



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: March 15, 2007

COUNCIL DISTRICT: 3
SNI AREA: None

SUBJECT: PDC06-040. PLANNED DEVELOPMENT REZONING FROM LI LIGHT INDUSTRIAL ZONING DISTRICT TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO 67 SINGLE-FAMILY ATTACHED AND DETACHED RESIDENCES ON A 3.48 GROSS ACRE SITE

RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend that the City Council adopt an ordinance to approve the proposed Planned Development Zoning as recommended by staff.

OUTCOME

Council approval of the proposed Planned Development Zoning would allow up to 67 single-family attached and detached residences to be constructed on the site subject to development standards that includes dedication and improvement of a pedestrian and bike path along the western edge of the property.

BACKGROUND

On March 14, 2007, the Planning Commission held a public hearing to consider the proposed Planned Development Rezoning. William George, Jr., the applicant representing 22nd & William Street, LLC, spoke in favor of the proposed project. No one spoke in support of, or opposition to, the proposed project. The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning.

Commissioner Jensen thanked the applicant for working closely with the Five Wound/Brookwood Terrace neighborhood during the initial stages of this project, and said the project is good for the community. She said in addition to the surrounding land uses identified in the staff report, the project is adjacent to railroad tracks and an auto repair shop to the north; and an auto repair shop and strip mall to the east. Commissioner Jensen also asked questions about the reduced amount of common open space in the project. Staff responded that this project is located very close to the Martin Park expansion, which would compensate for reduced amount of common open space proposed by the project. She also asked whether the use of the word "should" in the design section of the development standards is a requirement for the development

or simply suggestions. Staff responded that the site design for this project has not been completely finalized, and the use of "should" is not a requirement. Finally, Commission Jensen said that the staff report and the MND refers to standard construction hours but does not specifically state those hours. Staff responded that the standard construction hours according to the Zoning Code are from 7 a.m. to 7 p.m. Monday through Friday.

Commissioner Zito asked staff if there had been any consideration of removing units from the central "knoll" area so that it could be used as common open space. He said such a space could be shared by residents to build community within this relatively dense project. Commissioner Zito said that according to the Residential Design Guidelines, this project would usually provide approximately 9,000 to 10,000 square feet of common open space, and he would like to see approximately 2,500 square feet of open space provided in the project. Commissioner Zito made a motion to approve the recommendation by Planning staff, with a condition to leave the center knoll open as common open space.

Commissioner Platten seconded the motion with the addition of a finding that the Commission has read and considered the Mitigated Negative Declaration in accordance with CEQA.

After discussion with staff, Commissioner Zito agreed to refine his motion to state that the plan should provide sufficient open space both in size and configuration to enhance community within the project.

Commissioner Kalra said that this site was a good place for the project and asked staff about the status of the Martin Park expansion. Staff said they have discussed the Martin Park expansion with Parks, Recreation and Neighborhood Services staff, and that the project is currently working through some environmental issues, but the expansion is likely to happen in the near future. Commissioner Kalra also requested that the site design limit the amount of garage doors facing the driveway to make an attractive design. Further, if possible, the number of front doors facing the interior perimeter of the site should be minimized.

Commissioner Campos said the panhandle portion of the project does not have sufficient space for a fire truck turnaround.

The Planning Commission voted 7-0-0 to recommend approval of the proposed project with the draft development standards recommended by staff. The Commission also said the site plan should provide sufficient common open space in size and configuration to enhance community within the project.

ANALYSIS

See original staff report (attached).

POLICY ALTERNATIVES

None considered

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30; Public Outreach Policy. This project was presented at the Five Wounds/Brookwood Terrace Neighborhood Action Committee (FWBT NAC) on January 23, 2007, and the applicant held an additional noticed community meeting on February 1, 2007. Notices of the meetings were sent to all owners and occupants of properties within 1,000 feet of the site.

A sign was posted at the site to inform the public of the proposed development. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

COORDINATION

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

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan policies and is in substantial conformance to City Council approved design guidelines as further discussed in attached staff report.

COST SUMMARY/IMPLICATIONS

Not applicable.

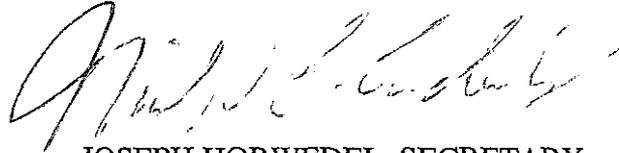
BUDGET REFERENCE

Not applicable.

HONORABLE MAYOR AND CITY COUNCIL
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CEQA

Mitigated Negative Declaration, PDC06-040.



JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Michelle Stahlhut at 408-535-7849.

JH:ME:ms

Attachments

cc: Jim Rubnitz, 22nd & William St., LLC, 1090 E. William Street, San Jose, CA 94116
William George, Jr. 22nd & William St., LLC, 1090 E. William Street, San Jose, CA94116

PDC06-040
DRAFT DEVELOPMENT STANDARDS

PERMITTED USES

- 40 - 67 single-family detached/attached residential units

DEVELOPMENT STANDARDS

Building Height:

- Maximum Height 35 feet, three stories

Perimeter Setbacks:

Single-family Attached Residential

- From S. 22nd Street: 1.5 feet (patios); 7 feet (buildings)
- From William Street: 12 feet average
- Side (from eastern property line): 20 feet to face of building
Private Open Space, including decks: 10 feet
- Side (from southern property line): 20 feet to face of building
 - Private Open Space: 10 feet

Single-Family Detached Residential

- From William Street: 12 feet average
- Side (from eastern property line): 20 feet, 5 feet for units fronting onto William Street
- Side (from western property line): 5 feet

Private Open Space:

- A minimum of 60 square feet per unit, each with a minimum dimension of 6 feet.

Common Open Space:

- A minimum of 700 square feet of usable common open space

Parking

- 2.6 spaces per unit - at least 2 covered per unit

Residential Uses in Redevelopment Area

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

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

Homeowners' Association.

- A homeowners' association shall be established for all owners of the units. The association will be responsible for maintenance of all common areas including but not limited to the parking, vehicular circulation, and all common areas.

Park Impact Ordinance.

- Development of the site shall conform to the Park Impact Ordinance.

Design.

- The front setbacks of the two proposed units along William Street should be increased to match the setbacks of the adjacent residential units to the west at the PD Permit stage.
- The design of the two units on William Street should be redesigned at the PD Permit stage to reduce the dominance of the garage door and provide living space accessible and oriented to the street. If necessary, one wider unit should be used in lieu of the two narrow units.
- The entry drive should be aligned with central common open space to reduce the visual dominance of garage doors upon entering the project's interior at the PD Permit stage.

ENVIRONMENTAL MITIGATION:

Air Quality

The developer shall implement the following construction practices during all phases of excavation and construction for the proposed project.

- Water all active construction areas at least twice daily or as often as need to control dust emissions.
- Cover all trucks hauling soil, sand, gravel and other loose materials (including demolition debris) and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.

- Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
- Sweep public streets daily or as often as needed to keep streets free of visible soil material.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Replant vegetation in disturbed areas as quickly as possible.
- If demolition debris is processed on-site (i.e., ground or crushed), additional dust control measures will be utilized to avoid all visible dust plumes leaving the site.

Hazards and Hazardous Materials

The following mitigation measures have been included in the project to reduce hazardous materials impacts to a less than significant level.

- After demolition of the existing building but prior to issuance of grading permits, soil samples will be taken along the western property line of the project site to determine the extent of contamination from herbicides used on the adjacent rail yard property. If contamination levels are found to be below the established Environmental Screening Level (ESL) thresholds for residential development, no future action is required. A report documenting the contamination levels on-site will be submitted to the Environmental Compliance Officer (Environmental Services Department) for review and approval prior to issuance of grading permits.
- If contaminates levels are found to exceed the Environmental Screening Level (ESL) thresholds for residential development, a Soil Management Plan will be prepared by a qualified consultant that will outline remediation activities to be implemented on the project site.
- The proposed Soil Management Plan must be approved by the City of San José Environmental Services Department prior to issuance of grading permits. Implementation of the remediation activities shall be documented by the applicant and all documentation must be submitted by the applicant to the City of San José Environmental Services Department upon completion of remediation activities for approval prior to issuance of building permits.
- All soil investigation and remediation activities will comply with state and federal requirements. Guidelines, oversight, and approval by the Environmental Services Department does not supersede any other environmental agency requirements.

