



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** January 18, 2007

**COUNCIL DISTRICT:** 1  
**SNI AREA:** None

**SUBJECT: PDC06-066. PLANNED DEVELOPMENT REZONING FROM RM MULTIPLE RESIDENTIAL ZONING DISTRICT TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW THE CONSTRUCTION OF UP TO 20 SINGLE-FAMILY ATTACHED RESIDENCES ON A 0.97 GROSS ACRE SITE**

## RECOMMENDATION

The Planning Commission voted 5-1-0, with Commissioner Zito opposed, to recommend that the City Council approve the proposed Planned Development Rezoning from RM Multiple Residential Zoning District to A(PD) Planned Development Zoning District to allow the construction of up to 20 single-family attached residences on a 0.97 gross acre site.

## OUTCOME

Should the City Council approve the Planned Development Rezoning, up to 20 single-family attached residences may be built on the subject 0.97 gross acre site, consistent with the development standards for the subject rezoning. This future development would be subject to a Planned Development Permit.

## BACKGROUND

On January 17, 2007, the Planning Commission held a public hearing to consider the proposed Planned Development Rezoning. The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning. A representative for the applicant, Leonard Hufton, was present to answer questions regarding the project.

Chairman Campos asked Mr. Hufton about existing rental rates. Mr. Hufton replied that one bedroom units rented for around \$900 to \$1,000 a month and two bedroom units rented for around \$1,200 a month.

Commissioner Zito expressed concern over the proposed perimeter setbacks and open space for the project. He asked staff to explain the reasoning behind recommending two and a half foot cantilevers into the side setbacks and reduced open space requirements.

Staff explained that the cantilevers into the setbacks provided architectural articulation and add additional articulation and detail to the project. Further, the existing setbacks of projects directly adjacent to the site were minimal.

Staff then explained that they were recommending approval of the project without required common open space because the size and layout of the site was prohibitive to providing common open space while achieving the desired density of the site. The "garden townhouse" type units as proposed were not configured in a manner which was conducive to providing common open space, as they orient towards the street and a driveway instead of towards a courtyard as garden townhouses usually are. Additionally, given the variety of attached unit housing products, garden townhouses are the only unit type which requires common open space for projects with under 20 units. Staff indicated to the Commission that the mix of unit types in the proposed project it made it somewhat difficult for the project to provide common open space in a suitable configuration, therefore were recommending approval without a common open space requirement. Staff further explained that the recommended square footage of private open space in the Residential Design Guidelines was geared toward more suburban development, with adjacent single family homes. The reduced open space requirements fit better into the denser, more urban setting of this site. Staff iterated that they would work with the applicant at the PD Permit stage to ensure that the project maximizes the open space opportunities.

Commissioner Zito asked if reducing the number of units would provide more open space. Staff responded that reducing the number of units could provide additional open space. Staff expressed that the Development Standards as recommended left the flexibility to eliminate units at the PD Permit stage, and that staff would work with the applicant at that stage to incorporate more open space into the project.

Commissioner Zito made a motion to consider the Mitigated Negative Declaration and approve rezoning to A(PD) Planned Development with up to 18 units. He explained that reducing the project to 18 units would provide more area for private and common open space.

Commissioner Kamkar asked staff if they knew what the floor area ratio of the project was. Staff responded that the floor area ratio calculation was mostly applicable to single family homes, therefore did not have a definitive answer. Staff estimated that the floor area ratio was around 0.90.

Commissioner Kalra asked staff if the Commission should approve the project at up to 20 units and leave it open to staff to redesign the project to accommodate more open space, in consideration of the Commissions concerns. He asked staff if they thought that adequate open space could be provided with 20 units.

Staff replied that adequate private open space could possibly be accommodated with 20 units. Staff indicated that alternative site designs had been explored. One specific design utilized a central driveway that approached a common courtyard and then split to each side of the site. Staff noted that while this design did provide additional open space it would only yield 18 units.

Commissioner Kalra stated that he thought the Commission should leave the Development Standards open for up to 20 units, as the solution to the lack of open space could be smaller units rather than fewer units.

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The Director stated that because this project was displacing 28 existing residential units, it was important to maximize the number of new units. He said that housing should be built with infill projects such as this, instead of new units in the hills. He also stated that the Residential Design Guidelines were just guidelines, and not code, therefore allowed for flexibility in their application.

Commissioner Dhillon said that he agreed with Commissioner Kalra's position. He stated that it was better to leave the maximum number of units at 20 and allow staff to use their discretion in accommodating more open space on the site.

Commissioner Zito said that while he agrees with his fellow Commissioners, he also understood that staff is always under pressure from developers to get the maximum number of units. He thought that reducing the maximum number of units to 18 would relieve pressure on staff and allow them to recommend approval of a better site design with more open space.

Commissioner Kamkar asked staff if common open space included driveways and parking areas. Staff responded that common open space only included landscaped area that could be used for recreation.

