C.C. Agenda: 02/26/08
Item: 11.1 (d)

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: February 4, 2008

COUNCIL DISTRICT: 2
SNI AREA: N/A

SUBJECT: PDC07-100, Director Initiated Conforming Planned Development Rezoning from A(PD) Planned Development to A(PD) Planned Development to reduce the required front setback from 30 feet donw to 25 feet for four single-family detached residences on a 1.7 gross acre site located at the southwest corner of Neilson Court and Eberly Drive.

RECOMMENDATION

Planning staff recommends approval of the proposed Director Initiated Planned Development Rezoning for the following reasons:

1. The proposed project is consistent with the San José 2020 General Plan Land Use/Transportation with the application of the Discretionary Alternate Use Policy Two-Acre Rule and supports several of the General Plan goals and policies as well as major strategies, including housing and growth management.
2. The proposed zoning is compatible with existing uses on the adjacent and neighboring properties.
3. The proposed project is in conformance with the Residential Design Guidelines.

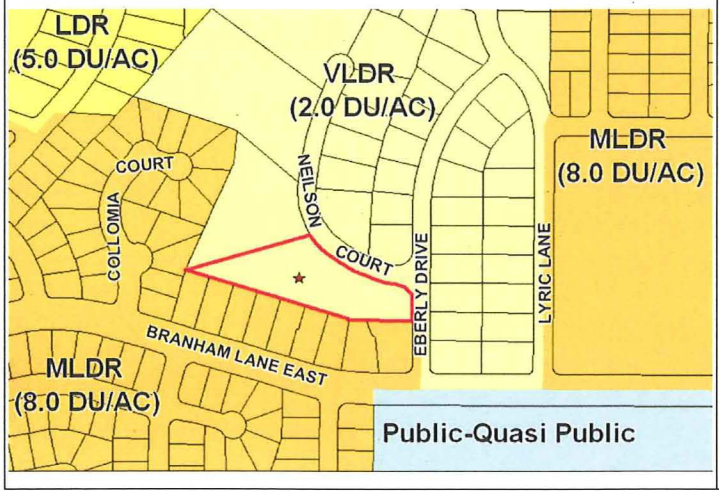
BACKGROUND & DESCRIPTION

This Director Initiated application is for a Planned Development Rezoning to allow up to four single-family detached residences on a 1.7 gross acre site. A Planned Development Rezoning, PDC04-091, was approved by City Council on October 17, 2006 to allow a total of four single-family, detached residences.

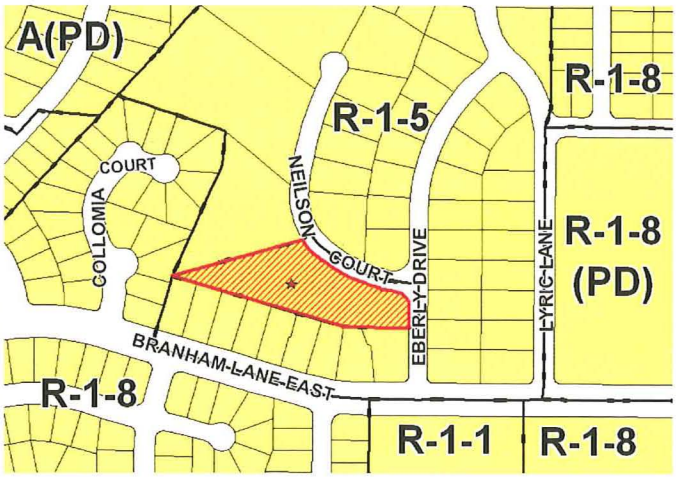
This previous Rezoning included General Development Plan Notes that required a minimum front setback of 30 feet. However, the plans as submitted by the applicant and distributed to Planning Commission and City Council had indicated a requested 25-foot setback. Due to this inconsistency in documentation, the Director of Planning initiated this Conforming Planned Development Zoning to modify the required front setback from 30 feet to 25 feet. All other development regulations remain unchanged.