Hydrology and Water Quality

- During construction, burlap bags filled with drain rock will be installed around storm drains to route sediment and other debris away from the drains.
- During construction, earthmoving or other dust-producing activities will be suspended during periods of high winds.
- During construction, all exposed or disturbed soil surfaces will be watered at least twice daily to control dust as necessary.
- During construction, stockpiles of soil or other materials that can be blown by the wind will be watered or covered.
- During construction, all trucks hauling soil, sand, and other loose materials will be covered and/or all trucks will be required to maintain at least two feet of freeboard.
- During construction, all paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites will be swept daily (with water sweepers).
- During construction, vegetation in disturbed areas will be replanted as quickly as possible.
- Prior to construction grading for the proposed land uses, the applicant will file a "Notice of Intent" (NOI) to comply with the General Permit administered by the Regional Board and will prepare a Stormwater Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the amendment to minimize and control construction and post-construction runoff. The following measures would be included in the SWPPP:
 - Preclude non-stormwater discharges to the stormwater system.
 - Effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
 - Coverage of soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff.
 - Perform monitoring of discharges to the stormwater system.
- The developer will submit a copy of the draft SWPPP to the City of San José for review and approval prior to construction of the project site. The certified SWPPP will be posted at the site and will be updated to reflect current site conditions.

Noise

- Any houses located within 120 feet of the centerline of William Street will be equipped with forced air mechanical ventilation systems to allow residents the option of keeping windows closed to control interior noise. With forced air ventilation, standard

construction design and techniques will provide 25 decibels of attenuation, which will result in interior noise levels of 45 dBA or less.

Construction Related Noise

Mitigation Measures: The following mitigation measures have been proposed to avoid or reduce significant short-term construction noise impacts:

- **Construction Deliveries.** Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the said construction times to prevent the disruption of nearby residents.
- **Construction Employees.** Workers shall not arrive to the site more than 15 minutes prior to said construction times.
- **Plans.** The construction hours shall be printed on all plans for the project used to construct the project.
- **Mitigation Measure Disclosure.** These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors. In addition, the project developer is responsible to ensure the following occur prior to the issuance of a Building Permit for the project.
- **Disturbance Coordinator.** A disturbance coordinator shall be identified by the developer for this project. The disturbance coordinator shall be responsible for ensuring compliance with the hours of construction, site housekeeping, and other conditions in this permit. The name of the phone number of the disturbance coordinator shall be conspicuously posted on the project site.
- **Daily Log.** The disturbance coordinator shall maintain a log of daily activities on the project, including but not limited to, verification of site closure activities, project cleanliness, complaints on site activities and conditions and dates and times of the coordinators visits to the project if the coordinator is not solely responsible for this project site.
- **Telephone Contact.** A phone with answering machine for non-work hours shall be maintained during the duration of project construction. The phone number should be a local call for surrounding residents.
- **Signage.** The name and phone number of the disturbance coordinator, the hours of construction limitations, the City File Number, city contact and phone number (department and phone number), and shall be displayed on a weatherproof sign posted at each entrance to the project site.
- **Unnecessary idling of internal combustion engines is prohibited.**

LEGAL DESCRIPTION

The land referred to in this Report is described as follows:

All that certain real property situated in the City of San Jose, County of Santa Clara, State of California, described as follows:

A portion of the 500 acre Lot Number 11 in Pueblo Tract No. 1, San Jose City Lands, being more particularly described as follows:

Beginning at the most Northerly corner of that certain tract of land conveyed by Standard Realty and Development Company to The Western Pacific Railroad Company by Deed dated June 13, 1921 and recorded June 23, 1921 in Volume 535 of Deeds, at Page 392, Santa Clara County Records, said point of beginning being in the Southeasterly line of Williams Street and distant 180.45 feet Northeasterly thereon from the center line of main track of The Western Pacific Railroad Company's San Jose Branch; thence South $11^{\circ} 45'$ East, a distance of 470.20 feet to a point; thence South $38^{\circ} 29' 30''$ East, a distance of 944.70 feet to the most Easterly corner of said Tract of land conveyed to The Western Pacific Railroad Company; thence South $49^{\circ} 04' 30''$ West, a distance of 736.65 feet to a point; thence South $50^{\circ} 05' 30''$ West, a distance of 532.20 feet to a point distant 150 feet measured at a right angle Easterly from said center line of main track; thence North $8^{\circ} 48'$ East, and parallel with said center line of main track a distance of 1815.62 feet to a point distant 50 feet at a right angle Westerly from the first described course; thence North $11^{\circ} 45'$ West, a distance of 196.03 feet to a point in said Southeasterly line of Williams Street; thence North $49^{\circ} 29' 30''$ East along said line of Williams Street, a distance of 57.03 feet to the point of beginning.

Excepting therefrom that portion thereof granted to the State of California by instrument dated May 25, 1965 and recorded July 8, 1965 in Book 7023 of Official Records, Page 35, and more particularly described as follows:

Commencing at the most Easterly corner of the 16.988 acres, more or less, parcel of land conveyed to D'Arrigo Brothers Company of California, a corporation, by Deed recorded October 7, 1948 in Book 1687 of Official Records, Page 220, Official Records of Santa Clara County, thence along the Northeasterly line of said parcel North $37^{\circ} 56' 30''$ West, 650.00 feet; thence South $49^{\circ} 39' 15''$ West, 541.64 feet to the line common to the lands, now or formerly of said D'Arrigo Brothers Company, and of The Western Pacific Railroad Company; thence along said common line South $9^{\circ} 21' 50''$ West, 987.86 feet to the Southeasterly line of said parcel; thence along last said line North $50^{\circ} 43' 23''$ East, 569.25 feet, and North $49^{\circ} 39' 15''$ East, 698.74 feet to the true point of commencement.

Also excepting therefrom all minerals, oil, gas and other hydrocarbon substances below a depth of 500 feet of said real property, without the right of surface entry as shown in that certain Grant Deed recorded March 27, 1981 in Book F985, Page 310 Official Records.

Page No. 3
Order No. 41167005-297-GBC

The above described parcel being as shown on the Record of Survey for The Western Pacific Railroad Company as filed for record October 26, 1966 in Book 216 of Maps at Page 6, Records of Santa Clara County, File Number 3137866.

APN: 472-01-021
ARB: 472-1-21

Memorandum

TO: Michelle Stahlhut
Planning and Building

FROM: Mirabel Aguilar
Public Works

SUBJECT: SEE BELOW

DATE: 03/08/07

Approved

Date

SUBJECT: William Street Residential Project
PW NO. 3-03308 (PDC06-040)

We have completed the review of the traffic analysis for the subject project. The report analyzed replacing 77,720 square feet of warehouse with a 65-unit multi-family residential development. However, the project is actually proposing to construct 5 single-family detached residences and a 32-unit multi-family residential development which would not change the results of the analysis. The proposed development is located at the south side of William Street, approximately 350 feet westerly of South 24th Street. The proposed development is projected to add 49 a.m. peak hour trips and 49 p.m. peak hour trips.

ACCESS

Access to the site will be provided via the extension of 22nd Street, which would form the south leg of the 22nd Street/William Street intersection. Vehicular access to the site will be provided via two full access driveways on the 22nd Street extension.

ANALYSIS

Project traffic impacts and transportation level of service (LOS) have been calculated using Traffix, the City of San Jose and the Santa Clara County Congestion Management Program (CMP) approved software.

This project conforms to the City's transportation policy because the intersection of William Street and 24th Street is currently operating at an acceptable level of service and the project will not add enough trips to this intersection to cause a level of service impact.

Intersection	Peak Hour	Existing LOS	Background LOS
William Street/24 th Street	AM	B+ 11.1	B 12.8
	PM	B+ 11.0	B+ 11.7

Planning and Building

03/08/07

Subject: Traffic Analysis for PDC06-040

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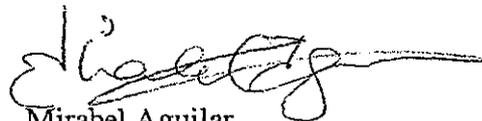
PROJECT CONDITIONS:

Fees totaling \$1,357.00 are due. This includes the traffic report review fee in the amount of \$1,190.00 based on 49 AM/PM peak-hour trips generated by the project prior to any credits or deductions, a \$100.00 DOT Geometric Design Fee, a \$16.00 General Plan Update Fee, as well as a Record Retention Fee of \$51.00 calculated as 4% of the traffic report review fee. These fees shall be paid to the Public Works Department prior to the approval of the PD Zoning.

RECOMMENDATION:

The subject project is in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3). Therefore, after project conditions have been met, a determination for a negative declaration can be made with respect to traffic impacts.

