



RECEIVED JUL 24 2006  
**North Valley Area Planning Commission**

200 North Spring Street, Room 532, Los Angeles, CA 90012-4801 (213) 978-1300

Determination Mailing Date: JUL 17 2006

CITY COUNCIL  
Room 395, City Hall

Applicant: Tujunga-BCG-JG-JG, LLC

CASE NO. APCNV 2005-8574-ZC-ZAA-ZAD

CEQA: ENV 2005-8563-MND

Location: 9166 Tujunga Canyon Boulevard

Council District: 2

Plan Area: Sunland-Tujunga-Lake View Terrace-  
Shadow Hills-East La Tuna Canyon

Request(s): Zone Change from A2-1 to RD3-1; Yard  
Adjustment; Fence Height Determination;  
and Variance..

At its meeting on May 18, 2006 , the following action was taken by the North Valley Area Planning Commission:

1. **Approved and Recommended** that the City Council adopt a Zone Change from A2-1 to (T)(Q)RD3-1, subject to the attached Conditions of Approval, as modified.
2. **Approved** a Yard Adjustment to permit a rear yard setback of 10-feet, subject to the attached Conditions of Approval.
3. **Disapproved** a Fence Height Determination to permit a eight-feet in height fence within the front yard setback, and **Approved** a Fence Height Determination to permit a six-feet in height fence within the front yard setback, subject to the attached Conditions of Approval.
4. **Approved** a Variance to permit a fence/wall up to nine-feet and six-inches in height along designated portions of the side and rear yards.
5. **Adopted** the attached Findings;
6. **Adopted** Mitigated Negative Declaration No. ENV 2005-8563-MND.
7. **Recommended** that the applicant be advised that time limits for effectuation of a zone in the "T" Tentative classification or "Q" Qualified Classification are specified in Section 12.32.G of the L.A.M.C. Conditions must be satisfied prior to the issuance of building permits and that the (T) Tentative classification be removed in the manner indicated on the attached page.
8. **Advised** the applicant that, pursuant to California State Public Resources Code Section 21081.6, the City shall monitor or require evidence that mitigation conditions are implemented and maintained throughout the life of the project and the City may require any necessary fees to cover the cost of such monitoring.
9. **Advised** the applicant that pursuant to State Fish and Game Code Section 711.4, a Fish and Game Fee and/or Certificate of Fee Exemption is now required to be submitted to the County Clerk prior to or concurrent with the Environmental Notice of Determination (NOD) filing.

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

This action was taken by the following vote:

Moved: Torres  
Seconded: Sampson  
Ayes: Lett, Stavaris  
Absent: Honda

Vote: 4-0

  
\_\_\_\_\_  
Fely C. Pingol, Commission Executive Assistant  
North Valley Area Planning Commission

**Effective Date / Appeals:** The Commission's determination will be final 20 days from the mailing date of this determination unless an appeal is filed to the City Council within that time. All appeals shall be filed on forms provided at the Planning Department's Public Counters at 201 N. Figueroa Street, Fourth Floor, Los Angeles, or at 6262 Van Nuys Boulevard, Suite 251, Van Nuys.

The time in which a party may seek judicial review of this determination is governed by California Code of Civil Procedure Section 1094.6. Under that provision, a petitioner may seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, only if the petition for writ of mandate pursuant to that section is filed no later than the 90th day following the date on which the City's decision becomes final.

Attachments: (T)Conditions, Ordinance, Ordinance Map, (Q) Conditions, Signature Sheet, Findings

c: Notification List

### CONDITIONS FOR EFFECTUATING (T) TENTATIVE CLASSIFICATION REMOVAL

Pursuant to Los Angeles Municipal Code Section 12.32 G, the "T" Tentative Classification shall be removed by the recordation of a final parcel map or tract map or by posting of guarantees through the B-permit process of the City Engineer to secure the following without expense to the City of Los Angeles, with copies of any approvals or guarantees provided to the Department of City Planning for attachment to the subject City Plan Case file.

Dedication(s) and Improvements. Prior to the issuance of any building permits, public improvements and dedications for streets and other rights-of-way adjoining the subject property shall be guaranteed to the satisfaction of the Bureau of Engineering, Department of Transportation, Fire Department (and other responsible City, regional, and Federal government agencies, as may be necessary).