Commissioner Kamkar asked if the project provided any affordable units. Staff responded that it did not. Commissioner Kamkar suggested an amendment to the motion of approving the project at 20 units, with two units set aside for affordable housing. The City Attorney advised that because the project was not in a redevelopment area, the City could not impose affordability requirements.

Commissioner Kalra stated that the Commission would like to see more open space in the project, but that flexibility of how that was accomplished should be left up to staff, with the Commissioners concerns in mind.

The Commission voted 2-4-0 to deny the motion proposed by Commissioner Zito to approve the project with up to 18 units.

Commissioner Platten stated that he had confidence in staff to relay the Commissioners concerns into a better product with more open space.

Commissioner Kalra made a motion to consider the Mitigated Negative Declaration and recommend approval of the project to the City Council to rezone the subject property to A(PD) Planned Development to allow up to 20 units. He stated that he agreed with Commissioner Zito's concerns, and that staff needs to work with the applicant at the PD Permit stage to increase the open space in the project.

Commissioner Zito asked staff the likelihood that the PD Permit would be heard before the Planning Commission. Staff responded that it would only be heard by the Planning Commission if it was appealed. Staff stated that given that there was no public testimony regarding the project, it was unlikely that it would be appealed, unless appealed by the applicant.

Commissioner Zito stated that he still would like to see the project restricted to a maximum of 18 units.

The Planning Commission voted 5-1-0, Commissioner Zito opposed, to consider the Mitigated Negative Declaration, and recommend approval of the rezoning with of the subject property to A(PD) Planned Development to allow up to 20 units, as proposed by staff.

### ANALYSIS

The proposed project conforms to the policies and regulations of the General Plan, and is in substantial conformance to the Residential Design Guidelines, with the exception of the provision of common and private open space, as noted in staff's report to the Planning Commission. At the hearing, the Planning Commission raised concerns over the lack of open space provided with the project. They believed that either the number of units, the unit size, or a combination of both would have to be reduced for the project to provide additional open space. The Commission, however, voted to recommend approval of the subject rezoning with up to 20 units, which would allow further discretion at the PD Permit stage regarding the means of providing additional open space.

### POLICY ALTERNATIVES

*Alternative: Approve the proposed Planned Development Rezoning from RM Multiple Residence Zoning District to A(PD) Planned Development Zoning District to allow the construction of up to 18 single-family attached residences on a 0.97 gross acre site*

Pros: This alternative would allow fewer units on the site, which could allow for more open space to be accommodated on the site, in accordance with the recommendations of the Residential Design Guidelines. The project would still conform to all aspects of the San Jose 2020 General Plan.

Cons: This alternative would create fewer infill units.

Reason for not recommending alternative: Approving the project as recommended by the Planning Commission would allow for reasonable flexibility at the PD Permit stage to determine how many units could be accommodated with adequate open space.

### PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30; Public Outreach Policy.

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This project was presented before the Blackford NAC at their regularly scheduled meeting on October 5, 2006. A notice of the meeting was sent to all owners and occupants of properties within 500 feet of the site. The community was generally supportive of the proposal, stating that the redevelopment of the older apartment complex into ownership units was a positive for the neighborhood. Some concerns were raised over the loss of affordable rental housing.

A sign was posted at the site to inform the public of the proposed development. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

### **COORDINATION**

This project was coordinated with the Department of Public Works, Fire Department, Police Department, Environmental Services Department and the City Attorney.

### **FISCAL/POLICY ALIGNMENT**

This project is consistent with applicable General Plan policies and is in substantial conformance to City Council approved design guidelines as further discussed in attached staff report.

### **COST SUMMARY/IMPLICATIONS**

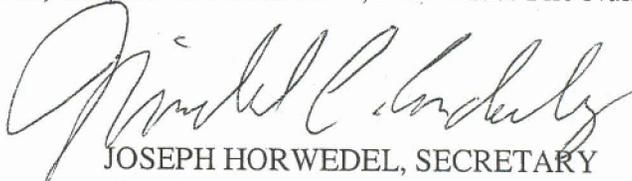
Not applicable.

### **BUDGET REFERENCE**

Not applicable.

### **CEQA**

CEQA: MND (Mitigated Negative Declaration) adopted on December 6, 2006 under File Number PDC06-066.



JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact Mike Enderby at 408-535-7800.

cc: Leonard Hufton, Pan Cal Corporation, 4125 Blackford Ave. 200, San Jose, CA 95117



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** January 11, 2007

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## TRANSMITTAL MEMO

**COUNCIL DISTRICT:** 1

**SNI:** None

**SUBJECT: PDC06-066. PLANNED DEVELOPMENT REZONING FROM THE R-M RESIDENTIAL ZONING DISTRICT TO THE A(PD) RESIDENTIAL ZONING DISTRICT TO ALLOW CONSTRUCTION OF 20 SINGLE-FAMILY ATTACHED RESIDENCES ON A 0.97 GROSS ACRE SITE, LOCATED ON THE NORTH SIDE OF BLACKFORD AVENUE APPROXIMATELY 200 FEET EAST OF REBECCA WAY.**

The Planning Commission will hear this project on January 17, 2007. The memorandum with Planning Commission recommendations will be submitted under different cover. We hope the submittal of this staff report is of assistance in your review of this project.

