

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
C.C. 02-15-05

**COUNCIL AGENDA:**

File Number  
C04-084

2-15-05

**ITEM NO.:**

11.5

## STAFF REPORT

Application Type  
Conforming Rezoning

Council District  
6

Planning Area  
Willow Glen

Assessor's Parcel Number(s)  
429-45-036

### PROJECT DESCRIPTION

Completed by: Ed Schreiner

Location: West end of Peregrino Way, approximately 150 feet northerly of Dry Creek Road

Gross Acreage: 1.05

Net Acreage: 1.05

Net Density: N/A

Existing Zoning: R-1-2 Residence District

Existing Use: Single family residential

Proposed Zoning: R-1-5 Residence District

Proposed Use: Single family residential

### GENERAL PLAN

Completed by: ES

Land Use/Transportation Diagram Designation  
Low Density Residential (5 DU/AC)

Project Conformance:

Yes  No

See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: ES

North: Single-family residence

R-1-5 Residence District

East: Single-family residence

R-1-5 Residence District

South: Single-family residence

R-1-2 Residence District

West: Single-family residence

R-1-2 Residence District

### ENVIRONMENTAL STATUS

Completed by: ES

Environmental Impact Report

Exempt

Negative Declaration circulated on

Environmental Review Incomplete

Negative Declaration adopted on May 26, 2004

### FILE HISTORY

Completed by: ES

Annexation Title: Meridian No. 71

Date: February 1, 1986

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval

Date: January 26, 2005

Approved by: Susan Walton

Approval with Conditions

Action

Denial

Recommendation

Uphold Director's Decision

### OWNER

West Valley Financial Group, Inc.  
80 Swan Way, Suite 2  
Oakland, CA 94621-1437

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**PUBLIC AGENCY COMMENTS RECEIVED**

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Completed by: ES

**Department of Public Works**

None received

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**Other Departments and Agencies**

See attached memoranda from the Department of Parks, Recreation and Neighborhood Services and the Fire Department

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**GENERAL CORRESPONDENCE**

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None received

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

The applicant is requesting to rezone the subject 1.05 gross-acre site from R-1-2 Single-family Residence District to R-1-5 Single-family Residence District to allow single-family residential uses. The site is currently developed with one single-family residence.

A prior General Plan Amendment (GP04-06-01) was approved for this property to change the General Plan land use designation from Very Low Density Residential (2.0 DU/AC) to Low Density Residential (5.0 DU/AC). The applicant has concurrently filed a Parcel Map to subdivide the property into three lots.

The site is surrounded by residential uses on all sides.

**ENVIRONMENTAL REVIEW**

The environmental impacts of this project were addressed in a Mitigated Negative Declaration prepared in conjunction with the General Plan Amendment (GP04-06-01 MND, adopted May 26, 2004).

**GENERAL PLAN CONFORMANCE**

The site is designated Low Density Residential (5 DU/AC) on the San Jose 2020 General Plan Land Use/Transportation Diagram. The proposed R-1-5 Residence Zoning District is consistent with this designation.

## **ANALYSIS**

The proposed rezoning to R-1-5 Residence District will bring the zoning of the parcel into conformance with the General Plan and facilitate implementation of uses on the site that are consistent with the Low Density Residential General Plan designation and compatible with surrounding uses.

