2-27-07
11.1(b)

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

STAFF REPORT

Hearing Date/Agenda Number
C.C. 02/27/07 Item No.:

File Number
C05-126

Application Type
Conforming Rezoning

Council District
3

Planning Area
Central

Assessor's Parcel Number(s)
259-28-003; -004; -005

PROJECT DESCRIPTION — Completed by: Lesley Xavier

Location: East side of Stockton Avenue, approximately 300 feet north of West Santa Clara Street (106-138 Stockton Avenue).

Gross Acreage: 1.7 | Net Acreage: 1.7 | Net Density: N/A

Existing Zoning: HI Heavy Industrial | Existing Use: Vacant warehouse building and commercial indoor recreation.

Proposed Zoning: CG Commercial General | Proposed Use: Commercial uses

GENERAL PLAN — Completed by: LX

Land Use/Transportation Diagram Designation
General Commercial

Project Conformance:
[☒] Yes [☐] No
[☒] See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING — Completed by: LX

North:	Office	HI Heavy Industrial
East:	Union Pacific Railroad/Caltrain railroad tracks	HI Heavy Industrial
South:	Auto body shop	HI Heavy Industrial; LI Light Industrial
West:	Vacant Lot	CG Commercial General

ENVIRONMENTAL STATUS — Completed by: LX

[☐] Environmental Impact Report certified on
[☐] Negative Declaration circulated on
[☒] Mitigated Negative Declaration adopted on 11-13-06 and addendum thereto

[☐] Exempt
[☐] Environmental Review Incomplete

FILE HISTORY — Completed by: LX

Annexation Title: Stockton District | Date: July 1, 1924

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

[☒] Approval
[☐] Approval with Conditions
[☐] Denial
[☐] Uphold Director's Decision

Date: 2/7/07

Approved by:
[☒] Action
[☐] Recommendation

APPLICANT/OWNER/DEVELOPER

Moraga/Rheem LLC
Daniel E. Hudson
1451 Fruitdale Avenue, Suite 101
San Jose, CA 95128

PUBLIC AGENCY COMMENTS RECEIVED — Completed by: LX

Department of Public Works

See attached.

Other Departments and Agencies

See attached correspondence from the following:

- Santa Clara County Airport Land Use Commission (ALUC)

GENERAL CORRESPONDENCE

None.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

On December 12, 2006, the City Council approved a General Plan Amendment, File No. GP05-03-08, to change the land use designation on the subject site from Combined Industrial/Commercial to General Commercial. The applicant originally requested a change to Core Area and not the approved General Commercial designation. The Core Area designation would have allowed for a variety of uses on the site including office, retail, residential and entertainment. It would also have allowed maximum building heights to be governed by the Federal Aviation Administration (FAA) limitation, and an exemption from the City's Transportation Level of Service Policy.

Project Description

The applicant, Daniel E. Hudson of Moraga/Rheem LLC, is requesting a conforming rezoning of the subject 1.7 gross-acre site from HI Heavy Industrial zoning district to CG Commercial General zoning district. The flat rectangular site is currently developed with two warehouse buildings and a surface parking lot.

The applicant intends to facilitate the reuse and redevelopment of the site for commercial and office uses. No development permit has been filed at this time.

Site and Surrounding Uses

The subject site is located on the east side of Stockton Avenue, approximately 300 feet north of West Santa Clara Street (106-138 Stockton Avenue). The subject site is immediately surrounded by an auto body shop to the south, a vacant building across Stockton Avenue to the west, and office uses to the north. The site is separated from the adjacent HP Pavilion by the Union Pacific Railroad/Caltrain railroad tracks that border the site to the east. There are two existing buildings and a surface parking lot on the site.

The building at 106 to 120 Stockton Avenue has a front two-story office space and a rear one story manufacturing area. The front portion of this building currently houses a Judo Studio. The building at 138 Stockton Avenue is one story with office space in the front and a manufacturing area in the rear, and is currently unoccupied. The site is located in the Julian-Stockton Redevelopment Area and in a State Enterprise Zone.