If you have any questions, please call Lori Tanase at extension 53881 or Karen Mack at extension 56816.



Mirabel Aguilar
Project Engineer

Transportation and Development Services Division

MA:lt

C: Karen Mack
Manuel Pineda, DOT
Traffic Consultant

TO: Michelle Stahlhut
Planning and Building

FROM: Michael Liw
Public Works

**SUBJECT: FINAL RESPONSE TO
DEVELOPMENT APPLICATION**

DATE: 03/08/07

PLANNING NO.: PDC06-040
DESCRIPTION: Planned Development Rezoning from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 67 single-family attached and detached residences on a 3.48 gross acre site
LOCATION: South side of William Street, approximately 350 feet westerly of South 24th Street
P.W. NUMBER: 3-03308

Public Works received the subject project on 03/01/07 and submits the following comments and requirements.

Project Conditions:

Public Works Clearance for Building Permit(s) or Map Approval: Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

1. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
2. **Transportation:** A Traffic Impact Analysis Report has been reviewed for the project. The subject project was found to be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3). Therefore, environmental clearance can be issued based on traffic. Refer to the Traffic Memo dated March 8, 2007.
3. **Grading/Geology:**
 - a) On-site ponding must be less than one foot.
 - b) Indicate overland release for all proposed units.
 - c) Any swales along perimeter of the site require a minimum width of 4'.
 - d) A grading permit is required prior to the issuance of a Public Works Clearance.

- e) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - f) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - g) The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
4. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29 -or- the project shall provide an Alternative Measure, where installation of post-construction treatment control measures are impracticable, subject to the approval of the Director of Planning, Building & Code Enforcement.
- a) The project's preliminary Stormwater Control Plan and numeric sizing calculations have been reviewed. At PD stage, submit the final Stormwater Control Plan and numeric sizing calculations.
 - b) Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - c) A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating the all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
5. **Flood: Zone AH, Elevation 93.00' 1929 National Geodetic Vertical Datum (NGVD)**
- a) Elevate the lowest floor, including basement, above 93.00' 1929 NGVD.
 - b) An Elevation Certificate (FEMA Form 81-31) for each proposed structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate based on finished construction is required for each built structure prior to issuance of an occupancy permit.

- c) Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage.
6. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
7. **Parks:** In accordance with the Parkland Dedication and Park Impact Ordinances (SJMC 19.38/14.25), the park impact fee will be due for any additional living units that are built.
8. **Undergrounding:**
- a) The In Lieu Undergrounding Fee in the amount of \$12,768 shall be paid to the City for the frontage adjacent to William Street prior to issuance of a Public Works clearance. One Hundred (100%) percent of the base fee in place at the time of payment will be due. (Currently, the base fee is \$224 per linear foot of frontage.)
 - b) The Director of Public Works may, at her discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to William Street. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
9. **Street Improvements:**
- a) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - b) Existing driveway cut along William Street shall be removed and replaced with city standard driveways to the proposed units.
 - c) Remove and replace curb, gutter, and sidewalk along William Street frontage.
 - d) Project must complete South 22nd Street along the project frontage to an ultimate right-of-way width of 59 feet including a detached pedestrian pathway along the project frontage.
 - e) Close unused driveway cut(s).
 - f) Proposed driveway width on South 22nd Street shall be 26'.
 - g) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - h) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans. To assist the Applicant in better understanding the potential cost implications resulting from these requirements, existing pavement conditions can be evaluated during the Planning permit review stage. The Applicant will be required to submit a plan and the applicable fees to the PW Project Engineer for processing. The plan should show all project frontages and property lines. Evaluation will require approximately 20 working days.

10. **Complexity Surcharge (In-Fill):** This project has been identified as an in-fill project, and as such is subject to the following: Based on established criteria, the public improvements associated with this project have been rated medium complexity. An additional surcharge of 25% will be added to the Engineering & Inspection (E&I) fee collected at the street improvement stage.
11. **SNI:** This project is located within the Five Wounds/Brookwood Terrace SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
12. **Electrical:**
 - a) Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans
 - b) Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
 - c) Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 5' in residential areas.
 - d) To assist the Applicant in better understanding the potential cost implications resulting from these requirements, the electroliers along the project frontage can be evaluated during the Planning permit review stage. The Applicant will be required to submit a plan and the applicable fees to the PW Project Engineer for processing. The plan should show all project frontages and property lines. Evaluation will require approximately 15 working days.
13. **Street Trees:**
 - a) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
 - b) Contact the City Arborist at (408) 277-2756 for the designated street tree.
 - c) Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings.
14. **Map:** Identify the purpose of existing 15' pipeline easement at the south end of the property.
15. **Private Streets:**
 - a) Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
 - b) The plan set includes details of private infrastructure improvements. The details are shown for information only; final design shall require the approval of the Director of Public Works.

Please contact the Project Engineer, Mirabel Aguilar, at (408) 535-6822 if you have any questions.



Michael Liw
Senior Civil Engineer
Transportation and Development Services Division

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Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: March 8, 2007

TRANSMITTAL MEMO

COUNCIL DISTRICT: 3
SNI: N/A

SUBJECT: PDC06-040. LOCATED ON THE SOUTHSIDE OF E. WILLIAM STREET APPROXIMATELY 350 FEET WEST OF SOUTH 24TH STREET.

The Planning Commission will hear this project on March 14, 2007. The memorandum with Planning Commission recommendations will be submitted under different cover. We hope the submittal of this staff report is of assistance in your review of this project.

JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Susan Walton at (408) 535-7800.

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
P. C. 03/14/2007 Item: 4.6.
C.C. 3/20/07

File Number
PDC06-040

Application Type
Planned Development Rezoning

Council District and SNI Area
3 – Five Wounds/Brookwood Terrace

Planning Area
Central

Assessor's Parcel Number(s)
472-01-021

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Michelle Stahlhut

Location: South side of E. William Street approximately 350 feet west of South 24th Street

Gross Acreage: 3.48

Net Acreage: 3.26

Net Density: 20.55 DU/AC

Existing Zoning: LI Light Industrial

Existing Use: Warehouse

Proposed Zoning: A(PD) Planned
Development

Proposed Use: Up to 67 single-family attached and detached
residential units

GENERAL PLAN

Completed by: MS

Land Use/Transportation Diagram Designation
Medium High Density Residential (12-25 DU/AC)

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: MS

North: Single-family detached residential

LI Light Industrial

East: Mobile Home Park

LI Light Industrial

South: Elementary School

LI Light Industrial

West: Single-family detached residential

A(PD) Planned Development

ENVIRONMENTAL STATUS

Completed by: MS

Environmental Impact Report found complete
 Negative Declaration circulated
 Mitigated Negative Declaration adopted on February 26, 2007

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: MS

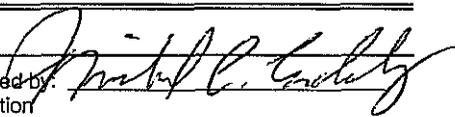
Annexation Title: McLaughlin No. 16

Date: July 27, 1981

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial
 Uphold Director's Decision

Date: 3/7/07

Approved by: 
 Action
 Recommendation

APPLICANT/OWNER/DEVELOPER

Jim Rubnitz
22nd & William Street, LLC
1090 E. William Street
San Jose, CA 95116

William George, Jr.
22nd & William Street, LLC
1090 E. William Street
San Jose, CA 95116

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Michelle Stahlhut

Department of Public Works

Attached

Other Departments and Agencies

Fire Department, Environmental Services Department, Parks, Recreation, and Neighborhood Services Department - attached

GENERAL CORRESPONDENCE

MS

Grover Phillips - Attached

ANALYSIS AND RECOMMENDATIONS

MS

BACKGROUND

The applicant, 22nd & William Street, LLC., is proposing a rezoning from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District on a 3.48 gross acre site located on the south side of E. William Street approximately 350 feet west of South 24th Street. The proposed PD Rezoning would allow up to 67 single-family attached and detached residential units on an existing light industrial warehouse site. The project includes dedication and improvement of a 10 foot wide sidewalk/path along South 22nd Street.

The subject site is currently developed with a warehouse that is used for indoor storage. The shape of the site is triangular, with an approximately 57 foot wide pan-handle extending to William Street. Surrounding land uses consist of (1) single-family detached residential and commercial uses to the north; (2) mobile home park residential to the east; (3) McKinley School to the south; and (4) single-family detached residential to the west.