## **PUBLIC OUTREACH**

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

## **COORDINATION**

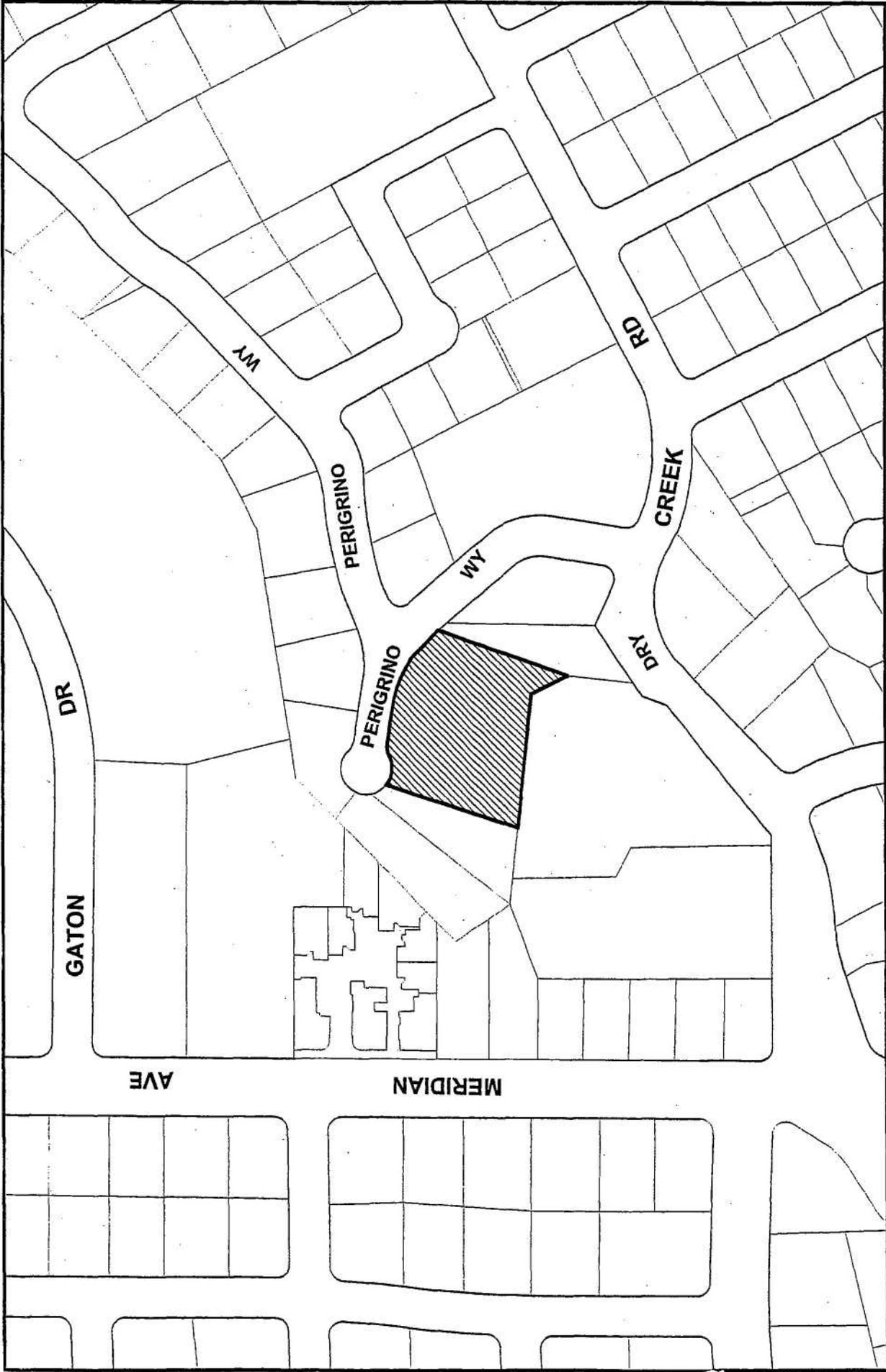
This project was coordinated with the Department of Public Works, Fire Department, Building Division, Environmental Services Department and the City Attorney.

## **RECOMMENDATION**

Planning staff recommends approval of the proposed zoning for the following reasons:

1. The proposed rezoning is in conformance with the General Plan Land Use/Transportation Diagram designation of Low Density Residential (5 DU/AC).
2. The proposed rezoning will facilitate development of this site that is compatible with the surrounding uses.

Attachments



Scale: 1"= 200'



 Subject Site

File Number: C04-084

Council District: 6

Quad Number: 98

# Memorandum

**TO:** Edward Schreiner

**FROM:** Dave Mitchell

**SUBJECT:** C04-084  
APN 429-45-036 & 037

**DATE:** October 1, 2004

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This is to respond to C04-084 for a Conforming Conventional Rezoning from R-1-2 Residential Zoning District to R-1-5 Residential Zoning District to allow for 5 single family detached residential units on two existing parcels consisting of 1.05 gross acre site located at the west end of Perigrino Way, approximately 150 feet northerly of Dry Creek Road. This project is subject to the Parkland Dedication Ordinance (PDO), Chapter 19.38 of the San Jose Municipal Code for the creation of any new residential lots/units. The existing housing structure is not subject to the PDO.

Please contact Brad Brown at 408-794-1319, if you should have any questions regarding these comments.



