

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

Hearing Date/Agenda Number
P.C. 1-30-08 Item # *4.f.*
C.C. 2-26-08

File Number PDC07-057

STAFF REPORT

Application Type
Planned Development Rezoning

Council District: 4

Planning Area North San José

Assessor's Parcel Number(s)
097-06-038; -039

PROJECT DESCRIPTION

Completed by: John W. Baty

Location: West side of North First Street at River Oaks Place

Gross Acreage: 32.60 AC Net Acreage: 18.6 AC Net Density: 55 – 91.4 Dwelling Units Per Acre

Existing Zoning: IP-Industrial Park Existing Use: Industrial Park

Proposed Zoning: A (PD) Planned Development Proposed Use: Up to 1,700 single-family and multi-family attached residences, 45,000 square feet of retail space, and a 5.1-acre public park.

GENERAL PLAN

Completed by: JWB

Land Use/Transportation Diagram Designation
Industrial Park w/ Transit Employment Residential Overlay

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: JWB

North: Industrial Park Buildings IP – Industrial Park

East: Residential and Agriculture A(PD) Planned Development

South: Industrial / Office IP – Industrial Park

West: Guadalupe River IP – Industrial Park

ENVIRONMENTAL STATUS

Completed by: JWB

Environmental Impact Report found complete (North San José Policy Update EIR certified June 21, 2005 per City Council Resolution No 72768 – State Clearinghouse #2004102087)

Exempt
 Environmental Review Incomplete

Negative Declaration circulated on

Negative Declaration adopted on

FILE HISTORY

Completed by: JWB

Annexation Title: Orchard No. 85

Date: 02/01/1979

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

- Approval
- Approval with Conditions
- Denial
- Uphold Director's Decision

Date *1-23-08*

Approved by: *Andrew Cuthree*
 Action
 Recommendation

OWNER

DEVELOPER

WTI, Inc.
Lumin Chang, President
3471 N. 1st Street
San José, CA 95134

Thompson Dorfman Partners
Bruce Dorfman
39 Forrest Street, Suite 201
Mill Valley, CA 94941

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: JWB

Department of Public Works
Final Response to Development Application Memo (1/2/08)

Other Departments and Agencies
Santa Clara Valley Water District Letter (12/11/07).

GENERAL CORRESPONDENCE

None Received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Thompson Dorfman Partners, is requesting to rezone the subject site from the IP – Industrial Park Zoning District to the A(PD) Planned Development Zoning District to allow up to 1,700 single-family attached and multi-family attached residential units, 45,000 square feet of retail space, and a 5.1 acre public park on a 32.6 gross acre site (up to approximately 91 dwelling units per net acre). A corresponding Planned Development Permit for the project (File No. PD07-090) is currently on file and under review. The Planned Development Zoning application was filed on August 1, 2007.

Surrounding land uses include industrial park uses to the north (Pericom Semiconductor) and south (Valley Transportation Authority (VTA) offices). Single-family and multi-family residential uses in the City of Santa Clara (Rivermark) are on the opposite side of the Guadalupe River. The 2,760-unit North Park Apartment complex and the Moitozo Ranch property are on the east side of North First Street. The site is in the vicinity of the recently approved Legacy rezoning (File No. PDC05-099) for up to 575 residential units and 5,000 square feet of commercial located on the north side of Montague Expressway adjacent to the Guadalupe River. The River Oaks light rail station is adjacent to the southeast corner of the site.



Project Description

The subject rezoning proposes to allow approximately 1,024 to 1,700 single-family attached and multi-family attached residential units, 45,000 square feet of retail space, and a 5.1-acre public park on a 32.6 gross acre site (approximately 55 to 91 dwelling units per net acre). The proposed plans show the site divided into six distinct blocks bounded by public or private streets. Residential uses would occur on all six blocks, with ground floor retail occurring on the parcel at the corner of North First Street and River Oaks. The public park will be a linear parcel located adjacent to the base of the eastern levee of the Guadalupe River, accessed by a new public street.

The maximum proposed building height is 150 feet on a portion of the site. The height limit on the majority of the site will be 90-feet. Additional development standards that address setbacks, building design and other project details are included in the draft General Development Plan Standards (attached) and discussed as appropriate below.

ENVIRONMENTAL REVIEW

The project site is located within the boundaries of the *North San José Area Development Policy* (Policy). The Final Environmental Impact Report (EIR) for the North San José Area Development Policies Update was certified and the project approved by the City Council in June 2005. Santa Clara County and the Cities of Milpitas and Santa Clara subsequently legally challenged the EIR. In December 2006, the Santa Clara County Superior Court approved a settlement over all legal challenges and deemed the EIR adequate.

An Initial Study was prepared in accordance with an addendum to the Final EIR. The Initial Study evaluated impacts related to air quality, noise, cultural resources, geology, hydrology and hazardous materials. Based on the analysis in the Initial Study, it has been concluded that the North San José Area Development Policies Update Final EIR adequately addresses the environmental effects of the proposed project, and the project would not result in significant environmental effects that are not already identified in the Final EIR. The project, therefore, meets the eligibility requirements for preparation of an addendum and does not require a supplemental EIR or Negative Declaration.

GENERAL PLAN CONFORMANCE

The project site is designated Industrial Park, with the Transit Employment Residential overlay and Floating Park designation on the *San José 2020 General Plan Land Use/Transportation Diagram*. The Transit Employment Residential overlay allows residential development at a minimum average density of 55 units per acre as an alternate use to the underlying Industrial Park designation. The designation allows commercial uses on the first two floors of a mixed-use residential development. The designation also allows for public park uses within the overlay areas. The proposed project is consistent with this General Plan designation.

The project is consistent with the Economic Development Major Strategy of the General Plan in that locating new residential areas at specific locations in close proximity to employment areas, and in combination with specific transportation improvements, supports the intensification of industrial development within the North San José area, the driving force behind the update of the Policy. This proposal allows for location of residential uses near industrial uses and near transit stations, thus supports this Major Strategy.

PUBLIC OUTREACH

One community meeting, with public notification of a 1,000-foot radius, was held to discuss this application on October 23, 2007. Twenty-three (23) community members attended this meeting. The primary concerns expressed at the meeting included: balancing rental with ownership residential units, timing for construction of the park, providing sufficient residential and commercial parking, bringing additional traffic to the area, and quality of architecture. Other community comments included statements that residential projects would deter commercial or industrial projects from locating in North San José, and that the project should consist of low density townhouses or detached single-family homes with yards. A few community members expressed support for the proposed density and providing additional housing opportunities near jobs.

Previously, in 2005, City staff conducted a series of general community meetings related to drafting of the *North San José Area Development Policy* (Policy). Also, staff held further community meetings regarding implementation of the Policy. Approximately 150 members of the public attended the first of these implementation meetings, held on December 19, 2006. Subsequently staff held two community meetings on Saturday April 21, 2007 and one on Monday April 23, 2007. Approximately 40 community members attended at least one of the three workshop sessions. These workshops provided extensive opportunity for discussion and input from the community to guide the ongoing implementation of the Vision North San José project and the development of parks and recreational facilities plan for North San José. Staff has also presented the Policy at a River Oaks Neighborhood Association (RONA) meeting. Currently, the North San José Taskforce is formulating an Implementation Strategy for the North San José area.

Information related to these meetings, including an ongoing FAQ, full notes from the community meetings, a summary of community issues, and a link to the North San José Task Force, are provided on the Vision North San José website at: <http://www.sanjoséca.gov/planning/nsj/>.

Notices for the Planning Commission and City Council public hearings were distributed to the owners and tenants of all properties located within 1,000 feet of the project site. An on-site sign was placed on the site to provide information on the pending proposal. The Planning Department website contains information regarding the North San José area, including the Policy, development applications, staff reports, and hearing schedules. This website is available with the most current information regarding the status of the rezoning applications. Staff has also been available to discuss the project with members of the public.

ANALYSIS

The primary issues for this project are consistency with the *North San José Area Development Policy*, the *Interim North San José Design Guidelines*, and the *Riparian Corridor Policy*.

Consistency with the North San José Area Development Policy

The project exhibits many of the transit-oriented and pedestrian-oriented characteristics that are strongly promoted in the North San José Area Development Policy (Policy). The project is divided into six distinct blocks that will reduce the sense of mass of the project and improve both pedestrian and vehicular circulation into and through the project. Pedestrians will be able to conveniently and comfortably walk to the proposed neighborhood park, on-site neighborhood serving retail, and light rail station as the project includes wide, tree-lined sidewalks. The conceptual architecture calls for a unique architectural treatment to be applied to each block to avoid the appearance of monotonous project.

