



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: September 27, 2007

COUNCIL DISTRICT: 3
SNI AREA: Spartan/Keyes

SUBJECT: PDC07-002. PLANNED DEVELOPMENT REZONING FROM HI HEAVY INDUSTRIAL ZONING DISTRICT TO A (PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO 37 SINGLE-FAMILY ATTACHED RESIDENCES ON A 0.71 GROSS ACRE SITE.

RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend that the City Council approve the proposed Planned Development Rezoning from the HI Heavy Industrial Zoning District to A (PD) Planned Development Zoning District to allow up to 37 single-family attached residences on a 0.71 gross acre site.

OUTCOME

Should the City Council approve the proposed Planned Development Rezoning, the applicant could apply for a Planned Development Permit and Planned Tentative Map to construct 37 single-family attached residences on the subject 0.71 gross acre site, consistent with the development standards for the subject rezoning.

BACKGROUND

On September 26, 2007, the Planning Commission held a public hearing to consider the proposed project. Long Nguyen, the applicant, and John Ha, the project architect, spoke in support of the proposed project. Aurelia Sanchez, representative from the Spartan/Keyes NAC, spoke in support of the proposed project. She thanked the applicant for working closely with the neighborhood. Aurelia Sanchez said she would like to see permit parking in the neighborhood, more VTA services, and additional street cleaning services by the City Department of Transportation. Another resident, Tom Bohemian, also spoke in support of the project. He thanked the applicant for working closely with the community during the community outreach process.

Commissioner Campos suggested that the applicant work closely with staff to refine the design of the project to ensure that it fits with the community and is pedestrian oriented.

Commissioner Kinman asked for clarification regarding the required sound wall along the north side of the property, and what mechanism is there for removal of the wall in the future. Staff and the City Attorney responded that the development standards for the project cannot require removal of the wall in the event of development of a park directly to the north of the site, but noted that staff can provide the opportunity for removal of the wall by allowing its removal in the development standards.

Commissioner Kinman asked about the future timeline for development of the park north of the subject site, and what funding is needed to begin the park acquisition process. Dave Mitchell, Parks Planner for the Department of Parks, Recreation, and Neighborhood Services, said that there is not enough money for the park at this time, but the proposed project parkland fees for this project would add approximately six million dollars toward future park development. He said a timeline for the park would be determined when there is full funding for acquisition and development.

Commissioner Jensen recommended the developer incorporate comments into the project provided from the Environmental Services Department regarding integrating the green building checklist, utilizing energy efficient appliances, and solar photo-voltaic panels, use of recycled materials and sourcing of building materials from within 500 miles of the project site, and using reclaimed water for irrigation of landscaping, if possible.

The Planning Commission then closed the public hearing, and voted unanimously to forward a recommendation to approve the proposed project.

ANALYSIS

See the attached staff report for additional discussion.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

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

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. A community meeting for the project was held at Biblioteca Latinoamerica Library Community Room on April 23, 2007. Community meeting notices were mailed to residents within 500 feet of the project site. Approximately 25 residents attended. The community input reflected the sentiment that the city does not require developers to provide sufficient parking for new development in their neighborhood. Attendees expressed concern that the project will increase the amount of on-street parking, which is already limited. Residents also expressed a desire for variation in the roofline of the development, especially since it is located adjacent to a future park. Additionally, residents were concerned about where construction workers would park during development of the project. Finally, residents were concerned that there is no incentive for development of the planned neighborhood park.

Additionally, 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, Department of Parks, Recreation, and Neighborhood Services, and the City Attorney. Preparation of this memorandum and associated ordinance was coordinated with the City Attorney's office.

FISCAL/POLICY ALIGNMENT

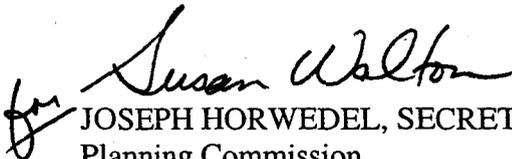
This project is consistent with applicable General Plan policies and City Council approved design guidelines as further discussed in the attached staff report.

COST SUMMARY/IMPLICATIONS

Not applicable.

CEQA

Mitigated Negative Declaration, PDC07-002.


for JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Michelle Stahlhut at 408-535-7849.

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. 09/26/07 Item: *4.f.*
C.C. 10/16/07

File Number
PDC07-002

Application Type
Planned Development Zoning

Council District Planning Area
3 Central

SNI Area
Spartan/Keyes

Assessor's Parcel Number(s)
472-15-026

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Michelle Stahlhut

Location: East side of South 3rd Street, approximately 500 feet north of Keyes Street

Gross Acreage: 0.713 Net Acreage: 0.713 Net Density: 51.89 DU/AC

Existing Zoning: HI -Heavy Industrial Existing Use: Warehouse/Storage

Proposed Zoning: A(PD) Planned Development Proposed Use: Up to 37 single-family attached residential units

GENERAL PLAN

Completed by: Michelle Stahlhut

Land Use/Transportation Diagram Designation
High Density Residential (40-70 DU/AC)

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: Michelle Stahlhut

North: Truck storage HI Heavy Industrial

East: Truck storage HI Heavy Industrial

South: Single-family attached residential LI Light Industrial

West: Single-family detached residential LI Light Industrial

ENVIRONMENTAL STATUS

Completed by: Michelle Stahlhut

Environmental Impact Report found complete
 Negative Declaration circulated on 9/04/07
 Negative Declaration adopted on

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: Michelle Stahlhut

Annexation Title: Original City

Date: 3/27/1850

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial
 Uphold Director's Decision

Date: 11/16/06

Approved by: *Jean Hamitt*
 Action
 Recommendation

OWNER/APPLICANT/ DEVELOPER

Long Nguyen
10685 Larry Way
Cupertino, CA 95014

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: MS

Department of Public Works

See attached memorandum.

Other Departments and Agencies

Parks, Recreation, and Neighborhood Services Department

GENERAL CORRESPONDENCE

See attached correspondence from neighbors

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The proposed rezoning was filed with the Department of Planning, Building, and Code Enforcement on January 5, 2007. The applicant, Long Nguyen, is requesting to rezone the subject 0.713 gross-acre site from HI Heavy Industrial zoning district to the A(PD) Planned Development zoning district to allow up to 37 single-family attached residential units.

The subject site is currently developed with a warehouse that is used for a storage and import/export business. The shape of the site is rectangular and is relatively flat with little vegetation. Surrounding land uses consist of heavy truck parking to the north and east; single-family attached residential to the south, and single-family detached residential to the west.

The subject site is located in the Spartan/Keyes SNI area, and is part of the Martha Gardens Specific Plan Area. The project is directly adjacent to a truck storage facility, which surrounds the subject site on the north and east property lines. This existing adjacent use consists of parking for heavy trucks that back into parking spaces along the shared property line. This is an incompatible use with the proposed residential project in the short term. The truck storage facility has a General Plan Land Use designation of "Pedestrian Emphasis Public Street" and "Public Parks and Community Facilities". In the long term, the site is designated to be part of a larger 4.8 acre park that is a central feature of the Martha Gardens Specific Plan. There is no timeline currently available for future development of the park and street.

Project Description

The project proposes to replace an existing warehouse building with up to 37 single-family attached residential units in a podium building consisting of one level parking with 65 spaces and three stories of residential condominium units above. In the front, the project proposes a 15 foot maximum setback, with the entryway stairs and ADA access extending four feet into the front. The project proposes a setback on the north of 12 feet to the living space, 6 feet to the private

open space. The project proposes setbacks from the north, east and south property lines of 12 feet to the living space and 6 feet to the private open space.

The project also proposes approximately 5400 square feet of common open space in the form of a central common area for the project, and a community room for use by the residents for a total of approximately 145 square feet of common open space per residential unit. The project also provides a private balcony or patio of approximately 100 square feet for each of the residential units.

The building is approximately 274 feet long and 80 feet wide. The project proposes a 10 foot variation in the height of the roof line, and the building is broken up with the use of recessed balconies and vertical breaks in the mass along the length of the building.

Finally, the applicant is proposing to construct a 7 foot solid barrier sound wall at the property line to mitigate noise impacts from adjacent industrial uses.

GENERAL PLAN CONFORMANCE

The subject site designated High Density Residential (40-70 DU/AC) on the City of San Jose's 2020 General Plan Land Use/Transportation Diagram and is part of the Martha Gardens Specific Plan area. The proposed Planned Development Rezoning conforms to the General Plan designation of High Density Residential (40-70 DU/AC) in that it would allow up to 37 single-family attached residences at a net density of 51.89 DU/AC on the subject site.

Martha Gardens Specific Plan (MGSP)

The subject site is located within the Infill West Sub-Area of the Martha Gardens Specific Plan. The Martha Gardens area is located south of Downtown San Jose, on the south edge of Interstate 280. Because of Martha Gardens' proximity to Downtown San Jose and major, existing and future transportation systems, it has long been expected that the area would eventually develop and redevelop with uses related to the Downtown and other job centers. Drawing on existing and historic uses in the area, the Specific Plan sketches out a new community with emphasis on new housing with family and arts oriented services and facilities. The Specific Plan provides goals and objectives that provide the framework for the plan. Any new project approvals, use changes or other activities should be considered consistent with the intent of the Specific Plan only so far as they further one or more of the objectives of the Specific Plan (page 15).

Goal: Provide for residential infill and intensification that reinforces a sense of neighborhood.

The Martha Gardens Specific Plan encourages the redevelopment of much of the area with high-density housing that is urban in character. A major purpose of the Plan, however, is to achieve this level of density in a manner that fosters a sense of community.

The proposed project is consistent with this objective of the Martha Gardens Specific Plan because it proposes residential intensification in an urban product type, a podium building on a site that has been designated for high density residential by the community. The project fosters a sense of community by proposing an internal community area for residents, and is also oriented

to the street by extending the building to the front property line and providing residential uses on the first floor.

The General Plan Growth Management Major Strategy encourages infill development within urbanized areas where urban facilities and services are already available to minimize the cost of providing urban services. The proposed Planned Development Rezoning furthers the Growth Management Major Strategy because it is located on an infill site in an urban area where urban facilities and services are already available. In this way, the proposed project furthers the Growth Management Major Strategy that seeks to balance the need to house new population and the need to balance the City's budget while providing acceptable levels of urban services.

ENVIRONMENTAL REVIEW

A Mitigated Negative Declaration circulated on September 4, 2007 indicates that the project will not result in a significant environmental impact when the identified mitigations are implemented. The Mitigated Negative Declaration addressed a multitude of environmental issues. For the purposes of obtaining clearance through a Mitigated Negative Declaration under the California Environmental Quality Act, a project shall not result in significant unmitigated impacts. With the implementation of the proposed mitigation measures, which include related mitigation for air quality, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, and noise, the project will not have a significant impact on the environment. A more comprehensive accounting of the environmental mitigation measures required as part of this project can be found in the project's Initial Study. The full text of the Initial Study is available online at: <http://www.sanjoseca.gov/planning/eir/MND.asp>

Noise

The City's acceptable noise levels objectives for residential uses are 55 DNL (day/night sound level) as the long-range exterior noise quality level, 60 DNL as the short-range exterior noise quality level, and 45 DNL as the interior noise quality level. The existing sound level at the site is 63 dBA DNL of exterior noise at the project site. The applicant will be required to document that the selected building materials and design of the building will provide the necessary noise reduction to 45 DNL within habitable interior space of the residential units. Additionally, the applicant shall construct a 7 foot tall solid barrier at the property line to reduce the noise to meet the 60 dBA DNL exterior standard. Acceptable materials for the construction of the barrier shall have a weight of 3.5 pounds per square foot of surface area and may be composed of the following: masonry block, stucco veneer over wood framing (or foam core), glass, Plexiglass Lexan (1/3 inch).

ANALYSIS

The primary issues for this proposed zoning include 1) land use compatibility with adjacent uses, 2) conformance with the Martha Gardens Specific Plan Land Use Policies and Design Guidelines, 3) conformance with the Spartan/Keyes SNI Plan, and 4) conformance with the Residential Design Guidelines.

