

SUPPLEMENTAL



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nadine Nader

SUBJECT: SEE BELOW

DATE: May 9, 2007

Approved

Deanne Aub

Date

5/9/07

COUNCIL DISTRICT: 2
SNI AREA: N/A

SUPPLEMENTAL

SUBJECT: PDC06-102, A PLANNED DEVELOPMENT PREZONING FROM UNINCORPORATED COUNTY TO A (PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO 41 SINGLE-FAMILY DETACHED RESIDENCES ON A 8.3 GROSS ACRE SITE, LOCATED AT THE SOUTHEAST CORNER OF PIERCY ROAD AND TENNANT AVENUE (715 PIERCY ROAD).

REASON FOR SUPPLEMENTAL

Please find attached supporting documentation for item 11.5 on the May 15, 2007 City Council Meeting agenda. In the copying process, this item was inadvertently not attached.

Nadine Nader
NADINE NADER
Agenda Services Manager

For questions please contact the Planning Department at (408) 535-3555.

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

Hearing Date/Agenda Number
P.C. 04/25/07 Item: **82.**
C.C 05/15/07

File Number
PDC06-102

Application Type
Planned Development Rezoning

Council District
2

Planning Area
Edenvale

Assessor's Parcel Number(s)
678-09-013

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Ben Corrales

Location: Southeast corner of Piercy Road and Tennant Avenue (715 Piercy Road)

Gross Acreage: 14.27

Net Acreage: 8.6

Net Density: 4.8 DU/AC

Existing Zoning: Unincorporated

Existing Use: Commercial Riding Ring (Horse boarding)

Proposed Zoning: A(PD) Planned Development

Proposed Use: Up to 41 Single Family Detached Units

GENERAL PLAN

Completed by: Ben Corrales

Land Use/Transportation Diagram Designation:
Medium Low Density Residential (8 DU/AC); Private Open Space, and Non-Urban
Hillside

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Application Date: September 27, 2006

North: Vacant and Agricultural

Unincorporated

East: Vacant and Single-Family Residential

Agricultural

South: Single-Family Residential

Planned Development Zoning

West: Vacant, agricultural and Single-Family Residential

Unincorporated

ENVIRONMENTAL STATUS

Completed by: Ben Corrales

Environmental Impact Report
 Mitigated Negative Declaration (Circulated April 3, 2007)

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: Ben Corrales

Annexation Title: Unincorporated

Date: N/A

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial
 Uphold Director's Decision

Date: April 19, 2007

Approved by: Susan Walton
 Action
 Recommendation

OWNER

Terramac, Inc.
38189 Willow Lake South
Prairieville, LA 70769

DEVELOPER

AEGIS/CF
172 University Avenue
Palo Alto, CA 94301

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Ben Corrales

Department of Public Works

See Attached Memoranda.

Other Departments and Agencies

Fire Department

Environmental Services Department

See Attached Memoranda

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, AEGIS/CF, filed an application on September 27, 2006, to request a Planned Development Rezoning from unincorporated County to A(PD) Planned Development Zoning District to allow up to 41 single-family detached residences. The project site is located on the north side of Piercy Road, at the southeast corner of Piercy Road and Tennant Avenue on a 14.27-gross-acre site.

Conditions of Site and Surrounding Area

The subject site is located at the base of the east foothills in unincorporated Santa Clara County. The terrain on the site ranges from gently sloping to steep. The northerly and westerly portions of the site are vacant and are covered by non-native grasslands. The remainder of the site is occupied by a horse-riding academy. Buildings on the site consist of a single-family residential structure, an equestrian arena, horse corrals and a variety of accessory structures. An abandoned water canal (Evergreen Canal) traverses the center of the site, and an unimproved roadway (Piercy Road extension) extends along the southerly boundary between the project site and the backyards of homes of the existing neighborhood to the south.

Surrounding the subject site are single-family residences and vacant grasslands to the north, vacant lands and single-family residences to the east, and vacant hillside grasslands to the northwest. A proposed expansion of the Greenline/Urban Growth Boundary (G/UGB) and an associated General Plan Amendment request are on file on the adjacent parcel to the north to expand the UGB to include approximately 3.2 acres and change the General Plan land use designation on the 3.2 acres from Rural Residential (0.2 DU/AC) to High Density Residential (25-50 DU/AC) (File Nos. UGB06-001 and GP06-02-02). Southwesterly, across the Piercy Road/Tennant Avenue intersection, are vacant lands designated for future industrial park uses within the Edenvale Redevelopment Project area. Single-family residential neighborhoods bound the project site, across an unimproved extension of Piercy Road to the south and southwest.

Previous and Current Land Use Applications

In June 2006, the City Council approved a General Plan amendment (File No. GP05-02-04) on the subject site, to change the Land Use/Transportation Diagram designation from Non-Urban Hillside to Medium Low

Density Residential (8.0 DU/AC), the project also included the request for a minor modification of the UGB and Urban Service Area (USA) boundary (File No. UGB05-001). The applicant requested an expansion of both the UGB and USA to include approximately 4.75 acres of the site located below the fifteen percent slope line. The General Plan amendment did not include a change from the Non-Urban Hillside designation that is currently outside of the UGB/USA boundaries.

