



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** October 27, 2005

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**COUNCIL DISTRICT:** 4

**SUBJECT: PDC05-022 - PLANNED DEVELOPMENT REZONING LOCATED AT THE NORTHWEST CORNER OF OLD OAKLAND ROAD AND ROCK AVENUE**

## RECOMMENDATION

The Planning Commission voted 5-0-2 (Commissioners Zito and Campos absent) to recommend that the City Council approve the proposed rezoning.

## BACKGROUND

On October 26, 2005, the Planning Commission held a public hearing to consider a Planned Development Rezoning from IP-Industrial Park to A(PD) Planned Development to allow up to 99 single-family attached residential units on a 4.7-gross acre site.

Staff gave a brief oral presentation, clarifying some modifications to the draft Development Standards in regards to a reduction in setbacks for front porches and reduction in rear-to rear setbacks, from those indicated in the original staff report. (The revised draft Development Standards are attached.) The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning with the modifications proposed.

A representative of Summerhill Homes gave a presentation on the merits of the project and discussed the community input that they had received on the project. Public Hearing was then closed, since there were no members of public wishing to speak on this project.

### *Planning Commission Discussion*

Commissioner Dhillon asked staff if the applicant would get a reduction in the Parkland Dedication requirement as a result of the open space provided on-site. Dave Mitchell, staff member from the Department of Parks, Recreation and Neighborhood Services, replied that the applicant will receive up to 50 percent credit for providing the recreational space on site, which would proportionately reduce in-lieu fees required.

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Commissioner James made a motion to approved the proposed rezoning.

### **PUBLIC OUTREACH**

A community meeting was held by the applicant on August 24, 2005 at Casa de Lago Clubhouse on 2151 Oakland Road. The clubhouse is located on the campus of the Casa De Lago Mobile Home Park located adjacent to the subject site. The meeting was attended by approximately seven members of the community, all of whom lived within the mobile home park, except one representative of Independence High Neighborhood Association. Project-related comments included safety and convenience of the residents (particularly children) during the construction period, parking of vehicles adjacent to the mobile home park along Rock Avenue which is a safety hazard for the mobile park residents, timeframe for the construction of traffic signal at Rock and Oakland intersection and narrowing of Rock Avenue near the Oakland intersection.

Notices of the public hearing before the Planning Commission and City Council were published, posted on the City of San Jose web site and distributed to the owners and tenants of all properties located within 1,000 feet of the project site. A notice indicating the public review period of Draft Mitigated Negative Declaration for the project was also mailed to property owners and tenants within 1,000 feet of the project site and was posted on the City web site. Staff has been available to discuss the project with members of the public.

### **ENVIRONMENTAL REVIEW**

Mitigated Negative Declaration, File Nos. GP05-04-01 and PDC05-022

  
for STEPHEN M. HAASE  
Secretary, Planning Commission

Attachment: Revised Development Standards

C. Bob Hencken, Summerhill Homes, 777, California Avenue, Palo Alto CA 94304

**The following Development Standards are to be placed on the Land Use Plan for this Planned Development Zoning once the Zoning is approved by the City Council.**

**PLANNED DEVELOPMENT ZONING PDC 05-022**

**EXHIBIT C: LAND USE PLAN AND DEVELOPMENT STANDARDS**

**PERMITTED USES:**

Up to 98 single-family attached residences.

**DEVELOPMENT STANDARDS:**

**Maximum Height:** 42 feet

**Number of stories:** Three

**Perimeter Setbacks:**

Oakland Road Frontage  
(From Property Line): Living Area of interior units 30-feet  
Corner units on both sides of each building  
can encroach into this setback by a  
maximum of 4 feet.

Porches/covered entries: ~~23~~20-feet

Rock Road Frontage:  
(from back of sidewalk) Living Area of interior units 14 feet  
Corner units on both sides of each building  
can encroach into this setback by a  
maximum of 4 feet.

Porches/covered entries: 75 -feet

Westerly property line  
(Along existing Mobile Home Parks) First Floor Garages, 36-feet,  
33 feet, Second Floor and above

South-westerly Property Line  
(Along existing industrial uses) 36 feet

Northerly Property Line 45 feet

**Minimum Building Separation (wall to wall)**

**Front to Front** 30 feet, excepting for the units on the north and south  
corners of the common open space, where a minimum of  
20 feet is allowed.