AERIAL MAP

GENERAL PLAN



ZONING



Existing Zoning	A(PD) Planned Development
Proposed Zoning	A(PD) Planned Development
General Plan	VLDR (2.0 DU/AC)
Council District	2
Annexation Date	06/15/1951
SNI	None
Historic Resource	No
Redevelopment Area	No
Specific Plan	N/A

ANALYSIS

The primary issues associated with the previously approved Planned Development Zoning, PDC04-091, were the compatibility of the proposed density with the existing neighborhood and the applicability of the Two Acre Rule Discretionary Alternate Use Policy to this project. See attached Staff Report for the previously approved Planned Development Zoning, PDC04-091, for full discussion of these issues.

With the proposed rezoning, the single modification to the previously approved General Development Plan Notes is to reduce the front setback requirement from 30 feet to 25 feet. The reduced setback is compatible to the existing neighborhood, since the adjacent properties have a zoning designation of R-1-5 Single Family Residence, which also has a required 25-foot front setback. Also, the proposed 25-foot front setback is comparable to existing setbacks in the vicinity of the subject property.

Additionally, a reduced front setback allows for a larger rear setback. Since the adjacent rear properties are at a lower elevation than the subject property, the modified front setback would help protect the privacy of the adjacent rear neighbors, will reduce the amount of grading, and will reduce the height of retaining/pony walls at the rear of the residences.

Environmental Review

The environmental impacts of this project were originally addressed by an Initial Study, and a Negative Declaration was issued by the Director of Planning on August 16, 2006, for the previously approved Planned Development Zoning (File No. PDC04-091). Issues addressed in the Initial Study include Air Quality, Biological Resources, Archeology, Geology and Soils, Hydrology and Water Quality, Noise, and Transportation and Traffic. Because the site is located in a Geologic Hazards area, the developer was required to prepare a Geological Hazards Report. The Geological Hazards Report was reviewed by the City of San Jose's Geologist, who issued a Geological Hazards Clearance for the project on November 4, 2005.

General Plan Conformance

This project was previously found by the City Council to be in conformance with the General Plan through the use of the Two Acre Rule Discretionary Alternate Use Policy. See attached Staff Report for the previously approved Planned Development Zoning, PDC04-091, for full discussion of conformance.

POLICY ALTERNATIVES

Not Applicable.

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. 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 City Attorney.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan goals and policies as further discussed in attached staff report.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

Project Manager: Avril Baty **Approved by:** Jean Hamilton **Date:** 2-6-08

Owner/Applicant:	Attachments:
Giani Smith 376 Neilson Court San Jose, CA 95111	Development Standards Negative Declaration Final Public Works Memo PDC04-091 Staff Report Reduced Plan Set

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, California 95113-1905

STAFF REPORT

Hearing Date/Agenda Number
P.C. 09/13/06 Item:

File Number
PDC 04-091

Application Type
Planned Development Rezoning

Council District
2

Planning Area
Edenvale

Assessor's Parcel Number(s)
684-56-028

PROJECT DESCRIPTION — Completed by: Jeff Roche

Location: Southwesterly corner of Neilson Court and Eberly Drive

Gross Acreage: 1.7 | Net Acreage: 1.7 | Net Density: 3.53 (du/ac)

Existing Zoning: R-1-5 Residence | Existing Use: One single-family detached residential

Proposed Zoning: A (PD) Planned Development | Proposed Use: To allow one existing and five new single-family detached residential units.

GENERAL PLAN — Completed by: JR

Land Use/Transportation Diagram Designation:
Very Low Density Residential (2 DU/AC)

Project Conformance:
[ ] Yes [X] No
[X] See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING — Completed by: JR

North:	Detached Residential	R-1-5 Single-Family Residence
East:	Detached Residential	R-1-5 Single-Family Residence
South:	Detached Residential	R-1-5 Single-Family Residence
West:	Detached Residential	R-1-5 Single-Family Residence

ENVIRONMENTAL STATUS — Completed by: JR

[ ] Environmental Impact Report
[X] Negative Declaration circulated on August 16, 2006