Planned Development Zoning Requirement

Prior to future development, the parcel must be annexed into the City of San Jose. The property has a General Plan designation of Medium Low Density Residential (8.0 DU/AC), Private Open Space and Non-Urban Hillside (outside of the UGB/USA boundary). A Planned Development Zoning is required for future development to provide the means to tailor regulations for allowed uses, site intensities and development standards to this particular site, and due to on-site sloped topography.

When the General Plan amendment was approved, the City Council provided direction for the future residential development on the site. Specifically, Councilmember Forrest Williams forwarded a memorandum to the Council, incorporated into the Council's action, stating, "*The proposed change will produce home sizes consistent with its Basking Ridge neighbors.*" (See attached memorandum dated June 20, 2006).

Project Description

The subject site consists of one parcel of approximately 14.3 gross acres, with a portion of approximately 4.6 acres located outside of the UGB and USA. The remaining 9.7 acres are included in the UGB and USA, and are pending future annexation to the City. The existing General Plan land use designations for the 9.7-acre site are Medium Low Density Residential (8 DU/AC) on approximately 8.6 acres, and Private Open Space on approximately 1.1 acres.

The proposed rezoning to A(PD) Planned Development Zoning for the 9.7-acre developable area would allow the construction of up to 41 single-family residences on 8.6 acres of designated Medium Low Density Residential (8.0 DU/AC), a proposed public park, and open space to be maintained privately by the Home Owners Association on 0.8 acres, and 0.3 acres of designated Private Open Space for the project. The non-developable area, approximately 4.6 acres of Non-Urban Hillside are outside of the UGB/USA, is to remain as permanent open space under the Non-Urban Hillside designation outside of the USA and UGB.

The proposed residential density for the site is 4.8 dwelling units per acre, consistent with the General Plan designation of 8 dwelling units per acre.

ENVIRONMENTAL REVIEW

An Initial Study was prepared for the proposed Rezoning. A Mitigated Negative Declaration was circulated for public review by the Director of Planning, Building and Code Enforcement on April 3, 2007 and is expected to be adopted on April 23, 2007. The Mitigated Negative Declaration identified mitigation measures in the following categories: Air Quality, Biological Resources, Geology and Soils, Hydrology and Water Quality, and Noise. A list of the required mitigation measures is included at the end of the attached Draft Development Standards.

GENERAL PLAN CONFORMANCE

The current General Plan Land Use designation of the subject site is Medium Low Density Residential (8.0 DU/AC). This designation is typified by the 6,000 square foot lot which is prevalent in San Jose. It is characteristic of many residential neighborhoods, and is the density of the majority of San Jose's existing single-family housing. Smaller-lot, detached patio homes and single-family attached residences can also be appropriate in this category.

The proposed Planned Development Zoning is consistent with the Medium Low Density Residential (8.0 DU/AC) land uses. This designation would allow compatible residential uses up to 8 dwelling units per acre. The applicant's proposal is to develop the property at a density of 4.8 dwelling units per acre.

The subject site also includes an area that is outside of the Urban Service Area and over the fifteen percent slope line, currently designated Non-Urban Hillside, which is typical for most of the hillside areas above the fifteen percent slope line in San Jose.

ANALYSIS

The analysis section of this report focuses on land use compatibility, residential design guidelines: setbacks, streets, parking, common and private open space, grading, and storm water pollution control; and, conformance with the requirements of the Local Area Formation Commission (LAFCO) for the subsequent annexation process.

Land Use compatibility

The subject site is located at the base of the east foothills in unincorporated Santa Clara County. Surrounding the subject site are single-family residences and vacant grasslands to the north, vacant lands and single-family residences to the east, characterized by patio homes, and vacant hillside grasslands to the northwest. The applicant is proposing a total of forty-one single family detached dwelling units, at a density of 4.8 dwelling units per acre. As proposed by the applicant, the lots would range in size from approximately 4,000 square feet up to 14,800 square feet; twenty-four lots would be smaller than the 5,445 square foot minimum lot size. This variation is due to the constraints of the existing topography of the terrain. The applicant is proposing three types of units, (Plans One, Two and Three), as depicted in the plan sets. All units will have private open space in the form of backyards. The spatial differences between the three different plans, among others, include a front porch as illustrated in Plan One, and a bonus room as illustrated in Plan Two and Three. The recommended setbacks have been determined for two categories: standard lots less than 5,000 square feet, and those greater than 5,000 square feet, to create a more homogeneous neighborhood development pattern.

Conformance to the Residential Design Guidelines

The City's Residential Design Guidelines state that single-family detached houses are typically on individual lots and have street frontage. As proposed, the houses are on individual lots and have setbacks that would generally correspond to the applicable sections of the Residential Design Guidelines based on the lot sizes (those for lots of 4,000 to 5,000 square feet, and greater than 5,000 square feet).

