

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** September 13, 2007

**COUNCIL DISTRICT:** 1  
**SNI AREA:** Blackford

**PDC06-112. PLANNED DEVELOPMENT REZONING FROM CP COMMERCIAL PEDESTRIAN ZONING DISTRICT TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO FIVE SINGLE-FAMILY DETACHED RESIDENCES ON A 0.36 GROSS ACRE SITE LOCATED ON THE SOUTH SIDE OF OLGA DRIVE APPROXIMATELY 200 FEET EASTERLY OF SARATOGA AVENUE.**

## **RECOMMENDATION**

The Planning Commission voted 7-0-0 to recommend that the City Council approve the proposed Planned Development rezoning from the CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning district to allow up to 5 single-family detached residences on a 0.36 gross acre site.

## **OUTCOME**

Should the City Council approve the Planned Development Rezoning, up to 5 single-family detached residences may be built on the subject 0.36 gross acre site, consistent with the development standards for the subject rezoning. This future development would be subject to a Planned Development Permit.

## **BACKGROUND**

### **First Public Hearing**

On August 22<sup>nd</sup>, 2007, the Planning Commission held its first public hearing to consider the proposed Planned Development Rezoning. The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning.

Staff made a correction to the recommendation listed on the agenda, in that the Planning Commission was to consider a Mitigated Negative Declaration, where the agenda stated that the Commission was to consider a Negative Declaration.

The applicant, Sukkin Fong, spoke regarding the project. She stated that the site is approximately 16,000 square feet in size, and that the proposal was to construct five single family units in a courthome configuration. She stated that the density met the density of surrounding development, and that the project is a good overall development. She stated that it has been a pleasure working with staff on the project, and that she has worked hard with staff to ensure that the project meets all the recommendations of the Residential Design Guidelines.

Commission Kinman stated that she was pleased that the project would provide more private open space than was required by the Guidelines. The applicant stated that the project has more than double the recommended open space.

Commissioner Kamkar asked if there was enough street frontage to park four cars. The applicant replied that there was enough frontage to count for four parking spaces. Commissioner Kamkar asked if there was enough space to not cause ingress/egress issues, and if some of the curb should be painted red to address the safety issue. The applicant stated that the frontage is large enough to accommodate a driveway and four parking spaces, and that Olga Drive does not have a high parking demand.

The applicant explained that more courtyard landscaping is proposed than is counted per the Residential Design Guidelines, and that one unit has a bedroom facing duplex rear yards at an eight foot setback, which would be designed to provide enough privacy to the adjacent yard. Commissioner Kalra explained that these details could be worked out at the Planned Development Permit Stage. Staff stated that these issues are addressed in the recommended development standards, and the Commission could make a recommendation to change the development standards.

Commissioner Jensen stated that the project was located within the Blackford NAC, although the cover sheet of the staff report stated that it was not in an SNI area. The commissioner asked if it had been presented to the group at one of their meetings. Staff explained that this was a clerical error, and that the body of the report stated the project is in the Blackford NAC. The project had not been presented to the NAC because they had not requested to see it. Staff explained that per the Public Outreach Policy a project of this size does not require a separately noticed community meeting, and the practice of staff is that projects of this size are only brought before NAC's if they specifically request it.

Commissioner Kinman asked when on street parking can be considered for a project, as she has noted some inconsistencies. Staff replied that the Residential Design Guidelines allow on street parking to be counted toward projects of certain product types, which include courthomes. Commissioner Kinman asked how staff ensures that parking is not counted toward multiple projects. Staff replied that the guidelines only allow parking directly in front of the project to be counted.

Commissioner Kamkar stated that he thought Olga Drive was too narrow to support four parking spaces in front of the site. Staff explained that the parking on the street meets minimum design standards, and that the street does not carry heavy amounts of traffic, therefore staff does not anticipate safety issues. Commissioner Kalra stated that the exact striping of the curb could be determined at the PD Permit stage.

Commissioner Platten asked if the Planning Commission had the ability to amend the Public Outreach Policy. City Attorney Todorov explained that because it is a City Council policy, only the City Council can amend it.

Commissioner Jensen suggested that a line could be added to staff reports to indicate that it had been referred to the NAC and that they had declined to see it. Deputy Director Hamilton stated that some of the burden must be on the NAC's to determine what projects they want to see, and suggested that the NAC's themselves be asked if they would like to change the referral process that is currently in place. Commissioner Jensen made a motion to defer the item until it could be specifically reviewed with the NAC. The Commission asked staff to return with a proposal to ensure that SNI NAC's are apprised about projects. Deputy Director Hamilton explained staff would coordinate with the SNI Team to assess possible changes to the current procedure, and staff would revise the staff report format to minimize the places data is entered to minimize the possibility of clerical errors.

