



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: January 13, 2006

COUNCIL DISTRICT: 5
SNI AREA: None

**SUBJECT: PDC05-116, PD05-086 and PT05-047.
PLANNED DEVELOPMENT REZONING FROM R-1-8 RESIDENTIAL ZONING
DISTRICT TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT, PLANNED
DEVELOPMENT TENTATIVE MAP, AND PLANNED DEVELOPMENT PERMIT TO
ALLOW ONE EXISTING AND ONE NEW SINGLE-FAMILY DETACHED RESIDENCE
ON A 0.25 GROSS ACRE SITE.**

RECOMMENDATION

The Planning Commission voted 6-1-0 to recommend that the City Council deny the Planned Development Zoning, Planned Development Permit and Tentative Map.

BACKGROUND

On January 11, 2006, the Planning Commission held a public hearing to consider a Planned Development Rezoning, Planned Development Permit and Tentative Map to allow one existing and one new single-family detached residence on a 0.25 gross acre site.

Staff Presentation

Staff made a brief staff presentation indicating that additional correspondence had been transmitted to the Planning Commission regarding the proposal (see attached); that staff had included a condition in the Draft Planned Development Tentative Map requiring that the applicant, prior to approval of a Parcel Map, document that there are no deed restrictions applicable to the property relative to lot size that would limit the proposed subdivision; that the proposed lots would drain to the street so that storm water runoff would not impact adjacent properties and that staff would ensure that the lot square footage was correctly noted on the Parcel Map. Staff recommended approval of the proposed project.

Applicant Presentation

The applicant's representative, Scott Cunningham, made a brief presentation of the project clarifying the size and slope of the properties. He indicated that fire flow would be addressed prior to the issuance of a Building Permit and that he was confident that the required 1000 GPM (gallons per minute) could be met. In response to a question from Commissioner James, Mr. Cunningham indicated that the fence on the adjacent property that limited views of the street from the proposed driveway appeared to be illegal and that enforcement would be the role of the City.

Public Testimony and Commission Discussion

Several neighbors of the surrounding area voiced concern regarding the project in the following areas:

- Traffic safety – Several speakers expressed concern regarding existing traffic patterns on Jerilyn and Mahoney Drives. They indicated that cars speed on these streets creating a traffic safety hazard, that another driveway would make the problem worse, and that the proposed driveway was unsafe due to poor visibility.
- Storm water runoff on neighboring properties – Neighbors expressed concern that storm water would run off onto neighboring properties.
- Privacy – The owner of property located directly behind the project site and others indicated concern that the proposed two-story house would affect privacy of existing homes.
- Quality of life – Several residents of the neighborhood expressed concern about potential degradation in the quality of life of the neighborhood as a result of the new house. Concern was expressed that the size of the lots was out character with the existing lot sizes in the area and that the proposal would change the character of an established neighborhood.

Several Commissioners expressed concern regarding the safety of cars backing out the proposed driveway due to poor visibility of the street exacerbated by the neighbor's fence and cars parked on the street. Commissioners raised concern regarding storm water runoff onto adjacent properties and indicated that the proposed lot appeared to be smaller than those in the surrounding neighborhood. Several Commissioners stated that the proposal is not "infill" development and said that although the project conforms to the Residential Design Guidelines, and the General Plan designation, the proposal is not consistent with the character of the neighborhood.

The applicant's representative stated that the proposed house would have only a bathroom window and child bedroom window on the side that faces the neighbor's rear yard and that it would be possible to move these windows to another side of the house. He noted that this would leave a blank wall facing the neighbor's property. He indicated that the applicant was willing to install speed bumps across Mahoney Drive to slow existing traffic in the area and noted that the proposed development is consistent with the General Plan and City guidelines.

Staff indicated that it is not possible to completely protect the privacy of rear yards where two-story houses are allowed (as they are throughout the City). Staff clarified that the Residential

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Design Guidelines provide recommended setbacks intended to ensure compatibility with adjacent houses and that this project met those setbacks with one minor exception. The Draft Development Standards for the project allow a single-story element to extend to within 15 feet of the rear property line instead of 20 feet. Staff noted that, in actuality, only a small corner of the single-story garage extends closer than 20 feet from the rear property line. Staff further explained that the height of the existing fence on the adjacent property is not legal and that it should be moved back 5 feet from the street or reduced to 3 feet in height and that this issue could be addressed through code enforcement action.

Public Works staff clarified that the site would be designed to drain to Mahoney Drive, that the two lots would drain independently of each other and would not drain onto adjacent properties. Public Works indicated that they did not believe the driveway represented a safety hazard but that it would be possible to explore with the Department of Transportation whether on-street parking could be restricted to improve visibility. Staff clarified that the proposed project would require a relatively small amount of grading.

The Planning Commission recommended denial of the proposed Planned Development Zoning, Planned Development Permit and Tentative Map.

PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss the proposal with members of the public.

COORDINATION

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

CEQA

Under the provisions of Section 15303 (a) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.


for JOSEPH HORWEDEL
Secretary, Planning Commission

cc: Manuel Morgado, 725-C East Julian Street, San Jose, CA. 95112
Scott Cunningham, P.O. Box 3485, Saratoga, CA. 95070

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSÉ,
GRANTING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT
PERMIT TO USE CERTAIN REAL PROPERTY DESCRIBED HEREIN TO
ALLOW ONE EXISTING AND ONE NEW SINGLE FAMILY DETACHED
RESIDENCES ON INDIVIDUAL LOTS.

FILE NO. PD05-086

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSÉ:

WHEREAS, pursuant to the provisions of Chapter 20.100.900 of Title 20 of the San José Municipal Code, on August 13, 2004, an application (File No. PD05-086) was filed for a Planned Development Permit for the development of one existing and one new single family detached residences on individual lots, situate in the A(PD) Planned Development Zoning District, located on the west side of Mahoney Drive opposite from Davenport Drive, San Jose, and

WHEREAS, the subject property is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100.900 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this City Council received and considered the reports and recommendation of the Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled, " New Residence & Lot Split for Morgado 4 Construction," dated November 14, 2005. Said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said hearing was conducted in all respects as required by the San José Municipal Code and the rules of this City Council;

NOW, THEREFORE:

After considering evidence presented at the Public Hearing, the City Council finds that the following are the relevant facts regarding this proposed project:

1. The project site has a designation of Medium Low Density Residential (8 DU/AC).
2. The project site is located in the A(PD)Planned Development Zoning District.
3. The subject site is 0.25 gross acres.
4. This project includes the removal of 2 ordinance size trees.
5. The project proposes construction of 1 single-family detached residential unit in addition to the existing unit on the site.

