



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: May 29, 2007

TRANSMITTAL MEMO

COUNCIL DISTRICT: 4

SNI: N/A

SUBJECT: PDC03-108. LOCATED ON BOTH SIDES OF BERRYESSA ROAD, BETWEEN THE UNION PACIFIC RAILROAD TRACKS TO THE EAST AND THE COYOTE CREEK TO THE WEST, NORTH OF MABURY ROAD (SAN JOSÉ FLEA MARKET SITE).

The Planning Commission will hear this project on May 30, 2007. The memorandum with Planning Commission recommendations will be submitted under different cover. We hope the submittal of this staff report is of assistance in your review of this project.

for 
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

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

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, Tower 3
San José, California 95113

STAFF REPORT

Hearing Date/Agenda Number
P.C. 5-30-07 Item No. 4.d.
C.C. 6-19-07

File Number PDC03-108

Application Type Planned Development Rezoning

Council District 4

Planning Area Berryessa

Assessor's Parcel Number(s)
254-17-007, 254-17-052, 254-17-084, 254-17-095,
241-04-006, 241-04-007, 241-03-020

PROJECT DESCRIPTION

Completed by: Richard Buikema

Location: Both sides of Berryessa Road, between the Union Pacific Railroad tracks to the east and the Coyote Creek to the west, north of Mabury Road. (San José Flea Market Site)

Gross Acreage: 120.3

Net Acreage: 53.3

Net Density: 55 DU/AC

Existing Zoning: A(PD) Planned Development, IP Industrial Park

Existing Use: Flea Market and associated Parking

Proposed Zoning: A(PD) Planned Development

Proposed Use: Transit-Oriented Residential, Retail Commercial, Office, School, Parks, Open Space

GENERAL PLAN

Completed by: RHB

Land Use/Transportation Diagram Designation
Transit Corridor Residential (20+ DU/AC) on 67.4 acres, Medium Density Residential (8-16 DU/AC) on 8 acres, Combined Industrial/Commercial on 21 acres, and Public Park/Open Space on 23.8 acres with a Floating Park designation

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: RHB

North: Single-family residences

A (PD) Planned Development

East: Warehouses, light industrial buildings/offices, Union Pacific Railroad tracks; Industrial Park

LI – Light Industrial, IP – Industrial Park, A (PD) Planned Development

South: Light industrial buildings/offices

LI- Light Industrial

West: Coyote Creek, asphalt/gravel plant (Graniterock) and other heavy industrial uses

HI – Heavy Industrial, LI – Light Industrial

ENVIRONMENTAL STATUS

Completed by: RHB

Environmental Impact Report adopted 4/24/07
 Negative Declaration circulated on _____

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: RHB

Annexation Title: Orchard No. 44

Date: June 20, 1967

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions

Date: _____

Approved by: _____
 Action
 Recommendation

OWNER/APPLICANT

The Flea Market, Inc.
1590 Berryessa Road
San José, CA 95133

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: RHB

Department of Public Works

See attached memorandum dated 5-22-07

Other Departments and Agencies

See attached memos from: Department of Transportation (5-14-07), Fire Department (4-16-07) Parks Recreation and Neighborhood Services (5-8-07), City Managers Office (5-22-07) Santa Clara Valley Water District(5-16-07), Santa Clara Valley Transportation Authority (VTA) (5-17-07)

GENERAL CORRESPONDENCE

See attached

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

This is a request for a rezoning from A (PD) Planned Development to A (PD) Planned Development to allow up to 2,818 residential units, 365,622 square feet of retail commercial, office, or industrial use, and approximately 36 acres of public park/open space on the 120.3-acre site of the San José Flea Market. The application was originally filed on December 23, 2003. The proposed rezoning is the next step in the City's entitlement process as it implements the General Plan for the site that was originally amended in 2002 to add the Transit Corridor Residential (20+ DU/AC) and Combined Industrial/Commercial designations on the site. In addition, the General Plan text was amended at that time to establish the Berryessa BART Station Area Node as a Special Strategy Area in order to direct transit-oriented and pedestrian-friendly land use developments in close proximity to BART stations. The proposed rezoning also reflects a General Plan amendment (File No. GP/GPT06-04-01) that was approved by the City Council on April 24, 2007 to add an additional 9 acres on the site for Transit Corridor Residential (south of Berryessa Road) and an additional acre for Public Park/Open Space. The Flea Market is a privately run commercial venture, and the operator has the ability to close the Flea Market at any time, regardless of whether this rezoning is approved. The focus of the proposed rezoning is the appropriate use of the 120 acre property in the future, given its proximity to the proposed Berryessa BART station and its General Plan designations, should the Flea Market close or be relocated in the future.

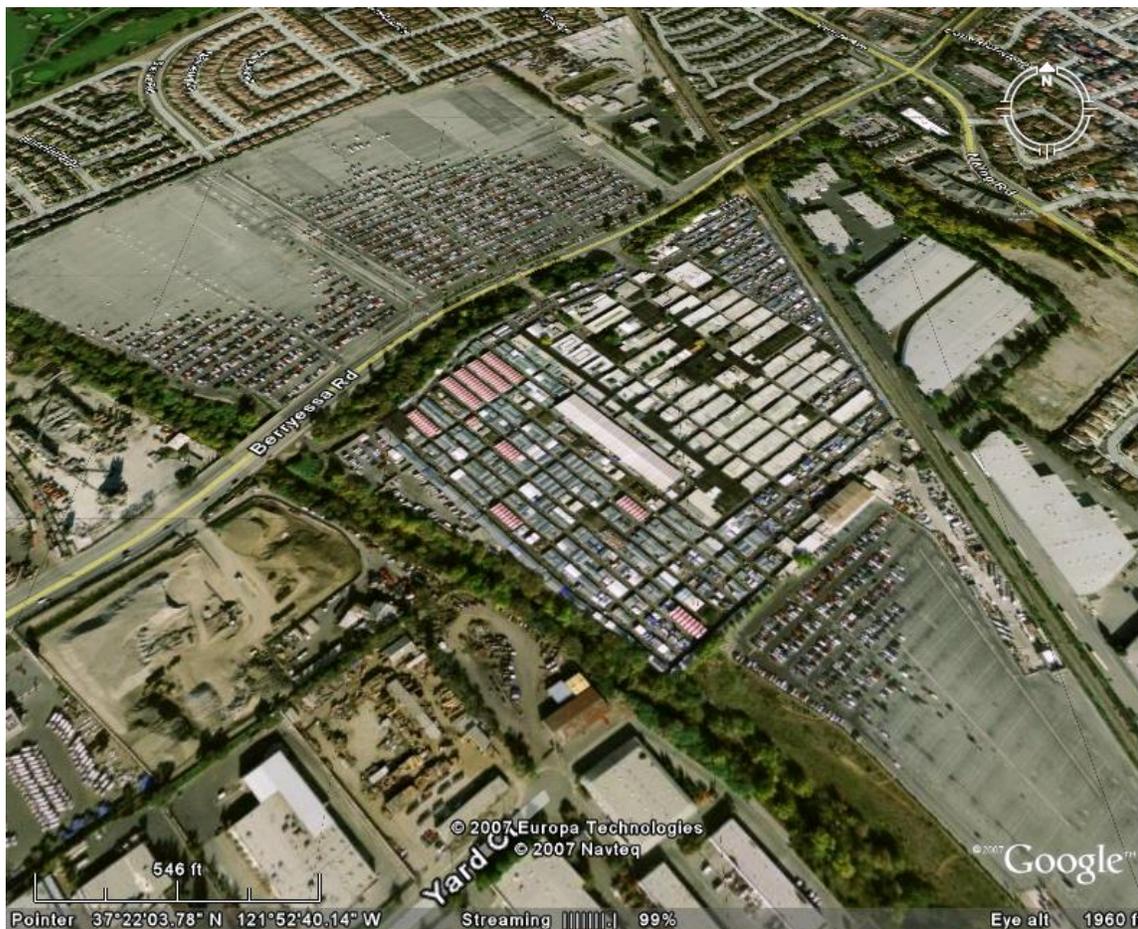


Figure 1: Aerial Photograph of Flea Market Site

Site and Surrounding Uses

The subject site is located on both sides of Berryessa Road between the Union Pacific Railroad tracks to the east and Coyote Creek to the west. The existing uses of the site include the San Jose Flea Market, its ancillary buildings, and a parking lot south of Berryessa Road, and a parking lot, parking attendant booths, and storage area to the north of Berryessa Road. The area surrounding the site is developed with single-family residences to the north, light industrial uses to the east, and Coyote Creek to the west. Across Coyote Creek are heavy industrial uses, including the Graniterock asphalt/gravel plant, a metal reclamation yard, asphalt recycling and warehouses. The City of San José's Mabury storage yard is southerly of the site, south of Mabury Road. The former UPRR right-of-way borders the southeastern side of the site with two industrial parks and new single-family residential development beyond to the east. An approximately 1-acre parcel owned by the Santa Clara Valley Water District that contains a 66-inch diameter raw water supply pipe traverses through the subject property, and includes deed restrictions that limit the use of this property to roads and landscaping. (These restrictions are proposed to be included in the proposed rezoning at the request of the SCVWD, see attached memorandum).

