staff.** Fences off-set from retaining walls 18 inches or greater shall be considered separate structures with a maximum height of 6 foot each.
3. The proposed swimming pool area shall be fenced to meet City code.

E. Landscape Installation

All landscaping as shown on approved plan shall be installed prior to Planning Division's Final Inspection for building occupancy, or as approved by Community Development Director. Subject to staff's approval, the applicant may phase landscape installation so that replacement oaks, and any other plantings that are required as a condition of approval, are planted prior to occupancy, with minor ornamental planting deferred. Arborist shall certify, prior to occupancy, that applicable tree preservation and replacement, per project approval, has been completed. Occupancy of building prior to landscape installation may require use of bond and/or retention of bonds posted per requirement(s) of Engineering Division.

IV. Architectural

All exterior walls and all buildings within the project shall use compatible materials and colors, as shown on approved plans. Construction plans shall include indication of final siding materials, roofing material and color schemes.

V. Noise Control, Dust and Conditions for Construction Activity

- A. All construction activities shall conform to the City's Noise Control Ordinance, Chapter 8.34 of the Municipal Code: Construction activities are limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday; and 9:00 a.m. to 5 p.m. Saturday and Sunday. The permittee shall post a sign on the site notifying all workers of these restrictions.
- B. No equipment shall be started or delineation take place on the streets before or after the specified operations hours.
- C. Contractors shall be required to employ the quietest construction equipment available, and to muffle noise from construction equipment and to keep all mufflers in good working order in accordance with State law.
- D. Adequate dust control measures shall be employed throughout all grading and construction periods. The Contractor shall regularly water areas that are exposed for extended periods to reduce wind erosion.
- E. Contractor shall ensure that surrounding streets stay free and clear of silt, dirt, dust, tracked mud, etc. coming in from or in any way related to project construction. Paved areas and access roads shall be swept on a regular basis. All trucks to be covered.
- F. Speeds of construction equipment shall be limited to **10** miles per hour. This includes equipment traveling on local streets to and from the site.
- G. Access shall be maintained to all driveways at all times.

VI. Agreements, Fees and Bonds

- A. All required fees, bonds, deposits and agreements in connection with the project shall be submitted to and approved by City and/or other agencies having jurisdiction prior to City approval or issuance of the Building, Encroachment, Grading, or Site Development permit, whichever comes first.
- B. Prior to approval of the plans and issuance of permits, applicant shall pay all applicable fees and deposits for a single family residential development, including plan check fees, inspection, drainage impact fees and development Impact Mitigation Fees. Impact fees include but are not limited to: transportation facilities fees, park (in lieu of land dedication) fees, park and

recreation facilities fees, cultural facilities fees, police facilities fees, as required by the Community Development Director. The final amount for the above fees shall be in accordance with the fee schedule in effect of time of payment.

- C. All fees and deposits required by other agencies having jurisdiction shall be paid prior to City approval or issuance of the Building, Encroachment, Grading or Site Development Permit, whichever comes first.

VII. Grading

- A. The limit of grading activities shall generally be contained within the area shown on the conceptual grading plan. Any proposed expansion of the area to be graded or addition of drainage infrastructure (due to needs for geotechnical mitigation) is subject to approval by the Community Development Director, who may refer the request to the Planning Commission if the requested change could appear to be visually significant.
- B. All grading shall require a grading and drainage plan prepared by a registered Civil Engineer, a soils report prepared by a registered Geotechnical Engineer and a Grading Permit approved by the City Engineer. The grading plans and soils report shall require review by the City's geotechnical consultant with all costs to be borne by the applicant.
- C. All recommendations made in the Soil Engineers report, (unless amended through the City's review) and all recommendations made by the City's geotechnical consultant shall be incorporated into the design and construction of the project.
- D. The on-site finish grading shall require drainage to be directed away from all building foundations at a slope of 2 percent minimum to 20 percent maximum toward approved drainage facilities or swales. Non-paved drainage swales shall have a minimum slope of 1 percent. A minimum 4-ft. wide clear access shall be provided around each building.
- E. Contour grading techniques with spot elevations shall be employed throughout the project to achieve a more natural appearance, even where this will increase the amount of grading. Tops of cuts or toes of fills adjacent to existing public rights-of-way or easements shall be set back two feet minimum from said rights-of-way and easements.
- F. Erosion control measures shall be implemented per plans approved by the City Engineer for all grading work not completed before October 1. At the time of approval of the improvement and/or grading plans, an approved Erosion Control Plan prepared by a registered Civil Engineer shall be filed with the City Engineer.