[ ] Exempt
[ ] Environmental Review Incomplete

FILE HISTORY — Completed by: JR

Annexation Title: Monterey Park No. 40 | Date: June 15, 1961

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

[ ] Approval
[X] Approval with Conditions
[ ] Denial

Date: _____

Approved by: _____
[ ] Action
[X] Recommendation

OWNER/ APPLICANT

Giani Smith
376 Neilson Court
San Jose, CA 95111

PUBLIC AGENCY COMMENTS RECEIVED Completed by: Jeff Roche

Department of Public Works

See attached memorandum, dated, April 29, 2005, and Geologic Hazards Clearance, dated, November 4, 2005.

Other Departments and Agencies

See memoranda from the Fire Department and Environmental Services Departments dated, October 14, 2004.
See letter from Great Oaks Water Company dated, October 22, 2004.

GENERAL CORRESPONDENCE

See petition from the neighborhood, dated, June 30, 2005, and emails, dated, April 21 and 28, 2005, in opposition to the project, and an un-dated petition from residents in the area in support of the project.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

This is a Planned Development Rezoning from R-1-5 Residence Zoning District to A (PD) Planned Development Zoning District to allow up to six single-family detached residences on a 1.7 gross acre site. The proposed rezoning would retain the existing house, and construct five new single-family detached residential units with a minimum lot size of 7,600 square feet, as shown on the applicant's proposed plans. The Conceptual Site Plan indicates that the new residences would take access from Neilson Court, with the front doors facing the public street. The area immediately surrounding the existing residence is relatively flat and the remainder of the site slopes significantly away towards the southwest and southeast. Surrounding land uses are single-family detached residential on all four sides.

Planning History of the Subdivision

The subject site (Lot 20 as shown on the attached Tract Map) is part of a larger subdivision (File No. T 75-10-146 and Tract No. 5827) that was approved in 1976. The subdivision was developed at that time under the R-1: B-1 Residence Zoning District, which included a minimum lot size of 10,000 square feet. Lot sizes in the immediate project area, created through the approval of the original 52-lot project, range in size from a minimum of 10,000 square feet, to greater than 2 acres. The subject property was approved as a larger lot within the original subdivision primarily because of its steeper slopes, and its location along the periphery of the overall project. The existing residence on the property was built circa 1977-78 through a building permit process, without review by the Planning Division, as was the remainder of the 52-lot project.

Following the last major update of the City's Zoning Ordinance in February 2001, development of properties citywide that were previously in the R-1: B-1 Zoning District is now per the standards of the R-1-5 Residence Zoning district, including a minimum lot size of 8,000 square feet. However, at the time the overall project was approved and constructed in the mid-1970s, the policies in the General Plan dealt only in a general way with the issues associated with hillside development, and did not include the current level of policy direction. Since that time, the City Council has amended San Jose's General Plan to better address the complexity of issues associated with hillside development.
In the mid-1980s, the requirement for a Planned Development zoning for development proposed on slopes that exceed 7 % was added to the General Plan text with the Council's approval of the Horizon 2000 General Plan.

Under this policy in the current General Plan, a Planned Development Rezoning is now required for the proposed project, based on the topography of the site which exceeds 7 %, and also because the applicant is requesting the application of the Discretionary Alternate Use Policy: Two Acre Rule, to exceed the residential density shown in the site's General Plan Land Use designation of Very Low Density Residential (2 DU/AC). These aspects of the project are discussed in greater detail under the General Plan Conformance and Staff Recommendation sections of this report.

Community Meeting

A Community Meeting was held at the Boys and Girls Club in the area on August 30, 2005, which was well attended and the community reiterated concerns about the project. These concerns included the negative impact that the project would have on the neighborhood and property values, traffic congestion in the neighborhood, and statements that the project was too dense (i.e., the number of units should be reduced) for the neighborhood, and had setbacks that were less than the "actual building separations in the neighborhood".