San José Flea Market

The San José Flea Market has been continuously operated on the site since 1960. In 1967, approximately 98 acres of the subject site was annexed to the City of San José. The remainder of the 120 acre property was annexed in 1979. The existing Planned Development zoning which provided for continued operation of the Flea Market was approved in 1990. The property owner has no immediate plans to develop the property, and the rezoning has been requested primarily to facilitate the sale of portions of the site to individual developers.

Approval of the proposed rezoning will not result in the closure of the Flea Market, which would be a future decision by the Flea Market operator. While a potential new location is being sought for the Flea Market, it is likely that it will continue to operate at its current location even as development occurs on smaller portions of the site. While not required by the proposed zoning, the applicant has indicated that the Flea Market will continue to operate at its current location for a minimum of two additional years after the approval of the proposed rezoning and that the existing vendors will be kept informed regarding the status of the project. The Flea Market-related uses would continue to be allowed under the proposed rezoning with similar limitations to those that exist under the present Planned Development zoning district. Modifications to and new development in the area occupied by the Flea Market would be subject to a Planned Development Permit to assure adequate availability of parking and land use compatibility.

The Environmental Impact Report identifies a set of measures that would partially mitigate the loss of the San José Flea Market as a historically significant resource. These measures include the documentation of the culture and use of the site and the incorporation of Flea Market attributes (signs, logos, historic names) into the proposed project.

Planned BART Extension Project

In November 2001, the Santa Clara Valley Transportation Authority (VTA) Board of Directors approved the 16.3-mile extension of BART to Milpitas, San José, and Santa Clara, as the preferred Investment Strategy for the Silicon Valley Rapid Transit Corridor. The proposed alignment is planned to utilize the existing Union Pacific Railroad right-of-way through northeast San José, until approximately Julian Street and U.S. Highway 101, at which point the BART line is proposed to move underground through Downtown San José. The Flea Market site has been identified as a station location, as well as locations in Alum Rock and various locations within the Downtown area, including the Diridon Station. The design of the station and related facilities is currently underway with property acquisition by the VTA for BART stations and related facilities anticipated to begin in 2009. The Santa Clara Valley Transportation Authority (VTA) has targeted 2016 for the completion of the project. (see attached)

While not entirely funded (80% of the project is funded to date), staff believes it is important that planning occur to ensure that land uses are in place that are compatible with a potential station, and that maximize the number of future riders using the system. It is also important, for the purpose of securing needed state and federal funding, that the land uses in the vicinity of the proposed stations are supportive of transit and generate ridership. *MTC Resolution 3434 TOD Policy for Regional Transit Expansion Projects* includes thresholds to quantify appropriate minimum levels of development around transit stations along new corridors. For the BART project, the corridor level threshold for housing is 3,850 units within a half-mile of the proposed station. The proposed 2,818 units would contribute to the achievement of the Metropolitan Transportation Commission's thresholds for appropriate housing development densities in the vicinity of mass transit, used for the purposes of obtaining state and federal funds for transit projects.

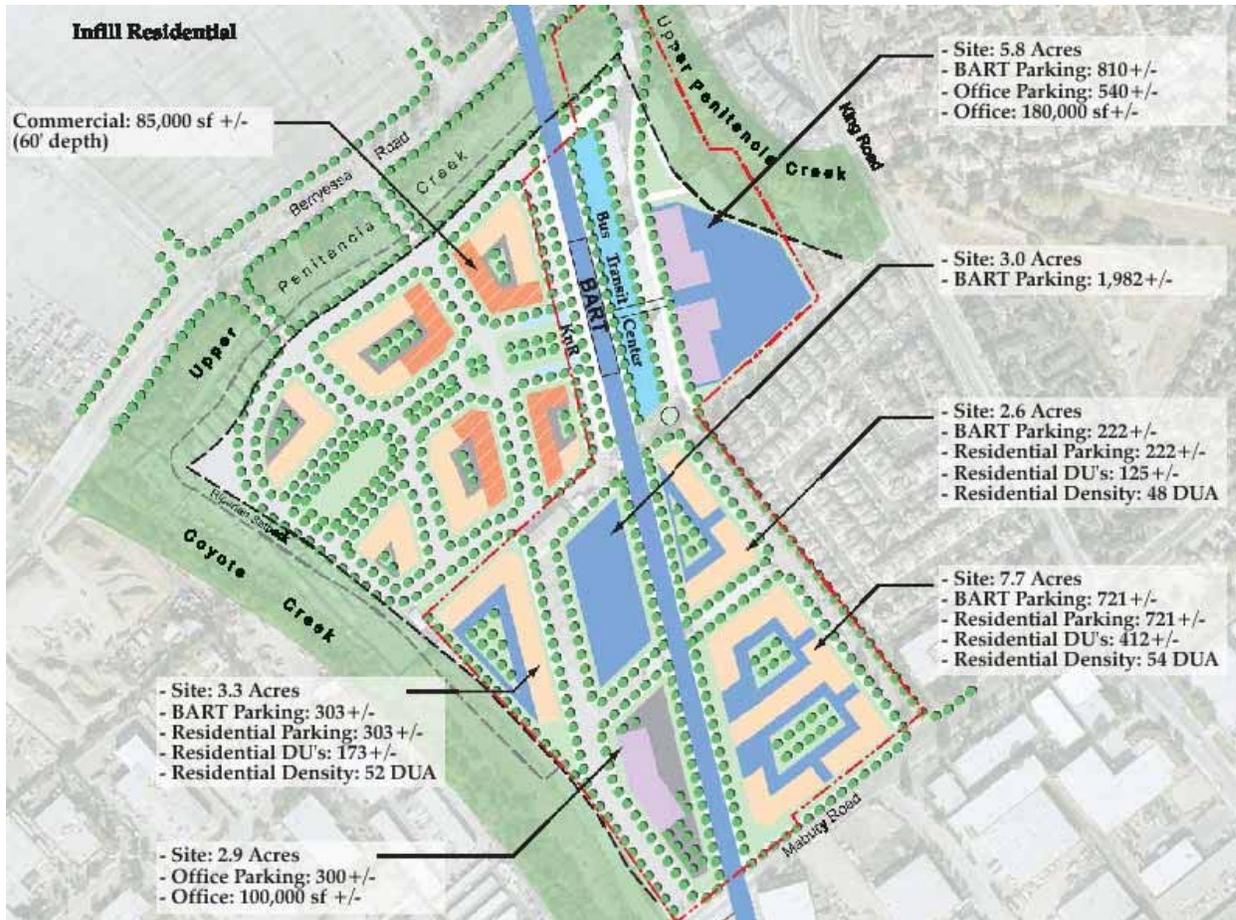


Figure 3: Draft VTA Build-Out Scenario for Berryessa Station

The plan above conceptually demonstrates how the BART station and related parking might affect the area proposed for rezoning. (The VTA utilized the conceptual site plan for the proposed rezoning for the purposes of preparing the above plan.) The main feature of this plan is a 1,982+/- parking structure at the center of the site. Approximately 4,000 of the 10,000 parking spaces needed for the entire BART extension project are proposed at the Berryessa Station. It is anticipated that parking will initially be provided in surface lots that would eventually be replaced by parking structures and/or development that would provide a certain amount of BART-related parking in addition to its own requirements.

PROJECT DESCRIPTION

The proposed Planned Development zoning is a site-specific zoning that establishes detailed use regulations and development standards for distinct “neighborhoods” within the larger 120-acre site. The main intent of the proposed rezoning is to facilitate the creation of a mixed-use, walkable village that has the proposed Berryessa BART Station as its focus.