The motion to continue the project until it was heard by the Blackford NAC was passed 7-0-0.

### **Second Public Hearing**

On September 12<sup>th</sup>, 2007, the project was brought back to the Planning Commission to be heard. The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning.

Staff reported that the project had been presented to the Blackford NAC at their meeting on September 6<sup>th</sup>, and that the community had a few questions about the application of on-street parking and affordable housing requirements for the project. The community members expressed no concerns or objections to the project, and no members of the NAC or neighborhood were present or spoke at the Commission hearing.

Staff further explained that they had recommended a slight change to the draft Development Standards to allow the second-story units to have a minimum 8 foot setback to the western property line, only if the windows at this setback distance were high, or obscured. The revised draft Development Standards were distributed to the Commission at the beginning of the meeting, and are attached to this memorandum.

Commissioner Campos made a motion to consider the Mitigated Negative Declaration in accordance with CEQA, and to recommend that the City Council approve the subject rezoning as recommended by staff. The motion was approved unanimously.

### **ANALYSIS**

As noted in the original staff report, the proposed rezoning of the site from CP Commercial Pedestrian to A(PD) Planned Development Zoning District is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of General Commercial through the use of the Two Acre Rule. Further the project provides an opportunity to further important goals and strategies of the General Plan and is in conformance with the Residential Design Guidelines.

### **EVALUATION AND FOLLOW-UP**

Not Applicable. The applicant will be required to secure a Planned Development Permit from the Planning Director in order to implement the subject rezoning.

### **POLICY ALTERNATIVES**

Not Applicable

### **PUBLIC OUTREACH/INTEREST**

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

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30; Public Outreach Policy. The project was presented to the Blackford NAC at their meeting on September 6<sup>th</sup>, and that the community had questions about the application of on-street parking and affordable housing requirements for the project. The community expressed no concerns or objections to the project. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

### **COORDINATION**

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

### **FISCAL/POLICY ALIGNMENT**

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

### **COST SUMMARY/IMPLICATIONS**

Not applicable.

HONORABLE MAYOR AND CITY COUNCIL  
September 13, 2007  
**Subject.** PDC06-112  
Page 5

**BUDGET REFERENCE**

Not applicable.

**CEQA**

CEQA: MND (Mitigated Negative Declaration)

  
 JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact Jeannie Hamilton at 408-535-7800.

cc: Gerry de Young

Revised Development Standards: September 12, 2007

**Permitted Uses:** Up to five single family attached or detached units. Conditional and Special uses of the R-M Multi-Family Residence Zoning District are allowed with the issuance of a Planned Development Permit or Amendment.

**Performance Standards:** The project shall comply with the performance standards per Part 7 of Chapter 20.30 of the San Jose Municipal Code, as amended.

**Proposed Number of Units:** Up to 5 Dwelling Units

**Required Perimeter Building Setbacks**

(In Feet): North: 12' minimum (Adjacent to Olga Drive)  
South: 15' minimum  
West: 5' minimum to 1<sup>st</sup> story, 8' minimum to 2<sup>nd</sup> story for no more than 50% of the building façade. Windows on 2<sup>nd</sup> story building elements that have a less than 10' setback shall have obscured glass or be a minimum of six feet from the finished floor.  
East: 5'

**Private Open Space (Square Feet):** 400 minimum.

Private open space can be provided through a combination of porches, decks and balconies to the satisfaction of the Director of Planning, Building and Code Enforcement.

**Common Open Space:** None Required

**Building Height (Feet/Stories)** 30 feet/2 stories

**Parking Required:** 2 covered parking spaces per unit  
3 uncovered on-site spaces

**Minor architectural projections:** Minor architectural projections such as fireplaces and bay windows, may project into any setback or building separation by up to 2 feet for a length not to exceed 10 feet or 20 percent of the building elevation length.

**Front yard maintenance:** A homeowners association (or similar mechanism) shall be established to maintain the front yard landscaping and back up landscaping within the project.

**Courtyard:** The courtyard shall be paved with stamped concrete, pavers, or some other decorative paving to the satisfaction of the Director of Planning, Building and Code Enforcement. A minimum of 200 square feet of landscaping per unit shall be provided in the courtyard to the satisfaction of the Director of Planning, Building and Code Enforcement.

Private infrastructure to meet or exceed Common Interest Development standards.

**Water Pollution Control Plant Note:** Pursuant to Part 2.75 of Chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on the San Jose-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose-Santa Clara Water Pollution Control to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.