FINDINGS

1. The Planned Development Permit, as issued, furthers the policies of the General Plan in that:
 - a. The project consists of an infill housing development that furthers the City's Growth Management and Housing Major Strategies.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property in that:
 - a. The building location, setbacks, density, and number of units and parking spaces, conform to the General Development Plan.
3. The interrelationship between the orientation, location and elevations of the proposed building(s) and structure(s) and other uses on-site are mutually compatible and aesthetically harmonious in that:
 - a. The architectural elements of the proposed and/or existing structure(s) are integrated into a harmonious whole.
4. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that:
 - a. Under the provisions of Section 15303(a) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt pursuant to the environmental review requirements implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
5. The location of the ordinance-size trees with respect to the proposed improvements does unreasonably restrict the economic development of the parcel in question.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested

right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-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 San José-Santa Clara Water Pollution Control Plant 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 approval authority.

2. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
3. **Permit Expiration.** This Planned Development Permit shall automatically expire 30 months from and after the date of issuance hereof by the City Council, if within such 30 month period, the proposed use of this site of the construction of buildings has not commenced, pursuant to and in accordance with the provision of this Planned Development Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning may approve a permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
4. **Conformance with Plans.** Construction and development shall conform to approved plans entitled, "New Residence & Lot Split for Morgado 4 Construction" dated November 14, 2005, last revised January 2006, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
5. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or conditions.
6. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
7. **Payment of Recording Fees.** Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara should be submitted to the Director of Planning within 30 days of approval of this permit, but must be submitted prior to issuance of a Building Permit. **Submittal of the recording fee less than one week prior to issuance of a Building Permit will delay the Building Permit issuance** for up to one week to allow for recordation of the permit with the County Recorder. This Permit shall be effective at such time when recordation with the County of Santa Clara occurs.
8. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:

- a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
9. **Revised Plans.** Within 60 days of the issuance of this permit and prior to recordation, the applicant shall revise the project plans to include the item(s) listed below to the satisfaction of the Director of Planning prior to issuance of a Building Permit. Failure to provide said revisions within 60 days shall render this permit null and void.
- a. **Site Plan** – the applicant shall provide a revised plan that consistently shows the proposed house a minimum of 5 feet from the southern property line.
10. **Planned Development District Effectuated.** Once this Planned Development Permit is accepted, the use of territory not covered by the permit shall only be land uses consistent with the Planned Development Zoning District and only upon issuance of a Planned Development Permit for those uses.
11. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
- a. **Construction Hours.** Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site construction activities located within 500 feet of any residential unit.
12. **Dust Control/Air Quality.** Project construction shall implement the Bay Area Air Quality Management District's list of feasible construction dust control measures. The following construction practices shall be implemented during all phases of construction on the project site:
- a. Use dust-proof chutes for loading construction debris onto trucks.
 - b. Water or cover stockpiles of debris, soil, sand or other materials sufficient to prevent the material from becoming airborne.
 - c. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
 - d. Sweep daily or as often as necessary to keep the adjoining streets, paved access roads, parking areas and staging areas at construction site free of dust and debris.
 - e. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - f. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

g. Replant vegetation in disturbed areas as quickly as possible

13. **Noise.** All units shall be built in conformance with Title 24, to the satisfaction of the Chief Building Official.

14. **Storm Water:**

a. Submit a conceptive grading/drainage plan prior to approval.

b. Indicate the overland release path in arrows.

c. The release path must be paved.

d. On-site ponding must be less than one foot.

e. Finished floor elevations must be one foot higher than overland release elevation.

15. **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: Prior to the approval of the parcel map by the Director of Public Works, the applicant will be required to have satisfied all of the following Public Works conditions.

a. **Sanitary:**

1. Submit a conceptive sanitary sewer plan prior to approval.

2. Submit a sanitary sewer plan if construction of new laterals is proposed.

b. **Geology:** A Geologic Hazard Clearance has been approved subject to the following conditions. Failure to comply with these conditions shall constitute a violation of the San Jose Municipal Code and may result in penalties as described in Section 1.08.101 of the Municipal Code including suspension or revocation of any development permits obtained with this Clearance.

1. A soil report must be submitted for review and approval by the project engineer in Public Works prior to issuance of a grading permit for the project.

2. All recommendations of the project's geologic and geotechnical reports and geotechnical consultants must be followed. All geotechnical constraints and methods of geologic hazard mitigation identified in your reports must be implemented in your development as specified.

3. This clearance applies only to the project specified in References 1 and 2 above. Any changes to the geotechnical consultants of record or to the project as referenced above, its design, location, or concept, must be reviewed and approved by the City's Engineering Geologist. Significant changes will require a new Geologic Hazard Clearance or may result in revocation of this clearance.

4. All earthwork, foundation excavations, drainage improvements and related facilities must be inspected by the project engineering geologist and geotechnical engineer during each phase of site grading and construction, and documented by submission of final geotechnical and geologic reports to the City.
 5. If any unanticipated hazardous geologic conditions are encountered during the grading, or if there are any modifications in the grading or geologic hazard mitigation measures, the City Geologist must be immediately notified. In such an event, a supplemental geologic investigation must be performed and submitted to the City for review and approval, prior to progressing further with the project.
- c. **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.
- d. **Transportation:** This project is exempt from the Level of Service (LOS) Policy, and no further LOS analysis is required because the project proposes 15 units of Single Family detached or less.
- e. **Grading/Geology:**
1. 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.
 2. A Geologic Hazard Clearance is required prior to environmental clearance or zoning approval.
 3. A geologic report addressing the potential hazards of fault rupture, slope stability, and erosion must be submitted to and accepted by the City Engineering Geologist prior to environmental clearance or zoning approval.
- f. **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.
- g. **Flood: Zone D**
1. The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D.
- h. **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.