Residential: Approximately 54 acres of the 120-acre site is designated for residential development in a variety of forms and densities.

North of Berryessa Road

Minimum densities are proposed to range from 8 to 30 dwelling units per acre with a minimum of 350 units required north of Berryessa Road. The lowest density development (8-16 DU/AC) is proposed adjacent to the existing single-family neighborhood (Area N5) to the north to serve as a transition between existing neighborhoods and proposed higher density on the remainder of the site. Density will gradually increase (Areas N2-N4), closer to Berryessa Road. A 5.5-acre public park is proposed to be used jointly by a 3.5-acre public school and be centrally located within the proposed residential development. The zoning proposes to allow the “Permitted” uses of the R-M Multiple Residence Zoning district (Single-family, duplex, multi-family), with minimal setbacks and a maximum height of 120-feet.

South of Berryessa Road

The highest density (50+ DU/AC) of residential development would be located adjacent to the proposed Berryessa BART station (Area S2a). Ground floor commercial is required as part of residential development fronting the “Main” street and BART station plaza. The applicant’s rendering (Figure 6) portrays the vision for development in the vicinity of the proposed BART station (“Station Core”), which includes multi-story mixed-use development of up to 150 feet in height, oriented around various parks and plazas. (See Figure 5) The zoning proposes to allow the “Permitted” uses of the R-M Multiple Residence and C-P Commercial Pedestrian Zoning district, with reduced setbacks and a maximum height of 150-feet. Residential development with a minimum of 20 dwelling units per acre (Area S1a and S2a) is proposed westerly of the station core area, adjacent to the Coyote Creek riparian area.

While the zoning proposes minimum densities that range from 8 to 50 units per acre, it also includes a minimum average density of 55 dwelling units per acre for the entire site, which is the density prescribed by the General Plan for the Berryessa BART Station Area Node Special Strategy Area. To ensure that this average density is ultimately achieved, it must be demonstrated to the satisfaction of the Director of Planning, Building and Code Enforcement that any development proposals for portions of the site below the 55 acre minimum density would not inhibit the attainment of an overall average minimum density of 55 dwelling units per acre within the boundaries of the entire site. In addition, the minimum density

requirements for an approximately 2-acre area (S1d on Figure 5) will be required to increase from 20 dwelling units per acre to up to 50 dwelling units per acre, depending on the number of units that are ultimately developed north of Berryessa Road. These requirements in combination will provide the Planning Director sufficient measures to ensure the achievement of the 55 dwelling units per acre density for the entire site. While there is not a requirement for affordable units as the site is not in a redevelopment area, the applicant has committed to actively market the site to developers of affordable housing.

Commercial/Industrial: The project proposes up to 215,622 square feet of commercial and/or industrial buildings north of Berryessa, and up to 150,000 square feet of commercial space south of Berryessa on approximately 18.6 acres. North of Berryessa Road, the commercial development will likely take the form of a traditional neighborhood shopping center on an approximately 10 acre portion of the site (Area N1). Industrial park development is also proposed to be permitted in this area. As shown on Figure 5, retail commercial is also proposed on the ground floor of residential development in the vicinity of the proposed BART station, with the intent of creating a neighborhood-shopping district supported by the proposed residential development and BART. A 6.6-acre area (Area S2C on Figure 8) intended for a mix of compatible industrial and commercial/office developments. The zoning proposes to allow the “Permitted” uses of the IP- Industrial Park and CG- Commercial General Zoning district in this area with a maximum height of 120-feet. Preliminary plans (Figure 3) for the Berryessa BART station include a multi-level parking structure on this portion of the site.

Public Parks and Open Space: The project will provide public parks in a variety of forms throughout the project in an amount in accordance with the City’s Parkland Dedication Ordinance. Department of Parks, Recreation and Neighborhood Services staff is recommending that a minimum of approximately 13 acres be dedicated for public park purposes(see attached memorandum). This parkland is proposed to be divided as follows:

North of Berryessa Road

Two Soccer Fields (5 acres)
Neighborhood Park (2 acres)
Coyote Creek Trail (1 acres)

South of Berryessa

Neighborhood Park (3 acres)
Coyote Creek Trail (1 acre)
Penitencia Creek Trail (1 acre)

The amount, type and placement of park and recreation facilities will be further refined during the PD Permit stage for specific developments. Adjacent to the creeks, it is particularly important that adequate space is provided to accommodate trails as well as any needed flood control measures that are currently being explored. Additional riparian setbacks may be required at the PD Permit stage to accommodate trail improvements if future flood control improvements utilize more of the creek channel than originally anticipated.

Public School: The proposed project includes a 3.5 acre site for public school purposes. The applicant has a pending agreement with the Berryessa Union School District to dedicate 3.5 acres for the purposes of a public school. The school site is proposed to be adjacent to a 5.5-acre public park to be jointly utilized by the school and surrounding residents for recreational purposes. The precise location of the school has yet to be determined, as the site will be identified during the PD Permit process for residential development north of Berryessa Road. According to the attached memorandum from the Department of Parks, Recreation and Neighborhood Services, the initial proposal complies with the City's parkland policies. The zoning proposes that this area be designated as "floating" with the precise location to be determined in conjunction with the review of future specific development proposals. It has not been determined whether the park land will be dedicated to the City for a public park, (accessible to the school) or donated to the Berryessa School District and made accessible to the general public. If the developer provides and improves the 5.5 acres of school property, the developer would receive the same number of credits under the PDO-PIO requirements, as they would have if the land were dedicated to the City. (See attached memo dated 5/8/07 from the PRNS Department)

Performance Standards

The proposed use restrictions and development standards primarily reference those of the R-1 Single Family Residence, R-M Multiple Residence, CG Commercial General, CP Commercial Pedestrian, IP – Industrial Park Zoning Districts. The setback and private open space requirements reference the Residential Design Guidelines and they will be further refined during the review of specific development proposals. The goal is to provide flexibility to future developers in order to provide a community with a variety of housing types. The architectural style for new development will need to take into account the design of the Berryessa BART station and surrounding development.

GENERAL PLAN CONFORMANCE

Prior to 2002 and the identification of the Flea Market location as the site of a BART station, the General Plan land use designations for the site included Combined Industrial/Commercial and Light Industrial designations. In 2002, the City Council approved a General Plan amendment (GP/GPT02-04-02) for Transit Corridor Residential (20+ DU/AC) on 58.4 acres, Medium Density Residential (8-16 DU/AC) on 8 acres, Combined Industrial/Commercial on 31 acres, and Public Park/Open Space on 22.8 acres with a Floating Park designation. More recently, a General Plan amendment (File No. GP/GPT06-04-01) was approved by the City Council on April 24, 2007 to add an additional 9 acres on the site for Transit Corridor Residential (south of Berryessa Road) and an additional acre for Public Park/Open Space.

BART Station Area Nodes

The General Plan text was modified in 2002 to define and identify BART Station Area Nodes as Special Strategy Areas. The general purpose of the Berryessa and other BART Station Area Nodes is to direct transit-oriented and pedestrian friendly land use developments in close proximity to BART stations. A Station Area Node is a place in the City where a BART transit station is a focal point of the surrounding area. The general purpose of the BART Station Area Nodes is to direct transit-oriented and pedestrian friendly land use development in close proximity to BART stations. BART Station Areas are suitable for higher residential densities, more intensive job generating uses, and mixed use development, which in turn should support BART ridership. The development potential and the intensity of uses are defined by the Land Use/Transportation Diagram. In addition, new development should incorporate a mix of parks, recreational trails, pedestrian linkages, access to transit, and active ground floor uses. Parking garages in particular should incorporate ground floor retail/commercial uses into the design of the structure.

The project is consistent with the intent of the Berryessa BART station area node in the following respects:

- The overall residential development proposed at the Flea Market site is 55 DU/AC.
- The highest density, within mixed-use developments, is proposed adjacent to the Berryessa BART station.
- Lower density residential development is proposed adjacent to the existing single-family neighborhood northerly of the site.
- Proposed parks provide an additional buffer between existing and proposed uses, particularly between new residential and industrial uses located to the west of the subject site.
- The development as proposed will foster pedestrian activity and connections to the BART station, trails, parks, and schools.