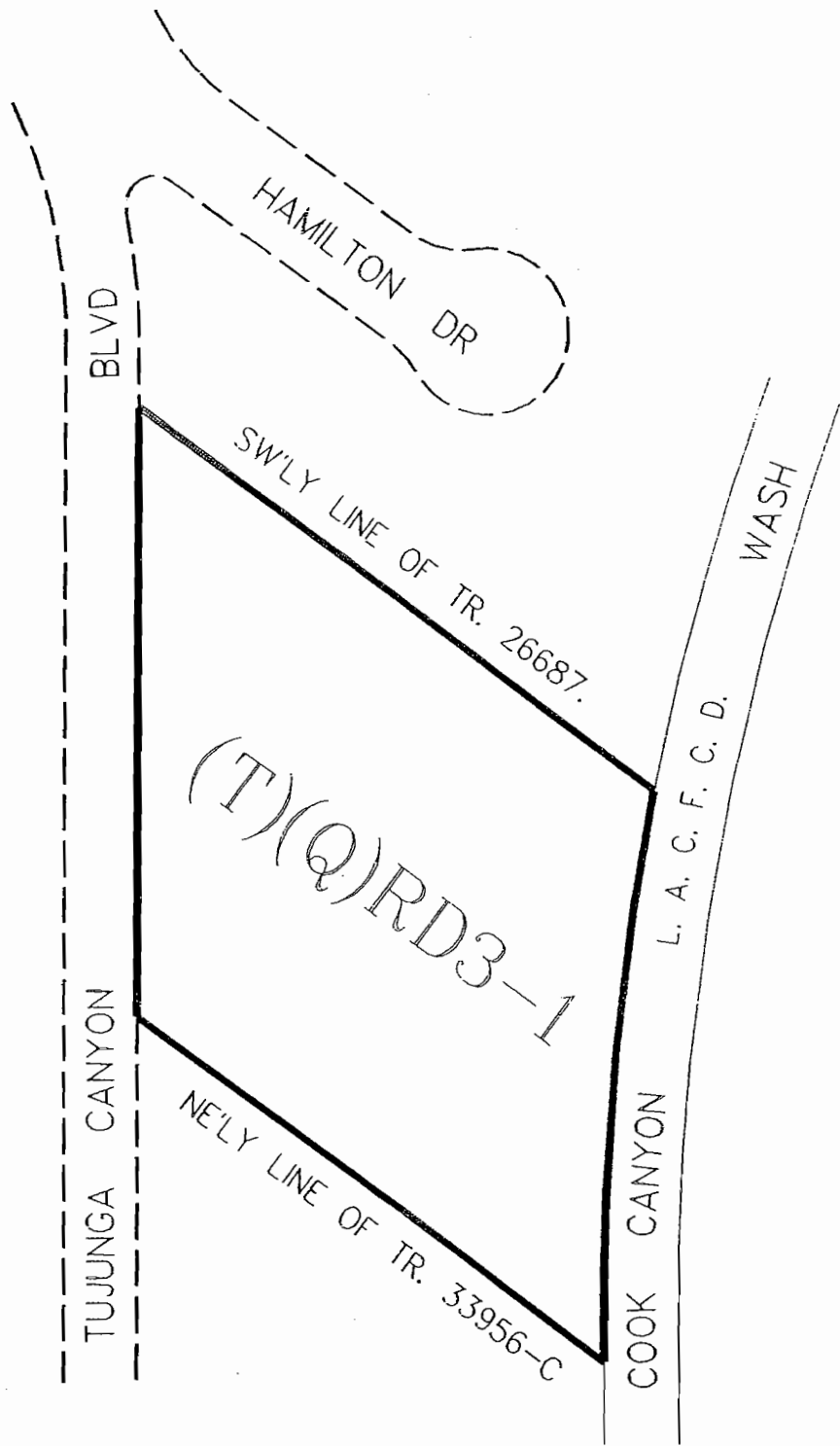
#### Responsibilities/Guarantees.

1. As part of early consultation, plan review, and/or project permit review, the applicant/developer shall contact the responsible agencies to ensure that any necessary dedications and improvements are specifically acknowledged by the applicant/developer.
2. Prior to the issuance of sign-offs for final site plan approval and/or project permits by the Department of City Planning, the applicant/developer shall provide written verification to the Department of City Planning from the responsible agency acknowledging the agency's consultation with the applicant/developer. The required dedications and improvements may necessitate redesign of the project. Any changes to the project design required by a public agency shall be documented in writing and submitted for review by the Department of City Planning.
  - a. Street Dedication and Improvements. If determined necessary, dedicate and improve all adjacent streets to the satisfaction of the City Engineer.
  - b. Street Lighting. Provide street lighting to the satisfaction of the Bureau of Street Lighting.
  - c. Street Trees. Construct tree wells and plant street trees to the satisfaction of the Street Tree Division of the Bureau of Street Maintenance.
  - d. Sewers. Construct sewers to the satisfaction of the City Engineer.
  - e. Drainage. Construct drainage facilities to the satisfaction of the City Engineer.
3. Parking and Driveway Plan. Prior to the issuance of a building permit, the applicant shall submit a parking and driveway plan to the Bureau of Engineering and the Department of Transportation (Citywide Planning Coordination Section) for approval.
4. Recreation and Parks Dedication/Fee. Per Section 17.12 of the Municipal Code, the applicant shall dedicate land for park or recreational purposes or pay the applicable Quimby fees for the construction of residential dwellings, or Recreation and Park fees for construction of apartment buildings.
5. Schools. The applicant shall make payment to the Los Angeles Unified School District to offset the impact of additional student enrollment at schools serving the project area.