A handwritten signature in black ink, appearing to read "Joe Horwedel".

JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions please contact Mike Enderby at (408) 535-7800.

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
200 East Santa Clara Street  
San José, California 95113

Hearing Date/Agenda Number  
P.C. 1-17-07 Item No.  
C.C. 1-23-07 Item No.

File Number  
PDC06-066

Application Type  
Planned Development Rezoning

Council District  
1

Planning Area  
West Valley

Assessor's Parcel Number(s)  
299-38-082

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: S. Martina Davis

Location: North side of Blackford Avenue approximately 200 feet east of Rebecca Way

Gross Acreage: 0.97

Net Acreage: 0.97

Net Density: 20.6 DU/AC

Existing Zoning: RM Multi Family  
Residence

Existing Use: 28 Multi-family residential units

Proposed Zoning: A (PD) Planned  
Development

Proposed Use: 20 Single-family attached residential units

### GENERAL PLAN

Land Use/Transportation Diagram Designation  
Medium High Density Residential (12-25DU/AC)

Project Conformance:  
 Yes  No  
 See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

North: Multi-family residential

R-1-2(PD) Planned Development District

East: Multi-family residential

R-M Multi-family Residence District

South: Youth Center/School (former  
Blackford High School site)

R-1-8 Single-family Residence District

West: Multi-family residential

R-M Multi-family Residence District

### ENVIRONMENTAL STATUS

Environmental Impact Report found complete

Exempt

Negative Declaration circulated on

Environmental Review Incomplete

Negative Declaration adopted on December 6, 2006

### FILE HISTORY

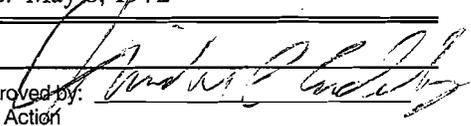
Annexation Title: Boynton No. 43

Date: May 8, 1972

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval  
 Approval with Conditions  
 Denial  
 Uphold Director's Decision

Date: 11/11/07

Approved by:   
 Action  
 Recommendation

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OWNERS	DEVELOPER
David and Margaret Chui Benjamin and Arlene Chui 4125 Blackford Ave #200 San Jose, CA 95117	Leonard Hufton Pan Cal Corporation 4125 Blackford Ave. #200 San Jose, CA 95117

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<b>PUBLIC AGENCY COMMENTS RECEIVED</b>	<b>Completed by: SMD</b>
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**Department of Public Works**

See attached memorandum

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**Other Departments and Agencies**

NA

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**GENERAL CORRESPONDENCE**

NA

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

The applicants, David, Margaret, Benjamin and Arlene Chui, are proposing a rezoning from RM Multi-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 20 single-family attached residences in “garden townhouse” and “rowhouse” type configuration on a 0.97 gross acre site. The project site is located on the north side of Blackford Avenue approximately 200 feet east of Rebecca Way. The surrounding land uses include multi-family residences to the north, east, and west of the project site and a former school facility (Blackford High School) currently used as a youth center to the south of the project site.

The project site, which consists of one legal lot, is currently developed with a 28-unit two-story apartment complex and associated surface parking. The existing apartment complex was built in 1974. These buildings would be demolished as part of this proposal and up to 12 ordinance sized trees would potentially be removed. The site has an elongated rectangular shape and is generally flat.

**Project Description**

The project proposes to rezone the 0.97-acre site to A(PD) Planned Development to allow for the development of 20 single-family detached residences, (ownership units), at a density of 20.6 dwelling units per acre. The project proposes 20 two and three-story single-family residences (refer to site plan) which range in size from 1,317 square feet to 1,865 square feet. The structures would be characterized by stucco finishes and clay tile roofs. The residences would have two to three bedrooms, and two-car garages in both tandem and side-by-side configurations. This, including open parking, will provide a total of 54 off-street parking spaces. The project includes landscaping throughout the project site, which would include canopy trees, and a variety of

shrubs and ground. The tree survey indicates twenty (20) trees are present on site, including 12 ordinance size trees. All of the trees are currently proposed to be removed as a part of this project due to their locations and/or health. Replacement trees would be provided in accordance with City standards. The exact number of replacement trees would be determined at the Planned Development Permit stage.