- i. **Street Improvements:**
 1. Remove and replace broken or uplifted curb, gutter, sidewalk and AC pavement along project frontage.
 2. Close unused driveway cut(s).
 3. Improvement of the public streets to the satisfaction of the Director of Public Works.
 4. 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.
 - j. **Complexity Surcharge (In-Fill):** This project has been identified as an in-fill project, and as such is subject to the following:
 1. 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.
 - k. **Sanitary:** The project is required to submit plan and profile of the private sewer mains with lateral locations for final review and comment prior to construction.
 - l. **Electrical:** Installation, relocation and relamping of electrolier(s) along project frontage may be required.
16. **Replacement Trees.** Prior to occupancy of the new single-family residence the applicant shall replace the removed trees with new trees at a ratio of 4 to 1 (24-inch box size). Any of the trees not accommodated on the site may be furnished to Our City Forest in the form of an in-lieu donation of \$300 per tree. The applicant shall submit documentation of compliance with this condition to the satisfaction of the Director of Planning prior to occupancy.
17. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
18. **Parkland Dedication.** The project must conform to the City's Parkland Dedication Ordinance prior to issuance of a Building Permit.
19. **Lighting.** On-site lighting shall be shielded so that no light source is visible from outside of the property.
20. **Utilities.** All on-site telephone, electrical and other overhead service facilities shall be placed underground.
21. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
22. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.

23. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
24. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
25. **Fire Flow.** Required fire flow for the site is 1000 G.P.M., or as otherwise approved in writing by the Fire Chief.
26. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
27. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. **Construction Plans.** This permit file number, PD05-086, shall be printed on all construction plans submitted to the Building Division.
 - b. **Emergency Address Card.** The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. **Americans With Disabilities Act.** The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA).
 - d. **Street Number Visibility.** Street numbers of the buildings shall be easily visible at all times, day and night.
28. **Police Issues.** The following requirements shall be provided to the satisfaction of the Director of Planning.
 - a. **Address Numbers.** All buildings shall be clearly marked by address numbers.
 - b. **Security Hardware.** The project developer shall install adequate security hardware to the satisfaction of the Chief of Police and Chief Building Official.
29. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.

ADOPTED and issued this 24th day of January 2006, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

RON GONZALES
Mayor

ATTEST:

LEE PRICE, CMC
City Clerk

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSÉ GRANTING, SUBJECT TO CONDITIONS, A TENTATIVE MAP TO USE CERTAIN REAL PROPERTY DESCRIBED HEREIN TO ALLOW THE SUBDIVISION AND RECONFIGURATION OF ONE EXISTING PARCEL INTO TWO PARCELS.

FILE NO. PT05-047

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSÉ:

WHEREAS, pursuant to the provisions of Title 19 of the San José Municipal Code, on August 13, 2004, an application (File No. PT05-047) was filed for a Tentative Map for the subdivision and reconfiguration of one existing parcel into two parcels located on the west side of Mahoney Drive opposite from Davenport Drive, San José, and

WHEREAS, the subject property is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 19.12 of Title 19 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this City Council received and considered the reports and recommendation of the Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled, "Sit Plan And Tentative Map," dated November, 2004. Said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said hearing was conducted in all respects as required by the San José Municipal Code and the rules of this City Council;

NOW, THEREFORE:

After considering evidence presented at the Public Hearing, the City Council finds that the following are the relevant facts regarding this proposed project:

1. The City of San Jose City Council finds that the proposed subdivision shown on the Tentative Map, subject to the conditions listed below and the requirements for project design and improvements, is consistent with applicable General and Specific Plans of the City of San José.
2. The City of San Jose City Council has considered the proposed subdivision shown on the Tentative Map, with the imposed conditions, to determine whether to make any of the findings set forth in subsections (a) through (g) of Section 66474 of the Government Code of the State of California. Based on that review, the City Council of the City of San José does not make any such findings for the subject subdivision.
3. Under the provisions of Section 15303(a) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
2. **Improvement Contract.** In the event subdivider has not completed the improvements required for his proposed subdivision at the time the Final Map is presented for approval, subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and provide the bonds and insurance mentioned therein.
3. **Public Use Easements.** Subdivider shall dedicate on the Final Map for public use easements for public utilities, streets, pedestrian ways, alleys, street lighting, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Tentative Map for the subdivision to be devoted to such purposes.
4. **Conveyance of Easements.** Subdivider shall convey or cause to be conveyed to the City of San José, easements in and upon all areas as shown on the Tentative Map outside the boundaries of, but appurtenant to, the subdivision. Should a separate instrument be required for the conveyance of the easement(s), it shall be recorded prior to the recordation of the Final Map. Such easements so conveyed shall be shown on the Final Map, together with reference to the Book and Page in the Official Recorder of Santa Clara County, where each instrument conveying such easements is recorded.

5. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-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 San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water 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 approval authority.
6. **Distribution Facilities.** Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
7. **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, the applicant will be required to have satisfied all of the following Public Works conditions.
 - a. **Geology:** A Geologic Hazard Clearance has been approved subject to the following conditions. Failure to comply with these conditions shall constitute a violation of the San Jose Municipal Code and may result in penalties as described in Section 1.08.101 of the Municipal Code including suspension or revocation of any development permits obtained with this Clearance.
 1. A soil report must be submitted for review and approval by the project engineer in Public Works prior to issuance of a grading permit for the project.
 2. All recommendations of the project's geologic and geotechnical reports and geotechnical consultants must be followed. All geotechnical constraints and methods of geologic hazard mitigation identified in your reports must be implemented in your development as specified.
 2. This clearance applies only to the project specified in References 1 and 2 above. Any changes to the geotechnical consultants of record or to the project as referenced above, its design, location, or concept, must be reviewed and approved by the City's Engineering Geologist. Significant changes will require a new Geologic Hazard Clearance or may result in revocation of this clearance.
 4. All earthwork, foundation excavations, drainage improvements and related facilities must be inspected by the project engineering geologist and geotechnical engineer during each phase of site grading and construction, and documented by submission of final geotechnical and geologic reports to the City.