6. Cable Television. The applicant shall make necessary arrangements with the appropriate cable television franchise holder to assure that cable television facilities will be installed in City rights-of-way in the same manner as is required of other facilities, pursuant to Municipal Code Section 17.05.N, to the satisfaction of the Department of Telecommunications.
7. Police. The building plans shall incorporate design guidelines relative to security, semi-public and private spaces (which may include but not be limited to access control to building), secured parking facilities, walls/fences with key systems, well-illuminated public and semi-public space designed with a minimum of dead space to eliminate areas of concealment, location of toilet facilities and building entrances in high-foot traffic areas, and provision of security guard patrol throughout the project site if needed. Refer to *Design out Crime Guidelines: Crime Prevention Through Environmental Design* published by the Los Angeles Police Department's Crime Prevention Section (located at Parker Center, 150 N. Los Angeles Street, Room 818, Los Angeles, Phone: 213-485-3134). These measures shall be approved by the Police Department prior to the issuance of building permits.
8. Fire. The requirements of the Fire Department relative to fire safety shall be incorporated into the building plans, which includes the submittal of a plot plan for approval by the Fire Department either prior to the recordation of a final map or the approval of a building permit. The plot plan shall include the following minimum design features:
  - a. Fire lanes, where required, shall be a minimum of 20 feet in width;
  - b. All structures shall be within 300 feet of an approved fire hydrant;
  - c. Entrances to any dwelling unit or guest room shall not be more than 150 feet in distance in horizontal travel from the edge of the roadway of an improved street or approved fire lane.

Notice. If conditions dictate, connections to the public sewer system may be postponed until adequate capacity is available.

Notice. Certificates of Occupancies for the subject property will not be issued by the City until the construction of all the public improvements (streets, sewers, storm drains, etc.), as required herein, are completed to the satisfaction of the City Engineer.



NOT TO SCALE

C.M. 198 B 205	APCNV 2005-8574 ZC ZAA ZAD
----------------	----------------------------

AE/ scob

05/23/06



### (Q) QUALIFIED CONDITIONS OF APPROVAL

Pursuant to Section 12.32.G of the Municipal Code, the following limitations are hereby imposed upon the use of the subject property, subject to the "Q" Qualified classification.

#### A. Entitlement Conditions

1. **Use.** The use of the subject property shall be limited to those uses permitted in the RD3-1 Zone as defined in Section 12.09.1 of the Municipal Code, except as varied under concurrent action.
2. **Site Plan.** Prior to the issuance of any permits for the subject project, development plans, including complete landscape and irrigation plans shall be submitted for review and approval by the Department of City Planning for verification of compliance with the imposed conditions. The plan shall be in substantial conformance with the plot plan labeled as Exhibit "A" stamped and dated May 18, 2006 and attached to the subject case file. Minor deviations may be allowed in order to comply with provisions of the Municipal Code, the subject conditions, and the intent of the subject permit authorization.
3. **Height.** No building or structure located on the subject property shall exceed a height of 30-feet and in substantial compliance with the elevation plans labeled as Exhibit "A", stamped and dated May 18, 2006.
4. **Density.** A maximum of 25 residential units shall be permitted.
5. **Parking.** Provide a minimum of 2 covered off-street parking spaces per dwelling unit, plus ½ guest parking spaces per dwelling. All guest spaces shall be readily accessible, conveniently located, specifically reserved for guest parking, posted and maintained satisfactory to the Department of Building and Safety.

#### B. Other Conditions

6. **Aesthetics.** The applicant shall prepare a visual study of the project design for approval by the Planning Department in consultation with the appropriate Council Office that illustrates  
1) the appearance of the retaining walls when viewed from the property south of the project;  
2) that the height of the retaining wall is as minimal as possible from the adjacent property.
7. **Balconies.** No balconies shall be permitted on dwelling units along the southern property line.
8. **Landscape Buffer.** The applicant shall preserve as many existing mature trees as possible, in particular the trees along the southern portion of the parcel visible from the adjacent parcel to the south. Recommendations for the preservation of the trees shall be prepared by a arborist or horticultural expert and submitted to the Planning Department for approval. Open areas between the two retaining walls shall be extensively landscaped so as to screen the view of the new residences on the south side of the property.
9. **Traffic Study Assessment.** The applicant shall submit evidence to the Planning Department that the traffic analysis prepared by the applicant for the project has been reviewed and approved by LADOT.