PUBLIC OUTREACH

A notice of the public hearing was published in a local newspaper, and distributed to the owners and tenants of all properties located within 1,000 feet of the project site. The mailing radius was increased at the request of the neighborhood from 500 feet to 1,000 feet. Staff has been available to meet with neighboring property owners. Copies of all correspondence received to date including a petition in opposition to the project signed by the majority of property owners in the overall project (T 75-10-146) and a petition in support of the project have been attached to this report. This report has been made available on the Planning Department web site.

ENVIRONMENTAL REVIEW

The environmental review for this project was based on an Initial Study prepared for the project. Issues addressed in the Initial Study include Air Quality, Biological Resources, Archaeology, Geology and Soils, Hydrology and Water Quality, Noise, and Transportation and Traffic.

Because the site is located in a Geologic Hazards area, the developer was required to prepare a Geologic Hazards Report. The Geologic Hazards Report was reviewed by the City of San Jose, Geologist, who issued a Geologic Hazards Clearance for the project on November 4, 2005 (see attached).

All mitigation measures that have been identified in the Initial Study have been included into the project. For these reasons, the Director of Planning issued a Negative Declaration for the proposed Planned Development Rezoning on August 16, 2006.

GENERAL PLAN CONFORMANCE

The project site is designated Low Density Residential (2 DU/AC) on the City's General Plan Land Use Transportation Diagram. The project site is approximately 1.7 acres in size. The applicant's proposed project of six units at a density of 3.53 dwelling units per acre exceeds the General Plan density range and would require the application of the *Discretionary Alternate Use Policy: Two Acre Rule* to find the project in conformance with the General Plan.

The proposed rezoning would further the closely related Greenline and Housing Major Strategies of the General Plan which specify that urban development should only occur within the Urban Service Area where urban development can be accommodated and where urban services can be efficiently provided. However, staff has concluded that the six-unit project, as proposed by the developer, would result in a project that is not

compatible with the existing surrounding residential development, would require significant grading of a hillside slope area of greater than 7 %, and is not of an exceptional design for the location. For these reasons, staff has concluded that the applicant's proposal does not conform to the General Plan. For the past approximately 1-year staff has met with the applicant and their consultants and strongly encouraged them to make revisions to the plans to address concerns regarding neighborhood compatibility. The applicant, to date, has not proposed any modifications or reduction in units for the project in response to either the neighborhood or staff's concerns.

Staff does concur that the property is a somewhat underutilized site, located within the existing urbanized area, and that it provides an ideal opportunity for a modest infill development of two additional units, three total, including the existing house, which can be accommodated within the relatively flatter area of the property. Staff believes a proposal for three units is in support of and would conform with the General Plan infill strategies, and would not require the application of the *Discretionary Alternate Use Policy: Two Acre Rule.*

ANALYSIS

The primary issues associated with this project are the compatibility of the proposed density with the existing neighborhood and the applicability of the *Discretionary Alternate Use Policy: Two Acre Rule* to this project.

Neighborhood Compatibility

The project site is located within an existing residential neighborhood characterized by single-family detached residential uses. The applicant is proposing a total of six single-family detached dwelling units which would exceed the allowable density range of the General Plan land use designation of Very Low Density Residential (2 DU/AC versus 3.53 DU/AC). As proposed by the project developer, the proposed lots would range in size from approximately 7,600 square feet up to 22,460 square feet, and include three lots (Lot Nos. 4, 5, and 6) that would be substantially smaller than the 10,000 square foot minimum lot size/development pattern in the neighborhood, and the original subdivision of which this parcel is a part (1,500 to 2,400 square feet less). Residents of the existing neighborhood have expressed concern and have submitted a petition regarding the proposed number of lots, and have indicated that the lots smaller than 10,000 square feet, and the additional grading required to construct houses on those lots, are not consistent with the intent of the original 1976 subdivision. In addition, planning and public works staff have determined that the grading necessary to accommodate the three easterly new residences (Lot Nos. 4, 5 and 6) is significant given the slope of the site, and overall grading could be substantially reduced if these units were deleted from the plan and only the westerly, flatter portion of the property was developed.