GENERAL PLAN CONFORMANCE

The subject site has a land use designation of General Commercial on the San Jose 2020 Land Use/Transportation Diagram. General Commercial land use category allows miscellaneous commercial uses including both strip commercial areas along major thoroughfares, as well as, freestanding commercial establishments. The proposed CG Commercial General Zoning District conforms to this designation because the land use development regulations allow miscellaneous commercial uses envisioned by the General Plan.

Consistency with the San José 2020 General Plan Major Strategies

The proposed conforming rezoning to CG Commercial General Zoning District is consistent with the following City of San José 2020 General Plan Major Strategies:

Downtown Revitalization Major Strategy

Downtown San José is vital to the City's long-term economic and social well-being. A prominent and attractive Downtown is a catalyst that will bring new investment, residents, business visitors and new life to the center city. The neighborhoods and industrial areas surrounding the Downtown area also need to go through a revitalization process to counter the trends of deterioration and economic decline. The objective for Downtown represents a strategy for renewal that begins symbolically in the center city and continues outward. As the City grows there will be more emphasis on revitalization of older neighborhoods, business districts, and employment centers throughout the City.

The proposed rezoning is consistent with this Strategy in that the site is currently underutilized and the proposed zone change from HI Heavy Industrial to CG Commercial General designation will allow for a wide variety of commercial uses on the site. Active use of the site will bring new life to the area aiding its revitalization.

Urban Conservation/Preservation Major Strategy

The Urban Conservation/Preservation Major Strategy states that at a minimum, the City should strive to maintain adequate levels of service for existing neighborhoods by avoiding development at the fringe of the City, which could divert these services. Preservation of specific structures or special areas is a part of the Urban Conservation/Preservation Major Strategy. The objective of preservation goes beyond saving an individual structure or even a group of structures that may have architectural or historic significance. At a strategic level, preservation activities contribute visual evidence to a sense of community that grows out of the historical roots of San José's past. Historic and architectural structures add inestimable character and interest to the City's image.

The proposed rezoning is consistent with this Strategy in that the CG Commercial General designation would allow for a wide variety of commercial uses on the site and any redevelopment of the site would be infill development at a location where City services exist.

Growth Management

The purpose of the Growth Management Major Strategy is to find the delicate balance between the need to house new population and the need to balance the City's budget, while providing acceptable levels of service. The Greenline/Urban Growth Boundary, Urban Reserve, and Urban Service Area policies help the City to provide urban services to existing neighborhoods without reduction in the level of services resulting from the service demands of new urban development at the fringe of the City. New development is expected to pay for the infrastructure required to support it.

The proposed rezoning is consistent with this Strategy in that the site is located within the Downtown Core Area where existing services already exist. Any redevelopment of the site would be required to pay for any infrastructure required to support it.

ENVIRONMENTAL REVIEW

The Director of Planning adopted a Mitigated Negative Declaration (MND) on November 13, 2006 for the General Plan amendment to Core Area and a rezoning to DC Downtown Primary Commercial. The project description as stated in the Mitigated Negative Declaration for File No. GP05-03-08, has changed since its circulation from requesting a zoning designation of DC Downtown Primary Commercial Zoning District to now requesting CG Commercial General. The new proposed CG Zoning District is a less intensive designation. The CG district does not permit residential uses; therefore there are no longer noise impacts that will need to be addressed with development. The CG district also does not allow maximum heights up to Federal Aviation Administration (FAA) regulations as does the DC district. In conclusion, there are no new impacts associated with the proposed CG Zoning District, as it is less intensive than the DC Zoning District. Therefore, the Initial Study and Mitigated Negative Declaration are adequate to address the proposed rezoning to CG Commercial General Zoning district.

The MND includes mitigation to reduce any potential impacts of the future development of the site to a less than significant level per the California Environmental Quality Act (CEQA). The Mitigated Negative Declaration concluded that the General Plan Amendment would have a less than significant impact with mitigation measures in the following categories: Air Quality, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, and Noise.