- G. All graded slopes in excess of 5 ft. in height shall be hydroseeded no later than September 15 and irrigated (if necessary) to ensure establishment prior to the onset of the rainy season.
- H. The applicant's engineer shall certify the actual pad elevation for the lot in accordance with City standards prior to issuance of Building Permit.
- I. Landscaping or alternate erosion control measures shall be installed prior to release for occupancy to mitigate erosion problems.
- J. The finished grading shall be inspected and certified by the developer's engineer that it is in conformance with the approved Grading Plan and Soils Report pursuant to the provisions of Title 15 of the Martinez Municipal Code.
- K. All existing trees shall be clearly indicated on the grading plan. Refer to *Section III; Site Plan* for tree preservation requirements.
- L. Any grading on adjacent properties will require written approval of those property owners affected.
- M. If cultural resources are discovered during subsurface excavations, the Contractor shall cease construction and a qualified archeologist shall be contacted to make recommendations for mitigation.
- N. The plans shall include the boundary treatment shown on cross sections, drawn to scale, for retaining walls, fencing and drainage.

VIII. Drainage

- A. **A hydrologic study shall be prepared and submitted to the City Engineer and Contra Costa County Flood Control District, when required, for review and approval to ensure discharge of storm runoff to facilities of adequate capacity. The developer engineer shall also submit calculations to verify the capacity and the adequacy of the existing storm drain system downstream of the project. The developer shall make necessary upgrade to the existing system(s) as required to the satisfaction of the City Engineer. Drainage area is defined as all that area draining into, and including, the area of the proposed development.**
- B. All concentrated runoff shall be collected and conveyed to an approved storm drainage system. Existing slopes that have no additional discharge directed onto them or are not substantially regraded can remain as natural runoff. Where drainage to be discharged into existing storm drain system on adjacent properties, the Applicant shall secure all required storm drain easement and permits to the satisfaction of the City Engineer.

- C. Applicant shall not increase storm water runoff to adjacent downhill lots unless either, (1) a Drainage Release is signed by the property owner(s) of affected downhill lots and recorded in the office of the County Recorder; or (2) site drainage is collected and conveyed in approved drainage facilities within a private drainage easement through a downhill property. This condition may require collection of on-site runoff and construction of an off-site storm drainage system. All required releases and/or easements shall be obtained prior to issuance of the Building, Encroachment, Grading or Site Development Permit, whichever comes first.
- D. The storm drain system shall be designed per City and County Flood Control District Standards to carry at least a 10-year storm. Furthermore, the system shall be designed to ensure that local streets remain passable during a 100-year storm. Passable is defined as one 10-ft. travel lane in each direction, pavement free of water runoff. The developer shall install a drainage system to ensure passability. Should the runoff due to the proposed development contribute incrementally to an existing flooding problem, then the developer may be required to contribute funds for his proportional share of future drainage system costs as required by the City Engineer.
- All public drainage facilities, which cross private lots and to be maintained by the City, shall require a 10-ft. minimum width storm drain easement. All offsite private storm drains shall require a 10-ft. wide (minimum) private storm drain easement(s). The developer shall obtain such easements at his own expence. Said easements recorded by separate document(s) and submitted to the City prior to City approval or issuance of Building Permit, whichever comes first.**
- E. Concentrated drainage flows shall not be permitted to cross sidewalks or driveways.
- F. The developer shall comply with Contra Costa County Flood Control District Design requirements.
- G. Fifteen (15) inch minimum RCP (reinforced concrete pipe) shall be used for all public storm drain lines and 12-inch minimum pipe shall be used for laterals and for private storm drain lines.

IX. NPDES Requirements

- A. Efficient irrigation, appropriate landscape design and proper maintenance shall be implemented to reduce excess irrigation runoff, promote surface filtration, and minimize use of fertilizers, herbicides, and pesticides.
- B. To the maximum extent practicable, as determined by the City Engineer, drainage from paved surfaces shall be routed through grassy swales, buffer strips or sand filters prior to discharge into the storm drain system.