5. If any unanticipated hazardous geologic conditions are encountered during the grading, or if there are any modifications in the grading or geologic hazard mitigation measures, the City Geologist must be immediately notified. In such an event, a supplemental geologic investigation must be performed and submitted to the City for review and approval, prior to progressing further with the project.
- b. The applicant shall demonstrate to the satisfaction of the Director of Public Works that the subdivision does not violate deed restrictions limiting parcel size that may be applicable to the property.
8. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
 - b. **Storm Water Discharge.** The applicant shall conform to the Non-Point Source Control requirement for storm water discharge associated with construction activity as required by the State Water Resource Control Board. Contact the Regional Water Quality Control Board at (415) 286-0968 for further information.
 - c. **Street Trees.** Street trees shall be planted on the street frontage to the satisfaction of the Director of the Department of Streets and Parks. A permit for this is required from the Department of Streets and Parks, (408) 277-4373.
 - d. **Conformance with Other Permits.** The subject Planned Development Tentative Map conforms to and complies in all respects with the Planned Development Zoning File No: PDC05-116 and Planned Development Permit File No: PD05-086. Approval of said Planned Development Tentative Map shall automatically expire with respect to any portion of the lands covered by such Planned Development Map on which a Final Map has not yet been recorded if, prior to recordation of a Final Map thereon, the Planned Development Zoning and Permit for such lands automatically expires or for any reason ceases to be operative.
 - e. **Expiration of Permit.** This Tentative Map shall automatically expire 30 months from and after the date of issuance hereof by the Director of Planning of the City of San José. The date of issuance is the date this Permit is approved by the Director of Planning.

- f. **Final Parcel Map.** A final Parcel Map shall not be approved until the effective date of the approved Zoning (File No. PDC05-116)

ADOPTED and issued this 24th day of January, 2006, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

RON GONZALES
Mayor

ATTEST:

LEE PRICE, CMC
City Clerk

Memorandum

TO: Hadasa Lev
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

SUBJECT: FINAL RESPONSE TO
DEVELOPMENT APPLICATION

DATE: 1/6/06

PLANNING NO.: PD05-086/PT05-047
DESCRIPTION: Planned Development Permit to construct one additional single-family detached residence on a 0.25 gross acre site
LOCATION: west side of Mahoney Drive opposite from Davenport Drive
P.W. NUMBER: 3-16881

Public Works received the subject project on 12/7/05 and submits the following comments and requirements.

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: Prior to the approval of the parcel map by the Director of Public Works, the applicant will be required to have satisfied all of the following Public Works conditions.

1. **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.
2. **Transportation:** This project is exempt from the Level of Service (LOS) Policy, and no further LOS analysis is required because the project proposes 15 units of Single Family detached or less.
3. **Grading/Geology:**
 - a) 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.

- b) A Geologic Hazard Clearance is required prior to environmental clearance or zoning approval.
 - c) A geologic report addressing the potential hazards of fault rupture, slope stability, and erosion must be submitted to and accepted by the City Engineering Geologist prior to environmental clearance or zoning approval.
4. **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.
5. **Flood: Zone D**
- a) The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D.
6. **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.
7. **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, sidewalk and AC pavement along project frontage.
 - c) Close unused driveway cut(s).
 - d) 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.
8. **Complexity Surcharge (In-Fill):** This project has been identified as an in-fill project, and as such is subject to the following:
- a) 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.
9. **Sanitary:**
- a) The project is required to submit plan and profile of the private sewer mains with lateral locations for final review and comment prior to construction.
 - b) Submit a conceptive sanitary sewer plan prior to approval.
 - c) Submit a sanitary sewer plan if construction of new laterals is proposed.

Planning and Building

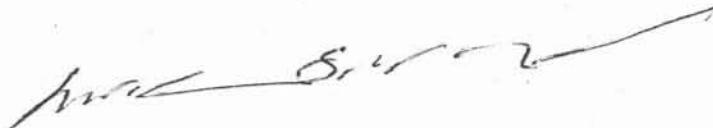
01/06/06

Subject: PDC05-116/PT05-047

Page 3 of 3

10. **Electrical:** Installation, relocation and relamping of electrolier(s) along project frontage may be required.

Please contact the Project Engineer, Andrew Turner, at (408) 535-6899 if you have any questions.



Ebrahim Sohrabi
Senior Civil Engineer
Transportation and Development Services Division

ES:AT:jk 
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Memorandum

TO: Hadasa Lev
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

**SUBJECT: FINAL RESPONSE TO
DEVELOPMENT APPLICATION**

DATE: 01/06/06

PLANNING NO.: PDC05-116
DESCRIPTION: Planned Development Rezoning from R-1-8 Residential Zoning District to the A(PD) Residential Zoning District to allow 2 single-family detached residences on a 0.25 gross acre site
LOCATION: west side of Mahoney Drive, opposite Davenport Drive
P.W. NUMBER: 3-16881

Public Works received the subject project on 12/07/05 and submits the following comments and requirements.

Project Conditions:

1. **Public Works Development Review Fee:**
 - a) An additional Public Works Review Fee is due. Based on established complexity criteria, the project has been rated medium complexity. Prior to the project being cleared for the hearing and approval process, a sum of \$715.00 shall be paid to the Development Services Cashier using the attached invoice(s).
 - b) An additional Public Works Review Fee is due. This project is subject to the NPDES - C.3 Requirements Review Fee. Prior to the project being cleared for the hearing and approval process, a sum of \$200.00 shall be paid to the Development Services Cashier using the attached invoice(s).
2. **Sanitary:**
 - a) Submit a conceptive sanitary sewer plan prior to approval.
 - b) Submit a sanitary sewer plan if construction of new laterals is proposed.

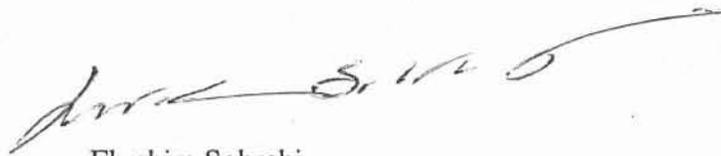
Public Works Clearance for Building Permit(s): Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

Public Works Approval of Parcel Map: Prior to the approval of the parcel map by the Director of Public Works, 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 15 units of Single Family detached or less.
5. **Grading/Geology:**
 - a) 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.
 - b) A Geologic Hazard Clearance is required prior to environmental clearance or zoning approval.
 - c) A geologic report addressing the potential hazards of fault rupture, slope stability, and erosion must be submitted to and accepted by the City Engineering Geologist prior to environmental clearance or zoning approval.
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.
7. **Flood: Zone D**
 - a) The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D.
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. **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, sidewalk and AC pavement along project frontage.
 - c) Close unused driveway cut(s).
 - d) 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.