Cultural Resources

The primary issue addressed in the environmental review is the potential impact on cultural resources with the future development of the site. Because no specific development or demolition of existing structures is proposed at this time, the MND includes program level mitigation measures that should be considered prior to the issuance of a development permit. For this reason a discussion of the impact to cultural resources is included below.

Based on California Environmental Quality Act (CEQA) thresholds and information provided in the historic evaluation, further research and integrity evaluation will be required to determine whether future development under the proposed General Plan Amendment and rezoning would significantly impact historic resources as defined by the California Environmental Quality Act (CEQA) Guidelines Section 15064.5. It is assumed for the purposes of the environmental analysis that the existing structures have the potential for adaptive reuse with General Commercial uses. Future development consistent with the proposed amendment and rezoning would be subject to *San José 2020 General Plan* Historic, Archaeological, and Cultural Resources Policies 1 and 6, which require that preservation of historically or archaeologically significant sites, structures, and districts be a key consideration in the development review process.

The following are the two project level measures to be considered at the time of development:

1. *Prior to future development of the project site proposing demolition of the 106-120 Stockton Avenue structure, an intensive level Historic Evaluation, including a Department of Parks and Recreation (DPR) form, shall be required for the structure to determine whether it appears to be eligible for the California Register of Historical Resources for its association with the food processing industry in San José, and to identify appropriate impacts and mitigation measures.*

2. *Prior to future development of the site a reconnaissance level survey should be conducted in the Stockton Avenue area to address the question of a potential historic district.*

ANALYSIS

The proposed rezoning to CG Commercial General Zoning District is in conformance with the General Plan designation of General Commercial. The uses allowed by right in the CG Commercial General District are commercial in nature. Other uses may be allowed as an independent use upon the issuance of and in compliance with a Conditional or Special Use permit. This rezoning does not approve any physical changes to the existing structures on-site or allow any new construction. Any changes to the existing development or redevelopment of the site would be subject to the approval of a subsequent development permit.

Land Use Compatibility

The CG Commercial General zoning district allows for commercial uses that include, office, retail, personal services, food services, and entertainment. The area currently exhibits a mix of uses including office, commercial, industrial, and residential. The subject site is surrounded by different zoning districts including LI Light Industrial, HI Heavy Industrial, and CG Commercial General. No development has been proposed for this site. However, any of the uses permitted by the CG Commercial General zoning district could be found compatible with the surrounding area.

HISTORIC LANDMARKS COMMISSION

The proposed General Plan amendment and rezoning was reviewed by the Historic Landmarks Commission at their November 1, 2006 meeting.

The structure located at 138 Stockton Avenue (APN 259-28-004; -005) was built in 1930 for an assembly and fabrication factory, Western Elevator Manufacturing Company, who manufactured freight and passenger elevators. The structure located at 106-120 Stockton Avenue (APN: 259-28-003) was built between 1916 and 1917 and occupied by the J.S. Smith Manufacturing Company in 1918. The historic evaluation concluded that the buildings at 138 and 106-120 Stockton Avenue did not appear to meet the eligibility criteria for individual listing in the National or California Register, or as a Candidate City Landmark, but do qualify as a Structure of Merit in the City's Historic Resources Inventory. The Historic Evaluation also states that the property is located in an area that has not been surveyed to determine the potential for a historic district. Although much of the industrial fabric of the area has been demolished, a reconnaissance survey should be conducted in the area to address the question of a potential district.

The Historic Landmarks Commission recommended that survey work be done for the entire block before a policy decision was made on this site. They also agreed with staff that, prior to development or demolition, the structure at 106-120 Stockton Avenue will need an intensive level historic evaluation to determine whether it appears to be eligible for the California Register of Historical Resources for its association with the food processing industry in San José, and to identify appropriate impacts and mitigation measures.