Project Description

Beginning approximately 190 feet east of South 22nd Street on the south side of East William Street, the project proposes replacing an existing warehouse building with up to 67 single-family attached and detached residential units. The proposed project would locate single-family attached residential units with front entries on South 22nd Street and rear-loaded garages on an interior private drive. Additionally, the proposed project would locate up two single-family detached residential units with front entries and rear-loaded garages on E. William Street, and on the interior private drive. The proposed project would dedicate and improve approximately 15 feet along the western edge of the site to finish the recently constructed South 22nd Street by

constructing a sidewalk and path that is approximately 10 feet in width along the entire western side of the subject site.

Front entries for single-family attached units would take access from 22nd Street as well as landscaped pedestrian paseos. Attached garages would take access from a private driveway with entry taken from S. 22nd Street. The driveway is 26 feet wide. Private open space would be located in the front of the units.

The proposed single-family units are approximately 2.5 stories in height with parking on the first floor, and living area beginning on the second floor. The elevations utilize gable and hip roof elements covered with concrete spanish roof tiles, (2) painted stucco or painted pre-formed wood siding with foam plaster molding and decorative foam tiles, and (3) wrought iron or wood picket fencing.

Each scheme is stylistically consistent as specified by the Residential Design Guidelines. Staff will require material details including color at the PD Permit stage in conformance with the Guidelines.

GENERAL PLAN CONFORMANCE

The subject site is designated Medium High Density Residential (12-25 DU/AC) on the San Jose 2020 General Plan Land Use/Transportation Diagram. The site is also part of a larger area that has a Floating Park Designation, which defines an area where a future park is desired but its exact location has not yet been identified.

The proposed PD Rezoning conforms to the General Plan designation of Medium High Density Residential because it would allow up to 62 single-family attached residences and five single-family detached residences at a net density of 20.55 DU/AC on the subject site. The project is not proposing to dedicate land for a park. The Department of Parks, Recreation, and Neighborhood Services is requesting payment of in-lieu fees associated with the number of new residential units constructed on the site instead of dedication of land in order to support the conversion of the Martin Landfill Site located approximately 200 feet south of the subject site into a usable recreation facility to serve the neighborhood.

The General Plan Growth Management Major Strategy encourages infill development within urbanized areas where urban facilities and services are already available to minimize the cost of providing urban services. The proposed PD Rezoning furthers the Growth Management Major Strategy because it is located on an infill site in an urban area where urban facilities and services are already available. In this way, the proposed project furthers the Growth Management Major Strategy that seeks to balance the need to house new population and the need to balance the City's budget while providing acceptable levels of urban services.

ENVIRONMENTAL REVIEW

Planning staff prepared an Initial Study for the proposed project. The Initial Study concluded that the proposed project could have significant effects on the environment which would be reduced to a less than significant level by mitigation measures that the applicant has agreed to implement. The environmental issues of concern include (1) air quality, (2) hazards and hazardous materials, (3) hydrology and water quality, and (4) noise. The project proposes mitigation of air quality issues by implementing dust control measures. Mitigation of hazards and hazardous materials requires additional soil testing after demolition but prior to grading of the site. Water Quality mitigation includes standard Best Management Practices and submission of a Storm Water Pollution Prevention Program Plan to ensure compliance with the NPDES permit requirements during construction. Finally, noise mitigation includes installation of forced air mechanical ventilation systems for all units within 120 feet of the centerline of William Street to reduce the interior noise level to acceptable standards. Please see attached Mitigated Negative Declaration for specific mitigation measures.

The Director of Planning, Building and Code Enforcement circulated the draft Mitigated Negative Declaration (MND). The public review period for the MND began on February 6, 2007 and ended on February 26, 2007. The Initial Study and MND are available for review on the City website at: <http://www.sanjoseca.gov/planning/eir/MND.asp>. The Director adopted the MND on February 27, 2007.

ANALYSIS

The primary issues analyzed are consistency with (1) the Five Wounds/Brookwood Terrace Neighborhood Improvement Plan, and (2) the Residential Design Guidelines.

Five Wounds/Brookwood Terrace Neighborhood Improvement Plan

The Five Wounds/Brookwood Terrace (FWBT) Neighborhood Improvement Plan (Plan) envisions the neighborhood as a “small town” in close proximity to San Jose’s vibrant metropolitan core. The Plan also envisions a community with sidewalks and trails that connect neighborhoods to parks, recreational facilities, and regional transit. The Plan identifies ten top priorities. Priorities 6, and 7 are applicable to the proposed project, and are described below.

Priority 6. Improve William Street Pedestrian Environment and Streetscape.

William Street is a physical border between many residential neighborhoods to the north, and community resources to the south including Olinder Elementary School, the Olinder Center, Northside Theater, and Selma Olinder Park. Many residents, including children, walk along and cross William Street to access these community resources. In addition, many residents will use William Street in the future to gain access to the revitalized William and 24th/McLaughlin commercial node (identified as Priority 1) and the “Rail-to-Trail” planned to cross William on the subject site.

The proposed project implements this vision by (1) constructing up to two single-family detached units that front on to E. William Street and street improvements to enhance the pedestrian experience.

Priority 7. Complete the Coyote Creek Trail between Kelley Park and Highway 101.

The community envisions extending the Coyote Creek Trail from Kelley Park to Watson Park through Selma Olinder and Roosevelt Parks as well as San Jose Academy. However, the feasibility of a creekside trail through residential properties and securing funding for the trail are two challenges that needed to be addressed. To examine alternate routes with the community, the District 3 Council office in partnership with Walk San Jose and Rail-to-Trail applied and received a \$144,000 State grant. Possible alignments included (1) residential streets such as 19th, 20th or 21st, (2) the newly constructed South 22nd Street located directly adjacent to the subject site, and (3) residential areas west of Coyote Creek.

The proposed project implements this vision by constructing a path that is ten feet in width adjoining the east side of South 22nd Street, which was recently constructed as part of the redevelopment of the abandoned railroad right-of-way located along on the western property line of the subject site.

Residential Design Guidelines

Perimeter Setbacks

The Residential Design Guidelines specify a perimeter setback of 20 feet for two-story residential structures adjacent to residential streets, and a perimeter setback of 20 feet to single family rear yards or other residential uses. The proposed project provides perimeter setbacks of 20 feet from the property line to the living area at the eastern property line adjacent to an existing mobile home park, and adjacent to the school located along the southeastern edge of the site.

Along the western side of the subject site, residential units will face on to S. 22nd Street. The front setback to the property line for these units is five feet to the patios, with a setback of approximately 24 feet to the living area. While the building setback generally conforms to the design guidelines, the front landscape is very minimal and should be increased to about 10 feet in width at the PD Permit stage to provide a more attractive streetscape and pedestrian environment and to provide better separation between the sidewalk and private open space areas.

The front setbacks of the two proposed units along William Street averages about 9 feet and should be increased to match the setbacks of the adjacent residential units to the west. The design of these two units is comprised exclusively of garage doors at the sidewalk level. While this would be acceptable for private alleys within the interior of the project, this is not an acceptable design for the front building façade facing an existing street. The design guidelines recommend that the garage door width not exceed 50 percent of the width of the building so that active living area and front doors can face the street. If necessary, one wider unit should be used in lieu of the two narrow units.

Open Space

The Residential Design Guidelines specify a minimum of 300 square feet of private open space per unit with a minimum dimension of 15 feet and a minimum of 150 square feet of usable common open space per unit. The project provides an average of 253 square feet of private open space per unit throughout the development, ranging from 231 square feet to 352 square feet per unit, depending on the unit type. This private open space is a combination of ground floor open space, as well as a second floor deck. The dimension of all open space proposed ranges from 15 to 22 feet, which meets the minimum requirement of 15 feet, however this proposal does not quite meet the minimum requirements for private or common open space. Given the more urban design of the project and the surroundings, staff feels that the private open space as proposed is acceptable and consistent with other recent approvals for similar projects.

The project proposes approximately 800 total square feet of common open space in the center of the project, which is approximately 12 square feet per unit. This is substantially less than the 150 square feet per unit that the guidelines typically recommend. However, the policy does allow the requirement to be reduced in instances where the site is near a public park. The project is located approximately 200 feet north of the future Martin Park expansion. The PDO/PIO fees from this project will help complete the conversion from Martin landfill to park uses.

Driveways

The internal circulation element of the project is overly dominated by garage doors. The City has generally strived to approve projects that facilitate visitor access to units within the project interior without having to drive or walk past long processions of garage doors if possible. Staff will work the applicant to refine this at the P.D. Permit stage and work to improve the attractiveness of the facades with possible upgrades to garage door designs in highly visible areas. There should be at least one nine (9) net square-foot planter area containing a tree or large shrub located between garage doors. The area above the tree pockets should remain unobstructed to allow for the future growth of the tree. Underground utility lines should not be located under the tree pocket. Utility vaults located in tree pockets do not count toward the nine (9) net square feet (Fig. 22-2).