David J. Mitchell,  
Parks Planning Manager,  
Parks, Recreation and  
Neighborhood Services

cc: Brad Brown, PRNS  
Scott Reese, PRNS

OCT 07 2004

*Memorandum*

**TO:** Edward Schreiner  
Planning and Building

**FROM:** Nadia Naum-Stoian  
Fire Prevention Engineer  
San Jose Fire Department

**SUBJECT: INITIAL RESPONSE TO  
DEVELOPMENT APPLICATION**

**DATE:** 09/30/04

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Approved

Date n/a

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PLANNING NO.: C04-084  
DESCRIPTION: Conforming Conventional Rezoning from R-1-2 Residential Zoning District to R-1-5 Residential Zoning District to allow for 5 single-family detached residential units on a 1.05 gross acre site  
LOCATION: west end of Perigrino Way, approximately 150 feet northerly of Dry Creek Road  
ADDRESS: west end of Perigrino Way, approximately 150 feet northerly of Dry Creek Road (1726 PEREGRINO WY)  
FOLDER #: 04 126368 ZN

The plans received submitted to the San Jose Fire Department do not contain enough information for specific comments. The following are general requirements:

- Minimum site fire flow requirement per San Jose ordinance : 2,000 G.P.M.
- Average hydrant(s) spacing: 450 feet - Subject to Fire Department approval
- Comply with comments from the Building/Fire Departments at the plan review stage.
- A permit must be obtained from the Building and Fire Departments. Submit three (3) sets of construction plans to the Building Department, one (1) of those sets of plans will be routed to the San Jose Fire Department for review and comments.

**THE FOLLOWING CORRECTIONS SHALL APPLY TO THE SUBJECT APPLICATION:**

1. The needed fire flow noted above shall be provided from a minimum of 2 hydrants and shall be spaced apart on average 450 feet from the proposed project. Fire flow may be reduced upon construction of a four-hour wall, without openings, as per the adopted fire code. Construction of the area separation wall(s) is subject to review by the Fire Department.

- **THE FOLLOWING CORRECTIONS SHALL APPLY TO THE SUBJECT APPLICATION:** (Continued)
  2. Approved access road(s) and hydrant(s) shall be provided once wood framing is available at site or provide an alternate means of water suppression subject to the approval of the Fire Department. Obtain permit and pay applicable fees prior to the installation. Contact the San Jose Fire Department's Fire Protection Systems Section at (408) 277-8756.
  3. All Fire Department access roads, water mains, and fire hydrants shall be installed and operational during construction in accordance with Article 87 of the Fire Code and all other applicable standards.
  4. All buildings under construction, three or more stories in height, shall have at least one standpipe for use during construction. Such standpipe shall be provided with fire department hose connections. Location(s) and numbers of standpipe(s) shall be reviewed and approved by the Fire Department.
  5. All buildings exceeding 6,200 square feet shall be provided with an approved automatic fire extinguishing system(s) as per the adopted San Jose Municipal Code. All alternate means of protection shall be reviewed by the Fire Department.
  6. Buildings shall be provided with automatic fire extinguishing systems. Systems serving more than 100 sprinklers shall be supervised by an alarm monitoring station.
  7. Every sleeping room below the fourth story shall have at least one operable window or door approved for emergency escape or rescue that shall open directly into a public street, public alley, yard, or exit court. Such windows or doors shall be in accordance with the adopted Building Code.
- Facilities for emergency vehicle access:
  - A. Roads and/or driveways shall have a minimum clear width of 20 feet. Uniform Fire Code, Section 902.2.2.
  - B. Minimum turning radius shall be 30 feet inside and 50 feet outside.
  - C. A bulb or hammerhead turn-around shall be provided at the end of all dead-end driveways over 150 feet in length.
  - D. Minimum Vertical clearance shall be 14 feet.

- Facilities for emergency vehicle access: (Continued)
  - E. Fire lanes shall be suitably marked with standard signs, painted curbs, and/or other markers as approved or authorized for use by the Chief. Fire lane markings shall be indicated on plans submitted through the building permit process for review and approval by the Fire Department.
  - F. Streets/roadways shall be maintained with a maximum gradient of 15 percent.
- Public (off-site) and private (on-site) fire hydrants shall be provided. All hydrants must meet the specifications for the City of San Jose's Fire Department. For hydrant locations please contact the San Jose Fire Department's Fire Protection Engineering Division at (408) 277-5357.
- All existing and new fire hydrants shall be at least 10 feet from all driveways.
- All structures shall be located wholly within 450 feet (road distance) of an accessible standard street hydrant.
- All dead-end streets or roads shall have a hydrant within 175 feet from the most remote end of the rear lot as per the Uniform Fire Code.
- Street numbers shall be visible day and night from the nearest street, either by means of illumination or by the use of reflective materials.
- We reserve the right to make comments at a future date.

If you have any questions regarding these items, please contact me at (408) 277-8754.