PUBLIC OUTREACH

Property owners and tenants within a 1,000-foot radius of the subject site received a notice of the public hearings to be held on the General Plan Amendment request application before the Planning Commission on November 13, 2006 and City Council on December 12, 2006. The Department web site contains information regarding the General Plan amendment process, zoning process, staff reports, and hearing schedules. This web site is available to any member of the public and contains the most current information regarding the status of the applications.

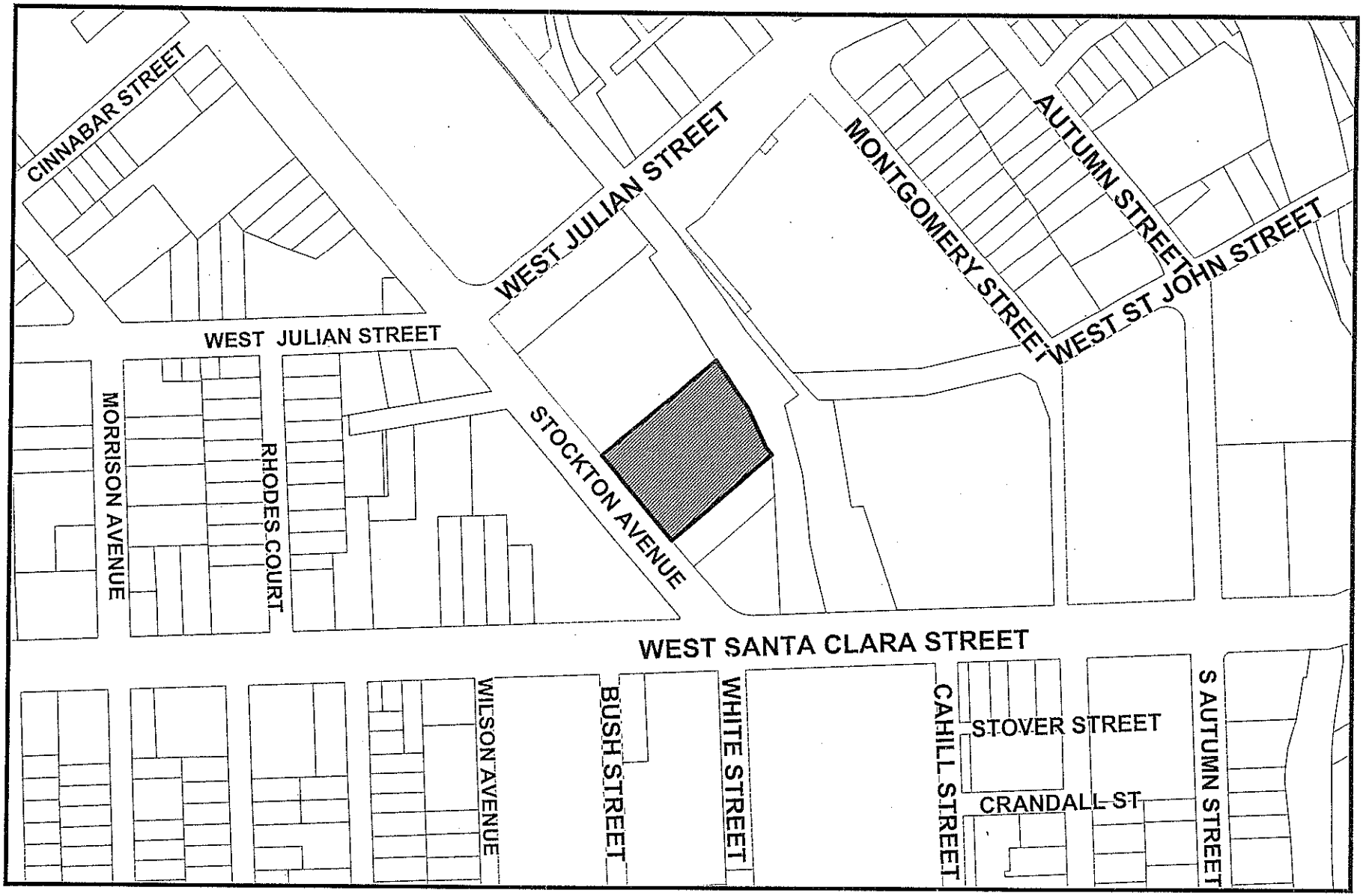
A community meeting for the General Plan amendment and rezoning request was held on Thursday, September 14, 2006 at the subject site. Only one person was in attendance at this meeting. After receiving interest from the Shasta Hanchett Park Neighborhood Association, a second community meeting was held on November 6, 2006 at the subject site. Those in attendance expressed their concerns with changing the zoning to the initial request of DC Downtown Primary Commercial in that they did not want the high-density development that is allowed under the designation, but felt that uses permitted under the designation were appropriate. They also stated that high-density development west of Highway 87 was not appropriate because the area is a Neighborhood Business District and not Downtown and that designating the site for General Commercial would be more appropriate.

