



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: December 7, 2006

COUNCIL DISTRICT: 2
SNI AREA: Not Applicable

SUBJECT: PDC 06-026. PLANNED DEVELOPMENT REZONING FROM THE R-1-1 SINGLE-FAMILY RESIDENCE ZONING DISTRICT TO THE A (PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO SEVEN NEW SINGLE-FAMILY DETACHED RESIDENCES ON AN APPROXIMATELY 0.83 GROSS ACRE SITE.

RECOMMENDATION

The Planning Commission voted 5-0-1 (Platten, absent) to recommend that the City Council conditionally approve the proposed project to allow up to five (5) single-family detached units on the subject site, per staff's recommendation.

OUTCOME

Should the City Council approve the Planned Development Rezoning as recommended by the Planning Commission, up to (5) single-family detached residences may be built on the subject 0.83 gross-acre site, consistent with the attached revised Development Standards for the subject rezoning. This future development would be subject to additional Development Permits and subdivision maps.

BACKGROUND

On December 6, 2006, the Planning Commission held a public hearing to consider a Planned Development Rezoning from the R-1-1 Single-Family Residence Zoning District to the A (PD) Planned Development Zoning District to allow seven new single-family detached residences on a 0.83 gross-acre site. The Director of Planning recommended conditional approval of the project for a maximum of five units on the site.

Staff made a brief summary of the written staff report.

The applicant's representative stated surprise regarding staff's concerns about neighborhood compatibility and indicated that in the surrounding area there are some lots as small as 3,100 square feet. The applicant also stated that changes had been made in response to staff's concerns, including providing a concrete wall at the end of the proposed drive, along with enhancements to the design of

houses are well-articulated and compatible with the neighborhood. The applicant explained that the proposed project has a density of 8.4 DU/AC, if the area devoted to the common driveway is included in the density calculation, and reiterated how he believed that the project exceeded Residential Design Guidelines requirements in a number of ways. He stated the project should be eligible for application of the Two Acre Rule Discretionary Alternate Use Policy.

The public hearing was then closed.

Staff reiterated that as a single-family detached project, the proposed houses should either be on a public street, or that a reduced number of units could be grouped around a driveway in a court home configuration. Staff also indicated that the proposed project does not exceed the standards of comparable previously-approved projects, and that the proposed driveway should be "netted out" of the density calculation because it functions as a street. Staff also indicated they concurred that the proposed project architecture would compliment the existing houses in the surrounding neighborhood.

In response to Commissioner Kamkar, staff clarified that in a "Two-Acre Rule" project the objective is to achieve the best project possible, and not to use the process as a way around Design Guidelines' standards.

Deputy Director Hamilton asked staff to clarify staff's proposed revisions and the resulting project density. Staff indicated that orienting two units perpendicular to the private drive near Pecan Blossom would allow that private drive to be instead designed as a public street, and allow for the other houses on the street to have wider frontages with more landscaping which would help to create a truly superior project, and allow staff to support the project and the use of the Two-Acre Rule. Commissioner Dhillon asked whether a six-unit project would allow for an exemplary design, and staff responded that it was uncertain without review of a specific proposal. Staff went on to state that even though a five-unit project would require application of the Two-Acre Rule, staff believed the increased setbacks and enhanced landscaping opportunities would provide an exemplary project design and be an appropriate use of the Discretionary Alternate Use Policy.

Commissioner Dhillon made a motion to recommend approval of a six-unit project, which failed for a lack of a second. Commissioner Zito Moved that the Commission recommend approval of a five-unit project, per staff's recommendation, which was approved 5-0-1, with Commissioner Platten absent.

Staff has attached revised Development Standards for a five-unit project However, the applicant has not provided revised plans to reflect the Planning Commission's recommendation for only five units.

ANALYSIS

The proposed rezoning of the site from the R-1-1 Single-Family Residence Zoning District to the A (PD) Planned Development Zoning District, as conditioned by staff, is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8 DU/AC) with application of the *Two Acre Rule*, and provides an opportunity to further important goals and strategies of the General Plan.

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 notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

COORDINATION

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

FISCAL/POLICY ALIGNMENT

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

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

The Mitigated Negative Declaration was adopted on December 5, 2006.


