



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: September 13, 2007

COUNCIL DISTRICT: 2
SNI AREA: N/A

SUBJECT: PDC06-004. PLANNED DEVELOPMENT REZONING FROM R-1-2 RESIDENCE AND CP COMMERCIAL PEDESTRIAN ZONING DISTRICTS TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO 38 SINGLE-FAMILY ATTACHED OR DETACHED RESIDENCES ON A 4.5 GROSS ACRE SITE.

RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend that the City Council approve the proposed Planned Development rezoning from R-1-2 residence and CP Commercial Pedestrian Zoning Districts to A(PD) Planned Development Zoning district to allow up to 38 single-family attached or detached residences on a 4.5 gross acre site.

OUTCOME

Should the City Council approve the Planned Development Rezoning, up to 38 single-family attached or detached residences may be built on the subject 4.5 gross acre site, consistent with the development standards for the subject rezoning. This future development would be subject to a Planned Development Permit.

BACKGROUND

On September 12, 2007, the Planning Commission held a public hearing to consider the proposed Planned Development Rezoning. The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning. The applicant, Gerry de Young, was present to answer questions regarding the project.

Commissioner Jensen noted that she had received copies of memos from the Fire, Environmental Services, Building, and other departments for a proposal that was to be heard by the Commission later in the evening. She asked if these departments had been contacted for comments for this proposal, and questioned what the usual threshold for referring applications to these departments. Staff responded that these departments had been contacted for comment on this application, and had provided memos for the file. These memos had not been attached to the packet that was sent to the

Commission and Council because they are not directly relevant to the Commission's and Council's review of these applications. Staff also stated that with the exceptions of very minor permits, such as Single Family House Permits, all applications are referred to these other City departments for review and comment.

Commissioner Jensen asked if the memo from the Environmental Services Department had included the recommendation that the project adhere to the Build It Green checklist. Director Horwedel stated that because the Council has not adopted a formal green building policy, the City can only encourage, but not require green building principles to be implemented in projects.

Commissioner Jensen made a motion to recommend that the City Council approved the project as recommended by staff, and that the developer is encouraged to implement the Build It Green checklist when designing and constructing the process. Commissioner Jensen listed several specific green building elements and principles that the developer is encouraged to use in the project.

Commissioner Zito stated that he remembered hearing the General Plan Amendment for this site, and that he remembered several community members spoke at the hearing regarding the proposal. He asked if the project had been revised since that time, and if those revisions had addressed the community concerns.

Staff stated that the applicant would be able to answer the question most effectively. The applicant, Gerry de Young, stated that Commissioner Zito was mistaken, that there was no testimony from the public at the hearing for the General Plan Amendment. He stated that the project had been revised to address many of the concerns raised by staff, and to address the changes in the housing market since the proposal was originally submitted. He stated that the subject rezoning also allows for flexibility to further change the project as it progress and as the market changes further.

Commissioner Zito stated that he must have confused the project with another project proposed on Monterey Road that was of concern to the community. Commissioner Kalra stated that he remembered the General Plan Amendment being heard before the Commission, and there was much discussion between the Commission about the proposal at the hearing, but was no public testimony.

Commissioner Kinman asked if there was a reason staff was supporting the project with less than half of the open space provided than is recommended by the Residential Design Guidelines, and if that was due to some unique site issues.

Staff stated that usable open space requires flat land, which requires substantial grading on a sloped site such as this. When making their recommendation staff took into consideration the physical implications of extensive grading on the site, as well as the fact that the open space recommendations of the Residential Design Guidelines were designed for a more suburban style of development, not for a more compact, urban design such as this proposal. The open space requirements of this project is in line with a large number of projects of similar product types approved by the City Council within the last two years.

Commission Kinman stated that she was concerned, as this project did not propose substantial usable open space, and she was not aware if there was a park within walking distance of the site. She was concerned that future residents would not have the opportunity to walk to a park with their children.

The applicant, Mr. De Young, stated that there was a park located near the site, which was just off of the vicinity map prepared for the project. The park is located on Houndshaven Way, within walking distance from the project. He also noted that more common open space was being provided than was required in the recommended Development Standards, and that as the project is revised, he will do his best to ensure adequate common open space is provided on the site.

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. He stated that he was pleased with the proposal at the General Plan Amendment stage, and that he welcomes the opportunity for the developer to create something nice on this blighted hillside. He stated that the project will be an overall benefit to the area.

The motion was approved unanimously.

ANALYSIS

As noted in the original Staff Report, the proposed rezoning of the site from CP Commercial Pedestrian and R-1-2 Single Family Residence to A(PD) Planned Development Zoning District, as conditioned, is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8 DU/AC). 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

HONORABLE MAYOR AND CITY COUNCIL

September 13, 2007

Subject: PDC06-004

Page 4

Outreach Policy. A community meeting was held for the General Plan Amendment and this Rezoning proposal on April 3, 2006 in order to discuss the proposed project and solicit feedback from the community. No members of the community attended the meeting. 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

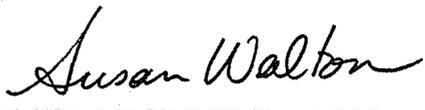
Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

CEQA: MND (Mitigated Negative Declaration)


for JOSEPH HORWEDEL, SECRETARY
Planning Commission

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

cc: Gerry de Young, Ruth and Going, PO Box 26460, San Jose, CA 95159

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street
San José, California 95113-7905

Hearing Date/Agenda Number
P.C. 8/22/07 Item No.: 4.c.