Staff has prepared *Draft General Development Plan standards* (see attached) limiting the maximum number of units to three, and including maximum building heights and parking standards consistent with City standards for single-family detached residential development. All units will have private open in the form of backyards. The reduction to three units from the proposed six by combining Lots 4 through 6 into the lot with the existing house would also allow for greater building setbacks typical of larger lots in a conventional single-family residence zoning district. Staff has concluded that limiting the units to the westerly portion of the site with minimum 5-foot side setbacks and increased front and rear setbacks would minimize the need to grade the easterly side of the site, and would be consistent with the General Plan. The Draft Standards also include conditions that the "remainder" sloped areas of the site would remain in a natural state, with typical residential accessory buildings such as gazebos, and structures such as decks and pools, only permitted within the site's flatter areas, as delineated on an approved General Development Plan.

Discretionary Alternate Use Policy – Two Acre Rule

The General Plan specifies conditions under which an alternative to uses or residential densities to those otherwise allowed in a particular Land Use designation may be determined to be in conformance with the General Plan. As stated in the General Plan, "the alternate land use allowed by this policy should be compatible with existing and planned uses, and to use the policy, projects should exceed the minimum standards of the Zoning Ordinance and adopted design guidelines." The General Plan objective is to encourage infill development though projects of exceptional or innovative design solutions, especially on sites with physical or environmental constraints. As discussed elsewhere in this report, staff has concluded that, as designed, the developer's proposed project would not be compatible with the neighborhood and is not of exceptional design, as it does not exceed the minimum standards expected for a similar project elsewhere in the City, and requires significant on-site grading.

Staff has concluded that a project that contains a maximum of three units (total) would still allow for modest infill development consistent with the policies of the Plan, but would not require the application of the General Plan Two Acre Rule, Discretionary Alternate Use Policy.

Conclusion

To date, the applicant has not proposed any modification to the originally submitted six-lot plan, nor any reduction in the number of units, in response to either staff concerns, or the concerns and suggestions of members of the community. Staff concurs that there is an opportunity to allow some additional infill development of the site, and is supportive of a project for up to three units located in the relatively flatter area of the site. However, given the requirement for significant grading for any additional residential lots as proposed by the applicant, the smaller size of those lots (less than the 10,000 square foot minimum of the original subdivision), and the concerns of many of the residents of that subdivision, staff does not support the use of the Two-Acre Rule to increase the density for the project. Planning staff is recommending conditional approval of the proposed rezoning with a maximum of 3 units, to be located on the easterly, flatter area of the site, consistent with the Draft Development Standards as prepared by staff.

RECOMMENDATIONS

Planning staff recommends conditional approval of the subject Planned Development Rezoning with a maximum of three units (total) for the following reasons:

1. As proposed by the applicant, the six-lot project with a density of 3.53 DU/AC is not consistent with the General Plan Land Use designation of Very Low Density Residential (2 DU/AC), is not compatible with the surrounding single family residential development, is not of an exceptional design and cannot be found to conform under the General Plan Discretionary Alternate Use Policy – Two Acre Rule.

2. The proposed project, as recommended by staff, is consistent with the site's General Plan Land Use/Transportation Diagram designation of Very Low Density Residential (2 DU/AC) without the application of the Discretionary Alternate Use Policy – Two Acre Rule.

3. The project, as recommended by staff, is compatible with the existing neighborhood character and lotting pattern.

4. The project, as recommended by staff, includes development standards and use limitations to ensure that subsequent development will be compatible with the surrounding neighborhood.