**Environmental Mitigation**

**Tree Removals:** Trees removed shall be replaced at the following ratios:

Diameter of Tree to be Removed	Type of Tree to be Removed		Minimum Size of Each Replacement Tree
	Native	Non-Native	
18 inches or greater	5:1	4:1	24-inch box
12 - 18 inches	3:1	2:1	24-inch box
less than 12 inches	1:1	1:1	15-gallon container

x:x = tree replacement to tree loss ratio

**Note:** Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

The species and exact number of trees to be planted on the site will be determined at the Planned Development Permit stage, in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage

The following environmental mitigation shall be included in the project at the Planned Development Permit stage. Alternative mitigation that achieves an equivalent reduction

in the potentially significant impact may be approved by the Director of Planning through a Planned Development Permit.

**NOISE** – The following mitigation measures will be incorporated into the project to reduce potential impacts to a non significant level.

- a. As this project is in an area with a noise level between 60 DNL and 70 DNL, this project will include mechanical ventilation, which will allow the windows to be closed for noise control and will reduce the noise levels inside the units by 25 DNL.
- b. Install windows and glass doors so that the sliding window and glass door panels form an air-tight seal when in the closed position and the window and glass door frames are caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound infiltration.
- c. Construct a solid wood fence along the northwest property line.



# Memorandum

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**TO:** PLANNING COMMISSION  
**FROM:** Joseph Horwedel  
**SUBJECT:** SEE BELOW  
**DATE:** September 4, 2007

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## SUPPLEMENTAL MEMO

**SUBJECT: PDC06-112. PLANNED DEVELOPMENT REZONING FROM CP COMMERCIAL PEDESTRIAN ZONING DISTRICT TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO FIVE SINGLE-FAMILY DETACHED RESIDENCES ON A 0.36 GROSS ACRE SITE LOCATED ON THE SOUTH SIDE OF OLGA DRIVE APPROXIMATELY 200 FEET EASTERLY OF SARATOGA AVENUE**

This item was heard at the Planning Commission hearing of August 22, 2007. The Planning Commission continued the item to allow the project to be presented before the Blackford Neighborhood Action Coalition (NAC).

The Blackford NAC has scheduled this project to be presented at their regularly scheduled meeting on September 6, 2007. Staff will solicit community input on the proposal and will present an oral staff report to the Planning Commission with the results of the community input and any changes to staff's recommendation that results from the additional outreach, if applicable.

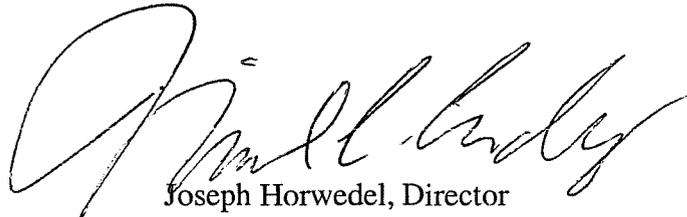
### **Revised Development Standards.**

Staff is recommending one revision to the Development Standard from what was previously presented to the Planning Commission. The initial staff recommended permitted uses were those "Permitted uses of the RM Multiple Residence Zoning District." Staff overlooked the fact that the RM Zoning District only allows one single family residence per lot, therefore the development would not conform to the approved Zoning if the applicant did not want to subdivide the lot for individual sale. Staff has changed the recommendation to permit up to five single family attached or detached residential units. Special and Conditional uses of the RM Zoning District could still be permitted pursuant to a Planned Development Permit.

## RECOMMENDATION

Planning staff recommends that the City Council approve the subject rezoning for the following reasons:

1. The project conforms to the General Plan through use of the Two Acre Rule and supports infill development policies of the General Plan.
2. The proposed project is compatible with the surrounding land uses.
3. The project as recommended by staff conforms to applicable policies of the City's Residential Design Guidelines.
4. The proposed project conforms to the requirements of CEQA.



Joseph Horwedel, Director  
Planning, Building and Code Enforcement

cc: Sukkin Fong, Noel Avenue LLC, 13132 Delson Court, Los Altos Hills, CA 94022

Development Standards:

**Permitted Uses:** Up to five single family attached or detached units. Conditional and Special uses of the R-M Multi-Family Residence Zoning District are allowed with the issuance of a Planned Development Permit or Amendment.

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Windows on 2<sup>nd</sup> story building elements that have a less than 10' setback shall have obscured glass or be a minimum of six feet from the finished floor.  
East: 5'

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**Common Open Space:** None Required

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**NOISE** – The following mitigation measures will be incorporated into the project to reduce potential impacts to a non significant level.

- a. As this project is in an area with a noise level between 60 DNL and 70 DNL, this project will include mechanical ventilation, which will allow the windows to be closed for noise control and will reduce the noise levels inside the units by 25 DNL.
- b. Install windows and glass doors so that the sliding window and glass door panels form an air-tight seal when in the closed position and the window and glass door frames are caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound infiltration.
- c. Construct a solid wood fence along the northwest property line.

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. 8-22-07 Item No. S.b.  
C.C. 9-11-07 Item No.