File Number
PDC06-004

Application Type
Planned Development Rezoning

Council District SNI
2 NA

Planning Area
Edenvale

Assessor's Parcel Number(s)
684-02-004

STAFF REPORT

PROJECT DESCRIPTION

Completed by: S. Martina Davis

Location: East side of Monterey Highway, approximately 1,000 feet northerly of Skyway Drive

Gross Acreage: 5.0 Net Acreage: 5.0 Net Density: 7.6 DU/AC

Existing Zoning: R-1-2 Single-Family Residence & CP Commercial Pedestrian Existing Uses: Duplex and Billboard

Proposed Zoning: A(PD) Planned Development Proposed Use: Up to 38 Single-family attached and detached residential units

GENERAL PLAN

Completed by: SMD

Existing Land Use/Transportation Diagram Designations

Medium Low Density Residential (8 DU/AC)

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: SMD

North: Industrial Center and Single-Family Residences

A(PD) Planned Development and R-1-2 Single Family Residence Zoning District

East: Single Family Residence and School (Valley Christian)

R-1-2 Single Family Residence and A(PD) Planned Development Zoning District

South: Warehouse/Storage

CP Commercial Pedestrian

West: Monterey Highway

NA

ENVIRONMENTAL STATUS

Completed by: SMD

Environmental Impact Report found complete
 Draft Negative Declaration circulated on October 12, 2006
 Negative Declaration adopted on November 13, 2006

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: SMD

Annexation Title: Monterey Park No. 91

Date: 8/27/1985

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Recommend Approval
 Recommend Approval with Conditions
 Recommend Denial

Date August 31, 2007

Approved by: Susan Walton

OWNER/DEVELOPER	CONTACT
Michael Luu Sabercat Holdings 5689 Algonquin Way San José, CA 95138	Gerry De Young Ruth and Going, Inc. PO Box 26460 San José, CA 95159

PUBLIC AGENCY COMMENTS RECEIVED Completed by: SMD

Department of Public Works

- See attached.

Other Departments and Agencies

- NA

GENERAL CORRESPONDENCE

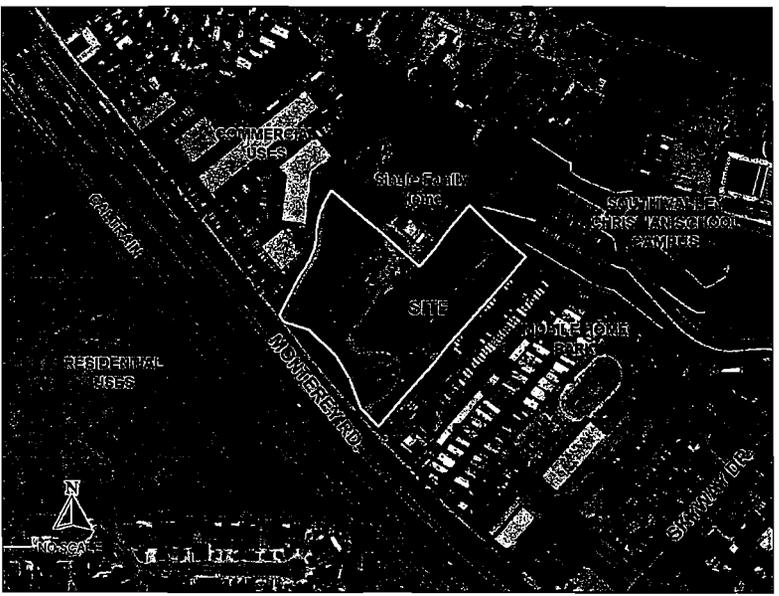
- None

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

On January 12, 2006, the applicant, Michael Luu of Monterey Town Center LLC, filed a Planned Development Rezoning application to rezone the subject site from R-1-2 Single-Family Residence Zoning District and CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District. The subject site is 5.0 gross acres in size and is located on the east side of Monterey Highway, approximately 1,000 feet northerly of Skyway Drive. The proposed project would allow the demolition of one existing duplex built circa 1950 and the development of up to 38 single-family attached and detached residential units. On December 12, 2006, the City Council approved an amendment to the General Plan Land Use/Transportation Diagram for the subject site from Very Low Density Residential (2.0 DU/AC) and General Commercial to Medium Low Density Residential (8.0 DU/AC) to accommodate the subject development.

The project is proposing a Planned Development Rezoning rather than a Conventional R-1-8 Rezoning because the lot shape and topography of the subject site make it difficult for development to conform the R-1-8 development standards as stated in the Zoning Ordinance. The subject site is bounded by industrial-commercial uses to the northwest, and commercial uses to the south, and low density residential to the north. High-density residential uses exist to the west of the subject site, across Monterey Road.



Project Description

The proposed project consists of the demolition of the existing duplex and shed on the site and the development of up to 38 single-family attached and detached residential units. Seventeen (17) trees exist on the site, including ten (10) ordinance-sized trees. Staff will work with the applicant at the PD Permit stage to further evaluate the tree preservation issues. The existing structures were analyzed and deemed not to be a historic resource. The lot sizes of the proposed project range from 1,200 to 1,500 square feet. Currently two single family detached residences are proposed and 36 paired garden townhouse units are proposed. The proposed residential structures would be three stories in height and each unit would contain a two-car side-by-side garage. Extensive grading is proposed to accommodate the development (see attached plan set) however; the western portion of the site would retain its natural slope and is proposed to be designated as "natural open space" on the land use plan. There is a single-family house located on the adjacent parcel to the north east, which will be provided driveway access to Monterey Road through this project site.

GENERAL PLAN CONFORMANCE

The proposed project is consistent with the San José 2020 General Plan Land Use/Transportation designation of Medium Low Density Residential (8 DU/AC), in that the density of the residential project is 7.6 DU/AC. The Medium Low Density Residential (8 DU/AC) land use designation is typified by 5,445 to 6,000 square foot lot subdivisions. This density is characteristic of many single-family residential neighborhoods in San José. The clustering of smaller-lot, detached homes and single-family attached residences are also appropriate in this category to help minimize grading impacts. The lot sizes of the proposed project range from 1,200 to approximately 1,500 square feet, with a hillside portion of the site remaining undeveloped. The overall density of the project meets the Land Use/Transportation Diagram density.

The General Plan Housing Major Strategy seeks to provide a variety of housing opportunities. The Growth Management Major Strategy encourages infill development within urbanized areas to achieve the most efficient use of urban facilities and services. The proposed project would further the General Plan's Housing and Growth Management Major Strategies by providing housing opportunities on infill property that is already served by existing urban services within the City's boundaries. In addition, this proposal would conform with the General Plan Community Development/Residential Land Use Goal in that the land to be used for the future development will be utilized to increase the potential to add to the housing stock.