The *North San José Area Development Policy* (Policy) provides for the development of up to 32,000 new residential dwelling units within North San José, including the potential conversion of up to 285 acres of

existing industrial lands to residential use at minimum densities of either 55 DU/AC (up to 200 acres) or 90 DU/AC (up to 85 acres). The Policy states that proposed conversions should be evaluated through the zoning process for conformance with City policies, and according to the following specific criteria:

Limits on Conversion

1. *A maximum of 285 acres of land may be converted to residential use within the areas designated as Transit Employment Residential District on the City's General Plan Land Use / Transportation Diagram.*
2. *New residential density must have a minimum net density of 90 DU/AC on at least 85 of those acres. The remainder must have a minimum net density of 55 DU/AC.*

The City Council has approved nine rezonings to date for high-density residential development within the North San José Policy Area totaling 4,841 units on 87.8 acres in area (this includes the Sony site, which was approved by the City Council on August 28, 2007 and the Vista Montana sites, which were approved by the City Council on October 16, 2007).

The proposed project will result in the conversion of an additional 32.6 acres of land. If approved, the subject rezoning will result in the conversion of a cumulative total of 120.4 acres of the 285 acres provided for in the Policy. The proposed rezoning will meet or exceed the minimum net density requirement of 55 DU/AC and also achieves the minimum net density of 90 DU/AC.

Compatibility with Industrial Uses

3. *The site must not contain an existing important vital or 'driving' industrial use.*
4. *The site must not be adjacent to an industrial use that would be significantly adversely impacted by the residential conversion.*
5. *The site must not be in proximity to an industrial or hazardous use that would create hazardous conditions for the proposed residential development (e.g., an adequate buffer must be provided for new residential uses from existing industrial uses) in order to protect all occupants of the sites and enhance preservation of land use compatibility among sites within the Policy area. A risk assessment may be required to address compatibility issues for any proposed industrial to residential conversions.*

The subject site is currently owned and occupied by Wyse Technology, a 'driving' industrial use. Wyse has indicated that should this rezoning be approved they intend to relocate their approximately 100 employees within San Jose. AT&T is a tenant on the site and their operations can continue until their lease expires in 2012.

Two low intensity industrial/office uses are adjacent to the project site: Pericom Semiconductor to the north and the VTA office headquarters to the south. The development of the proposed buildings will occur on parcels that are separated from the adjacent properties by new public streets.

A risk assessment completed as part of the Initial Study for the project concluded that surrounding businesses do not appear to represent a credible threat to the project, assuming worst-case release of hazardous materials.

Services and Amenities, Including Parks

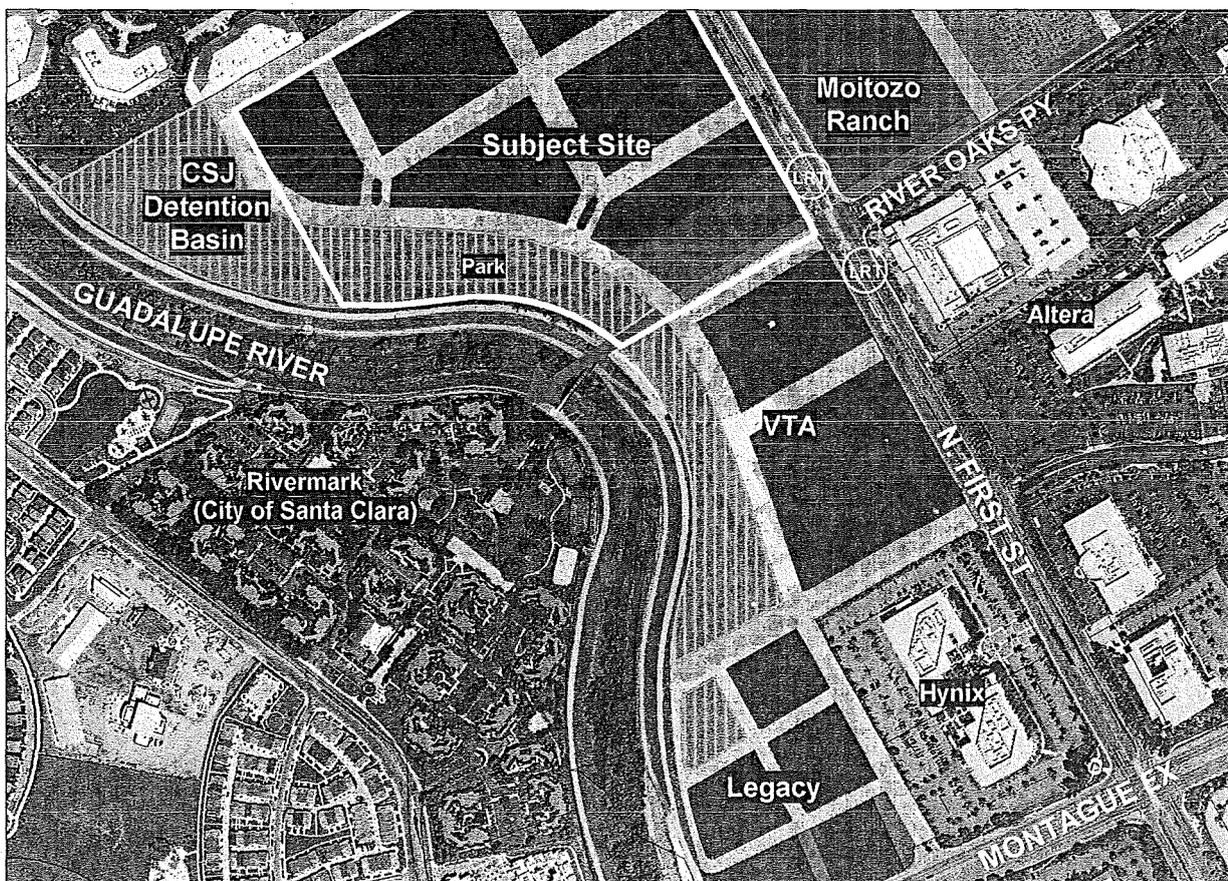
6. *New parks, schools, community facilities and other supporting uses should be built within the Transit Employment Residential District overlay area to the extent feasible, but location of public facilities on land outside of the overlay area may be allowable to comply with other laws, policies and regulations. Suitable locations for these uses should be identified and included within a project when appropriate.*

7. *The site should be within 1,000 feet of an existing neighborhood or community park (at least 3 acres in size) or the proposed development through participation in the provisions of the City's Parkland Dedication Ordinance or voluntary donation would establish or contribute toward the establishment of a new park (at least 3 acres in size) within 1,000 feet of the project site. Staff will determine the most suitable site for a new park within the contiguous overlay area with the intent of identifying a centrally located and accessible park site. In some cases the most suitable site to provide a centrally located park site or to support a joint school-park use within a particular overlay area may be more than 1,000 feet from some properties within that overlay area. All residential projects are subject to the Parkland Dedication Ordinance and land dedication requirements will be consistent with the Ordinance in addition to the proximity requirement established here.*
8. *Master planning to identify sites for parks, schools and other public facilities as necessary must be completed within each of the seven new residential areas prior to any proposed conversion within that area.*

Park size and configuration

The North San José Policy requires that a feasible site or sites for at least 5 acres of new neighborhood parklands be identified within each overlay area of 20 acres or larger prior to approval of any project within that overlay. Land for neighborhood parks in North San José is acquired through either the dedication of a portion of the proposed site or the acquisition of property in the vicinity of a project.

This project is proposing to dedicate and improve a 5.1-acre public park along the southwest portion of the site adjacent to base of the eastern levee of the Guadalupe River. It is envisioned that this park site would connect to additional potential future parkland to the north (currently City of San José Detention Basin) and south of the subject site (VTA and Legacy sites).



School Needs

The Santa Clara Unified School District (SCUSD) and the City of San José are in the process of developing a strategy to address future school needs in the North San José Policy area, consistent with the requirements set forth in the legal settlement reached between the City of San José and the City of Santa Clara as part of the finalization of the NSJ EIR. The preparation of this strategy is being coordinated with the North San José Neighborhoods Task Force work program, which is underway to address future residential development, services, and community amenities. The subject site has not been identified as a potential school site.