Parking

The Residential Design Guidelines specify 2.6 parking spaces per unit for three bedroom residential units with covered parking garages. The project as proposed requires 174.2 parking spaces. The project provides 2 covered parking spaces per unit and a total of 40 on-street parking spaces per unit, which is a total of 174 parking spaces. Staff recommends the project provide one additional parking space in conformance with the Guidelines.

PUBLIC OUTREACH

The applicant presented the proposed project to noticed community meetings with the Five Wounds Brookwood Terrace Neighborhood Action Committee (FWBT NAC) on January 23, 2007, and held a community meeting at the project site on February 1, 2007.

On January 23, members of the FWBT NAC asked questions regarding the construction of the walking path, whether the residential units on S. 22nd Street would have front doors facing the street, access to common open space, and affordability. Community members generally supported the proposal.

On February 1, 2007, the applicant hosted a community meeting for residents, tenants, and property owners located within 1,000 feet of the subject site. Community members generally supported the site plan. They stated concerns regarding problems with the KB Homes Autumn Terrace at William construction site in the neighborhood including issues with dust control, unpermitted construction prior to 7 a.m. and on weekends, large trucks traveling on small residential streets, and the length of time and amount of compacting required at the site. Other concerns included quality of materials proposed for the units, and existing drainage problems on adjacent properties from the subject site, specifically related to the mobile home park located directly east of the project site, and single-family homes located to the west of the project street and across E. William Street.

RECOMMENDATION

Planning Staff recommends that the following special conditions be added to the Draft Development Standards for the project:

1. The front landscaping on 22nd Street is very minimal and should be increased to about 10 feet in width if possible (7' minimum) at the PD Permit stage to provide a more attractive streetscape and pedestrian environment and to provide better separation between the sidewalk and private open space areas.
2. The front setbacks of the two proposed units along William Street should be increased to match the setbacks of the adjacent residential units to the west at the PD Permit stage.
3. The design of the two units on William Street should be redesigned at the PD Permit stage to reduce the dominance of the garage door and provide living space accessible and oriented to the street. If necessary, one wider unit should be used in lieu of the two narrow units.
4. The entry drive should be aligned with central common open space to reduce the visual dominance of garage doors upon entering the project's interior at the PD Permit stage.

With the inclusion of the above noted conditions, Planning staff recommends the Planning Commission forward a recommendation to the City Council to approve the proposed Planned Development Rezoning for the following reasons:

1. The proposed Planned Development Rezoning conforms to San Jose 2020 General Plan Land Use/Transportation Diagram designation of Medium High Density Residential (12-25 DU/AC).

2. The proposed Planned Development Rezoning furthers the General Plan Growth Management Major Strategy.
3. The proposed Planned Development Rezoning implements the Five Wounds Brookwood Terrace Neighborhood Improvement Plan.
4. The proposed Planned Development Rezoning conforms to the Residential Design Guidelines.

cc: Jim Rubnitz
22nd & William St., LLC.
1090 E. William Street
San Jose, CA 94116

William George, Jr.
22nd & William St., LLC.
1090 E. William Street
San Jose, CA 94116

Attachments

1. Location Map
2. Development Standards
3. Mitigated Negative Declaration
4. Parks, Recreation, and Neighborhood Services Memorandum
5. Strong Neighborhoods Initiative Memorandum
6. Land Use Policy for Wireless Communication Facilities
7. Neighborhood Correspondence

PDC06-040
DRAFT DEVELOPMENT STANDARDS

PERMITTED USES

- 40 - 67 single-family detached/attached residential units

DEVELOPMENT STANDARDS

Building Height:

- Maximum Height 35 feet, three stories

Perimeter Setbacks:

- From S. 22nd Street: 7 feet (patios); 24 feet (buildings)
- From William Street: 12 feet average
- Side (from eastern property line): 20 feet to face of building
 - Private Open Space: 10 feet
- Side (from southern property line): 20 feet to face of building
 - Private Open Space: 10 feet

Private Open Space:

- A minimum of 60 square feet per unit, each with a minimum dimension of 15 feet.

Common Open Space:

- A minimum of 700 square feet of usable common open space

Parking

- 2.6 spaces per unit - at least 2 covered per unit

Driveway

- Width: A minimum of one nine net square foot planter area containing a tree or large shrub shall be located between garage doors along the interior private drive.

Noise

- Maximum noise level in decibels at property line by any use or combination of uses on the property shall be 55 Dbl.

Residential Uses in Redevelopment Area.

- Applicant shall comply with City's Inclusionary Housing Policy in connection with any and all portions of the Project involving the construction of residential units that will be located in a redevelopment project area, and Applicant shall record or cause the recordation against the real property upon which the residential units will be located the affordability restrictions approved by the Director of Housing, which recordation shall occur with the Recorder's Office of the County of Santa Clara prior to the issuance of a building permit for the Project.

Homeowners' Association.

- A homeowners' association shall be established for the owners of the units. The association will be responsible for maintenance of all common areas including but not limited to the parking, vehicular circulation, and all common areas.

Park Impact Ordinance.

- Development of the site shall conform to the Park Impact Ordinance.

Design.

- The front landscaping on 22nd Street is very minimal and should be increased to about 10 feet in width if possible (7' minimum) at the at the PD Permit stage to provide a more attractive streetscape and pedestrian environment and to provide better separation between the sidewalk and private open space areas.
- The front setbacks of the two proposed units along William Street should be increased to match the setbacks of the adjacent residential units to the west at the PD Permit stage.
- The design of the two units on William Street should be redesigned at the PD Permit stage to reduce the dominance of the garage door and provide living space accessible and oriented to the street. If necessary, one wider unit should be used in lieu of the two narrow units.
- The entry drive should be aligned with central common open space to reduce the visual dominance of garage doors upon entering the project's interior at the PD Permit stage.

ENVIRONMENTAL MITIGATION:

Air Quality

The developer shall implement the following construction practices during all phases of excavation and construction for the proposed project.

- Water all active construction areas at least twice daily or as often as need to control dust emissions.

- Cover all trucks hauling soil, sand, gravel and other loose materials (including demolition debris) and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
- Sweep public streets daily or as often as needed to keep streets free of visible soil material.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Replant vegetation in disturbed areas as quickly as possible.
- If demolition debris is processed on-site (i.e., ground or crushed), additional dust control measures will be utilized to avoid all visible dust plumes leaving the site.

Hazards and Hazardous Materials

The following mitigation measures have been included in the project to reduce hazardous materials impacts to a less than significant level.

- After demolition of the existing building but prior to issuance of grading permits, soil samples will be taken along the western property line of the project site to determine the extent of contamination from herbicides used on the adjacent rail yard property. If contamination levels are found to be below the established Environmental Screening Level (ESL) thresholds for residential development, no future action is required. A report documenting the contamination levels on-site will be submitted to the Environmental Compliance Officer (Environmental Services Department) for review and approval prior to issuance of grading permits.
- If contaminates levels are found to exceed the Environmental Screening Level (ESL) thresholds for residential development, a Soil Management Plan will be prepared by a qualified consultant that will outline remediation activities to be implemented on the project site.
- The proposed Soil Management Plan must be approved by the City of San José Environmental Services Department prior to issuance of grading permits. Implementation of the remediation activities shall be documented by the applicant and all documentation must be submitted by the applicant to the City of San José Environmental Services Department upon completion of remediation activities for approval prior to issuance of building permits.
- All soil investigation and remediation activities will comply with state and federal requirements. Guidelines, oversight, and approval by the Environmental Services Department does not supersede any other environmental agency requirements.

Hydrology and Water Quality

- During construction, burlap bags filled with drain rock will be installed around storm drains to route sediment and other debris away from the drains.
- During construction, earthmoving or other dust-producing activities will be suspended during periods of high winds.
- During construction, all exposed or disturbed soil surfaces will be watered at least twice daily to control dust as necessary.
- During construction, stockpiles of soil or other materials that can be blown by the wind will be watered or covered.
- During construction, all trucks hauling soil, sand, and other loose materials will be covered and/or all trucks will be required to maintain at least two feet of freeboard.
- During construction, all paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites will be swept daily (with water sweepers).
- During construction, vegetation in disturbed areas will be replanted as quickly as possible.
- Prior to construction grading for the proposed land uses, the applicant will file a "Notice of Intent" (NOI) to comply with the General Permit administered by the Regional Board and will prepare a Stormwater Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the amendment to minimize and control construction and post-construction runoff. The following measures would be included in the SWPPP:
 - Preclude non-stormwater discharges to the stormwater system.
 - Effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
 - Coverage of soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff.
 - Perform monitoring of discharges to the stormwater system.
- The developer will submit a copy of the draft SWPPP to the City of San José for review and approval prior to construction of the project site. The certified SWPPP will be posted at the site and will be updated to reflect current site conditions.