Land Use Compatibility and Future Park

The subject site is designated High Density Residential (40-70 DU/AC) in the Specific Plan. It is located directly adjacent to a truck storage facility with a land use designation of Pedestrian Emphasis Public Street and Public Park and Community Facilities (MGSP, 20). The Pedestrian Emphasis Public Street is intended to carry limited amounts of vehicular traffic, however the emphasis should be on designing and maintaining them as high quality lanes that are particularly pedestrian friendly. Features should include, at a minimum, shortened crossings at intersections, crosswalks highlighted by color or texture, complete rows of street trees and appropriate street furniture. Any new development along these streets should be oriented to them in a manner that facilitates pedestrian access and de-emphasizes vehicular access.

Additionally, a central component of the Martha Gardens Specific Plan is a 4.8-acre park, which will provide a wide range of outdoor recreational activities as well as indoor spaces for recreation, education, community meetings, community related arts activities, and other community uses (MGSP, 21). The designated Pedestrian Emphasis Public Street and the park are located directly adjacent to the subject site on the north which is currently used by a trucking company for storage of dump trucks. The trucks leave early in the morning, and return at the end of the workday and are backed into parking spaces located on the shared property line on the north side of the proposed project site. The activity results in an existing exterior noise level that exceeds the decibel level standards of the SJ2020 General Plan. In order to mitigate the noise to an acceptable level, the applicant is required to construct a 7-foot tall solid sound barrier at the property line.

Construction of this barrier will protect residents of the proposed development while the adjacent use is a truck storage facility. However, in the event that the adjacent property is developed into a pedestrian emphasis street and park, the wall presents a non-pedestrian friendly environment. The conversion of the adjacent property into the pedestrian emphasis street and park is not expected for several years. The in-lieu fees generated from this development will likely be combined with an existing funding reserve to be used for the future acquisition and development of the park identified in the Martha Gardens Specific Plan

Staff is recommending that a provision be included in the development standards that allows for the removal of the sound wall in the event the pedestrian street and park are developed. This will likely meet resistance from future residents of the proposed project as it may be perceived as a loss of privacy to the residents with units facing the proposed park, but will at least present the opportunity for alteration in the future should the private development be willing.

Conformance with Specific Plan Land Use Policies

Policy 4.3: Appropriate setbacks and buffer treatments should be established between new residential development and remaining industrial uses

The project proposes a 12-foot setback to the living space from adjacent industrial use on the north and east side. Additionally, the applicant is required to construct a solid 7-foot barrier to mitigate noise impacts from adjacent uses. The setback and soundwall are appropriate for this site because the project must mitigate the noise from the adjacent existing industrial uses, but also provide a pedestrian oriented environment when the adjacent use is developed as a park.

Policy 4.4: An appropriate interface should be established between new residential development and the two parks adjacent to this Sub-Area. Projects facing a park across the street should be carefully designed to orient to the street and park with individual entries, significant windows, an exceptional pedestrian environment and high quality landscaping.

Staff proposes to incorporate a requirement to allow the removal of the sound wall in the event of the adjacent property turning into the pedestrian emphasis street and park. Although unit entries are internal, the project facade facing the park includes balconies and private outdoor space that would provide an active pedestrian environment and eyes on the future park.

Policy 4.6: New residential development should be designed with a strong street orientation.

The project proposes residential units on the ground floor of the development. Staff is recommending that the width of the entryway to the development be increased during the Planned Development Permit stage to create more of a presence on the street at the project frontage.

Policy 4.10: Parking and servicing facilities should be well integrated within development sites and not detract from the pedestrian environment and neighborhood character of the area.

The parking entrance is sloped as it leads into the submerged parking garage. The controlled access gate is setback into the building by three feet.

Conformance with Specific Plan Urban Design Guidelines

Height and Massing

The MGSP states that the maximum height of development on property designated High Density Residential (40-70 DU/AC) should be an average of 55 feet or four floors which might be achieved by balancing equivalent building footprint areas of three stories and five stories (65 feet) within a single project. Diversity of building heights is encouraged with a minimum variation of ten feet for at least 25% of the development footprint. Height variations may include minor incursions above 65 feet for architectural elements, permitted to a maximum height of seventy feet.

The project proposes a maximum height of 53 feet, with variation between 40 and 53 feet. This height is below the average that is stated in the Specific Plan, however the variation meets the 10-foot minimum requirement. Staff finds the height to be acceptable because it is compatible with existing residential development located to the south of the project. Also, additional height for the project would likely require an increase in the number of units at the site, which would also increase the number of off-street parking spaces required, however there is no additional space for off-street parking spaces. Staff does not support the use of on-street parking spaces in this area due to neighborhood concern regarding parking in the neighborhood.

Setbacks and Build-to Lines

Front yards and Encroachments: In order to promote a continuous street frontage, the Specific Plan encourages new development to build to the setback line for at least 75% of the parcel boundary fronting any public street. A front yard setback of a minimum of ten feet and

maximum of fifteen feet, behind the required sidewalk width, is required for residential frontages in this area. The setback area along residential street frontages should be developed with turf and planting to enhance the landscape quality of the streetscape. Within this area, encroachments for stoops, porches, bay windows and balconies will be allowed up to a maximum of 60% of the total setback area with a maximum encroachment of five feet.

The project proposes a 15 maximum setback from the front property line. The entryway stairs and ADA ramp access extends four feet into the 10 foot minimum setback area. This encroachment covers only 17% of the setback area, and is less than the five foot maximum encroachment. Staff is recommending that the applicant enlarge the entryway area if possible to create a greater pedestrian orientation, however the total encroachment will be required to be less than 60% of the total setback area.

Street Frontage Treatment

Primary entries to ground floor dwelling units and to upper level "walk-up" flats should be encouraged along all streets within the Sub-Area.

The project proposes a residential unit facing the street on Third Street without an individual private entry. However the main entry for the development is located on Third Street, and staff is recommending that the main entry be made more prominent in order to provide a more pedestrian oriented environment.

Architectural Treatment and Materials

The quality of architectural treatment should be of the highest standards with a variety of robust materials employed. New construction should avoid the appearance of monolithic projects. Individual units should be clearly expressed through overall massing and roof treatment, as well as changes in building plan, colors and/or materials. In order to create a lively street frontage, all buildings should have a maximum perceived length of 125 feet to discourage long and monotonous facades. Facades should be further modulated at intervals of approximately fifty to sixty feet and broken down into smaller discrete elements whenever possible.

Although details of the architectural treatment and materials for the proposed development will be determined during the Planned Development permit stage for the project, the current design proposal provides breaks and modulation in the roofline of the building. For example, the project breaks up the length of the building by providing a separation after the first 65 feet of the building, and provides a vertical break in the building approximately every 30 feet for the length of the building.

Parking Access and Treatment

Off-street parking on other street frontage within the Sub-Area should be below grade and/or encapsulated and hidden from views from all public streets. On-street parking, on the other hand, is strongly encouraged wherever possible to provide a more protected sidewalk environment for pedestrians and to enliven the street.

The project proposes to provide 65 parking spaces in a submerged parking garage beneath the residential. The project does not propose any on-street parking to meet its parking requirement.

Comments received at the community meeting for this project suggested that on-street parking is not a desire of the community, contrary to the Urban Design Guideline in the Specific Plan.

Open Space

For each dwelling unit, 100 square feet of usable common space should be provided on site. In addition, a minimum of 60 square feet of private outdoor space in the form of balconies, terraces, or patios should be provided for at least 50% of the units within the project.

The project proposes approximately 5400 square feet of common open space in the form of a central common area for the project, and a community room for use by the residents for a total of approximately 145 square feet per residential unit. This exceeds the amount of public open space required for the project. Finally, the project provides a private balcony or patio of approximately 100 square feet for each residential unit, again an amount in excess of that recommended in the Specific Plan.

Spartan/Keyes SNI Plan

The project is located within the boundaries of the Spartan/Keyes SNI area. Please note that the Spartan/Keyes refers to the "East Gardner Specific Plan", however this was later renamed "Martha Gardens Specific Plan." The Martha Gardens Specific Plan was intended as a larger policy document, while the Spartan/Keyes SNI Plan addresses specific action items and their implementation. The proposed project supports the following Goals and Objectives of the Spartan/Keyes SNI Plan

Neighborhood Condition and Maintenance

The project will be required to reconstruct curbs, gutters, and sidewalks after construction is completed. The project will also be required to plant street trees and install street improvements in conformance with the public improvement requirements

Neighborhood Development

The SNI plan encourages the relocation of auto-related and light industrial businesses to other areas within the City, and support neighborhood-scale residential infill development. The proposed project proposes replacing an industrial use with a three-story residential development, which supports this SNI Goal.

Residential Design Guidelines

The Residential Design Guidelines provides direction for Podium Cluster Housing product types such as the proposed project. The Martha Gardens Specific Plan provides standards for the front setback, height, open space, and street frontage. The Residential Design Guidelines provide standards for treatment of the podium structure, side and rear setbacks, and the number of parking spaces required, and side and rear setbacks.

Podium

The minimum setback for submerged parking garage from the side and rear property line is five feet, and vehicular access to garage openings should be inset into the building to reduce its visibility. The applicant proposes a 5-foot setback for the parking garage setbacks, and has proposed a 5-foot recessed opening in order to reduce the visibility of the garage from the street.

Parking Spaces

The Residential Design Guidelines recommends, consistent with the Zoning Code, off-street parking to be provided for the proposed project at the following ratios:

Unit Size	All Open Parking
1 Bedroom	1.5
2 Bedroom	1.8
3 Bedroom	2.0

The project proposes a total of 15 one-bedroom units, 11 two-bedroom units, and 11 three-bedroom units, which requires a total of 64.3 parking spaces. The project provides 65 off-street parking spaces, and meets the standard for required parking.

PUBLIC OUTREACH

A notice of the public hearing was distributed to owners and tenants of all properties located within 500 feet of the project location. This staff report was made available on the Planning Department's website one week prior to the Planning Commission hearing. Staff has been available to discuss the project with interested members of the public.

Community meeting notices were mailed to residents within 500 feet of the project site. The meeting was held at the Biblioteca Latinoamerica Library Community Room on April 23, 2007. Approximately 25 residents attended. The community input reflected the sentiment that the city does not require developers to provide sufficient parking for new development in their neighborhood. They are concerned that the project will increase the amount of on-street parking, which is already limited. Residents also expressed a desire for variation in the roofline of the development, especially since it is located adjacent to a future park. Additionally, residents were concerned about where construction workers would park during development of the project. Finally, residents were concerned that there is no incentive for development of the planned neighborhood park.

The project proposes to provide the required number of off-street parking spaces in conformance with the San Jose Zoning Ordinance and does not propose any on-street parking in order to meet these standards. Also since the community meeting, the developer has provided an updated project design that includes variation in the roofline of the project, and greater articulation in the facade facing the park to address community concerns. Additionally, the applicant shall be required to implement a Construction Impact Mitigation Plan at the Planned Development Permit state to address parking impacts during construction. Finally, according to Redevelopment Agency staff, the in-lieu fees generated from this development will likely be combined with an

existing funding reserve for the future acquisition and development of the park identified in the Martha Gardens Specific Plan.

RECOMMENDATION

Staff recommends that the following special conditions be added to the Draft Development Standards for the project:

1. The front entry area should be increased in size to provide a more pedestrian oriented entrance to the project, but total area should not exceed 60% of the total setback area.
2. The sound barrier located on the north side of the project should be encouraged to be removed when the pedestrian emphasis street and adjacent park are developed.
3. The applicant shall implement a Construction Impact Mitigation Plan at the Planned Development Permit stage to address parking impacts during construction of the project.

Planning staff recommends the Planning Commission forward a recommendation to the City Council to approve the proposed Planned Development Rezoning for the following reasons:

1. The project conforms to the General Plan Land Use/Transportation Diagram designation of High Density Residential (40-70 DU/AC).
2. The proposed Planned Development Rezoning furthers the General Plan Growth Management Major Strategy.
3. The proposed Planned Development Rezoning implements the Martha Gardens Specific Plan.
4. The project conforms to the parking and setback requirements of the Residential Design Guidelines.
5. The project will be designed to be compatible with the surrounding neighborhood.