10. **Complexity Surcharge (In-Fill):** This project has been identified as an in-fill project, and as such is subject to the following:
 - a) 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.
11. **Sanitary:** The project is required to submit plan and profile of the private sewer mains with lateral locations for final review and comment prior to construction.
12. **Electrical:** Installation, relocation and relamping of electrolier(s) along project frontage may be required.

Please contact the Project Engineer, Andrew Turner, at (408) 535-6899 if you have any questions.



Ebrahim Sohrabi
Senior Civil Engineer
Transportation and Development Services Division

ES:AT:jk

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46

Lev, Hadasa

From: Sammons, Vicki [vicki.sammons@lmco.com]
Sent: Wednesday, January 11, 2006 3:30 PM
To: hadasa.lev@sanjoseca.gov
Subject: Proposed Rezoning at 471 Mahoney

I am writing to oppose a planned zoning change that is to be heard tonight at the Planning Commission Hearing. This zoning change would allow the lot at 471 Mahoney Drive to be split into two lots, each with a two-story house.

Allowing this zoning change for the benefit of a construction company will --

- Negatively impact my property value. Because of the way the streets turn and dip, I can currently see the city lights below us at night from my backyard. If you allow two two-story homes to be built at 471 Mahoney, they will most likely block my view.
- Negatively change the nature of the neighborhood. The two proposed houses on tiny lots will be out of place in a neighborhood of single-story homes on large lots. Splitting the existing lot into two will create the feeling of a high-density housing neighborhood, permanently altering the neighborhood, and encouraging other non-resident homeowners to do the same. Further, there is already new housing construction, of about the size proposed for this site, occurring nearby (on Alum Rock and on Story). Splitting this lot is not necessary . . . it is greed.
- Contribute to crowding. In the past 18 months, we have seen an increased number of people living in the existing houses (e.g., homes where every bedroom is rented out). This has created additional traffic noise and greatly limited street parking. Parking in the area has become so bad that I am forced to park my car well down the street when I have visitors who are unable to walk easily so that they can park in my driveway. There are *always* cars in front of my house -- none of them belonging to my household.

I strongly urge you to oppose this rezoning request.

Vicki Sammons
585 Hobie Lane
San Jose, CA 95127

Dan McCorquodale

473 Mahoney Drive, San Jose, CA 95127

phone (408) 259-4740 • fax (408) 251-2796 • e-mail dan@senatordan.com

January 5, 2006

San Jose Planning Commission
200 East Santa Clara Street
San Jose, CA 95113

Dear Chairperson Dhillon and Planning Commissioners:

I am writing to express my strong opposition to a proposed zoning change that will be heard by the Planning Commission at its hearing of Wednesday, January 11, 2006. The project under consideration is located at 471 Mahoney Drive. The owner/applicant, Morgado Four Construction, Inc., proposes to divide an existing lot, which would result in one existing and one new single-family home. This action, if granted, would have serious, negative consequences for the neighborhood.

Many of the area's residents have lived in their homes for long periods of time. My wife and I have owned our home at 473 Mahoney Drive for 35 years, and there are several neighbors who were here when we arrived. Long-time and more recent area homeowners alike, though, place great importance on the neighborhood environment that is created by comfortably large lot sizes of 9,000 to 11,000 square feet. What is being proposed is to cut the 10,947 square foot lot at 471 Mahoney Drive into two small parcels of just over 5,000 square feet. A primary issue for my neighbors, my wife and me is the significant degrading of the neighborhood character that would result if these substantially smaller lots were approved.

The current non-resident owner of the subject property already has constructed a fence outlining the proposed subdivision. It should be noted that the lots are extremely odd-shaped and strangely configured. Our home is the next house to the north, and the addition of a new dwelling would severely impact the privacy of our lives. The same is true for the home immediately to the south/west and to the two homes that back up to the subject property and to our property. The reason for the loss of privacy is that the properties are at grade levels ranging from 40 feet to 75 feet below the subject property.

Likewise, there is potential for serious drainage problems for these adjacent properties, including my own. The lot in question has a 10 degree slope, which equates, according to informed sources, to a 17.6% slope. Again, my home and yard sit substantially below this property and could be subjected to serious effects of mud and water runoff, erosion, and damage to fences, retaining walls and, consequently, damage to the koi ponds in my backyard.

It also should be noted that the engineer's report on this project, on file with the City of San Jose Planning Department, indicates that the current lot is 10,947 square feet and would be divided into one lot of 5,502 square feet and another of 5,738 square feet. However, when these lot sizes, 5,502 and 5,738, are added together, the total is 11,240 square feet. It is not evident what the actual divided lot sizes would be. Dividing the 10,947 square feet equally produces two lots of 5,473 square feet, a size that is smaller than the amount required by the tract's deed restriction which

prohibits lots smaller than 5,500 square feet (although, again, the neighborhood norm is much larger).

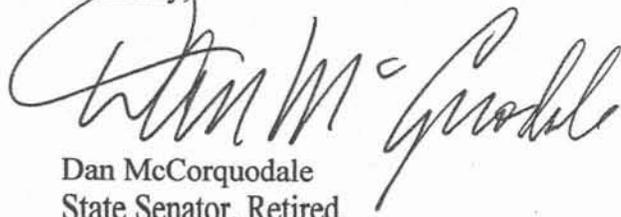
Other significant issues surround the proposed lot split and construction of an additional home. If the proposal were approved and a dwelling constructed, the views of the foothills to the east and southeast would be lost to all the surrounding residences. Further, any proposed egress and ingress from this proposed new lot would generate severe safety problems. Drivers exiting from the subject property, no matter where the driveway was located, would experience a blind spot for viewing vehicles traveling in either direction. Vehicles traveling southbound experience a blind spot at the incline of Mahoney drive at the location of the property. Vehicles traveling southbound typically accelerate to breach the summit of the incline. Although the speed limit is 25 miles per hour, by the time a vehicle is cresting the top of the incline, they are often traveling 40 miles per hour or more. The design of the street invites speeders and there have already been too many accidents occurring at this location.