- C. All storm drain inlets (catch basins) shall be imprinted with the sign "No Dumping, Flows to Creek" as per City Standard #SD-1.
- D. Developer shall comply with the State Water Resources Control Board requirements for a construction NPDES permit. For projects one (1) acre or larger, developer shall comply with the State Water Resources Control Board requirements, NPDES permit, for construction. The Developer shall be responsible for preparing and implementing a Storm Water Pollution Prevention Plan (SWPPP) for the project. A copy of the SWPPP and the Notice of Intent (NOI) shall be submitted to the City. The SWPPP and The NOI shall be kept at the job site during construction.
- E. **C.3 requirements:** Developer shall comply with the State Water Resources Control Board NPDES permit requirements for constructing this project. The project's plans (with support documentations) shall incorporate storm water treatment measures designed to meet the criteria in the current edition of the Contra Costa Clean Water Program 's *Stormwater C.3 Guidebook*.
- a) As may be required by the City of Martinez, drawings submitted with the permit application (including structural, mechanical, architectural, grading, drainage, site, landscape, and other drawings) shall show the details and methods of construction for site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs permanent source control BMPs, and other features that control stormwater flow and potential stormwater pollutants.
- b) The applicant shall submit the building permit applications for City of Martinez review and approval and shall be responsible to implement and pay all costs associated with preparation of the building permit application.
- c) Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall execute any agreements identified in the Stormwater Control Plan which pertain to the transfer of ownership and/or long-term maintenance of stormwater treatment or hydrograph modification BMPs.
- d) Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall submit, for the review and approval of the City of Martinez, a Stormwater BMP Operation and Maintenance Plan in accordance with the City of Martinez guidelines. Guidelines for the preparation of Stormwater BMP Operation and Maintenance Plans are in Appendix F of the Contra

Costa County Clean Water Program, Stormwater C.3 Guidebook.

- e) Development shall include adequate accessible and convenient areas for collecting and loading recyclable materials, to the satisfaction of the City Engineer, in conformance with the California Integrated Waste Management Board Recycling Ordinance.**

X. Street and Driveway Improvements

- A. All streets shall be paved and improved after utilities are installed in accordance with City of Martinez Standard Drawings and Design Guidelines.
- B. All new utility distribution services on-site and off-site shall be installed underground.
- C. A City Encroachment Permit is required for any work within the City Right-of-Way.
- D. Private Driveway: On-site driveways shall be in accordance with City code and standards. The minimum width of the private driveway shall be 16 feet, with a maximum 20 percent grade unless otherwise approved by the City Engineer. Driveway shall also comply with the Fire Department requirements.
- E. Access to home site from Alhambra Valley Road: Prior to approval or issuance of any permit, the applicant shall secure a legal access, utility, and drainage easement(s) the run with the land and submit a copy to the City.
- F. The developer shall keep the adjoining streets free and clean of project dirt, mud, materials and debris during the construction period as is found necessary by the City Engineer.

XI. Water System

- A. Water system facilities shall be designed to meet the requirements of the City's water service agency and the fire flow requirements of the Contra Costa County Consolidated Fire Protection District. All requirements of the responsible agency shall be guaranteed prior to approval of the improvement plans.
- B. Water system connection, including installation of the water meter, shall be made in accordance with the Water District standards. Prior to obtaining water service, fees shall be paid in accordance with the water fee schedule in effect at time of payment.
- C. Backflow prevention, required as part of the water service installation, must

be completed before occupancy of the building.

- D. For building(s) pads above elevation 320 (above the City's water service for Zone II), the Applicant shall install a booster pump to serve the property with water. Applicant shall enter into a low-pressure water service agreement with the City prior to issuing of permits and providing water service to the site.

XII. Sanitary Sewer System

- A. Sewer system connections and plans for sanitary sewer facilities shall be approved by the Central Contra Costa Sanitary District. All requirements of that District shall be met before approval of the improvement plans.

XIII. Other Requirements

- A. Construction shall comply with all applicable City and State building codes and requirements including handicapped and energy conservation requirements, grading and erosion control ordinances.
- B. Design of all public improvements shall conform to the City of Martinez Design Guidelines, Standard Special Provisions, and Standard Drawings. Prior to preparation of improvement plans, the developer or his representative should contact the City's Engineering Development Review section of the Community Development Department.
- C. Complete grading, site and improvement plans, specifications and calculations shall be submitted to and approved by the City Engineer, Community Development Director, and/or other agencies having jurisdiction for all improvements within the proposed development prior to issuance of a Building, Site, Grading or Encroachment Permit whichever comes first. Approved plans shall become the property of the City of Martinez upon being signed by the City Engineer and Community Development Director.
- D. Prior to City approval, all fees, bonds, and deposits shall be paid and posted; all agreements shall be executed and all grading and improvement plans shall be approved by the City Engineer and Community Development Director. No construction shall take place until issuance of the appropriate Encroachment, Site, Grading and/or Building Permits.
- E. Prior to issuance of the building permit, the access to building sites shall be graded and improved to at least an all-weather surface condition, and operating fire hydrants shall be in place.
- F. All public improvements shall be completed and accepted by the City prior to issuance of certificate of occupancy on final dwelling unit in the project.
- G. Prior to acceptance of improvements, offers of dedication, and release of bonds and deposits by the City, the City's record copies of the grading, site,

and improvement plans shall be updated to show "As Built" conditions of the project. Said plans shall be prepared by the responsible Civil Engineer of work and shall reflect all changes made during the course of project construction. Grading and improvement plans shall be 24" x 36" in size. The as built plans and final map shall be provided in 4 mil photo mylars and in the form of electronic files compatible with AutoCAD release 14.

