

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** March 29, 2007

**COUNCIL DISTRICT:** 4  
**SNI AREA:** Not Applicable

**SUBJECT: PDC05-099. PLANNED DEVELOPMENT REZONING FROM IP INDUSTRIAL PARK ZONING DISTRICT TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO 575 SINGLE-FAMILY ATTACHED RESIDENTIAL UNITS AND APPROXIMATELY 2,700 SQUARE FEET OF RETAIL COMMERCIAL USES ON A 11.19 GROSS ACRE SITE.**

## RECOMMENDATION

The Planning Commission voted 7-0-0, to recommend that the City Council approve the proposed Planned Development Rezoning from the IP-Industrial Park Zoning District to the A (PD) Planned Development Zoning District to allow up to 575 single-family attached residential units and approximately 2,700 square feet of retail commercial uses on a 11.19 gross acre site.

## OUTCOME

Should the City Council approve the Planned Development Rezoning as recommended by the Planning Commission, up to 575 single-family attached residential units and approximately 2,700 square feet of commercial uses would be allowed on the 11.19 gross acre site, consistent with the Development Standards for the subject rezoning. This future development would be subject to additional Development Permits.

## BACKGROUND

On March 28, 2007, the Planning Commission held a public hearing to consider the subject Planned Development Rezoning request. This is the second of several residential projects that will be brought forward to a public hearing in the coming months as part of the first phase of development under the North San Jose Development Policy.

The item was pulled from the Consent Calendar at the request of a member of the general public who wanted to speak on the item. Planning staff gave a brief presentation to update the Planning Commission on the status of implementation of the North San José Policy and the extensive public

outreach that has occurred thus far regarding the policy and specific projects proposed in North San José.

A representative of the applicant, Legacy Partners, spoke in support of staff recommendation to approve the Planned Development Zoning and elaborated on how the proposed project conformed to the intent of the North San José Area Development Policy.

Three individuals from the River Oaks area of San José spoke in opposition to the proposed rezoning. In general they were concerned with the process of planning for new development in North San José, rather than with this particular project. Their concerns are summarized as follows:

- Project should not proceed prior to the “Master Planning” that is called for in the Policy.
- The proposed one-acre park dedication is not sufficient to meet the park needs of the residents.
- The lack of consideration for the placement of schools in the area.
- The proposed project should not be considered “Smart Growth”.

The Planning staff responded that that the City departments have cooperated to identify locations for the potential placement of parks and roadways within the various residential areas and that additional study will occur as a part of the process of preparing the North San José Design Guidelines. The Parks Recreation and Neighborhood Services department staff indicated that the proposed dedication of parkland on the site is sufficient when the credits given for private recreation facilities and affordable units are taken into consideration. Staff indicated that the City is funding a study to be prepared by the Santa Clara Unified School district to determine the demand for schools generated by future development in North San José. No one else spoke in favor of or in opposition to the proposed project.

After the close of the public hearing, concerns were expressed by the Commission regarding the susceptibility of the site to flooding and with the adequacy of the amount of retail commercial proposed on the site. In response to the flooding issue, the Public Works Department Staff indicated that the risks of flooding on the site have been significantly reduced as a result of flood improvement projects on the Guadalupe River and Coyote Creek and that the project was appropriately designed to avoid flooding impacts to upstream properties.

In response to concerns from the Planning Commission that more commercial uses should be proposed, the applicant indicated that commercial is feasible only in the areas that have direct visibility and access from Montague Expressway. A representative of the Department of Economic Development concurred that the amount of commercial is appropriate given the proposed design of the project and its location on an expressway with vehicles traveling at relatively high speeds.

### ANALYSIS

The proposed rezoning of the site from the IP-Industrial Park Zoning District to the A (PD) Planned Development Zoning District, is consistent with the North San José Area Development Policy, the San José 2020 General Plan Land Use/Transportation Diagram designation of Industrial Park with the Transit Employment Residential Overlay, and provides an opportunity to further important goals and strategies of the General Plan.

### POLICY ALTERNATIVES

Not Applicable.

### 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. 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.

A community meeting was held to discuss this application on August 1, 2006. City staff also conducted a community meeting on December 19, 2006 to address the North San Jose Development Policy. All correspondence received to date has been attached to this report.