ENVIRONMENTAL REVIEW

A Draft Mitigated Negative Declaration was circulated on October 13, 2006 for public review and comments. The Director adopted it on November 13, 2006. 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 in the following categories: Aesthetics, Air Quality, Biological Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, and Noise. The mitigation measures required by the Mitigated Negative Declaration have been incorporated into the development standards for the subject zoning.

ANALYSIS

Project Design

The conceptual site plan for the project proposes a "garden townhouse" type development, with fronts of units facing common paseos, and garages accessed through rear alleys. However, the development standards allow for flexibility in the product type to allow single-family detached houses, rowhouses, or other similar residential products. The project has been analyzed for conformance with the *Residential Design Guidelines* with respect to grading, setbacks, height, parking, and open space. Staff has noted some areas where improvement is needed in the project design, and will work with the applicant to resolve these at the PD Permit stage. The applicant has indicated

a willingness to cooperate to refining the project as discussed. The flexibility in the Land Use Plan and Development Standards provides the opportunity to make changes to the project to accommodate the issues discussed below.

Grading

Extensive grading is proposed to accommodate the proposed project, including retaining walls along the north, east, and south borders of the development. Along the southern property line, a retaining wall is proposed that would be approximately 26' in height at its greatest dimension. This wall would be visible from Monterey Highway, therefore design measures have been proposed to lessen the visual impact of the wall from the public right of way. Approximately 170 feet in length of the wall closest to Monterey Highway is split into two retaining walls that are 13 feet in height each, with a 10 foot "shelf" between the walls where extensive landscaping will be planted for screening. This proposed configuration is shown in Section "N" on the attached preliminary grading plan. This treatment for the wall was required as aesthetic mitigation in the Mitigated Negative Declaration approved for the project, and is included in the Development Standards.

The project proposes other smaller on-site retaining walls to the north and east of the proposed residences. These walls range in height from 2' to 20' in height, and would not be visible from the public right of way, as they would be obscured by the proposed structures and the natural steep grade of the site. The layout of the project as currently shown also proposes small retaining walls in the middle of the interior paseos. These walls would essentially split the paseo into two smaller paseos, which would reduce the usability of these areas as common open space. Staff will work with the applicant further at the Planned Development Permit stage to redesign the paseos to provide adequate open space by reducing and/or moving the retaining walls so that they are incorporated into the party walls for the "uphill" units.

Site Design/Interface

The unique location of this project presents few interface issues. Because the project sits on top of a hill, the setbacks to the adjacent commercial and industrial uses are far greater than would be for a similar development on a non-sloped site. One single-family residence exists to the northeast of the site, but the proposed grading of the project positions the new houses well below the grade of the existing house. This will greatly reduce the visual and privacy impacts of the proposed development to the residence, as the proposed homes would have little view of this adjacent property. The project is required to provide vehicular access to the adjacent residence, which is currently proposed and included in the Development Standards to ensure that any changes to the project at the PD Permit stage would still include this element. The large hillside located on the northern portion of the site would provide a buffer to the industrial uses to the north, and a drive aisle, parking, and retaining walls are proposed adjacent to the south property line, which would eliminate any potential impacts from the adjacent industrial/commercial use to the south.

Parking

The Guidelines recommend that the project provide 2.6 on-site parking spaces for each three-bedroom unit that has a two-car garage, making a total of 99 parking spaces required for this proposal. Each unit provides a two-car side-by-side garage for a total of 76 proposed garage spaces. The conceptual site plan currently shows 50 spaces on site, but only 23 are required per the Residential Design Guidelines. Both staff and the applicant recognize the need for guest parking on this particular site, as there are no practical opportunities for guests to park in nearby areas off the site. For this reason, staff is recommending that the project provide 2 covered spaces per unit and at least 1 guest space in the project per unit. Staff believes that this parking requirement is adequate, and the reduction in parking from what is currently shown on the plans would provide additional areas for landscaping along the entry drive and open space, which would create an overall more attractive project.

Open Space

The Residential Design Guidelines state that there should be a minimum of 300 square feet of private open space with a minimum dimension of 15 feet for garden townhouse projects. As currently proposed, the project does not comply with this recommendation in that each unit has 120 square feet of private open space. Based on the proposed density and the unique topographic characteristics of the site, staff recognizes that every unit will not be able to achieve 300 square feet of private open space, unless significant additional grading occurs. Generally, for developments in more suburban settings where mixed with existing single-family houses, larger private open spaces are appropriate. Staff is recommending approval of the project with alternative development standards, which require at least 150 square feet of useable private open space for each. The plans would be revised at the PD Permit stage to incorporate the required open space.

The Residential Design Guidelines also recommend 150 square feet of common open space per unit, where currently only 50 square feet per unit is proposed. The conceptual site plan shows a private recreation area, including a "tot-lot" located at the southeast corner of the site. Like the private open space requirement discussed above, staff recognizes that site constraints restrict the area available for common open space on the site. However, there are opportunities for additional common open space that could be incorporated into the project at the PD Permit stage, including redesigning or eliminating the retaining walls in the paseos to create an area of usable open space. A minimum common open space standard of 50 square feet per unit is included in the development standards, and staff will work with the applicant at the PD Permit stage to maximize the common open space opportunities.

COMMUNITY OUTREACH

A community meeting was held for the General Plan Amendment and this Rezoning proposal on April 3, 2006 in order to discuss the proposed project and solicit feedback from the community. No members of the community attended the meeting.

Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the subject site. The applicant posted a notification sign at the site in conformance with the Public Outreach Council Policy. The Planning Commission Agenda is posted on the City of San José website, which includes a copy of the staff report. Staff has been available to discuss the project with interested members of the public.

RECOMMENDATION

Planning staff recommends that the Planning Commission forward a recommendation to the City Council to approve the proposed Planned Development Rezoning with conditions as noted below for the following reasons:

1. The proposed project is consistent with the San José 2020 General Plan Medium Low Density Residential (8 DU/AC) land use designation.
2. The proposed project furthers the goals and objectives of the San José 2020 General Plan Housing and Growth Management Major Strategies.
3. The proposed project is compatible with existing and proposed uses on the adjacent and neighboring properties.