JOSEPH HORWEDEL, SECRETARY
Planning Commission

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

Attachment: Revised Development Standards

HONORABLE MAYOR AND CITY COUNCIL

December 7, 2006

Subject: PDC 06-026

Page 4

cc: Greg Mussallem, P.O. Box 8305, San Jose, CA 95155

Rick and Holly Hartman, Hometec Architecture, 619 North First Street, San Jose, CA 95112

Mission Engineers, 355 Reed Street, Santa Clara, CA 95050

Richard Mindigo, Richard Mindigo and Associates, 1984 The Alameda, San Jose, CA 95126

Erik Schoennauer, The Schoennauer Company, 2066 Clarmar Way, San Jose, CA 95128

Linda Pagaling, 23 Shenado Place, San Jose, CA 95136

Paul and Judy Amos, 5378 Pecan Blossom Drive, San Jose, CA 95123

Mike and Judy Barnett, 5366 Pecan Blossom Drive, San Jose, CA 95123

DRAFT GENERAL DEVELOPMENT PLAN NOTES
(PER PLANNING COMMISSION RECOMMENDATION)

PDC 06-026

Development Standards

Permitted Uses:	Permitted uses shall be up to (5) five single-family detached residential units (total).
Maximum. Building Height:	The maximum building height shall not exceed 30 feet and two (2) stories
Minimum Lot Size:	4,700 square feet
Parking Requirements:	Single-family detached residential: (2) covered spaces per unit, plus one additional off-lot parking space within 150 feet of each unit.
Setbacks/ Private Open Space:	Per Chapter 17 – Single-Family Detached Houses, of the Residential Design Guidelines, based on the final size of the new lots.
Setback adjacent to Pecan Blossom Drive:	25 feet (to match the minimum front setbacks of the two adjoining properties on Pecan Blossom Drive)

Additions that are architecturally integrated into the existing structures, pools, spas, decks, accessory structures, that conform to the R-1-8 Development Standards are allowed by right, and no further review by the Planning Division is required. Other permits may be required.

General Notes

Water Pollution Control Plant

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

DRAFT GENERAL DEVELOPMENT PLAN NOTES
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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.

Tree Mitigation

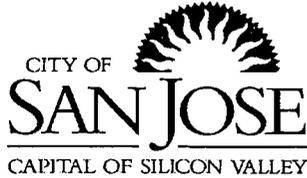
Each tree to removed from the site shall be mitigated at the following rations:

- Each tree removed less than 12” in diameter shall be replaced by one 15-gallon tree.
- Each tree removed less than 12” up to 18” in diameter shall be replaced by two 24-inch box trees.
- Each tree removed 18” in diameter or larger shall be replaced by four 24-inch box trees.

Parkland Dedication Ordinance

The project shall conform to the requirements of the Parkland Dedication Ordinance.

Last revised on 12/07/06



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: December 1, 2006

TRANSMITTAL MEMO

COUNCIL DISTRICT: 2
SNI: N/A

SUBJECT: PDC06-026. LOCATED ON SOUTHWESTERLY SIDE OF SHENADO PLACE, APPROXIMATELY 500 FEET EASTERLY OF GERINE BLOSSOM DRIVE.

The Planning Commission will hear this project on December 6, 2006. The memorandum with Planning Commission recommendations will be submitted under different cover. We hope the submittal of this staff report is of assistance in your review of this project.


JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

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

CITY OF SAN JOSE, CALIFORNIA
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, California 95113-1905

Hearing Date/Agenda Number
P.C. 12/06/06 Item: 4i

File Number
PDC06-026

Application Type
Planned Development Rezoning

Council District
2

Planning Area
Edenvale

Assessor's Parcel Number(s)
690-06-062

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Jeff Roche

Location: Southerly side of Shenado Place, approximately 500 feet easterly of Gerine Blossom Drive

Gross Acreage: 0.83

Net Acreage: 0.55

Net Density: 12.7 (DU/AC)

Existing Zoning: R-1-1 Residence

Existing Use: Vacant

Proposed Zoning: A (PD) Planned Development Proposed Use: To allow seven new single-family detached residential units.

GENERAL PLAN

Completed by: JR

Land Use/Transportation Diagram Designation:
Medium Low Density Residential (8 DU/AC)

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: JR

North: Detached Residential

R-1-8 Single-Family Residence

East: Public Utility Facility

R-1-1 Single-Family Residence

South: Detached Residential

R-1-8 Single-Family Residence and A (PD) Planned Development

West: Detached Residential

R-1-8 Single-Family Residence

ENVIRONMENTAL STATUS

Completed by: JR

Environmental Impact Report
 Negative Declaration circulated on November 15, 2006

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: JR

Annexation Title: Oak Grove No. 37

Date: May 28, 1971

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial

Date: *November 29, 2006*

Approved by: *Susan Walton*
 Action
 Recommendation

OWNER/ APPLICANT/DEVELOPER

Greg Mussallem
P.O. Box 8305
San Jose, CA 95155

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Jeff Roche

Department of Public Works

See attached memorandum, dated, May 16, 2006.