**Side to side** 20 feet along Oakland Road and Rock Avenue. A minimum of 10 feet in all other instances. The side-to-side separation in all these instances will be provided to the satisfaction of the Director of Planning at the development permit stage.

**Rear to rear** ~~30-28~~ feet, First Floor Garages  
24-20 feet, Second Floor and above

**Setback Encroachments:**

Minor architectural projections, such as chimneys, sills, eaves, canopies, bay windows may project into any setback area or building area by no more than 2 feet for a horizontal distance not to exceed 10 feet in length, nor more than 20 percent of the building elevation length.

**Parking** 2.4 spaces unit. On-street parking is credited as .5 spaces toward the overall parking requirement. Two enclosed spaces shall be provided per unit.

**Common Open Space:** The project shall provide a minimum of 220 square feet per unit of usable common open space. Paseos or areas with decorative landscaping are not considered as usable common space and cannot be counted toward the common open space requirements.

**Private Open Space:** Private open space shall be at least 60 square feet per unit.

**Fences:** All fences shall be subject to approval of the Director of Planning.

**LANDSCAPING**

The Developer and/or subsequent Home Owner's Association shall maintain on site landscaping areas and landscaping areas along the public right-of-way areas/streets to the satisfaction of the Director of Public Works.

**AIR QUALITY**

The following controls shall be implemented during all construction phases of the project:

- Water all active construction sites at least twice daily;
- Cover all trucks hauling soil, sand and other loose materials or require all trucks to maintain at least two feet of freeboard;
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;

- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for 10 days or more);
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust;
- Limit traffic speeds on unpaved roads to 15 mph;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways; and
- Replant vegetation in disturbed areas as quickly as possible.

### **BIOLOGICAL RESOURCES**

**Nesting Raptors.** If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Environmental Principal Planner prior to the issuance of any grading or building permit.

**Tree Removal.** The exact number of trees to be removed or relocated will be determined at the Planned Development Permit stage. In making the final decision, Director of Planning will consider issues such as potential conflict of the tree's location with the development, health of the tree, whether the tree may survive and/or adapt well when relocated. In the Director of Planning.

The project will be required to conform to the City's tree preservation ordinance, and will provide replacement trees in conformance with City policy. Replacement trees will be over and above the regular landscaping to be provided on the site. All non-orchard trees that are to be removed shall be replaced at the following ratios:

- Each tree less than 12" in diameter to be removed = one 15 gallon tree
- Each tree 12" to 18" diameter to be removed = two 24" box trees

- Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit has been approved for the removal of such trees. Each tree greater than 18" diameter to be removed = four 24" box trees

The species and exact number of trees to be planted on the site will be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement. In the event the developed portion of the site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented at the permit stage:

- An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of Planning, Building and Code Enforcement.
- A donation of \$300 per mitigation tree to San Jose Beautiful or Our City Forest for in-lieu off-street planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Environmental Principal Planner prior to issuance of a development permit.

**Tree protection:** The following tree protection measures will also be included in the project in order to protect trees to be retained during and after construction.

- Pre-construction treatments:
  - i. The applicant shall retain a consulting arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection.
  - ii. Fence all trees to be retained to completely enclose the TREE PROTECTION ZONE prior to demolition, grubbing or grading. Fences shall be 6 ft. chain link or equivalent as approved by consulting arborist. Fences are to remain until all grading and construction is completed.
  - iii. Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.
- During construction:
  - iv. No grading, construction, demolition or other work shall occur within the TREE PROTECTION ZONE. Any modifications must be approved and monitored by the consulting arborist.
  - v. Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.
  - vi. Supplemental irrigation shall be applied as determined by the consulting arborist.

- vii. If injury should occur to any tree during construction, it shall be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied.
- viii. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the TREE PROTECTION ZONE.
- ix. Any additional tree pruning needed for clearance during construction must be performed or supervised by an Arborist and not by construction personnel.
- x. As trees withdraw water from the soil, expansive soils may shrink within the root area. Therefore, foundations, footings and pavements on expansive soils near trees shall be designed to withstand differential displacement.