**C. Environmental Conditions**

10. **Hillside Site Design.** Grading shall be kept to a minimum. Natural features, such as prominent knolls or ridge lines shall be preserved. Project shall comply with the City's Hillside Development Guidelines.
11. **Landscape Plan.** All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped and maintained in accordance with a landscape plan, including an automatic irrigation plan, prepared consistent with the landscape provisions of Sections 12.40 through 12.43 of the Municipal Code by a licensed landscape architect to the satisfaction of the Planning Department.
12. **Landscaping (Surface Parking).** A minimum of one 24-inch box tree (minimum trunk diameter of 2 inches and a height of 8 feet at the time of planting) shall be planted for every 4 new surface parking spaces. The trees shall be dispersed within the parking area so as to shade the surface parking area and shall be protected by a minimum 6-inch high curb, and landscape. Automatic irrigation plan shall be approved by the City Planning Department.
13. **Lighting.** Outdoor lighting shall be designed and installed with shielding, so that the light source cannot be seen from adjacent residential properties.
14. **Tree Removal (Oak Trees).** Prior to the issuance of a grading permit, the applicant shall submit a tree report and landscape plan prepared by a Municipal Code-designated oak tree expert as designated by LAMC Ordinance No. 153,478, for approval by the City Planning Department and the Street Tree Division of the Bureau of Street Services. A minimum of two oak trees (a minimum of 48 inch box in size) shall be planted for each one that is removed. The canopy of the oak trees planted shall be in proportion to the canopies of the oak trees removed per Ordinance No. 153,478, and to the satisfaction of the Street Tree Division of the Bureau of Street Services and the Advisory Agency. (**Note:** All oak tree removals shall be approved by the Board of Public Works on sites more than one acre in size. Contact the Street Tree Division at 213-485-5675). **Pollution (Stationary).** The applicant shall install an air filters capable of achieving a Minimum Efficiency Rating Value (MERV) of at least 8 or better in order to reduce the effects of diminished air quality on the occupants of the project.
15. **Oak Tree Bonding.** The City Engineer shall use the provisions of Section 17.08 of the Municipal Code as its procedural guide for satisfaction of said bond requirements and processing. Prior to exoneration of the bond, the owner of the property shall provide evidence satisfactory to the City Engineer and Street Tree Division that the oak trees were properly replaced, the date of the replacement, and the survival of the replacement trees for a period of three years
16. **Seismic.** The design and construction of the project shall conform to the Uniform Building Code seismic standards as approved by the Department of Building and Safety.



**17. Construction (Air Quality).**

- a. All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403.
- b. The owner or contractor shall maintain the construction area sufficiently dampened to control dust caused by grading, construction and hauling, and at all times provide reasonable control of dust caused by wind.
- c. All loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.
- d. All materials transported off-site shall be either sufficiently watered or securely covered to prevent the generation of excessive amounts of dust.
- e. All clearing, grading, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), so as to prevent the generation of excessive amounts of dust.
- f. General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.

**18. Construction (Noise).** The project shall comply with the City of Los Angeles Noise Ordinance Nos. 144,331 and 161,574, and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.

- a. All construction equipment shall be fitted with residential grade mufflers.
- b. Construction shall be restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 6:00 PM on Saturday.
- c. Construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously that causes high noise levels.
- d. The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices.
- e. The project sponsor shall comply with the Noise Insulation Standards of Title 24 of the California Code Regulations, to insure an acceptable interior noise environment.

**19. Construction (Grading).** Grading, excavations and fills shall comply with Chapter IX, Division 70 of the Municipal Code. All grading activities require shall receive grading permits from the Department of Building and Safety. Additional provisions are required for grading activities within "hillside" areas. The application of Best Management Practices shall include but not be limited to the following measures:

- a. Excavation and grading activities shall be scheduled during dry weather periods. If grading occurs during the rainy season (October 15 through April 1), construct diversion dikes to channel runoff around the site. Line channels with grass or roughened pavement to reduce runoff velocity.
- b. Appropriate erosion control and drainage devices shall be incorporated to the satisfaction of the Building and Safety Department, such as interceptor terraces, berms, vee-channels, and inlet and outlet structures, as specified by Section 91.7013 of the Building Code, including planting fast-growing annual and perennial grasses in areas where construction is not immediately planned.
- c. Stockpiles and excavated soil shall be covered with secured tarps or plastic sheeting.

**20. General Construction.**

- a. All waste shall be disposed of properly. Use appropriately labeled recycling bins to recycle construction materials, including solvents, water-based paints, vehicle fluids, broken asphalt and concrete, wood, and vegetation. Non recyclable materials and wastes shall be removed to an appropriate landfill. Toxic wastes shall be discarded at a licensed regulated disposal site.
- b. Clean up leaks, drips and spills immediately to prevent contaminated soil on paved surfaces that can be washed away into the storm drains.
- c. Do not hose down pavement at material spills. Use dry cleanup methods whenever possible.
- d. Cover and maintain dumpsters. Place uncovered dumpsters under a roof or cover with tarps or plastic sheeting.
- e. Use gravel approaches where truck traffic is frequent to reduce soil compaction and limit the tracking of sediment into streets.
- f. Conduct all vehicle/equipment maintenance, repair, and washing away from storm drains. All major repairs are to be conducted off-site. Use drip pans or drop clothes to catch drips and spills.

**21. Asbestos Containing Materials.** Prior to the issuance of the demolition permit, the applicant shall provide a letter to the Department of Building and Safety from a qualified asbestos abatement consultant that no asbestos containing materials are present in the building. If asbestos containing materials are found to be present, it will need to be abated in compliance with the South Coast Air Quality Management District's Rule 1403 as well as all other state and federal rules and regulations.

**22. Emergency Evacuation Plan.** The developer shall submit an emergency response plan for approval by the Planning Department and the Fire Department. The emergency response plan shall include but not be limited to the following: (a) mapping of emergency exits; (b) evacuation routes for vehicles and pedestrians; (c) location of nearest hospitals; and (d) fire departments.