In addition, we have concern about the creation of substandard lots in an area that is heavily impacted in other ways. While the homeowners in this tract take pride in their homes and strive to create a quality environment for their families, they must contend with significant issues that affect their area. Data reveal the lack of area park and recreational resources and the presence of serious family and community problems. For example, First 5 Santa Clara County, formed when the voters passed Proposition 10 to address children's early developmental needs, undertook an extensive geo-mapping throughout Santa Clara County of cumulative risk factors for children. Data was collected on more than 20 risk factors. They found six zip codes of "historic and current need." This evaluation included "children living with the greatest number of cumulative risk factors, elementary school districts with the lowest Academic Performance Index, and areas with the lowest early education capacity in Santa Clara County." Zip code 95127, the one in which the zoning change and lot split are being proposed, is one of these six zip codes of highest need and lowest capacity. Approval of small and substandard lots, particularly in this already heavily impacted area, establishes a precedent that would have long-term, adverse impacts.

Before I close, I would like to share a recollection from my ten years as a member of the County Board of Supervisors representing this area. I was a strong proponent of curtailing growth in the county's incorporated areas within the urban service areas of the county's fifteen cities. Certainly, the City of San Jose was a strong supporter of this position. City of San Jose representatives frequently opposed development in unincorporated areas based on the fact that the county had historically allowed development of small lots in the vicinity of 5,000 square feet. San Jose was concerned about the impact of these small lots and the likelihood that the City would ultimately end up with responsibility for the problems they can create.

I sincerely appreciate your consideration of these important issues. Please do not hesitate to contact me if you have questions or would like additional information.

Cordially,



Dan McCorquodale
State Senator, Retired

item 4b

Dan McCorquodale

473 Mahoney Drive, San Jose, CA 95127
phone (408) 259-4740 • fax (408) 251-2796 • e-mail dan@senatordan.com

January 10, 2006

San Jose Planning Commission
200 East Santa Clara Street
San Jose, CA 95113

Dear Chairperson Dhillon and Planning Commissioners:

The following itemizes attachments and further issues related to the rezoning proposed for 471 Mahoney Drive (PDC05-116, PD05-086, PT05-047). Your consideration of these important issues is appreciated.

A petition signed by neighbors in opposition to the proposed lot split is enclosed. Please note that additional neighbors have written or emailed individually to express their opposition to the proposed rezoning and lot split and/or are planning to be in attendance to show and voice their opposition at the hearing scheduled for tomorrow evening.

A copy of my email correspondence with the San Jose Planning Department Project Manager Hadasa Lev is enclosed. It raises several questions of importance. For example, I raised an issue regarding the average 10% slope that is shown in the project file. Subsequent to my questions about this concern, the property owner's consultant has recalculated the slope to be an average 11%. This further exacerbates the problems of erosion, mud and water runoff, and damage to adjacent properties that will result.

It should be noted that the closure of City Hall between Christmas and New Years made it impossible to obtain information concerning the proposed rezoning during much of the time that was allotted to the neighborhood through San Jose's public noticing process.

It also should be noted in closing that this lot and its design does not meet setback requirements of the City.

Cordially,



Dan McCorquodale
State Senator, Retired

I am aware of the lot split proposed for 471 Mahoney Drive, San Jose, CA. I would like to register my opposition to this lot split and urge that the tentative map application be disapproved.

Name	Address
John McQuinn	473 Mahoney Dr. SJ 95127
David A. Glenn	482 McCovey Ln. SJ 95127
Mr. & Mrs. Fred Mijares	451 McCovey Lane St. 95127
Erikah Oltmans	3504 Jerilyn Drive SJ. CA 95127
Rolando Ramos	3515 " " " "
Jeanette Wigglesworth	473 Mahoney Dr., S.J. 95127
James Ryan	474 Mahoney Dr. S.J. 95127
Shirley J. Ryan	474 Mahoney Dr. S.J. 95127
Myra J. Ryan	641 Hobie Ln S.J. CA 95127
Gilbert Juarez Jr	578 Hobie Ln SJ CA 95127
Rebecca Hancin	401 Mahoney Dr
Ann Marie Bujes	3498 Jerilyn Dr. SJ CA 95127
Walter Joseph	494 McCovey Ln San Jose CA 95127
Jan W. W. —	450 McCovey Ln.

Dan McCorquodale

From: Lev, Hadasa [Hadasa.Lev@sanjoseca.gov]
Sent: Tuesday, January 10, 2006 4:20 PM
To: 'Dan McCorquodale'
Subject: FW: PDC-5-116, PD05-086, PT05-047
Attachments: PDC05-116SR.doc

Dear Mr. McCroquodale,

Please find the answers to your question below:

Hadasa

Dear Ms. Lev:

As a follow-up to our conversation when I came to the Planning Department to discuss the proposed zoning change at 471 Mahoney Drive, I have the following requests:

1. I would like to receive a copy of the complete file. I also would like a copy of the Engineer's map, but it could be the small one rather than the large one. **We have three files for this project. Do you need a complete copy of each file? When you say the Engineer's map, are you referring to the Tentative Map? There is a form that has to be filled out for this request. I can fill out this for but please take a look at it so that you get an idea of the fees before we go ahead with the process. I will also need your telephone and fax numbers and credit card number with expiration date. Since it is so close to the hearing, I will wait until after the hearing to decide on this. By the way, I was unable to find exactly how much this request would cost. We will calculate the fee once you have provided the form indicating what you would like copied.**
2. Regarding the application filed by the property owner, there is an indication that the applicant waived his right to receive a report. Does that prevent me from receiving such a report? **I do not understand to what you are referring. Please clarify.** This is on the last page (or close to the end) of the application and there is a place for the applicant to indicate his/her desire for a report. There is an explanation on the form that he has a right to a report but that it may take additional time if he/she asks for it. My attorney has said you will make a report and that I have a right to receive it. **You can certainly have a copy of our staff report - see attached.**
3. When I was there on Tuesday we discussed the issue of privacy. It seemed to me that the response was that this was not a real issue for this hearing. However, item 9 for a Planned Development deals with this issue. Would you please comment. **Our Residential Design Guidelines provide recommendations for building setbacks and other development standards intended to ensure compatibility between the project and neighboring uses. Our reference to privacy is based on the fact that it is not possible to ensure complete**