## **ENVIRONMENTAL REVIEW**

An Initial Study was prepared for the project and a Mitigated Negative Declaration was circulated for public review by the Director of Planning on November 14, 2006. The Director of Planning, Building and Code Enforcement adopted said Mitigated Negative Declaration on December 6, 2006. The primary issues that were addressed in the environmental review were air quality due to temporary construction impacts and noise related impacts, due both to construction noise and existing high ambient noise levels on the site. The project includes mitigation measures that will reduce any potential significant impacts to less than significant level.

## **GENERAL PLAN CONFORMANCE**

The subject site is designated Medium High Density Residential (12-25 DU/AC) on the San Jose 2020 General Plan Land Use/Transportation Diagram. With 20 units proposed on the subject 0.97 gross acre site, the proposed density calculates to 20.6 DU/AC. This density conforms to the site's General Plan Land Use/Transportation Diagram designation. The proposal is consistent with other General Plan Policies that encourage maximizing the density opportunities on infill properties.

## **ANALYSIS**

The primary issue associated with the proposed rezoning is conformance to the City's Residential Design Guidelines with regards to 1) site design, 2) parking, and 3) landscaping.

### **Site Design**

This project proposes 20 single family attached residences in five structures. Buildings I through IV are "garden townhouse" type units, with entrances facing Blackford Avenue for buildings I and III, and the rear of the property for buildings II and IV, with garages accessed at the back of each unit from a private drive. These buildings contain 14 of the proposed 20 units. Building V is a "row house" type structure with tandem garages accessed from the front of each unit. This structure is situated in the rear of the site, facing the entrances of buildings II and IV. The rowhouse structure is two stories and includes the remaining six units. The Residential Design Guidelines identify different standards for each unit type; therefore each unit type will be analyzed separately for conformance to the Residential Design Guidelines.

### **Perimeter Setbacks**

The proposed setbacks on Blackford Avenue are consistent with the developments on both sides of the site. The garden townhouse units, buildings I through IV, conform to the setbacks recommended by the Residential Design Guidelines (RDG's). A two-story multi-family residential structure is directly to the east of the site with an existing setback of approximately 5 feet, which is consistent with this proposal. Directly to the west of the site is a parking drive to

serve the row of four-plexes. The RDG's recommend that a new residential structure match the setback of the existing similar structure, provided that such setback does not exceed the range of common practice. The setback provided for buildings I through IV is 5 feet, which matches the setback of the existing building. However, a 2.5' cantilever is proposed to encroach into that side setback. Staff is supportive of this encroachment, as the cantilever is only present on approximately one quarter of the east elevation and helps to provide greater articulation to the building elevations. The setback to the west property line is also 5 feet to the rowhouse structures, which consistent with the guideline recommendation of 5 feet to garages, carports and parking. Directly to the north of the site are a two-story multi-family building, a parking area, and a common open space area. The RDG's recommend residential structures have a 5-foot setback to common open space and parking areas, and a setback to match existing for a multi-family structure, which is approximately 5 feet in this case. The setbacks provided by the building to the northerly property line range from 6 feet to 13 feet, which exceed the recommendations of the RDG's.

### Open Space

The Residential Design Guidelines state that there should be a minimum of 300 square feet of private open space with a minimum dimension of 15 feet for garden townhouse projects. As currently proposed, the project does not comply with this recommendation in that the open space provided per unit varies from 93 square feet to 146.5 square feet. Based on the proposed density and the size of the lot, staff recognizes that every unit will not be able to achieve 300 square feet of private open space, which were generally for developments in more suburban settings where mixed with existing single family houses. Staff is recommending approval of the project with alternative development standards which require at least 150 square feet of useable private open space for each unit of buildings I through IV. This could include second floor balconies as part of the overall requirement. The plans would be revised at the PD Permit stage to incorporate the required open space.

In addition to the private open space requirement, the RDG's recommend at least 150 square feet of usable common open space per garden townhouse unit. No useable common open space is provided. For most unit types called out in the Residential Design Guidelines, projects with 20 or fewer units are not required to provide any useable common open space. Garden townhouses are the exception to this, as the RDG's recommend common open space regardless of the total number of units. The standard layout for garden townhouses orients the fronts of units to one another, with a common courtyard separating the buildings. With a proper dimension, this courtyard would typically accommodate the required 150 square feet of common open space per unit. The garden townhouses in this project are oriented towards the street and towards the driveway, therefore a central paseo or courtyard, as is typical, is not provided in this case. Given the small overall size and layout of this project, staff believes that common open space would not be feasible; therefore the Development Standards recommended by staff do not require common open space.

The rowhouse units as shown on the plans do not provide open space per the standards of the RDG's. The guidelines recommend that rowhouses provide at least 400 square feet of private open space per unit, whereas only approximately 280 square feet is provided. The private open space for these units is provided in the form of a rear yard. Common open space is not required for rowhouse projects with fewer than 20 units. Based on the mix of product type for this site, staff feels that it is reasonable to keep the overall size of the private open space more in keeping

with the proposed garden townhouses. The development standards as recommended by staff require at least 280 square feet of usable private open space per townhouse unit, consistent with the applicant's proposal.