Consistency with the *Interim North San José Design Guidelines*

The City has hired a consultant to prepare design guidelines for use in review of development proposals in North San José to further the goals of the Vision North San Jose policies. The City Council approved a contract that included an accelerated schedule for preparation of “interim design guidelines” (Guidelines) with the express intention that the Guidelines be used for the review of pipeline projects. These Guidelines were presented to the community at a workshop held on April 21, 2007. Community members expressed support for the principles set forth in the Guidelines and strongly requested that staff adhere to the Guidelines for the review of pipeline projects. Because the Guidelines are still in a preliminary draft format and were not available early in the review process for this project, the following evaluation is based on consistency with the most important principles set forth in the Guidelines, emphasizing those that had also been raised in staff’s initial comments to the applicant.

Setbacks

Because the proposed buildings will be developed on parcels that will be separated from adjacent properties by future public streets, the primary concern with this project is ensuring a pedestrian friendly street environment.

As shown on the conceptual plans and described in the draft development standards (attached) the project is providing adequate setbacks to accommodate wide sidewalks with street trees and additional setback depth behind the sidewalk to the face of the buildings. For residential units the additional setback behind the sidewalk allows individual stoops/stairs to extend to the sidewalk with additional landscaping between. For commercial interfaces the sidewalk area is proposed to be wider to accommodate outdoor activity (e.g., outdoor seating) typical of retail uses.

Certain street sections are proposed to include a larger setback to accommodate a double-row of trees on one side of the street to further enhance the pedestrian experience.

Street Blocks

Consistent with the vision established within the adopted Policy and the Guidelines, the applicant has proposed a development that incorporates a new grid street system similar to what has been established at other recent residential development projects within North San José. The intent of the grid street system is to establish an urban neighborhood pattern of a walkable scale.

The attached conceptual plans illustrate the proposed street pattern for this project.

New Public Street Design

The Guidelines recommend that streets include on-street parking as a component of the urban character being promoted in the North San Jose area. On-street parking provides a buffer between sidewalks and street traffic, which promotes pedestrian comfort and helps to support ground level retail uses.

The proposed project includes on-street parking on the new public and private streets and would widen North First Street to accommodate on-street parking.

Garage Screening

The Guidelines require that parking included within a residential podium project be either depressed halfway below grade with landscape screening or, if built at grade, be fully screened behind commercial uses or residential units located at grade. The conceptual project design is consistent with this standard in that the parking will be wrapped by commercial space and by residential units and other residential-serving uses.

Streetscape Design

Consistent with the Guidelines, staff has recommended including a general development plan standard in the proposed rezoning to require that residential units have "front doors" (stoops) along all street facades that have on-street parking. Individual unit entries or multiple building entries promote pedestrian activity, establish an attractive residential streetscape, and suggest a more urban character.

Project Architecture

The Policy and Guidelines strongly encourage the incorporation of green building techniques and the use of innovative architectural styles consistent with the focus on technology, industry and innovation for the North San José area. The conceptual architecture submitted by the applicant depicts a post-modern architectural style that uses various panelized metal, fiber cement planks, and stucco finishes to express an urban character. Staff will work with the applicant at the Planned Development Permit stage to further refine the design character.

Consistency with the *Riparian Corridor Policy*

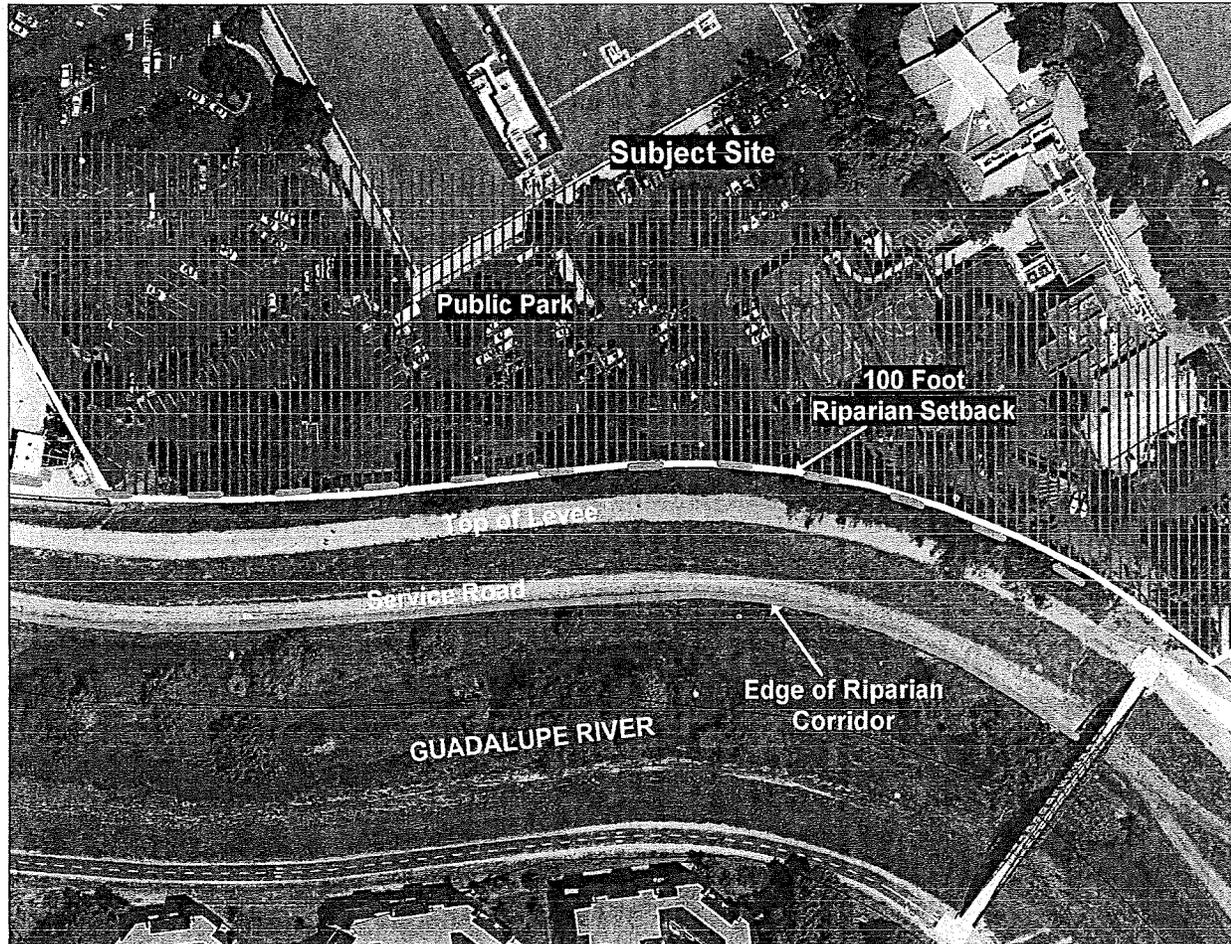
The proposed project is consistent with the design guidelines of the *Riparian Corridor Policy* (RCP).

The subject site is located adjacent to the base of the eastern levee of the Guadalupe River; therefore the proposed project was evaluated for consistency with the RCP. The setback guidelines state that, "all buildings, other structures (with the exception of bridges and minor interpretive node structures), impervious surfaces, outdoor activity areas (except for passive or intermittent activities) and ornamental landscaped areas should be separated a minimum of 100 feet from the edge of the riparian corridor (or top of bank, whichever is greater)."

Riparian habitat adjacent to the Guadalupe River is separated from the edge of the subject site by a Santa Clara Valley Water District (SCVWD) service road and an approximately 20-foot high levee.

A riparian delineation was completed for the project by Live Oak Associates in September 2007. The edge of the riparian corridor was determined to be the westernmost edge of the service road (and in several areas the dripline of riparian trees that extend beyond the edge of the service road). The delineation of the edge of the riparian corridor for the proposed project is consistent with the mapped edge of the riparian corridor for the recently approved Legacy site to the south.

The project site's property line is a minimum of 100 feet from the edge of the mapped riparian corridor; therefore, development of the subject site would occur outside of the 100-foot riparian setback.