  
BY: Nadia Naum-Stoian FPE  
Bureau of Fire Prevention  
San Jose Fire Department

Fire Site Memo to Planning Application

**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.

**PROJECT FILE NUMBER:** GP04-06-01.

**PROJECT DESCRIPTION:** General Plan Amendment to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Low Density Residential (5 DU/AC) (1.16 acres)

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** West side of Peregrino Way, approximately 400 feet northwest of Dry Creek Road. Assessors Parcel No's. 429-45-036, 429-45-037.

**COUNCIL DISTRICT:** 6; Ken Yeager

**NAME OF APPLICANT:**  
James Kennedy/ Jim Rogers

**MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:**

James Kennedy/ Jim Rogers  
540 N. Santa Cruz Avenue, #215  
Los Gatos, CA 95030  
408-460-4960  
FAX 408 516-8985

**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, agrees to program level mitigation measures 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

### AESTHETICS

1. Urban Design Policy #1: The City should continue to apply strong architectural and site design controls on all types of development for the protection and development of neighborhood character and for the proper transition between areas with different types of land uses.
2. Urban Design Policy # 2: Private development should include adequate landscaped areas. Landscaped areas should utilize water efficient plant materials and irrigation systems. Energy conservation techniques such as vegetative cooling and wind shielding should also be utilized. All landscaped areas should include provision of ongoing landscape maintenance. Urban Design Policy #6: Proposed structures adjacent to existing residential areas should be architecturally designed and sited to protect the privacy of the existing residences.
3. Urban Design Policy #8. Design solutions should be considered in the development review process, which address security, aesthetics and public safety. Public safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum road widths and other standards set forth in relevant City Codes. All development projects should comply with the safety standards established in these referenced codes.
4. Urban Design # 14. New urban development should be designed to minimize impacts in areas with an established and permanent rural or semi-rural character, often typified by large-lot "ranchette" development.
5. Urban Design Policy #22: Design guidelines adopted by the City Council should be followed in the design of development projects.
6. Land Use Policy #9. When changes in residential densities are proposed, the City should consider such factors as neighborhood character and identity, compatibility of land uses and impacts on livability, impacts on services and facilities, including schools, to the extent permitted by law, accessibility to transit facilities, and impacts on traffic levels on both neighborhood streets and major thoroughfares.
7. Residential Land Use Policy #13. In the design of lower density, single-family residential developments, particularly those located in the Rural Residential, Estate Residential and Low Density Residential categories, consideration should be given to the utilization of public improvement standards which promote a rural environment, including such techniques as reduced street right-of-way widths, no sidewalks and private street lighting.

### AIR QUALITY

8. Residential Land Use Policy #1. Residential development at urban densities (one dwelling unit per acre or greater) should be located only where adequate services and facilities can be feasibly provided.
9. Residential Land Use Policy #9. When changes in residential densities are proposed, the City should consider such factors as neighborhood character and identity, compatibility of land uses and impacts on livability, impacts on services and facilities, including schools, to the extent permitted by law, accessibility to transit facilities, and impacts on traffic levels on both neighborhood streets and major thoroughfares.

### BIOLOGY

10. Urban Forest Policy # 2: Development projects should include the preservation of ordinance-sized, and other significant trees. Any adverse affect on the health and longevity of native oaks, ordinance sized or other significant trees should be avoided through appropriate design measures and construction practices. When tree preservation is not feasible, the project should include appropriate tree replacement. In support of these policies the City should:
  - Continue to implement the Heritage Tree program and the Tree Removal Ordinance.
  - Consider the adoption of Tree Protection Standards and Tree Removal Mitigation Guidelines.
11. Urban Forest Policy #3: The City encourages the maintenance of mature trees on public and private property as an integral part of the urban forest. Prior to allowing the removal of any mature tree, all reasonable measures which can effectively preserve the tree should be pursued.
12. Urban Forest Policy #5. The City should encourage the selection of trees appropriate for a particular urban site. Tree placement should consider energy saving values, nearby powerlines, and root characteristics.
13. Urban Forest Policy #6: Trees used for new plantings in urban areas should be selected primarily from species with low water requirements.
14. Urban Forest Policy #7: Where appropriate, trees that benefit urban wildlife species by providing food or cover should be incorporated in urban plantings.
15. Urban Forest Policy #8. Where urban development occurs adjacent to natural plant communities (e.g. oak woodland, riparian forest), landscape plantings should incorporate tree species native to the area to the greatest extent feasible.
16. Species of Special Concern #2: Habitat areas that support Species of Concern should be retained to the greatest extent feasible.