Staff has attached Drafted Development Standards for the proposed zoning that limit uses and future development consistent with the hillside characteristics of the site and surrounding properties.

Development Standards - Setbacks

The Draft Development Standards (see attached) are for the developable area only, below the fifteen percent slope line, designated Medium Low Density Residential (8.0 DU/AC). The Draft Development Standards does not include the area of this property that is outside of the Urban Growth Boundary and Urban Service Area, designated Non-Urban Hillside.

The uses and development standards for the developable area, below the fifteen percent slope line, are as similar as possible as the adjacent neighborhood, following Council direction. In order to comply with the Residential Design Guidelines, some adjustments have been made to the applicant's proposed Development Standards. The proposed development standards by the applicant differ from staff's in that the applicant is proposing a maximum height of 35 feet or 3 stories for up to 10 units, whereas staff, as directed by City Council, is recommending 2 stories or 30 feet maximum, to be consistent with the adjacent neighborhood. For corner lots, the applicant is proposing a 4.5 foot side setback, while staff is proposing 5 feet. There are a total of 5 corner lots in the proposed development, and by analyzing the submitted plans the proposed project meets staff's recommendation for the side setback.

An additional condition has been placed in the draft Development Standards to address exterior noise levels that currently exceed the City exterior noise standard by 2dB. A minimum 6-foot high, solid board rear yard fence shall be constructed at the western property line facing the U.S. Highway 101.

Streets

The proposed street has been modified as originally proposed, per staff's suggestion, to become a minor residential street with a minimum 52-foot right-of-way, providing two-way access with on-street parking on both sides of the street. The plan set shows the proposed street as private right-of-way. Staff coordinated with the department of Public Works, Parks and Recreation and Neighborhood Services, and the City Attorney's office to analyze the implications of a proposed private street and came to the conclusion that a public right-of way is better suited for this project. The change was proposed after the applicant submitted the final plan set.

Parking

The applicant has proposed two car spaces per unit with an optional third garage space creating a 3-car tandem garage, or a 2-car garage and optional fifth bedroom. In addition, the applicant is providing 41 on-street parking spaces in the proposed public right-of way.

Common and Private Open Space

As described above, all units will have private open space in the form of backyards. Common open space is provided by the creation of a public park located at the northeast section of the subject site. This public park is to be maintained by the Homeowners Association of the neighborhood as indicated in the plan set. A second, smaller open space is proposed on the northern portion of the subject site and its uses would be

addressed at the Planned Development Permit stage. These two areas are designated as Private Open Space. The remaining portion of the site of approximately 4.6 acres, located above the fifteen percent slope line, is proposed to remain as permanent open space under the Non-Urban Hillside designation outside of the USA and UGB.

The proposed common and private open space meets the minimum requirements as described in the Residential Design Guidelines.

Grading

The terrain on the site ranges from gently sloping to steep. Only the northerly and westerly portions of the site are vacant, most of the site is occupied by a horse-riding academy. An abandoned water canal traverses the center of the site. The existing buildings and the construction of the canal have required the substantial grading that already exists on the site. That grading was done without permits, and is considered unengineered fill. Future development on the site will require significant additional grading to remove the unengineered fill, and to level the ground for the construction of the roads and building pads. The applicant has expressed the intention of minimizing the grading as much as possible, and has expressed that they will work with the departments of Public Works, Fire, and Planning among others, to improve the proposed grading at the permit stage.

Storm Water pollution control

The applicant has submitted a Conceptual Storm Water Control Plan to comply with the City's policy. Two major stormwater collection areas have been identified, and a bioswale area is proposed in the northwestern portion of the subject site. A final Storm Water Control Plan must be submitted and reviewed at the Planned Development Permit stage.

LAFCO Requirements

If the subject rezoning is approved, an annexation application and an application for the Urban Service Area expansion would be filed before the Santa Clara County Local Area Formation Commission (LAFCO). Future annexation of the subject site would result in the isolation of the adjacent southeasterly unincorporated one-acre parcel (APN: 678-09-005). In order to conform to the LAFCO policies, this parcel would be also need to be rezoned, and annexed to the City of San Jose; otherwise, the remainder parcel would become an unincorporated pocket within the City limits. There is no rezoning/annexation application on file for the adjacent parcel at this time; however, the Director of Planning, Building and Code Enforcement has the option to initiate a rezoning for this property.

PUBLIC OUTREACH

The applicant conducted a series of community meetings to inform the neighbors about the proposed project. Planning staff attended one of the meetings. The attendees had no major objections to the proposal.

A notice of the public hearing was distributed to owners and tenants of all properties located within 1,000 feet of the project location. This staff report was made available on the City's website prior to the City

Council hearing. Signage has been posted at the site to inform the public about the proposed change. Staff has been available to discuss the project with interested members of the public.

COORDINATION

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

RECOMMENDATION

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

1. The proposed project is consistent with the proposed San José 2020 General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8.0 DU/AC).
2. The proposed rezoning is compatible with existing and proposed uses on the adjacent and neighboring properties.

attachments

PDC06-102 – 715 Piercy Road

The following Development Standards are to be placed on the Land Use Plan for this Planned Development Zoning once the Zoning is approved by the City Council.