### **CULTURAL RESOURCES**

Construction workers will be alerted of the potential that site clearing and trenching may uncover buried archaeological materials. If evidence of any archaeological, cultural, and/or historical deposits is found, the following measures shall be taken:

- A qualified professional archaeologist will be notified and all further excavation activity shall be monitored. There shall be no excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains, until archaeological monitoring by the qualified archeologist begins.
- Hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the City's Environmental Principal Planner, describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources.)
- In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
  - 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, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this 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 subsurface disturbance.

- A final report shall be submitted to the City's Environmental Principal Planner prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the City's Environmental Principal Planner.

## **STORMWATER MANAGEMENT**

The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay*. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, 200 E. Santa Clara Street, San Jose, California 95113. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES Permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 535-8300.

**Construction Phase.** Prior to the commencement of any clearing, grading or excavation, the project shall comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit as follows:

- The applicant shall develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities;
- The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB).

The project applicant shall comply with the City of San Jose Grading Ordinance, including erosion and dust control during site preparation and with the City of San Jose Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific BMPs will be implemented to prevent stormwater pollution and minimize potential sedimentation during construction:

- Restriction of grading to the dry season (April 15 through October 15);
- Utilize on-site sediment control BMPs to retain sediment on the project site;
- Utilize stabilized construction entrances and/or wash racks;
- Implement damp street sweeping;

- Provide temporary cover of disturbed surfaces to help control erosion during construction;
- Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

**Post-Construction Phase.** The project shall incorporate post-construction BMPs and treatment control measures in conformance with the provisions of the City's Post-Construction Urban Runoff Management Policy, including numerically sized vegetative swales, disconnected roof leaders and bubble-up drainage emitters, and pervious paving materials.

**NOISE**

The project shall be constructed in conformance with the STC rating recommendations for windows and doors contained in the report entitled *Pestana Site – San Jose, California, Environmental Noise Study*, prepared by Charles M. Salter Associates, Inc., dated August 5, 2005. The table is reproduced below:

<b>Location</b>	<b>STC Rating</b>
Eastern facades fronting Oakland Road including northern and southern facades of corner rooms of end units perpendicular to Oakland Road Eastern and southern facades of unit 1 corner rooms in the eastern 9-plex fronting on Rock Avenue	33
Northern and southern facades perpendicular to Oakland Road, not including the corner rooms of end units Eastern and southern facades for units 1 through 3 in the eastern 9-plex fronting on Rock Avenue, not including the corner rooms of unit 1	30
All other southern facades fronting Rock Avenue	26
All other facades not listed above	No mitigation required.

All units shall have forced air ventilation systems to allow the windows to remain closed so that an interior noise level of 45 dBA can be achieved. Prior to issuance of occupancy permits, building plans for all units will be checked by a qualified acoustical consultant to ensure that noise levels are attenuated sufficiently.

Prior to the approval of a Planned Development permit, architectural revisions and/or re-orientations of private open space shall be made so that no open space exceeds 70 dB DNL. Additional noise reports may be required to project the noise level of any relocated open spaces to the satisfaction of the Director of Planning.

**Construction Noise:** The following measures shall be implemented by the project developer and/or construction site supervisor to reduce potential construction noise impacts to surrounding neighbors:

- ❑ Notify neighbors of the schedule and type of equipment used for each phase of construction;
- ❑ Limit hours of construction to between 7:00 a.m. and 7:00 p.m. on weekdays, when construction occurs within 500 feet of existing residences, in conformance with City standards;
- ❑ Locate noisy stationary equipment (i.e., generators or compressors) away from neighboring residences;
- ❑ Require that all construction equipment be in good working order and that mufflers be inspected for proper functioning;
- ❑ Require that vehicles and compressors turn off engines when not in use;
- ❑ Utilize available noise suppression devices and techniques as appropriate, in conformance with General Plan policy; and
- ❑ Designate a construction noise coordinator who would be available to respond to complaints from neighbors and take appropriate measures to reduce noise.

### **TRAFFIC**

The project applicant shall make a fair share contribution to the installation of a traffic signal at the intersection of Rock Road and Oakland Road, to the satisfaction of the Director of Public Works.

The project frontage along Rock Road, west of Oakland Road, shall be improved to match the roadway width west of the site, including bike lanes and a sidewalk that connects with the existing sidewalk west of the site.