### Parking

#### *Garden Townhouses*

The Residential Design Guidelines recommend 2.5 on-site parking spaces for each 2 bedroom unit with a two car garage, 2.7 per spaces per 2 bedroom unit with a tandem garage, and 2.6 on-site parking spaces for each three bedroom unit with a two car garage. In addition, units that function as dual master units should provide an additional 0.2 parking spaces per unit. The table below shows a breakdown of unit types parking required:

	Number of Units	Parking Required per Unit	Total Required
Two Bedroom Dual Master Units w/ Two Car garage	2 units	2.7	5.4
Two Bedroom Dual Master Units with Tandem Garage	6 units	2.9	17.4
Three Bedroom Units with Two Car Garage	6 units	2.6	15.6
<b>Total</b>	<b>14 Units</b>	<b>x</b>	<b>39 spaces</b>

The total number of parking spaces recommended by the Residential Design Guidelines for the 14 garden townhouse units is 39 spaces. 28 spaces are provided in garages attached to these units, and there are 14 additional uncovered spaces provided on-site, therefore the parking for the garden townhouse units is adequate per the Residential Design Guidelines.

#### *Rowhouses*

The RDG's recommend two covered spaces per rowhouse unit, plus one additional off-lot space per unit. Each of the six rowhouse units has a two car tandem garage. There are three additional on-site parking spaces above those required for the garden townhouse units, and five cars can be accommodated parallel parking on Blackford Avenue. In addition, each rowhouse unit has a driveway apron of suitable length to park a car. Cumulatively, the project meets the parking recommendations from the Residential Design Guidelines

### **PUBLIC OUTREACH**

Notices for the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site. A notice of the rezoning was also published in the San Jose Post Record, in accordance with the City Council's Public Outreach Policy.

This project was presented at the regularly scheduled meeting of the Blackford NAC on September 13, 2006. In accordance with the Public Outreach Policy, the developer sent notices

for this meeting to all owners and occupants within a 500 foot radius of the site. The proposal was generally well received by the community. Concerns were raised about construction noise and temporary traffic problems that will be created by construction vehicles traveling through the neighborhood. Additional mitigations have been included in the Mitigated Negative Declaration to address the construction noise, given the community concerns and the site's adjacency to residences and a school. A construction vehicle routing plan will be reviewed at the PD Permit stage.

## **RECOMMENDATION**

Staff recommends approval of the project for the following reasons:

1. The project conforms to the General Plan Land Use/Transportation Diagram designation of Medium High Density Residential (12-25DU/AC).
2. The proposed project is compatible with the surrounding land uses.
3. As recommended by staff, the proposed project substantially conforms to applicable policies of the City's Residential Design Guidelines.
4. The proposed project conforms to the requirements of CEQA.

### Attachments:

Location Map

Development Standards

Public Works Memorandum

Mitigated Negative Declaration

**Minor architectural projections:** Minor architectural projections such as fireplaces and bay windows, may project into any setback or building separation by up to 2 feet for a length not to exceed 10 feet or 20 percent of the building elevation length.

Cantilevers may project up to two feet into the site setback area, subject to discretionary approval by the Director of Planning, Building and Code Enforcement.

**Driveway Width:** The driveway width at the entry to Blackford Avenue shall be modified at the PD Permit stage to the satisfaction of the Director of Planning, Building and Code Enforcement and the Director of Public Works.

**Street Improvements:** The plans shall be revised at the PD Permit stage to show a detached sidewalk along the Blackford Avenue frontage and a transition to attached sidewalk to the east to the satisfaction of the Director of Public Works.

**Front yard maintenance:** A homeowners association (or similar mechanism) shall be established to maintain the front yard landscaping and back up landscaping within the project.

Private infrastructure to meet or exceed public improvement standards.

**Water Pollution Control Plant Note:** Pursuant to Part 2.75 of Chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on the San Jose-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose-Santa Clara Water Pollution Control to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.

**Tree Removals:** Trees removed shall be replaced at the following ratios:

Diameter of Tree to be Removed	Type of Tree to be Removed		Minimum Size of Each Replacement Tree
	Native	Non-Native	
18 inches or greater	5:1	4:1	24-inch box
12 - 18 inches	3:1	2:1	24-inch box
less than 12 inches	1:1	1:1	15-gallon container

x:x = tree replacement to tree loss ratio

**Note:** Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

The species and exact number of trees to be planted on the site will be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage

**Environmental Mitigation Measures:**

**AIR QUALITY –**

- a. Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- c. Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- d. Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality;
- e. Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- f. Install wheel washers for all existing trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.
- g. Suspend excavation and grading activities when winds instantaneous gusts exceed 25 mph.