Noise

- Any houses located within 120 feet of the centerline of William Street will be equipped with forced air mechanical ventilation systems to allow residents the option of keeping windows closed to control interior noise. With forced air ventilation, standard construction design and techniques will provide 25 decibels of attenuation, which will result in interior noise levels of 45 dBA or less.

Construction Related Noise

Mitigation Measures: The following mitigation measures have been proposed to avoid or reduce significant short-term construction noise impacts:

- **Construction Deliveries.** Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the said construction times to prevent the disruption of nearby residents.
- **Construction Employees.** Workers shall not arrive to the site more than 15 minutes prior to said construction times.
- **Plans.** The construction hours shall be printed on all plans for the project used to construct the project.
- **Mitigation Measure Disclosure.** These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors. In addition, the project developer is responsible to ensure the following occur prior to the issuance of a Building Permit for the project.
- **Disturbance Coordinator.** A disturbance coordinator shall be identified by the developer for this project. The disturbance coordinator shall be responsible for ensuring compliance with the hours of construction, site housekeeping, and other conditions in this permit. The name of the phone number of the disturbance coordinator shall be conspicuously posted on the project site.
- **Daily Log.** The disturbance coordinator shall maintain a log of daily activities on the project, including but not limited to, verification of site closure activities, project cleanliness, complaints on site activities and conditions and dates and times of the coordinators visits to the project if the coordinator is not solely responsible for this project site.
- **Telephone Contact.** A phone with answering machine for non-work hours shall be maintained during the duration of project construction. The phone number should be a local call for surrounding residents.

- Signage. The name and phone number of the disturbance coordinator, the hours of construction limitations, the City File Number, city contact and phone number (department and phone number), and shall be displayed on a weatherproof sign posted at each entrance to the project site.
- Unnecessary idling of internal combustion engines is prohibited.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED IN THE LI LIGHT INDUSTRIAL ZONING DISTRICT TO A(PD) PLANNED DEVELOPMENT 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 was prepared for a rezoning project under File No. PDC06-040, and said Exemption was approved by the Director of Planning on February 26, 2007; and

WHEREAS, the Council is the decision-making body for the proposed subject rezoning to A(PD) Planned Development; and

WHEREAS, this Council has considered the Statement of Exemption prepared for this proposed rezoning prior to taking any action on 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 A (PD) Planned Development.

The base district zoning of the subject property shall be A-Agricultural. The PD zoning of the subject property shall be that development plan for the subject property entitled, "William & 22nd Street Townhomes," **last revised February 2, 2007.**

Said General Development Plan is on file in the office of the Director of Planning and is available for inspection by anyone interested therein, and said General Development Plan is by this reference adopted and incorporated herein the same as if it were fully set forth herein.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference.

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. PDC06-040 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 _____ day of _____, 2007 by the following vote:

AYES:

NOES:

ABSENT:

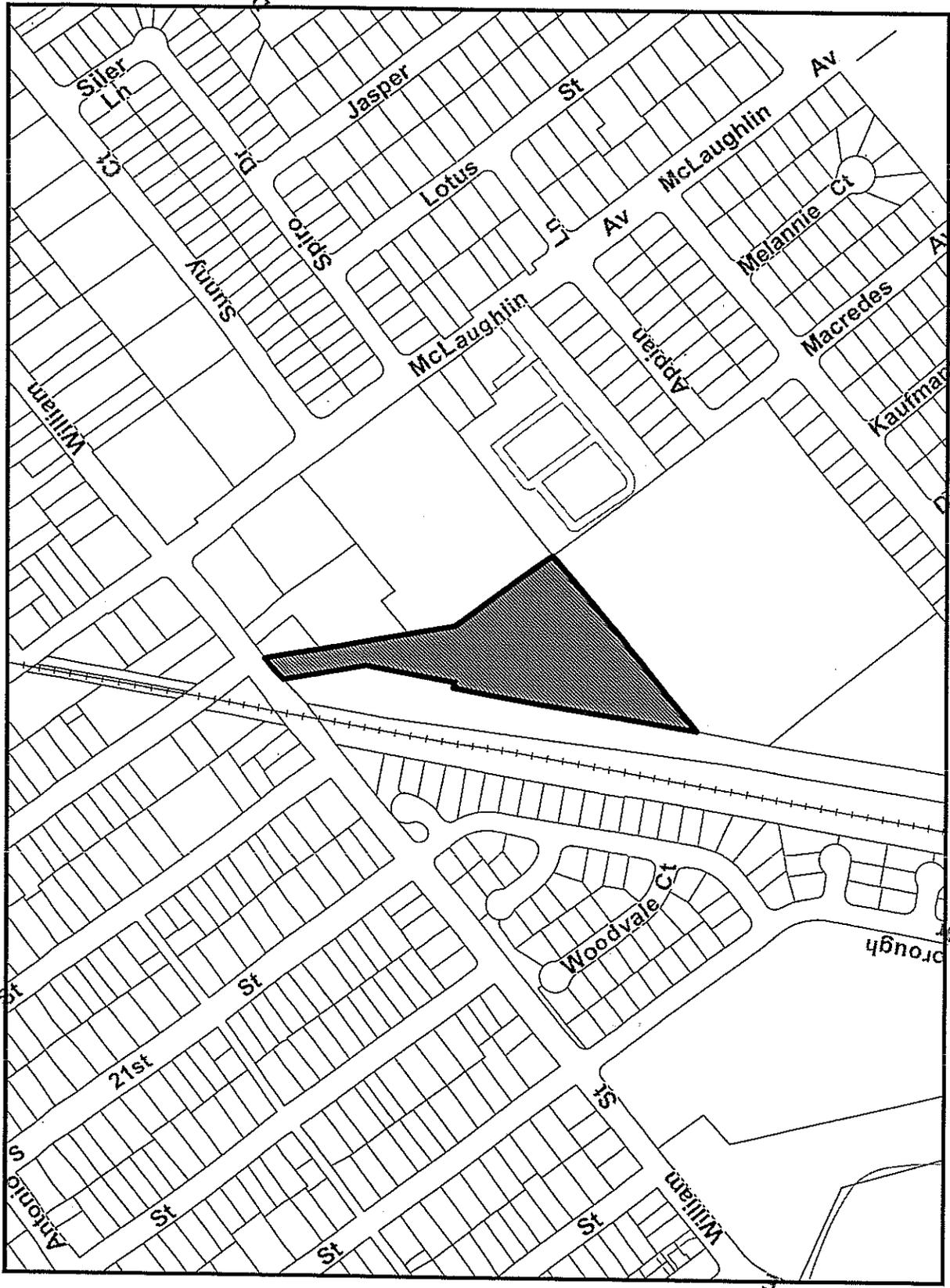
DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

cc:

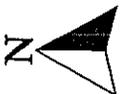


File No: PDC06-040

District: 3

Quad No: 83

Scale: 1"= 350'
Noticing Radius: 500 feet



Map Created On:
05/09/2006

**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: 1090 William Street

PROJECT FILE NUMBER: PDC06-040

PROJECT DESCRIPTION: Planned Development Rezoning from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District and subsequent permits to allow up to 67 single-family attached and detached residences on a 3.48 gross acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: South side of William Street, approximately 350 feet westerly of South 24th Street; APN 472-01-021

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: 22nd & William Street, LLC, 1090 E. William Street, San Jose, CA 95116 Phone: (408)831-6416
Attn: Jim Rubnitz & William George Jr.

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

- The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a less-than-significant level. The following mitigation would be implemented during all phases of construction on the project site:
 - Water all active construction areas at least twice daily or as often as need to control dust emissions.
 - Cover all trucks hauling soil, sand, gravel and other loose materials (including demolition debris) and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
 - Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
 - Sweep public streets daily or as often as needed to keep streets free of visible soil material.
 - Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - Replant vegetation in disturbed areas as quickly as possible.
 - If demolition debris is processed on-site (i.e., ground or crushed), additional dust control measures will be utilized to avoid all visible dust plumes leaving the site.

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

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

VI. GEOLOGY AND SOILS – The project will not have a significant impact on this resource, therefore no mitigation is required.