RECOMMENDATION

Planning staff recommends that the Planning Commission forward a recommendation to the City Council to approve the proposed Conventional Rezoning for the following reasons:

1. The proposed project may be found consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of General Commercial.
2. The proposed project furthers the goals and objectives of the General Plan's Downtown Revitalization, Urban Conservation/Preservation, and Growth Management Major Strategies.
3. The proposed project is compatible with existing and proposed uses on the adjacent and neighboring properties.

Attachments



N

Scale: 1"=300'

Map Created On: 12/21/2005

Noticing Radius: 500 feet

File No: C05-126

District: 3

Quad No: 83

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement
JOSEPH HORWEDEL, DIRECTOR

ADDENDUM TO A NEGATIVE DECLARATION

Pursuant to Section 15164 of the CEQA Guidelines, the City of San Jose has prepared an Addendum to a Negative Declaration (ND) adopted for a previous project. Because minor changes made to the project described below do not raise important new issues about the effects on the environment, this project is adequately covered by this Addendum to the Negative Declaration from the previous project.

PROJECT DESCRIPTION AND LOCATION

File No. C05-126. CONFORMING REZONING from HI Heavy Industrial Zoning District to CG Commercial General Zoning District for a project located on the east side of Stockton Avenue, approximately 300 feet north of West Santa Clara Street (106 Stockton Avenue) on a 1.7-gross-acre site.

Council District 3. County Assessor's Parcel Number 259-28-003

CERTIFICATION

The environmental impacts of this project were addressed by an Initial Study and documented by a Negative Declaration for a General Plan Amendment, File No. GP05-03-08, and certified as final on November 13, 2006. Specifically, the following impacts were reviewed and found to be adequately considered by the ND:

☒ Traffic and Circulation	☒ Soils and Geology	☒ Noise
☒ Cultural Resources	☒ Hazardous Materials	☒ Land Use
☒ Urban Services	☒ Biotics	☒ Air Quality
☐ Aesthetics	☐ Airport Considerations	☐ Microclimate
☐ Energy	☐ Relocation Issues	☐ Construction Period Impacts
☐ Transportation	☒ Utilities	☐ Facilities and Services
☒ Water Quality	☐ Flooding	☐

Lesley Xavier
Project Manager

January 22, 2007
Date
January 22, 2007

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Ron Eddow
Deputy

ANALYSIS

The project description as stated in the Mitigated Negative Declaration for File No. GP05-03-08, has changed since its circulation from requesting a zoning designation of DC Downtown Primary Commercial Zoning District to now requesting CG Commercial General. The new proposed CG Zoning District is a less intensive designation. The CG district does not permit residential uses; therefore there are no longer noise impacts. The CG district also does not allow maximum heights up to Federal Aviation Administration (FAA) regulations as the DC district does. In conclusion, there are no new impacts associated with the proposed CG Zoning District, as it is less intensive than the DC Zoning District. Therefore, the Initial Study and Mitigated Negative Declaration are adequate to address the proposed rezoning to CG Commercial General Zoning district.