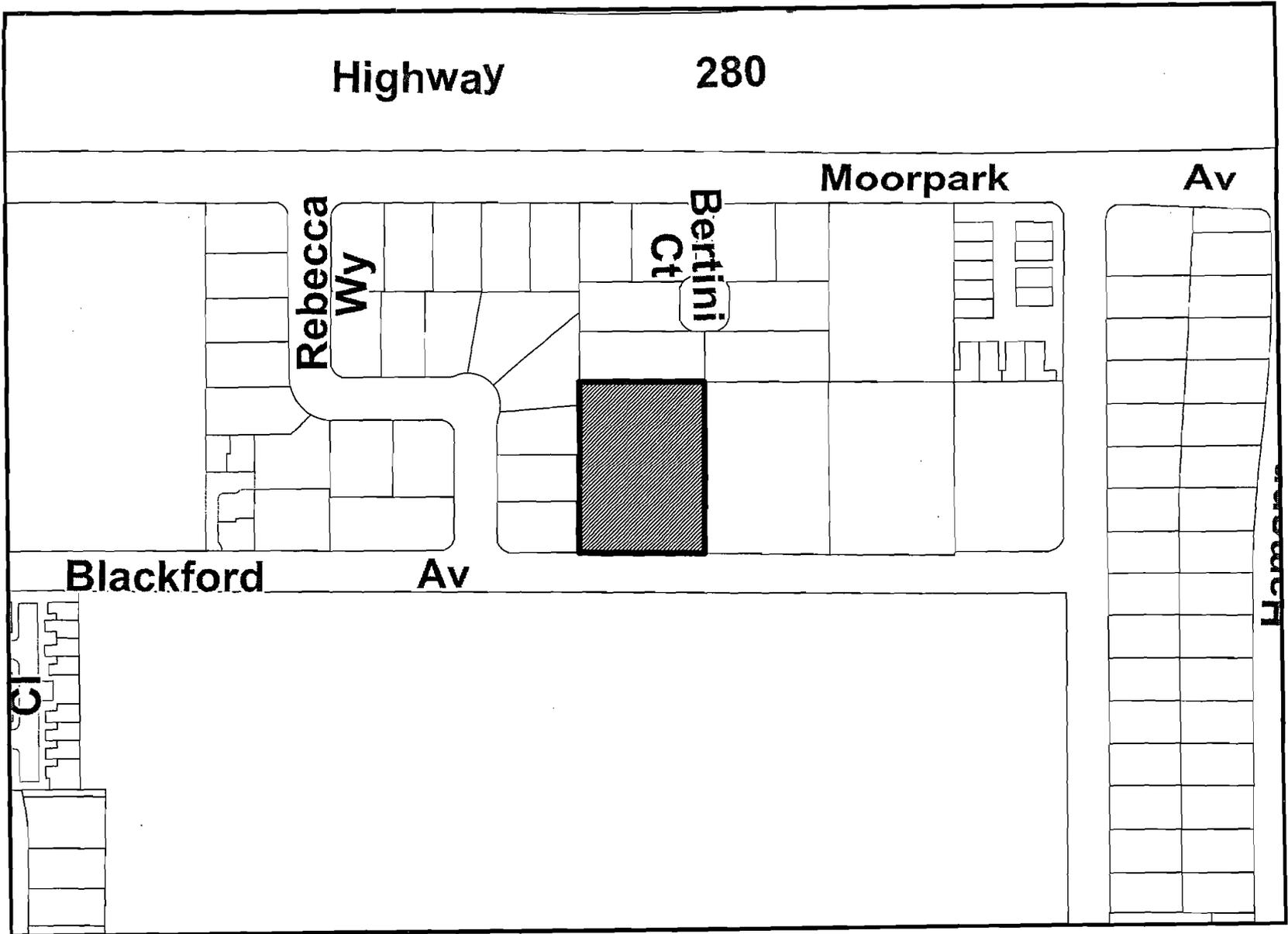
**BIOLOGICAL RESOURCES – Raptors.** If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation.

Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report to the City's Environmental Principal Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.

**NOISE** – Provide the following mitigation measures to the satisfaction of the Director of Planning, Building and Code Enforcement

- a. Unless otherwise expressly allowed in a Planned Development Permit or Planned Development Permit Amendment, no applicant or agent of an applicant shall suffer or allow any construction activity on the site before 7:00 a.m. or after 7:00 p.m., Monday through Friday.
- b. Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9 a.m. to 5 p.m. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulation pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of a developer appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site. The Director of Planning, at his discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the developer.
- c. The developer will implement a Construction Management Plan approved by the Director of Planning, Building and Code Enforcement at the PD Permit stage to minimize impacts on the surrounding sensitive land uses to the fullest extent possible. The Construction Management Plan would include the following measures to minimize impacts of construction upon adjacent sensitive land uses:
- d. Early and frequent notification and communication with the neighborhood of the construction activities.
- e. Prohibit unnecessary idling of internal combustion engines.
- f. Designate a "noise disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.