- privacy of rear yards where two-story houses are allowed. This does not appear to be accurate. You have required a set of plans which show details of his building. If you had reviewed that and kept in mind item 9 of Planned Developments you would have required him to eliminate the windows overlooking the neighbor's back yards. What I am looking for is an explanation of why his right to have a view from his home is greater than the right of existing homes to have a view and some privacy. This applicant is requesting approval to build the proposed house. He has no right to build it at this time. If you have privacy concerns associated with the second floor windows, that is certainly an issue that you can raise at the public hearing. If you would like to send a letter or email to the Commission and Council, we can transmit that to them for you.
4. In searching for information about slope, I was able to convert the 10 degree slope from the Engineer's report for this property to a 17.6 percent slope. Since a 45 degree slope would be a 100 percent slope, it seems to me that it would be more meaningful to citizens for the Planning Department to use percent rather than slope. Do you have information on this? Are you asking if we have information on the average slope? I believe we indicated a rough calculation indicating an average slope of 9%. We will follow up with a more precise calculation. In fact you told me that you did not have exact information on the slope. In reviewing the packets of materials, I found the 10 degree figure. My point here is that allowing the use of degree rather than percent is confusing to people who may understand percent but no degrees. However, if in fact the slope is 9 percent as you say then the engineer's map is wrong. Either way this will cause considerable rainfall to run off on the adjacent properties. The applicant has had his consultant calculate the average slope in response to your request. The average slope is 11 percent.
 5. On the responses to the application, were the Fire Department requirements met? The Fire Department comments will be addressed at the building permit stage. Why? At that time he will have gone through all this effort and will have a change in the character of the neighborhood and not be able to build. Or could he at that time move ahead anyway? The applicant will be required to meet the Fire and Building Code requirements prior to issuance of a Building Permit. We provide the information to them at this stage, so that they know what they can expect. How about other Departments? The applicant has met the Public Works requirements applicable to this stage in the process. Additional requirements will be addressed as the project moves forward. We have three houses in this area that were built and the Public Works requirements were inadequate to prevent them from flooding. I doubt that much has changed. Did all Departments respond? Police and Environmental Service did not provide written comments.
 6. In the memo from Carol Hamilton to you she said, "We will use the exemption they previously filed." What exemption was this? Did I miss it in the packet or was it not there? Ms. Hamilton also said, "Joe will give him a break on fees." Who is Joe and did he give the applicant a break on fees and on what authority did he rely? The applicant had already paid a fee for an exemption and, an additional exemption fee is not necessary for the same project. Joe Horwedel is currently the acting Director of Planning Building and Code Enforcement but was the Deputy Director of Planning at the time the email was written. When the one project became three were there additional fees? Is this "break in fees" covered in policy or regulations? The project paid fees for two additional applications. The Director interpreted the fee schedule to determine that they did not need to pay certain fees again - such as the noticing fee.
 7. Carol Hamilton's memo to you also said, "We need to cut every day out of

the process we can." Can you tell me what this means specifically and how you interpreted it and what relationship you have to Carol Hamilton in the Department's organizational chart? **This means that we wanted to bring this project before the decision-makers as soon as possible. Carol is my supervisor.**

This is a very important issue to my family and neighbors. Since the applicant has had months to work on this and I have had only a few weeks to address this new application, I feel that I am at a great disadvantage. I am relying on you to provide me with information I need. Since I have been warned by you that I cannot raise any issues I have not raised at the hearing or in correspondence prior to the hearing I would once again raise the issue of the time allowed before the commission. It seems that speakers should have the same time as the applicant. **This is something that you could raise at the hearing.**

Dan McCorquodale
California State Senator, Retired

Lev, Hadasa

From: BOBSHIRLEYCANDA@aol.com
Sent: Wednesday, January 11, 2006 10:45 AM
To: HADASA.LEV@SANJOSECA.GOV
Subject: (no subject)

MR. BOB DHILLON, CHAIR
SAN JOSE PLANNING COMMISSION

I AM SENDING THIS LETTER TO EXPRESS A STRONG OPPOSITION TO A PROPOSED ZONING CHANGE THAT WILL BE HEARD BY THE PLANNING COMMISSION AT ITS HEARING ON WEDNESDAY, JANUARY 11, 2006.

I LIVE ACROSS THE STREET FROM 471 MAHONEY AVE, AT 515 DAVENPORT DR, CORNER LOT, FACING EAST HILLS. I HAVE OWNEN MY HOME FOR 38 YEARS. ADDING ANOTHER SINGLE FAMILY HOME AT THIS ALREADY HIGH TRAFFIC INTERSECTION, MAHONEY AVE, JERILYN DR, AND DAVENPORT DR WILL INCREASE MORE TRAFFIC AND BE VERY DANGEROUS. THIS INTERSECTION IS ON A CURVED HILL AND THEIR HAS BEEN MANY HIGH SPEED ACCIDENTS, COMMING AND GOING, IN THE STREET, ON MY PROPERTY, AND INTO MY RETAINING WALL. PEOPLE DRIVE TOO FAST. WE NEED SPEED BUMPS OR THREE WAY STOP SIGNS.

CORDIALLY

SIGNED
SHIRLEY CANDA
HOMEOMNER

Lev, Hadasa

From: Glenn, Dave [David.Glenn@gartner.com]
Sent: Wednesday, January 11, 2006 11:36 AM
To: Lev, Hadasa
Subject: RE: File number PDC05-116

Hadasa,

I have reviewed the agenda for tonights meeting, and have noted the staff report for this plan is in favor of it being approved. I have changed my schedule and will now attend this meeting in person, and hopefully will have the opportunity to speak in opposition to this plan. I want to provide you with more comments relevant to my opposition. Please review the points outlined below. I hope you and the commission will carefully consider these issues, and base your decision on what is fair for all concerned parties.