One provision that is not fulfilled by the project is for residential development to occur at the higher end of the allowed density ranges and should typically be at least 40 DU/AC in the Transit Corridor Residential (20+ DU/AC) designation. In light of the character of existing development in the surrounding area, development below 40 DU/AC is proposed with the exception of the area directly adjacent to the proposed Berryessa BART station. As an average density of 55 DU/AC for the Flea Market site is required to be achieved, the project is considered to be in conformance with the development parameters for the BART Station Area Nodes. The General Plan recognizes that levels of intensification within the Station Area Nodes may need to be limited to avoid inappropriate impacts on existing or planned adjacent uses.

The proposed project is particularly supportive of the General Plan's Economic Development Major Strategy. The extension of BART to San José is considered of critical importance to the City's long-term economic health. As previously stated, planning for transit supportive development adjacent to the proposed stations will play an important role in obtaining the necessary federal funding to complete the project. Federal funding is partially dependent on appropriate levels of development around the proposed transit stations. The improved accessibility that BART will provide to Downtown San José will be particularly beneficial as the General Plan identifies Downtown San José as vital to the City's long-term economic and social well-being. In addition to being supportive of the BART project, higher density infill housing at this location (with access to regional transit) works to ensure the efficient use of land to reduce the pressure to build more housing at the fringe of the City and thus helps to support the Greenline/Urban Growth Boundary and Housing major strategies.

The project does not fulfill the General Plan policies that discourage the placement of uses that could potentially result in the imposition of additional conditions, and/or mitigation requirements on industrial users in the adjacent industrial areas. There is the potential that some heavy industrial uses would be discouraged from locating in the heavy industrial areas adjacent to the site and that the area will not develop to the extent that it would have, had residential development not occurred on the Flea Market property.

ENVIRONMENTAL REVIEW

An Environmental Impact Report (EIR) for the subject project was prepared and certified as complete and in conformance with the California Environmental Quality Act (CEQA) on April 24, 2007. The EIR identified the following significant unavoidable impacts as resulting from the proposed Planned Development Rezoning: Transportation and Traffic, Cultural Resources, Hazardous Materials, Air Quality.

The rezoning as proposed would result in significant impacts associated with increased congestion at eight local intersections, two regional intersections and eighteen freeway segments. (see 5/22/07 memo from Department of Public Works) The proposed project includes mitigation measures to reduce significant near-term traffic impacts at four of the eight local intersections (Commercial Street and Oakland Rd, US 101 and Oakland Road (North and South), and Mabury Road and Mabury Road) to a less than significant impact level. The most significant mitigation is the construction of interchange improvements at US 101 and Old Oakland Road. Three of the remaining four intersections impacted by the project are on the List of Protected Intersections, and no mitigation is proposed to increase vehicular capacity. The City has found that to continue to expand some local intersections to increase capacity could result in a deterioration of environmental conditions near those intersections, and an erosion of the City's ability to encourage infill development and support a variety of multi-modal transportation systems, and created a process for identifying Protected Intersections. The remaining impacted intersection at Hedding St. and Oakland Road is proposed for inclusion on the List of Protected Intersections. While a BART station is anticipated to be at this location in the future, the traffic impacts and required mitigations are based on the project being developed without an adjacent BART Station.

The proposed project will be required to provide offsetting transportation system improvements to address the impacts to the protected intersections, but the improvements are not considered mitigation for the purposes of reducing a significant impact to a less than significant level. As such the EIR identifies a significant unavoidable impact as a result of the traffic generated by the project.

The proposed project's impact on air quality is also considered significant and unavoidable because the project trips result in emissions that exceed criteria pollutant thresholds of the Bay Area Air Quality Management District (BAAQMD). The implementation of identified mitigation measures would reduce the impacts on regional air quality, but not to a less than significant level due to the project's size and potential to generate a substantial increase in air pollutant emissions.

The EIR also discloses that there is a significant risk factor due to exposure of sensitive receptors to a "worst case" hazardous material incident from surrounding industrial uses, the majority of which are located south of Mabury Road. An accidental release of various toxic substances stored within industrial uses concentrated south of Mabury Road could have a significant impact on future occupants of the site. However, many City, State, and Federal safety regulations exist that require proper storage and disposal of hazardous materials. As a result, incidents involving hazardous materials do not normally occur, and there has been no record of any hazardous materials incidents affecting nearby residents in the general vicinity.

The EIR also identified the San Jose Flea Market as a historically significant resource. The Flea Market site is eligible as a Candidate City Landmark for its association with eras and events of cultural interest and value that contribute to local and regional history, heritage, and culture in a distinctive way. Neither the project site nor any of the individual buildings on the site are presently listed or recorded on any local, state, or national inventories of historic resources, but the site is identified as important due to its association with patterns of events that have made a significant contribution to the broad patterns of the history and cultural

heritage of California. The loss of the Flea Market would be a significant unavoidable impact on historic resources. The project was referred to the City's Historic Landmarks Commission, which opposed the demolition of the San José Flea Market due its economic and cultural significance and recommend that partial on-site preservation and/or relocation should occur. The Environmental Impact Report identifies a set of measures that would partially offset the loss of the San José Flea Market. These measures include the documentation of the culture and use of the site and the incorporation of Flea Market attributes (signs, logos, historic names) into the proposed project.

PUBLIC OUTREACH

Community meetings were held on January 20, 2005 and on March 7, 2007, both of which were well attended. Concerns were expressed about traffic, noise, and impacts from industrial operations west of Coyote Creek. The March 7 meeting included a discussion of impacts on school facilities, and the superintendent of the Berryessa Union School District emphasized the need for the City and the applicant to explore ways of contributing to expanding school facilities to serve the future population at the site. Flea Market vendors and other community members also raised concerns about the potential loss of the Flea Market operation, and the timeline for future development on the site. The Flea Market operator conducted two on-site meetings to update the vendors on the status of the project. (see attached Community Meeting Notices)

A joint notice of the public hearings to be held on the subject rezoning was circulated to the property owners and residents within a 1,000 foot-radius of the subject property as well as individuals who have expressed interest in the project. Notices of the Community Meeting and Public Hearings were also distributed to all vendors of the Flea Market and translation services were made available. The Planning Division web site also contains information regarding the rezoning process, General Plan amendments, staff reports, and hearing schedules. This web site is available to any member of the public and contains the most current information regarding the status of the rezoning and General Plan amendments.

ANALYSIS

The proposed rezoning of the 120-acre Flea Market property strikes a balance between the need to locate high-density development near the future BART station and to be sensitive to the character of the surrounding neighborhood. The issues for this rezoning include the compatibility with adjacent uses, the proposed residential density and compatibility with the BART station. The project was also reviewed for compliance with the applicable provisions of the VTA's *Manual of Best Practices for Integrating Transportation and Land Use* that were prepared to assist local jurisdictions in achieving pedestrian friendly, transit-oriented development.

Land Use Compatibility

The subject site is on the opposite side of Coyote Creek from a number of existing heavy industrial uses including the Granite Rock asphalt plant. The area is designated Heavy Industrial in the General Plan and will likely remain a heavy industrial area in the future. The prescience of this heavy industrial area needs to be accounted for in the planning for residential uses on the subject property.

The proposed zoning provides adequate separation of residential uses from existing heavy industrial uses in proximity to the site. The zoning reflects the configuration of the General Plan land use designations on the site, which recognize the potential of land use conflicts, and is intended to maximize compatibility with adjacent land uses. The General Plan includes a 100-foot setback (designated as Public Park/Open Space)

that protects the riparian habitat and an 11-acre Combined Industrial/Commercial area that extends across most of the western property boundary north of Berryessa Road. South of Berryessa, at least 250 feet of separation is provided between planned residential development and the heavy industrial area to the east. This separation consists of the riparian setback from the riparian habitat, and a frontage road. North of Berryessa Road, additional noise analysis will be required for PD Permits for specific development proposals to ensure the projects incorporate appropriate noise mitigation measures.

While adequate separation is provided between residential and industrial uses to avoid noise and dust impacts, the project would likely result in the imposition of additional mitigation requirements, on industrial users in the adjacent industrial areas. As such, it is possible that heavy industrial uses may be discouraged from locating in the area and that the area will not develop to the extent that it would have, had residential development not occurred on the Flea Market property. Further study of the potential impact on individual heavy industrial uses would occur as a part of the review of those new heavy industrial uses that would require a Conditional Use Permit. Uses that are allowed by right in the HI Heavy Industrial zoning district would not require City review unless expansion or new uses are proposed.