### 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 the North San José Area Development Policy, applicable General Plan policies and approved and proposed design guidelines as further discussed in attached staff report.

HONORABLE MAYOR AND CITY COUNCIL

March 29, 2007

**Subject:** PDC 05-099

Page 4

**COST SUMMARY/IMPLICATIONS**

Not applicable.

**BUDGET REFERENCE**

Not applicable.

**CEQA**

CEQA: Resolution No. 72768.

  
for JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact Andrew Crabtree at 408-535-7893.

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# SUPPLEMENTAL

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** April 4, 2007

Approved

*Paul Krutler*

Date

*4/5/07*

**COUNCIL DISTRICT:** 4  
**SNI AREA:** N/A

## SUPPLEMENTAL MEMO

**SUBJECT: MODIFIED DEVELOPMENT STANDARDS FOR: PDC05-099 – PLANNED DEVELOPMENT REZONING FROM IP INDUSTRIAL PARK ZONING DISTRICT TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO 575 SINGLE-FAMILY ATTACHED RESIDENTIAL UNITS AND APPROXIMATELY 2,700 SQUARE FEET OF RETAIL COMMERCIAL USES ON A 11.19 GROSS ACRE SITE.**

### REASON FOR SUPPLEMENTAL

The Development Standards for the proposed Planned Development Rezoning have been modified at the request of the applicant subsequent to the Planning Commission's hearing on March 28, 2007. Two minor changes to the Draft Development Standards are proposed and are supported by the Planning Director.

### RECOMMENDATION

Staff recommends that the City Council approve the Planning Commission recommendation of March 28, 2007, to approve the proposed Planned Development Rezoning from the IP-Industrial Park Zoning District to the A (PD) Planned Development Zoning District to allow up to 575 single-family attached residential units and approximately 2,700 square feet of retail commercial uses on a 11.19 gross acre site, with the following modifications to the attached Draft Development Standards:

1. Under the "Private Open Space" section of the Draft Development Standards, modify the phrase *60 square feet per unit* with the phrase *60 square feet per unit average for all units; all units for which there is Private Open Space included shall have a minimum of 60 square feet of Private Open Space area.*

April 4, 2007

**Subject:** PDC05-099 – Modified Development Standards

Page 2

2. Under the “Environmental Mitigation” section of the Draft Development Standards, add the following sentences: *The following environmental mitigation shall be included in the project at the Planned Development Permit stage. A full list of the project mitigation is included in the findings adopted for the project in City Council Resolution Number(to be determined). Alternative mitigation that achieves an equivalent reduction in the potentially significant impact may be approved by the Director of Planning as a part of the Planned Development Permit.*

### **OUTCOME**

If the City Council adopts the project as recommended by the Planning Commission and with the modified Development Standards proposed by the project applicant and agreed to by staff, the resulting Planned Development zoning district would not change. The only changes would be:

1. To allow for an average 60 square feet of private open space area (balconies or patios) per unit for all units instead of the originally proposed minimum 60 square feet of Private Open Space area per unit; and
2. To allow potential for modifications to the implementation of Environmental Mitigation measures without having to rezone the property.

### **BACKGROUND**

As stated in the Staff Report to the Planning Commission for the March 28, 2007 hearing date, the proposed rezoning complies with the policies of the North San José Area Development Policy.

The City Council is to consider on April 17, 2007, a proposal for a rezoning to allow a Planned Development Rezoning from the IP-Industrial Park Zoning District to the A (PD) Planned Development Zoning District, which would allow up to 575 single-family attached residential units and approximately 2,700 square feet of retail commercial uses on a 11.19 gross acre site. At the Planning Commission hearing of March 28, 2007, the Planning Commission voted 7-0-0 to recommend that the City Council approve the proposal, including the Draft Development Standards as originally recommended by staff. Since the Planning Commission hearing, on April 3, 2007, the applicant has contacted staff with a request to modify the Draft Development Standards to result in changes outlined under “Outcome” above. Staff has agreed to the applicant-requested changes.