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement
JOSEPH HORWEDEL, ACTING DIRECTOR

DRAFT
MITIGATED NEGATIVE DECLARATION

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

NAME OF PROJECT: General Plan Amendment and Conventional Rezoning

PROJECT FILE NUMBER: GP05-03-08/C05-126

PROJECT DESCRIPTION: GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Combined Industrial/Commercial on 1 acre, and General Commercial on approximately 0.7 acres to Core Area and CONVENTIONAL REZONING from HI Heavy Industrial Zoning District to DC Downtown Commercial Zoning District on an approximately 1.7 gross acre site and subsequent permits.

PROJECT LOCATION & ASSESSORS PARCEL NO.: East side of Stockton Avenue, approximately 300 feet north of West Santa Clara Street (106 Stockton Avenue); 259-28-003

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: Moraga Rheem LLC, Attn: Mr Daniel Hudson, 1451 Fruitdale Avenue, Suite 101, San Jose, CA 95128 (408) 869-3604

FINDING

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

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

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

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

III. AIR QUALITY –

- Require modeling of carbon monoxide concentrations at intersections operating at LOS D or worse as part of the project-level environmental review for future development. If the modeling finds that violations would potentially occur, measures shall be implemented to improve traffic flows, reduce congestion at impacted intersections or roadways, or otherwise reduce vehicular emissions.

- Require modeling of total project emissions for future development that generates more than 2,000 vehicle trips per day to determine if emissions exceed BAAQMD thresholds. If thresholds are exceeded based on modeling, measures shall be implemented to reduce vehicle trips or vehicle miles traveled, to encourage use of low emission vehicles, or to use other support measures based on BAAQMD CEQA Guidelines.

- Future development shall implement Transportation Control Measures (TCMs) as recommended by the BAAQMD.

- Implement standard dust control measures during construction of future development, including control measures recommended by the BAAQMD.

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

V. CULTURAL RESOURCES –

- Prior to future development of the project site proposing demolition of the 106-120 Stockton Ave. structure, an intensive level Historic Evaluation, including a Department of Parks and Recreation (DPR) form, shall be required for the structure to determine whether it appears to be eligible for the California Register of Historical Resources for its association with the food processing industry in San Jose, and to identify appropriate impacts and mitigation measures.

- Prior to future development of the project site a reconnaissance level survey should be conducted in the Stockton Avenue area to address the question of a potential district.

- Prior to future development of the project site, an archaeological report shall be completed to determine the potential for archaeological deposits and to identify appropriate recommendations to assure preservation of archaeological resources.

GEOLOGY AND SOILS –

- Future development shall be designed in accordance with the specific recommendations of design-level geotechnical/foundation investigations. Prior to the issuance of a Public

Works Clearance for the project, the design-level geotechnical analysis shall be prepared to the satisfaction of the Director of the Department of Public Works.

VI. HAZARDS AND HAZARDOUS MATERIALS –

- Prior to the issuance of a development permit on the project site for structures that would exceed the FAA imaginary surface applicable to the property or that would stand 200 feet or more above ground, the following actions shall be completed:

  - The applicant shall comply with the notification requirements of Federal Aviation Regulations, Part 77, and receive a "Determination of No Hazard" from the FAA.
  - Conditions set forth in the required FAA determination of No Hazard regarding rooftop lighting or marking shall be incorporated into the final design of the structure.
  - Avigation easements, recognizing the property is subject to aircraft noise impacts and specified height restrictions, shall be dedicated to the City of San Jose.

- Prior to the issuance of a development permit on the project site, an updated Phase I Assessment shall be completed and information on site contamination confirmed to assure that current conditions do not pose a risk to human health or the environment. If the updated Phase I Assessment indicates that hazardous materials may be impacting the site, additional soil and/or groundwater investigations shall be conducted by a qualified environmental professional to assess the extent of contamination at the site to the satisfaction of the City's Environmental Compliance Officer.