DRAFT DEVELOPMENT STANDARDS

Permitted Uses:	Up to 41 single-family detached dwelling units
Maximum Height:	30 feet or 2 stories
Standard Lots: (less than 5,000 sq. ft.)	
Front:	18 feet to garage, 12 feet to front porch
Side:	4.5' minimum
Rear:	20 feet
Large Lots: (greater than 5,000 sq. ft.)	
Front:	18 feet to garage, 12 feet to front porch
Side:	4 feet minimum, 10 feet house to house
Rear:	20 feet
Corner Lots:	
Front:	18 feet
Side:	5 feet, and 10 feet (corner side)
Rear:	20 feet
Minor Architectural Projections:	Minor architectural projections, such as chimneys and bay windows, may project into any setback or building separation by no more than 2 feet for a horizontal distance not to exceed 10 feet in length, nor more than 20 percent of the building elevation length.
Parking:	Two covered spaces per dwelling unit.
Private Open Space (minimum area):	750 s.f.
Landscaping:	Home Owner's Association shall maintain on site landscaping areas, the Stormwater Runoff Treatment area, and landscaping areas along the public right-of-way areas/streets to the satisfaction of the Director of Public Works.
Fence:	6 foot high, solid board along the western side of the property line, facing 101 Hwy.

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

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 plant will cause the total sewage treatment

demand to meet or exceed the capacity of the San Jose – Santa Clara water pollution control plant to treat such sewage adequately and within the discharge standards imposed on the city by the state of California regional water control board for the San Francisco Bay region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.

Post-Construction Storm Water Treatment Controls

The city's national pollutant discharge system (NPDES) permit compliance requires this project to incorporate post-construction mitigation measures to control the discharge of pollutants into the storm drainage system to the maximum extent practical. Planned development permit plans for this project shall include design details of all post construction storm water treatment controls proposed for the project to the satisfaction of the director of planning.

Tree Mitigation

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

- Each tree less than 12" in diameter will be replaced by a one 15-gallon tree (Native and Non-Native).
- Each tree 12"- 18" in diameter will be replaced by 3, 24-inch box (Native), and by 2, 24-inch box (Non-Native)
- Trees greater than 18" in diameter shall be replaced by 5, 24-inch box (Native), and by 4, 24-inch box (Non-Native).

Parking:

2 covered parking spaces per unit plus 1 guest parking on site. A total of forty-one (41) parking spaces are provided on site.



Memorandum

TO: Honorable Mayor and City Council

FROM: Councilmember Forrest Williams

SUBJECT: Piercy Road UGB and GP Amendment

DATE: 6-20-06

Approved

Forrest Williams

Date

6/20/06

RECOMMENDATION: To amend the General Plan to Medium Low Density Residential (8 DU/AC) on approximately 8.4 acres; Private open space on 1.29 acres; inclusion of approximately 4.75 acres within the Greenline/urban growth boundary and inclusion of approximately 4.75 acres within the Urban Service Area boundary.

BACKGROUND:

The amendment site is the lower 9.7-acre portion of a 14.1-acre parcel located at the base of the east foothills. Portions of the parcel are already within the Greenline/Urban Growth Boundary and Urban Service Area boundary. Currently the General Plan land use/transportation diagram depicts the UGB boundary and USA boundary traversing through the parcel along two separate courses. The proposed UGB modification and the USA expansion would realign both to follow the same alignment along the course of the fifteen percent slope line.

The realignment of the USA and UGB boundary lines would establish a 9.7-acre area at the lower portion of the parcel as potentially suitable for urban development. The applicant is proposing to apply the Medium Density Low Residential (8 DU/AC) designation to approximately 8.4 acres to facilitate a single-family residential subdivision. An approximately 1.29 acre area is proposed for the Private Open Space designation. This area will remain outside the USA/UGB and may be utilized as some form of recreational or open space area for the benefit of the residents of the proposed development and the surrounding neighborhoods. The remaining, approximately 4.4 acres, located above the fifteen percent slope line are proposed to remain as permanent open space under the Non-Urban Hillside designation outside of the USA and UGB.

The General Plan to Medium Low Density Residential (8 DU/AC) is consistent with the established GP policy which states: *"In cases where the fifteen percent slope line is located more precisely up slope from the Land Use/Transportation Diagram designation, the down slope land use designation or density should be applied to the additional area up to the precise fifteen percent slope line"*.

The down slope Basking Ridge neighborhood is designated Medium Density (8-16 DU/AC) and is built at 8-9 DU/AC. The proposed change will produce home sizes consistent with its Basking Ridge neighbors. It will also produce housing that is smaller and less expensive than that obtainable with a Low Density designation. This less expensive housing is more appropriate to the jobs being created in the adjoining Edenvale Industrial Area.