### **ANALYSIS**

Staff recommends that the City Council adopt the attached modified “PDC05-099 Draft Development Standards”, dated April 17, 2007. The only changes to the Draft Development Standards are as follows:

1. Under the “Private Open Space” section of the Draft Development Standards, modify the phrase *60 square feet per unit* with the phrase *60 square feet per unit average for all units; all units for which there is Private Open Space included shall have a minimum of 60 square feet of Private Open Space area.*

*findings adopted for the project in City Council Resolution Number(to be determined).  
Alternative mitigation that achieves an equivalent reduction in the potentially significant impact  
may be approved by the Director of Planning as a part of the Planned Development Permit.*

### **POLICY ALTERNATIVES**

Not Applicable

### **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, in public notification of the project PDC05-099. 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.

A community meeting was held to discuss this application on August 1, 2006. City staff also conducted a community meeting on December 19, 2006 to address the North San Jose Development Policy. All correspondence received to date has been attached to the original staff report.

### **COORDINATION**

This supplemental memorandum was coordinated with the Department of Public Works.

### **FISCAL/POLICY ALIGNMENT**

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

### **COST SUMMARY/IMPLICATIONS**

Not applicable.

### **BUDGET REFERENCE**

Not applicable.

HONORABLE MAYOR AND CITY COUNCIL

April 4, 2007

**Subject:** PDC05-099 – Modified Development Standards

Page 4

**BUDGET REFERENCE**

Not applicable.

**CEQA**

CEQA: Resolution No. 72768.

*For*   
JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions please contact Andrew Crabtree at 408-535-7893.

Attachments

**PDC05-099**  
**DRAFT DEVELOPMENT STANDARDS**

**DEVELOPMENT STANDARDS**

**Permitted Uses**

- Up to 575 attached residential units
- Up to 2,700 square feet of commercial floor area as permitted in the Pedestrian Commercial (CP) Zoning District
- Commercial deliveries shall be restricted to the hours of 7 am to 7 pm, Monday through Friday

**Building Height**

- Block A: up to six stories and up to 80 feet
- Blocks B, C, D, E, and F: up to five stories and up to 55 feet

**Perimeter Setbacks**

- From the property line at Montague Expressway: 20 feet minimum
- From the future new public street property line: 0 feet minimum
- From future private street property line: 25 feet (based on property lines located at the center of the private street)
- From the City of San Jose stormwater pump station property with Santa Clara County Tax Assessors' Parcel Number 097-06-056: 0 feet

**Private Open Space**

- 60 square feet per unit average for all units; all units for which there is Private Open Space included shall have a minimum of 60 square feet of Private Open Space area.

**Common Open Space**

- 100 square feet per unit minimum

**Parking**

- For residential uses: to be consistent with the minimum requirements San Jose Zoning Ordinance
- For commercial uses: 0 parking spaces required
- Guest parking: 10% of the total parking spaces required for residential uses

**Land Dedication**

- At least one acre of land area at Block F, including the proposed public streets fronting Block F on the west and north sides, shall be dedicated to the City.
- A fully developed pedestrian access path shall be required to be dedicated to the City as part of a development standard for the proposed Planned Development Zoning District, to

access the existing Guadalupe River trail from a point along the edge of the subject property.

### **Signage**

- All signage for commercial uses shall comply with the standards for signage within the Pedestrian Commercial (CP) Zoning District.
- All signage for residential uses shall comply with the standards for signage within the Multiple Residence (RM) Zoning District.

### **Residential Uses in Redevelopment Area**

- City shall consider and provide pursuant to California Government Code Section 65915 and local requirements those density bonuses and incentives required under such State and local laws, as applicable.
- Applicant shall comply with the City of San 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 parking, vehicular circulation, and all common areas.

### **Parkland Dedication Ordinance and Park Impact Ordinance**

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

### **Public Improvements**

- All public off-site improvements shall be implemented to the satisfaction of the Director of Public Works. Prior to the issuance of Building Permit(s), the applicant shall be required to obtain a Public Works Clearance. Said Clearance shall require execution of a construction agreement that guarantees the completion of the public improvements.