  If results of the subsurface investigation indicate the presence of hazardous materials, site remediation shall be completed in accordance with state and local regulatory requirements. Preparation of a health risk assessment by a qualified environmental professional may also be required to determine the long-term effects on residential or other site occupants. Remediation may consist of soil removal, groundwater extraction/treatment, vapor barriers, or other design measures. All remediation shall reduce contamination to acceptable cleanup levels for the proposed use (office, commercial, residential) in accordance with applicable local, state, and federal requirements.

- An asbestos survey shall be performed for existing structures on the site prior to demolition. If asbestos-containing materials are found, these materials shall be removed and disposed of by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the BAAQMD.

  A lead-based paint survey shall be performed for existing structures on the site prior to demolition. If lead-based paint is found, federal and state worker health/safety measures shall be implemented to protect construction workers during demolition. All loose or peeling lead-based paint shall be removed by a qualified lead abatement contractor and disposed of in accordance with hazardous waste regulations.

VII. HYDROLOGY AND WATER QUALITY –

- Future development shall obtain and comply with the NPDES General Construction Activity Storm Water Permit administered by the RWQCB. Prior to construction, the applicant shall file a Notice of Intent in accordance with the General Permit and prepare a Storm Water Pollution Prevention Plan (SWPPP) to minimize construction and post-construction runoff. The SWPPP should include the following measures:

  - Install BMPs for erosion and sediment control during and after construction.
  - Cover soil, equipment, and supplies that could contribute to water pollution.
  - Perform monitoring of discharges to the storm water system.

- Future development shall prepare and implement an erosion control plan to the San Jose Public Works Department in compliance with the City's Grading Ordinance, RWQCB regulations, and the Santa Clara Valley Urban Runoff Pollution Prevention Program.

- Future development shall include permanent, post-construction stormwater treatment measures in compliance with provision C.3 of the City of San Jose's NPDES. Post-construction BMPs and design features could include the following: infiltration basins or trenches, permeable pavements, vegetated filter strips or swales, hydromodification separators, media filtration devices, green roofs, and wet vaults.

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

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

X. NOISE –

- A project-specific noise analysis shall be prepared for future development by an acoustical consultant to determine the noise impacts of the project from mobile and stationary sources. Appropriate design measures shall be identified and incorporated into the project to minimize impacts on any sensitive receptors. Outdoor activity areas shall be designed so that they are shielded from noise by buildings or other structures and achieve a minimum 65 dBA DNL.

- For future residential projects, a project-specific noise/vibration analysis shall be prepared by an acoustical consultant to determine specific design measures to reduce interior noise levels to conform to State Title 24 requirements and exterior noise to appropriate levels. Train noise shall be reduced by the construction of sound walls, building orientation, building attenuation measures, and mechanical ventilation systems. Outdoor common areas shall be designed so that they are shielded from noise by buildings or other structures.

- Prior to the issuance of a building permit for future development, the property owner shall grant an avigation easement to the City of San Jose in compliance with the ALUC Plan and City General Plan Aviation Policies to allow for acceptance of aircraft noise impacts.

- Implement the standard noise abatement measures during construction of future development.

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

XII. PUBLIC SERVICES – The project will not have a significant impact on this resource, therefore no mitigation is required.

XIII. RECREATION – The project will not have a significant impact on this resource, therefore no mitigation is required.

XIV. TRANSPORTATION / TRAFFIC – The project will not have a significant impact on this resource, therefore no mitigation is required

XV. UTILITIES AND SERVICE SYSTEMS – The project will not have a significant impact on this resource, therefore no mitigation is required.