PDC06-004
DRAFT DEVELOPMENT STANDARDS

The following notes are to be incorporated on the final General Development Plan upon City Council Approval. These notes shall replace all other notes currently identified on said plan(s).

Permitted Uses: Up to 38 Single-family attached or detached residential units

Maximum Height: 35 feet /3 stories

Off-Street Parking Requirements: 2 covered spaces per unit and minimum of 1 guest space/unit

Private Open Space: 150 sq.ft/unit (8 feet min. dimension)

Common Open Space: 50 sq.ft/unit minimum

Perimeter Setbacks from Property Lines: (Minimum)

Front (Monterey Road): 10 feet
Side (South): 60 feet
Side (North): 100 feet
Rear: 15 feet

Paseos shall maintain a minimum width of 25 feet between patios.

Minor Architectural projections, such as chimneys and bay windows, may project into the building setback by no more than two (2) feet for a horizontal distance not to exceed ten (10) feet in length.

Private Street Dimensions: Minimum 26 feet in width for travel lanes.

Driveway Dimensions: Minimum 20 feet. Where adjacent to a garage or perpendicular parking spaces minimum back-out area required is 26 feet, subject to the discretion of the Director of Planning, Building and Code Enforcement

Common ownership: The driveway, guest parking, park-strips and sidewalks shall be located on a commonly owned parcel.

Applicant shall work with staff at the Planned Development Permit stage to implement the following to the satisfaction of the Director of Planning, Building and Code Enforcement: 1) reduce heights of visible retaining walls where feasible; 2) Maximize usable open space; 3) Minimize grade differentials between units and/or retaining walls

within landscaped areas of the paseos; and 4) Improve the appearance of the entry drive by minimizing the visual impact of the long continuous row of parking spaces.

Note: Where these development standards conflict with other information included on the land use diagram, these standards shall take precedence.

GENERAL NOTES

Water Pollution Control Plant Notice

Pursuant to part 2.75 of chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the city manager makes a determination that the cumulative sewage treatment demand on the San Jose – Santa Clara water plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose – Santa Clara water pollution control plant to treat such sewage adequately and within the discharge standards imposed on the city by the state of California regional water control board for the San Francisco Bay region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.

Parkland Dedication Ordinance

This subdivision is subject to the requirements of the parkland dedication ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land or payment of fees in lieu of the dedication of land for park purposes, under the formula contained with that chapter.

Access to Adjacent Parcel APN 684-02-011

Access to the adjacent residential lot shall be determined at the Planned Development Permit stage to the satisfaction of the Director of Planning. This project proposes the construction of a new driveway provisions for access via the private streets of the proposed project for the benefit of the adjacent property owners only and their personal passenger vehicles.

ENVIRONMENTAL MITIGATION

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.

I. AESTHETICS

- The westerly section (approximately 240 feet) of the southerly retaining wall shall be a stepped wall with trees planted at the base and on the bench between the two walls.

II. AIR QUALITY

- Occupational Safety and Health Administration (OSHA) regulations regarding working conditions for workers shall be implemented as specified.
- The following construction practices shall be implemented during all phases of construction for the proposed project to prevent visible dust emissions from leaving the site: 1) water all active construction areas at least twice daily or as often as needed to control dust emissions; 2) cover all trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard; 3) apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas during construction of the site; 4) sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust; 5) sweep public streets daily, or as often as needed, with water sweepers, to keep streets free of visible soil material; 6) hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more); 7) enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust; 8) limit traffic speeds on unpaved roads to 15 mph; 9) install sandbags or other erosion control measures to prevent silt runoff to public roadways; and 10) replant vegetation in disturbed areas as quickly as possible.
- A City-approved Airborne Asbestos Control Plan shall be developed and implemented with such measures as watering and/or use of a dust palliative for dust control, air sampling and monitoring programs, and travel route restrictions.

III. BIOLOGICAL RESOURCES

- Impacts to Santa Clara Valley dudleya plants shall be avoided and/or minimized. Temporary and permanent encroachment near known populations of Santa Clara Valley dudleya on the project site shall be avoided to the maximum extent practicable; during the development of final grading plans, every effort to avoid outcrops containing dudleya, even by incorporation of dudleya *in situ* into the project's landscaping, shall be made. Populations to be preserved shall be clearly demarcated with Environmentally Sensitive Area fencing to avoid inadvertent disturbance during construction activities; all temporary staging areas and construction access roads, if necessary, shall be located away from these areas.
- To avoid the loss of individual plants to the extent practicable, rock outcrops supporting Santa Clara Valley dudleya that cannot be avoided shall be relocated to a suitable area, as detailed in the Biotic Assessment report by H.T. Harvey and Associates dated April 21, 2006. The most suitable areas on the project site for translocation of the outcrops are the areas above the cut slopes in the northeastern part of the site and the areas in the northwestern part of the site where 13 outcrops containing 619 individual dudleya (that will not

be impacted by the project) currently exist. A conservation easement shall be placed over areas containing the transplanted dudleya. The success of the plants shall be monitored annually for a period of 10 years, with annual reports provided to the City of San Jose.

- If populations of Santa Clara Valley dudleya on the project site cannot be preserved or relocated, other existing rock outcroppings on the site that currently support dudleya shall be preserved at a 2:1 ratio, calculated on the basis of individual plants; this may be satisfied by preservation of the outcrops containing dudleya in the northwestern part of the site. The mitigation area shall be preserved in perpetuity via a conservation easement that removes development rights from the remaining portions of the property.
- If possible, construction should be scheduled between September and December (inclusive) to avoid the raptor-nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys shall be conducted no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the California Department of Fish and Game, designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report to the City's Environmental Principal Planner indicating the results of the survey and any designated buffer zones satisfaction of the City's Environmental Principal Planner prior to the issuance of any grading or building permit.