- g. All units shall be equipped with forced air ventilation systems to allow the occupants the option of maintaining the windows closed to control noise, and maintain an interior noise level of 45 DNL. Prior to issuance of building permits, the developer shall retain a qualified acoustical consultant to check the building plans for all units will to ensure that interior noise levels can be sufficiently attenuated to 45.
- h. Install windows and glass doors with an STC rating of at least 25 dB. Install the windows and doors so that the sliding window and glass door panels form an air-tight seal when in the closed position and the window and glass door frames are caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound infiltration.
- i. Install a 3.5 foot double layer wood or masonry wall 6 feet from the front of the townhomes facing Blackford Avenue that is wrapped around the corners of the buildings by at least two feet.



Scale: 1"= 200'  
Noticing Radius: 500 feet

Map Created On:

06/21/2006

File No: PDC06-066

District: 1

Quad No: 81

# Memorandum

**TO:** Martina Davis  
Planning and Building

**FROM:** Mirabel Aguilar  
Public Works

**SUBJECT:** 2<sup>ND</sup> INITIAL RESPONSE TO  
DEVELOPMENT APPLICATION

**DATE:** 01/03/07

Approved



Date

01/04/07

PLANNING NO.: PDC06-066  
DESCRIPTION: Planned Development Rezoning from the R-M Residential Zoning District to the A(PD) Residential Zoning District to allow construction of 20 single-family attached residences on a 0.97 gross acre site  
LOCATION: North side of Blackford Avenue approximately 200 feet east of Rebecca Way  
P.W. NUMBER: 3-01624

Public Works received the subject project on 11/16/06 and submits the following comments and requirements. **Upon completion of the Action/Revisions Required items by the applicant, Public Works will forward a Final Memo to the Department of Planning prior to the preparation of the Staff Report for Public Hearing.**

### **Actions / Revisions Required:**

1. **Public Works Development Review Fees:** Additional Public Works Review Fees in the amount of **\$1,055** are due. Prior to the project being cleared for the hearing and approval process, these fees shall be paid to the Development Services Cashier using the attached invoice(s). Additional fees due are as follows:
  - a) An additional complexity fee in the amount of \$855.
  - b) An NPDES - C.3 Requirements Review Fee of \$200.
2. **Street Improvements:**
  - a) Revise plan to construct detached sidewalk along Blackford Avenue frontage and transition to attached sidewalk to the east.
  - b) Revise plan to show proposed driveway per CSJ standard driveway detail. The proposed driveway width to be 26' minimum. The on-site driveway may narrow down to 20' after maintaining the 26' width for 20' (measured from the back of sidewalk).

### **Project Conditions:**

**Public Works Clearance for Building Permit(s):** Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The

applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

**Public Works Approval of Parcel Map or Tract Map:** Prior to the approval of the Tract or Parcel Map by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions.

3. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
4. **Transportation:** This project is exempt from the Level of Service (LOS) Policy, and no further LOS analysis is required because the project proposes 20 Single Family attached units.
5. **Grading/Geology:** A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
6. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29.
  - a) The project's preliminary Stormwater Control Plan and numeric sizing calculations have been reviewed. At PD stage, submit the final Stormwater Control Plan and numeric sizing calculations.
  - b) Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
7. **Stormwater Peak Flow Control Measures:** Projects that are required to install treatment control measures are encouraged to comply with the requirements of the City's Post-Construction Hydromodification Management Policy (City Council Policy 8-14) to control the project's hydromodification impacts that can cause increased erosion and other impacts to beneficial uses of local rivers, streams and creeks. It is recommended that the project install treatment control measures that have flow-control benefits such as bioretention facilities, infiltration trenches, filter strips, and vegetated swales.

8. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
9. **Parks:** In accordance with the Parkland Dedication and Park Impact Ordinances (SJMC 19.38/14.25), the park impact fee will be due for any additional living units that are built.
10. **Street Improvements:**
  - a) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
  - b) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
  - c) Close unused driveway cut(s).
  - d) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
  - e) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans. To assist the Applicant in better understanding the potential cost implications resulting from these requirements, existing pavement conditions can be evaluated during the Planning permit review stage. The Applicant will be required to submit a plan and the applicable fees to the PW Project Engineer for processing. The plan should show all project frontages and property lines. Evaluation will require approximately 20 working days.
11. **Complexity Surcharge (In-Fill):** This project has been identified as an in-fill project. Based on established criteria, the public improvements associated with this project have been rated medium complexity. An additional surcharge of 25% will be added to the Engineering & Inspection (E&I) fee collected at the street improvement stage.
12. **Electrical:**
  - a) Relocate existing electrolier to maintain 5' minimum clearance between driveway and electrolier.
  - b) Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans
  - c) Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 5' in residential areas.
  - d) Provide clearance for electroliers from overhead utilities and request clearance from utility companies. Clearance from electrolier(s) must provide a minimum of 10' from high voltage lines; 3' from secondary voltage lines; and 1' from communication lines.
  - e) To assist the Applicant in better understanding the potential cost implications resulting from these requirements, the electroliers along the project frontage can be evaluated during the Planning permit review stage. The Applicant will be required to submit a plan and the applicable fees to the PW Project Engineer for

processing. The plan should show all project frontages and property lines. Evaluation will require approximately 15 working days.