Rezoning per plan PDC05-116 is a bad idea!

I strongly oppose the planned rezoning and development referenced by the file number in the subject line of this message. This project, should it be approved, would adversely affect not only myself and my property, but the safety and quality of life of the immediate neighborhood. My property at 482 McCovey Lane is immediately behind the property in question, located at 471 Mahoney Drive. This lot is oddly shaped, in large part due to its location at the apex of a low hill, and currently has one single-family house with a design similar to others in the vicinity. The proposed development, as I understand it, would result in a second single-family house being built adjacent to the first building. I have numerous concerns about how this would affect me and my neighbors. Here are several I consider of most importance:

1. First is privacy. I haven't seen the plans for the new house, but considering the small size of the lot to be used, I can't imagine anyone attempting to build anything but a multi-story house. Such a building, looming over my own house, would be extremely distressing. Any resident there would be able to look down into my yard and into my living and dining room windows. It would be like having someone looking over my shoulder 24 hours a daya.

2. Second is quality-of-life. I have resided in my house since 1980. Despite two nearby schools our street is fairly quiet, and there's a certain appealing ambience to a neighborhood made of medium-age houses with mostly long term residents. I don't want to lose that ambience. If this new house is built it would be like forcing high-density environment on me and my neighbors.

3. Third is financial. Although I don't believe the assessed value of my property would be affected, the PERCEIVED value almost certainly would be diminished. I believe perception will largely determine what I am able to sell my house for, should I choose to

do so in the future, as well as how efficiently I will be able to do so.

4. Finally, and most importantly, is safety. An additional house on this lot would almost certainly result in a greater number of private vehicles being parked on the street, further narrowing the street at the exact point where Mahoney Drive is a blind, descending/ascending curve. This would create an extremely dangerous environment, bad enough for local residents driving by in their vehicles; but consider the fact that children from two nearby schools are often walking in this area, and the potential for tragedy increases.

Again, please consider these issues carefully.

Sincerely,

Dave Glenn

David J. Glenn
482 McCovey Lane

San Jose, CA 95127

408-259-7293 home

408-655-1024 mobile

From: Lev, Hadasa [mailto:Hadasa.Lev@sanjoseca.gov]
Sent: Tuesday, January 03, 2006 8:35 AM
To: Glenn,Dave
Subject: RE: File number PDC05-116

Dear Mr. Glenn,

The plans cannot be viewed on line at this point because they are only imaged once action is taken on them. But the report will be available on line soon (a few days before the hearing). You will be able to find the staff report at the following link: <http://www.sanjoseca.gov/planning/hearings/> Click on the the Planning Commission hearing date of 1/11/06.

But you are welcome to also come in a take a look at the plans.

Hadasa
Hadasa L. Lev
Plan Implementation Division
Planning, Building and Code Enforcement
City of San José
200 East Santa Clara Street
San José, CA 95113-1905
Phone: 408 535 7838
Fax: 408 292 6055
email: hadasa.lev@sanjoseca.gov

1/11/2006

-----Original Message-----

From: Glenn,Dave [mailto:David.Glenn@gartner.com]

Sent: Wednesday, December 28, 2005 9:15 AM

To: hadasa.lev@sanjoseca.gov

Subject: File number PDC05-116

Will the reports, drawings, and documents for this project be available online? I may be out of town in the week leading up to the hearing date, and thus may not be able to visit the planning office in person.

For the record, I am opposed to this re-zoning, but admit I do not have any details on the building plans.

Sincerely,

Dave Glenn

David J. Glenn
Research Specialist
Communications Industry Research Team

Gartner

PH: 408-468-8159

Fax: 408-468-8042

email: dave.glenn@gartner.com

Browse our corporate website at:

<http://www.gartner.com>

Lev, Hadasa

From: bernice jackson [bernicejackson4@msn.com]
Sent: Monday, January 09, 2006 7:11 PM
To: hadasa.lev@sanjoseca.gov
Subject: Wednesday, January 11, 2006, 6:30 meeting

Sir,

The construction on that small, irregular- shaped lot at 471 Mahoney Drive is a cause for my concern. I have lived in my house for more than forty years. Such construction will cause a lowering of property values in this area for the plan is substandard to the older, carefully maintained surrounding homes. The Zip code of 95127 has already been defined as an area where children live with the greatest number of cumulative risk factors, attend elementary schools with the lowest Academic Performance Index, in an area having the lowest early education capacity in Santa Clara County. The curve that will provide exit from the planned construction is now a blind one for motorists. With the addition of more residents in that locale, there is a certainty of an increase in traffic hazards.

I implore you to consider what a consent of this proposal will do to our environment here in East San Jose.

Sincerely,

Bernice Anne Jackson

Lev, Hadasa

From: mario bellot [mariobellot@sbcglobal.net]
Sent: Friday, January 06, 2006 6:32 PM
To: hadasa.lev@sanjoseca.gov
Subject: opposition

Im emailing to express my strong opposition to proposed zoning change at 471 Mahoney Dr. My wife, kids and I have lived here for the past three years,(3498 Jerilyn Dr) might not be long enough but long enough to appreciate the beauty of the easthills, the closes we will ever get to a country style living. This action, if granted would disrupt not only ours, but as well as other residents beautiful views of the country hills.

We appreciate your consideration for our concerns over this matters...

Sincerly
Mario Bellot (408 489 4218)
3498 Jerilyn Dr
San Jose ca 95127

1/10/2006

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1-9-06

Dear Commissioner Dillon:

I strongly oppose the project to divide existing lot at 474 Mahoney Drive. The new owner and non resident is Morgado Four Construction Who cares only for the ~~money~~^{PROFIT} he will make on this project. He is not concerned about our neighborhood, or the negative consequences this would create, or the fact the house will be on a blind curve where cars travel 40-45 miles per hour up and around this hill. There has been numerous accidents on this curve in the last 40 years that Me and my wife have lived here at 474 Mahoney Drive My wife and I appreciate consideration of this project.

Cordially

James & Shirley Ryan
474 Mahoney Drive - SAN Jo. 95027
408 259-4344