23. **Hazardous Materials.** The developer shall submit hazardous materials treatment and disposal plans for approval by the City Planning Department and the Department of Public Works.
24. **Groundwater Quantity.** The Department of Building and Safety shall require, when feasible, that the structural design of a building be modified so as not to need a permanent dewatering system. When a permanent dewatering system is necessary, the Department of Building and Safety shall require: (a) pumping water to a beneficial use on site (such as landscape irrigation, decorative fountains or lakes, toilet flushing, cooling towers); (b) returning water to the groundwater basin by an injection well.
25. **Stormwater and Urban Runoff Pollution Control.** The project shall comply with the following:
- a. Ordinance Nos. 172,176 and 173,494 (Stormwater and Urban Runoff Pollution Control), which require the application of Best Management Practices (BMPs).
  - b. Chapter IX, Division 70 of the Municipal Code, which addresses grading, excavations, and fills.
  - c. The Standard Urban Stormwater Mitigation Plan (SUSMP) approved by the Los Angeles Regional Water Quality Control Board (A copy of the SUSMP can be downloaded at <http://www.swrcb.ca.gov/rwqcb4/>).
  - d. Stormwater BMPs shall be incorporated to retain or treat the runoff from a storm event producing 3/4 inch of rainfall in a 24 hour period. The design of structural BMPs shall be in accordance with the *Development Best Management Practices Handbook Part B Planning Activities*. A signed certificate shall be required from a California licensed civil engineer or licensed architect that the proposed BMPs comply with this numerical threshold standard.
  - e. Post development peak stormwater runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increase peak stormwater drainage rate will result in increased potential for downstream erosion.
  - f. Maximize trees and other vegetation at the site by planting additional vegetation, clustering tree areas, and promoting the use of native and/or drought tolerant plants.
  - g. Any connection to the sanitary sewer shall be required to receive authorization by the Bureau of Sanitation.
  - h. All storm drain inlets and catch basins within the project area shall be stenciled with prohibitive language (such as "NO DUMPING - DRAINS TO OCEAN") and/or graphical icons to discourage illegal dumping.
  - j. The owner shall record a covenant and agreement satisfactory to the Planning Department binding the owners to post construction maintenance on the structural BMPs in accordance with the Standard Urban Stormwater Mitigation Plan and/or per manufacturer's instructions.
  - k. Design an efficient irrigation system to minimize runoff including: (1) drip irrigation for shrubs to limit excessive spray; (2) shutoff devices to prevent irrigation after significant precipitation; and (3) flow reducers.

**D. Administrative Conditions**

26. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review or approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning for placement in the subject file.
27. **Code Compliance.** Area, height and use regulations of the zone classification of the subject property shall be complied with, except where herein conditions may vary.
28. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assigns. The agreement shall be submitted to the Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.
29. **Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public offices, legislation or their successors, designees or amendment to any legislation.
30. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
31. **Building Plans.** Page 1 of the grant and all the conditions of approval shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety.
32. **Idemnification.** The applicant shall defend, idemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, idemnify, or hold harmless the City.

**YARD ADJUSTMENT AND FENCE HEIGHT  
CONDITIONS OF APPROVAL**

**A. Entitlement Conditions**

1. **Rear Yard Setback.** A minimum rear yard setback of ten-feet shall be provided from the easterly property line abutting the flood control channel. All other yard and setback requirements of the RD3 Zone (Section 12.09.1.B) shall be complied with.
2. **Front Yard Fence.** A maximum fence height of six-feet shall be permitted within the front yard setback along Tujunga Canyon Boulevard. The fence shall be open in design with solid masonry or stucco pilasters spaced a minimum of ten feet apart. Wrought iron or metal tubing shall be used to connect the pilasters however in no event shall the fence be constructed as a solid wall. The fence shall be setback a minimum of two-feet from the property line and the setback shall be landscaped in accordance with a landscape approved by the City Planning Department.
3. **Side, Rear Yard Fence/Wall.** A maximum fence/wall height of nine-feet six-inches shall be permitted along portions of the side and rear yard. The applicant shall submit plans to the Planning Department for approval identifying those locations where the over-in-height fence/wall is located

**C. Administrative Conditions.**

4. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review or approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning for placement in the subject file.
5. **Code Compliance.** Area, height and use regulations of the zone classification of the subject property shall be complied with, except where herein conditions may vary.
6. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assigns. The agreement shall be submitted to the Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.
7. **Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public offices, legislation or their successors, designees or amendment to any legislation.
8. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.