Finally, the project offers community benefits by providing, 1) 4.4 acres of restored grasslands, and 2.) a 1.3-acre private park, which will be publicly accessible at no cost to the city. The applicant has had a number of meetings with the residents in the surrounding community and there has been no objection raised regarding the proposed project.

Cc: Lee Price, City Clerk
Mayor/City Council

**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: PDC06-102

PROJECT FILE NUMBER: PDC06-102

PROJECT DESCRIPTION: Planned Development Rezoning from County to A(PD) Planned Development Zoning District, to allow up to 41 single-family detached residences on a 8.3-acre portion of a 14.27 gross acre site and subsequent permits

PROJECT LOCATION & ASSESSORS PARCEL NO.: located at the southeast corner of Piercy Road and Tennant Avenue (715 Piercy Road). APN: 678-09-013

COUNCIL DISTRICT: 2

APPLICANT CONTACT INFORMATION: Amie Ashton, HMH Engineers, (408) 487-2200

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 – Implementation of the following mitigation measures will reduce potential construction air quality impacts to less than significant levels.

- Water all active construction sites at least twice daily, and more often during windy periods;
- Cover all trucks hauling soil, sand and other loose materials *or* require all trucks to maintain at least two feet of freeboard;
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for 10 days or more);
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust;
- Limit traffic speeds on unpaved roads to 15 mph;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways; and
- Replant vegetation in disturbed areas as quickly as possible.

IV. BIOLOGICAL RESOURCES – Implementation of the following mitigation measures will reduce the potential impacts on biological resources to a less than significant level.

- At the development stage, prior to any land disturbance, a qualified ornithologist will conduct a pre-construction survey for tree-nesting raptors in all trees occurring within 250 feet of project building envelopes within 30 days of the onset of ground disturbance, if such disturbance will occur during the breeding season (1 February through 31 August). If nesting raptors are detected on the site during the survey, a construction buffer of 250 feet will be established around each active nest for the duration of the breeding season or until it has been confirmed that all chicks have fledged and are independent of their parents. Pre-construction surveys during non-breeding season are not necessary for tree-nesting raptors, as they are expected to abandon their roosts during construction.
- A qualified ornithologist will conduct pre-construction surveys of burrowing owls onsite within 30 days of ground disturbance. These surveys will be conducted in a manner consistent with the accepted burrowing owl survey protocols. If pre-construction surveys determine that burrowing owls occupy the site during the non-breeding season (1 September through 31 January), then a passive relocation effort (i.e. blocking the burrows with one-way doors and leaving them in place for a minimum of three days) may be necessary to ensure that the owl is not harmed or injured during construction. Once it has been determined that the owls have vacated the site, the burrows can be collapsed, and ground disturbance can proceed. If burrowing owls are detected on the site during the breeding season (1 February through 31 August), a construction buffer of 250 feet will be established around any active owl nests and remain in place for the duration of construction activities or through the end of the breeding season.
- A pre-construction survey for American badger dens will be performed using the same protocol as described above for burrowing owls: Any badger dens identified during the pre-construction

survey will be monitored by a qualified biologist to determine whether they are currently being utilized. If badgers are detected using burrows on site, then passive relocation efforts similar to those typically employed for the San Joaquin kit fox will be initiated to exclude badgers from the construction zone. Badgers will not be handled unless pre-approval is obtained from CDFG. Methods to relocate any badger will not occur if young occur in the den and a construction free buffer will be established around natal dens to ensure construction activities do not disrupt breeding activity.

- V. CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VI. GEOLOGY AND SOILS** – Implementation of the following mitigation measures will reduce potential impacts on Geology and Soils to a less than significant level.
- All requirements and recommendations of the City’s Geologist through the Geologic Hazard Clearance shall be incorporated into the project.
- VII. HAZARDS AND HAZARDOUS MATERIALS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VIII. HYDROLOGY AND WATER QUALITY** – Implementation of the following mitigation measures will reduce potential impacts on hydrology and water quality to a less than significant level.
- Future development will include public streets and building rooftops which would increase the amount of impervious surface on the site and ultimately increase pollutants resulting from nonpoint sources in stormwater runoff. At the development permit stage, specific site design treatment and source control measures will be incorporated into this proposed project to reduce runoff and associated pollutants in conformance with the specifications of the City Council Policy No. 6-29, Post Construction Urban Runoff Management Policy.
- 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** – Implementation of the following mitigation measures will reduce potential impacts on noise to a less than significant level.
- A minimum 6 foot high, solid board rear yard fence shall be constructed at the western property line facing the 101 Freeway.
 - STC 28 sound rated windows and exterior doors and door assemblies are required for all units. Dual-pane windows are required for windows on the rear facades along the row of homes closest to the 101 Freeway (western facing rear facades). Not all units will require sound rated windows, prior to issuance of occupancy permits a qualified acoustical engineer shall be

retained to review the final building plans and ensure that interior noise levels specified by the General Plan are met for all units.

- Because sound rated windows must be closed to provide protection from exterior noise, alternate means of providing outside air is required. This applies to all units within the project.
- Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. 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.
- The contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components.
- Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.