Other Departments and Agencies

See memoranda from the Fire Department dated, May 3, 2006.

GENERAL CORRESPONDENCE

See email from a neighboring property owner, dated, July 6, 2006.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

This is a Planned Development Rezoning from R-1-1 Residence Zoning District to A (PD) Planned Development Zoning District to allow up to seven single-family detached residences on a 35,495 gross square foot site. The proposed minimum lot sizes would range from approximately 3,000 square feet to 4,300 square feet (with an average lot size of 3,500 square feet), as shown on the applicant's proposed plans. Two unit types are proposed, ranging in size from 2,150 square feet to 2,200 square feet and are approximately 30-feet in height. All units have a two-car garage and a minimum of 600 square feet of private open space, or greater.

The Conceptual Site Plan indicates that the new residences would take access from Shenado Place. No access is proposed to Pecan Blossom Drive. In order to take access from Pecan Blossom Drive, the applicant would need to acquire access across a small piece of privately-owned property between the site and the public street. Surrounding land uses are single-family detached residential on three sides, with a public utility facility to the east of the site.

ENVIRONMENTAL REVIEW

The environmental review for this project was based on an Initial Study prepared for the project. Issues addressed in the Initial Study include Aesthetics, Air Quality, Biological Resources, Archaeology, Geology and Soils, Hydrology and Water Quality, Noise, and Transportation and Traffic.

All mitigation measures that have been identified in the Initial Study have been included in the project. For these reasons, the Director of Planning issued a Negative Declaration for the proposed Planned Development Rezoning on November 15, 2006.

GENERAL PLAN CONFORMANCE

The project site is designated Medium Low Density Residential (8 DU/AC) on the City's General Plan Land Use Transportation Diagram. The project site is approximately 35,945 gross square feet in size. If the private street is deducted from the gross square footage, the site is approximately 23,900 net square feet, or 0.55 acres in size.

Project as Proposed by the Developer

The applicant is proposing a project of seven units, at a density of 12.7 dwelling units per net acre, which exceeds the General Plan density range and would require the application of the *Discretionary Alternate Use Policy: Two Acre Rule* to find the project in conformance with the General Plan.

The proposed rezoning would further the closely related Greenline and Housing Major Strategies of the General Plan which specify that urban development should only occur within the Urban Service Area where urban development can be accommodated and where urban services can be efficiently provided. However, staff has concluded that the seven-unit project, as proposed by the developer, would result in a project that is not compatible with the existing surrounding residential development and is not of an exceptional design for the location. For these reasons, staff has concluded that the applicant's proposal does not conform to the General Plan. For the past seven months, staff has met with the applicant and the consultant team and has strongly encouraged them to make revisions to the plans to address concerns regarding neighborhood compatibility and conformance to the Residential Design Guidelines. The applicant has not proposed any revised plan or reduction in units.

Alternatives Proposed by Staff

Staff does concur that the property is an underutilized site, located within the existing urbanized area, and that it provides an ideal opportunity for a modest infill development of up to five units (with either a street or a driveway). Staff believes a proposal for up to five units supports and conforms with the General Plan infill strategies, and may or may not require the application of the Discretionary Alternate Use Policy: Two Acre Rule, depending on whether the ultimate project includes a street, as the project density is calculated using the site's net square footage. A future 5-unit project on the site, as recommended by staff, would have a density of 9.1 DU/AC if the design for a street is retained. A 5-unit project oriented around a driveway or some other design would result in a calculated density of 6.0 DU/AC. Staff believes that reducing the number of units to no more than five would allow a site design to be developed that could potentially make use of the Two-Acre Rule for exceptional design.

ANALYSIS

The primary issues associated with this project are the compatibility of the proposed density with the existing neighborhood, conformance to the Residential Design Guidelines and the applicability of the Discretionary Alternate Use Policy: Two-Acre Rule to this project.

Neighborhood Compatibility

The project site is located within an existing residential neighborhood generally characterized by larger, single-family detached residential uses and lots, with a public utility facility to the east of the site. The applicant is proposing a total of seven single-family detached dwelling units that, at 12.7 dwelling units per acre, would exceed the allowable density range of the General Plan land use designation of Medium Low Density Residential (8 DU/AC). As proposed by the project developer, the lots would range in size from approximately 3,000 square feet up to 4,300 square feet, and would be substantially smaller than the 5,445 square foot minimum lot size/development pattern in the neighborhood. All units will have private open space in the form of backyards. The smaller lot sizes as proposed by the applicant often create interface issues because the units are closer together, while larger lot sizes with corresponding larger setbacks would blend better into the neighborhood development pattern, and could help solve those issues. As proposed by staff, the lot sizes would be an average of approximately 4,700 square feet, and significantly closer to the neighborhood's average lot size.