The project's proposal to develop a park adjacent to the base of the levee furthers the habitat protection objectives of the RCP by replacing 5 acres of existing predominantly paved area (i.e., parking and buildings) with a 5-acre park. Although it is unknown at this time what components will be programmed for this future park site, development of active play and sports areas would be consistent with the guidelines of the RCP, which state that, "active play and sports areas (e.g., sports fields, golf courses, recreation centers, tot lots, play equipment, multi-use courts, etc.) should be located a minimum of 100 feet from the edge of riparian vegetation." The SCVWD has issued a letter (see attached) supporting the proposed development of a park adjacent to the levee.

CONCLUSION

Approval of the proposed project will further the goals of the Vision North San José project, is consistent with the adopted North San José Area Development Policy, with the key elements of the interim North San José Design Guidelines, and with the Riparian Corridor Policy. Developing a neighborhood park system is a key component of the Vision and staff recommends accordingly that the project be approved so that land within a 1,000-foot radius of the subject property can be dedicated for use as a park.

RECOMMENDATION

Planning staff recommends that the City Council adopt an ordinance approving the proposed Planned Development Rezoning for the following reasons:

1. The project conforms to the General Plan Land Use/Transportation Diagram designation Transit Employment Residential District Overlay (55+DU/A).
2. The project is consistent with the North San José Area Development Policy
3. The project is consistent with the compatibility, parking, and open space guidelines in the Residential Design Guidelines and interim North San José Design Guidelines.
4. The project is consistent with the Riparian Corridor Policy.
5. The project is compatible with existing and planned uses in the surrounding neighborhood.

Attachments:

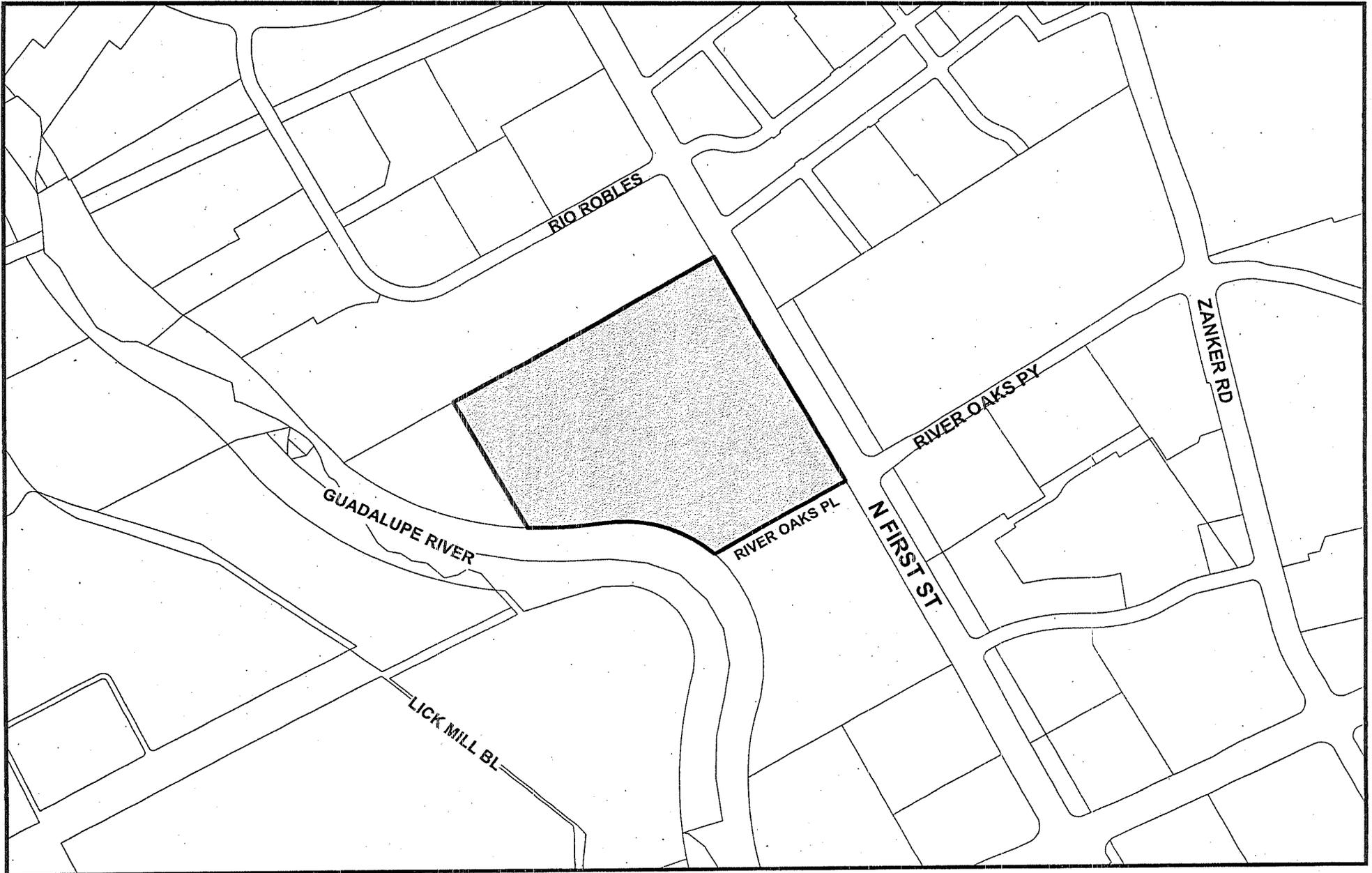
Location Map

Addendum to the North San José Development Policies Update EIR (Resolution # 72768)

Draft Development Standards

Letters from other departments and agencies

Plan set



Scale: 1" = 600'
Map Created On: 1/22/08
Noticing Radius: 1000 feet

File No. PDC07-057
District: 4
Quad No.: 35

**ADDENDUM TO AN EIR
USE OF A FINAL EIR PREPARED FOR A PREVIOUS PROJECT**

Pursuant to Section 15164 of the CEQA Guidelines, the City of San Jose has prepared an Addendum to an Environmental Impact Report (EIR) because minor changes made to the project that are described below do not raise important new issues about the significant impacts on the environment.

PROJECT DESCRIPTION AND LOCATION

Planned Development Rezoning (File No. PDC07-057) from the IP - Industrial Park Zoning District to the A(PD) - Planned Development Zoning District and Planned Development Permit (File No. PD07-090) to allow up to 1,700 single-family and multi-family attached residences, 45,000 square feet of retail space, and a 5.1 acre public park on a 32.6 gross acre site located at the northwest corner of North First Street and River Oaks Place.
Council District 4 County Assessor's Parcel Numbers 097-06-038; -039

The environmental impacts of this project were addressed by a Final EIR entitled, "North San Jose Development Policies Update EIR," and findings were adopted by City Council Resolution No. 72768 on June 21, 2005. Specifically, the following impacts were reviewed and found to be adequately considered by the EIR:

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Traffic and Circulation | <input checked="" type="checkbox"/> Soils and Geology | <input checked="" type="checkbox"/> Noise |
| <input checked="" type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Hazardous Materials | <input checked="" type="checkbox"/> Land Use |
| <input checked="" type="checkbox"/> Urban Services | <input checked="" type="checkbox"/> Biotics | <input checked="" type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Aesthetics | <input checked="" type="checkbox"/> Airport Considerations | <input checked="" type="checkbox"/> Microclimate |
| <input checked="" type="checkbox"/> Energy | <input checked="" type="checkbox"/> Relocation Issues | <input checked="" type="checkbox"/> Construction Period Impacts |
| <input checked="" type="checkbox"/> Transportation | <input checked="" type="checkbox"/> Utilities | <input checked="" type="checkbox"/> Facilities and Services |
| <input checked="" type="checkbox"/> Water Quality | <input type="checkbox"/> _____ | |

ANALYSIS

See Attached Initial Study, "Wyse Property, File No. PDC07-057 and PD07-090" January 2008.

John W. Baty
Project Manager

Joseph Horwedel, Director
Planning, Building and Code Enforcement

1/16/08
Date

Akoni Daniels
Deputy

EXHIBIT C: LAND USE PLAN AND DEVELOPMENT STANDARDS

PLANNED DEVELOPMENT ZONING PDC07-057

DRAFT

The following Development Standards are to be placed on the Land Use Plan for this Planned Development Zoning once the Zoning is approved by the City Council. Where these standards conflict with the information on the plan set, these development standards take precedence.