## **ENVIRONMENTAL MITIGATION**

The following environmental mitigation shall be included in the project at the Planned Development Permit stage. A full list of the project mitigation is included in the findings adopted for the project in City Council Resolution Number \_\_\_\_\_. Alternative mitigation that achieves an equivalent reduction in the potentially significant impact may be approved by the Director of Planning through a Planned Development Permit.

### **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.

The project shall implement post-construction measures identified by BAAQMD to reduce emissions, which may include, but are not limited to, the following:

- Provide bicycle lanes, sidewalks and/or paths, connecting project residences to adjacent schools, parks, the nearest transit stop and nearby commercial areas.
- Provide secure and conveniently placed bicycle parking and storage facilities at parks and other facilities.
- Allow only natural gas fireplaces, pellet stoves, or EPA-Certified wood-burning fireplaces or stoves in residences. Conventional open-hearth fireplaces should not be permitted. EPA-Certified fireplaces and fireplace inserts are 75 percent effective in reducing emissions from this source.
- Provide direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development.
- Utilize reflective (or high albedo) and emissive roofs and light colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand.

### **Biological Resources**

The project proposes to implement the following mitigation measure to reduce impacts to cliff swallows to a less than significant impact:

- If construction occurs during the nesting season (March 1 – July 31), a pre-construction survey for nesting swallows (under the overpass) shall be conducted by a qualified ornithologist. If swallows are determined to be absent during the nesting season surveys, construction can proceed without further mitigation. If, however, swallows are determined to be present near the overpass, construction shall be delayed until it has been determined by a qualified ornithologist that all young swallows have fledged.
- If construction occurs outside the nesting season, no mitigation is required.

The project proposes to implement the following mitigation measures to reduce impacts to nesting raptors including white-tailed kites, northern harriers, Cooper’s hawks, burrowing owls, and loggerhead shrikes to a less than significant level:

- A qualified ornithologist shall conduct pre-construction surveys for nesting raptors (including both tree and ground nesting raptors) on site within 30 days of the onset of ground disturbance, if ground disturbance is to occur during the breeding season (February 1 to August 31). These surveys shall be based on the accepted protocols (e.g., as for the burrowing owl) for the target species. If a nesting raptor is detected, an appropriate construction buffer shall be established. Actual size of buffers would depend on the species, topography, and type of activity that would occur in the vicinity of the nest.
- A qualified ornithologist shall conduct pre-construction surveys for burrowing owls during the non-breeding season. Pre-construction surveys during the non-breeding season are not necessary for tree nesting raptors, as they are expected to abandon their roosts during staging. If pre-staging surveys (conducted either during the breeding or non-breeding season) determine that burrowing owls occupy the site just prior to staging, then a passive relocation effort (blocking burrows with one-way doors) in consultation with the State Department of Fish and Game would be necessary to ensure that the owl is not harmed or injured during construction.

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

<b>Table 4.0-3 Standard Tree Replacement Requirements</b>			
<b>Diameter of Tree to be Removed</b>	<b>Native</b>	<b>Non-Native</b>	<b>Minimum Size of Each Replacement Tree</b>
19 inches or greater	5:1	4:1	24-inch box
12 – 18 inches	3:1	2:1	24-inch box
Less than 12 inches	1:1	1:1	15-gallon container
Notes: X:X = Tree replacement to tree loss ratio Trees greater than 18-inches in diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.			

- All native trees shall be replaced with the same native species or other desirable species (e.g., walnuts do not necessarily need to be replaced with walnuts, but may be replaced with oaks or buckeyes), and all non-native species shall be replaced with a native species appropriate to the site. In this case, native trees replacements placed at the edge of the riparian habitat could consist of species adapted to riparian habitats. Planting stock shall be collected locally (within a five-mile radius of the project site) to the extent possible in order to maintain genetic integrity of the species’ to be replaced, and replacement planting should be completed between November and January.
- In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building, and Code Enforcement, at the development permit stage:

- The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
- An alternative site(s) shall be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.
- A donation of \$300 per mitigation tree to San José Beautiful or Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Planning Project Manager prior to issuance of a development permit.
- The project proponent shall retain a consulting arborist prior to any ground disturbance activities. The consulting arborist shall develop a tree protection plan outlining specific procedures to ensure that retained trees are protected during the construction phase.
- For retained trees in the immediate vicinity of construction or demolition areas, problems of soil compaction within the root zone resulting from heavy construction equipment shall be prevented. In order to minimize construction and demolition impacts to remaining trees, barrier fencing shall be installed around the dripline of all retained trees or at the edge of construction areas. Any construction or demolition activities taking place within the dripline of retained trees shall be done by hand or with light equipment that does not cause soil compaction. All fencing shall remain in place throughout the construction phase of the project. The type of fencing to be utilized shall be at the direction of the consulting arborist.
- Any limb or root pruning to be conducted on retained trees shall be approved and supervised by the consulting arborist and shall follow best management practices developed by the International Society of Arboriculture.
- Supplemental irrigation to retained trees shall be applied as determined by the consulting arborist.
- If any of the retained trees should be damaged during the construction phase, they shall be evaluated at the earliest possible time by the consulting arborist so that appropriate measures can be taken.

### **Cultural Resources**

- A qualified archaeologist shall monitor major excavation processes. Monitoring shall occur during the entire workday, and shall continue on a daily basis until a depth of excavation has been reached at which resources could not occur. This depth is estimated to be nine feet below grade, but may be modified in specific cases, and shall be determined by the monitoring archaeologist based on observed soil conditions.
- A qualified archaeologist shall spot check the progress of excavation over the course of the project. During spot checks, all spoil materials, open excavations, recently grubbed areas, and other soil disturbances shall be inspected. The frequency and duration of spot checks shall be based on the relative sensitivity of the exposed soils and active work areas. The monitoring archaeologist shall determine the relative sensitivity of the area.
- If prehistoric human interments (human burials) are encountered within the native soils of the parcel, all work shall be halted in the immediate vicinity of the find. The County Coroner, project superintendent, and the company liaison shall be contacted immediately. The procedures to be followed at this point are prescribed by law.

- Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American.
- If the Coroner determines that the remains are not subject to his/her authority, the Native American Heritage Commission shall be notified to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location no subject to further subsurface disturbance.
- If significant cultural deposits other than human burials are encountered, the project shall be modified to allow the artifacts or features to be left in place or the archaeological consultant shall undertake the recovery of the deposit or feature. Significant cultural deposits are defined as archaeological features or artifacts that associate with the prehistoric period, the historic era Mission and Pueblo periods and the American era up to about 1900.
- Whenever the monitoring archaeologist suspects that potentially significant cultural remains or human burials have been encountered, the piece of equipment that encounters the suspected deposit shall be stopped, and the excavation shall be inspected by the monitoring archaeologist. If the suspected remains prove to be nonsignificant or non-cultural in origin, work shall recommence immediately. If the suspected remains prove to be part of a significant deposit, all work shall be halted in that location until removal has been accomplished. If human remains (burials) are found, the County Coroner shall be contacted so that they (or a designated representative) can evaluate the discovered remains and implement proper contacts with pertinent Native American representatives.
- Equipment stoppages shall only involve those pieces of equipment that have actually encountered significant or potentially significant deposits, and shall not be construed to mean a stoppage of all equipment on the site unless the cultural deposit covers the entire site.
- In the event that any artifacts are discovered in the upper sandy soil, or at any time when an archaeologist is not present, the following procedures shall be followed:
  - All contractors and subcontractors shall inform all employees or others on the job site that no artifacts are to be removed form the area except through authorized procedures. In this usage, "artifacts" mean any item over 50 years of age.
  - Any artifacts that are found on or near the project site are to be turned over to, or brought to the attention of the inspector.
  - Whenever any buried artifact or artifacts or archaeological features are encountered during excavation, grading, trenching, or any other earth disturbing operation, all work shall be halted in a 50 foot radius of the find and an archaeologist shall be consulted immediately.
  - No earth disturbing operations are to be reinitiated until the archaeologist has determined that no significant or potentially significant cultural resources would be impacted by continuing operations. Significant cultural deposits shall be removed following archaeological procedures, or preserved in place by modifying the project accordingly.

The Archaeological Monitoring Procedures shall be used for all subsequent operations when work is reinitiated.