Conformance to the Residential Design Guidelines

The City's Residential Design Guidelines state that single-family detached houses are typically on individual lots and have street frontage. As proposed, while the houses are on individual lots and have setbacks that would generally correspond to the applicable sections of the Residential Design Guidelines based on the lot sizes (those for lots of 3,000 to 4,000 square feet, or for lots of 4,000 to 5,000 square feet), the project takes access from an enhanced driveway. A minimum of only 6 feet of separation is proposed between the units, resulting in the row of buildings having an attached appearance. The Guidelines call for larger, 8- to 9-foot distances between units (side to side). A minimum 15-foot setback is proposed along the easterly side of the site, adjacent to the public utility facility, where a minimum setback of 25 to 28 feet would be required per the Guidelines. Staff has concluded that a project with fewer units, more rectangular in shape, would also allow for greater separation between the proposed houses and the incompatible use to the east, and allow for an increase in the depth of the rear yards of up to 25 feet.

The Guidelines state that the units should take access from a street, not an enhanced driveway. In order to create a pleasant urban environment for residents, pedestrians, and passersby, and a sense of security for pedestrians, all street sections should include park strips and detached sidewalks. This project does not propose to include detached sidewalks or park strips. Alternatively, if the number of units were reduced from 7 units to only 4 or 5 units that take access from a shared driveway, the scenario with fewer units would also conform to the Guidelines. If the applicant was able to obtain access to Pecan Blossom Drive, the project could be divided so that the frontage along the south end of the site was developed with 1 to 2 units that fronted onto, rather than sat side-on or "backed-up" to the existing neighborhood.

Given the significant length of the proposed dead-end street (approximately 340 feet) and the proposed placement of the rear unit (Lot 7), staff has concluded that there could be visibility and safety issues due to the lack of natural surveillance from Shenado Place. Staff also believes that the rear unit is too close to Pecan Blossom Drive, with only a minimum setback of approximately 15 feet. Turning the unit 90 degrees and orienting it so that it would "look down" the new street or driveway and creating a larger, 25-foot setback toward Pecan Blossom Drive would result in a better design that enhances visibility and relates better with the existing neighborhood to the south, where the front setbacks for existing houses are approximately 25 feet.

The applicant has agreed to install a wall (along the southerly site boundary) in response to concerns expressed by the adjoining property owners. City staff believes that the design and location of this wall, and the vacation of a portion of Shenado Place, can be resolved through the Planned Development Permit process. The area that will need to be vacated is shown as a triangular area adjacent to Shenado Place, on the project's Land Use Plan. This area would ultimately be incorporated into the yard of the future Lot 1.

Staff has prepared *Draft General Development Plan standards* (see attached) limiting the maximum number of units to five, and including maximum building heights, setbacks, and parking standards consistent with City standards for single-family detached residential development. The reduction to five units from the proposed seven by reducing the number of lots would also allow for greater building setbacks typical of lots in a conventional single-family residential zoning district, and allow for deeper rear yards. Staff has concluded that limiting the project to a maximum of 5 units, with a shorter street that includes a detached sidewalk and park strip on one side, curbside parking and parking bays, and a standard cul-de-sac bulb at the end of the street, and with units that are rectangular- rather than square-shaped, with side-entry garages, would fit better on the site and reduce the dominance of vehicles across the front of the site, and along a future street.

Larger setbacks in conformance with the Residential Design Guidelines, and with a northerly-facing end unit, consistent with the Guidelines and Draft Development Standards as prepared by staff, would also be more in conformance with the City's General Plan and in keeping with the character of the neighborhood.

Discretionary Alternate Use Policy – Two-Acre Rule

The General Plan specifies conditions under which an alternative to uses or residential densities to those otherwise allowed in a particular Land Use designation may be determined to be in conformance with the General Plan. The Two-Acre Rule Discretionary Alternate Use Policy of the General Plan states that, "the alternate land use allowed by this policy should be compatible with existing and planned uses, and to use the policy, projects should exceed the minimum standards of the Zoning Ordinance and adopted design guidelines." The General Plan objective is to encourage infill development through projects of exceptional or innovative design solutions, especially on sites with physical or environmental constraints. As discussed elsewhere in this report, staff has concluded that, as designed, the developer's proposed project would not be fully compatible with the neighborhood, does not conform to the City's Residential Design Guidelines, and is not of exceptional design, as it does not exceed the minimum standards expected for a similar project elsewhere in the City.