IV. GEOLOGY AND SOILS

- As a part of project grading, the top 2 feet of soil shall be replaced with clean soil, so as to avoid impacts from naturally occurring asbestos. The contaminated soils shall be removed and disposed of at an appropriate facility, to the satisfaction of the Director of Public Works
- The future homeowners association and/or homeowners will be notified that they may encounter asbestos in any subsurface excavations greater than two feet in depth and that special precautions will be required to comply with adopted standards to reduce risks to an acceptable level. Future homeowners will also be advised of the excavation precautions necessary if they plan to install a spa or pool.

V. HAZARDS AND HAZARDOUS MATERIALS

- A well destruction permit shall be obtained from the Santa Clara Valley Water District if a well is discovered, and the well shall be destroyed in accordance with District standards.
- If a septic system is discovered, it shall be abandoned in accordance with the requirements of the Santa Clara County Sewage Disposal Ordinance.
- The structures to be removed shall be surveyed for the presence of asbestos-containing materials at the demolition permit stage; and if any suspect ACM are present, they shall be sampled prior to demolition in accordance with NESHAP guidelines, and all potentially friable ACM shall be removed prior to building demolition and disposed of by offsite burial at a permitted facility in accordance with NESHAP, Cal-OSHA and BAAQMD requirements.
- The structures to be removed shall be surveyed for the presence of lead based paint at the demolition permit stage; and if any suspect LBP is present, it shall be sampled prior to demolition, and all potential LBP shall be removed prior to building demolition and disposed of by offsite burial at a permitted facility in accordance with EPA and OSHA requirements.
- The project site shall be viewed by a qualified environmental professional during demolition and pre-grading activities to observe areas of the property that may have been obscured by existing structures or pavement for such items as stained soils, septic systems, underground storage tanks, and/or unforeseen buried utilities; and, if found, a mitigation program shall be developed, submitted to the City's Environmental Principal Planner, and implemented with such measures as soil testing, removal and/or offsite disposal at a permitted facility.

VI. HYDROLOGY AND WATER QUALITY

- A Notice of Intent and a Storm Water Pollution Prevention Plan that addresses both construction and post-construction periods and specifies erosion and sediment control measures, waste disposal controls, maintenance responsibilities and non-stormwater management controls, shall be submitted to the RWQCB and maintained onsite, respectively, to comply with the stormwater discharge requirements of the NPDES General Permit.
- Stormwater treatment control measures shall be hydraulically sized prior to issuance of a Planned Development (PD) Permit in conformance with provisions of the City's Post-Construction Urban Runoff Management Policy and to adopted Santa Clara Valley Pollution Prevention Program NPDES Permit C.3 provisions to the satisfaction of the Director of Public Works.
- A Storm Water Pollution Prevention Plan (SWPPP) in compliance with the local NPDES permit shall be developed and implemented including: 1) site description; 2) erosion and sediment controls; 3) waste disposal; 4) implementation of approved local plans; 5) proposed post-construction controls, including description of local post-construction erosion and sediment

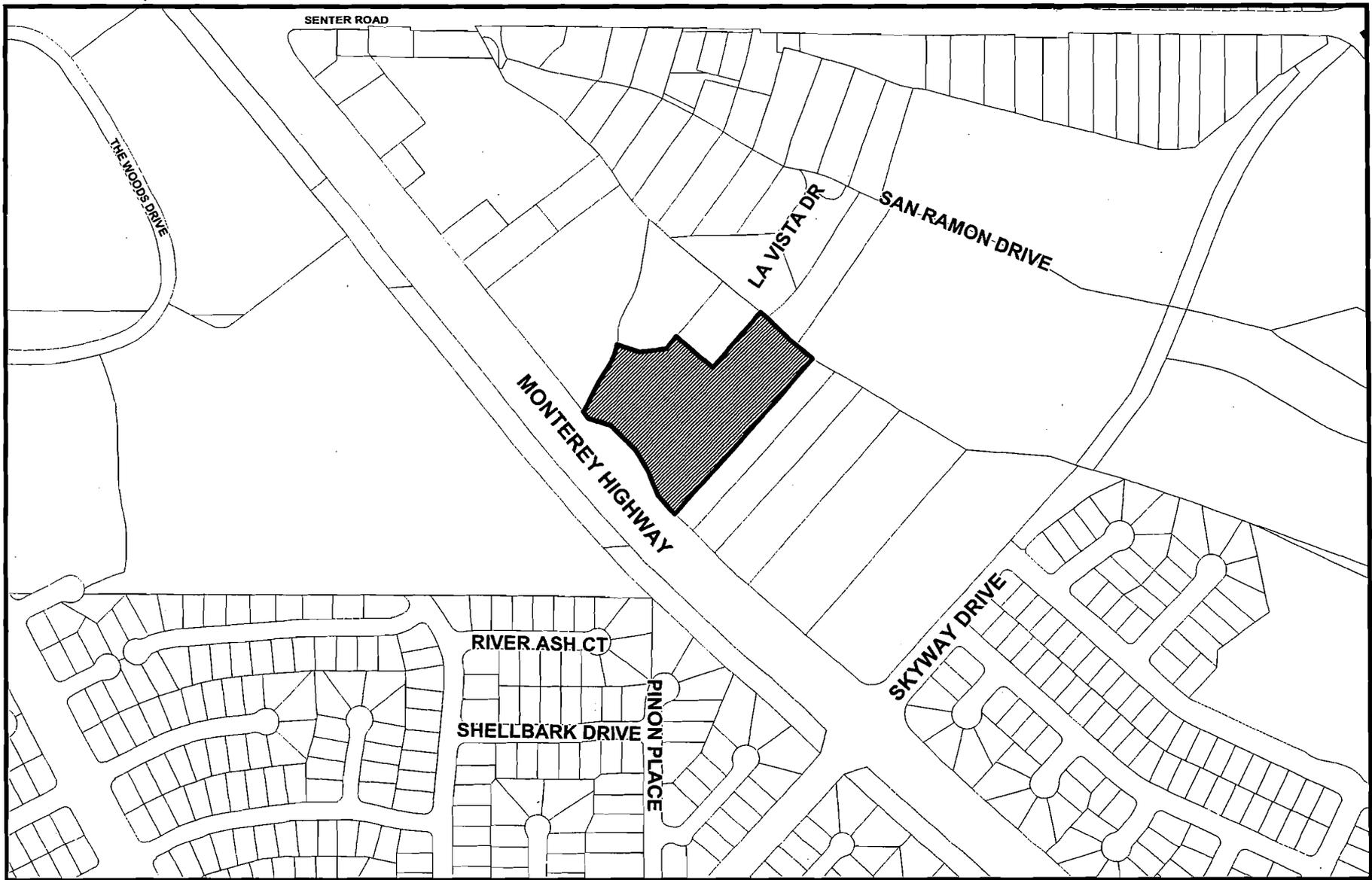
control requirements; 6) Best Management Practices (BMPs) such as the use of infiltration of runoff onsite, first flush diversion, flow attenuation by use of open vegetated swales and natural depressions, stormwater retention or detention structures, oil/water separators, porous pavement, or a combination of these practices for both construction and post-construction period water quality impacts; and 7) non-storm water management.