File Number  
PDC06-112

Application Type  
Planned Development Rezoning

Council District SNI  
1 None

Planning Area  
West Valley

Assessor's Parcel Number(s)  
299-36-048, -064

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: S. Martina Davis

Location: South side of Olga Drive approximately 200 feet easterly of Saratoga Avenue

Gross Acreage: 0.36 Net Acreage: 0.36 Net Density: 13.8 DU/AC

Existing Zoning: CP Commercial Existing Use: Duplex  
Pedestrian

Proposed Zoning: A (PD) Planned Proposed Use: 5 Single-family detached residential units  
Development

### GENERAL PLAN

Land Use/Transportation Diagram Designation  
General Commercial

Project Conformance:  
 Yes  No  
 See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

North: Office Building CO Commercial Office

East: Duplexes R-2 Two Family Residence

South: Commercial (Parking Lot) CP Commercial Pedestrian

West: Commercial CP Commercial Pedestrian

### ENVIRONMENTAL STATUS

Environmental Impact Report found complete

Mitigated Negative Declaration circulated on July 30, 2007

Negative Declaration adopted

Exempt

Environmental Review Incomplete

### FILE HISTORY

Annexation Title: Boynton No. 11 A

Date: May 22, 1958

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval

Approval with Conditions

Denial

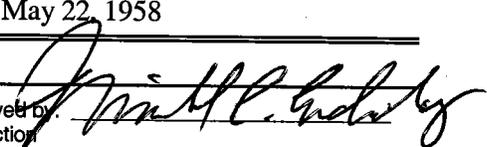
Uphold Director's Decision

Date: 8/13/07

Approved by:

Action

Recommendation



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**OWNER**

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Sukkin and Boscoe Fong  
 Noel Avenue LLC  
 13132 Delson Court  
 Los Altos Hills, CA 94022

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**PUBLIC AGENCY COMMENTS RECEIVED**

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Completed by: SMD

Department of Public Works

See attached memorandum

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**Other Departments and Agencies**

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NA

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**GENERAL CORRESPONDENCE**

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NA

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

On October 20, 2006 the applicant, Noel Avenue LLC, filed an application for a rezoning from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to 5 single-family detached residences on a 0.36 gross acre site. The project site is located on the south side of Olga Drive approximately 200 feet easterly of Saratoga Avenue. The surrounding land uses include an office building to the north, duplexes to the east, and a restaurant and associated parking lot to the south and west.

The project site, which consists of two legal lots, is currently developed with a duplex. This building would be demolished as part of this proposal and up to 51 non-ordinance sized trees would potentially be removed. The existing building was constructed in the 1960's, and does not qualify for the Historic Resources Inventory. The site has an elongated rectangular shape and is generally flat.

**Project Description**

The project proposes to rezone the 0.36-acre site to A(PD) Planned Development to allow for the development of 5 single-family detached residences in a courthome configuration at a density of 13.8 dwelling units per acre. The proposed structures are two-story single-family residences which range in size from 1,700 square feet to 1,805 square feet, each with a two car garage accessed from a common courtyard. Vehicular access is provided to the site via a common courtyard, which would also provide three guest parking spaces. The residences would each have three bedrooms and two-car garages in the side-by-side configuration, with the exception of the unit in the center of the courtyard, which has a two car tandem garage. This, including open parking, will provide a total of 13 off-street parking spaces. Four additional parking spaces are

available on the street in front of the project. The tree survey indicates 51 trees are present on site, none of which are ordinance sized. The exact numbers and locations of trees to be removed or relocated would be determined at the Planned Development Permit stage. Replacement trees would be provided in accordance with City standards.

## **ENVIRONMENTAL REVIEW**

A Draft Mitigated Negative Declaration was circulated on July 30, 2007 for public review and comments. The Mitigated Negative Declaration included mitigation to reduce any potential impacts to a less than significant level per the California Environmental Quality Act (CEQA). The Mitigated Negative Declaration concluded that the project would have a less than significant impact with mitigation measures for noise. The mitigation measures required by the Mitigated Negative Declaration have been incorporated into the development standards for the subject project.

## **GENERAL PLAN CONFORMANCE**

The site's Land Use/Transportation Diagram designation of General Commercial does not support residential uses; therefore the applicant has requested the use of the *Two Acre Rule* Discretionary Alternate Use Policy in order to find the project in conformance with the General Plan. The proposal is consistent with other General Plan Policies that encourage maximizing the density opportunities on infill properties.

The Two Acre Rule is a discretionary policy that can be used to encourage infill development. The application of the Two Acre Rule allows parcels of 2 acres in size or less with a non-residential designation to obtain General Plan conformance for a development of any residential or non-residential use. The project must have a density compatible with the surrounding land uses and the General Plan specifies that the Two Acre Rule can only be applied if the project meets or exceeds the minimum standards in the Zoning Ordinance and adopted design guidelines.