Attachments

cc: Rick and Holly Hartman, Hometec Architecture, 619 North First Street, San Jose, CA 95112
Kenny Wong, KW Eng. Inc., 516 A Valley Way, Milpitas, CA 95035
Joan R. Gallo, Hopkins & Carley, P .O. Box 1469, San Jose CA 95109-1469
Will Burns, David J. Powers and Associates, 1885 The Alameda, Suite 204, San Jose, CA 95126
Darlene Thorne, et al, c/o 4984 Eberly Drive, San Jose, CA 95111

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: Avril Baty
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

SUBJECT: **FINAL RESPONSE TO DEVELOPMENT APPLICATION**

DATE: 01/02/08

PLANNING NO.:	PDC07-100
DESCRIPTION:	DIRECTOR INITIATED - Conforming Planned Development Rezoning from A(PD) Planned Development to A(PD) Planned Development to allow for a total of four single-family detached residences and subsequent subdivision on a 1.7 gross acre site
LOCATION:	southwest corner of Neilson Court and Eberly Drive
P.W. NUMBER:	3-15293

Public Works received the subject project on 12/06/07 and submits the following comments and requirements.

Project Conditions:

Public Works Clearance for Building Permit(s) or Map Approval: Prior to the approval of the 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. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

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 25 units of Single Family attached or less.

3. **Grading/Geology:**
   a) A grading permit is required prior to the issuance of a Public Works Clearance.
   b) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.

c) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.

d) A geohazard clearance for this project has been issued. All work performed under this permit must conform to the conditions set forth in the geohazard clearance letter from the City Geologist, to Giani Smith, dated November 4, 2005.

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:** 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. **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.

8. **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 cuts.

d) Proposed driveways to be city standard driveways.

e) Proposed sanitary laterals to be 4" VCP with 2% minimum slope.

f) Upgrade handicap ramp at the corner of Neilson Court and Eberly Drive.

g) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.

h) 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.

i) This project proposes a CDS unit for Storm Water Treatment within the Public right-of-way. A one time fee in the amount of $24,000 is due prior to the issuance of Building permit.

9. **Complexity Surcharge (In-Fill)**: This project has been identified as an in-fill project, and as such is subject to the following: 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.

10. **Electrical**: Installation, relocation, and relamping of electroliers on project frontage may be required. 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

11. **Street Trees**:
    a) 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".
    b) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
    c) Contact the City Arborist at (408) 277-2756 for the designated street tree.

Please contact the Project Engineer, Vivian Tom, at (408) 535-6819 if you have any questions.

Ebrahim Sohrabi
Senior Civil Engineer
Transportation and Development Services Division

ES:VT:jw
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PDC07-100 General Development Plan Notes

Development Standards

Permitted Uses:	Permitted uses shall be up to (4) four single-family detached residential units (total).
Maximum. Building Height:	The maximum building height shall not exceed 30 feet and two (2) stories
Minimum Lot Size:	12,830 square feet
Parking Requirements:	Single-family detached residential: (2) covered spaces per unit.
Front Setbacks:	25 Feet
Rear Setbacks:	25 Feet
Side Setbacks	
(Interior):	5 Feet
(Corner):	15 Feet

Minor Modifications: Additions, pools, spas, decks, accessory structures, and similar structures shall only be placed on the flat portions of the site, and are subject to separate review and approval, to the satisfaction of the Director of Planning.

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.

Water Pollution Control Plant: 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 plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose – 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 approving authority.

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.

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 that 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.