9. **Building Plans.** Page 1 of the grant and all the conditions of approval shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety.
10. **Corrective Conditions.** The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the City Planning Commission, or the Director pursuant to Section 12.27.1 of the Municipal Code, to impose additional corrective conditions, if, in the Commission's or Director's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
11. **Utilization of Entitlement.** The applicant/owner shall have a period of two years from the effective date of the subject grant to effectuate the terms of this entitlement by either securing a building permit or a certificate of occupancy for the authorized use, or unless prior to the expiration of the time period to utilize the privileges, the applicant files a written request and is granted an extension to the termination period for up to one additional year pursuant to Sections 12.24.J.3 and 12.28.C, of the Municipal Code. Thereafter, the entitlement shall be deemed terminated and the property owner shall be required to secure a new authorization for the use.
12. **Multiple Entitlements.** The subject Yard Adjustment and Fence Height Determination requires the completion of all applicable conditions of approval herein to the satisfaction of the Planning Department and the effective date of these grants shall coincide with that of the associated zone change on the property involved.
13. **Idemnification.** The applicant shall defend, idemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, idemnify, or hold harmless the City.

## FINDINGS

1. **General Plan Land Use Designation.** The subject property is located within the area covered by the Sunland-Tujunga-Lake View Terrace-Shadow Hills- East La Tuna Canyon Community Plan area, which was adopted by the City Council on November 18, 1997 (Case No. CPC-95-0358-CPU). The Plan Map designates the subject property for Low Medium I residential with corresponding zones of R2, RD3, RD4, RZ3, RZ4, RU, and RW1. The requested zone change from A2-1 to RD3-1 is consistent with and permitted in the Low Medium I residential land use category.
2. **General Plan Text.** Chapter 3 of the Sunland-Tujunga-Lake View Terrace-Shadow Hills- East La Tuna Canyon Community Plan text includes the following relevant residential land use goal, objective, policy, and program:

*GOAL 1 A safe, secure, and high quality residential environment for all economic, age, and ethnic segments of the community.*

*Objective 1-1: To provide for the preservation of existing housing and for the development of new housing to meet the diverse economic and physical needs of the existing residents and projected population of the Plan area to the year 2010.*

*Policy 1-1.1: Designate land for single and multi-family residential development.*

*Program: The Plan Map identifies specific areas single-family and multi-family residential development is permitted.*

The re-zoning of the subject site to (T)(Q)RD3-1 is consistent with the Plan policies in that the RD3 zone is a multi-family zone and will allow for a condominium subdivision of 25 additional units to the housing stock of the Sunland-Tujunga-Lake View Terrace-Shadow Hills- East La Tuna Canyon plan area.

3. The **Transportation Element** of the General Plan may be affected by the recommended action herein. However, as part of the zone change "T" and/or tract map conditions of approval, any necessary dedication and/or improvements of Tujunga Canyon Boulevard to Plan designated Major Highway Class II standards will assure compliance with this Element of the General Plan and with the City's street improvement standards pursuant to Municipal Code Section 17.05.
4. The **Sewerage Facilities Element** of the General Plan will be affected by the recommended action. However, requirements for construction of sewer facilities to serve the subject project and complete the City sewer system for the health and safety of City inhabitants will assure compliance with the goals of this General Plan Element.
5. **Street Lights.** Any City required installation or upgrading of street lights is necessary to complete the City street improvement system so as to increase night safety along the street which adjoin the subject property.

**6. Zone Change Findings.**

- a. *Pursuant to Section 12.32.C of the Municipal Code, and based on these findings, the recommended action is deemed consistent with public necessity, convenience, general welfare and good zoning practice.*

The Sunland-Tujunga-Lake View Terrace-Shadow Hills- East La Tuna Canyon Community Plan designates the subject property as Low Medium I residential with corresponding zones of R2, RD3, RD4, RZ3, RZ4, RU, and RW1. The subject site is currently developed with a 49 bed convalescent care facility that is proposed to be demolished. The proposed RD3-1 Zone and concurrent subdivision will permit development of 25 residential condominium units. The zone change request to RD3-1 is consistent with the land use designation on the Plan map. The recommended zone change will implement the land use pattern established by the Community Plan and provide additional housing and opportunities for home ownership. The Cook's Canyon flood control channel runs north-south immediately to the east. Other surrounding properties to the south and east are zoned a similar RD3-1 and developed with condominiums, while properties to the north are zoned RS-1 and developed with single family homes. To the west, the Blachard Canyon flood control channel runs north-south, across which properties are zoned RE40-1 and A1-1 and developed with the Verdugo Hills Golf Course.

- b. The action, as recommended, has been made contingent upon compliance with the "T" and "Q" conditions imposed herein. Such limitations are necessary to protect the best interests of and to assure a development more compatible with surrounding properties, to secure an appropriate development in harmony with the General Plan, and to prevent or mitigate the potential adverse environmental effects of the subject recommended action.

**7. Yard Adjustment Findings.** Pursuant to Section 12.28.C.4 of the Municipal Code:

- a. *The granting of an adjustment(s) will result in development compatible and consistent with the surrounding area.*

The RD3 Zone requires a minimum 15-foot rear yard setback from the rear property line. The applicant has requested a reduction in the rear yard setback to 10-feet. The rear property line abuts a Los Angeles County Flood Control Channel that is approximately 50-feet wide. The proposed reduction in the setback from 15-feet to 10-feet will be compatible with flood control channel since one the purpose of a setback is to separate adjacent residential uses as well as provide light and air to the residents. A reduction in setback adjacent to a flood control channel will not affect these purposes.