Residential Density

The proposed rezoning designates approximately 54 acres of the subject site for residential development with a variety of densities and housing types proposed throughout the site. While the zoning proposes minimum densities that range from 8 to 50 units per acre (DU/AC), the zoning proposes a minimum average density of 55 dwelling units per acre for the entire site, which is the density prescribed by the General Plan for the Berryessa BART Station Area Node Special Strategy Area. A density of between 8-16 dwellings per acre is proposed along the northern boundary of the site, which is comparable to the existing residential neighborhoods. The proposed density is consistent with the VTA's Community Design and Transportation (CDT) Program density guidelines for regional rail stations, developed to assist local jurisdictions in making transit and pedestrian friendly communities.

To ensure that this average density is achieved, it must be demonstrated to the satisfaction of the Director of Planning, Building and Code Enforcement that any development proposals below the 55 DU/AC acre minimum density would not inhibit the attainment of an overall average minimum density of 55 dwelling units per acre. In addition, an approximately 2-acre area (S1d) is proposed to have minimum density standards that will vary according to the number of units that are ultimately developed north of Berryessa Road. This area would be required to have a 50 (DU/AC) minimum density if fewer than 500 units are approved north of Berryessa Road or if approved for development prior to development of areas north of Berryessa Road. This will provide further assurance that the project will ultimately be developed at the 55 units per acre minimum average density for the entire site.

The proposed zoning will facilitate development that is consistent with the guidance contained in the VTA's *Manual of Best Practices for Integrating Transportation and Land Use* prepared in 2003. The project as proposed promotes the following "Best Practices".

- Buildings Oriented to the Street
- Minimized building setbacks
- Density where it belongs
- Designed and Built for Transit
- Proposes a mix of complementary uses

The more detailed provisions of the Best Practices Manual will be implemented at the time of the review of

Planned Development Permits for individual developments.

BART Station

As previously indicated, the site is adjacent to the proposed Berryessa BART Station. Current plans call for an elevated station platform and up to 4200 parking stalls being located at the station. With both the proposed layout and land uses, the proposed rezoning takes into account the proposed Berryessa BART station at this location. The conceptual plans for the proposed zoning include a public park/plaza adjacent to the BART station. In addition, approximately 90,000 square feet of ground floor commercial development is proposed adjacent to the plaza and on both sides of the new centrally located "Main Street".

The proposed zoning includes the greatest residential density within convenient walking distance of the proposed station. The conceptual road network has been designed in coordination with the VTA's preliminary planning for the Berryessa BART station and related parking, transit and drop-off facilities. In addition, approval of the proposed project will contribute towards the BART extension project obtaining necessary State and federal funding as it will assist in achieving *thresholds for appropriate minimum levels of development around transit stations established by MTC Resolution 3434 TOD Policy for Regional Transit Expansion Projects.*

Riparian Corridor Policy

Upper Penitencia Creek flows through the middle of the project site adjacent to the south side of Berryessa Road, and Coyote Creek flows along the west boundary of the project site. The existing development on the project site currently extends to the top of bank of both Coyote and Upper Penitencia Creeks. There is no existing riparian setback on the project site, except for the first 900 feet of Coyote Creek located immediately downstream of Mabury Road, which has an existing riparian setback that ranges from 40 to 100 feet. The proposed rezoning provides an opportunity to improve the condition of the riparian environment from its current condition.

The project includes a 100-foot setback from the edge of the riparian habitat of both Coyote Creek and Upper Penitencia Creek, except at the south end of the project site immediately upstream of Mabury Road. At this location, the project proposes to retain the existing riparian setback, which is approximately 40 feet from the edge of the existing riparian habitat. Keeping the existing 40-foot riparian setback at the south end of the project site allows the project's access from Mabury Road to align with the access to the San José Maintenance Yard across Mabury Road, which is beneficial from a traffic operations standpoint. Consistent with the City of San José Riparian Corridor Study Policy, the setback areas would be used as a passive recreation area (e.g., bike and pedestrian trails, park benches, and riparian landscaping). In addition, the Riparian Corridor Policy indicates that exceptions to the 100-foot setback are appropriate when redevelopment of a site is proposed with uses that are similar to or more compatible with the existing use of the property. Mitigation is included in the project to minimize the impact from the demolition of the two existing bridges over Penitencia Creek and the construction of two new "clear span" bridges to provide access from Berryessa Road to the southerly side of the property.

A flood protection project is currently under consideration by the Santa Clara Valley Water District (SCVWD) and the US Army Corps of Engineers for the purposes of removing areas in the Upper Penitencia Creek watershed from the 100-year floodplain. According to a letter dated February 5, 2007 from the SCVWD, the preferred alternative is a widened channel that would require approximately 205 feet of right-of-way measured from the northern bank of the Creek. The draft feasibility report and draft EIS/R for the project are tentatively scheduled for completion in 2008. Future development proposals in accordance with the proposed zoning will be coordinated with the SCVWD to ensure that sufficient space is provided to allow for flood control measures in conjunction with proposed trail and recreational facilities proposed

adjacent to the creek. The proposed 100-ft riparian setback provides an average right-of-way width that ranges from between 185 –210 feet that could be modified to accommodate the flood control measures that are ultimately determined to be necessary. The presence of Berryessa Road limits the extent of channel widening that can occur on the north side of the Penitencia Creek, therefore any necessary channel widening would occur on the south side of the creek. Additional riparian setback may be determined to be necessary upon finalization of the flood control plans, to accommodate trail improvements if the flood control measures utilize more of the creek channel than originally anticipated.

Interim Flea Market Operation

The proposed Rezoning allows for the continued operation of the Flea Market in the event of residential, commercial or industrial development on portions of the site within the boundaries of zoning. As such, provisions of the previous Planned Development Zoning, with minor modifications, are included within the proposed draft Development Standards. Any reconfiguration of the Flea Market would require a Planned Development Permit to ensure that there is adequate parking and an appropriate interface with new or existing uses.

RECOMMENDATION

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

1. The proposed rezoning is in conformance with the General Plan Land Use/Transportation Diagram designation of Transit Corridor Residential (20+DU/AC), Combined Industrial/Commercial and the Berryessa BART Station Node Special Strategy Area.
2. The project furthers the goals and objectives of the City's Economic Development, Commercial, and Residential land use policies.
3. The project is designed appropriately with respect to its relationship to the proposed Berryessa BART Station.
4. The proposed rezoning is compatible with existing and proposed uses on the adjacent and neighboring properties.

Attachments:

Location Map

Draft Development Standards

Letters from other departments and agencies

Draft MMRP

PDC03-108 Flea Market Planned Development Zoning

Draft General Development Notes

Master Planned Development Permit - Prior to the approval of a Planned Development Permit for new development in the portions of the site located northerly and southerly of Berryessa Road, Master Planned Development Permits are required for the respective area, to address design, and construction phasing of essential public improvements [including, but not limited to necessary road widening, street improvements (curb, gutter, sidewalk, pavement), utility infrastructure, electrical improvements, landscape improvements, stormwater control measures, etc.] to the satisfaction of the Director of Public Works. (The widening of Berryessa Road will be addressed as part of the first Master Planned Development Permit.)

Public Parks/Trails- Parks and Trails shall be required in an amount and location that generally corresponds with that indicated on the approved General Development Plan and as required under the Parkland Dedication Ordinance (PDO) and/or Park Impact Ordinance (PIO). As the project exceeds 50 units, the City can require the developer to dedicate land associated with the number of housing units as a condition of approval of future Planned Development Permits.

NORTH OF BERRYESSA: 350 UNITS MINIMUM REQUIRED

N1 (North Village Commercial)

Purpose

The North Village Commercial site is intended to provide for a full grocery retail center providing general retail, personal service use, restaurants, and similar and compatible uses serving a community-wide need under design standards, which ensure compatibility and harmony with adjoining land uses. Emphasis is on pedestrian-oriented retail, live/work and service uses on the ground floor level, with the possibility of office and residential uses on the upper levels. Industrial uses such as research and development and light manufacturing and assembly are also permitted insofar as any functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls.

Permitted Uses

- All of the uses identified as “Permitted” in the IP Industrial Park Zoning District, Table 20-110 as amended, and CG Commercial General Zoning District, Table 20-90 as amended, shall be permitted as a matter of right in Area N1, as shown on the General Development Plan.
- Live/Work Units, at least 500’ from the western boundary of Area N8, in compliance with Section 20.40.130 of the San Jose Municipal Code, as amended.
- Other uses which the Director of Planning, Building, and Code Enforcement finds similar to the uses identified above and consistent with the purpose of the subject area.