- The project shall incorporate site design, source control, and treatment measures such as the following to minimize the discharge of stormwater pollutants and limit the volume, velocity and duration of runoff:
 - Hydraulically-sized bioswales incorporated into the stormwater drainage design.
 - Pervious paving.
 - Underground detention.
 - Roof drains that discharge and drain into landscaped areas located away from the building foundation to an unpaved area wherever possible.
- A maintenance and monitoring program shall be developed at the PD Permit Stage to the satisfaction of the Director of Planning.
- The maintenance and monitoring program shall be implemented to ensure that all stormwater treatment BMPs will be permanently maintained by the Homeowners' Association (HOA) for the life of the development, to the satisfaction of the Director of Planning.

VII. NOISE

- Mechanical ventilation shall be provided in accordance with Uniform Building Code requirements when windows are to be closed for noise control.
- 42-inch-high solid railings shall be constructed at all second floor balconies in the row of duet homes nearest to Monterey Road, and having a direct or side view of the roadway; the solid railings shall block the line-of-sight between seated persons and the roadway below.
- Additional measures such as redesign of the units along Monterey Road or the addition of a common open space area within the project shall be investigated and implemented at the PD Permit stage to provide exterior open space at 65 dB DNL or less, to the satisfaction of the Director of Planning.
- Windows and glass doors shall be maintained closed and STC 35 or higher rated windows and doors shall be installed at all upper floor and unshielded ground floor living spaces of the units nearest to and facing Monterey Road.
- Windows and glass doors shall be maintained closed and STC 26 to 28 or higher rated windows and doors shall be installed at all upper floor and unshielded ground floor living spaces of the units in the northern portion of the site.
- Bedrooms shall be located away from the UPRR tracks; and kitchens, bathrooms and other spaces shall be used as buffers, as feasible.

- Railway noise shall be disclosed in sales contracts or leases.
- Prior to the issuance of an occupancy permit, building plans for all units shall be checked by a qualified acoustical consultant to ensure that noise levels are attenuated sufficiently to the satisfaction of the Director of Planning.
- Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any onsite or offsite work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- The contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.



Scale: 1"= 400'

Map Created On: 01/12/2006

Noticing Radius: 500 feet

File No: PDC06-004

District: 2

Quad No: 115



Memorandum

TO: Martina Davis
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

**SUBJECT: FINAL RESPONSE TO
DEVELOPMENT APPLICATION**

DATE: 08/30/07

PLANNING NO.: PDC06-004
DESCRIPTION: Planned Development Rezoning from R-1-2 Residence and CP Commercial Pedestrian Zoning Districts to A(PD) Planned Development Zoning District to allow up to 38 single-family detached residences on a 4.5 gross acre site.
LOCATION: east side of Monterey Highway, approximately 1,000 feet northerly of Skyway Drive
P.W. NUMBER: 3-13430

Public Works received revised plans for the subject project on 05/17/07 and submits the following comments and requirements.

Project Conditions:

Public Works Development Review Fees: Additional Public Works Review Fees are due. **Prior to the project being cleared for the hearing and approval process, these fees shall be paid to the Development Services Cashier using the attached invoice(s).** Additional fees due are as follows:

- a) An additional complexity fee in the amount of \$2,070.00.
- b) An NPDES - C.3 Requirements Review Fee of \$1,850.00.

Public Works Approval of Parcel Map or Tract Map: Prior to the approval of the tract or parcel map by the Director of Public Works, the applicant will be required to have satisfied all of the following Public Works conditions.

1. **Stormwater Runoff Pollution Control Measures:** The preliminary Stormwater Control Plan for the project has been reviewed. At PD Permit stage, revise the plan to include the following:
 - i) The preliminary numeric sizing calculations based on the Stormwater Control Plan, prepared by a qualified stormwater professional (civil engineer, licensed architect or landscape architect), used to determine runoff quantity and to design/select the post-construction treatment control measures.
 - ii) Location, size, and identification (including description), of types of water quality treatment control measures such as swales, detention basins, bioretention, etc
 - iii) Location, size and identification of proposed landscaping/plant material.

- iv) Inspection and maintenance information on the post-construction treatment control measures.
2. **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.
 3. **Transportation:** An in-house traffic distribution has been performed for this project based on 38 peak hour trips. We conclude that the subject project will be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3) and a determination for a negative declaration can be made with respect to traffic impacts.
 4. **Grading/Geology:**
 - a) A Geologic Hazard Clearance (dated 6/29/06) has been issued. The project shall conform to all conditions stated on the clearance letter.
 - b) A grading permit is required prior to the issuance of a Public Works Clearance.
 - c) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - d) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - e) The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
 5. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29 -or- the project shall provide an Alternative Measure, where installation of post-construction treatment control measures are impracticable, subject to the approval of the Director of Planning, Building & Code Enforcement.