- b. *The granting of an adjustment(s) will be in conformance with the intent and purpose of the General Plan of the City.*

The General Plan designates the site as Very Low Medium I Residential and the proposed project includes a concurrent zone change to the corresponding RD3-1 Zone and a tract map for condominium purposes. Approval of an adjustment for a reduction in the rear setback will not adversely affect the General Plan since the overall



development of the entire site of 25 residential units is in conformance with the intent of the General Plan designation of Low Medium I Residential. The project is residential and the neighborhood is residential and will not introduce a obnoxious or incompatible use.

- c. *The granting of an adjustment(s) is in conformance with the spirit and intent of the Planning and Zoning Code of the City.*

The Planning and Zoning Code establishes setback regulations in order to maintain uniformity in the development of residential parcels by creating separations between residential development as well as provide light and air to the residents. The LAMC allows for Adjustments where circumstances make the literal application of the Code requirements impractical or unnecessary. Adjustments in regulations may be granted provided there are no risks to public health, safety, and welfare, and the overall project complies with the General Plan. The proposed reduction of five feet in the rear yard will still offer a separation between the project residential units and the adjacent OS-1XL Zoned flood control channel but since the channel is open space and not developed with the residential units, a full 15-foot setback is not necessary to maintain minimum separation or additional light and air.

- d. *There are no adverse impacts from the proposed adjustment(s) or any adverse impacts have been mitigated.*

The neighborhood consists of condominium units and single family dwellings and the requested five foot reduction in the rear setback will not create an adverse impact since the residential condominium use itself is permitted and the reduced rear yard will not be visible to anyone on the adjacent (eastern) OS-1XL Zone property. The proposed conditions of approval and the environmental conditions specified in the Mitigated Negative Declaration ensure that potential adverse impacts will be reduced to less than significant levels, and have been included as "Q" Qualified conditions of the associated zone change.

- e. *The site and/or existing improvements make strict adherence to zoning regulations impractical or infeasible.*

The site is located in a Hillside Grading area and there is a slope on the site with the higher elevation on the north property line gradually sloping down towards the south.. The parcel itself is trapezoidal in shape with eight existing oak trees (one will be removed). Because the property to the north is developed with single family homes and condominiums are located south of the site, the layout of the proposed units have been designed to offer the most setbacks along the side yards of the development (which will be the backyards of the units). These setbacks are 20-feet when a maximum of 10-feet is only required. In addition the front yard setback of 15-feet is required along Tujunga Canyon Boulevard in addition to a nine-foot street dedication. In order to design the project to offer the most setbacks in the public areas as well as preserve existing trees, a reduction of five-feet in the rear yard will be the least obtrusive since the rear yard abuts a flood control channel and the least amount of impact on existing residents.

8. **Fence Height Determination.** Pursuant to Section 12.24.X.7 of the Municipal Code: a request for a Fence Height Determination to permit a eight-feet in height fence within the front yard setback in lieu of the 42-inch (3-feet, 6-inches) permitted by the Municipal Code. The Planning

Department has recommended disapproval of an eight-foot fence and the approval of a six-feet in height fence within the front yard setback

- a. *The environmental effects and appropriateness of materials, design and location of any proposed fence or wall.*

The front yard fence has been designed with decorative masonry pilasters spaced 10 to 15-feet apart with vertical tubular steel between the pilasters and stucco at the lower four feet of the fence. In addition, as part of the conditions of approval, the fence will have to be setback a minimum of two feet from the property line and the setback portion landscaped by an approved landscape plan.

- b. *The detrimental effects of a fence, wall or hedge on the view which may be enjoyed by the occupants of the adjoining properties.*

Although six-foot fences are not permitted by-right in the front yard, the layout of the subdivision is such that the proposed fence along Tujunga Canyon Boulevard will in actuality be the rear yard of the residential units. While fences up to eight feet may be permitted in the rear yard, an eight foot fence in what is technically the front yard and visible to area residents may inadvertently create a negative effect of isolating (or creating the illusion thereof) the condominium development from the neighborhood. A slightly reduced fence height of six feet is less a barrier since the average person can still comfortably see over the fence from a distance, while still offering a barrier from potential traffic hazards on to the residents. The adjacent single family home to the north has its side yard along Tujunga Canyon Boulevard and there currently exists a approximately six-feet in height solid wooden fence. The property across the street has a stucco and wrought iron fence approximately five to six feet tall along the street. Since this fence would run along the front property line, it would not be visible to most area residents unless they are driving or walking along Tujunga Canyon Boulevard.

- c. *The security to the subject property which the fence or wall would provide.*

A six-feet in height fence will provide additional security from adjacent traffic to project residents and especially children and pets who's backyards will abut Tujunga Canyon Boulevard. The permitted three and a half foot fence can easily be scaled by large automobiles or trucks and/or children and adults. Since Tujunga Canyon Boulevard is a Major Highway used by many area residents to access the Foothill Freeway (Route 210), safety reasons warrant a protective fence along this portion of the front property line.