PD Permits

All uses identified as Conditional uses of the CG Commercial General Zoning District in the Use Table 20-90

of Section 20.40.100 of the San Jose Municipal Code, as amended, shall require approval of a Planned Development Permit. In addition, the following uses shall require Planned Development Permit approval:

- Animal grooming and indoor animal boarding
- Commercial indoor and commercial outdoor recreational uses
- Amusement arcades for 19 or fewer games or fewer than 19 amusement arcade games incidental to an allowed primary use
- Maintenance and repair, small household appliances
- Day care centers, including those located in school and/or church facilities
- Retail sales establishments with tenant spaces larger than 48,000 gross square feet
- Public eating establishments and entertainment/drinking establishments larger than 9,000 gross square feet
- All uses between 12:00 Midnight and 6:00 A.M.
- Other uses which the Director of Planning, Building and Code Enforcement finds similar to the uses identified above and consistent with the purpose of the subject area.

Uses Prohibited

All uses identified as Prohibited uses of the CG Commercial General Zoning District in the Use Table 20-90 of Section 20.40.100 of the San Jose Municipal Code, as amended, shall require approval of a Planned Development Permit. In addition, the following uses shall be prohibited:

- Vehicle related uses
- Hospitals
- Cemeteries and Mortuaries

Height, Bulk, Parking, and Open Space Standards

- Setbacks: 0' Non-Residential ground floor; Residential ground floor, as per SJ Design Guidelines, as amended, to the satisfaction of the Director of Planning.
- Maximum Height: 120'
- Parking:
 - For non-residential uses: as required per Section 20.90.060 of the San Jose Municipal Code with a 10% transit station area reduction, as amended, to the satisfaction of the Director of Planning.
 - For residential uses: as per San Jose Residential Design Guidelines Chapter 8 "Guideline A. Parking Standards" with a 10% transit station area reduction, as amended, to the satisfaction of the Director of Planning.
 - Exceptions to these standards may be granted at the discretion of the Director of Planning, Building and Code Enforcement.

Applicable Notes

Residential uses shall not modify the commercial square footage requirements given in the Land Use and Development Table. No residential uses may be located on the ground floor, except along the streets on the north and east sides of Area N1. "Work" portions of live/work may be on the ground floor. In order to encourage residential density in appropriate locations, upper floor residential in Area N1 shall not count as additional required acreage in the Land Use and Development Table.

N2, N3a, N3c, and N4 (North Village Neighborhood)*Purpose*

The North Village Neighborhood is intended for medium and high-density multifamily homes consisting of condominiums, apartments, townhomes, and flats. Live/Work is permitted anywhere in these areas, but is only anticipated along Sierra Road. Commercial uses, if found compatible, are encouraged on the ground floor to provide general retail, personal service use, restaurants, and similar and compatible uses serving a neighborhood need under design standards, which ensure compatibility and harmony with adjoining land uses and to promote a mix of uses. Emphasis on Sierra Road is on pedestrian-oriented retail and service uses, with residential uses on the upper levels. Emphasis elsewhere is residential uses. An elementary school site is proposed just east of Sierra Road.

Permitted Uses

All uses identified as “Permitted” in the R-M Multiple Residence District, Table 20-50 of Section 20.30.100 of the San Jose Municipal Code, as amended, and CP Commercial Pedestrian Zoning District, Table 20-90 as amended, shall be permitted as a matter of right in Areas N2, N3a and N4, as shown on the General Development Plan.

- Residential development shall conform to density standards prescribed in the Applicable Notes section of this Table.
- Live/Work Units facing Sierra Road in compliance with Section 20.40.130 of the San Jose Municipal Code, as amended.
- Other uses which the Director of Planning, Building and Code Enforcement finds similar to the uses identified above and consistent with the purpose of the subject area.
- Elementary School

PD Permits

All uses identified as “Conditional” in the R-M Multiple Residence District, Table 20-50 of Section 20.30.100 of the San Jose Municipal Code, as amended, and CP Commercial Pedestrian Zoning District, Table 20-90 as amended, shall require approval of a Planned Development Permit. In addition, the following uses shall require Planned Development Permit approval:

- All Live/Work Units except along arterials or “Main Street” in compliance with Section 20.40.130 of the San Jose Municipal Code, as amended.
- Other uses which the Director of Planning, Building and Code Enforcement finds similar to the uses identified above and consistent with the purpose of the subject area.

Uses Prohibited

All uses identified as “Prohibited” in the R-M Multiple Residence District, Table 20-50 of Section 20.30.100 of the San Jose Municipal Code, as amended, and CP Commercial Pedestrian Zoning District, Table 20-90 as amended, shall require approval of a Planned Development Permit. In addition, the following uses shall be prohibited:

- Detached Single Family Dwellings
- Hospitals

- Vehicle Related Uses
- Cemeteries, Mortuary, and funeral services

Height, Bulk, Parking, and Open Space Standards

- Setbacks: 0' Non-Residential ground floor; Residential ground floor, as per SJ Design Guidelines, as amended, to the satisfaction of the Director of Planning
- Maximum Height: 120'
- Minimum Street Frontage: None for Areas N3a and N4.
- Parking:
 - For non-residential uses: as required per Section 20.90.060 of the San Jose Municipal Code with a 10% transit station area reduction, as amended.
 - For residential uses: as required per San Jose Residential Design Guidelines Chapter 8 "Guideline A. Parking Standards" with a 10% transit station area reduction, as amended, to the satisfaction of the Director of Planning.
- Private and Common Open Space: Per Residential Design Guidelines, as amended, to the satisfaction of the Director of Planning.
- Exceptions to these standards may be granted at the discretion of the Director of Planning, Building and Code Enforcement.

Applicable Notes

- Residential development as low as Thirty Dwelling Units per Net Acre (30 DU/AC) in Area N2, and as low as Twenty Dwelling Units per Net Acre (20 DU/AC) in Areas N3a and N4, may be permitted if it can be demonstrated to the satisfaction of the Director of Planning, Building and Code Enforcement that residential development at a density less than fifty five dwelling units per net acre (combined with existing development) would not inhibit the attainment of an overall average density of 55 DU/AC within the boundaries of the Planned Development Zoning.
- Non-residential and Live/Work uses shall be limited to the ground floor and one story immediately above.

N5, N6 (Northern Edge Transitional Residential)

Purpose

The Northern Edge Transitional Residential areas are intended for one-family dwellings and groups of such structures to preserve low-density standards to ensure a smooth transition to the adjacent single-family neighborhood to the north.

Permitted Uses

All of the uses identified as "Permitted" in the R-1 Single-Family Residence District, Table 20-50 of Section 20.30.100 of the San Jose Municipal Code, as amended, shall be permitted as a matter of right in Areas N5 and N6 as shown on the General Development Plan.

- Other uses which the Director of Planning, Building and Code Enforcement finds similar to the uses identified above and consistent with the purpose of the subject area.

PD Permits

All uses identified as conditional uses of the R-1 Single-Family Residence District in the Use Table 20-50 of Section 20.30.100 of the San Jose Municipal Code, as amended, shall require approval of a Planned Development Permit.

- Other uses which the Director of Planning, Building and Code Enforcement finds similar to the uses identified above and consistent with the purpose of the subject area.

Uses Prohibited

All uses not listed in the R-1 Single-Family Residence District, Table 20-50 of Section 20.30.100 of the San Jose Municipal Code, as amended, shall be prohibited.

Height, Bulk, Parking, and Open Space Standards

- Setbacks: as per the SJ Residential Guidelines, Chapter 17, Guideline A, as amended, to the satisfaction of the Director of Planning.
- Maximum Height: 35 feet.
- Private and Common Open Space: as per the SJ Residential Guidelines, Chapter 17, Guideline A, as amended, to the satisfaction of the Director of Planning.
- Parking:
 - For non-residential uses: as required per Section 20.90.060 of the San Jose Municipal Code with a 10% transit station area reduction, as amended.
 - For residential uses: as per San Jose Residential Design Guidelines Chapter 8 “Guideline A. Parking Standards” with a 10% transit station area reduction, as amended, to the satisfaction of the Director of Planning.
- Exceptions to these standards may be granted at the discretion of the Director of Planning, Building and Code Enforcement.

Applicable Notes

Residential development shall range between Eight to Sixteen Dwelling Units per Net Acre (8-16 DU/AC).