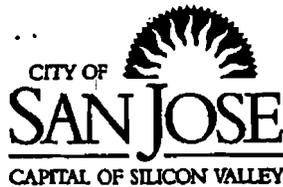
6. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
7. **Parks:** In accordance with the Parkland Dedication and Park Impact Ordinances (SJMC 19.38/14.25), the park impact fee will be due for any additional living units that are built.
8. **Reimbursement:** The developer will be required to reimburse the City for costs advanced for the construction of street improvements along Monterey Highway in accordance with City Ordinance #19663.
9. **Street Improvements:**
 - a) Site access along Monterey Highway shall be right turn in and out only.
 - b) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - c) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
 - d) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - e) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans. (To assist the Applicant in better understanding the potential cost implications resulting from these requirements, existing pavement conditions can be evaluated during the Planning permit review stage. The Applicant will be required to submit a plan and the applicable fees to the PW Project Engineer for processing. The plan should show all project frontages and property lines. Evaluation will require approximately 20 working days.)
10. **Complexity Surcharge (In-Fill):** This project has been identified as an in-fill project, and based on established criteria, the public improvements associated with this project have been rated medium complexity. An additional surcharge of 25% will be added to the Engineering & Inspection (E&I) fee collected at the street improvement stage.
11. **Electrical:**
 - a) Installation, relocation and upgrading of electroliers along project frontage may be required.
 - b) 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.
 - c) Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
12. **Street Trees:**
 - a) 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".

- b) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
 - c) Contact the City Arborist at (408) 277-2756 for the designated street tree.
13. **Private Streets:**
- a) At improvement plan stage, submit structural calculations and details for the proposed retaining walls.
 - b) Show vertical curve(s) in section M for any grade changes that exceeds 1%.
 - c) Proposed sidewalk along "Drive A" shall be ADA compliant.
 - d) Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
 - e) 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.
 - f) An Ingress and egress easement is required for the existing single family home at the north side of proposed project.
14. **Referrals:** This project should be referred to the California Department of Transportation(CalTrans) for a required encroachment permit.

Please contact the Project Engineer, Vivian Tom, at (408) 535-6819 if you have any questions.



Ebrahim Sohrabi
Senior Civil Engineer
Transportation and Development Services Division



Department of Planning, Building and Code Enforcement

JOSEPH HORWEDEL, ACTING DIRECTOR

**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: Monterey Estates

PROJECT FILE NUMBER: GP05-02-06 and PDC06-004

PROJECT DESCRIPTION: A General Plan amendment request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 dwelling units per acre) on approximately 4.5 acres and General Commercial on approximately 0.2 acres to Medium Low Density Residential (8 dwelling units per acre) on an approximately 4.75-acre site; a Planned Development Re-zoning application from R-1-2 Residence and CP Commercial Pedestrian Zoning Districts to A (PD) Planned Development Zoning District to allow up to 38 single-family detached residences; and subsequent related permits and subdivision maps on an approximately 4.75 gross-acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: East side of Monterey Road, approximately 800 feet northwesterly of Skyway Drive (4240 Monterey Road); APN 684-02-004, -010 and -012; and a portion of -007.

COUNCIL DISTRICT: 2

APPLICANT CONTACT INFORMATION: Sabercat Holdings LLC, 5689 Algonquin Way, San Jose, CA 95138, 408-425-2522, (fax) 408-270-2405, Attn: Michael Luu, mikeluu63@yahoo.com

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 westerly section (approximately 240 feet) of the southerly retaining wall shall be a stepped wall with trees planted at the base and on the bench between the two walls.

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

III. AIR QUALITY

- Occupational Safety and Health Administration (OSHA) regulations regarding working conditions for workers shall be implemented as specified.
- The following construction practices shall be implemented during all phases of construction for the proposed project to prevent visible dust emissions from leaving the site: 1) water all active construction areas at least twice daily or as often as needed to control dust emissions; 2) cover all trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard; 3) apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas during construction of the site; 4) sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust; 5) sweep public streets daily, or as often as needed, with water sweepers, to keep streets free of visible soil material; 6) hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more); 7) enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust; 8) limit traffic speeds on unpaved roads to 15 mph; 9) install sandbags or other erosion control measures to prevent silt runoff to public roadways; and 10) replant vegetation in disturbed areas as quickly as possible.
- A City-approved Airborne Asbestos Control Plan shall be developed and implemented with such measures as watering and/or use of a dust palliative for dust control, air sampling and monitoring programs, and travel route restrictions.

IV. BIOLOGICAL RESOURCES

- Impacts to Santa Clara Valley dudleya plants shall be avoided and/or minimized. Temporary and permanent encroachment near known populations of Santa Clara Valley dudleya on the project site shall be avoided to the maximum extent practicable; during the development of final grading plans, every effort to avoid outcrops containing dudleya, even by incorporation of dudleya *in situ* into the project's landscaping, shall be made. Populations to be preserved shall be clearly demarcated with Environmentally Sensitive Area fencing to avoid inadvertent disturbance during construction activities; all temporary staging areas and construction access roads, if necessary, shall be located away from these areas.
- To avoid the loss of individual plants to the extent practicable, rock outcrops supporting Santa Clara Valley dudleya that cannot be avoided shall be relocated to a suitable area, as detailed in the Biotic Assessment report by H.T. Harvey and Associates dated April 21, 2006. The most suitable areas on the project site for translocation of the outcrops are the areas above the cut slopes in the northeastern part of the site and the areas in the

northwestern part of the site where 13 outcrops containing 619 individual dudleya (that will not be impacted by the project) currently exist. A conservation easement shall be placed over areas containing the transplanted dudleya. The success of the plants shall be monitored annually for a period of 10 years, with annual reports provided to the City of San Jose.

- If populations of Santa Clara Valley dudleya on the project site cannot be preserved or relocated, other existing rock outcroppings on the site that currently support dudleya shall be preserved at a 2:1 ratio, calculated on the basis of individual plants; this may be satisfied by preservation of the outcrops containing dudleya in the northwestern part of the site. The mitigation area shall be preserved in perpetuity via a conservation easement that removes development rights from the remaining portions of the property.
- If possible, construction should be scheduled between September and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys shall be conducted no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the California Department of Fish and Game, designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report to the City's Environmental Principal Planner indicating the results of the survey and any designated buffer zones satisfaction of the City's Environmental Principal Planner prior to the issuance of any grading or building permit.