This project is currently developed with a residential use, a duplex, and the adjacent residential uses are duplexes developed at a density of approximately 14 DU/AC. This project would match the existing adjacent neighborhood in density, as well as would provide an attractive a buffer between the existing duplexes and the commercial uses that front on Saratoga Avenue. As discussed in greater detail in the analysis section below, the project as proposed substantially conforms to the Residential Design Guidelines, with some minor exceptions. Staff has recommended development standards that would require minor revisions to the project to bring it into full conformance with the Residential Design Guidelines, which would make the project eligible for use of the Two Acre Rule.

The project also furthers the Housing Major Strategy and many of the General Plan Goals and Policies by maximizing residential density on an infill site in a manner that is compatible with the surrounding area.

## ANALYSIS

The primary issue associated with the proposed rezoning is conformance to the City's Residential Design Guidelines (RDG's) with regards to 1) site design, 2) perimeter setbacks, 3) parking, and 4) open space.

### Site Design

This project proposes five units in a "courthome" configuration, which is comprised of individual lots with frontage on a shared courtyard that provides both vehicular and pedestrian access to the homes. The pedestrian entries of the front units face Olga Drive, and the entries of the remaining units are accessed from the courtyard. The garage of the "Plan E" unit would be in a tandem configuration, which reduces the dominance of the garage door on this façade. This unit would be the only unit with a garage door parallel to the street, therefore the tandem configuration is a critical design element to make the courtyard terminate with a view of the front of a unit, not a wide garage door. This also provides an opportunity to increase the amount of landscaping in the courtyard area beyond that which would otherwise be provided if a side by side garage was proposed.

Small porches and minimal landscaping is proposed in the courtyards. The Residential Design Guidelines recommend a minimum of 200 square feet of courtyard landscaping per unit, and the applicant has indicated that the courtyard has approximately 1,000 square feet of landscaping. However, the 1,000 square feet shown in the plans includes impervious walkways, as well as the landscaped areas tucked behind parking stalls that would not enhance the appearance of the courtyard, as is the intent of this provision of the Guidelines. The development standards as recommended by staff would require a minimum of 200 square feet of landscaping be provided inside the courtyard. To achieve this, a slight reduction in the size of the units, or a redesign in the unit layout may be required at the PD Permit stage.

The Residential Design Guidelines also recommend that the courtyard be paved with a decorative material. Currently, asphalt is proposed in the courtyard, therefore staff has recommend the development standards include a provision that requires the courtyard to be pavers, stamped concrete, or some other decorative material.

### Perimeter Setbacks

The site is surrounded by a commercial driveway and parking lot to the south and west, and the rear yards of duplexes exist to the east. The Residential Design Guidelines recommend a setback of five feet from parking areas for one and two story residential structures. Consistent with the Residential Design Guidelines, the project proposes a minimum setback of five feet on the first story of the units adjacent to the western property line, with a minimum eight foot setback to the second story elements of these units. The minimum building setback to the south property line proposed is 15 feet.

The guidelines recommend a minimum setback to attached residential private open space of five feet for one story building elements, and ten feet for second story building elements. The intent

of this provision is to protect the privacy of the adjacent private open spaces, which are rear yards of duplexes in this case. The first floors of both units adjacent to the duplex rear yards are setback a minimum of five feet, and the second floors of these units are setback ten feet, with the exception of a small portion of the "Plan C" unit, which is setback only eight feet. Staff would support a minor encroachment into the recommended ten feet for portions of the building that includes closets, stairway landings, or bathrooms, as these building elements would easily accommodate high and/or obscured windows that achieve the Guideline's intent of privacy. However, the conceptual floor plans show that one bedroom would encroach into the recommended ten foot setback. The development standards as recommended by staff require a ten foot setback for second story elements adjacent to duplex rear yards, and allow encroachments of up to two feet for bathrooms, stairways, and closets only, provided that windows in these elements are either high or obscured. The layout of the second floor of "Plan C" would be revised at the Planned Development Permit stage.

### Parking

The RDG's recommend two covered spaces per unit, plus 1.3 additional common parking spaces per unit, which equates to a total of 17 parking spaces for this project. Each unit provides a two car garage, and three parking spaces are available in the courtyard. Additionally, four parking spaces are available on Olga Drive in front of the project site, which staff believes could adequately serve the site. There are no other residential units that face Olga Drive on that side of the street, and the adjacent use and the use across the street are commercial buildings that provide ample parking for their users, therefore the current on-street parking demand in front of this project is minimized. Cumulatively, this project provides 17 parking spaces in accordance with the Guidelines.