### **Geology and Soils**

- Design and construct buildings in accordance with a design-level geotechnical investigation prepared for the project site, which identifies the specific design features that would be required for the project, including site preparation, compaction, trench excavations, foundation and subgrade design, drainage, and pavement design. The investigation shall include a detailed liquefaction analysis and address the need for permanent dewatering or structure tie down to resist hydraulic uplift (as well as potentially wet and unstable subgrade and the need for dewatering during construction).
- The geotechnical investigation shall be reviewed and approved by the City Geologist prior to issuance of a Grading Permit or Public Works Clearance for the project.
- The project shall be designed and constructed in conformance with the Uniform Building Code guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking and seismic-related hazards on the site.

### **Hazards and Hazardous Materials**

- Prior to issuance of building permits, a soil management plan (SMP) shall be developed to establish management practices for contractors' worker health and safety precautions during earthwork activities at the project site during development and post-development. The SMP shall address appropriate protocols for handling and/or disposing the soil that shall be employed during construction. Long-term post-construction risk management measures where appropriate shall be described in the SMP including protocols for maintenance work protection. The SMP shall be submitted to the San Francisco Regional Water Quality Control Board for review and approval.
- Prior to initial site grading, soils in the shed area shall be excavated to approximately three feet bgs, and shall be disposed at an appropriately permitted disposal site.
- Construction of subgrade garages and streets shall also require soil excavation. All soil excavated shall be characterized for levels of contamination. Depending on the test results, goals set by the SFRWQCB, and soil volumes excavated, excavated soil shall be either used on-site or disposed at an appropriately permitted disposal site. Soil containing residual pesticide concentrations may be used under suitable cover material where such use is consistent with the approved SMP and applicable regulations.

### **Hydrology and Water Quality**

#### **Before Construction:**

- Water Pollution Control Plant Notice: Pursuant to Part 2.75 of Chapter 15.12 of the San Jose Municipal Code, no vested right to a Building Permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on the San Jose – Santa Clara Water Pollution Control Plant represented by approved land use in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose – Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of

California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.

- Obtain an Elevation Certificate (FEMA Form 81-31) for each proposed structure, based on construction drawings, prior to issuance of building permits and occupancy permits.
- Elevate building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities above the base flood elevation or otherwise protected from flood damage.