SOUTH OF BERRYESSA: 913 UNITS MINIMUM REQUIRED

S1a, S1d (South Village Neighborhood)

Purpose

The South Village Neighborhood is intended for medium and high-density multifamily homes consisting of condominiums, apartments, townhomes, and flats. Live/Work is permitted anywhere in anywhere in these areas, but is only anticipated along “Main Street” and arterial streets. Commercial uses, if found compatible, are encouraged on the ground floor to provide general retail, personal service use, restaurants, and similar and compatible uses serving a neighborhood need under design standards, which ensure compatibility and harmony with adjoining land uses and to promote a mix of uses. Emphasis along “Main Street” and arterial streets is on pedestrian-oriented retail and service uses, with residential uses on the upper levels. Emphasis elsewhere is residential uses.

Permitted Uses

All uses identified as “Permitted” in the R-M Multiple Residence District, Table 20-50 of Section 20.30.100 of the San Jose Municipal Code, as amended, and the CP Commercial Pedestrian Zoning District, Table 20-90 as amended, shall be permitted as a matter of right in Areas S1a as shown on the General Development Plan.

- Residential development shall conform to density standards prescribed in the Applicable Notes section of this Table.
- Live/Work Units along arterials or “Main Street” in compliance with Section 20.40.130 of the San Jose Municipal Code, as amended.
- Other uses which the Director of Planning, Building and Code Enforcement finds similar to the uses identified above and consistent with the purpose of the subject area.

PD Permits

All uses identified as “Conditional” in the R-M Multiple Residence District in the Use Table 20-50 of Section 20.30.100 of the San Jose Municipal Code, as amended, and the CP Commercial Pedestrian District, Table 20-90 of Section 20.40.100 as amended, shall require approval of a Planned Development Permit. In addition, the following uses shall require Planned Development Permit approval:

- All of the uses identified as “Conditional” in the R-M Multiple Residence District, Table 20-50 of Section 20.30.100 of the San Jose Municipal Code, as amended, and CP Commercial Pedestrian Zoning District, Table 20-90 as amended, shall require approval of a Planned Development Permit. In addition, the following uses shall require Planned Development Permit approval:
 - All Live/Work Units except along arterials or “Main Street” in compliance with Section 20.40.130 of the San Jose Municipal Code, as amended.
 - Other uses which the Director of Planning, Building and Code Enforcement finds similar to the uses identified above and consistent with the purpose of the subject area.

Uses Prohibited

All uses identified as “Prohibited” in the R-M Multiple Residence District, Table 20-50 of Section 20.30.100 of the San Jose Municipal Code, as amended, and CP Commercial Pedestrian Zoning District, Table 20-90 as amended, shall require approval of a Planned Development Permit. In addition, the following uses shall be prohibited:

- Detached Single Family Dwellings
- Hospitals
- Vehicle Related Uses
- Cemeteries, Mortuary, and funeral services
- Live/Work Units not in compliance with Section 20.40.130 of the San Jose Municipal Code, as amended

Height, Bulk, Parking, and Open Space Standards

- Setbacks: 0’ Non-Residential ground floor; Residential ground floor, as per SJ Design Guidelines as amended, to the satisfaction of the Director of Planning.
- Maximum Height: 120’

- Parking:
 - For non-residential uses: as required per Section 20.90.060 of the San Jose Municipal Code with a 10% transit station area reduction, as amended.
 - For residential uses: as per San Jose Residential Design Guidelines Chapter 8 “Guideline A. Parking Standards” with a 10% transit station area reduction, as amended, to the satisfaction of the Director of Planning.
- Private and Common Open Space: Per Residential Design Guidelines, as amended, to the satisfaction of the Director of Planning.
- Exceptions to these standards may be granted at the discretion of the Director of Planning, Building and Code Enforcement.

Applicable Notes

Residential development as low as Twenty Dwelling Units per Net Acre (20 DU/AC) may be permitted if it can be demonstrated to the satisfaction of the Director of Planning, Building and Code Enforcement that residential development at a density less than fifty five dwelling units per net acre (combined with existing development) would not inhibit the attainment of an overall average density of 55 DU/AC within the boundaries of the Planned Development Zoning.

S2a (Station Core)

Purpose

The Station Core is intended to be the activity center of the site, providing a walkable core at the BART station that includes high-density housing, parks and plazas, local shopping, and offices. Absent the BART Station, the area serves as a vibrant town center focused on a “Main Street” that is activated with ground floor commercial uses. Commercial uses are encouraged on the ground floor to provide general retail, personal service use, restaurants, and similar and compatible uses serving a community need under design standards, which ensure compatibility and harmony with adjoining land uses and to promote a mix of uses. Emphasis is on around-the-clock activities and pedestrian-oriented retail and service uses, with high-density residential uses on the upper levels.

Permitted Uses

All uses identified as “Permitted” in the R-M Multiple Residence District, Table 20-50 of Section 20.30.100 of the San Jose Municipal Code as amended, and the CP Commercial Pedestrian District, Table 20-90 of Section 20.40.100 as amended, shall be permitted as a matter of right in Area S2a as shown on the General Development Plan.

- Live/Work Units along arterials or “Main Street” in compliance with Section 20.40.130 of the San Jose Municipal Code, as amended.
- Other uses which the Director of Planning, Building and Code Enforcement finds similar to the uses identified above and consistent with the purpose of the subject area.
- Flea Market-related uses subject to A (PD) zoning PDC88-106 and Conditional Use Permit CP07-05-030.

PD Permits

All uses identified as “Conditional” in the R-M Multiple Residence District in the Use Table 20-50 of Section 20.30.100 of the San Jose Municipal Code, as amended, and the CP Commercial Pedestrian District, Table 20-90 of Section 20.40.100 as amended, shall require approval of a Planned Development Permit.

- Other uses which the Director of Planning, Building and Code Enforcement finds similar to the uses identified above and consistent with the purpose of the subject area.

Uses Prohibited

All uses identified as “Prohibited” in the R-M Multiple Residence District, Table 20-50 of Section 20.30.100 of the San Jose Municipal Code, as amended, and CP Commercial Pedestrian Zoning District, Table 20-90 as amended, shall require approval of a Planned Development Permit. In addition, the following uses shall be prohibited:

- Detached Single Family Dwellings and Two-Family Dwellings
- Hospitals
- Vehicle Related Uses
- Cemeteries, Mortuary, and funeral services

Height, Bulk, Parking, and Open Space Standards

- Setbacks: 0’ Non-Residential ground floor; Residential ground floor, as per SJ Design Guidelines, as amended
- Maximum Height: 150’
- Minimum Street Frontage: 75%
- Parking:
 - For non-residential uses: as required per Section 20.90.060 of the San Jose Municipal Code with a 10% transit station area reduction, as amended.
 - For residential uses: as per San Jose Residential Design Guidelines Chapter 8 “Guideline A. Parking Standards” with a 10% transit station area reduction, as amended.
- Private and Common Open Space: Per Residential Design Guidelines, as amended.
- Exceptions to these standards may be granted at the discretion of the Director of Planning, Building and Code Enforcement.

Applicable Notes

- Residential development shall be at a minimum of Fifty Five Dwelling Units per Net Acre (55 DU/AC).
- Residential development as low as Fifty Dwelling Units per Net Acre (50 DU/AC) may be permitted if it can be demonstrated to the satisfaction of the Director of Planning, Building and Code Enforcement that residential development at a density less than fifty-five dwelling units per net acre (combined with existing development) would not inhibit the attainment of an overall average density of 55 DU/AC within the boundaries of the Planned Development Zoning.
- Live/Work units shall be limited to the first two stories of a building and prohibited along the Main Street.
- Non-residential uses shall be limited to the first two stories of a building fronting the Main Street and

major arterials.

S2c (South Village Mixed Industrial / Commercial)

Purpose

The South Village Commercial site is intended for developments containing a mixture of compatible commercial and industrial uses. Industrial uses such as research and development and light manufacturing and assembly are also permitted insofar as any functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls.

Permitted Uses

- All uses identified as “Permitted” in the IP Industrial Park Zoning District, Table 20-110 of Section 20.50.100 of the San Jose Municipal Code, as amended, and the CG Commercial General Zoning District, Table 20-90 as amended, shall be permitted as a matter of right in Area N1 as shown on the General Development Plan.
- Other uses which the Director of Planning, Building and Code Enforcement finds similar to the uses identified above and consistent with the purpose of the subject area.
- Flea Market-related uses subject to A (PD) zoning PDC88-106 and Conditional Use Permit CP07-05-030.

