



## SUPPLEMENTAL

*Memorandum*

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Stephen M. Haase

**SUBJECT:** SEE BELOW

**DATE:** September 29, 2005

Approved

Date

10/04/05

## SUPPLEMENTAL

COUNCIL DISTRICT: 5

**SUBJECT: PDC05-056 PLANNED DEVELOPMENT REZONING FROM A(PD) PLANNED DEVELOPMENT DISTRICT TO A(PD) PLANNED DEVELOPMENT DISTRICT TO ALLOW MODIFICATIONS TO THE DEVELOPMENT REGULATIONS (INCLUDING REAR AND FRONT SETBACKS AND NUMBER OF STORIES) OF A PREVIOUSLY APPROVED 12-UNIT SINGLE-FAMILY ATTACHED PROJECT ON A 0.54 GROSS ACRE SITE LOCATED ON THE SOUTHEAST CORNER OF ALUM ROCK AVENUE AND MCCREERY AVENUE.**

**REASON FOR THE SUPPLEMENTAL**

This proposed Planned Development Rezoning was originally on the City Council agenda for October 4, 2005 and was continued to October 18, 2005. It was heard by the Planning Commission on the September 14, 2005 as a consent calendar item. The Planning Commission recommended approval of the rezoning. This rezoning proposed changes to the front and rear setbacks of a previously approved 12-unit townhouse project. Subsequent to preparation of the staff report for the project, the applicant identified the need for an additional modification to the development standards. The approved Zoning allows a maximum of two stories and 35 feet in height; the applicant is now requesting a maximum of three stories, with no change in the height. Because the height limit is unchanged, staff is recommending that this change in the number of stories be included in the current rezoning, like a conforming rezoning, without additional review by the Planning Commission. This memorandum provides analysis of the proposal to allow buildings with a maximum of three stories within the 35 feet. Draft Development Standards including the revised number of stories are attached.

**RECOMMENDATION**

Staff recommends that the City Council approve the proposed Planned Development Zoning as recommended by the Planning Commission, with the modification that the maximum number of allowed stories be changed from two to three.

### ANALYSIS

Staff believes that the change in the number of stories will allow appropriate flexibility for the proposed affordable townhouse project in the context of Development Standards designed to ensure compatibility with adjacent uses. The proposed three stories are to be achieved within the existing height limit of 35 feet. The Draft Development Standards require that second- and third-story windows be set back 15 feet from the side and rear property lines to ensure an appropriate interface with the adjacent single-family residences. The applicant's current proposal includes no windows at the third-story level for the elevations along the rear property line, providing additional protection for adjacent residences. The current proposal includes both two-and three-story elements that staff believes will provide an appropriate transition between the four-story residential project to the north and the single-family residences to the south.

### ENVIRONMENTAL REVIEW

The environmental impacts of this project were addressed through an Addendum to the Mitigated Negative Declaration for the original rezoning which was adopted on May 22, 2002. The Addendum concludes that the proposed changes to the setbacks and number of stories will not result in any new significant adverse impact on the environment.

### GENERAL PLAN CONFORMANCE

The project is consistent with the San Jose 2020 General Plan Land Use/Transportation Diagram designations of General Commercial, Medium High Density Residential (12-25 DU/AC), Urban Transit Oriented Development (45 + DU/AC), with a Neighborhood Business District Overlay as discussed in the staff report for the original project. This Zoning application does not include any change to the approved density.

 *Susan Walton*  
STEPHEN M. HAASE, Director  
Planning Building and Code Enforcement

## **PDC05-056 General Development Plan –TIERRA ENCANTADA**

### **I. LAND USE TABLE**

#### **A. Mixed Use Area**

##### **Permitted Uses:**

- a) Up to 93 multiple-family attached residential units
- b) 7,600 square feet of commercial use (Permitted uses of the CP Commercial Pedestrian Zoning District, Conditional uses of the CP Zoning District shall be permitted with a Planned Development Permit)
- c) Parking garage for up to 135 parking spaces within podium

#### **B. Townhouse Area**

##### **Permitted Uses:**

- a) Up to 12 single family attached residential units
- b) All permitted uses of the R-1-8 Residence Zoning District

### **II. DEVELOPMENT STANDARDS**

**Overall Maximum Density: 49.5 DU/AC**

#### **C. Mixed Use Area**

##### **a) Setbacks**

- Front setbacks for commercial portion of the project: Minimum 4 feet; Maximum 10-foot front setbacks (building setbacks should be varied to provide articulation of the building frontage on the street)
- Front setbacks for residential units above commercial uses: At the corners of the building elevation which fronts onto Alum Rock Avenue a minimum of 40 lineal feet of the residential buildings above the commercial building shall be brought forward to match the setbacks of the commercial portion of the building.
- Rear setback: 0 ft.
- Side setbacks: 0 ft.