### Open Space

The Residential Design Guidelines recommend a minimum of 400 square feet of private open space with a minimum dimension of 15 feet for courthome projects. This project provides between 480 and 660 square feet of useable private open space per unit in private rear yards, which is well in excess of the Guideline requirements. Each private open space area would have a minimum dimension of fifteen feet. No common open space is required for courthome projects with fewer than 20 units.

## **PUBLIC OUTREACH**

Notices for the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site, and a sign was posted at the site. A notice of the rezoning was also published in the San Jose Post Record, in accordance with the City Council's Public Outreach Policy. A copy of this staff report has been posted online and staff has been available to answer questions from the public.

## **RECOMMENDATION**

Staff recommends approval of the project for the following reasons:

1. The project conforms to the General Plan through use of the Two Acre Rule and supports infill development policies of the General Plan.
2. The proposed project is compatible with the surrounding land uses.
3. The project as recommended by staff conforms to applicable policies of the City's Residential Design Guidelines.
4. The proposed project conforms to the requirements of CEQA.

### **Attachments:**

**Location Map**

**Development Standards**

**Public Works Memorandum**

**Mitigated Negative Declaration**

**Development Standards:**

**Permitted Uses:** Those permitted uses of the RM Multi-Family Residence Zoning District, as amended. Conditional and Special uses of the R-M Multi-Family Residence Zoning District are allowed with the issuance of a Planned Development Permit or Amendment.

**Performance Standards:** The project shall comply with the performance standards per Part 7 of Chapter 20.30 of the San Jose Municipal Code, as amended.

**Proposed Number of Units:** Up to 5 Dwelling Units

**Required Perimeter Building Setbacks**

(In Feet):

North: 12' minimum (Adjacent to Olga Drive)

South: 15' minimum

West: 5' minimum to 1<sup>st</sup> story, 8' minimum to 2<sup>nd</sup> story for bathrooms, closets, and stairway landings. 10' minimum for all other building elements.

Windows on 2<sup>nd</sup> story building elements that have a less than 10' setback shall have obscured glass or be a minimum of six feet from the finished floor.

East: 5'

**Private Open Space (Square Feet):** 400 minimum.

Private open space can be provided through a combination of porches, decks and balconies to the satisfaction of the Director of Planning, Building and Code Enforcement.

**Common Open Space:** None Required

**Building Height (Feet/Stories)** 30 feet/2 stories

**Parking Required:** 2 covered parking spaces per unit  
3 uncovered on-site spaces

**Minor architectural projections:** Minor architectural projections such as fireplaces and bay windows, may project into any setback or building separation by up to 2 feet for a length not to exceed 10 feet or 20 percent of the building elevation length.

**Front yard maintenance:** A homeowners association (or similar mechanism) shall be established to maintain the front yard landscaping and back up landscaping within the project.

**Courtyard:** The courtyard shall be paved with stamped concrete, pavers, or some other decorative paving to the satisfaction of the Director of Planning, Building and Code Enforcement. A minimum of 200 square feet of landscaping per unit shall be provided in the courtyard to the satisfaction of the Director of Planning, Building and Code Enforcement.

Private infrastructure to meet or exceed Common Interest Development standards.

**Water Pollution Control Plant Note:** Pursuant to Part 2.75 of Chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on the San Jose-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose-Santa Clara Water Pollution Control to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.

**Environmental Mitigation**

**Tree Removals:** Trees removed shall be replaced at the following ratios:

Diameter of Tree to be Removed	Type of Tree to be Removed		Minimum Size of Each Replacement Tree
	Native	Non-Native	
18 inches or greater	5:1	4:1	24-inch box
12 - 18 inches	3:1	2:1	24-inch box
less than 12 inches	1:1	1:1	15-gallon container

x:x = tree replacement to tree loss ratio

**Note:** Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

The species and exact number of trees to be planted on the site will be determined at the Planned Development Permit stage, in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage

The following environmental mitigation shall be included in the project at the Planned Development Permit stage. Alternative mitigation that achieves an equivalent reduction in the potentially significant impact may be approved by the Director of Planning through a Planned Development Permit.

**NOISE** – The following mitigation measures will be incorporated into the project to reduce potential impacts to a non significant level.

- a. As this project is in an area with a noise level between 60 DNL and 70 DNL, this project will include mechanical ventilation, which will allow the windows to be closed for noise control and will reduce the noise levels inside the units by 25 DNL.
- b. Install windows and glass doors so that the sliding window and glass door panels form an air-tight seal when in the closed position and the window and glass door frames are caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound infiltration.
- c. Construct a solid wood fence along the northwest property line.