PERMITTED USES

Residential. Attached residential uses including resident-serving support uses such as offices, clubhouses, fitness rooms, meeting rooms, and other residential amenities. The use of these amenities shall be restricted to the residents and their guests. Home occupations in conformance with the Zoning Ordinance, as amended, are permitted by right.

Commercial. Ground floor commercial uses, only in a vertically mixed-use configuration with residential above, as permitted within the CP – Commercial Pedestrian Zoning District, as amended. Conditional uses of the CP Zoning District shall be subject to a Planned Development Permit or Amendment.

Public Park. Minimum 5.1 acres. With the redevelopment of the adjacent Valley Transportation Authority site, and the potential abandonment of the turn-around bulb at the western terminus of River Oaks, the park could be expanded into this area.

Until such time that the property redevelops, the existing structures shall have the use allowances of the Industrial Park (IP) Zoning District, as amended. Special and Conditional uses in that district shall require issuance of a Planned Development Permit. Small additions or changes to existing or new structures shall be subject to separate review and approval by the Director of Planning, Building, and Code Enforcement. Upon demolition and/or redevelopment of the site(s), the new development shall conform to the residential densities and development standards specified herein.

DEVELOPMENT STANDARDS

Residential Units: 55 dwelling units per net acre minimum
1,700 dwelling units maximum

Commercial: 45,000 square feet

Maximum Height: 90 feet (150 feet on Parcel 1)

Perimeter Setbacks:

River Oaks	18 feet
North First Street (commercial frontage)	20 feet
North First Street (residential frontage)	30 feet
Public Street (60-foot Right-of-Way)	20 feet
Public Street (40-foot Right-of-Way)	18 feet
Private Street	20 feet

* Setbacks are minimum dimensions as measured from face of curb to face of building

Setback Encroachments. Minor architectural projections, such as minor building faces, landscape retaining walls, chimneys, sills, eaves, canopies, bay windows, stoops, porches, balconies, and stairs may project into all setbacks as follows:

Porches, stoops, stairs, and landscape retaining walls may project to a maximum of 10 feet into the required setback. Encroachments may not extend onto or over a required sidewalk.

Canopies and awnings may project into any setback area by a maximum of seven feet, but in no case shall canopies or awnings be allowed to project into or over the public right-of-way.

All other allowed projections may project to a maximum of 5 feet into the setback, by no more than 10 feet in width, for no more than 20% of the building elevation length.

Parking:

Vehicular Parking

Residential: Per the Zoning Ordinance, as amended, and the Residential Design Guidelines.

Commercial: 1 parking space per 200 net square feet.

A 10% reduction for proximity to transit is applicable per the Zoning Ordinance, as amended.

Tandem parking is permitted within an open parking garage configuration to satisfy the total required parking for residential uses.

Bicycle Parking

Per the Zoning Ordinance, as amended

Motorcycle Parking

Per the Zoning Ordinance, as amended

Open Space:

A combination of common and private open space at a ratio of at least 160 square feet per unit

Building Design:

The building and site design shall comply with the City of San José design guidelines, as amended, to the satisfaction of the City Council and the Director of Planning, Building, and Code Enforcement. The Director of Planning, Building, and Code Enforcement maintains the discretion to approve and implement minor changes to the City Council approved land use plan and development standards with respect to heights, building locations, setbacks, open space, and parking through issuance of Planned Development Permit.

A diversity of architectural treatments is encouraged between parcels to create visual interest and variety. However, each building should contribute to the overall spatial organization and cohesiveness of the community through compliance with the Residential Design Guidelines for building design/articulation of podium and mixed-use building types. Building facades should be well articulated to avoid a “blocky” or linear appearance and should maintain a pedestrian/neighborhood scale.

Landscaping:

The Property Owner and/or Home Owner’s Association shall maintain on site landscaping areas and landscaping areas along the public right-of-way areas/streets to the satisfaction of the Director of Public Works.

Signage:

All signage shall comply with the Sign Ordinance, as amended.

Homeowners’ Association:

A Home Owners’ Association shall be established for all owners of all ownership residential units. The Association will be responsible for maintenance of all common areas including but not limited to parking, vehicular and pedestrian circulation, and all common landscaping.

Performance Standards:

Per Zoning Ordinance for residential and commercial uses, as amended

GENERAL NOTES

Inclusionary Housing:

The City shall consider and provide pursuant to California Government Code Section 65915 and local requirements those density bonuses and incentives required under such State and local laws, as applicable.

Applicant shall comply with the City of San José Policy on Implementation of the Inclusionary Housing Requirement of Health and Safety Code Section 33413 (b) (2), as amended in connection with any and all portions of the Project involving the construction or substantial rehabilitation of residential units that will be located in a redevelopment project area to the satisfaction of the Director of Planning, Building and Code Enforcement.

Parkland Dedication Ordinance and Park Impact Ordinance:

Development of the site shall conform to the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO).

Public 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 shall require execution of a construction agreement that guarantees the completion of the public improvements.

Street Trees:

The Public right-of-way shall be planted with street trees as directed by the City Arborist.

Water Pollution Control Plant Notice

Pursuant to part 2.75 of chapter 15.12 of the San José 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 José – Santa Clara water plant will cause the total sewage treatment demand to meet or exceed the capacity of the 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 approving authority.

Post-Construction Storm Water Treatment Controls:

The City's National Pollutant Discharge System (NPDES) Permit compliance requires this project to incorporate post-construction mitigation measures to control the discharge of pollutants into the storm drainage system to the maximum extent practical. Planned Development Permit plans for this project shall include design details of all post construction storm water treatment controls proposed for the project to the satisfaction of the Director of Planning, Building, and Code Enforcement.

Public Works Conditions:

Prior to the approval of the Tract or Parcel Map (if applicable) 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. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.

2. Transportation:

- a) An area wide traffic impact analysis was prepared as part of the North San Jose Area Development Policy, adopted June 2005. Traffic impacts were identified and resulted in an area wide traffic impact fees. This project is covered under the North San Jose EIR.
- b) Consistent with North San Jose EIR, this project is required to pay a traffic impact fee. The 2007 fee is \$7,463.00 per single-family unit and \$5,971 per multi-family unit and subject to annual escalation of 3.3%. This fee must be paid prior to issuance of public works clearance. Credits for existing structures on site will be applied to the residential traffic impact fee consistent with the policy and will be prorated with each building permit issued.

3. Street Improvements:

- a) In order for the River Oaks street to be accepted as a public street a public access easement should be obtained from the VTA side of the project, otherwise this section of the River Oaks street shall continue to be a private street. An irrevocable offer of dedication of public streets shall be made for the future extension of River Oaks Parkway.
- b) Street modification at the intersection of River Oaks Parkway and North First Street to accommodate two thru travel lanes, bike lanes, new sidewalk, and east bound left turn pocket(s) of at least 100 feet length.
- c) Project frontage along North First Street shall be modified to include parking and at least 15-foot wide attached sidewalk. Dedication of sidewalk easement will be required.
- d) Right-of-way dedication for street C shall be 40 feet, 60 feet for Park Street.
- e) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- f) Remove and replace curb, gutter, and sidewalk along project frontage.
- g) Upgrade handicap ramps at the corner of River Oaks Pkwy and N. First St to meet current ADA standards.

4. Sanitary:

- a) The sanitary sewer report prepared by RJA dated December 19, 2007 has been reviewed and found to be in general conformance with City policies.
- b) All new sanitary sewer pipe shall be installed per the recommendation of this report.
- c) The sanitary sewer report should also include the impact of the project on the existing 30-inch sanitary sewer main on north first street. Flow monitoring to verify capacity is recommended prior to approval of the PD permit. Some flow monitoring data for the 30-inch sewer pipe downstream of the project location is available, contact City Staff for information.
- d) The sanitary sewer easement shown on page 4a seems to be private easement and should be vacated before the land use plan is approved as proposed. However, if the sewer line is still active an alternative plan for realignment should be considered prior to approval of the PD permit.

5. Storm:

- a) The storm sewer design report prepared by RJA dated December 20, 2007 has been reviewed and found to be in general conformance with City policies.
- b) An area wide storm sewer capacity study is currently underway by the City. This report will identify existing deficiencies in the North San Jose redevelopment areas and come up with a list of future improvement projects.
- c) In the meantime, all new storm sewer pipes shall be installed per the current City of San Jose design standards (10-year storm) with an additional factor of safety.
- d) All streets should be built higher than the lowest rim elevation of the existing 84-inch storm sewer main.