##### **b) Building Height**

Maximum Height shall be 50 feet (including towers)

- c) **Parking Sizes:**  
Parking spaces within this development shall meet the size requirements noted in Section 20.90.100 of the Municipal Code with the following exception: A minimum 24-foot wide two-way aisle will be permitted for 90 degree parking within the structured parking garage. Views of the entrances to the parking garage shall be minimized and screened as much as possible.
- d) **Open Space and Street Trees.**  
All open space requirements of the Residential Design Guidelines shall be met. All street trees in the public right-of way shall be a minimum of 24-inch box size. A double row of 24-inch box street trees shall be planted adjacent to all buildings fronting on streets.
- e) **Architecture.**  
The design of the development shall create an appropriate urban façade along the Alum Rock Avenue, McCreery Avenue and the new 48-foot wide residential street elevations, to provide pedestrian and transit oriented development along the Alum Rock Light Rail corridor. Special architectural treatments and articulation above the streets shall be incorporated into the design including the use of towers and special entryways, as well as transparent streetfronts that promote lively pedestrian and transit-oriented environment.
- f) **Ground Level Uses and Orientation**  
Active ground level commercial uses including neighborhood serving retail shops and restaurants shall be provided within the commercial area. Auto-oriented commercial uses should be discouraged. Ground level uses should include transparent storefront treatments with projecting canvas awnings and canopies that promote a comfortable pedestrian environment and that are architecturally integrated with the overall building design.

**D. Townhouse Area**

- a) Front setbacks: 4 feet
- b) Side setbacks: 10 feet
- c) Rear setbacks: 10 feet

Porches may encroach into the front setback.

- a) **Second and Third Floor Windows:**  
In areas where proposed units are overlooking private open space, second and third floor windows shall be minimized and shall be set back at least fifteen (15) feet from property lines and separated from adjacent open space areas by tall shrubs or trees.
- b) **Maximum Height of all Buildings and Structures:**  
Thirty Five (35) feet (three stories)

- c) **Building Design:**

The proposed units shall be architecturally cohesive. Similar proportions shall be employed in the building design of each of the twelve units. Substantial living areas adjacent to and/or above garages shall be provided to reduce the visual dominance of the garages. Views of pavement and garages from the street should be minimized. Fences and/or walls visible from courtyards and access streets shall be architecturally integrated with adjacent buildings. The units facing the street shall have an urban street presence to complement the units in the mixed-use project to the north of this site.
- d) **Minor Architectural Projections:**

Minor architectural projections, including fireplaces, bay windows, and stairwells, may project into any setback or building separation by up to two (2) feet for a length not to exceed ten (10) feet or twenty (20) percent of the building elevation length.
- e) **Parking and private open space:**

Parking and private open space shall meet the minimum requirements of the Residential Design Guidelines.

### **III. PUBLIC WORKS REQUIREMENTS**

- 1. **Transportation:**

The applicant shall contribute \$35,000 towards the construction of the traffic signal warranted at Alum Rock and McCreery Avenues.
- 2. **Street Improvements:**
  - a) Construct new sidewalk, curb and gutter along project frontages (10 ft. on McCreery Avenue and 12 ft. on Alum Rock Avenue.)
  - b) The proposed driveway along Alum Rock Avenue shall be limited to right turnout only until the time in which the easterly parcel is developed, and the respective driveway approach is improved.
  - c) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works. The new public street should conform to the Alum Rock Strategy Plan conditions, and a 48-foot public right-of-way width has been approved.
  - d) Provide a 10-foot wide sidewalk for McCreery Avenue and a 12-foot wide Alum Rock Avenue with street trees at back of curb. Additional dedication of public right-of-way is required. Decorative paving features for the public sidewalk should not be extended into the public right-of-way.
- 3. **Parkland Dedication Ordinance.** This subdivision is subject to the requirements of the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code,) for the dedication of land or payment of fees in lieu of the dedication of land for park purposes, under the formula contained with that Chapter. Prior to approval of the Final Map for this subdivision, subdivider shall enter into a parkland agreement with the City to the satisfaction of the Director of Public Works in order to fulfill the requirements of the Parkland Dedication Ordinance.

#### **IV. ENVIRONMENTAL MITIGATION**

##### **a) Noise**

1. To reduce traffic noise the mitigation, as described in the Noise Report, has been incorporated into the project. Mitigation consists of wall and window treatment (walls must be improved to 1-7/8" stucco on 3/4 plywood for all walls within 30 feet of Alum Rock Avenue; dual pane window aluminum frame windows with 3/32" outer pane and 1/8" inner pane separated by 9/16" air space).

##### **b) Cultural/Historic**

Prior to the issuance of a Public Works Clearance, Grading Permit or Building Permit, the developer shall (1) relocate and rehabilitate the Orange and Mark's Hot Dog's sign in conformance with Conditional Use Permit CP02-022, and (2) obtain a final inspection for the relocation and rehabilitation to the satisfaction of the Director of Planning, Building and Code Enforcement.

#### **V. WATER POLLUTION CONTROL PLANT NOTE**

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

#### **VI. PRIVATE INFRASTRUCTURE STANDARDS NOTE**

Private Infrastructure standards shall meet or exceed Public Improvement standards.

#### **VII. ECO-PASSES.**

The applicant shall provide eco-passes or other incentive to use light rail transit.

#### **VIII. AFFORDABILITY**

The proposed housing shall be 100% affordable. Therefore, within 60 days of the issuance of a Planned Development Permit and prior to recordation, the applicant shall ensure that the project fully meets the City's requirements for a 100% affordable project by either recording an affordability agreement on the property or by entering into an agreement with the City of San Jose to the satisfaction of the Director of Planning, Building and Code Enforcement. The applicant shall submit evidence of the agreement to the Director of Planning, Building and Code Enforcement within 60 days of the issuance of a Planned Development Permit.

**VIII. PRIVATE SECURITY AND PROJECT MANAGEMENT.**

The applicant shall provide a method of private security for the mixed-use portion of the project during all hours of darkness (e.g. off duty police, alarm systems, security cameras, security gates). The applicant shall also have a project manager on duty at all times, and shall post the phone number of the project manager at a clearly visible location for the neighborhood to call in the case of an emergency.