### HYDROLOGY AND WATER QUALITY

17. Water Resources Policy #6: When new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities, the potential for surface water and groundwater contamination should be assessed and appropriate preventative measures should be recommended.
18. Water Resources Policy #8: The City should establish policies, programs and guidelines to adequately control the discharge of urban runoff and other pollutants into the City's storm drains.
19. Flooding Policy #7. The City should require new urban development to provide adequate flood control retention facilities
20. Storm Drainage and Flood Control Policy #12. New projects should be designed to minimize potential damage due to storm waters and flooding to the site and other properties.
21. Water Resources Policy # 12 For all new discretionary development permits for projects incorporating large paved areas or other hard surfaces (e.g., building roofs), or major expansion of a building or use, the City should require specific construction and post-construction measures to control the quantity and improve the water quality of urban runoff. Historic, Archeological and Cultural Resources Policy #1: Because historically or archaeologically significant sites, structures and districts are irreplaceable resources, their preservation should be a key consideration in the development review process.

#### CULTURAL RESOURCES

22. Historic, Archeological and Cultural Resources Policy #8: For proposed development sites which have been identified as archaeologically sensitive, the City should require Investigation during the planning process in order to determine whether valuable archaeological remains may be affected by the project and should also require that appropriate mitigation measures be incorporated into the project design.
23. Historic, Archeological and Cultural Resources Policy #9: Recognizing that Native American burials may be encountered at unexpected locations, the City should impose a requirement on all development permits and tentative subdivision maps that upon discovery of such burials during construction, development activity will cease until professional archaeological examination and reburial in an appropriate manner is accomplished.

#### HAZARDS AND HAZARDOUS MATERIALS

24. Hazardous Materials Policy #1. The City should require proper storage and disposal of hazardous materials to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal.

25. Hazardous Materials Policy #2. The City should support State and Federal legislation, which strengthen safety requirements for the transportation of hazardous materials.

### NOISE

26. Noise Policy # 1 The City's acceptable noise level objectives are 55 DNL as the long-range exterior noise quality level, 60 DNL as the short-range exterior noise quality level, 45 DNL as the interior noise quality level, and 76 DNL as the maximum exterior noise level necessary to avoid significant adverse health effects. These objectives are established for the City, recognizing that the attainment of exterior noise quality levels in the environs of the San Jose International Airport, the Downtown Core Area, and along major roadways may not be achieved in the time frame of this Plan. To achieve the noise objectives, the City should require appropriate site and building design, building construction and noise attenuation techniques in new residential development.
27. Noise Policy # 9: Construction operations should use available noise suppression devices and techniques. Hazardous Materials Policy #3: The City should incorporate soil and groundwater contamination analysis within the environmental review process for development proposals. When contamination is present on a site, the City should report this information to the appropriate agencies that regulate the cleanup of toxic contamination.

### GEOLOGY AND SOILS

28. Soils and Geologic Conditions Policy #1: The City should require soils and geologic review of development proposals to assess such hazards as potential seismic hazards, surface ruptures, liquefaction, landsliding, mudsliding, erosion and sedimentation in order to determine if these hazards can be adequately mitigated.
29. Soils and Geologic Conditions Policy #3: In areas susceptible to erosion, appropriate control measures should be required in conjunction with proposed development
30. Soils and Geologic Conditions Policy #6: Development in areas subject to soils and geologic hazards should incorporate adequate mitigation measures.
31. Soils and Geologic Conditions Policy #8: Development proposed within areas of potential geological hazards should not be endangered by, nor contributes to, the hazardous conditions on the site or on adjoining properties.
32. Earthquake Policy #1: The City should require that all new buildings be designed and constructed to resist stresses produced by earthquakes.
33. Earthquake Policy #3: The City should only approve new development in areas of identified seismic hazard if such hazard can be appropriately mitigated.

34. Earthquake Policy #5. The City should continue to require geotechnical studies for development proposals; such studies should determine the actual extent of seismic hazards, optimum location for structures, the advisability of special structural requirements, and the feasibility and desirability of a proposed facility in a specified location.
35. Soils and Geologic Conditions Policy #9: Residential development proposed on property formerly used for agricultural or heavy industrial uses should incorporate adequate mitigation/ remediation for soils contamination as recommended through the Development Review process.

**PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on May 26, 2004, 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, 801 North First Street, San Jose, Room 400 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.

Stephen M. Haase, AICP  
Director, Planning, Building and Code Enforcement

Circulated on: MAY 6, 2004

Akemi Davidson  
Deputy

Adopted on: MAY 26, 2004

Akemi Davidson  
Deputy