6. 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) The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.

7. Stormwater Runoff Pollution Control Measures: This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29), which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29.

- a) The project's Stormwater Control Plan and numeric sizing calculations have been found to be in compliance with the policy. At the PD Permit stage further details will be required.
- b) Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- c) A one-time operation and maintenance fee in the amount of \$24,000 per unit for the maintenance of the proposed mechanical units in the public right-of-way is due prior to issuance of a Public Works Clearance.
- d) A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and

stating the all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.

8. **Stormwater Peak Flow Control Measures:** Projects that are required to install treatment control measures are encouraged to comply with the requirements of the City's Post-Construction Hydromodification Management Policy (City Council Policy 8-14) to control the project's hydromodification impacts that can cause increased erosion and other impacts to beneficial uses of local rivers, streams and creeks.

- a) It is recommended that the project install treatment control measures that have flow-control benefits such as bioretention facilities, infiltration trenches, filter strips, and vegetated swales.

9. **Flood: Portions in Zone AH, Elevation 13.00' National Geodetic Vertical Datum 1929 (NGVD 1929), Zone AO (Depth 1'), and Zone X**

- a) Portions of the project site have been designated as Flood Zone AH, Elevation 13.00' and Flood Zone AO (Depth 1'), effective October 25, 2006, by a Letter of Map Revision (LOMR) issued by the Federal Emergency Management Agency (FEMA). The Santa Clara Valley Water District (District) administered the LOMR submittal in conjunction with the Downtown and Lower Guadalupe River Flood Protection Projects. The net result is that portions of the project site will continue to remain within the 100-year floodplain (area having a one-percent or greater chance of being flooded in any given year).
- b) The project may propose to apply for a Letter of Map Revision Based on Fill (LOMR-F) to FEMA for removal of applicable buildings from the 100-year floodplain.
 - i) The Conditional Letter of Map Revision Based on Fill (CLOMR-F), that provides comment on the proposed project by FEMA, is required prior to the issuance of a building permit.
 - ii) The approved LOMR-F is required prior to issuance of an occupancy permit.
 - iii) A Floodproofing Certificate (FEMA Form 81-65), floodproofing details, and if applicable, a Flood Emergency Operation Plan and an Inspection & Maintenance Plan may be required prior to issuance of a building permit.
- c) The project site is also within the 1987 North San José Floodplain Management Study (NSJFMS) area. The NSJFMS has been updated to reflect the completed Downtown and Lower Guadalupe River Flood Protection Projects and to show the resulting blockage requirements for applicable projects in North San José.
 - i) Based on the Final NSJFMS Update, the project is required to have an ultimate blockage not to exceed 90% of the site perpendicular to flow of flood waters.
 - ii) The minimum design elevations shown on the Final NSJFMS Update range from about 12.25' to 13.75' NGVD 1929. Lowest finished floor elevations of each building shall conform to the applicable minimum design elevation shown on the Final NSJFMS Update maps.
- d) The following applies to buildings in Flood Zone X: There are no City floodplain requirements for buildings in Flood Zone X. Flood Zone X is an area of moderate or

minimal flood hazard and is used on new and revised maps in place of Zones B and C.

- e) The following finish floor elevation conditions apply to buildings in Flood Zones AH and AO:
 - i) For buildings in Zone AH: Elevate the lowest floor, including basement, above 13.00' NGVD 1929 or above the Final NSJFMS Update minimum design elevation, whichever is higher.
 - ii) For buildings in Zone AO: Elevate the lowest floor, including basement, more than 1 foot above the highest existing adjacent grade to the proposed building or above the Final NSJFMS Update minimum design elevation, whichever is higher.
 - iii) For buildings in both Zone AH and Zone AO: Elevate the lowest floor, including basement, to the highest of the following: above 13.00' NGVD 1929; more than 1 foot above the highest existing adjacent grade to the proposed building; or above the Final NSJFMS Update minimum design elevation.
- f) The following additional conditions apply to buildings in Flood Zones AH and AO:
 - i) An Elevation Certificate (FEMA Form 81-31) for each building based on construction drawings is required prior to issuance of a building permit. Consequently, an Elevation Certificate based on finished construction is required prior to issuance of an occupancy permit.
 - ii) Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage.

10. **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.

11. **Municipal Water:** In accordance with City Ordinance #23975, Major Water Facilities Fee is due and payable. Contact Tim Town at (408) 277-3671 for further information.

12. **Parks:** In accordance with the Parkland Dedication Ordinance and Park Impact Ordinance (SJMC 19.38/14.25), the park impact fee will be due for any additional living units that are built.

13. **Complexity Surcharge:** 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.

14. **Electrical:** 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.

15. Street Trees:

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

16. Private Streets:

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

ENVIRONMENTAL MITIGATION

The environmental Mitigation Measures listed as part of the “Wyse Property” Initial Study, File No. PDC07-057 and PD07-090, which was certified for the subject project, are required and shall be included in the project at the Planned Development Permit stage. The project environmental mitigation is included in the findings adopted for the project in City Council Resolution Number 72768. Alternative mitigation that achieves an equivalent reduction in the potentially significant impact may be approved by the Director of Planning through a Planned Development Permit.

Additionally, the project shall comply with the following mitigation measures. Alternative mitigation may be approved by the Director of Planning through a Planned Development Permit.

Air Quality - Regional and Local Air Quality

The project shall implement measures identified by BAAQMD to reduce long-term contributions to regional and local emissions, which may include, but are not limited to, the following:

- Providing bicycle lanes, sidewalks and/or paths, connecting project residences to adjacent schools, parks, the nearest transit stop and nearby commercial areas;
- Providing secure and conveniently placed bicycle parking and storage facilities at parks and other facilities;
- Allowing only natural gas fireplaces, pellet stoves, or EPA-Certified wood-burning fireplaces or stoves in residences. Conventional open-hearth fireplaces should not be permitted. EPA-Certified fireplaces and fireplace inserts are 75 percent effective in reducing emissions from this source;

- Providing direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development; and
- Utilizing reflective (or high albedo) and emissive roofs and light colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand.

Air Quality – Construction-Related Impacts

- Water all active construction areas at least twice daily.
- Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites.
- Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.

Biology – Nesting Raptors

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

Biology – Tree Removal

- The proposed project shall replace trees removed at the following ratios:

Table 4.0-1 City Standard Tree Replacement Requirements			
Diameter of Tree to be Removed	Native	Non-Native	Minimum Size of Each Replacement Tree
19 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
Notes: X:X = Tree replacement to tree loss ratio Trees greater than 18-inches in diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.			

- In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building, and Code Enforcement, prior to removal of the subject trees:
 - The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
 - An alternative site(s) shall be identified for additional tree planting. Alternative sites may include neighborhood streets, local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.
 - A donation of \$300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Planning Project Manager prior to removal of the subject trees.

Biology – Tree Preservation

- Prior to the issuance of any approval or permit (including a grading permit), a then-current inventory of all trees on the site shall be prepared by a certified arborist as to size, species, and location on the lot and the inventory shall be submitted on a topographical map to the Environmental Principal Planner.
- Prior to approval of a PD permit, the applicant shall submit a site plan showing all trees to be preserved. The applicant shall also submit a tree preservation report that details how the existing trees will be preserved during and after construction, including but not limited to the measures below. The tree preservation report shall be completed to the satisfaction of the Environmental Principal Planner and the Director of Planning, Building, and Code Enforcement.
- Damage to any tree during construction shall be reported to the City’s Environmental Principal Planner, and the contractor or owner shall treat the tree for damage in the manner specified by the Environmental Principal Planner.

- No construction equipment, vehicles, or materials shall be stored, parked, or standing within the tree dripline.
- Drains shall be installed according to City specifications so as to avoid harm to trees due to excess watering.
- Wires, signs, and other similar items shall not be attached to trees.
- Cutting and filling around the base of trees shall be done only after consultation with the City arborist and then only to the extent authorized by the City arborist.
- No paint thinner, paint, plaster, or other liquid or solid excess or waste construction materials or wastewater shall be dumped at any time.
- Barricades shall be constructed around the trunks of trees as specified by a qualified arborist so as to prevent injury to trees making them susceptible to disease causing organisms.
- Whenever cuts are made in the ground near the roots of trees, appropriate measures shall be taken to prevent exposed soil from drying out and causing damage to tree roots.