Attachments

- A. Draft General Development Plan Notes
- B. Location Map
- C. Public Works Memorandum
- D. Parks, Recreation, and Neighborhood Services Memorandum
- E. Martha Gardens Specific Plan Land Use Plan
- F. Martha Gardens Specific Plan Sub Areas
- G. Martha Gardens Specific Plan Infill West Sub-Area Land Use Policies/ Design Guidelines
- H. Spartan/Keyes SNI Map and Goals and Objectives
- I. Correspondence from Spartan/Keyes NAC
- J. Mitigated Negative Declaration

PDC07-002

DRAFT GENERAL DEVELOPMENT PLAN NOTES

The following notes are to be incorporated on the final General Development Plan upon City Council Approval.

ALLOWED USES:

Up to 37 single-family attached residential units with associated parking.

DEVELOPMENT STANDARDS:

Building Height:

- Height- 53 feet with minimum 10 foot variation

Perimeter Setbacks:

Minimum Front Setbacks (linear feet)

- Minimum 10 feet, Maximum 15 feet to building face with 5 feet of encroachment for stoops, porches, bay windows, and balconies. Encroachments for stoops, porches, bay windows and balconies will be allowed up to a maximum of 60% of the total setback area with a maximum encroachment of five feet.

Minimum Rear Setbacks (linear feet)

- Minimum 6 feet to rear balcony and 11 feet to building face

Minimum Side Setbacks (linear feet)

- North side (facing industrial) - Minimum 12 feet to living space, 6 feet to private open space
- South side (facing residential) - Minimum 12 feet to living space, 6 feet to private open space

Private Open Space

A minimum of 60 square feet of private outdoor space in the form of balconies, terraces, or patios should be provided for at least 50% of the units within the project.

Common Open Space

For each dwelling unit, 100 square feet of usable common space should be provided on site.

Parking

Must conform to Table 20-210 of San Jose Zoning Ordinance.

Living Unit Size	Type of Parking Facility		
	All Open Parking	One-Car Garage	Two-Car Garage
0 Bedroom (Studio)	1.5	1.6	2.2
1 Bedroom	1.5	1.7	2.3
2 Bedroom	1.8	2.0	2.5
3 Bedroom	2.0	2.2	2.6
Each Additional Bedroom	0.15	0.15	0.15

Residential Uses in Redevelopment Area

- If the project described in this permit is located in a Redevelopment Project Area and includes construction or rehabilitation of residential units, Developer shall comply with the City's Inclusionary Housing Policy and record against the property described in this permit evidence of compliance with the City's Inclusionary Housing Policy, prior to issuance of a building permit, including, if required, the appropriate affordability restrictions.

Homeowners' Association

- A homeowners' association shall be established for the owners of the units. The association will be responsible for maintenance of all common areas including but not limited to the parking, vehicular circulation, and all common areas.

Park Impact Ordinance

- Development of the site shall conform to the Park Impact Ordinance.

Design

- The front entry area should be increased in size to provide a more pedestrian oriented entrance to the project, but total area should not exceed 60% of the total setback area.
- The sound barrier located on the north side of the project should be removed when the pedestrian emphasis street and adjacent park are developed.
- The applicant shall implement a Construction Impact Mitigation Plan at the Planned Development Permit stage to address parking impacts during construction of the project.

ENVIRONMENTAL MITIGATION:

AIR QUALITY

- The Bay Area Air Quality Management District (BAAQMD) has prepared a list of feasible dust control measures that could reduce construction air quality impacts to a less-than-significant level. The following mitigation would be implemented during all phases of construction on the project site:
 - Water all active construction areas at least twice daily or as often as need to control dust emissions.
 - Cover all trucks hauling soil, sand, gravel and other loose materials (including demolition debris) and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
 - Pave, apply water three times daily or as needed, or apply (non toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction site.

- Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
- Sweep public streets daily or as often as needed to keep streets free of visible soil material.
- Hydroseed or apply (non toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Limit traffic speeds on unpaved roads to 15 miles per hour (mph).
- Install sandbags or other erosion control measures to prevent silt runoff onto public roadways.

CULTURAL RESOURCES –

- **Mitigation Measure 2:** Prior to the issuance of demolition permits a qualified archaeologist shall be retained by the Project applicant to train the construction crew on mechanisms used to identify cultural resources. If buried cultural resources (such as chipped or ground stone tools, historic debris, building foundations, or nonhuman bone) are discovered during ground-disturbing activities, the construction contractor shall stop work in that area and within 100 feet of the find until a qualified archaeologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the City of San Jose. Treatment measures shall include development of avoidance strategies, capping with fill material, or mitigation of impacts through data recovery programs such as excavation or detailed documentation.
- In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, the Coroner shall notify the Native American Heritage Commission, which shall attempt to identify descendents of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to state law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further surface disturbance.

GEOLOGY AND SOILS

- The Project applicant shall submit a soil investigation report addressing the potential hazard of liquefaction to the City Geologist, who shall review and approve the report

prior to issuance of a grading permit or Public Works Clearance. The investigation shall be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the South California Earthquake Center (“SCEC” report). A recommended depth of 50 feet shall be explored and evaluated in the investigation.

- The Project applicant or construction contractor shall implement Best Management Practices (BMPs) for construction activities in conformance with the City’s regulations and permit requirements. The BMPs shall include appropriate control measures to reduce the potential for erosion. The control measures shall be included in the plans, specifications, and contract documents for the construction of all phases of the proposed Project and shall be developed with the following objectives and basic strategy:
 - Protect disturbed areas by minimizing the duration of exposure (e.g., cover disturbed areas with rolled plastic sheeting or other like material);
 - Control surface runoff (e.g., use sand bags) and maintain low runoff velocities;
 - Trap sediment on-site; and,
 - Minimize length and steepness of slopes.
- To reduce the risk of differential movement and cracking, the subgrade conditions underneath the proposed foundations and slabs-on-grade shall be modified or improved. Improvements may involve replacing the material under foundations and slabs-on-grade with “non-expansive” material, or modifying expansive soil by compaction control, prewetting, and the installation of moisture barriers. Inclusion of acceptable measures shall be verified by the City Engineer prior to the issuance of building permits.

HAZARDS AND HAZARDOUS MATERIALS –

The following mitigation measures have been included in the project to reduce hazardous materials impacts to a less than significant level.

- Prior to the issuance of demolition permits, the existing onsite warehouse shall be sampled as part of a lead hazard evaluation in compliance with the California Health and Safety Code. A Certified Lead-Related Construction Supervisor shall supervise the abatement and disposal if lead is found in the building. Lead shall be removed, transported, and disposed of in compliance with applicable state and federal laws. The existing corrugated sheet metal warehouse likely contains asbestos-containing construction materials (ACCMs). The ACCMs may include vinyl floor coverings, wallboards or plaster skim coatings, asphalt roofing felts, and insulation materials. These materials could pose a health threat if they are not properly handled and disposed of during demolition of buildings. Therefore, mitigation measures would be required.

- Prior to the issuance of demolition permits, the existing onsite warehouse shall be sampled as part of an asbestos survey in compliance with the National Emissions Standards for Hazardous Air Pollutants. If asbestos is found in the building, asbestos related work (including demolition) involving 100 square feet or more of asbestos containing materials (ACM) shall be performed by a Licensed Asbestos Abatement Contractor under the supervision of a Certified Asbestos Consultant. Asbestos shall be removed, transported, and disposed of in compliance with applicable state and federal laws. Since some fluorescent lighting ballasts contain PCB capacitors, there is the potential for PCBs to be located within existing warehouse.
- Prior to the issuance of demolition permits, the existing onsite warehouse shall be surveyed for fluorescent light ballasts. The type of ballasts/capacitors shall be identified to determine the appropriate remedial activities (i.e., proper disposal).

HYDROLOGY AND WATER QUALITY –

- The proposed Project shall implement Best Management Practices (BMPs) for construction activities in conformance with the City's regulations and permit requirements, including but not limited to a grading permit and/or an erosion control plan, etc. The BMPs shall include appropriate control measures to reduce any impacts on water quality in accordance with the City's regulations and permit requirements. Stormwater quality controls shall include appropriate measures from documents such as the Santa Clara Urban Runoff Pollution Prevention Program's recommended BMPs for construction activities (as contained in the "Blueprint for a Clean Bay"), "Start at the Source-Design Guidance Manual for Stormwater Quality Protection," and the "California Storm Water Best Management Practice Handbook for Construction." The Project shall conform to San Jose's City Council Policy 6-29, the Post Construction Urban Runoff Management Policy, which requires implementation of 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 as specified in City Policy 6-29. At the PD Permit stage, the Project Applicant or construction contractor shall submit the final Stormwater Control Plan and numeric sizing calculations. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance. The Project Applicant or construction contractor shall retain a civil engineer to observe the installation of the BMPs. The civil engineer shall prepare and submit a Final Report to the Director of Public Works that states that all the post construction storm water pollution control BMPs have been installed as indicated in the approved plans and that all significant changes have been reviewed and approved in advance by the Department of Public Works.

NOISE

Mitigation: The following measures are included in the project to reduce significant long-term noise impacts:

- Prior to issuance of building permits, the Project applicant shall document that the selected building materials and design of the building will provide the necessary noise reduction to ensure the prevention of exterior source noise above 45 dBA DNL within habitable interior spaces of the condominiums with windows (and doors, where applicable) closed, and the provision of adequate ventilation to make sure such closure is practical. A typical way to achieve exterior source noise at and below 45 dBA DNL within the habitable interior spaces of the condominiums includes modifying elements of building construction (i.e., walls, roof, ceiling, windows, and other penetrations), as necessary to provide sound attenuation. This may include sealing windows, installing thicker or double glazed windows, locating doors on the opposite side of a building from the noise source, or installing solid-core doors equipped with appropriate acoustical gasket
- The Project applicant shall implement the following measures to reduce exterior noise levels to meet the 60 dBA DNL noise standard:
 - A sound barrier constructed along the site perimeter adjacent to the Grifall Trucking Company would reduce noise levels for patios of first floor residents facing the trucking company. Based on preliminary project plans, a solid barrier seven feet in height would be required to meet the 60-dBA DNL exterior standard. Acceptable materials for the construction of the barrier shall have a weight of 3.5 pounds per square foot of surface area and may be composed of the following: masonry block, stucco veneer over wood framing (or foam core), glass, Plexiglass Lexan (1/4 inch thick). The barrier may also be constructed out of a combination of the above listed materials.
- As a means of limiting the potential noise impacts associated with construction activities, the following measures shall be incorporated into the proposed Project:
 - Limit noise-generating construction activities, including truck traffic coming to and from the site for any purpose, to 7:00 a.m. to 7:00 p.m. Monday through Friday.
 - Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
 - Utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
 - Locate stationary noise-generating equipment as far as practical from sensitive receptors when sensitive receptors adjoin or are near a construction Project area.
 - Prohibit unnecessary idling of internal combustion engines.
 - Designate a “noise disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures warranted to correct

the problem. The telephone number of the disturbance coordinator shall be conspicuously posted at the construction site.

PUBLIC WORKS

Public Works Clearance for Building Permit(s): Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

1. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
2. **Transportation:** The projected traffic for this project was reviewed and found to be minimal; therefore no further traffic analysis is required.
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) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - c) 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.
4. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29.
 - a) At PD stage, submit the final Stormwater Control Plan and numeric sizing calculations.

- b) Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - c) A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating the all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
5. **Flood: Zone X:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone X is an area of moderate or minimal flood hazard. Zone X is used on new and revised maps in place of Zones B and C. There are no City floodplain requirements for zone X.
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. **Undergrounding:**
- a) The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to South 3rd Street prior to issuance of a Public Works clearance. 100 percent of the base fee in place at the time of payment will be due. (Currently, the base fee is \$224 per linear foot of frontage.)
 - b) The Director of Public Works may, at her discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to South 3rd Street . Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
9. **Street Improvements:**
- a) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - b) Remove and replace curb, gutter, and sidewalk along project frontage.
 - c) Close unused driveway cuts.
 - d) Proposed driveway width to be 26'.
 - 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.

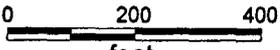
10. **Complexity Surcharge (In-Fill):** This project has been identified as an in-fill project, and as such is subject to the following: Based on established criteria, the public improvements associated with this project have been rated medium complexity. An additional surcharge of 25% will be added to the Engineering & Inspection (E&I) fee collected at the street improvement stage.
11. **SNI:** This project is located within the Spartan/Keyes SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
12. **Sanitary:** The project is required to submit plan and profile of the private sewer mains with lateral locations for final review and comment prior to construction.
13. **Electrical:** Installation, relocation or upgrading of existing electroliers along the project frontage may be required and will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
14. **Street Trees:**
 - a) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
 - b) Contact the City Arborist at (408) 277-2756 for the designated street tree.
 - c) 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 behind the sidewalk. Obtain a DOT street tree planting permit for any proposed street tree plantings.
15. **Referrals:** This project should be referred to the Southern Pacific Railroad.