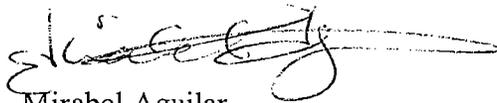
13. **Street Trees:**

- a) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
- b) Contact the City Arborist at (408) 277-2756 for the designated street tree.
- c) Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings.

14. **Private Streets:**

- a) Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
- b) The plan set includes details of private infrastructure improvements. The details are shown for information only; final design shall require the approval of the Director of Public Works.

Please contact me at (408) 535-6822 or Jeff Lee at (408) 535-7877 if you have any questions.



Mirabel Aguilar  
Project Engineer  
Transportation and Development Services Division

## MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** Blackford Avenue Townhomes

**PROJECT FILE NUMBER:** PDC06-066

**PROJECT DESCRIPTION:** Planned Development Rezoning from the R-M Residential Zoning District to the A(PD) Residential Zoning District to allow construction of 20 single-family attached residences on a 0.97 gross acre site and subsequent permits.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** North side of Blackford Avenue approximately 200 feet east of Rebecca Way (3801 BLACKFORD AV); 299-38-082

**COUNCIL DISTRICT:** 1

**APPLICANT CONTACT INFORMATION:** GREATER BAY CONSTRUCTION, Attn: , 4125 BLACKFORD AV UNIT 200, SAN JOSE CA 95117, (408)248-3636

### FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

### MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- I. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- II. **AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**III. AIR QUALITY –**

- a. Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- c. Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- d. Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality;
- e. Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- f. Install wheel washers for all existing trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.
- g. Suspend excavation and grading activities when winds instantaneous gusts exceed 25 mph.

**IV. BIOLOGICAL RESOURCES – Raptors.** If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report to the City's Environmental Principal Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.

**V. CULTURAL RESOURCES –** The project will not have a significant impact on this resource, therefore no mitigation is required.

**VI. GEOLOGY AND SOILS –** The project will not have a significant impact on this resource, therefore no mitigation is required.

**VII. HAZARDS AND HAZARDOUS MATERIALS –** The project will not have a significant impact on this resource, therefore no mitigation is required.

**VIII. HYDROLOGY AND WATER QUALITY –** The project will not have a significant impact on this resource, therefore no mitigation is required.

**IX. LAND USE AND PLANNING –** The project will not have a significant impact on this resource, therefore no mitigation is required.

**X. MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XI. NOISE** –

- a. Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9 a.m. to 5 p.m. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulation pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of a developer appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site. The Director of Planning, at his discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the developer.
- b. The developer will implement a Construction Management Plan approved by the Director of Planning, Building and Code Enforcement to minimize impacts on the surrounding sensitive land uses to the fullest extent possible. The Construction Management Plan would include the following measures to minimize impacts of construction upon adjacent sensitive land uses:
  - i. Early and frequent notification and communication with the neighborhood of the construction activities.
- c. Prohibit unnecessary idling of internal combustion engines.
- d. Designate a “noise disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.
- e. All units shall be equipped with forced air ventilation systems to allow the occupants the option of maintaining the windows closed to control noise, and maintain an interior noise level of 45 DNL. Prior to issuance of building permits, the developer shall retain a qualified acoustical consultant to check the building plans for all units will to ensure that interior noise levels can be sufficiently attenuated to 45 DNL to the satisfaction of the Director of Planning, Building and Code Enforcement.
- f. Install windows and glass doors with an STC rating of at least 25 dB. Install the windows and doors so that the sliding window and glass door panels form an air-tight seal when in the closed position and the window and glass door frames are caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound infiltration.
- g. Install a 3.5 foot double layer wood or masonry wall 6 feet from the front of the townhomes facing Blackford Avenue that is wrapped around the corners of the buildings by at least two feet.

**XII. POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.

- XIII. **PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIV. **RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XV. **TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVI. **UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVII. **MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

**PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on Monday, **December 5th, 2006**, any person may:

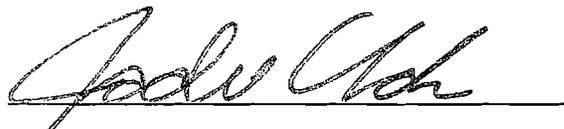
Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or

File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, San José CA 95113-1905 and include a \$100 filing fee. The written protest should make a “fair argument” based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Joseph Horwedel, Acting Director  
Planning, Building and Code Enforcement

Circulated on: 11/15/06  
Deputy



Adopted on: 12/6/06  
Deputy



MND/JAC 8/26/05