Cultural Resources – Prehistoric Resources

- A qualified professional archaeologist shall monitor all ground disturbing construction within and adjacent to the mapped boundary of CA-SCI-418. The qualified professional archaeologist in charge shall have the flexibility to vary the monitoring intensity, depending on what is being viewed and the depth of the excavation/
 - If any significant cultural resources are exposed or discovered during preparation or subsurface construction activities, operations shall be stopped within a radius of 50 feet of the find. The Director of Planning, Building, and Code Enforcement shall be notified and a qualified professional archaeologist shall examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. Recommendations could include collection, recordation, and analysis of any significant cultural materials.
 - 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/her authority, the Native American Heritage Commission shall be notified 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 no subject to further subsurface disturbance.
 - If the Director of Planning, Building, and Code Enforcement finds that the archaeological find is not a significant resource, work would resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted.
 - A final report shall be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report shall include background information on the completed work, a

description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions.

Geology and Soils – On-site Soils

- Design and construct buildings in accordance with the design-level geotechnical investigation prepared for the project site, which identifies the specific design features that will be required for the project, including site preparation, compaction, trench excavations, foundation and subgrade design, drainage, and pavement design. The geotechnical investigation shall be reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance for the project.
- Implement standard grading and best management practices to prevent substantial erosion and siltation during development of the site.

Geology and Soils – Seismicity and Seismic Hazards

- The project shall be designed and constructed in conformance with the Uniform Building Code guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking and seismic-related hazards on the site.

Hazards and Hazardous Materials – Soil Quality

- Prior to building permit issuance, the project applicant shall have a qualified hazardous materials consultant complete analysis to determine the vertical and horizontal extent of soil contaminated with organochlorine pesticides and the associated metals (i.e., dieldrin, arsenic, lead, and mercury). Once the depth of impact is defined, impacted soil that contains residual contaminants above residential ESL, CHHSL, and/or TTLC concentrations will either be:
 - Removed from the site and taken to an appropriate disposal facility, consistent with local and state regulations. Confirmation soil sampling shall be completed from the bottom and sidewalls of excavations to ensure that all soils containing pesticides and metals in excess of their respective ESLs and/or CHHSLs, and total DDT in excess of the TTLC have been removed; or
 - Capped with building foundations (concrete slabs), street and parking lot pavements, and/or clean landscaping fill to limit exposure of future residents and park users.

Hazards and Hazardous Materials – Elevators/Hydraulic Lifts

- During removal of the elevators and hydraulic lifts, a qualified environmental professional shall be present to observe for soil staining. If soil staining is noted during demolition, limited sampling, testing, and associated soil off-haul may be necessary.
- Remove and appropriately dispose of the hydraulic elevator units and lifts.

Hydrology and Water Quality – Flooding

- The finished floor of structures (including residential buildings and parking structures) shall be located at or above the flood elevation of 15.3 feet (NGVD 1929).
- At least 10 percent of the project site (such as roadways and the public park) shall be designed below the flood elevation. These areas will function as flood conveyance areas to allow shallow flooding to cross the site.

Hydrology and Water Quality – Water Quality Construction

- Compliance with the NPDES General Construction Activity Stormwater Permit administered by the Regional Water Quality Control Board. Prior to future construction or grading for project with land disturbance of one acre or more, applicants shall be required to file a “Notice of Intent” (NOI) to comply with the General Permit and prepare a Stormwater Pollution Prevention Plan (SWPPP) that addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Copies of the SWPPP shall be submitted to the City of San José Department of Public Works. The following measures typically are included in a SWPPP:
 - Preclude non-stormwater discharges to the stormwater system.
 - Incorporate effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
 - Cover soil, equipment, and supplies that could contribute pollution prior to rainfall events or monitor runoff.
 - Perform monitoring of discharges to the stormwater system.
- Comply with the City’s Grading Ordinance.

Hydrology and Water Quality – Water Quality Post-Construction

- Comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29), and Post-Construction Hydromodification Management Policy (Policy 8-14) by treating building runoff with planter boxes and bioretention BMPs adjacent to the buildings’ exterior and in internal courtyards/podiums. The runoff from private streets would be treated in media filter boxes and runoff from public streets would be treated with hydrodynamic separators.

Noise – Short-term Construction Impacts

- Limit all construction-related activities to the hours of 7 AM to 6 PM Monday through Friday and 8 AM to 5 PM on Saturdays. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building, and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Locate stationary noise generating equipment as far as possible from sensitive receptors, such as residential uses.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance.
- Designate a “noise disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would

determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.

Noise – Interior Noise Levels

- The project shall complete project-specific acoustical analyses to ensure that the design of all of the proposed residential buildings and units and the implementation of identified attenuation measures (if any) will maintain interior noise levels at 45 dBA L_{dn} or lower. Building sound insulation requirements shall include the provision of forced-air mechanical ventilation to the satisfaction of the local building official for units along the north, east, and south facades of buildings on Subareas 1-3 so that windows could be kept closed to control noise. Given the estimated exterior noise level at residential units proposed at the east facade of buildings adjacent to North First Street, it may be necessary to provide sound-rated windows and doors to maintain interior noise levels at or below 45 dBA L_{dn} . Preliminary calculations indicate that the incorporation of a suitable form of mechanical ventilation system and moderate performance sound-rated windows (STC 28-33) would be sufficient to achieve the interior noise level standard of 45 dBA L_{dn} at the residential units nearest North First Street. The specific determination of what treatments are necessary shall be completed on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City along with the building plans and approved prior to issuance of a building permit.

Noise – Intra-project Noise Conflicts

- A qualified acoustical specialist shall complete a detailed acoustical analysis of the interior noise reduction requirements during final project design. The noise analysis shall design features to ensure that noise levels from commercial operations do not exceed 45 dBA L_{dn} within the proposed residential units. Walls and ceilings separating a dwelling unit from another unit, a corridor or commercial space must have a Sound Transmission Class (STC) of 50 or more, and floors must have an Impact Insulation Class (IIC) rating for 50, as required by the California Building Codes. The Building Division shall review the acoustical analysis at the Building Plan Check stage.

Memorandum

TO: John Baty
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

**SUBJECT: FINAL RESPONSE TO
DEVELOPMENT APPLICATION**

DATE: 1/02/08

PLANNING NO.: PDC07-057
DESCRIPTION: Planned Development Rezoning from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 1,660 single-family and multi-family attached residences, 40,000 square feet of retail space, a 4.9 acre public park, and 3 acres of private open space on a 32.6 gross acre site
LOCATION: west side of North First Street, approximately 450 feet southerly Rio Robles
P.W. NUMBER: 3-04634

Public Works received the subject project on 08/31/07 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 Tract or Parcel Map (if applicable) 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. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
2. **Transportation:**
 - a) An area wide traffic impact analysis was prepared as part of the North San Jose Area Development Policy, adopted June 2005. Traffic impacts were identified and resulted in an area wide traffic impact fees. This project is covered under the North San Jose EIR.
 - b) Consistent with North San Jose EIR, this project is required to pay a traffic impact fee. The 2007 fee is \$7,463.00 per single-family unit and \$5,971 per multi-family unit and subject to annual escalation of 3.3%. This fee must be paid prior to

issuance of public works clearance. Credits for existing structures on site will be applied to the residential traffic impact fee consistent with the policy and will be prorated with each building permits issued.

3. **Street Improvements:**

- a) In order for the River Oaks Street to be accepted as a public street a public access easement should be obtained from the VTA side of the project, otherwise this section of the River Oaks street shall continue to be a private street. An irrevocable offer of dedication of public streets shall be made for the future extension of River Oaks Parkway.
- b) Street modification at the intersection of River Oaks Parkway and North First Street to accommodate two thru travel lanes, bike lanes, new sidewalk, and east bound left turn pocket(s) of at least 100 feet length.
- c) Project frontage along North First Street shall be modified to include parking and at least 15-foot wide attached sidewalk. Dedication of sidewalk easement will be required.
- d) Right-of-way dedication for street C shall be 40 feet, 60 feet for Park Street.
- e) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- f) Remove and replace curb, gutter, and sidewalk along project frontage.
- g) Upgrade handicap ramps at the corner of River Oaks Pkwy and N. First St to meet current ADA standards.