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 Monday, April 23, 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: April 3, 2007

Deputy

Adopted on: _____

Deputy

Revised 8/26/05 JAC

Memorandum

TO: Ben Corrales
Planning and Building

FROM: Michael Liw
Public Works

SUBJECT: FINAL RESPONSE TO
DEVELOPMENT APPLICATION

DATE: 04/04/07

PLANNING NO.: PDC06-102
DESCRIPTION: Planned Development Rezoning from Unincorporated to Planned Development Zoning District to allow up to 41 single-family detached residences on a 8.3 gross acres site.
LOCATION: southeast corner of Piercy Road and Tennant Avenue
P.W. NUMBER: 3-16811

Public Works received the subject project on 01/31/07 and submits the following comments and requirements.

Project Conditions:

Public Works Clearance for Building Permit(s): Prior to the issuance of Building permits, 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.

Public Works Approval of Parcel Map or Tract Map: Prior to the approval of the Tract or Parcel Map 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.

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 study was prepared for 41 SDF residential units on approximately 8.3 gross acres and is projected to generate 41 AM and 41 PM peak hour trips. Three study intersections in the vicinity of the project were analyzed. The results of the analysis concluded that none of the study intersections were significantly impacted with the addition of the project traffic. Therefore the project as proposed meets the City's Transportation Level of Service Policy, Council 5-3

3. **Grading/Geology:**

- a) A grading permit is required prior to the issuance of a Public Works Clearance.
- b) 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.
- c) 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.
- d) 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.
- e) The City Geologist issued a Certificate of Geologic Hazard Clearance for the proposed project on March 15, 2006. The project must conform to the requirements of this certificate and all referenced reports for this project.

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) Current stormwater plan shows run off from the proposed development project and the future Public Street being treated via a grassy swale located in the private area and maintained by the future home owners association. Run off from the public streets cannot be treated via a privately maintained grassy swale and must be treated by a numerically sized BMP located within the public right-of-way. The stormwater plans needs to be revised to separate out stormwater run off from the public street going into the proposed grassy swale. At PD permit stage revise stormwater plan in order to conform to this requirement.

- c) Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - d) 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. **Stormwater Peak Flow Control Measures:** Projects that are required to install treatment control measures are encouraged to comply with the requirements of the City's Post-Construction Hydromodification Management Policy (Policy 8-14) to control the project's hydromodification impacts that can cause increased erosion and other impacts to beneficial uses of local rivers, streams and creeks.
- a) It is recommended that the project install treatment control measures that have flow-control benefits such as bioretention facilities, infiltration trenches, filter strips, and vegetated swales.
 - b) Submit documentation that the project has considered installation of treatment control measures that have flow-control benefits and the reason(s) why the project chose not to install these dual-benefit measures.
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. **Municipal Water:** In accordance with City Ordinance #23975, Major Water Facilities Fee is due and payable. Contact Tim Town at (408) 277-3671 for further information.
9. **Street Improvements:**
- a) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - b) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - c) 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. **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) Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 10' in commercial areas and 5' in residential areas.
- c) Provide clearance for electroliers from overhead utilities and request clearance from utility companies. Clearance from electrolier(s) must provide a minimum of 10' from high voltage lines; 3' from secondary voltage lines; and 1' from communication lines.
- d) Replace existing HPS luminaires in electroliers along project frontage with LPS luminaires.
- e) 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.

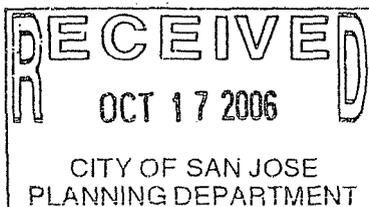
11. **Street Trees:**

- 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.

Please contact the Project Engineer, Amit Mutsuddy, at (408) 535-6828 if you have any questions.



Michael Liw
Senior Civil Engineer
Transportation and Development Services Division



Memorandum

ENVIRONMENTAL SERVICES DEPARTMENT (ESD)

TO: Ben Corrales
Department of Planning,
Building, & Code Enforcement

FROM: Geoff Blair
Environmental Services Department

SUBJECT: Response to Development
Application

DATE: Staff Review Agenda
October 12, 2006

APPROVED: *Geoff Blair* **DATE:** 10-13-06

PLANNING NO. :	PDC06-102
LOCATION:	715 Piercy Road. Southeast corner of Piercy Road and Tennant Avenue.
DESCRIPTION:	Planned Development Permit to construct up to 41 single-family detached residences on a 14.27 gross acre site.
APN:	67809013

ESD received the subject project and is submitting the following conditions and comments. Questions regarding these comments may be directed to the program contact given or to me at (408) 277-3828.

Stormwater Runoff	San Jose/ Santa Clara Water Pollution Control Plant (Plant)	Source Control	South Bay Water Recycling (SBWR)	Green Building	Integrated Waste Management (IWM)	Water Efficiency
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Stormwater Runoff

Please be aware that effective August 15, 2006, all projects that create or replace 10,000 square feet of impervious surface will be required to hydraulically size their post-construction treatment control measures.