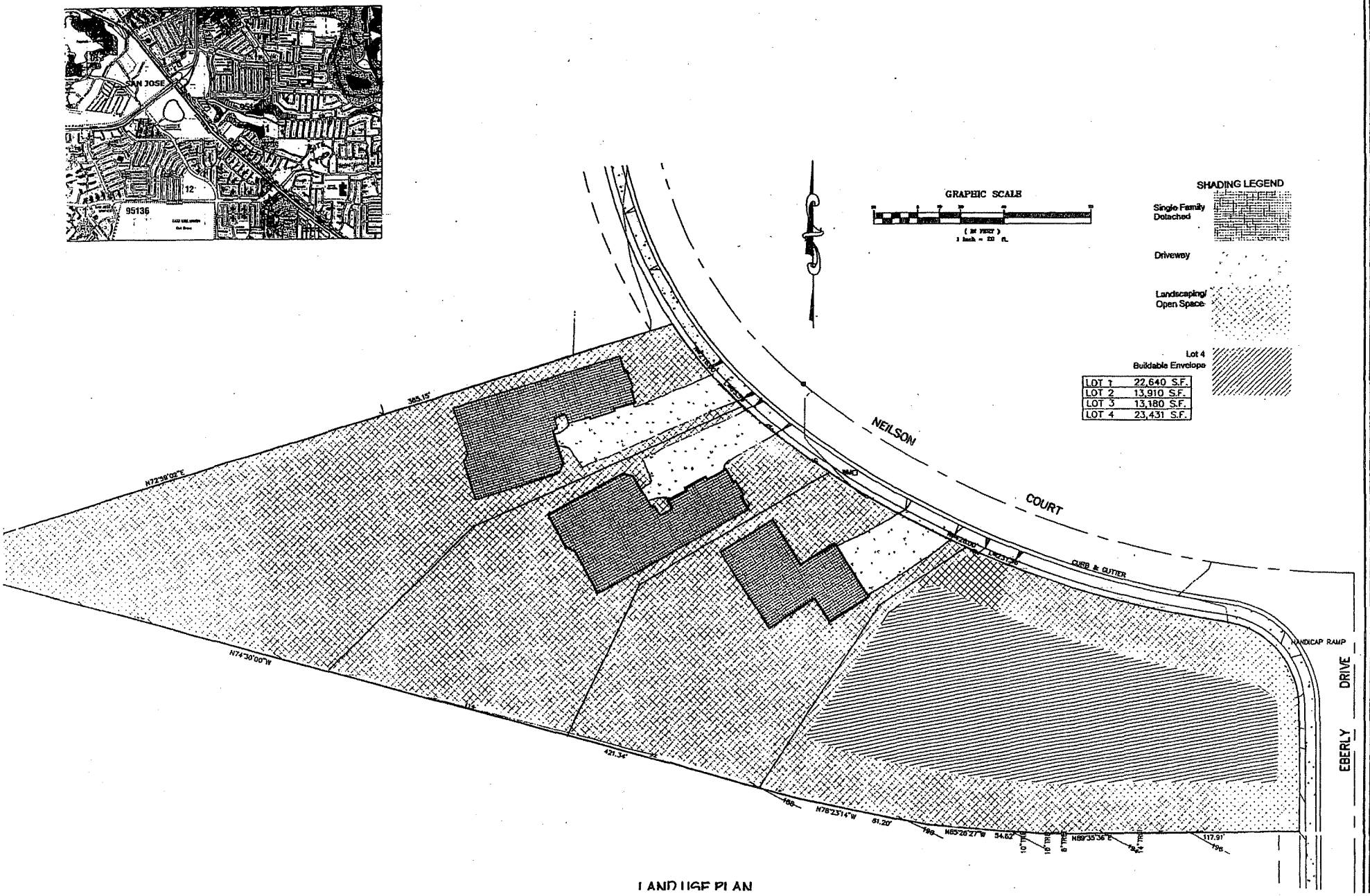
Parkland Dedication Ordinance: The project shall conform to the requirements of the Parkland Dedication Ordinance.

Accessory Structures & Buildings: All accessory structures and buildings shall meet the requirements of the Zoning Ordinance Section 20.30.500, as amended.

Fencing: All fencing and gates on the subject site shall meet the requirements of Zoning Ordinance Section 20.30.600, as amended. Gates that limit/restrict vehicular access to the site are not permitted.

Public Off-Site Improvements: All public off-site improvements shall be implemented to the satisfaction of the Director of Public Works. Prior to the issuance of building permit(s), the applicant shall be required to obtain a Public Works clearance. Said clearance will require the execution of a Construction Agreement that guarantees the completion of the public improvements.

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 shall meet the numeric sizing design criteria specified in City Policy 6-29.



LAND USE PLAN

HOMETEC
ARCHITECTURE, INC.
619 NORTH FIRST STREET, SAN JOSE, CA 95112
RICHARD A. HARTMAN
A.I.A.

NEW HOMES FOR:
GIANI SMITH
576 NEILSON COURT, SAN JOSE, CA 95111

Date 1/3/06
Scale 20ft
Drawn RAH
Job 06-043