Staff has concluded that a project that contains a maximum of five units (total) would still allow for modest infill development consistent with the policies of the Plan, and might or might not require the application of the General Plan Two Acre Rule Discretionary Alternate Use Policy, depending on whether the project's ultimate design included a street. Staff believes a reduction in the units proposed on this narrow site should greatly enhance the potential for a well-designed project.

Conclusion

To date, the applicant has not proposed any modification to the originally submitted seven-lot plan, nor any reduction in the number of units, in response to staff concerns. Staff concurs that there is an opportunity to allow some additional infill development of the site, and is supportive of a project for up to five units. With the exception of a single-family detached project (PDC 98-002) to the southeast of the site (on the southerly side of Hayes Avenue) that includes a street (the proposed project does not include a street, but an enhanced driveway) and is approximately 11.9 DU/AC, the majority of development in the immediate area consists of larger lots and less dense projects (i.e., between 8 to 9 DU/AC). Staff would note that the site on Hayes Avenue has a different designation on the City's General Plan Land Use Transportation Diagram (i.e., Medium Density Residential (8-16 DU/AC)) than the subject site, and is therefore not appropriate to use for density comparison purposes.

Staff does not support the use of the Two-Acre Rule to increase the density for the project as proposed by the developer. Planning staff is recommending conditional approval of the proposed rezoning with a maximum of 5 units, with a street (including minimizing the length of the street), that includes a detached sidewalk and park strip on one side, curbside parking and parking bays, a standard cul-de-sac bulb at the end of the street, rectangular-shaped units rather than square-shaped units with deeper rear yards and side-entry garages that would fit better on the site, setbacks in conformance with the Residential Design Guidelines, and with the living area of the end unit facing in a northerly direction down the new street, consistent with the Guidelines and the Draft Development Standards as prepared by staff.

PUBLIC OUTREACH

A notice of the public hearing was published in a local newspaper, and distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to meet with neighboring property owners. Copies of all correspondence received to date have been attached to this report. A Community Meeting was held on July 11, 2006. Issues that were raised by the neighbors at that meeting included parking, traffic, fence treatment, noise, and activity at the adjacent public utility facility.

This report has been made available on the Planning Department web site.

RECOMMENDATIONS

Planning staff recommends conditional approval of the subject Planned Development Rezoning with a maximum of five units (total) for the following reasons:

1. As proposed by the applicant, the seven-lot project with a net density of 12.7 DU/AC is not consistent with the General Plan Land Use designation of Medium Low Density Residential (8 DU/AC), is not compatible with the surrounding single family residential development, is not of an exceptional design because it does not meet the minimum standards called for in the Residential Design Guidelines, and therefore, cannot be found to conform under the General Plan Discretionary Alternate Use Policy – Two Acre Rule.
2. The proposed project, as recommended by staff, is consistent with the site's General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8 DU/AC) and may or may not require the application of the General Plan Two Acre Rule, Discretionary Alternate Use Policy, depending on whether the ultimate project design includes a street.
3. The project, as recommended by staff, is compatible with the existing neighborhood character and lotting pattern.
4. The project, as recommended by staff, includes development standards and use limitations to ensure that subsequent development will be compatible with the surrounding neighborhood and could allow for development of a project with exceptional design.

Attachments:

Draft Development Standards
Location Map
Mitigated Negative Declaration
Meeting Notice
Comments from Environmental Services
Public Works Memorandum
Fire Department Memorandum
Email from Judith Amos

cc: Rick and Holly Hartman, Hometec Architecture, 619 North First Street, San Jose, CA 95112
Mission Engineers, 355 Reed Street, Santa Clara, CA 95050
Richard Mindigo, Richard Mindigo and Associates, 1984 The Alameda, San Jose, CA 95126
Erik Schoennauer, The Schoennauer Company, 2066 Clarmar Way, San Jose, CA 95128
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(PER STAFF RECOMMENDATION)

PDC 06-026

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Setback adjacent to Pecan Blossom Drive:	25 feet (to match the minimum front setbacks of the two adjoining properties on Pecan Blossom Drive)