Integrated Waste Management (IWM)

Single Family Residential

1. Collection vehicle access (vertical clearance, street width and turnaround space) and street parking are common issues pertaining to new developments. All residential projects must be designed¹ such that they will accommodate garbage and recycling collection vehicles and program setout guidelines. If vehicle access is limited due to clearance issues, street parking, or inaccessible private streets, some services (such as street sweeping or yard trimmings collection)

¹ In accordance with the San Jose Residential Design Guidelines

may not be performed, or the property owner may be subject to additional charges. These additional charges may include monthly charges for on-premise (backyard) collection or yard trimmings cart collection. For questions regarding garbage and recycling collection issues, contact the Recycle Plus Program at (408) 535-3515.

2. It is recommended that scrap construction and demolition debris be recycled instead of disposing of it in a landfill. An infrastructure exists within San Jose to accommodate such recycling efforts. Integrated Waste Management staff can provide assistance on how to recycle construction and demolition debris from the project, including information on where to conveniently recycle the material. For further information, contact the Commercial Solid Waste Program at (408) 535-3515.

Water Efficiency

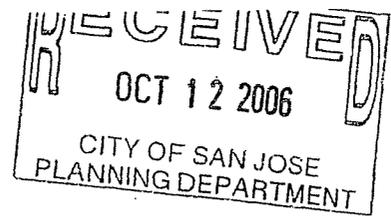
Residential

The proposed development should consider installation of the following water efficient equipment as applicable:

- **High Efficiency Toilets** (1.0 gal/flush) and/or **Dual Flush Toilets** (0.8-1.1 gal/flush for liquids, 1.6 gal/flush for solids) maximize water efficiency. High Efficiency Toilets use at least 20% less water than standard Ultra-Low Flush Toilets (1.6 gal/flush) and Dual Flush Toilets save water by offering two separate flush settings.
- **Water Conserving Dishwashers** can save several gallons of water per load over conventional dishwashers and typically also save energy.
- **High Efficiency Clothes Washers** are more water-and energy-efficient, using from 35 to 50 percent less water and saving up to 50 percent in energy costs over conventional clothes washers.

Financial incentives may be available for installing various types of residential, commercial, industrial or institutional water efficient appliances or equipment. Contact the Santa Clara Valley Water District for more information and availability.

Call the Santa Clara Valley Water District Water Conservation Hotline at (408) 265-2607 ext 2554 or visit www.valleywater.org



Memorandum

DATE: 10/12/06

TO: Ben Corrales

FROM: Nadia Naum-Stoian

Re: Plan Review Comments

PLANNING NO: PDC06-102

DESCRIPTION: Planned Development Rezoning to allow up to 41 single-family detached residences on a 14.27 gross acres site

LOCATION: southeast corner of Piercy Road and Tennant Avenue

ADDRESS: southeast corner of Piercy Road and Tennant Avenue (715 PIERCY RD)

FOLDER #: 06 028651 ZN

The Fire Department's review was limited to verifying compliance of the project to Article 9, Appendix III-A, and Appendix III-B of the 2001 California Fire Code with City of San Jose Amendments (SJFC). Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.

- These comments are based on the following information from drawings dated 9/27/06 by HMM & by Dahlin Gr. Arch.

Largest building: 3400 sq. ft.

Construction Type: V N

Occupancy Group: R3/U1

Number of stories: 3

1. The project plans as submitted, do not comply with the Fire Code. The following are discrepancies noted:

- a) Fire apparatus access roads are not in accordance with the requirements of the SJFC. The inside radius by Pad 266 is less than 30feet. The bulb at the dead-end over 150feet from a turn around has to be 100feet diameter. See requirements below.
- b) The plans do not indicate that the required fire flow of 1000GPM will be available at the project site. Please ask the applicant to immediately contact Great Oaks Water to get the water flow information.
- c) The plans do not show location of hydrants. The required fire flow shall be provided through 1 hydrant.

2. Please advise the applicant to submit plans to the Fire Department that provide the following information:

- a) Width, length, and grade of the fire apparatus access roads, streets, avenues, and the like. Every portion of all building exterior walls shall be within 150 feet of an access road. The fire access shall:
 - be at least 20 feet wide; OK
 - have an unobstructed vertical clearance of not less than 14 feet; SPECIFY
 - be designed and maintained to support the loads of fire apparatus of at least 69,000 pounds; OK public street
 - have a minimum inside turning radius of 30 feet and an outside turning radius of 50 feet; Revise the one mentioned above.
 - be designed with approved provisions for turning around of fire apparatus if it dead ends and is in excess of 150 feet; The bulb is not an approved turn-around and is 200ft away from a turn-around
 - have a gradient less than or equal to 15%. OK
 - **Curbs are required to be painted red and marked as "Fire Lane - No Parking" under the following conditions: (show exact locations on plan)**
 - i) **Roads, streets, avenues, and the like that are 20 to less than 26 feet wide measured from face-of-curb to face-of-curb shall have curbs on both sides of the road painted and marked**
 - ii) **Roads, streets, avenues, and the like that are 26 to less than 32 feet wide measured from face-of-curb to face-of-curb shall have one curb painted and marked**
- b) Location of fire hydrants. The average distance between hydrants shall not exceed 500 feet, 250feet from property street frontage.