XVI. MANDATORY FINDINGS OF SIGNIFICANCE – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **November 13, 2006**, any person may:

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

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

(3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, San José CA 95113-1905 and include a $100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a

noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Joseph Horwedel, Acting Director
Planning, Building and Code Enforcement

Circulated on: 10/24/06 Akemi Omichen
Deputy

Adopted on: 11/13/06 Akemi Omichen
Deputy

MND/JAC 8/26/05

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: Lee Butler
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

SUBJECT: **FINAL RESPONSE TO DEVELOPMENT APPLICATION**

DATE: 01/06/06

PLANNING NO.:	C05-126
DESCRIPTION:	Conforming Rezoning from HI Heavy Industrial Zoning District to DC Downtown Commercial Zoning District to allow high-rise residential uses on a 1.73 gross acre site
LOCATION:	east side of Stockton Avenue, approximately 300 feet northerly of West Santa Clara Street
P.W. NUMBER:	3-16850

Public Works received the subject project on 01/03/06 and submits the following comments.

1. Please refer to Public Works' memo dated 4/8/05 relating to PRE05-133.

Please contact the Project Engineer, Winnie Pagan, at (408) 535-6824 if you have any questions.

Ebrahim Sohrabi
Senior Civil Engineer
Transportation and Development Services Division

wlp
ES:WLP

6000_3232190076.DOC

ALUC Airport Land Use Commission
SANTA CLARA COUNTY
County Government Center, East Wing, 70 West Hedding Street, 7th Floor, San Jose,California 95110
(408) 299-2521 • FAX (408) 279-8537

January 27, 2006

RECEIVED
MAR 27 2006
CITY OF SAN JOSE
PLANNING DEPARTMENT

Lee Butler
City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, Tower 3
San Jose, CA 95113

Re: City File No. C05- 126
Conforming Rezoning from HI (Heavy Industrial) Zoning District to DC (Downtown Commercial) Zoning District to allow high-rise residential uses on an approximately 1.7 gross acre site located on the northeast side of Stockton Avenue, approximately 300 feet north of W. Santa Clara Street

Dear Lee:

Please find enclosed a copy of the agenda and staff recommendation for the above-cited project reviewed by the Airport Land Use Commission (ALUC) at a regular meeting on March 23, 2006.

The proposed project was determined consistent with ALUC policies, as defined in the *Land Use Plan for Areas Surrounding Santa Clara County Airports*, with the following conditions:

1. Property owner(s) grant avigation easement(s) for APNs 259-28-005, 259-28-004, 259-28-003 and 259-28-002 to the City of San Jose for San Jose International Airport in accordance with Policy G-3.
2. When a specific development project(s) is proposed, height restrictions on the project area shall be imposed in conformance with the FAA Part 77 Imaginary Surface in effect at that time, regardless of any No Hazard determination by the FAA.

If the ALUC fee for Major Project review has not already been paid, this letter also serves as a reminder that the referral agency must remit payment of $805.00 to the County of Santa Clara. **The ALUC file number is 8969-06R-02.** Fee notification was previously provided in a letter dated January 27, 2006. If you have any questions, please do not hesitate to contact me at (408) 299-5798.

Sincerely,

Dana Peak

Dana Peak
ALUC Staff Coordinator

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED ON THE EASTERLY SIDE OF STOCKTON AVENUE, APPROXIMATELY 300 FEET NORTH OF WEST SANTA CLARA STREET TO CG COMMERCIAL GENERAL ZONING DISTRICT

WHEREAS, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, a Mitigated Negative Declaration (MND) was prepared for a rezoning project under File Nos. GP05-03-08 and C05-126, and said MND is adopted on November 13, 2006; and

WHEREAS, an Addendum to the Mitigated Negative Declaration was prepared for a rezoning project, and said Addendum is adopted on February 27, 2007.

WHEREAS, the Council is the decision-making body for the proposed subject rezoning to CG Commercial General; and

WHEREAS, this Council of the City of San José has considered and approves said MND addendum thereto prior to approval of this project; and

WHEREAS, the proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as CG Commercial General.

SECTION 2. The district map of the City is hereby amended accordingly.

SECTION 3. The land development approval that is the subject of City File No.

C05-126 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed by the California Regional Water Quality Control Board for the San Francisco Bay Region.

PASSED FOR PUBLICATION of title this 27th day of February, 2007 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

cc: