



## *Memorandum*

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**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** February 23, 2006

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**COUNCIL DISTRICT:** 6

**SUBJECT:** PDC05-026. PLANNED DEVELOPMENT REZONING FROM R-M MULTIPLE RESIDENCE DISTRICT TO A(PD) PLANNED DEVELOPMENT DISTRICT TO ALLOW FOUR SINGLE-FAMILY DETACHED RESIDENCES ON A 0.37 GROSS ACRE SITE LOCATED ON THE NORTH SIDE OF VILLA AVENUE, APPROXIMATELY 150 FEET EASTERLY OF MYRTLE STREET (969 VILLA AVENUE)

### **RECOMMENDATION**

The Planning Commission voted 6-0-1 (Commissioner Zito absent) to recommend that the City Council approve the proposed rezoning with staff's recommended draft development standards.

### **BACKGROUND**

On January 25, 2006, the Planning Commission held a public hearing to consider a Planned Development rezoning from R-M Multiple Residence Zoning District to A(PD) Planned Development District to allow four single-family detached residences. After considering public testimony, the Planning Commission deferred the item to February 22, 2006 to allow the applicant to explore increased setbacks for the proposed single-family houses, preservation of the English Walnut tree, and the potential for reducing the project by one unit.

Staff made a brief staff report indicating that two items of correspondence had been submitted for the Commission's review (attached). The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning.

Cary Sutton and Amir Helweh spoke on behalf of the applicant, LG Developers, and highlighted the changes to the project since the previous public hearing, including revisions to the proposed setbacks from the perimeter property line. Commissioner James questioned whether the applicant had explored preserving the existing single-family residence. The applicants indicated that preservation of the house had been explored, but ultimately was determined to be infeasible.

Victor Emmanuel, a neighbor, spoke in opposition to the project, expressing concern about the loss of the English Walnut tree on the site and the proposed setbacks from perimeter property

lines. He requested that the project be designed with one fewer unit in order to preserve the Walnut tree in addition to the other trees.

The Planning Commission then closed the public hearing.

Commissioner James made a motion to approve the project as recommended by staff. The motion was seconded and there was no further discussion.

### 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. The staff report was available on the Planning Department web site one week prior to the original Public Hearing date. Staff has been available to discuss the project with interested members of the public.

### COORDINATION

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

### CEQA

Mitigated Negative Declaration adopted January 17, 2006.

 *Susan Walton*  
JOSEPH HORWEDEL  
Secretary, Planning Commission

### Attachments

cc: LG Developers, 1400 Coleman Avenue, Suite G21, Santa Clara, CA 95050  
Maher Louis, Louis Engineering Corporation, 778 N. First Street, #200, San Jose, CA 95112  
Reza Norouzi, Memarie Associates, 12201 Sunnyvale-Saratoga Road, Suite D, Saratoga, CA 95070  
Victor Emmanuel, 960 West Taylor Street, San Jose, CA 95126



## THE NEIGHBORHOOD



Photograph courtesy of S. Victor Emmanuel

**Uncertain Future:** San Jose planning commissioners altered development plans at 969 Villa Ave. to save a double-trunk oak tree and a Canary Island pine on the property. They deferred until next month a decision on whether to allow a developer to demolish the 1907 Craftsman home along with this English walnut tree on the site to make room for single-family homes.

## San Jose planners put demolition plans on hold for 1907 Craftsman

By MARY GOTTSCHALK

A developer's plan to demolish a 1907 Craftsman home, tear out an English walnut tree dating back to the 1930s and replace them with four single-family homes on Villa Avenue is on hold. San Jose planning commissioners did not approve the project at their meeting on Jan. 25.

After almost an hour of discussion and voting 4-2 against requiring the developer to reduce the number of homes to three, the six commissioners present unanimously voted to defer the issue to their Feb. 22 meeting.

At the same time, they sent a very clear message that they want the developer to make every effort to preserve the walnut tree and reconfigure the development so that the setbacks between the proposed homes and adjacent properties are wider.

S. Victor Emmanuel, who lives on W. Taylor Street directly behind the property at 969 Villa, is the most vocal opponent of the development on the one-third-acre site.

Emmanuel sent photographs of the house and the walnut, along with a letter listing his concerns about the proposed development, including the potential for drainage damaging his 100-year-old

tion during construction, it appears to me that the walnut would be worthy of retention and not too difficult to plan around. It certainly reflects the historic character of the neighborhood and is a remnant of the 'Valley of Heart's Delight' when the orchards were the dominant land use."

Stephen Kurtagh, a Villa Avenue resident near the proposed development, asked the commission to "save as many trees as can be saved" and to "consider the neighborhood and maintain the quality that the property had at one time" before approving any designs.

Kurtagh said he had "no concern for the number of units" built on the property as long as it is in keeping with the character of the neighborhood.

Speaking on behalf of property owner Sahel Helweh and LS Developers, Carey Sutton told the commission they had already scaled back their initial plans for a high-density apartment building in favor of four single-family homes to sell in the \$900,000 to \$950,000 range.

Scaling the development back to three homes isn't financially feasible, he said.

Additionally, Sutton said they had already altered plans to preserve a double-trunk oak tree and a Canary Island pine on the property.

Commissioner Bob Levy pointed out

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Emmanuel sent photographs of the house and the walnut, along with a letter listing his concerns about the proposed development, including the potential for drainage damaging his 100-year-old garage, to each commissioner.

Additionally, Emmanuel submitted a letter of support for preserving the walnut tree from Ralph Mize, the city arborist.

Mize wrote, "I would hope that the walnut could be saved, as well as the large oak and pine also present on the lot. It is too bad that the house itself is likely to be demolished, as with some TLC it could be a gem."

"However, with providing sufficient rear setback on the property and protec-

tion during construction, it appears to me that the walnut would be worthy of retention and not too difficult to plan around. It certainly reflects the historic character of the neighborhood and is a remnant of the 'Valley of Heart's Delight' when the orchards were the dominant land use."

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Commissioner Bob Levy pointed out that the proposed setbacks are substandard and said whether a proposal is financially feasible isn't a factor.

Commissioner Jim Zito offered an initial resolution that the developer's request for rezoning and permission to demolish the house be approved but that the number of homes be reduced from four to three. Levy was the only one to support that in a vote.

Demolition Page 9

## Demolition

Continued from page 6

The commissioners ultimately voted to defer the matter for a month.

Both Zito and Commissioner Jay James said they were impressed with the house at 969 Villa. The front of the 1907 house is faced with river stone across the front, on the fireplace and on two porch columns.

Planner Erin Morris said one of the stipulations city planning staff is recommending is that the house be offered to anyone who wants to move it, with the approximate demolition costs offered as an incen-

tive. If no one steps forward, then the house must be offered for salvage.

Following the hearing, Emmanuel said he was pleased with the commissioners' action.

Sutton said the developers "were a little bit disappointed. We think we have a good, solid project that creates advantages and benefits the neighborhood and community at large."

However, he said, they were moving forward and on Jan. 26 already set appointments with the architect and city planners to discuss the development.

"We'll either do three or four single-family homes," Sutton said. "I don't think attached is good for that area."

Sutton said it's not impossible that the home could be preserved where it is.

## THE NEIGHBORHOOD



Photograph by Mary Gottschalk

**Final Days:** Developers want to dismantle or move this Craftsman bungalow at 969 Villa Ave. to make way for four, single-family units. One neighbor is opposing the proposed development, which will go before the planning commission on Jan. 25.

## More housing could mean the end for 1907 bungalow on Villa Avenue

By MARY GOTTSCHALK

For more than two decades, S. Victor Emmanuel has taken pleasure in the beauty of the property behind his Victorian home on W. Taylor Street.

That property at 969 Villa Ave. is a 1907 Craftsman bungalow with river stone facing along the front and on the fireplace and two porch columns.

Not visible from Villa, but very visible to Emmanuel's home, is a majestic black walnut tree.

"It's an ungrafted black walnut. It looks dead right now, but in the spring it is beautiful," Emmanuel says.

Now developers want to demolish the house, tear out the walnut tree and build four single-family homes on the lot.

"They no longer make anything like that. I hate to see that house go," Emmanuel says.

Unwilling to let the house go without a fight, Emmanuel has written a letter of protest to the San Jose Planning Department and to District 6 City Councilman Ken Yeager.

Emmanuel has started contacting neighborhood associations and historic preservation groups for support.

While other neighbors around Villa might be expected to support its preservation, Emmanuel says most are renters, while the owners view the homes strictly as income property.

Still, Emmanuel is making calls and

chased the property in April 2004 for \$825,000 from the estate of the former owner.

Helweh says he is unaware of Emmanuel's objections, but disagrees that the house will be demolished.

"We're going to recycle it," he says.

If someone wants to move the entire house, Helweh says he's open to that. Otherwise, his plan is to sell off the trim and whatever parts of the structure anyone is interested in.

Helweh says preserving the house and reducing the number of new units to two isn't feasible. Initially, he proposed building eight houses on the property.

"We've been going back and forth with planning. We dropped it down to four units, and we're saving the trees and a portion of the house by recycling it," Helweh says.

Erin Morris, project manager for the planning department, says the required environmental review found that the house is not historically significant.

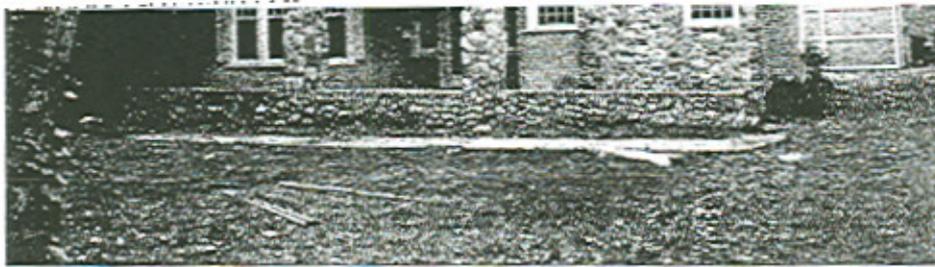
Additionally, Morris says the developers "have done a lot to respond to city concerns" by redesigning their plans to preserve a double-trunk oak tree and a Canary Island pine tree.

Working in favor of the developers and against preservation is the fact that Villa Avenue is already a mix of single-family homes and apartment buildings. In fact, an apartment building is adjacent to the property.

While city staff is processing the request for the necessary zoning change from multiple family residence to planned devel-

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Photograph by Mary Gottschalk

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Emmanuel has started contacting neighborhood associations and historic preservation groups for support.

While other neighbors around Villa might be expected to support its preservation, Emmanuel says most are renters, while the owners view the homes strictly as income property.

Still, Emmanuel is making calls and plans to appear at the Jan. 25 planning commission hearing on the property.

While Emmanuel's preference would be for the house and its one-third-acre yard to be preserved, he realizes that the developers who bought it did so with new construction in mind.

As a compromise, he suggests keeping the house and building two single-family homes to the side, instead of four.

Sahel Helweh of LS Developers pur-

chased the property in April 2004 for \$825,000 from the estate of the former owner.

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Additionally, Morris says the developers "have done a lot to respond to city concerns" by redesigning their plans to preserve a double-trunk oak tree and a Canary Island pine tree.

Working in favor of the developers and against preservation is the fact that Villa Avenue is already a mix of single-family homes and apartment buildings. In fact, an apartment building is adjacent to the property.

While city staff is processing the request for the necessary zoning change from multiple family residence to planned development and allowing the demolition of the house, Morris says it has not been finally approved by the planning commission or the city council.

The planning commission hearing on 969 Villa Ave. is on Jan. 25 at 6:30 p.m. in the city council chambers of San Jose City Hall, 200 E. Santa Clara St. If the rezoning is approved, it would go before the city council for another hearing on Feb. 7 at 7 p.m., in the same location.

## Victor Emmanuel

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From: William W. Coates [bwwcoates@ucdavis.edu]  
Sent: Monday, February 20, 2006 12:58 PM  
To: erin.morris@sanjoseca.gov; Ralph.mize@ci.sj.ca.us  
Cc: Victor Emmanuel  
Subject: Re: The Old English Walnut Tree

>To Whom it May Concern: Mr. Victor Emmanuel contacted me about an  
>old walnut tree at 969 Villa Avenue in San Jose. I observed the tree  
>from e-mail photos that were sent to me. I recommended contacting an  
>arborist to determine the health of the tree. Walnuts may live to be  
>100 plus years old, particularly seedling trees or trees on English  
>walnut rootstock planted in good soil. This tree appears to be on  
>English walnut which would be rare on trees planted during the last  
>50 years. Many of the more recently planted orchards were grafted  
>on Northern California black walnut or Paradox hybrid rootstock.  
>These later succumbed to a virus called blackline, a disease to  
>which English walnut rootstock is tolerant. Walnuts were a  
>significant crop in the Santa Clara Valley and are still grown to  
>some extent in the Gilroy/Morgan Hill area. I do have any personal  
>experience with this tree or know of any pertinent historical  
>significance other than what Mr. Emmanuel has provided me. I would  
>recommend the historical society, the California History Center (De  
>Anza College) or other such sources for more information.

William (Bill) W. Coates  
Farm Advisor - Tree Fruit and Nut Crops  
San Benito, Santa Cruz, Santa Clara and Monterey Counties  
University of California Cooperative Extension  
P.O. Box 1956, Hollister, CA 95024-1956, USA  
(physical address: 649 San Benito Street, Suite 115, Hollister, CA 95023)  
office phone: 831-637-5346  
office FAX: 831-637-7111  
e-mail: bwwcoates@ucdavis.edu  
web: cesanbenito.ucdavis.edu

PLANNING COMMISSION  
AGENDA: 02-22-06  
ITEM: 4.d



## Memorandum

TO: PLANNING COMMISSION

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: February 14, 2006

COUNCIL DISTRICT: 6

### SUPPLEMENTAL MEMO

**SUBJECT: PDC05-026, PLANNED DEVELOPMENT ZONING TO ALLOW FOUR SINGLE-FAMILY DETACHED RESIDENCES ON A 0.37 GROSS ACRE SITE LOCATED ON THE NORTH SIDE OF VILLA AVENUE, APPROXIMATELY 150 FEET EASTERLY OF MYRTLE STREET (969 VILLA AVENUE).**

This item was originally heard by the Planning Commission on January 25, 2006. At that time, the Commission deferred the item to February 22, 2006, to allow the applicant to explore increased setbacks for the proposed single-family houses, preservation of the English Walnut tree, and potential for reducing the project by one unit. The applicant has provided a report (attached) from a certified arborist indicating the measures necessary to preserve the Walnut tree while accommodating new development. Staff has reviewed these measures and concluded that preservation of the Walnut tree, in addition to the Coast Live Oak and Canary Island Pine already proposed by the applicant for preservation, would require loss of one unit. The applicant has not revised the proposal to preserve the Walnut tree.

On Sheet A-1 of the plan set, the applicant has clarified the second floor setbacks for all of the houses and clarified the uses of adjoining properties and structures. The applicant has redesigned the project to accommodate increased setbacks along the western and northern property lines. The proposed first-floor setback for Lot 3 from the western property line has been increased to 10 feet consistent with staff's previously recommended Draft Development Standards. The proposed northern setback for Lot 3 (from the parking area serving the adjoining duplexes) has been increased by two feet (to 7 feet 8 inches) more than the five feet initially recommended by staff. The proposed placement of the house on Lot 4, near the Walnut tree, remains unchanged. The revised Draft Development Standards are attached.

HONORABLE MAYOR AND CITY COUNCIL  
February 14, 2006  
Subject: PDC 05-026  
Page 2

## RECOMMENDATION

Staff recommends that the Planning Commission recommend that the City Council approve the proposed Planned Development Rezoning, as requested by the applicant.

  
 JOSEPH HORWEDEL, ACTING DIRECTOR  
Planning, Building and Code Enforcement

Attachments:  
Staff Report  
Tree Report  
Draft Development Standards  
Revised Plans

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
200 E Santa Clara St. 3<sup>rd</sup> Floor  
San José, California 95113-1905

Hearing Date/Agenda Number  
P.C. 1-25-06 Item: 4a  
C.C. 2-7-06

File Number  
PDC05-026

Application Type  
Planned Development Rezoning

Council District  
6

Planning Area  
Central

Assessor's Parcel Number(s)  
261-08-087

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Erin Morris

Location: North side of Villa Avenue, 150 feet easterly of Myrtle Street (969 Villa Avenue)

Gross Acreage: 0.37

Net Acreage: 0.37

Net Density: 11 DU/AC

Existing Zoning: R-M Multiple Residence District

Existing Use: Single-family residence

Proposed Zoning: A(PD) Planned Development

Proposed Use: 4 single-family detached residential units

### GENERAL PLAN

Completed by: ELM

Land Use/Transportation Diagram Designation  
Medium Density Residential (8-16 DU/AC)

Project Conformance:  
 Yes  No  
 See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

North: Duplex and single-family residence

R-2 Two Family Residence District

East: Apartment building

R-M Multiple Residence District

South: Apartment building

R-M Multiple Residence District

West: Single-family residence

R-M Multiple Residence District

### ENVIRONMENTAL STATUS

Environmental Impact Report found complete  
 Negative Declaration adopted on January 17, 2006

Exempt  
 Environmental Review Incomplete

### FILE HISTORY

Annexation Title: College Park/Burbank Sunol

Date: December 8, 1925

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval  
 Approval with Conditions  
 Denial

Date: January 18, 2006

Approved by: Susan Walton  
 Action  
 Recommendation

### OWNER/DEVELOPER

LG Developers  
1400 Coleman Avenue, Suite G21  
Santa Clara, CA 95050

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**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: ELM

**Department of Public Works**

See attached memorandum.

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**Other Departments and Agencies**

See attached Fire Department memorandum.

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**GENERAL CORRESPONDENCE**

See attached letter from Victor Emmanuel dated January 10, 2006.

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

The developer, L.G. Developers, is requesting a Planned Development Rezoning from R-M Multiple Residence District to A (PD) Planned Development to allow four new single-family detached residences on 0.37 gross acres. The subject site is rectangular in shape, with 100 linear feet of frontage on Villa Avenue. The site is currently developed with a single-family residence and detached garage and ten trees. The site is surrounded by a duplex and a single-family residence to the north, a single-family residence to the west, and multi-family apartment buildings to the east and south.

A Planned Development Rezoning is required because the proposed residential development does not conform to the lot size, setback and other standards of the conventional residential Zoning Districts. A Planned Development Permit and Tentative Map would be necessary to implement the Zoning and allow project construction.

**Existing Conditions**

The existing single-family residence is a bungalow that was constructed in 1907 and expanded with a small second-story rear addition in 1930. The garage was constructed in 1915. An historic report was submitted that considered the property under all four criteria of the National Register of Historic Places and the California Register of Historic Resources. The property was not found to be significant in regard to architectural heritage or history of San Jose and the report concluded that the property was not eligible for the City's Historic Resources Inventory.

The site contains seven ordinance-size trees and three non-ordinance size trees. All of the trees were evaluated by a certified arborist relative to health and condition and suitability for incorporation into the project. The most notable trees are a Canary Island Pine, 118 inches in circumference, located at the front of the site; a dual-trunk Coast Live Oak, 75 inches in circumference, and an English Walnut, 110 inches in circumference. These trees are in good health according to the certified arborist. Other ordinance-size trees include three privets, ranging from 61 to 120 inches in circumference, and a dual-trunk Black Acacia. These trees are considered in bad health by the evaluating arborist.

Villa Avenue is a residential street between Stockton Avenue and The Alameda. While the lots were

subdivided and initially developed in the early 1900s, similar to the Garden Alameda neighborhood to the south and the College Park neighborhood to the north, many of the lots along Villa Avenue were redeveloped in the 1960s and 1970s into duplexes and apartment buildings.

### **Project Description**

The project proposes to demolish the existing house and garage and to construct four single-family detached residences. The site is designed in a modified "court home" configuration with vehicular and pedestrian access provided from a common driveway. Unit entries are provided off the common driveway and the house on Lot 1 contains a porch that faces Villa Avenue. The proposed houses would be less than 30 feet in height and two stories with attached two-car garages. Garage access is provided from the common driveway with no garage doors visible from Villa Avenue. The project includes guest parking along the eastern property line and private yards for each of the units.

The applicant is proposing to retain the Coast Live Oak and the Canary Island Pine. The applicant provided a report from a certified arborist delineating buffer zones around each tree and specific construction conditions designed to ensure that the trees will survive demolition and construction. The buffer areas are depicted on Sheet A-1 of the plan set. The project has been designed to provide four units while maintaining the buffer zones around each tree. Five ordinance-size trees including the English Walnut and many of the non-ordinance size trees are proposed to be removed as part of the project.

### **PUBLIC OUTREACH**

Notices of the Mitigated Negative Declaration and the public hearings were distributed to the owners and tenants of all properties located within 500 feet of the subject site. This staff report is made available on the Planning Department's website one week prior to the Planning Commission hearing. Staff has been available to discuss the project with interested members of the public.

### **ENVIRONMENTAL REVIEW**

A Draft Negative Declaration was circulated for this project based on an Initial Study, which concluded that the project would not result in a significant environmental impact. Mitigation has been included in the project to ensure that the proposed development does not result in impacts relative to noise, water quality, and air quality.

### **GENERAL PLAN CONFORMANCE**

The subject site is designated Medium Density Residential (8-16 DU/AC) on the San Jose 2020 General Plan Land Use/Transportation diagram. The proposed project has a density of 11 units per acre which falls within the General Plan's density range. The project provides infill housing on an underutilized site within an established neighborhood in support of the General Plan's Growth Management and Housing Major Strategies. Further, the project proposes to retain two mature, healthy trees consistent with the General Plan's Natural Resources and Urban Forest policies.

### **ANALYSIS**

The primary issues for this project are (1) tree preservation, 2) consistency with the Residential Design Guidelines, 3) consistency with the Single-Family Design Guidelines.

## Tree Preservation

The applicant's original development proposal included removal of all of the on-site trees. After visiting the site, staff identified preservation of the large Coast Live Oak existing on the site as a priority for the project design. The Canary Island Pine, also noteworthy in size and apparent vigor, was also identified for preservation. The applicant subsequently worked with staff to redesign the entire project to allow the two trees to be preserved consistent with the recommendations of the consulting arborist.

The proposed site design would require removal of the healthy, mature English Walnut tree located near the northeast corner of the site. In response to a request from a community member, the City Arborist visited the site to look at the tree (see attached e-mail). He indicated that the tree was likely planted in the 1930s and is unusual for the area in that it appears to be growing on its own roots as opposed to a typical walnut orchard situation where the species is grafted onto the California Black Walnut root stock. Further, he noted that the tree reflects the historic character of the neighborhood and is a remnant of the "Valley of Heart's Delight" when the orchards were the dominant land use. Planning staff has reviewed the proposed site design and it does not appear possible to construct four units while retaining the English Walnut in addition to the Coast Live Oak and Canary Island Pine. Although it would be desirable to preserve all of the trees on the site, staff believes the proposal provides a reasonable compromise between the applicant's development objectives and the need to preserve the site's existing natural resources.

## Consistency with the Residential Design Guidelines (RDG)

### Perimeter Setbacks

The project proposes setbacks based on several project objectives which include retention of the Coast Live Oak and Canary Island Pine trees, provision of driveway access to meet the requirements of the San Jose Fire Department, on-site guest parking, and the need to provide a private yard for each of the four units. The RDG recommend perimeter setbacks based on adjoining uses to ensure that new projects maintain the continuity of existing development patterns, provide sufficient buffering between adjacent uses, and facilitate landscape opportunities to improve the streetscape.

Where new projects adjoin residential side yards, the RDG recommend that a two-story residence match the setbacks of adjacent residential uses without exceeding the range of common practices. The Draft Development Standards for this project include a 5-foot building setback from the east property line to match the existing apartment development in conformance with the RDG, and the Draft Development Standards include a 5-foot setback along the western property line where the project adjoins the side yard of the adjacent single-family detached residence in conformance with the RDG.

The RDG recommend that first-story elements facing minor residential streets such as Villa Avenue be set back at least 15 feet but should match average setbacks of existing residential buildings (adjacent and across the street) within 100 feet. While staff does not have setback information for all residential buildings within 100 feet, the proposed front setback of 17 feet is only slightly less than the directly adjoining residential properties to the west and east and is in substantial conformance with the RDG.

The RDG recommend a 20-foot setback from single-family rear yards. The applicant's draft Land Use Plan proposes setbacks ranging from 7 feet to 9 feet along the western and northern property line where the project adjoins single-family rear yards. The Draft Development Standards as recommended by staff include a minimum ten-foot side setback adjoining single-family rear yards. This reduced setback appears necessary

to preserve the Oak tree and staff believes it is acceptable given the proposed design. The conceptual elevations and site plan depicts houses that range in height from 23 feet 7 inches to 24 feet 9 inches, which is significant lower than typical for a two-story house. All of the houses provide a second floor that is smaller than the first floor which reduces the perceived building mass and allows for additional setbacks for the second story of each house. The upper floor of the house on Lot 3 contains two windows, but the windows face the garage door of the detached garage on the adjoining residential property. The design of the house on Lot 4 is notable in that the second story is set back 3 additional feet from the face of the first story and only bathroom windows are provided on the second floor to minimize privacy impacts on the adjacent single-family rear yard. The private yard for each residential unit contains sufficient space to plant trees to provide screening between the adjoining properties. Based on this analysis, staff believes that the proposed setbacks provide acceptable buffering and that the project substantially conforms to the intent of the RDG while achieving preservation of the trees.

The applicant's draft Land Use Plan shows a three-foot setback for Lot 3 where it adjoins a parking area serving a duplex. Staff believes this setback is unacceptable and has included a minimum 5-foot setback in the Draft Development Standards.

### **Parking**

The Residential Design Guidelines' (RDG) recommendation for parking for single-family detached residences and paired dwellings is two covered spaces per unit plus 1.3 additional off-lot parking space per unit for each unit with a driveway less than 18 feet in length. All of the proposed driveway aprons are less than 18 feet in length. The RDG indicate that off-lot parking can be accommodated as on-street parallel parking in front of the new units or on-site. The proposed project includes two covered parking spaces per unit in the form of a garage, up to four on-site guest parking spaces along the eastern boundary of the project, and up to three parking spaces are available along the Villa Avenue frontage. The Draft Development Standards, as recommended by staff, include a requirement for two covered parking spaces plus 1.3 additional on- or off-site parking space per unit consistent with the recommendations of the RDG. The proposed plans depict the four on-site spaces within the designated buffer area where paving may be allowed but excavations and trenching is not allowed. At the Planned Development Permit stage, staff will work with the applicant and the consulting arborist to ensure that construction of the proposed on-site parking spaces will not impact the health of the trees.

### **Open Space**

The Residential Design Guidelines (RDG) recommend 400 square feet of private open space per unit for detached single-family residential units with lot sizes up to 3,000 square feet. The RDG recommend that private open spaces provide a minimum dimension of 15 feet. The project proposes at least 400 square feet of private open space per unit consistent with the RDG, but the minimum dimension is less than 15 feet. The Draft Development Standards include a requirement of 400 square feet per unit with minimum configuration of 10 by 15 feet. Staff believes that these ratios are appropriate in that the project provides common open space (not required by the RDG for projects involving less than 20 units) in the area of the Coast Live Oak and Canary Island Pine trees and the associated buffer zones.

### **Consistency with the Single-Family Design Guidelines**

The Single-Family Design Guidelines (SFDG) specify that architectural styles should be compatible with those found in the surrounding neighborhood and that compatibility can be achieved through use of an

existing style found in the neighborhood, use of a style from the same era as styles commonly found in the neighborhood or use of a contemporary style that employs building scale, massing, roof lines, materials and building orientations that are commonly found in the neighborhood. The conceptual elevations currently show contemporary-style houses designed with stucco siding and foam trim. Staff believes that the project should incorporate wood siding and windows with decorative trim details similar to the vintage houses in the surrounding neighborhood, and will work with the applicant and the community through the Planned Development Permit process to ensure that the architecture and building massing appropriately reflects the recommendations of the SFDG. The Draft Development Standards limit the height of the proposed houses to 30 feet and 2 stories in conformance with the height recommendations of the SFDG.

### Conclusion

Based on the above analysis, staff concludes that the project is in substantial conformance with the *Residential Design Guidelines and Single-Family Design Guidelines*, is compatible with surrounding land uses, and provides for infill housing and tree preservation in support of General Plan goals.

### RECOMMENDATION

Planning staff recommends that the Planning Commission forward a recommendation to the City Council to approve the subject rezoning for the following reasons:

1. The project conforms to the General Plan Land Use/Transportation Diagram designation of Medium Density Residential (8-16 DU/AC).
2. The project furthers the goals and objectives of the City's in-fill housing strategy.
3. The project is consistent with the *Residential Design Guidelines and Single-Family Design Guidelines*.
4. The project preserves two mature trees which contribute to the City's urban forest and to the scenic beauty of the site and the surrounding area.

### Attachments

cc: Maher Louis, Louis Engineering Corporation, 778 N. First Street, #200, San Jose, CA 95112  
Reza Norouzi, Memarie Associates, 12201 Sunnyvale-Saratoga Road, Suite D, Saratoga, CA 95070



**BARRIE D. COATE  
and ASSOCIATES**

Horticultural Consultants  
23535 Summit Road  
Los Gatos, CA 95033  
408/353-1052

February 2<sup>nd</sup>, 2006

Abbey Helweh  
L.G. Developers  
1400 Coleman Avenue, Suite G21  
Santa Clara, CA 95050

Dear Mr. Helweh:

Re: 969 Villa Avenue Project

This description of the tree has been done by Tony Tomeo (certified arborist #5197) in a report dated September 8<sup>th</sup>, 2004:

"Tree #3B is an English Walnut (*Juglans regia*) with a trunk circumference of 110 inches (35 inches in diameter). This specimen is moderately healthy and exhibits adequate structural integrity."

For a specimen of this size, we would require that the nearest open trench or excavation, which would cut across the root zone, be at least 15 feet from the trunk, provided that no other earth work would be done on the other 3 sides of the tree within its root zone. If two sides would require earth work and, thus, root loss, trenching should be no closer than 20 feet from the trunk provided no trenching or excavation would be done on the other two sides within the root zone.

However, a structure may be constructed closer to the trunk than these distances, if the following conditions could be met:

1. The footing must be constructed by a pier and on-grade beam design. In this event, the digging of the piers must not injure or sever large roots (2 inches in diameter or larger). This usually means that the first 18-24 inch depth of the piers near the trunk must be dug with an air spade or water jet spade.
2. The canopy loss would be a maximum of 25% of the total.
3. The remainder of the root zone must not be affected.

Respectfully submitted,

Michael L. Bench, Associate

Barrie D. Coate, Principal

MLB/sh  
Enclosures:  
Assumptions and Limiting Conditions

## DRAFT DEVELOPMENT STANDARDS

### *PDC05-026*

The following development standards shall be placed on the General Development Plan after the rezoning has been approved by the City Council. All other development standards shall be removed from the plan set.

#### Planned Development Permit Requirement

A Planned Development is required in accordance with Section 20.100.910 of Title 20, as amended. A Planned Development Permit is required for any accessory structure or parking arrangement that would otherwise require a Special Use Permit pursuant to the requirements of Title 20 of the San Jose Municipal Code, as amended.

#### Permitted Uses

Permitted uses of the R-1-8 Residence District, as amended

#### Development Standards

Maximum Number of Units: Up to 4  
Height and Stories: 30 feet and 2 stories

#### Minimum Building Setbacks\*

South (Villa frontage)	17 feet
North	
Adjacent to duplex uses	7 feet
Adjacent to single-family rear yard	10 feet
West	
Adjacent to single-family side yard	10 feet
Adjacent to single-family rear yard	10 feet
East	5 feet
Interior lot lines	4 feet

\* all setbacks measured from project site's perimeter property line unless otherwise noted. Minor architectural projections, such as chimneys and bay windows, may project into any setback by no more than 2'-0" for a horizontal distance not to exceed 10'-0" in length, no more than 20% of the building elevation length. Unenclosed porches may project into setback areas by up to five feet. All buildings must comply with the Building Code.



Pursuant to part 2.75 of chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on the San Jose – Santa Clara water plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose – Santa Clara water pollution control plant to treat such sewage adequately and within the discharge standards imposed on the city by the state of California regional water control board for the San Francisco Bay region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.

#### *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.

#### *Parkland Dedication Ordinance*

This subdivision is subject to the requirements of the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code,) for the dedication of land or payment of fees in lieu of the dedication of land for park purposes, under the formula contained with that Chapter.

#### *Tree Replacement*

Trees to be removed shall be mitigated at the following ratios:

- Each tree less than 12" in diameter will be replaced by a one 15-gallon tree
- Each tree 12"- 17" in diameter will be replaced by two 15-gallon trees
- Trees greater than 18" in diameter shall not be removed without a tree removal permit and shall be replaced with four 15-gallon trees.