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

VI. GEOLOGY AND SOILS

- As a part of project grading, the top 2 feet of soil shall be replaced with clean soil, so as to avoid impacts from naturally occurring asbestos. The contaminated soils shall be removed and disposed of at an appropriate facility, to the satisfaction of the Director of Public Works
- The future homeowners association and/or homeowners will be notified that they may encounter asbestos in any subsurface excavations greater than two feet in depth and that special precautions will be required to comply with adopted standards to reduce risks to an acceptable level. Future homeowners will also be advised of the excavation precautions necessary if they plan to install a spa or pool.

VII. HAZARDS AND HAZARDOUS MATERIALS

- A well destruction permit shall be obtained from the Santa Clara Valley Water District if a well is discovered, and the well shall be destroyed in accordance with District standards.
- If a septic system is discovered, it shall be abandoned in accordance with the requirements of the Santa Clara County Sewage Disposal Ordinance.
- The structures to be removed shall be surveyed for the presence of asbestos-containing materials at the demolition permit stage; and if any suspect ACM are present, they shall be sampled prior to demolition in accordance with NESHAP guidelines, and all potentially friable ACM shall be removed prior to building demolition and disposed of by offsite burial at a permitted facility in accordance with NESHAP, Cal-OSHA and BAAQMD requirements.
- The structures to be removed shall be surveyed for the presence of lead based paint at the demolition permit stage; and if any suspect LBP is present, it shall be sampled prior to demolition, and all potential LBP shall be removed prior to building demolition and disposed of by offsite burial at a permitted facility in accordance with EPA and OSHA requirements:
- The project site shall be viewed by a qualified environmental professional during demolition and pre-grading activities to observe areas of the property that may have been obscured by existing structures or pavement for such items as stained soils, septic systems, underground storage tanks, and/or unforeseen buried utilities; and, if found, a mitigation program shall be developed, submitted to the City's Environmental Principal Planner, and implemented with such measures as soil testing, removal and/or offsite disposal at a permitted facility.

VIII. HYDROLOGY AND WATER QUALITY

- A Notice of Intent and a Storm Water Pollution Prevention Plan that addresses both construction and post-construction periods and specifies erosion and sediment control measures, waste disposal controls, maintenance responsibilities and non-stormwater management controls, shall be submitted to the RWQCB and maintained onsite, respectively, to comply with the stormwater discharge requirements of the NPDES General Permit.
- Stormwater treatment control measures shall be hydraulically sized prior to issuance of a Planned Development (PD) Permit in conformance with provisions of the City's Post-Construction Urban Runoff Management Policy and to adopted Santa Clara Valley Pollution Prevention Program NPDES Permit C.3 provisions to the satisfaction of the Director of Public Works.
- A Storm Water Pollution Prevention Plan (SWPPP) in compliance with the local NPDES permit shall be developed and implemented including: 1) site description; 2) erosion and sediment controls; 3) waste disposal; 4) implementation of approved local plans; 5) proposed post-construction controls, including description of local post-construction erosion and sediment control requirements; 6) Best Management Practices (BMPs) such as the use of infiltration of runoff onsite, first flush diversion, flow attenuation by use of open

vegetated swales and natural depressions, stormwater retention or detention structures, oil/water separators, porous pavement, or a combination of these practices for both construction and post-construction period water quality impacts; and 7) non-storm water management.

- The project shall incorporate site design, source control, and treatment measures such as the following to minimize the discharge of stormwater pollutants and limit the volume, velocity and duration of runoff:
 - Hydraulically-sized bioswales incorporated into the stormwater drainage design.
 - Pervious paving.
 - Underground detention.
 - Roof drains that discharge and drain into landscaped areas located away from the building foundation to an unpaved area wherever possible.
- A maintenance and monitoring program shall be developed at the PD Permit Stage to the satisfaction of the Director of Planning.
- The maintenance and monitoring program shall be implemented to ensure that all stormwater treatment BMPs will be permanently maintained by the Homeowners' Association (HOA) for the life of the development, to the satisfaction of the Director of Planning.

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

- Mechanical ventilation shall be provided in accordance with Uniform Building Code requirements when windows are to be closed for noise control.
- 42-inch-high solid railings shall be constructed at all second floor balconies in the row of duet homes nearest to Monterey Road, and having a direct or side view of the roadway; the solid railings shall block the line-of-sight between seated persons and the roadway below.
- Additional measures such as redesign of the units along Monterey Road or the addition of a common open space area within the project shall be investigated and implemented at the PD Permit stage to provide exterior open space at 65 dB DNL or less, to the satisfaction of the Director of Planning.
- Windows and glass doors shall be maintained closed and STC 35 or higher rated windows and doors shall be installed at all upper floor and unshielded ground floor living spaces of the units nearest to and facing Monterey Road.

- Windows and glass doors shall be maintained closed and STC 26 to 28 or higher rated windows and doors shall be installed at all upper floor and unshielded ground floor living spaces of the units in the northern portion of the site.
 - Bedrooms shall be located away from the UPRR tracks; and kitchens, bathrooms and other spaces shall be used as buffers, as feasible.
 - Railway noise shall be disclosed in sales contracts or leases.
 - Prior to the issuance of an occupancy permit, building plans for all units shall be checked by a qualified acoustical consultant to ensure that noise levels are attenuated sufficiently to the satisfaction of the Director of Planning.
 - Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any onsite or offsite work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
 - The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- 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 November 13, 2006 any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, San José CA 95113-1905 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Joseph Horwedel, Acting Director
Planning, Building and Code Enforcement

Circulated on: ^{5A 12} 10/13/06


Deputy

Adopted on: 11/13/06


Deputy

MND/JAC 8/26/05



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: September 4, 2007

COUNCIL DISTRICT: 2
SNI: NA

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

PDC06-004. PLANNED DEVELOPMENT REZONING FROM R-1-2 RESIDENCE AND CP COMMERCIAL PEDESTRIAN ZONING DISTRICTS TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO 38 SINGLE-FAMILY DETACHED RESIDENCES ON A 4.5 GROSS ACRE SITE LOCATED ON THE EAST SIDE OF MONTEREY HIGHWAY, APPROXIMATELY 1,000 FEET NORTHERLY OF SKYWAY DRIVE.

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 Susan Walton
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

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