VII. HAZARDS AND HAZARDOUS MATERIALS –

The following mitigation measures have been included in the project to reduce hazardous materials impacts to a less than significant level.

- After demolition of the existing building but prior to issuance of grading permits, soil samples will be taken along the western property line of the project site to determine the extent of contamination from herbicides used on the adjacent rail yard property. If

contamination levels are found to be below the established Environmental Screening Level (ESL) thresholds for residential development, no future action is required. A report documenting the contamination levels on-site will be submitted to the Environmental Compliance Officer (Environmental Services Department) for review and approval prior to issuance of grading permits.

- If contaminates levels are found to exceed the Environmental Screening Level (ESL) thresholds for residential development, a Soil Management Plan will be prepared by a qualified consultant that will outline remediation activities to be implemented on the project site.
- The proposed Soil Management Plan must be approved by the City of San José Environmental Services Department prior to issuance of grading permits. Implementation of the remediation activities shall be documented by the applicant and all documentation must be submitted by the applicant to the City of San José Environmental Services Department upon completion of remediation activities for approval prior to issuance of building permits.
- All soil investigation and remediation activities will comply with state and federal requirements. Guidelines, oversight, and approval by the Environmental Services Department does not supersede any other environmental agency requirements.

VIII. HYDROLOGY AND WATER QUALITY –

Construction

Mitigation: The following mitigation measures, based on RWQCB Best Management Practices, are included in the proposed project to ensure compliance with NPDES permit requirements to reduce construction-related water quality impacts:

- During construction, burlap bags filled with drain rock will be installed around storm drains to route sediment and other debris away from the drains.
- During construction, earthmoving or other dust-producing activities will be suspended during periods of high winds.
- During construction, all exposed or disturbed soil surfaces will be watered at least twice daily to control dust as necessary.
- During construction, stockpiles of soil or other materials that can be blown by the wind will be watered or covered.
- During construction, all trucks hauling soil, sand, and other loose materials will be covered and/or all trucks will be required to maintain at least two feet of freeboard.
- During construction, all paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites will be swept daily (with water sweepers).

- During construction, vegetation in disturbed areas will be replanted as quickly as possible.
- Prior to construction grading for the proposed land uses, the applicant will file a "Notice of Intent" (NOI) to comply with the General Permit administered by the Regional Board and will prepare a Stormwater Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the amendment to minimize and control construction and post-construction runoff. The following measures would be included in the SWPPP:
 - Preclude non-stormwater discharges to the stormwater system.
 - Effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
 - Coverage of soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff.
 - Perform monitoring of discharges to the stormwater system.
- The developer will submit a copy of the draft SWPPP to the City of San José for review and approval prior to construction of the project site. The certified SWPPP will be posted at the site and will be updated to reflect current site conditions.

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

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

XI. NOISE –

Mitigation: The following measures are included in the project to reduce significant long-term noise impacts:

- Any houses located within 120 feet of the centerline of William Street will be equipped with forced air mechanical ventilation systems to allow residents the option of keeping windows closed to control interior noise. With forced air ventilation, standard construction design and techniques will provide 25 decibels of attenuation, which will result in interior noise levels of 45 dBA or less.

Construction Related Noise

Mitigation Measures: The following mitigation measures have been proposed to avoid or reduce significant short-term construction noise impacts:

- **Construction Deliveries.** Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the said construction times to prevent the disruption of nearby residents.

- **Construction Employees.** Workers shall not arrive to the site more than 15 minutes prior to said construction times.
- **Plans.** The construction hours shall be printed on all plans for the project used to construct the project.
- **Mitigation Measure Disclosure.** These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors. In addition, the project developer is responsible to ensure the following occur prior to the issuance of a Building Permit for the project.
- **Disturbance Coordinator.** A disturbance coordinator shall be identified by the developer for this project. The disturbance coordinator shall be responsible for ensuring compliance with the hours of construction, site housekeeping, and other conditions in this permit. The name of the phone number of the disturbance coordinator shall be conspicuously posted on the project site.
- **Daily Log.** The disturbance coordinator shall maintain a log of daily activities on the project, including but not limited to, verification of site closure activities, project cleanliness, complaints on site activities and conditions and dates and times of the coordinators visits to the project if the coordinator is not solely responsible for this project site.
- **Telephone Contact.** A phone with answering machine for non-work hours shall be maintained during the duration of project construction. The phone number should be a local call for surrounding residents.
- **Signage.** The name and phone number of the disturbance coordinator, the hours of construction limitations, the City File Number, city contact and phone number (department and phone number), and shall be displayed on a weatherproof sign posted at each entrance to the project site.
- Unnecessary idling of internal combustion engines is prohibited.

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

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

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

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

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

XVII. 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 February 26, 2007, 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, Director
Planning, Building and Code Enforcement

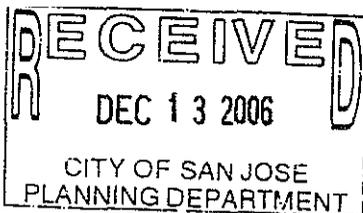
Circulated on: February 6, 2007

Ron Eddow
Deputy

Adopted on: March 8, 2007

Ron Eddow
Deputy

Revised 8/26/05 JAC



Memorandum

TO: Michelle Stahlhut
PBCE Dept.

FROM: David J. Mitchell
PRNS Dept.

SUBJECT: PDC06-040 – APN 472-01-021

DATE: 12-13-06

The above referenced project is a Planned Development Rezoning from LI Light Industrial Zoning District to A(PD) Planned Development District to allow up to 67 single-family attached residential units on a 3.48 gross acres site located on the south side of East William Street, adjacent to South 22nd Street in CD 3.

If the project is approved by the City, the project must then comply with the requirements of the Parkland Dedication Ordinance (PDO). Regarding the “Floating P Destination,” the City has a need to use the in-lieu fees from this project to support the conversation of the Martin Landfill Site into a usable recreational facility to serve the neighborhood. Due to its size of the proposed housing project is over 50 units and per the requirements of the PDO, the City can request the Developer to dedicate land, however, in this case the City will request the park in-lieu fees associated with the number of new residential units constructed on the site.

If the proposed project is approved, and if the project’s obtain a Plan Development Permit, a Site Development Permit and/or a Tentative Map by July 9, 2007, then the project would be subject to the current fees at 70% of the 2001 land values and would be subject to such fees until January 31, 2009. The Park In-lieu Fee are due before the project’s final map is approved, or as a condition of the City’s approval of the project’s final map, the developer can enter into a parkland agreement with the City which provides for payment of the parkland fees in full, concurrent with the issuance of the building permits, which actual creates the residential units, but no later than one year after the City’s approval of the final map. If the project does not have a Plan Development Permit, a Site Development Permit and/or a Tentative Map by July 9, 2007, then it will be subject to the fees in effect at the time of payment.

If you have any questions, please give me a call at 408-793-5528.

DAVID J. MITCHELL
Parks Planning Manager

Stahlhut, Michelle

From: Orduna, Rodrigo
Sent: Friday, May 19, 2006 12:19 PM
To: Stahlhut, Michelle
Subject: PDC06-040 - referral response

The proposed project, PDC06-040, is to rezone the subject property to a PD Zoning District, in order to develop up to 67 new, 2.5 story, mostly-attached, single-family homes on a 3.48 acre site (19 du/ac).

The subject property, 1090 East William Street (APN 472-01-021) is located in the FWBT SNI Neighborhood Improvement Plan. The property is located across newly extended 22nd Street from the new "Autumn Terrace at William" single-family residential development project by KB Homes. The subject property is currently zoned in the Light Industrial zoning district and the Medium High Density Residential (12 – 25 du/ac) land use designation of the General Plan. The General Plan also designates a Floating Park somewhere in the vicinity of the subject parcel, to be located somewhere adjacent to the old railroad right-of-way.

The FWBT Plan calls for a network of open space, including parks and pedestrian trails, to connect neighborhoods to each other and to the larger city, which includes the rails-to-trails re-use of the old railroad right-of-way (pg III-5) as part of the larger network of parks (pg IV-34). The trail adjacent to and part of the new 22nd Street right-of-way, would include a Class I bike route, which is a bicycle/pedestrian path separated from vehicular streets (pgs IV-14 and IV-15), designed as a defensible space and greenway (pgs IV-25 and IV-26) that is flanked by street-facing residential uses (pgs IV-28 through IV-30).