**During construction:**

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

**Post Construction:**

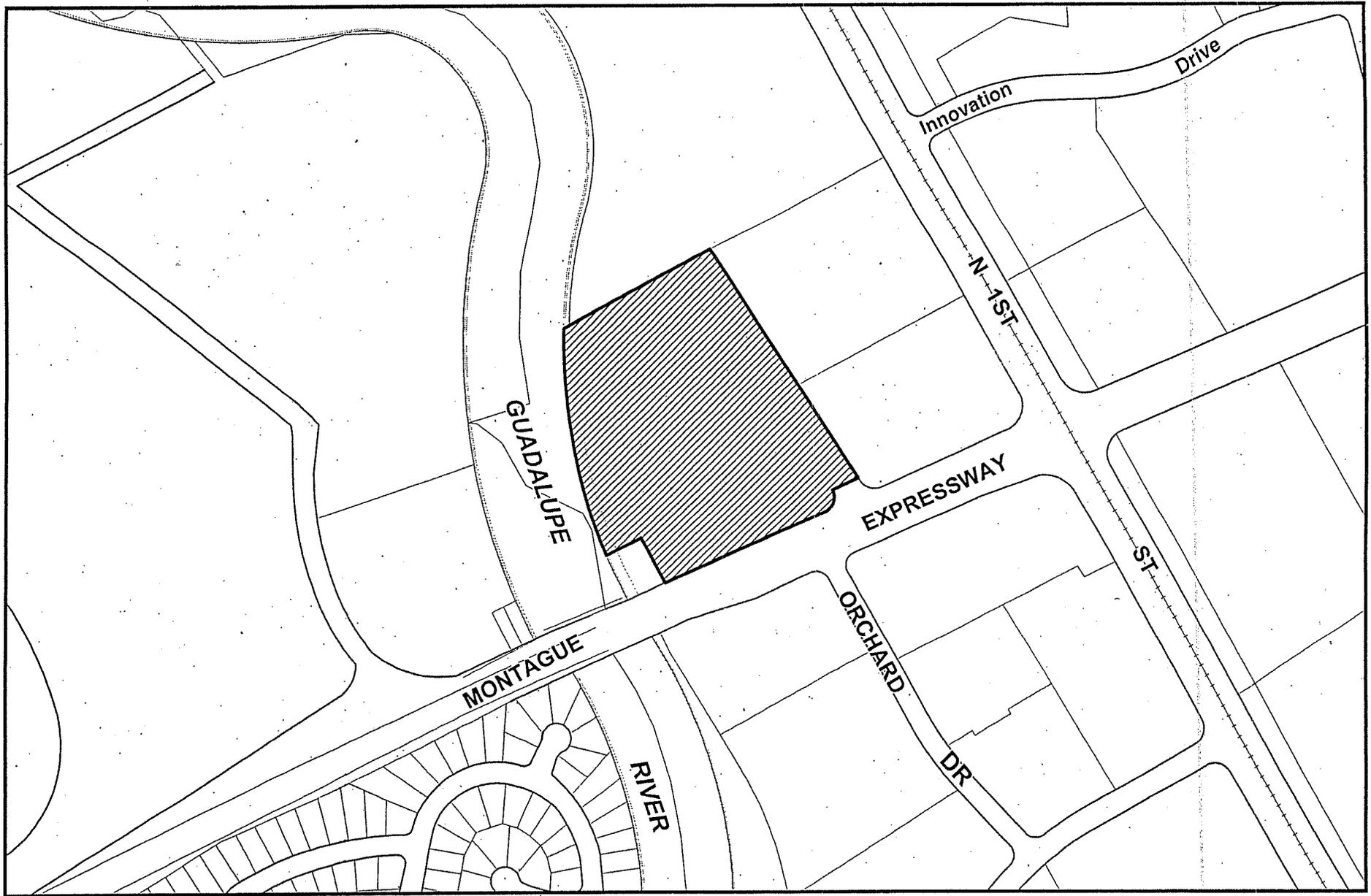
- Compliance with the NPDES Municipal Permit by incorporating BMPs to control non-point pollution, which include the following:
  - Planned Development Permit plans for this project shall include design details of all post-construction stormwater treatment controls proposed for the project to the satisfaction of the Director of Planning.
  - Install vegetative swales or other methods to reduce stormwater runoff pollutants as deemed appropriate by the Director of Planning at the Planned Development Stage.
  - Direct roof drains to discharge and drain away from building foundation to an unpaved area wherever possible.
  - Install continuous deflective separation (CDS) units to treat stormwater flows. The cleaning and monitoring of the CDS units shall be performed by project contractors during construction and by the HOA there after.

**Noise**

- Limit all construction-related activities to the hours of 7 AM to 7 PM Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director

of Planning, Building, and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

- Use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices.
- Equip all internal combustion engines used on the project site with adequate mufflers and ensure all internal combustion engines are in good mechanical condition.
- Prepare a detailed construction plan identifying the schedule for major noise-generating construction activities within 500 feet of residential units. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance.
- Designate a “noise disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.
- Complete project-specific acoustical analyses to ensure that the design of the proposed residential buildings and units shall reduce interior noise levels to 45 dBA  $L_{dn}$  or lower. Building sound insulation requirements shall include the provision of forced-air mechanical ventilation for all units with a direct line-of-sight to Montague Expressway.
  - Special building construction techniques (e.g., sound-rated windows and building facade treatments) may be required for residential units on Blocks A and B facing Montague Expressway and units on Blocks C and D with direct line-of-sight to Montague Expressway. These treatments could include, but are not limited to, standard stucco-sided wall construction, windows and doors with STC ratings of 38 to 40 (provided that windows and doors are maintained closed). The specific determination of what treatments are necessary shall be determined on a unit-by-unit basis.
  - Results of the project-specific acoustical analyses shall be submitted to the City along with the building plans prior to issuance of building permits.



**File Number: PDC05-099**

**Council District: 4**

**Quard Number: 35, 50**

**Scale: 1"= 400'**

 **Subject Site**

**LOCATION MAP**