# Memorandum

**TO:** Martina Davis  
Planning and Building

**FROM:** Ebrahim Sohrabi  
Public Works

**SUBJECT: FINAL RESPONSE TO  
DEVELOPMENT APPLICATION**

**DATE:** 06/27/07

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**PLANNING NO.:** PDC06-112  
**DESCRIPTION:** Planned Development Rezoning from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to five single-family detached residences on a 0.36 gross acre site  
**LOCATION:** south side of Olga Drive approximately 200 feet easterly of Saratoga Avenue (including the parcel 299-36-064)  
**P.W. NUMBER:** 3-13506

Public Works received the subject project on 06/08/07 and submits the following comments and requirements.

## **Project Conditions:**

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

1. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
2. **Transportation:** This project is exempt from the Level of Service (LOS) Policy, and no further LOS analysis is required because the project proposes less than 15 single family detached units.
3. **Grading/Geology:**
  - a) A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.

- b) A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.
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.
5. **Flood, Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
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. **Street Improvements:**
  - a) Remove and replace broken, uplifted, or damaged during construction curb, gutter, sidewalk, and pavement along project frontage.
  - b) Close unused driveway cut.
  - 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.)
9. **Complexity Surcharge (In-Fill):** This project has been identified as an in-fill project. Based on established criteria, the public improvements associated with this project have been rated medium complexity. An additional surcharge of 25% will be added to the Engineering & Inspection (E&I) fee collected at the street improvement stage.
10. **Sanitary:**
  - a) Submit a conceptive sanitary sewer plan at the PD permit stage.
  - b) The project is required to submit plan and profile of the sewer mains with lateral locations for final review and approval prior to construction.

11. **Electrical:** 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.
12. **Street Trees:** Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings. Contact the City Arborist at (408) 277-2756 for the designated street tree.
13. **Private Streets:** Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards. The plan set includes details of private infrastructure improvements. The details are shown for information only; final design shall require the approval of the Director of Public Works.

Please contact the Project Engineer, Ryan Do, at (408) 535-6897 if you have any questions.

Ebrahim Sohrabi  
Senior Civil Engineer  
Transportation and Development Services Division

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**PUBLIC NOTICE**  
**INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION**  
**CITY OF SAN JOSÉ, CALIFORNIA**

**Project File Number, Description, and Location**

**PDC06-112.** Planned Development Rezoning from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to five single-family detached residences on a 0.36 gross acre site and subsequent permits located on the south side of Olga Drive approximately 200 feet easterly of Saratoga Avenue. (Noel Avenue LLC, Owner / Developer) Council District: 1

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **August 20, 2007**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **July 30, 2007** and ends on **August 20, 2007**.

A public hearing on the project described above is tentatively scheduled for **August 22, 2007 at 6:30 pm** in the City of San Jose Council Chambers, 200 East Santa Clara Street, San Jose, CA 95113. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the **West Valley Branch** Library, San José, CA, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Martina Davis** at (408) 535-7828.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