B

Location Map with Noticing Radius




Map Created On:
1/5/2007

Scale 1 in = 300 ft 1:3600
Noticing Radius: 500 ft

0 200 400
feet

File Number: PDC07-002
District: 3
Quad No: 83

WDW

Memorandum

TO: Michelle Stahlhut
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

**SUBJECT: FINAL RESPONSE TO
DEVELOPMENT APPLICATION**

DATE: 02/09/07

PLANNING NO.: PDC07-002
DESCRIPTION: Planned Development Rezoning from the HI Heavy Industrial Zoning District to the A(PD) Planned Development Zoning District to allow up to 37 residential multiple dwelling units on a 0.713 gross acre site
LOCATION: east side of South 3rd Street approximately 500 feet north of Keyes Street
P.W. NUMBER: 3-18123

Public Works received the subject project on 01/08/07 and submits the following comments and requirements.

Project Conditions:

Public Works Clearance for Building Permit(s): Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

1. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
2. **Transportation:** The projected traffic for this project was reviewed and found to be minimal; therefore no further traffic analysis is required.
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) 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.
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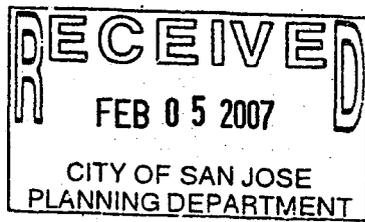
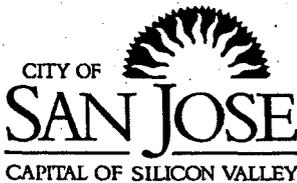
reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.

4. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29.
 - a) At PD stage, submit the final Stormwater Control Plan and numeric sizing calculations.
 - b) Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - c) A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating the all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
5. **Flood: Zone X:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone X is an area of moderate or minimal flood hazard. Zone X is used on new and revised maps in place of Zones B and C. There are no City floodplain requirements for zone X.
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. **Undergrounding:**
 - a) The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to South 3rd Street prior to issuance of a Public Works clearance. 100 percent of the base fee in place at the time of payment will be due. (Currently, the base fee is \$224 per linear foot of frontage.)
 - b) The Director of Public Works may, at her discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to South 3rd Street. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
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 - a) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
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 - c) Close unused driveway cuts.

- d) Proposed driveway width to be 26'.
 - 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.
10. **Complexity Surcharge (In-Fill):** This project has been identified as an in-fill project, and as such is subject to the following: 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. **SNI:** This project is located within the Spartan/Keyes SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
12. **Sanitary:** The project is required to submit plan and profile of the private sewer mains with lateral locations for final review and comment prior to construction.
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 - c) 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 behind the sidewalk. Obtain a DOT street tree planting permit for any proposed street tree plantings.
15. **Referrals:** This project should be referred to the Southern Pacific Railroad.

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



D

Memorandum

Michelle Stahlhut
TO: Lee Bulter
PBCE Dept.

FROM: David J. Mitchell
PRNS Dept.

SUBJECT: PDC07-002 – APN 472-15-026

DATE: 2-2-07

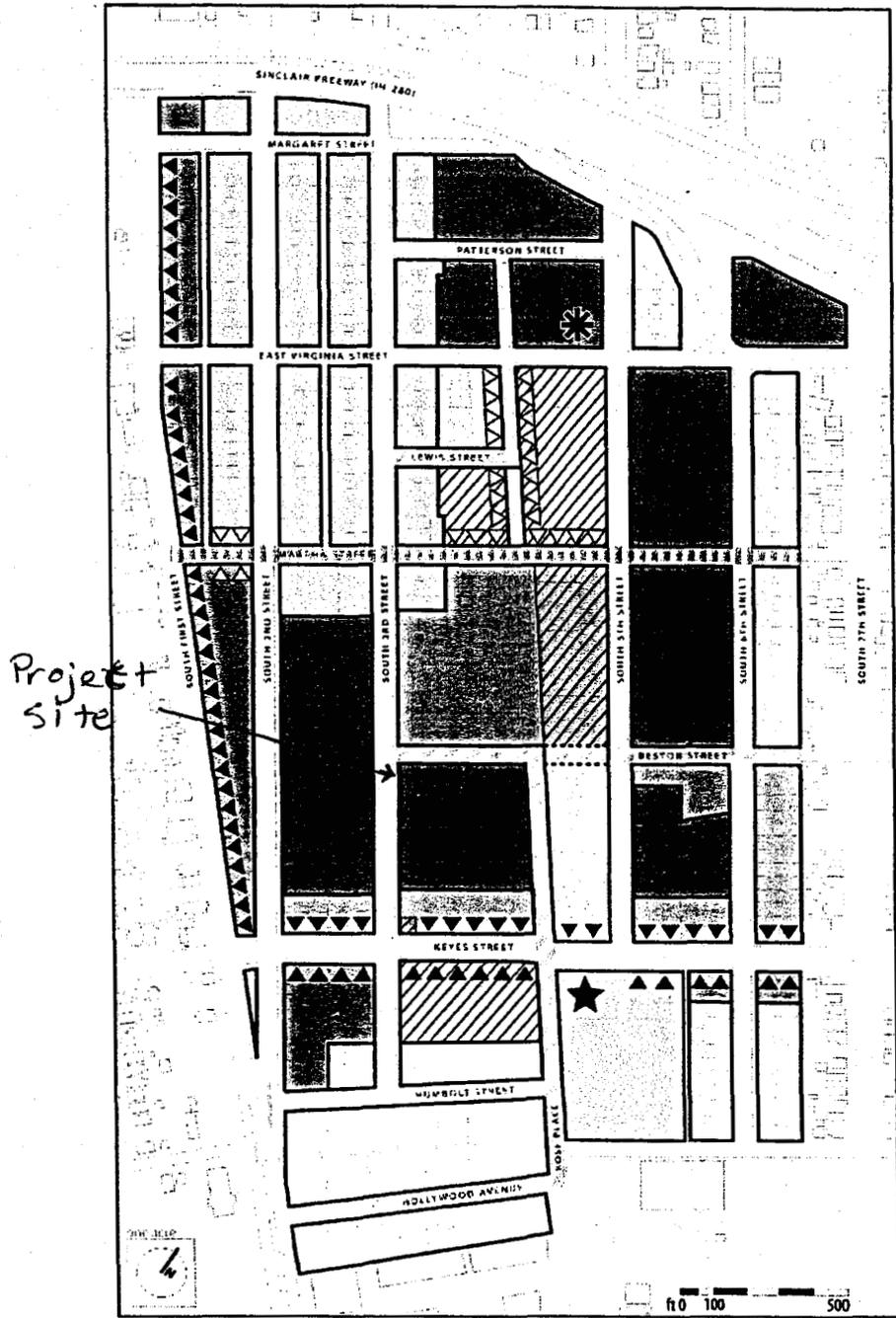
The above referenced project is a Planned Development Rezoning from HI Heavy Industrial Zoning District to A(PD) Planned Development District to allow up to 37 multi-family attached residential units on a 0.713 gross acres site located on the east side of South 3rd Street, approximately 500 feet north of Keyes Street in CD 3 (APN 472-15-026).

If the zoning is approved by the City, the project must then comply with the requirements of either the Parkland Dedication Ordinance (PDO) or the Park Impact Ordinance (PIO). Due to its size of the proposed housing project is under 50 units and per the requirements of both PDO and PIO, the City can request the Developer to pay the associated park in-lieu fees. Restricted low, very-low and/or extremely-low income units are exempt from both the PDO and PIO.

If the proposed project is approved, and if the project obtains a Plan Development Permit, a Site Development Permit and/or a Tentative Map by July 9, 2007, then the project would be subject to the current fees at 70% of the 2001 land values and would be subject to such fees until January 31, 2009. The PDO In-Lieu Fee are due before the project's final map is approved, or as a condition of the City's approval of the project's final map, the developer can enter into a parkland agreement with the City, which provides for payment of the parkland fees in full, concurrent with the issuance of the building permits, which actual creates the residential units, but no later than one year after the City's approval of the final map. The PIO In-Lieu Fees are due prior to the issuance of the building permit which creates the actual residential units. If the project does not have a Plan Development Permit, a Site Development Permit, and/or a Tentative Map by July 9, 2007, then it will be subject to the fees in effect at the time of payment. If the project obtains a Plan Development Permit, a Site Development Permit, and/or a Tentative Map by July 9, 2007, but has not paid its In-Lieu Fees on or before January 31, 2009, then the project would be subject to the fees in effect at the time of payment.

If you have any questions, please give me a call at 408-793-5528.

DAVID J. MITCHELL
Parks Planning Manager



Project Site

- | | | |
|---|---|---|
| Preservation/Single Family
8 du/ac | Arts/Related Mixed Use
(various densities) | Health Clinic |
| Preservation/Single Family/Duplex
8-16 du/ac | Public Park and Community Facilities | Neighborhood-Serving Uses |
| Victorian Preservation Mixed Use
8-20 du/ac (up to 0.75 FAR) | Pedestrian Way | Neighborhood-Serving Uses Encouraged |
| High Density Residential
20-50 du/ac (up to 1.5 FAR) | Pedestrian Emphasis Public Street | Potential School Site,
Illustrative Only |
| High Density Residential
40-70 du/ac (up to 2.5 FAR) | Pedestrian Corridor | |
| Commercial/Mixed Use
(up to 1.5 FAR/40 du/ac) | Adaptive Re-Use (various densities) | |
| Commercial/Light Industrial
(up to 0.5 FAR) | | |

Figure 2: Land Use Plan

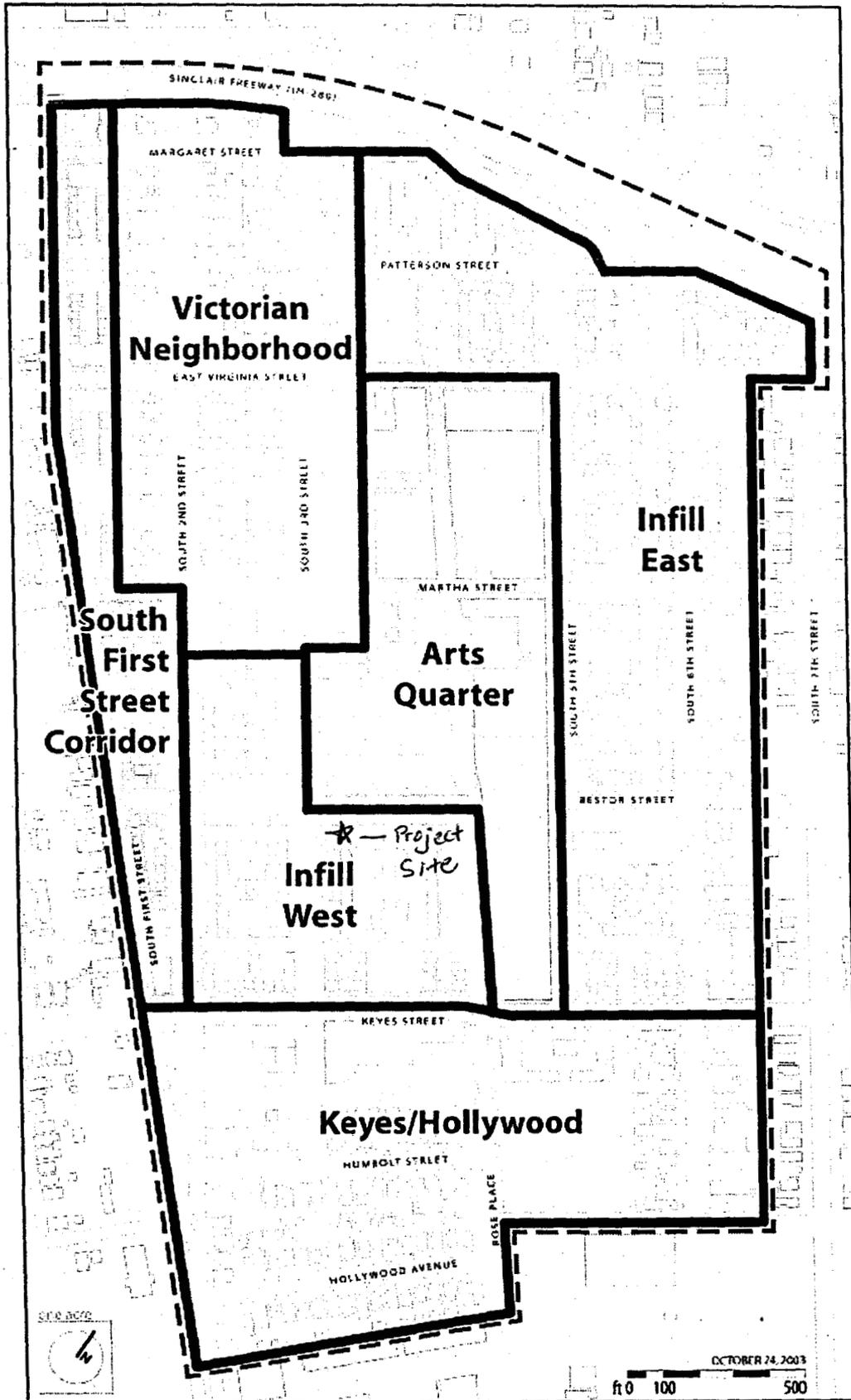


Figure 4: Sub Areas

remove dust and debris, and minimize all air born matter form leaving the site. Remove all rubbish and debris from areas visible from public streets at least once a week. Meet all Bay Area Air Quality Management District air quality requirements.