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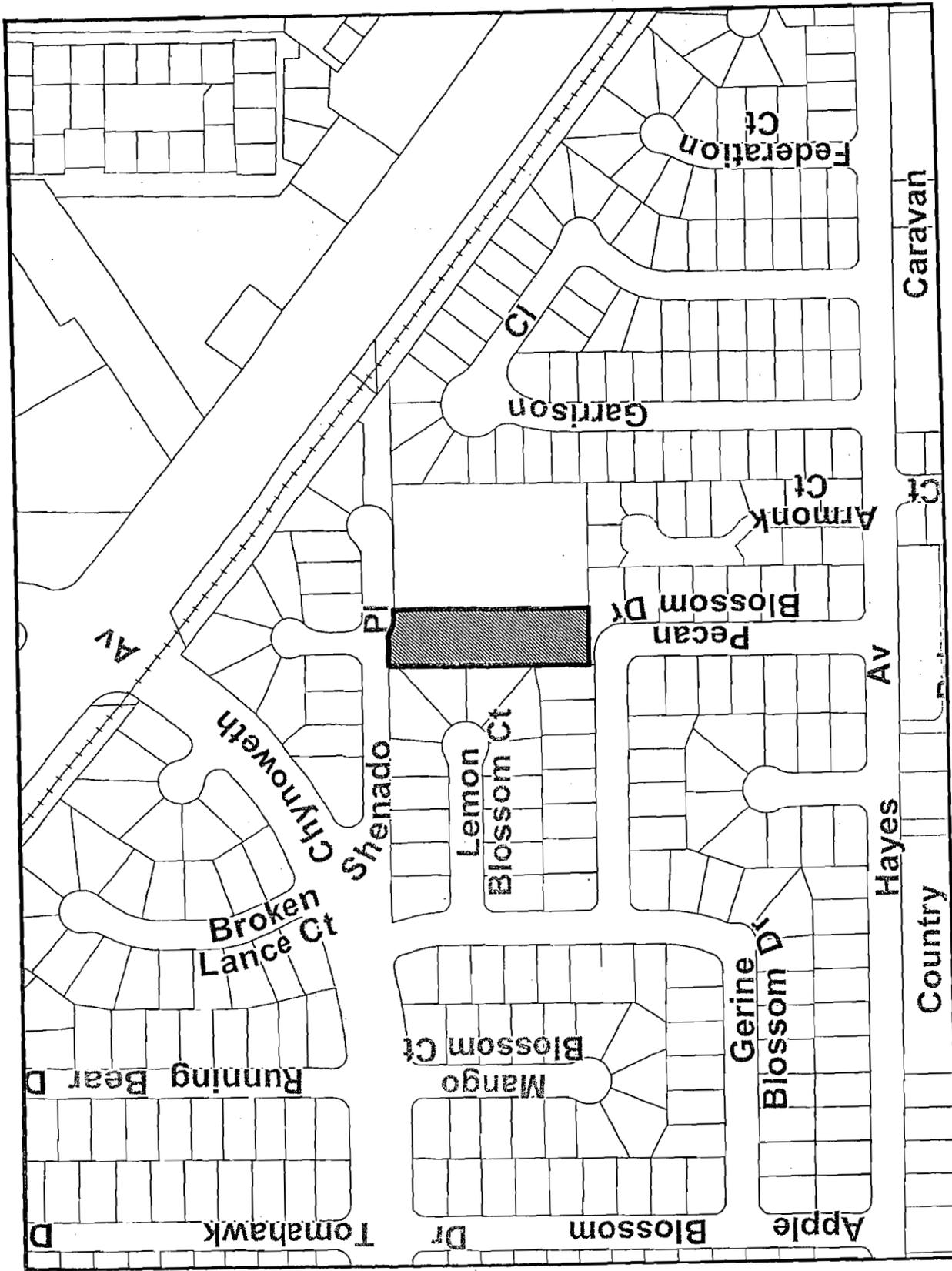
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- Each tree removed less than 12" up to 18" in diameter shall be replaced by two 24-inch box trees.
- Each tree removed 18" in diameter or larger shall be replaced by four 24-inch box trees.

Parkland Dedication Ordinance

The project shall conform to the requirements of the Parkland Dedication Ordinance.