- H. All on-site improvements not covered by the building permit including sidewalks, driveways, paving, sewers, drainage, curbs and gutters must be constructed in accordance with approved plans and/or standards and a Site Development Permit approved by the City Engineer.
- I. Building permits for retaining walls shall be obtained as follows:
 - 1. For major walls to be constructed during the mass-grading phase, obtain permit prior to issuance of the Grading Permit.
 - 2. For all other walls, obtain permit prior to issuance of Permits for structures on the respective lot.
- J. Any existing water wells on the property shall be filled and sealed off or otherwise disposed of as directed by the City Engineer.
- K. There shall be no parking of construction vehicles or equipment on the surrounding residential streets, including all workers vehicles.
- L. Approval of grading plans, improvement plans and building plans shall be required by the applicant's Soils Engineer, the City's Soils Consultant, the Fire District, the Sanitary District and the Water District prior to City approval of construction plans and issuance of any permits.

XIV. Validity of Permit and Approval

- A. Planning Commission approval is subject to: (i) appeal to the City Council within ten calendar days of the approval, and, if applicable (ii) the City Council's approval of the requested rezoning and/or general plan amendment.
- B. All permits and approvals shall expire in one year from the date on which they became effective (unless extended under C) unless either: (i) a building permit is obtained and construction begun within the one year time period or (ii) if the approvals include the approval of a subdivision, the Tentative Map and all concurrently approved permits or approvals shall expire in two years from the date on which they became effective (unless extended under C) and providing that the Final Map or Parcel Map has been filed with the City Engineer within the two year time period. The *effective date* of the subject permit and approval is the day on which any contingency (created by requiring an action of the City Council on a rezone, general plan amendment

and/or the filing of an appeal) is removed. Unless an appeal is filed, the *effective date* of the permit and approval is October 28, 2008.

- C. The time extension of the expiration date, October 28, 2008, of a permit or approval can be considered if an application with required fee is filed at least 45 days before the original expiration date. (Otherwise a new application is required.) A public hearing will be required for all extension applications, except those involving only Design Review. Extensions are not automatically approved: Changes in conditions, City policies, surrounding neighborhood, and other factors permitted to be considered under the law, may require or permit denial.
- D. Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Martinez, or other public agency having jurisdiction.
- E. The subdivider or permittee shall defend, indemnify, and hold harmless the local agency or its agents, officers, and employees from any claim, action, or proceeding against the local agency or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a subdivision or other development which action is brought within the time period provided for in Government Code Section 66499.37; provided, however, that subdivider's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the subdivider or permittee of any said claim, action, or proceeding and the City's full cooperation in subdivider's or permittee's defense of said claims, actions, or proceedings.
- F. The permittee, Anthony Will shall defend, indemnify and hold harmless the City and its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys or employees to attack, set aside, void, or annul the City Council's [or Planning Commission's] decision to approve Use Permit # 08-09 and Design Review # 08-14, and any environmental document approved in connection therewith. This indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorneys' fees, and other costs and expenses incurred in connection with such action whether incurred by Anthony Will, the City, and/or the parties initiating or bringing such action.
- G. Anthony Will shall defend, indemnify and hold harmless the City, its agents, officers, employees and attorneys for all costs incurred in additional investigation of, or study of, or for supplementing, preparing, redrafting, revising, or amending any document (such as the Negative Declaration), if made necessary by said legal action and if Anthony Will desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents, in a form and under conditions approved by the City Attorney.

- H. In the event that a claim, action or proceeding described in Subsection G, above, is brought, the City shall promptly notify Anthony Will of the existence of the claim, action or proceeding, and the City will cooperate fully in the defense of such claim, action or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action or proceeding. In the event that Anthony Will is required to defend the City in connection with any said claim, action, or proceeding, the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably be withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with Anthony Will in the defense of said claim, action or proceeding. If the City chooses to have counsel of its own to defend any claim, action or proceeding where Anthony Will has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the City, except that the fees and expenses of the City Attorney shall be paid by the applicant.
- I. Anthony Will shall indemnify the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
- J. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirement, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

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