4. **Sanitary:**

- a) The sanitary sewer report prepared by RJA dated December 19, 2007 has been reviewed and found to be in general conformance with City policies.
- b) All new sanitary sewer pipe shall be installed per the recommendation of this report.
- c) The sanitary sewer report should also include the impact of the project on the existing 30-inch sanitary sewer main on north first street. Flow monitoring to verify capacity is recommended prior to approval of the PD permit. Some flow monitoring data for the 30-inch sewer pipe downstream of the project location is available, contact City Staff for information.
- d) The sanitary sewer easement shown on page 4a seems to be private easement and should be vacated before the land use plan is approved as proposed. However, if the sewer line is still active an alternative plan for realignment should be considered prior to approval of the PD permit.

5. **Storm:**

- a) The storm sewer design report prepared by RJA dated December 20, 2007 has been reviewed and found to be in general conformance with City policies.
- b) An area wide storm sewer capacity study is currently underway by the City. This report will identify existing deficiencies in the North San Jose redevelopment areas and come up with a list of future improvement projects.
- c) In the meantime, all new storm sewer pipes shall be installed per the current City of San Jose design standards (10-year storm) with an additional factor of safety.

- d) All streets should be built higher than the lowest rim elevation of the existing 84-inch storm sewer main.

6. **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) The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.

7. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29.

- a) The project's Stormwater Control Plan and numeric sizing calculations have been and found to be in compliance with the policy. At the PD permit stage further details will be required.
- b) Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- c) A one-time operation and maintenance fee in the amount of \$24,000 per unit for the maintenance of the proposed mechanical units in the public right-of-way is due prior to issuance of a Public Clearance.
- d) A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating the all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.

8. **Stormwater Peak Flow Control Measures:** Projects that are required to install treatment control measures are encouraged to comply with the requirements of the City's Post-Construction Hydromodification Management Policy (City Council Policy 8-14) to control the project's hydromodification impacts that can cause increased erosion and other impacts to beneficial uses of local rivers, streams and creeks.
 - a) It is recommended that the project install treatment control measures that have flow-control benefits such as bioretention facilities, infiltration trenches, filter strips, and vegetated swales.

9. **Flood: Portions in Zone AH, Elevation 13.00' National Geodetic Vertical Datum 1929 (NGVD 1929), Zone AO (Depth 1'), and Zone X**
 - a) Portions of the project site have been designated as Flood Zone AH, Elevation 13.00' and Flood Zone AO (Depth 1'), effective October 25, 2006, by a Letter of Map Revision (LOMR) issued by the Federal Emergency Management Agency (FEMA). The Santa Clara Valley Water District (District) administered the LOMR submittal in conjunction with the Downtown and Lower Guadalupe River Flood Protection Projects. The net result is that portions of the project site will continue to remain within the 100-year floodplain (area having a one-percent or greater chance of being flooded in any given year).
 - b) The project may propose to apply for a Letter of Map Revision Based on Fill (LOMR-F) to FEMA for removal of applicable buildings from the 100-year floodplain.
 - i) The Conditional Letter of Map Revision Based on Fill (CLOMR-F), that provides comment on the proposed project by FEMA, is required prior to issuance of a building permit.
 - ii) The approved LOMR-F is required prior to issuance of an occupancy permit.
 - iii) A Floodproofing Certificate (FEMA Form 81-65), floodproofing details, and if applicable, a Flood Emergency Operation Plan and an Inspection & Maintenance Plan may be required prior to issuance of a building permit.
 - c) The project site is also within the 1987 North San Jose Floodplain Management Study (NSJFMS) area. The NSJFMS has been updated to reflect the completed Downtown and Lower Guadalupe River Flood Protection Projects and to show the resulting blockage requirements for applicable projects in North San Jose.
 - i) Based on the Final NSJFMS Update, the project is required to have an ultimate blockage not to exceed 90% of the site perpendicular to flow of flood waters.
 - ii) The minimum design elevations shown on the Final NSJFMS Update range from about 12.25' to 13.75' NGVD 1929. Lowest finished floor elevations of each building shall conform to the applicable minimum design elevation shown on the Final NSJFMS Update maps.
 - d) The following applies to buildings in Flood zone X: There are no City floodplain requirements for buildings in Flood zone X. Flood zone X is an area of moderate or minimal flood hazard and is used on new and revised maps in place of Zones B and C.
 - e) The following finish floor elevation conditions apply to buildings in Flood zones AH and AO:

- i) For buildings in zone AH: Elevate the lowest floor, including basement, above 13.00' NGVD 1929 or above the Final NSJFMS Update minimum design elevation, whichever is higher.
 - ii) For buildings in zone AO: Elevate the lowest floor, including basement, more than 1 foot above the highest existing adjacent grade to the proposed building or above the Final NSJFMS Update minimum design elevation, whichever is higher.
 - iii) For buildings in both zone AH and zone AO: Elevate the lowest floor, including basement, to the highest of the following: above 13.00' NGVD 1929; more than 1 foot above the highest existing adjacent grade to the proposed building; or above the Final NSJFMS Update minimum design elevation.
- f) The following additional conditions apply to buildings in Flood zones AH and AO:
- i) An Elevation Certificate (FEMA Form 81-31) for each building based on construction drawings is required prior to issuance of a building permit. Consequently, an Elevation Certificate based on finished construction is required prior to issuance of an occupancy permit.
 - ii) Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage.
10. **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.
11. **Municipal Water:** In accordance with City Ordinance #23975, Major Water Facilities Fee is due and payable. Contact Tim Town at (408) 277-3671 for further information.
12. **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.
13. **Complexity Surcharge:** 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.
14. **Electrical:** 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.
15. **Street Trees:**
- a) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
 - b) Contact the City Arborist at (408) 277-2756 for the designated street tree.

- c) Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings.
16. **Private Streets:**
- a) Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
 - b) The plan set includes details of private infrastructure improvements. The details are shown for information only; final design shall require the approval of the Director of Public Works.

Please contact the Project Engineer, Amit Mutsuddy, at (408) 535-6828 if you have any questions.



Ebrahim Sohrabi
Senior Civil Engineer
Transportation and Development Services Division

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SANTA CLARA VALLEY WATER DISTRICT

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SAN JOSE, CA 95118-3686
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AN EQUAL OPPORTUNITY EMPLOYER

File: 30864
Guadalupe River

December 11, 2007

Mr. John Baty
City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San Jose, CA 95113-1905

Subject: City File No. PDC07-057; Planned Development Rezoning

Dear Mr. Baty:

Santa Clara Valley Water District (District) staff has reviewed the plan set for the subject project western side of North First Street, approximately 450 feet south of Rio Robles Street, received on November 15, 2007.

As you know if the project does not encroach onto District fee title or easement right of way, a District permit will not be required. As a courtesy the City has sent the plan set to the District for review; thank you for your consideration.

Although the plans do not indicate the construction of a trail connection, it is my understanding that this option has been considered. Due to the close proximity of the River Oaks Parkway connection, a new trail connection should be discouraged.

The District supports locating the park next to the levee; however, park landscaping, in particular the placement of trees should be avoided within 15 feet of the toe of the levee. Following recent natural disasters the Army Corps of Engineers has increased awareness and concern for integrity of levees and discourages any vegetation except grasses on levee structures or within 15 feet of the levee toe. Please see the Army Corps of Engineers Engineering Manual, Guidelines for Landscape Planting at Floodwalls, Levees & Embankment Dams (EM 1110-2-301), by following the link below:
<http://www.usace.army.mil/publications/eng-manuals/>

The plans indicate that the project owner is planning on using California native tree species in the park area. The District suggests that the project owner consider propagating the natives from parent plants local to the Guadalupe River watershed. If local natives do not fit the landscape goals non-invasive, drought tolerant, non-native ornamentals and non-local California natives are a good choice. Both groups do not have the potential to cross-pollinate with native riparian and local native species, ensuring the health of the species well into the future. Please refer to the handouts provided with the District's previous letter dated August 28, 2007 addressed to Mr. Rodrigo Orduna.

Mr. John Baty
Page 2
December 11, 2007

If you have any questions or comments, please call me at (408) 265-2607, extension 3135.
Please reference District File No. 30864 on future correspondence regarding this project.

Sincerely,



Wendy Allison, P.E.
Assistant Civil Engineer
Community Projects Review Unit

cc: A. Gurevich, S. Tippets, W. Allison, File (2)

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