- c) Available fire flow. Provide a copy of the letter from Great Oaks Water that indicates the water flow available at each new hydrant- minimum 1000GPM at 20PSI.
- d) Every sleeping room below the fourth story shall have at least one operable window or door approved for emergency escape or rescue that shall open directly into a public street, public alley, yard, or exit court. Such windows or doors shall be in accordance with the adopted Building Code, and accessible for Fire Dept. laddering operation. The maximum angle for laddering is 70deg. from horizontal. Show all pertaining details including landscaping and pavers in relation to rescue window operation.

Note: The plans shall be submitted to the Fire Department *by appointment only* (call Nadia Naum-Stoian) as soon as possible.



Nadia Naum-Stoian
Fire Protection Engineer
Bureau of Fire Prevention
Fire Department
(408) 535-7699



April 25, 2007

Theodore Hipol
Assistant Engineer - Community Projects Review Unit
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3686
Tel. (408) 265-2600, Fax. (408) 266-0271

Dear Mr. Hipol:

RE: comments to Initial Study - File No. PDC06-012

This is in response to your April 23, 2007 fax, received on April 23, 2007 for the 715 Piercy Road project.

Comment No. 1

The District prepared a preliminary study for the abandonment of the canal. Although the overall abandonment of the canal has been deferred, the District's easement within the property is currently in the process of quitclaim to the property owner.

Should construction for the project begin before quitclaiming the easement, a District permit will be required for work proposed within the District's easement, in accordance with District's Ordinance 06-1.

Response No. 1

As you stated in the letter, the District is currently working with the developer to quitclaim a portion of the canal. Planning staff appreciates the information provided and we would make sure to convey this information to the applicant.

Comment No. 2

The California Department of Fish and Game Staff Report on Burrowing Owl Mitigation (1995) states surveys for burrowing owls should be done during the winter season (between December 1 and January 31) and also during the breeding season (between April 15 and July 15) to determine if burrowing owls are foraging or nesting on or adjacent to the project site. The document does not report that these surveys were conducted. The significance of the loss of potential burrowing owl nesting habitat is not included in the document.

Response No. 2

The Appendix A, Biotic Evaluation states that a survey was conducted in September 2005, no stick nests were observed but the trees occurring onsite provide potential nesting habitat for tree-nesting raptors. In addition, no burrowing owls, or evidence of burrowing owls, were observed on the site.

Corrales, Ben

From: Michele Korpos [mkorpos@loainc.com]
Sent: Wednesday, April 25, 2007 3:20 PM
To: ben.corrales@sanjoseca.gov
Cc: 'Davinna Ohlson'
Subject: Breeding Badger Buffer (PN: 824-01)

Hi Ben

In response to your question regarding a buffer area for American Badgers on the 715 Piercy Road project, the following would be appropriate:

If an active badger den is identified during pre-construction surveys within or immediately adjacent to the construction envelope, a no disturbance buffer zone consisting of a 300-foot circumference around the den (or distance specified by the resource agencies, i.e., CDFG) will be necessary. A biological monitor should be present on-site to ensure the buffer is adequate to avoid direct impact to individuals or nest abandonment. The monitor would be necessary on-site until it is determined that young are of an independent age.

Please let me know if I may be of further assistance.

Be well,

Michele Korpos, M.S., Candidate
Project Manager/Wildlife Ecologist

****WE'VE MOVED - PLEASE MAKE NOTE OF OUR NEW ADDRESS BELOW****

Live Oak Associates, Inc.
6840 Via Del Oro, Suite 220
San Jose, CA 95119

408.281.5881 (Direct)
408.291.4019 (Cell)
408.224.1411 (Fax)

4/25/2007

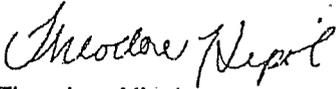
Mr. Ben Corrales
 Page 2
 April 23, 2007

Similarly for the American Badger, the pre-construction 30 day timeframe may not be enough to determine if badgers have young on the site and in the area of the canal abandonment. If young are on the site, the size dimension of the "construction free buffer" should be specified in the document.

Also there is a potential that rare plants might be found in the Coyote Canal Extension where filling of the canal is proposed. Measures to locate, protect, or mitigate for the loss, should be considered.

Thank you for the opportunity to review the IS/MND. We look forward to your responses to our above comments, when available. If you have any questions or comments, you can contact me at (408) 265-2607, extension 2494 or email me at THipol@valleywater.org.

Sincerely,



Theodore Hipol
 Assistant Engineer
 Community Projects Review Unit

cc: S. Tippets, S. Yung, T. Hipol, M. Klemencic, J. Castillo, B. Shylo, D. Duran, File (2)

th:rmn
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