- **Buffering Treatment:** To the maximum extent feasible incorporate buffer treatment including screen walls and driveways that provide separate on-site access and circulation to maximize compatibility between industrial and adjacent residential uses.
- **Hours of Operation:** Do not operate between midnight and 6 a.m. and produce no significant operational noise between 10 p.m. and midnight.

Limit construction hours to hours between 7 a.m. to 7 p.m. Monday through Friday for any activity within 500 feet of residential use. Construction activities within buildings that do not generate any audible noise outside may be permitted on Saturdays between the hours of 7 a.m. and 7 p.m.
- **Outdoor Storage or Use:** Minimize the impacts of industrial and commercial storage activities on Arts Quarter residential uses to the extent feasible.
- **Loading and Servicing:** Minimize views of loading docks and service areas from residential properties in other Sub-Areas and from public streets to the maximum extent feasible. Minimize conflict with pedestrian or vehicular circulation within the public right-of-way.
- **New Residential Use:** New residential use should not be introduced in or adjacent to industrial buildings where they will be subject to a level of incompatibility from existing industrial

operations that the new residential use cannot mitigate to acceptable levels of impact for this Sub-Area.

Loading and Servicing

Working loading docks and service areas should be shielded from views from all public streets. Loading and servicing will not be permitted in areas that result in the obstruction of pedestrian or vehicular circulation within the public right-of-way. In addition, any loading or delivery activities permitted from the pedestrian promenade should be severely limited in hours of use, incidence and/or size in order to facilitate the pedestrian use of the promenade.

Private and Common Open Space

Private and/or common open space is encouraged in association with residential uses in the Arts Quarter. The many issues related to reuse of historic buildings and the fact that most are built right to property lines, however, make it infeasible to quantify a requirement. In addition, the new park will be located in very close proximity to these buildings.

INFILL EAST AND WEST SUB-AREA

The Infill East and Infill West Sub-Area surrounds the Arts Quarter Sub-Area, and is bounded by Interstate 280 on the north, Keyes Street on the south, South Second Street and the Victorian Neighborhood Sub-Area on the west, and South Seventh Street properties on the east.

The Sub-Area is characterized by significant properties that are vacant or underutilized, and that are in the process of transitioning from industrial uses. One such property has recently been developed for multi-family housing (i.e., the Villa

Torre Housing Project on South Fifth and Martha Streets), and three additional projects are in the planning and approvals stage. The Sub-Area also includes two enclaves of single-family homes, along South Sixth Street (north of Bestor Street) and South Fifth Street (north of Virginia Street). The *Plan* calls for this housing to be maintained and further enhanced as the area shifts from its industrial base to a successful and vibrant inner-city neighborhood. In addition to housing in this area, the *Plan* encourages the maintenance of the University's "Foundry" arts facility and the development of the Bestor Park site, located on adjacent parcels at the southeast corner of Martha and South Fifth Streets.

LAND USE POLICIES

Objective 4: Promote residential infill and intensification that provides needed housing for artists and others. New housing should establish a strong sense of neighborhood while preserving enclaves of existing single-family housing.

This Sub-Area has a large number of underutilized and vacant parcels presenting the most substantial opportunities within the *Specific Plan* area for new infill development. The *Plan* encourages redevelopment and intensification of these properties with residential and mixed-use development that can establish a strong sense of neighborhood with a diverse population and a wide range of affordable and market housing opportunities for families, workers, artists, senior citizens, and others.

The concentration and intensification of new housing within the Sub-Area and the larger Martha Gardens area will also allow for local-serving retail uses and amenities to be introduced which can serve new and existing residents, and in so doing enhance the quality of life of the Martha

Gardens, Spartan Keyes, Hollywood, and Washington neighborhoods. Within this Sub-Area, the Keyes Street corridor is envisioned as a neighborhood commercial street with ground level shops that are incorporated into new mixed-use projects.

Policy 4.1: Existing enclaves of single-family residential should be preserved and enhanced.

No increase in intensity or height is proposed for the existing residential enclaves within the Sub-Area: the east side of South Sixth Street (between Bestor and Virginia Streets) and the east side of South Fifth Street north of Virginia Street. Existing homes along these frontages should be preserved and rehabilitated wherever possible; any new development should consist of compatible single-family houses or duplexes depending on applicable zoning districts. These areas are currently located in a variety of residential and non-residential zoning districts.

Policy 4.2: Residential intensification of underutilized industrial and general commercial parcels is encouraged.

The East Infill and West Infill Sub-Area has a substantial number of vacant and underutilized properties that are suitable for a mix of housing types that could serve a diversity of income levels and age groups. The proximity of these sites to public transit and to major employment destinations including the downtown make them ideally suited for residential intensification. A variety of unit types are encouraged including: artist and loft style housing, a variety of condominiums and flats, street-oriented townhomes suitable for families, and studio and small flats for entry-level workers and seniors. A mix of ownership and rental housing is encouraged to promote a balanced community of long and shorter-term residents. To the extent possible, affordable housing units, including those required by Redevelopment regulations,

should be integrated with market-rate units to promote a diverse and heterogeneous community.

Policy 4.3: Appropriate setbacks and buffer treatments should be established between new residential development and remaining industrial uses.

While this *Plan* promotes the conversion of properties within this Sub-Area to residential and mixed-use, several industrial or other uses may choose to stay for some time or permanently. Examples of the latter may be San Jose State University's Foundry and businesses located in the American Can Company Warehouse on South Fifth Street.

The *Plan* recognizes that potential land use conflicts could occur between these uses and newly developing residential uses. To minimize such conflicts, the *Plan* calls for new development, including residential development, that creates or intensifies a residential/non-residential interface to incorporate appropriate buffer treatments, including building setbacks, screen walls, driveways and landscaping. In addition, new development should be designed to mitigate noise conditions in compliance with the City of San Jose General Plan noise compatibility goals.

Policy 4.4: An appropriate interface should be established between new residential development and the two parks adjacent to this Sub-Area. Projects facing a park across the street should be carefully designed to orient to the street and park with individual entries, significant windows, an exceptional pedestrian environment and high quality landscaping.

New housing adjacent to Bestor Park should be designed for compatibility with the park and mutual benefit. For example, low buildings, project open space and/or resident leisure activities should be located adjacent to the park. Siting of tall portions

of buildings, noisy equipment and service yard activities should be avoided near the park.

Policy 4.5: Ground-level neighborhood-serving commercial uses are required along the Keyes Street frontage in support of the Plan's emphasis on Keyes Street as a neighborhood commercial/mixed-use street.

The Keyes Street corridor is envisioned as a mixed-use district that will include convenience retail, restaurant and neighborhood-serving commercial uses. In order to achieve this vision, ground floor spaces should be occupied by those uses and should be oriented to the Keyes Street sidewalks to promote retail continuity and an active pedestrian environment. Drive-through uses are not permitted.

Policy 4.6: New residential development should be designed with a strong street orientation.

A key component in creating a vibrant residential neighborhood lies in the interaction between the ground floor of new projects and the adjacent streets. As such, residential development in the Infill Sub-Area, but not on Keyes Street, should be configured to include ground level units with their primary access from adjacent streets to help foster a strong sense of community and ownership, and to promote a more secure street environment. Porches, stoops, and entryways set back from the street that activate the building façade and humanize the scale of buildings are required along all residential street frontages.

Policy 4.7: New residential development should be complimentary in scale and character to adjacent single-family homes in the Spartan Keyes neighborhood.

New development in the Sub-Area should make a positive contribution to the character and scale of the neighborhood,

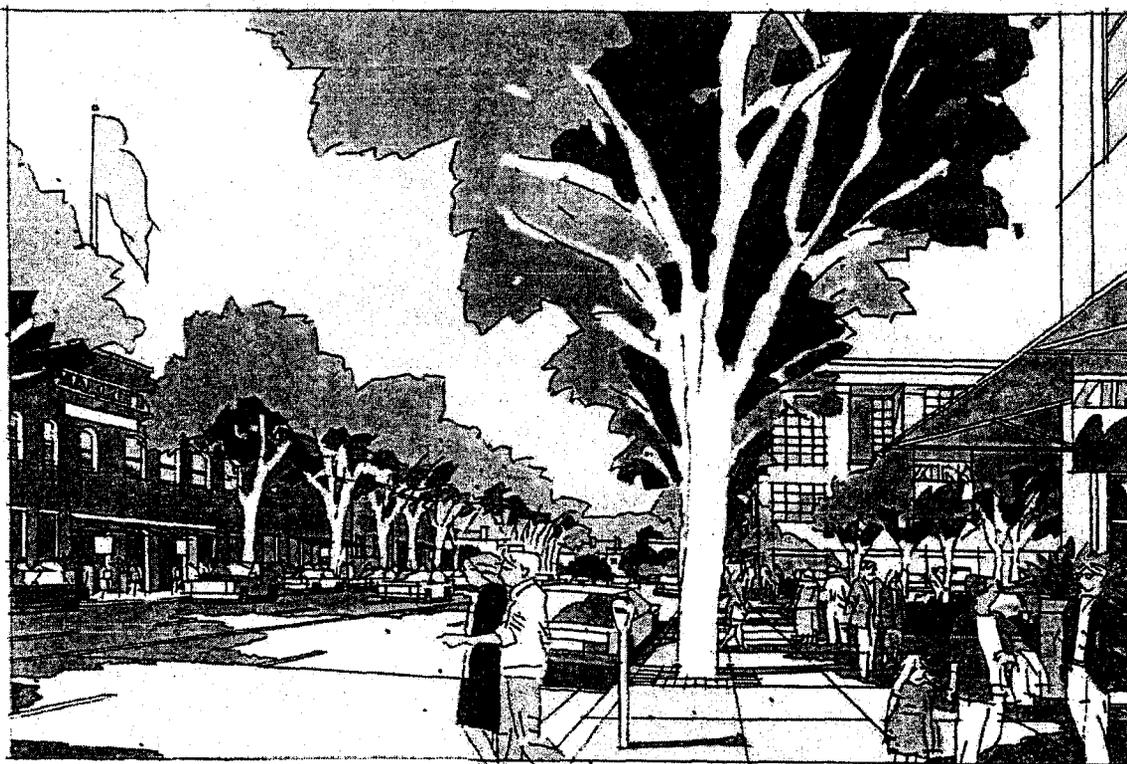


Diagram I: Keyes Street is envisioned as a neighborhood, pedestrian-oriented, commercial/mixed-use street.

and offer an appropriate transition from the scale of single-family homes in the adjacent Spartan Keyes neighborhood and the residential enclaves within the Sub-Area. Large, monolithic buildings should be avoided, with building elevations broken down through creative use of horizontal and vertical expression. Changes in elevation profile and height, the use of balconies, bay windows, loggias, and clearly expressed windows and entryways should be combined to promote interest and scale in building elevations. Where multi-family residential development is located across the South Fifth and South Sixth Street frontages from existing single-family homes, special treatments should be established to establish an appropriate scale relationship.