**ENDORSED**

JUL 30 2007

REGINA ALCOMENDRAS, County Clerk-Recorder  
Santa Clara County  
By B. HORIUCHI

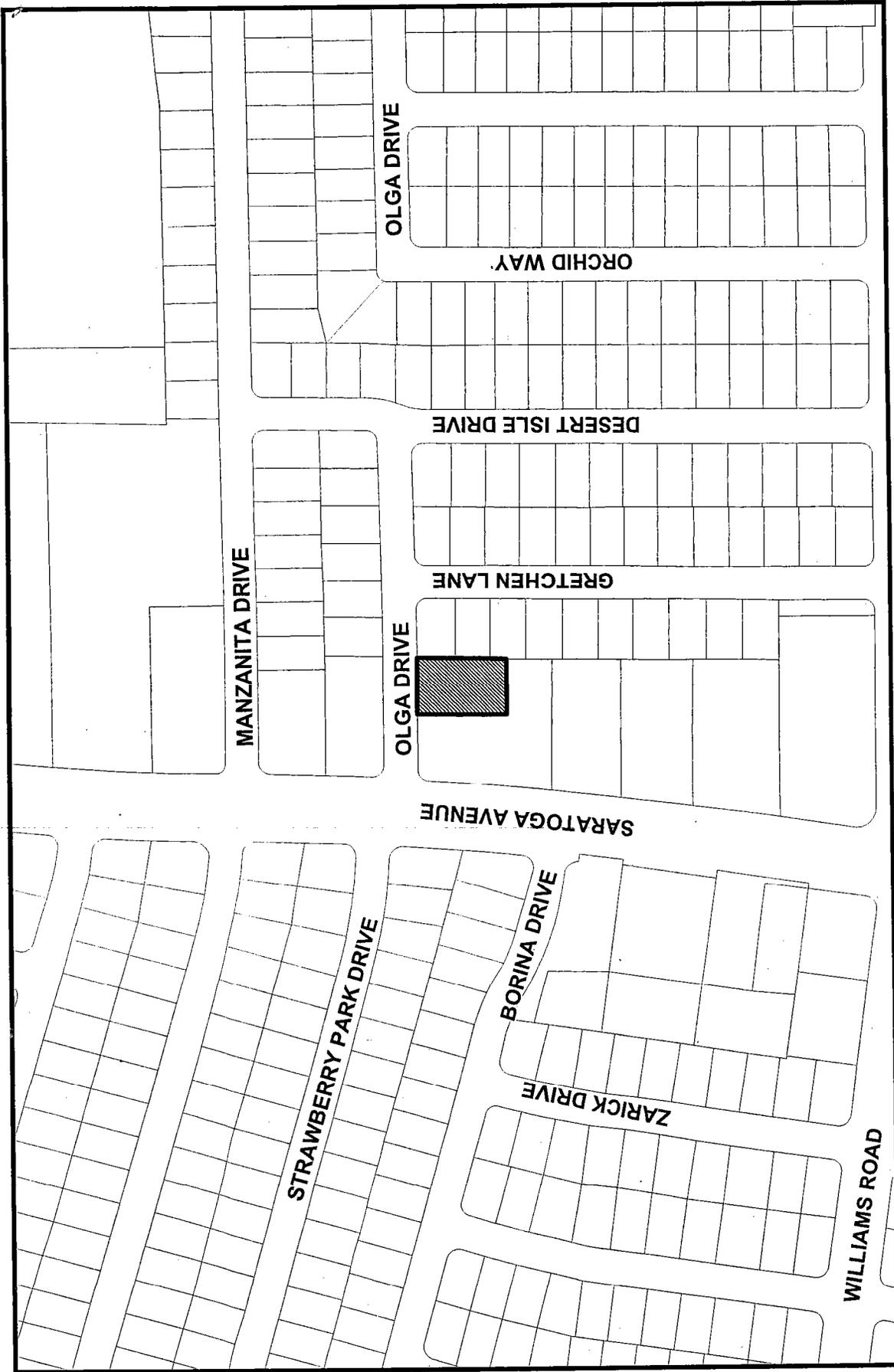
Circulated on: 7/27/07

Afani Amichien  
Deputy

POSTED ON JUL 30 2007 THROUGH AUG 19 2007  
IN THE OFFICE OF THE COUNTY CLERK-RECORDER  
REGINA ALCOMENDRAS, COUNTY CLERK

BY B. HORIUCHI DEPUTY

MNDPN/SBA/2/11/03  
REV. sba 1/9/06



File No: PDC06-112

District: 1

Quad No: 97

Scale: 1"= 250'

Map Created On: 10/20/2006

Noticing Radius: 500 feet



**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:** Olga Court

**PROJECT FILE NUMBER:** PDC06-112

**PROJECT DESCRIPTION:** Planned Development Rezoning from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to five single-family detached residences on a 0.36 gross acre site and subsequent permits

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** South side of Olga Drive approximately 200 feet easterly of Saratoga Avenue 299-36-048 & 299-36-064

**COUNCIL DISTRICT:** 1

**APPLICANT CONTACT INFORMATION:** NOEL AVENUE LLC, Attn: Sukkin Fong, 13132 DELSON CT, LOS ALTOS HILLS CA 94022,

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

- I. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- II. **AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

- III. AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IV. BIOLOGICAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- V. CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VI. GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VII. HAZARDS AND HAZARDOUS MATERIALS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VIII. HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- 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** – The following mitigation measures will be incorporated into the project to reduce potential impacts to a non significant level.
- a. As this project is in an area with a noise level between 60 DNL and 70 DNL, this project will include mechanical ventilation, which will allow the windows to be closed for noise control and will reduce the noise levels inside the units by 25 DNL.
  - b. Install windows and glass doors so that the sliding window and glass door panels form an air-tight seal when in the closed position and the window and glass door frames are caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound infiltration.
  - c. Construct a solid wood fence along the northwest property line.
- 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 **August 20, 2007**, any person may:

Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

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

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Circulated on: 7/27/07  
Deputy

Alfonsi Danielson

Adopted on: \_\_\_\_\_  
Deputy

\_\_\_\_\_

MND/JAC 8/26/05



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** September 4, 2007

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## T R A N S M I T T A L M E M O

**COUNCIL DISTRICT:** 1

**SNI:** Blackford

**PDC06-112. PLANNED DEVELOPMENT REZONING FROM CP COMMERCIAL PEDESTRIAN ZONING DISTRICT TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO FIVE SINGLE-FAMILY DETACHED RESIDENCES ON A 0.36 GROSS ACRE SITE, LOCATED ON THE SOUTH SIDE OF OLGA DRIVE APPROXIMATELY 200 FEET EASTERLY OF SARATOGA AVENUE.**

The Planning Commission will hear this project on September 12, 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 Mike Enderby at (408) 535-7800.