The Plan lists the subject site as an opportunity area for new development (pg II-10), especially as part of a broad organizing concept for new neighborhoods out of old industrial areas (pgs III-7 and III-8). The Plan calls for a land use at the subject site of Medium Density Residential (8 – 16 du/ac). However, because this site is located adjacent to parcels flanking the corner of William and 24th with Neighborhood Community Commercial land use Designation of the General Plan (designated Mixed Use, 3-story maximum in the FWBT Plan) and adjacent to McKinley Elementary School to the south, the proposed land use density of 19 units to the acre may be appropriate for development of this parcel.

The FWBT Plan points out the long-term potential for trail-facing housing, and conceptually shows a possible right-of-way connecting the new 22nd Street to McLaughlin Avenue (pgs III-20 IV-19, and IV-29). The project proponent should consider designing the project with possible future street access between the new 22nd Street and McLaughlin Avenue in order to improve pedestrian access and connectivity within the new neighborhood.

As part of the rails-to-trails conversion of the old railroad right-of-way, the project proponent should coordinate with the City Department of Transportation, the Department of Public Works, and the developer of the new single-family houses across 22nd Street to redesign the proposed pedestrian trail to be located completely on the east side of 22nd Street so that pedestrians do not have to cross the street as they travel north and south along the pedestrian trail. In this way, pedestrian paths inside the development will lead to a connected pedestrian trail along 22nd Street.

The project proponent should align the driveways intersecting with 22nd Street to the driveways for the new development across 22nd Street in order to optimize traffic flow conditions at the intersections along 22nd Street. This would also reduce possible points of contact between merging vehicles and pedestrians/bicyclists traveling along the new trail.

The project proponent should provide more continuous pedestrian paths within the development, so that there is more independent pedestrian access to the proposed units that does not intersect as much with the proposed internal driveways.

The project proponent should follow the "Guidelines for Residential Development" listed beginning on page V-12 of the Plan, as well as the San José Residential Design Guidelines. The proposed residences should have direct pedestrian access (individual pedestrian paths leading directly from the public sidewalk/trail to each prominently

articulated front door), as well as direct and prominent views from each unit, onto the new East 22nd Street.

Please let me know if you have any questions or comments regarding this referral response.

Rodrigo Orduña
City Planner II
Planning Services Division
Department of Planning, Building, & Code Enforcement
City of San José
200 East Santa Clara Street
San José, CA 95113-1905
tel (408) 535-7890
fax (408) 292-6055
rodrigo.orduna@sanjoseca.gov

San Jose Trailer Park

527 McLaughlin Av. Suite # 6
San Jose, CA 95116

Tel: (408) 292-8942
Fax: (408) 292-5697

February 8, 2007

To: 22nd & William Street, LLC
Jim Rubinitz and William George Jr.
cc: Michelle Stahlhut

Re: Redevelopment project: 1090 E. William Street San Jose, Ca. 95116

At the community meeting on 2/1/07 regarding the rezoning and redevelopment of the above referenced property, I was asked what specific concerns myself and others who have vested interest in San Jose Trailer Park may have. Furthermore, I was asked what steps could be taken to alleviate those concerns. I appreciate this question, and would like to give an honest response. After discussing the project with the property owners and our attorney, Paul Jensen, we have identified our concerns. Hopefully, through communication and mutual respect for each other, we can avoid potential issues or conflicts. The following is a list of our concerns.

1. Construction noise. Given the proximity of the development project to our residents, we are very concerned about the noise nuisance that will be inflicted upon San Jose Trailer Park residents.
2. Dust and ground vibrations. Based on the input and comments of individuals at the Community Meeting, dust and ground vibrations are important issues to consider. Our concerns are two fold; for the protection of our residents' homes and property, as well as for our systems in the ground and air (electrical, sewer, gas, water etc...).
3. Drainage. It is very important to us that this project does not adversely affect our drainage. This concern is founded, as our drainage was previously affected when the curb for the driveway of the above referenced property was constructed in the early 1990s.
4. Height of the homes adjacent to our property line. We have not yet addressed the concern that 2.5 story homes may be looking directly upon our residents' trailers and mobile homes.
5. Vacancy loss. The homes at San Jose Trailer Park are mobile. We are concerned that residents may vacate the premises due to the issues listed above, or other project related issues that are yet unforeseen.

Please understand that we wish success upon our neighbors, and we desire good relations. Nevertheless, the redevelopment of 1090 E. William Street has the potential to cause substantial burden and stress upon our residents, business dealings, and physical property. To answer the question of how our concerns may be alleviated, we request a written document from 22nd & William Street, LLC. Included in this contract should be language addressing the items above, including but not limited to, strategies to minimize resident disturbance, the handling of resident objections, potential damage to personal property, potential damage to Park systems, and provisions for the event of income loss resulting from the project.

San Jose Trailer Park

527 McLaughlin Av. Suite # 6
San Jose, CA 95116

Tel: (408) 292-8942
Fax: (408) 292-5697

We wish to address these issues now, with the hope that by doing so we will all avoid problematic city meetings and legal proceedings in the future. An ounce of prevention is worth a pound of cure, as they say. Thank you for your attention and consideration in this matter.

Sincerely,

Grover Phillips
San Jose Trailer Park

San Jose Trailer Park

527 McLaughlin Av. Suite # 6
San Jose, CA 95116

Tel: (408) 292-8942
Fax: (408) 292-5697

By signing the following, the applicant(s) for the planned redevelopment project of 1090 E. William Street, San Jose, CA 95116 agree to the following:

1. The management of San Jose Trailer Park will redirect all questions and complaints pertaining to the above referenced project to the below named applicants.
2. The applicants will assume responsibility for all damages to personal and real property resulting from the redevelopment of the above referenced property. The applicants understand that if there is a dispute, a third-party neutral mediator will hear the issue and assign culpability.
3. The applicants will assume responsibility, and reimburse at fair market value, any loses to San Jose Trailer Park resulting from the above referenced project. Loses include, but are not limited to, vacancy loss and the inability of San Jose Trailer Park to lease lots directly affected by the redevelopment project.

By signing below, I have read, considered, and agree to the above.

Applicants:

_____/_____/2007
William George, Jr.

_____/_____/2007
Jim Rubnitz

Stahlhut, Michelle

From: Jim Rubnitz [fongnitz@comcast.net]
Sent: Tuesday, March 06, 2007 12:49 PM
To: 'Stahlhut, Michelle'
Cc: anthonyslho@comcast.net; 'William George Jr.'
Subject: Response to San Jose Trailer Park letter dated February 12, 2007 - (PDC 06-040)

Hi Michelle:

Thanks for taking the time to meet with me this morning and in the course of our discussion, you indicated that you had received a copy of the letter dated February 12, 2007 from San Jose Trailer Park and specifically from Grover Phillips.

As I indicated to you, please be advised that:

- I met with Grover at the site on that date, February 12th to discuss the letter and his concerns
- I also had a long conversation with Grover again yesterday - March 5, 2007 - to further discuss these items
- As I indicated to him in both of our conversations:
 - We will meet with the adjacent homeowners prior to construction
 - We will absolutely do our best to give as much notice to Grover and his homeowners as to what is going to be happening during the next phase of construction
 - Dust and noise we are very much aware of its potential impact to our neighbors and we will do our best to control both
 - Ground vibrations are a function of compaction during the grading process and so we will notify him as to when these will occur and for how long
 - Our drainage plan is very clear – there is no runoff onto his property – and this is confirmed by Public Works
 - The heights of the homes are within the design guidelines and he has acknowledged the same
 - We remaining willing to plant trees on his side of our future good neighbor fence to insure that the trees remain in place and are best located
- The only remaining area of “disagreement” is with respect to his potential “vacancy loss”

I have told Grover in both discussions that I was unwilling to agree to compensate him for any potential vacancy loss as the result of our construction because:

- I cannot control some aspects of the construction and there has to be a normal amount of give and take during this process
- There is no way for me to properly understand why someone was moving – it could be job transfer, new home opportunity, family concerns or whatever
- What would be the reasonable scope of impact and amount of compensation – for anyone moving out in his project and for the full amount of the rent?
- If someone did move out and then the new homeowner who moves in has to pay more rent, do I then get a credit for the increase he is now receiving?
- If someone did move out, how do I evaluate how effective his park marketed the property and competes overall in the market so as to relet the home and minimize his/my loss?
- It is not unusual to have some impact on a neighbor during the construction of a new project – the key is to minimize that impact from a construction perspective

3/8/2007

While we still have different opinions on this issue, we have resolved all of his concerns on the other issues and I told him that we will continue to discuss this project and his concerns as it proceeds towards a start date of mid-summer.

Please include this email in your staff report so that the Planning Commission/City Council are fully aware of our response to our future neighbor.

Thanks again for your help.

Jim

3/8/2007