Policy 4.8: A pattern of development that creates a rich system of pedestrian ways and common open spaces should be established.

As properties are assembled and redeveloped, the pattern of development should offer a finer-grained system of pedestrian ways and open spaces that break down the large blocks in the area. Mews and auto courts that are friendly pedestrian places, as well as courts and gardens that offer relief from the street environment are particularly encouraged.

Policy 4.9: Public streetscape improvements should be provided to facilitate the transformation of the area from a service-oriented industrial area to a pedestrian-friendly neighborhood.

As described in the Community Facilities and Street and Circulation System Chapters, public open space and streetscape improvements will be

important in transforming the Martha Gardens area into an attractive residential neighborhood. Within the Infill East and Infill West Sub-Area, two new pedestrian-oriented streets are proposed to enhance access to the planned park and community center and to break down the excessive scale of the block bounded by Keyes, South Third, Martha and South Fifth Streets. This includes a narrow Pedestrian Emphasis Street along the existing Union Pacific rail right-of-way linking Bestor Street with Keyes Street, and a new segment of Bestor Street between South Fifth and Third Streets. The Union Pacific rail right-of-way between East Virginia and Patterson Streets should also be developed as a Pedestrian Emphasis Street providing a north-south connection to the remainder of the Martha Gardens area. Martha Street will also be reconfigured to provide improved east-west pedestrian access between the Washington and Spartan Keyes neighborhoods and the new park and community center within the Arts Quarter Sub-Area.

Policy 4.10: Parking and servicing facilities should be well integrated within development sites and not detract from the pedestrian environment and neighborhood character of the area.

To maintain a vibrant and sustainable neighborhood, it will be important to provide sufficient on-site parking to meet City of San Jose parking requirements, and to avoid overflow parking impacts in adjacent neighborhoods. Structured parking should be designed in a way that does not impact the quality or continuity of the pedestrian environment. Encapsulated structured parking with ground floor uses, or sub-grade podium structures are encouraged. Small amounts of convenient surface parking not to exceed 120 feet of frontage are allowed along the Keyes Street frontage to support neighborhood-serving commercial uses.

To support the potential reuse of the historic industrial buildings in the Arts Quarter Sub-Area, a parking garage could be constructed nearby in the Infill Sub-Area. For instance, such a garage could be built as part of the redevelopment of the area north of East Virginia Street and west of South Fifth Street, which is partially occupied by the Gardner Health Clinic. The garage could be encapsulated by a new health clinic and housing could be built on the upper levels. The garage could provide parking for the clinic and existing and future uses on both sides of East Virginia Street including for Arts Quarter housing and other uses. The garage could also provide public parking for weekend and evening events in the adjacent Arts Quarter. The design of the garage should meet all design guidelines provided in the *Specific Plan*.

Policy 4.11: The City should prepare an intensive level historic resources survey of potential historic resources in the Infill West portion of the Sub-Area.

Based on a windshield survey conducted by a qualified historic resource consultant, as part of the Environmental Initial Study developed for this *Plan*, there is some number of potentially historic structures in portions of the Infill West Sub-Area designated for high density residential uses. If development is proposed in this area prior to completion of the City conducted survey, individual developers should hire a qualified historic consultant to conduct a survey of the potentially historic properties that would be affected by a given project proposal. This *Plan* encourages the preservation and reuse, if feasible, of any buildings determined to be historically significant. New development in proximity to historic structures in this or other Sub-Areas should be designed to be compatible with the historic character of the resource to preserve the overall historic fabric of the community.

Policy 4.12: In those portions of the Sub-Area for designated for single-family and duplex uses, the historic character of historic residential buildings should be preserved and maintained.

Within the Infill East portion of the Sub-Area there are a number of single-family homes and duplexes built in the early part of the last century. This *Plan* strongly encourages not only the preservation of the single-family and duplex uses in these areas but also preservation of the historic character of the area's older residences. Additions or modifications to these older residential structures should not detract from their historic character. In individual cases, a historic survey may be required to determine the best way to preserve the existing historic character of a given structure.

Policy 4.13: Existing ordinance sized trees in the Sub-Area should be preserved.

The Infill East and West Sub-Area has many attractive ordinance-sized trees which add to the unique character of the area and help to foster pedestrian use. Development projects should include the preservation of ordinance-sized trees wherever possible. Where removal of high quality ordinance-sized trees is necessary, trees should be removed, boxed and replanted on the site as part of the project landscaping.

URBAN DESIGN GUIDELINES

Height and Massing

- Preservation Single Family (PSF) (8 DU/AC) and Preservation/Single Family/Duplex (PSF/D) (8-16 DU/AC): The maximum height of new development for properties in these designations should be thirty feet and two stories.
- High Density Residential (20-50 DU/AC) and High Density Residential (40-70 DU/AC): The maximum height of development on properties designated for *High Density Residential (20-50 DU/AC)* and *High Density Residential (40-70 DU/AC)* should be an average of 55 feet or four floors which might be achieved by balancing equivalent building footprint areas of three stories and five stories (65 feet) within a single project. Diversity of building heights is encouraged with a minimum variation of ten feet for at least 25% of the development footprint. Height variations may include minor incursions above 65 feet for architectural elements (e.g., sloping roofs, tower elements, etc.), permitted to a maximum height of seventy feet.

New construction facing existing single-family houses along South Fifth and South Sixth Streets should step down to a maximum height of thirty feet and two stories at the front setback line, with another half-foot of height allowed for each additional foot of setback, up to the maximum heights described above.

Setbacks and Build-to Lines

- Preservation/Single Family (PSF) (8 DU/AC) and Preservation/Single Family/Duplex (PSF/D) (8-16 DU/AC): The setback requirements should conform to the R-1-8 and R-2 Residence classifications of the City of San Jose Zoning Ordinance (Section 20.30), and the City of San Jose's *Single Family Design Guidelines* and *Residential Design Guidelines*.

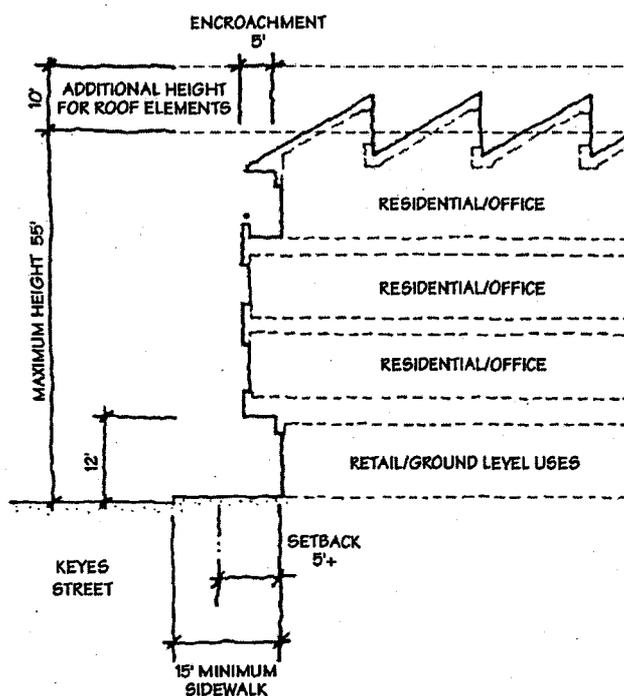


Diagram J: Keyes Street Setback

- **Front Yards for High Density Residential:** In order to promote a continuous street frontage, new development is encouraged to build to the setback line for at least 75% of the parcel boundary fronting any public street. For buildings designed for first floor commercial use along Keyes Street, a minimum setback sufficient to provide a sidewalk width of at least fifteen feet is required to support Keyes Street's role as a neighborhood-serving commercial street. This will generally require a setback and/or dedication of five feet from the property line and may include another five feet of setback as an option for commercial frontage buildings.

A front yard setback of a minimum of ten feet and maximum of fifteen feet, behind the required sidewalk width, is required for residential frontages in this area. Along streets other than Keyes Street, buildings, or portions of

buildings, with first floor commercial spaces, including the 'work' space of live/work units, should be set back a distance sufficient to achieve the required sidewalk width, plus an additional five feet as an option.

In addition, small surface parking areas with up to 120 feet of frontage will be permitted along Keyes Street at mid-block locations to support retail uses, but not on corners. Surface parking areas should be set back a distance sufficient to accommodate the required sidewalk width on Keyes Street plus an additional five feet to provide a minimum five feet of landscaping along the frontage.

- **Encroachments:** The setback area along residential street frontages should be developed with turf and planting to enhance the landscape quality of the streetscape. Within this area, encroachments for stoops, porches,

bay windows and balconies will be allowed up to a maximum of 60% of the total setback area with a maximum encroachment of five feet. Along Keyes Street, awnings are encouraged within the setback zone to provide weather protection for pedestrians and can encroach into the street right-of-way to a maximum of two feet. This will typically allow for an awning with a depth of seven feet. On the Keyes Street frontage, upper level bay windows and balconies may project up to five feet into the setback area at twelve feet above the sidewalk for a maximum of 40 percent of a building façade.

The setback zone along Keyes Street is to be paved with a material complementary to the remainder of the sidewalk adjacent to the new development and should function as part of the sidewalk. The setback area can be used for restaurant/café seating, and the display of merchandise, however, the sidewalk should be maintained with a minimum clear path of eight feet at all times taking into account street landscaping, lighting and furnishing.

Setback encroachments for *Mixed-Use Residential* and *Preservation/Single-Family/Duplex Residential* are regulated by the City of San Jose Zoning Ordinance, and the City of San Jose *Residential Design Guidelines*.

Street Frontage Treatment

- **Residential Frontages:** Primary entries to ground floor dwelling units and to upper level “walk-up” flats should be encouraged along all streets within the Sub-Area, with the exception of frontages developed with ground level commercial storefronts. No parking garages should be permitted along the streets or front yard fencing above 36 inches. Residential street-front conditions should conform to the following requirements and options:
 - The South Second, South Third, South Fifth, Martha and East Virginia Street frontages provide attractive opportunities for ground level artist studios, workshops and live-work units. The treatment of these units could include ground level storefronts that permit views to interior activities; live-work units could also be elevated up to 36 inches above grade and include porches, stoop entries and/or converted loading dock/terraces. In all cases, the front door should be visible from the street. The setback area for live-work units should include paved areas that extend the sidewalk as necessary and could provide extension space for the display of art, for seating, and for landscaping.
 - South Fifth and Sixth Street frontages across from *Preservation/Single-Family/Duplex* homes should be developed with townhouses and/or walk-up flats that create a residential character and a complementary relationship with those existing single-family homes. The first floor elevation should be at least 18 inches, but no more than 36 inches, above the sidewalk level. Porches and stoops at intervals of no greater than 40 feet should be provided along these frontages. The setback area should be landscaped as described above under setbacks.
 - All other street frontages within the Sub-Area, except for on *Preservation/Single-Family/Duplex* blocks, could be developed with either live-work frontages or ground level residential units.

- Storefront Treatment and Materials on Keyes Street: Ground floor commercial spaces should be designed as an integral part of their mixed-use buildings, but should also be articulated as distinct parts of those building facades, with materials and treatments that offer visual interest to the pedestrian. Materials along storefronts should be carefully selected to be of a high quality and appropriate to the scale of the pedestrian realm. The use of materials that reflect the industrial character of the Martha Gardens neighborhood (e.g., masonry, steel, stone, pre-cast concrete, tile) should be used.

Storefronts at the street level should be open in character, to provide generous views from sidewalks to interior activities. Clear untinted glass should be used to allow for the maximum visual connection between the public sidewalk and the ground level interior spaces. The ground level should achieve maximum transparency, avoiding areas of blank walls. The use of awnings should be encouraged to provide shelter and shade along shop-fronts.

- Orientation and Frequency of Commercial Entries: Commercial uses should have their primary entrances oriented to the street with entrances spaced no more than 70 feet apart. The floor elevation of entrances should be within two feet of the sidewalk elevation.