Last revised on 11/28/06

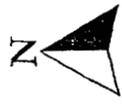


File No: PDC06-026

District: 2

Quad No: 129

Scale: 1"= 250'
Noticing Radius: 500 feet



Map Created On:
04/25/2006



**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: Shenado Lane

PROJECT FILE NUMBER: PDC 06-026

PROJECT DESCRIPTION: Planned Development Rezoning from the R-1-1 Single-Family Residence District to the A (PD) Planned Development Zoning District to allow the construction of a 7 single-family detached residential units and subsequent subdivision on approximately 0.82 gross acre.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Southerly side of Shenado Place opposite Wigwam Court, approximately 550 feet easterly of Gerine Blossom Drive; APN 690-06-062

COUNCIL DISTRICT: 2

APPLICANT CONTACT INFORMATION: Greg B. Mussallem, P.O. Box 8305, San Jose, CA 95155, 408-998-7060; (fax) 408-998-7060, gbmuss@aol.com

FINDING

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

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

- I. **AESTHETICS** – The 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 following construction practices shall be implemented during all phases of construction to prevent visible dust emissions from leaving the site.

- Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- Sweep daily, or more often if necessary (preferably with water sweepers), all paved access roads, parking areas and staging areas at construction sites; water sweepers will vacuum up excess water to avoid runoff-related impacts to water quality; and
- Sweep streets daily, or more often if necessary (preferably with water sweepers), if visible soil material is carried onto adjacent public streets.

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

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

VI. GEOLOGY AND SOILS – The project will not have a significant impact on this resource, therefore no mitigation is required.

VII. HAZARDS AND HAZARDOUS MATERIALS – The project will not have a significant impact on this resource, therefore no mitigation is required.

VIII. HYDROLOGY AND WATER QUALITY

- A Storm Water Pollution Prevention Plan (SWPPP) in compliance with the local NPDES permit shall be developed and implemented including: 1) site description; 2) erosion and sediment controls; 3) waste disposal; 4) implementation of approved local plans; 5) proposed post-construction controls, including description of local post-construction erosion and sediment control requirements; 6) Best Management Practices (BMPs) such as the use of infiltration of runoff onsite, first flush diversion, flow attenuation by use of open vegetated swales and natural depressions, stormwater retention or detention structures, oil/water separators, porous pavement, or a combination of these practices for both construction and post-construction period water quality impacts; and 7) non-storm water management.
- The project shall incorporate the following site design, source control, and treatment measures to minimize the discharge of stormwater pollutants and limit the volume, velocity and duration of runoff:
 - A Vortechs hydrodynamic separation unit to treat stormwater flows shall be installed near the outfall of the storm drainage system.
 - Downspouts shall discharge and drain into landscaped areas located away from the building foundation to an unpaved area wherever possible.
- A maintenance and monitoring program shall be developed at the PD Permit stage to the satisfaction of the Director of Planning.

- The maintenance and monitoring program shall be implemented to ensure that all stormwater treatment BMPs will be permanently maintained by the Homeowners' Association (HOA) for the life of the development, to the satisfaction of the Director of Planning.
- IX. LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- X. MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XI. NOISE**
- Windows and sliding glass doors shall be maintained closed and STC 26 to 28 or higher rated windows and doors shall be installed at all upper floor and unshielded ground floor living spaces.
 - All units shall be equipped with forced air ventilation systems to allow the occupants the option of maintaining the windows closed to control noise and maintain an interior noise level of 45 dB DNL.
 - Prior to issuance of building permits, the developer shall retain a qualified acoustical consultant to check the building plans for all units to ensure that interior noise levels can be sufficiently attenuated to 45 DNL to the satisfaction of the Director of Planning, Building and Code Enforcement.
 - Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any onsite or offsite work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
 - The contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
 - Locate stationary noise generating equipment as far as possible from sensitive receptors. Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.
- 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 **December 5, 2006**, any person may:

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

Joseph Horwedel, Acting Director
Planning, Building and Code Enforcement

Circulated on: 11/15/06

Deputy

Adopted on: _____

Deputy

MND/JAC 8/26/05

NOTICE OF NEIGHBORHOOD MEETING

July 11th, 2006 at 6:30 PM

at

Southside Community Center
5585 Cottle Road, Room # 7
San Jose, CA 95123

Re: Planned Development Zoning File Number PDC06-026

The purpose of this Neighborhood Meeting is to present information and to hear community comments/feedback about a proposed residential development on a vacant lot on the southerly side of Shenado Place, approximately 500 feet easterly of Gerine Blossom Drive.

Shenado Lane LLC has filed with the City of San Jose, a Planned Development Rezoning application, file number PDC06-026, to develop seven (7) single-family detached residential units along a private driveway on a .83-acre site.

You are welcome to participate in this meeting. Councilmember Forrest Williams and his Policy Director Anthony Drummond along with the developer's representative and City Staff will be available to listen to your feedback and answer your questions.