- d. *The fence, wall or hedge is in conformity with the public necessity, convenience, general welfare and good zoning practice.*

Public necessity and general welfare usually permit a fence or wall up to eight feet tall in the rear yard of a residential development. This allows for separation of uses and to keep people from trespassing. In this case the proposed fence is technically in the front yard since this is the only lot line that abuts a street. The Municipal Code only permits a three and a half foot tall fence in the front yard so that residential units can remain easily accessible for residents, visitors, as well as safety personnel. Aesthetically an open front yard is more neighborhood friendly since it allows for visual interaction between neighbors that an excessively tall fence would conceal. In this case the

applicant has requested a eight-foot tall fence however the Planning Department has recommended a six-foot tall fence more in conformance to existing fences on adjacent properties. Since the fence will act to provide a measure of safety to the property owners who's rear yard will be located along Tujunga Canyon Boulevard, the additional fence height will conform to good zoning practice.

- e. *The proposed wall, fence or hedge is in substantial conformance with the various elements and objectives of the General Plan.*

The applicant has requested that a eight-foot in height fence be permitted within the front yard portion of the project site. Current regulations only permit a three and a half foot in height fence. The Planning Department has recommended a six-foot in height fence instead. The purpose of the fence is to provide safety, and security for the residents of the site by controlling ingress and egress to the residences, especially those where the rear yard faces the street. The six-foot in height security fence will be located along the front property line of the project site which fronts Tujunga Canyon Boulevard, a designated Major Highway. Due to the proximity of the Foothill Freeway, Tujunga Canyon Boulevard is a busy thoroughfare making the need for a protective fence especially necessary. The design of the fence is part solid masonry and part wrought iron to insure that the residential complex will be visible from the street. A landscape setback of two-feet is also being required to lessen the hardscape of the fence and allow vegetation to grow since the overall setting of the neighborhood is of a woodland.

**9. Variance Findings.** Pursuant to Section 12.27 of the Municipal Code.

- a. *The strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations.*

Fence height is limited to either six or eight feet for rear and side yards in the A or R Zones (depending on lot width, topography). In this case the applicant has requested a Variance to permit a 14-foot fence/wall along portions of the side and rear lot lines. Fences are used as a means to separate and delineate property lines as well as to allow a measure of security and privacy to property owners and tenants. However, a 14-foot fence or wall along the subject property side and rear lot lines (over 300-feet along each line) is excessive even if the entire length is not built with such fence or wall. However, recognizing that the site and its varying topography makes compliance with a single fence height over the entire length a practical difficulty, the North Valley Area Planning Commission has determined that a nine-feet six-inches in height fence/wall along portion of the side and rear property line is necessary.

- b. *There are special circumstances applicable to the subject property such as size, shape, topography, location, or surroundings that do not apply generally to other property in the same zone or vicinity.*

There is an approximately 20-foot grade difference between the northern portion of the property from the southern portion. This grade difference makes compliance with the a single maximum fence height over the entire site difficult. In order to maintain the same measure of security and privacy over the entire development, the fence height must exceed the permitted height at some locations. In addition, the property to the east of the

subject site is a flood control channel and the fence will not be visible to any residents along this portion of the site.

- c. *The variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question.*

A six to eight foot in height fence is permitted by-right on most parcels for the side and rear property lines. In most cases this height is adequate to maintain residential privacy and security. In this case a substantial grade difference makes the standard six to eight foot in height fence insufficient to adequately maintain the necessary security for project residents. A nine-foot six-inch fence at some locations will be necessary to maintain a level fence height along the side and rear property lines.

- d. *The granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located.*

The applicant has requested the additional fence/wall height in order to offer more security and privacy to the residents of the project. Based on testimony, the additional height is necessitated by grade differences on site. The project has been conditioned so that the visible areas will be adequately landscaped and screened from adjacent residents. In addition, the final fence design and location shall be reviewed by the Planning Department in consultation with the Council Office to insure that the fence does not cause detrimental harm to adjacent parcels.

- e. *The granting of the variance will not adversely affect any element of the General Plan.*

The subject property is located in the adopted Sunland-Tujunga-Lake View Terrace-Shadow Hills- East La Tuna Canyon Community Plan and is designated for Low Medium I residential. Although the site is zoned A2-1 and is currently being used as a convalescent hospital and home, a zone change has been requested to the RD3-1 Zone which permits the proposed 25-units. Granting of the requested variance will not adversely impact any element of the General Plan since ultimately the proposed residential project complies with the Community Plan, and the fences are permitted on residential properties.

10. **Environmental.** Conditions of approval are imposed in order to mitigate any potentially adverse environmental effects identified in the Mitigated Negative Declaration. For the reasons set forth in Proposed Mitigated Negative Declaration No. ENV 2005-8563-MND, the project will not have a significant effect on the environment.
11. **Fish and Game.** The subject project, which is located in Los Angeles County, will not have an impact on fish or wildlife resources or habitat upon which fish and wildlife depend, as defined by California Fish and Game Code Section 711.2. The project qualified for the De Minimus Exemption from Fish and Game Fees (AB3158).