Architectural Treatment and Materials

The development of new housing in the Infill Sub-Area needs to respond to the historic residential and industrial character of the existing structures in the neighborhood. The quality of architectural

treatment should be of the highest standards with a variety of robust materials employed. More specifically:

- Adaptive Use: Any adaptive use of historically significant structures should maintain the architectural integrity and character-defining elements of the structures in respect to: materials, façade treatment, window and door openings, rooflines and detailing. Restoration of previously altered, removed, replaced or filled in building elements is strongly encouraged. If new construction is necessary, it should not attempt to replicate the historic treatment but rather provide a clear delineation, using complementary or similar materials.
- New Construction: New buildings should avoid the appearance of monolithic projects. Individual units and/or clusters of units should be clearly expressed through overall massing and roof treatment, as well as changes in building plane, colors and/or materials. In order to create a lively street frontage, all buildings should have a maximum perceived length of 125 feet to discourage long and monotonous façades. Façades should be further modulated at intervals of approximately fifty to sixty feet and broken down into smaller discrete elements whenever possible.

Devices such as floor level variation, fenestration changes, and the introduction of architectural elements like belt courses, moldings, cornices, and pediments are strongly encouraged. The use of sloping roofs, dormers, gables, balconies, bay windows, chimneys, etc., is also encouraged to achieve this variety and articulation.

- **Building Materials:** Façade materials, articulation and colors should be respectful of adjacent buildings and reflect the industrial and historic character of the immediate neighborhood. For instance, new construction adjacent to the Arts Quarter (i.e., part of South Third Street, new South Fourth Street, South Fifth Street, Martha Street, East Virginia Street) or along Keyes Street should reflect the industrial character of the surrounding structures with the use of complementary materials including masonry, metals, and pre-cast concrete. Other new construction adjacent to or across from existing residential uses should employ complementary materials and treatments including wood siding and trim, stucco and masonry as appropriate.
- **Roofs:** Roof treatments should also relate to the adjacent context. For instance new construction adjacent to the Arts Quarter or along Keyes Street should employ roof forms reflecting the industrial heritage of the neighborhood (e.g., monitor, shed and flat roofs), while new development adjacent to residential areas should employ dual sloping roofs (e.g., gable and hip roofs with dormers). All mechanical equipment placed upon roofs is to be screened from street and upper level views from nearby buildings.
- **Windows:** Operable windows are to be provided unless style or circumstances make them infeasible. Windows are to have divided lights/multiple panes where these are consistent with the style of the building. To reflect the historic character of the area, projecting windowsills are strongly encouraged. Where appropriate, shade devices should be incorporated into the architecture to provide solar heat gain protection, particularly on west and south facing facades. Fenestration of all

buildings should employ a “punctured wall” treatment, with high quality window casings that are recessed from the building face to provide shade and detail. False window mullions should always be avoided.

- **Interior Lighting:** The windows and orientation of living units should be designed to maximize the amount of north and east natural light for work and living areas. Skylights may be a particularly useful option for providing the quality of light most valuable to artists and craftspeople.

Parking Access and Treatment

- **Keyes Street Frontage:** Parcels fronting Keyes Street may have limited surface parking and access provided at mid-block locations. Surface parking is to be a maximum of two bays wide, or 120 feet along the street frontage, and should be well landscaped with one tree for every four cars, and with appropriate planting in the front and other setbacks.

Any structured parking should be located behind frontage uses. Garage entries may be located along Keyes Street but not in prominent locations or near corners.

On-street parking is strongly encouraged on Keyes Street to serve the commercial businesses and their customers, to provide a buffer for pedestrians between sidewalks and travel lanes and to generally enliven the street.

- **Residential Street Frontages:** Off-street parking on other street frontages within the Sub-Area should be below grade and/or encapsulated and hidden from views from all public streets. Off-street surface parking is not permitted within view of the street; any surface

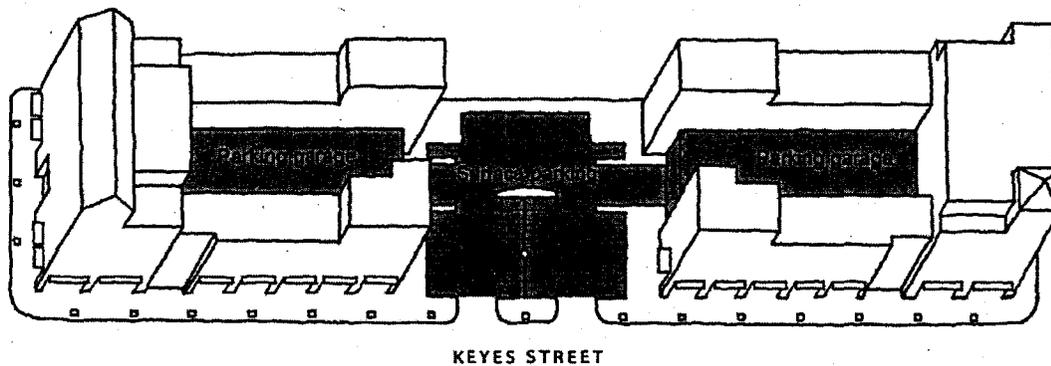


Diagram K: Keyes Street Commercial Parking

parking should be confined to rear parking drives, alleys or mews that are designed to also serve as a pedestrian-friendly urban space.

On-street parking, on the other hand, is strongly encouraged wherever possible to provide a more protected sidewalk environment for pedestrians and to enliven the street.

For new high density projects located along South Fifth Street, north of Virginia Street, and along South Sixth Street, parking entryways and exists should not to be located on South Fifth and Sixth Streets, across from the existing single family uses, but located, where possible, on the other streets abutting the new development.

- **Loading and Service:** All service areas and dedicated loading areas are to be screened from views from any public street. Loading however, should generally be managed from public streets or surface parking areas and not from dedicated loading docks.

On-Site Open Space

- **Preservation/Single Family (PSF) (8 DU/AC) and Preservation/Single Family/Duplex (PSF/D) (8-16 DU/AC):** The provision of on-site open space should be in accordance with the R-1-8 and R-2 Residence classifications in the City of San Jose Zoning Ordinance (Section 20.30), as appropriate for the relevant use.
- **High Density Residential (20-50 DU/AC and 40-70 DU/AC):** As described in *Chapter 6: Community Facilities*, the Martha Gardens neighborhood has two planned parks for public use. To supplement these parks, new residential development should also provide common and private open space for the use of residents. For each dwelling unit, 100 square feet of usable common space should be provided on site. This common space could include courts, swimming pools, decks, playgrounds and turf areas. In addition, a minimum of 60 square feet of private outdoor space in the form of balconies, terraces, or patios should be provided for at least 50% of the units within the project.

H

Scale: 1" = 200'



Planning Area Boundary
RDA SNI Area
City Council District Boundary



Prepared by the Department of Planning,
Building and Code Enforcement
Planning Services Division
April 26, 2002



Spartanburg/Keyes SNI Planning Area

Goals and Objectives

Through the Strong Neighborhoods Initiative program residents of the Spartan Keyes neighborhood have developed a vision for their community. This vision is the basis for a comprehensive strategy to improve the living environment for present and future residents. The goals and objectives in this section were developed to provide specific direction for the *Neighborhood Plan* in achieving the vision. The *Neighborhood Plan* was developed concurrently with the *East Gardner Specific Plan*, which results in an overlap of goals and objectives that strengthen both efforts. The *Neighborhood Plan* expands upon the land use framework created for the East Gardner area to include the greater community of Spartan Keyes. The goals and objectives below address proposed development in the *East Gardner Specific Plan* area as well as issues and concerns throughout the rest of the neighborhood.

Goals and objectives relate to specific problems, concerns, or desires identified by the community and the Neighborhood Advisory Committee during the development phase of the *Neighborhood Plan*. Goals will guide the efforts by the Spartan Keyes community and City Departments over the long-term, and act as a baseline to gauge progress. The goals and objectives are organized under five main headings: neighborhood circulation and parking; neighborhood parks and open space; neighborhood condition and maintenance; neighborhood security; and neighborhood development. Goals are numbered and generally identify what should be achieved. Objectives are lettered and describe specific ways of achieving the goal.

Neighborhood Circulation and Parking

1. **Vehicular Circulation:** Calm traffic throughout the neighborhood and discourage cut-through traffic on local neighborhood streets as feasible.
 - a. Conduct a neighborhood traffic calming study that evaluates neighborhood traffic patterns, volume and speeds and recommends traffic calming measures.
 - b. Implement traffic calming measures as appropriate throughout the neighborhood.
 - c. Explore possibilities for routing truck traffic around the neighborhood.
2. **Pedestrian and Bicycle Circulation:** Improve pedestrian and bicycle circulation within the neighborhood and to adjacent districts and nearby destinations.
 - a. Complete the Coyote Creek trail between Kelley Park and Interstate 280.
 - b. Evaluate and improve major intersections for better coordination between vehicles and pedestrians.
 - c. Upgrade crosswalks where appropriate to encourage pedestrian activity.

- d. Enhance pedestrian routes to elementary schools in adjacent neighborhoods.
 - e. Improve conditions at neighborhood bus stops
 - f. Create safe and well-defined bike routes to destinations within and adjacent to the neighborhood.
3. **Neighborhood Parking:** Mitigate the parking effects from San Jose State University, Spartan Stadium, and related special events at adjacent recreational facilities.
- a. Assess the current and projected volume of non-residential vehicles, focusing on SJSU student parking and Spartan Stadium events.
 - b. Evaluate the feasibility and desirability of residential parking permits in portions of the neighborhood.
 - c. Increase vehicle abatement efforts to remove illegally parked and abandoned automobiles.

Neighborhood Parks and Open Space

1. **Neighborhood Parks:** Develop community parks to serve neighborhood residents.
- a. Develop a park within the Story Road landfill area, with pedestrian connections to the proposed Coyote Creek Trail.
 - b. Acquire site and develop a neighborhood park within the East Gardner Specific Plan area.
 - c. Provide passive and active recreation opportunities at no cost with a focus on open spaces oriented to young children and teens.
 - d. Incorporate community facilities such as a community or fine arts center into open space where appropriate.
2. **Remnant Open Spaces:** Improve and maintain remnant open spaces.
- a. Develop and maintain unused parcels for general beautification or community gardens to improve neighborhood appearance.
 - b. Develop a program for trash collection and weed abatement in remnant open spaces.
 - c. Add landscaping to undeveloped spaces adjacent to freeway.

3. **Community Gardens:** Maintain and expand the community garden network.
 - a. Provide maintenance support for local community gardens.
 - b. Promote community gardening and assist neighborhood outreach efforts.

Neighborhood Condition and Maintenance

1. **Street Improvements:** Improve the appearance and physical condition of neighborhood streets.
 - a. Reconstruct curbs, gutters, and sidewalks as needed to improve pedestrian circulation.
 - b. Improve visibility of pedestrian crosswalks with clear striping and signage where appropriate.
 - c. Improve street lighting to increase pedestrian safety and visibility.
 - d. Add street trees where appropriate to improve streetscape appearance and add value to residential properties.
2. **Noise:** Reduce noise levels produced by the adjacent freeway and on-street truck traffic.
 - a. Assess outdoor and indoor decibel levels in areas adjacent to transportation corridors.
 - b. Evaluate the feasibility and desirability of soundwalls along freeway frontages.
 - c. Explore ways to mitigate noise produced by truck traffic.
3. **Residential Properties:** Build on the existing traditional neighborhood character through improvements to residential properties.
 - a. Increase Code Enforcement resources to reduce the improper use of residential properties and provide more timely attention to vehicle abatement.
 - b. Preserve the historical and traditional neighborhood character through application of residential design guidelines.
 - c. Promote City programs available to homeowners for residential property improvements, such as the Homeowner Grant Program and the Residential Paint Program.

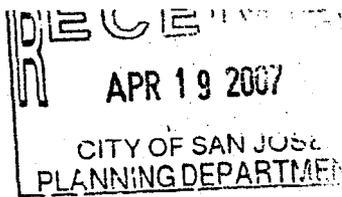
Neighborhood Security

1. **Anti-Social Activity:** Reduce anti-social activity within the neighborhood.
 - a. Work with SJPD to identify key neighborhood security issues and improve response time to residents' complaints.
 - b. Facilitate organization of resident support groups such as neighborhood watch and coordinate community efforts with the SJPD.
 - c. Improve maintenance and lighting in alleys, parking areas, and freeway underpasses to deter illegal/anti-social activity.
2. **Freeway Crossings:** Improve conditions beneath and adjacent to freeways to increase safety and create a more pedestrian-friendly environment.
 - a. Add lighting to freeway underpasses to improve pedestrian safety and discourage anti-social behavior.
 - b. Enhance safety at freeway on and off-ramps to improve pedestrian circulation to destinations outside of the neighborhood.
3. **Homeless Population:** Reduce the number of homeless encampments under and along I-280, Keyes Street, and along the rail spur.
 - a. Deter homeless encampments in the neighborhood.
 - b. Maintain City-owned, undeveloped open spaces to reduce the opportunities for encampments to occur.