PD Permits

All uses identified as conditional uses of the CG Commercial General District in the Use Table 20-90 of Section 20.40.100 as amended, and IP Industrial Park District in the Use Table 20-90 of Section 20.40.100 of the San Jose Municipal Code, as amended, shall require approval of a Planned Development Permit. In addition, the following uses shall require Planned Development Permit approval:

- Animal grooming and indoor animal boarding
- Commercial recreational uses (indoor and outdoor)
- Amusement arcades for 19 or fewer games or fewer than 19 amusement arcade games incidental to an allowed primary use
- Maintenance and repair, small household appliances
- Public eating establishments and entertainment/drinking establishments larger than 9,000 gross square feet
- Day care centers, including those located in school and/or church facilities
- Retail sales establishments with tenant spaces larger than 48,000 gross square feet
- All uses between 12:00 Midnight and 6:00 A.M.
- Other uses which the Director of Planning, Building and Code Enforcement finds similar to the uses identified above and consistent with the purpose of the subject area.

Uses Prohibited

The following uses shall be prohibited:

- Vehicle related uses
- Private clubs/lodges
- Amusement arcades with more than 19 games
- Bowling establishments
- Hospitals

- Cemeteries, Mortuary and funeral services
- Emergency residential shelters, residential care/service facilities for 7 or more persons, and single-room occupancy hotels
- Live/Work units.

Height, Bulk, Parking, and Open Space Standards

- Maximum Height: 120'
- Parking: As required per Section 20.90.060 of the San Jose Municipal Code with a 10% transit station area reduction, as amended.
- Exceptions to these standards may be granted at the discretion of the Director of Planning, Building and Code Enforcement.

SCVWD Parcel: No structures are permitted and only public streets, utilities and landscaping limited to turf, groundcover, and shrubs.

N3b, N7, and N8/S1b, S2b and S3 (Public Parks and Open Space)

Purpose

Public Parks are provided in three distinct types. First is the Station Plaza (Areas S1b and S2b) located just west of the station, which is intended to serve as an active space for social, cultural and civic events, including farmers market. Next are neighborhood parks (Areas N3b and N7) that offer impromptu places for unstructured play. Finally, major open space corridors along Coyote Creek and Penitencia Creek are intended to provide quiet, multi-use trails for passive recreation and preservation of natural riparian habitat.

Permitted Uses

- The following uses shall be permitted as a matter of right in Areas N3b, N7, and N8 and S1b, S2b and S3 as shown on the General Development Plan:
 - Public parks
 - Playgrounds
 - Public restrooms
 - Publicly operated community centers and recreational facilities.
- Other uses which the Director of Planning, Building and Code Enforcement finds similar to the uses identified above and consistent with the purpose of the subject area.

PD Permits

The following uses shall require Planned Development Permit approval:

- Outdoor vending
- Public utilities and service structures

Uses Prohibited

All uses not identified as permitted or conditional uses, and those uses determined by the Director of Planning, Building and Code Enforcement to be inconsistent with the purpose of the subject area.

Height, Bulk, Parking, and Open Space Standards

No structures are permitted within the riparian setback areas.

Additional Project Notes:

1. *Master Planned Development Permit:* Prior to approval of a PD Permit, a Master Planned Development Permit is Required to address design and construction phasing for essential public improvements, including, but not limited to: street improvements (curb, gutter, sidewalk, pavement), utility infrastructure, electrical improvements, landscape improvements, and storm water control measures.
2. *Interim Flea Market Operation:* Portions of the site may be removed from use as part of the Flea Market at any time, so long as the minimum amount of required parking stalls for all active Flea Market uses is maintained at all times. Portion of the site may be removed from use as part of the Flea Market at any time, provided that the required parking ratio of 5 stalls per 1,000 sq.ft. of total floor space is maintained. Any reconfiguration of the Flea Market use resulting from the development of a portion of the site requires a PD Permit Amendment. Parking may be provided in off-street lots on either the southern or northern sides of Berryessa Road or any combination thereof subject to a Planned Development Permit
3. This zoning must achieve a minimum of 55 DU/AC per Net Residential Acre on the overall site. To the extent that any individual PD Permit Applications fall below 55 DU/AC other PD Permit Applications must exceed 55 DU/AC.
4. At the discretion of the Director of Planning, Building, and Code Enforcement, prior to the issuance of each PD Permit, the applicant is required to provide a detailed unit capacity study that demonstrates that the overall site can achieve the required overall 55 DU/AC per net residential acre.

Draft Performance Standards for Interim Flea Market Operation (Based Upon PDC88-108, PDSH91-02-005 & CP07-05-030)

- *Gross Site Area:* 120.3 Acres
 - *Total Floor Space Allowed:* 360,000 sq.ft.
 - *Required Parking Ratio:* 5 Stalls/1,000 sq.ft. of Total Floor Space
 - *Off-Street Parking Provided:* 11,300 Stalls
1. *Days and Hours of Operation:* The Flea Market may operate Sunday through Saturday between dawn and sunset.
 2. *Signs:* Proposed signs, which would be visible from Berryessa Road, shall require a Planned Development Permit Adjustment.
 3. *Off-Site Parking Agreement:* The applicant shall submit an off-site parking agreement to the satisfaction of the Director of Planning. The agreement shall be provided prior to approval of a Planned Development Permit.
 4. *Snack Bars:* The snack bars shall meet the requirements of the State of California Health and Safety Code.
 5. *Existing Water Wells:* Existing water wells shall be shown on all Planned Development Permit plan sets.

6. *Permitted Uses:* Flea Market, swap meet, administrative office, storage, equipment, maintenance, snack bar, restrooms, open space, parking, security trailers & Flea Market related special events operated in conjunction with (not independent of) the Flea Market with incidental entertainment within the confines of the special event area including but not limited to craft fairs, dog & cat Shows and food festivals.
7. *Prohibited Uses:*
 - Residential Uses: Residential uses shall be prohibited.
 - Vendor Sales: Vendor sales are prohibited north of Berryessa Road.

Special Uses: Periodic automotive sales subject to a Special Use Permit

8. *Allowable Sales Area:* The Planned Development Zoning allows 38.8 Acres of Flea Market sales area, which includes an auction building, snack bars, and restrooms.
9. *Site Standards:*
 - Setbacks: Perimeter- 25 feet
 - Building Height- 2.5 stories, 35 feet
10. *Fence Along North Side of Berryessa Road:* The applicant shall construct a six-foot high fence along the north side of Berryessa road to channel pedestrians to designated crosswalks and undercrossings. The applicant shall ensure that security guards patrol the driveway breaks in the fence to discourage pedestrian use to the satisfaction of the Director of Planning.
11. *Traffic Control Plan:* The applicant shall submit a Traffic Control Plan for the Flea Market operation during weekends and special events to the Director of Traffic Operations and Police Chief for their joint approval. The plan must include, among such other features as may be required by the Director and Chief: (1) temporary means of regulating pedestrians crossing Berryessa Road, and (2) traffic control measures and devices to regulate signal timing and left-turn movements. All traffic and pedestrian control activities shall comply with the plan and no activities may be undertaken in absence of an approved plan.
12. *Berryessa Road Offer of Dedication:* The applicant shall provide an offer of dedication to the City of San Jose of Berryessa Road right-of-way to the satisfaction of the Director of Public Works.
13. *Parking Lot Fencing:* The applicant shall provide six-foot fencing along the north, east, and west property lines of the parking lot to the satisfaction of the Director of Planning.
14. *Loud Speaker Noise:* The loud speakers from the auction area shall not exceed 55 Ldn at the property line.
15. *Lighting Private Property:* All new outdoor storage, parking, vehicle circulation, driveway lighting and vendor sales area lighting shall be low-pressure sodium light fixtures. Other types of lighting may be used in other areas. All fixtures shall be fully shielded and electroliers shall not exceed 18' feet in height as measured from grade.
16. Any reconfiguration of the Flea Market use resulting from the development of a portion of the site requires a PD Permit Amendment.

Environmental Mitigation

The project shall, during all phases of implementation from pre-construction through post-occupancy, implement the various mitigation measures identified in the Mitigation Monitoring and Reporting Plan prepared for the project and approved by City Council resolution in connection with the ordinance rezoning the subject site. The MMRP is incorporated by reference in the General Development Plan.