Neighborhood Development

1. **Public Facilities:** Encourage development of public facilities within walking distance of the neighborhood.
 - a. Evaluate the feasibility of constructing an elementary school within or directly adjacent to the neighborhood.
 - b. Encourage arts-oriented public and private facilities to support and expand the existing arts community.
 - c. Develop a community center to provide opportunities for recreation and neighborhood activities for residents of all ages.

2. **Land Use Policy:** Adjust land use policies to encourage neighborhood-oriented commercial development and infill residential development.
 - a. Encourage relocation of auto-related and light industrial businesses to other areas within the City.
 - b. Promote neighborhood-oriented commercial uses along Keyes Street and encourage viable uses and businesses to remain.
 - c. Encourage reuse and renovation of historic warehouses for residential, commercial, and/or public uses.
 - d. Discourage light and heavy industrial land uses within the neighborhood except possibly within the East Gardner Specific Plan area.
 - e. Support neighborhood-scale residential infill development.



SPARTAN KEYES N.A.C.

**136 W. Alma Ave.
San Jose, CA 95110**

(408) 297-9135

April 12, 2007

Michelle Stahihut, Planner II
Department of Planning, Building, and Code Enforcement
City of San Jose
200 E. Santa Clara St.
San Jose, CA 95113

Dear Ms. Stahihut,

This letter of concern is written on behalf of the Spartan Keyes Neighborhood Advisory Board on the proposed development plan PDC 07-002 located at 1010 S. Third Street. Our concern is this development is adjacent or overlaps the Martha Gardens Park space planned for our community.

The board requests the Planning Department to carefully review this project and any other projects being planned near the designated park space to ensure our community interests are protected.

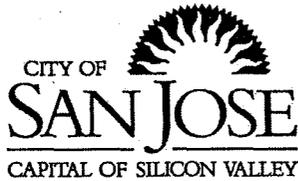
We request the general design guidelines as stated in the Martha Gardens Specific Plan be reviewed and strictly followed to avoid any conflicts in the future between the City of San Jose, developers, and the Spartan Keyes community.

We look forward to working with the Planning Department on any proposed project in the Martha Gardens area and hope this letter acts as a friendly reminder to your agency the importance of park space in our community.

Respectfully Submitted,

Aurelia Sanchez
Spartan Keyes N.A.C. President.

CC: Hon. Sam Liccardo, San Jose City Councilmember-District 3
Anna Le, San Jose Redevelopment Agency
Long Nguyen, Golden Properties Development
Rodrigo Orduna, Department of Planning and Code Enforcement



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

Project File Number, Description, and Location

PDC07-002. Planned Development Rezoning from the HI Heavy Industrial Zoning District to the A(PD) Residential Zoning District to allow up to 37 residential multiple dwelling units on a 0.71 gross acre site located at 1010 S. Third Street. (Fernando C. Guevarra and Maria Guevarra, Owner / Long Nguyen, Developer) Council District: 3

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 1,000 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **Wednesday, September 26, 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 **Wednesday, September 5, 2007** and ends on **Tuesday, September 25, 2007**.

A public hearing on the project described above is tentatively scheduled for **Wednesday, September 26, 2007, 7:00 p.m.** at the Planning Commission hearing 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 **Biblioteca Latino-Americano 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 **Michelle Stahlhut** at (408) 535-7849 or via e-mail at michelle.stahlhut@sanjoseca.gov.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: September 4, 2007 Ron Eddow
Deputy

**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: 1010 South Third Street

PROJECT FILE NUMBER: PDC07-002

PROJECT DESCRIPTION: Planned Development Rezoning from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District and subsequent permits to allow up to 37 condominium residential units on a 0.713 gross acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: East side of South 3rd Street approximately 500 feet north of Keyes Street; APN 472-15-026

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: Long Nguyen, 10685 Larry Way, Cupertino, CA 95014 Phone: (408)590-5295

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 Bay Area Air Quality Management District (BAAQMD) has prepared a list of feasible dust control measures that could reduce construction air quality impacts to a less-than-significant level. The following mitigation would be implemented during all phases of construction on the project site:
 - Water all active construction areas at least twice daily or as often as need to control dust emissions.
 - Cover all trucks hauling soil, sand, gravel and other loose materials (including demolition debris) and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
 - Pave, apply water three times daily or as needed, or apply (non toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction site.
 - Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
 - Sweep public streets daily or as often as needed to keep streets free of visible soil material.
 - Hydroseed or apply (non toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
 - Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - Limit traffic speeds on unpaved roads to 15 miles per hour (mph).
 - Install sandbags or other erosion control measures to prevent silt runoff onto public roadways.

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.

- **Mitigation Measure 2:** Prior to the issuance of demolition permits a qualified archaeologist shall be retained by the Project applicant to train the construction crew on mechanisms used to identify cultural resources. If buried cultural resources (such as chipped or ground stone tools, historic debris, building foundations, or nonhuman bone) are discovered during ground-disturbing activities, the construction contractor shall stop work in that area and within 100 feet of the find until a qualified archaeologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the City of San Jose. Treatment measures shall include development of

avoidance strategies, capping with fill material, or mitigation of impacts through data recovery programs such as excavation or detailed documentation.

- In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, the Coroner shall notify the Native American Heritage Commission, which shall attempt to identify descendents of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to state law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further surface disturbance.

VI. GEOLOGY AND SOILS

- The Project applicant shall submit a soil investigation report addressing the potential hazard of liquefaction to the City Geologist, who shall review and approve the report prior to issuance of a grading permit or Public Works Clearance. The investigation shall be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the South California Earthquake Center ("SCEC" report). A recommended depth of 50 feet shall be explored and evaluated in the investigation.
- The Project applicant or construction contractor shall implement Best Management Practices (BMPs) for construction activities in conformance with the City's regulations and permit requirements. The BMPs shall include appropriate control measures to reduce the potential for erosion. The control measures shall be included in the plans, specifications, and contract documents for the construction of all phases of the proposed Project and shall be developed with the following objectives and basic strategy:
 - Protect disturbed areas by minimizing the duration of exposure (e.g., cover disturbed areas with rolled plastic sheeting or other like material);
 - Control surface runoff (e.g., use sand bags) and maintain low runoff velocities;
 - Trap sediment on-site; and,
 - Minimize length and steepness of slopes.
- To reduce the risk of differential movement and cracking, the subgrade conditions underneath the proposed foundations and slabs-on-grade shall be modified or improved. Improvements may involve replacing the material under foundations and slabs-on-grade with "non-expansive" material, or modifying expansive soil by compaction control, prewetting, and the installation of moisture barriers. Inclusion of acceptable measures shall be verified by the City Engineer prior to the issuance of building permits.

VII. HAZARDS AND HAZARDOUS MATERIALS –

The following mitigation measures have been included in the project to reduce hazardous materials impacts to a less than significant level.

- Prior to the issuance of demolition permits, the existing onsite warehouse shall be sampled as part of a lead hazard evaluation in compliance with the California Health and Safety Code. A Certified Lead-Related Construction Supervisor shall supervise the abatement and disposal if lead is found in the building. Lead shall be removed, transported, and disposed of in compliance with applicable state and federal laws. The existing corrugated sheet metal warehouse likely contains asbestos-containing construction materials (ACCMs). The ACCMs may include vinyl floor coverings, wallboards or plaster skim coatings, asphalt roofing felts, and insulation materials. These materials could pose a health threat if they are not properly handled and disposed of during demolition of buildings. Therefore, mitigation measures would be required.
- Prior to the issuance of demolition permits, the existing onsite warehouse shall be sampled as part of an asbestos survey in compliance with the National Emissions Standards for Hazardous Air Pollutants. If asbestos is found in the building, asbestos related work (including demolition) involving 100 square feet or more of asbestos containing materials (ACM) shall be performed by a Licensed Asbestos Abatement Contractor under the supervision of a Certified Asbestos Consultant. Asbestos shall be removed, transported, and disposed of in compliance with applicable state and federal laws. Since some fluorescent lighting ballasts contain PCB capacitors, there is the potential for PCBs to be located within existing warehouse.
- Prior to the issuance of demolition permits, the existing onsite warehouse shall be surveyed for fluorescent light ballasts. The type of ballasts/capacitors shall be identified to determine the appropriate remedial activities (i.e., proper disposal).

VIII. HYDROLOGY AND WATER QUALITY –

- The proposed Project shall implement Best Management Practices (BMPs) for construction activities in conformance with the City's regulations and permit requirements, including but not limited to a grading permit and/or an erosion control plan, etc. The BMPs shall include appropriate control measures to reduce any impacts on water quality in accordance with the City's regulations and permit requirements. Stormwater quality controls shall include appropriate measures from documents such as the Santa Clara Urban Runoff Pollution Prevention Program's recommended BMPs for construction activities (as contained in the "Blueprint for a Clean Bay"), "Start at the Source-Design Guidance Manual for Stormwater Quality Protection," and the "California Storm Water Best Management Practice Handbook for Construction." The Project shall conform to San Jose's City Council Policy 6-29, the Post Construction Urban Runoff Management Policy, which requires implementation of 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 as specified in City Policy 6-29. At the PD Permit stage, the Project Applicant or construction contractor shall submit the final Stormwater Control Plan and numeric sizing calculations. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance. The Project Applicant or construction contractor shall retain a civil engineer to observe the installation of the BMPs. The civil engineer shall prepare and submit a Final Report to the Director of Public Works that states that all the post construction storm water pollution control BMPs have been installed as indicated in the approved plans and that all significant changes have been reviewed and approved in advance by the Department of Public Works.

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 –

Mitigation: The following measures are included in the project to reduce significant long-term noise impacts:

- Prior to issuance of building permits, the Project applicant shall document that the selected building materials and design of the building will provide the necessary noise reduction to ensure the prevention of exterior source noise above 45 dBA DNL within habitable interior spaces of the condominiums with windows (and doors, where applicable) closed, and the provision of adequate ventilation to make sure such closure is practical. A typical way to achieve exterior source noise at and below 45 dBA DNL within the habitable interior spaces of the condominiums includes modifying elements of building construction (i.e., walls, roof, ceiling, windows, and other penetrations), as necessary to provide sound attenuation. This may include sealing windows, installing thicker or double glazed windows, locating doors on the opposite side of a building from the noise source, or installing solid-core doors equipped with appropriate acoustical gasket
- The Project applicant shall implement the following measures to reduce exterior noise levels to meet the 60 dBA DNL noise standard:
 - A sound barrier constructed along the site perimeter adjacent to the Grifall Trucking Company would reduce noise levels for patios of first floor residents facing the trucking company. Based on preliminary project plans, a solid barrier seven feet in height would be required to meet the 60-dBA DNL exterior standard. Acceptable materials for the construction of the barrier shall have a weight of 3.5 pounds per square foot of surface area and may be composed of the following: masonry block, stucco veneer over wood framing (or foam core), glass, Plexiglass Lexan (1/4 inch thick). The barrier may also be constructed out of a combination of the above listed materials.
 - As a means of limiting the potential noise impacts associated with construction activities, the following measures shall be incorporated into the proposed Project:
 - Limit noise-generating construction activities, including truck traffic coming to and from the site for any purpose, to 7:00 a.m. to 7:00 p.m. Monday through Friday.
 - Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
 - Utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
 - Locate stationary noise-generating equipment as far as practical from sensitive receptors when sensitive receptors adjoin or are near a construction Project area.
 - Prohibit unnecessary idling of internal combustion engines.

Designate a “noise disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. The telephone number of the disturbance coordinator shall be conspicuously posted at the construction site.

- 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 September 26, 2007, any person may:

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

(3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: September 4, 2007 Ron Eddow
Deputy

Adopted on: _____
Deputy

Revised 8/26/05 JAC