If you have any questions or comments prior to the meeting, please contact:

Department of City Planning Project Manager – Jeff Roche

Email: Jeff.Roche@sanjoseca.gov

Phone: (408) 535-7829

Councilmember Forrest Williams' Office – Anthony Drummond

Email: Anthony.Drummond@sanjoseca.gov

Phone: (408) 535-4902

Project Contact (developer's representative) – Erik Schoennauer

Email: es@stanfordalumni.org

Phone: (408) 947-7774

Roche, Jeff

From: Fukuda, Napp
Sent: Friday, September 15, 2006 11:01 AM
To: Roche, Jeff
Cc: 'RMindigo@aol.com'; Lynch, Gary; Blair, Geoffrey
Subject: Shanado Lane PDC06-026

I have reviewed the Laboratory Results for Soil Samples Report for the subject site submitted by the applicant. ESD had previously reviewed the Phase I ESA (See comments below) for the site and had made a recommendation for further soil evaluation related to historical agricultural uses of the site. The original assessment had only sampled and analyzed soil for DDT and associated breakdown constituents; ESD had recommended site soils be additionally analyzed for arsenic and lead, pesticide-related contaminants also commonly encountered at such sites.

The original data showed only trace amounts of DDT-related contaminants, well below established environmental screening limits. The latest results also appear to show the site has not been significantly impacted by historical agricultural activities. The detected arsenic, lead, and mercury concentrations all appear to be at or below background concentrations.

It appears the site has been adequately evaluated therefore ESD would not require any further study. If I can provide any further assistance, please feel free to contact me.

Napp Fukuda

Environmental Compliance Officer
City of San Jose
Environmental Services Department
200 E. Santa Clara Street, 10th Floor
San Jose, CA 95113-1905

(408)975-2594
(408)292-6213 Fax

From: Lynch, Gary
Sent: Monday, August 28, 2006 1:17 PM
To: Roche, Jeff
Cc: 'RMindigo@aol.com'; Fukuda, Napp
Subject: PDC06-026 Shenado Lane Phase I

At the request of the applicants representative, Richard Mindago, ESD had reviewed a Phase I Assessment and limited soil sampling for the above cited application locate at Shenado Place which is proposed for detached residential development.

The report details the history of the site which had formerly been agricultural, first as an orchard, then as row crops. A limited soil sampling was conducted with a sampling which does not comply with the City's general protocol. Only four samples were taken but because the site is small, only 0.8 acres the limited number of samples would be acceptable. However, the soil was analyzed only for residual DDT but no sampling was conducted for lead or arsenic, metals commonly used as pesticides on early orchard sites and which are normally required by the City for evaluation of former agricultural sites which had been in orchard use. We would recommend that additional sampling (four locations) be conducted for lead and arsenic to rule out residual metals as an issue prior to residential development.

9/18/2006

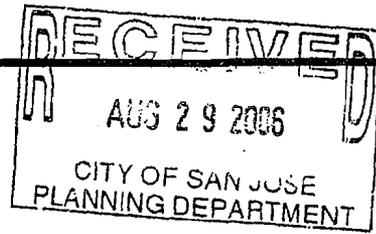
I am forwarding the report to you for your project files.

I would be happy to provide additional guidance to the applicant if desired.

Gary Lynch
Environmental Services Department.

Lynch, Gary

To: Roche, Jeff
Cc: RMindigo@aol.com; Fukuda, Napp
Subject: PDC06-026 Shenado Lane Phase I



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I am forwarding the report to you for your project files.

I would be happy to provide additional guidance to the applicant if desired.

Gary Lynch
Environmental Services Department.

Memorandum

TO: Jeff Roche
Planning and Building

FROM: Ryan Do
Public Works

**SUBJECT: INITIAL RESPONSE TO
DEVELOPMENT APPLICATION**

DATE: 05/16/06

Approved

Date

PLANNING NO.: PDC06-026
DESCRIPTION: Planned Development Rezoning from R-1-1 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 7 single-family detached residences on a 0.83 gross acre site
LOCATION: south side of Shenado Place, approximately 500 feet easterly of Gerine Blossom Drive
P.W. NUMBER: 3-01936

Public Works received the subject project on 04/25/06 and submits the following comments and requirements. **Upon completion of the Action/Revisions Required items by the applicant, Public Works will forward a Final Memo to the Department of Planning prior to the preparation of the Staff Report for Public Hearing.**

Actions / Revisions Required:

1. **Public Works Development Review Fee:** Additional Public Works Review Fees are due.
 - a) Based on established complexity criteria, the project has been rated medium complexity. Prior to the project being cleared for the hearing and approval process, a sum of \$715 shall be paid to the Development Services Cashier using the attached invoice(s).
 - b) This project is subject to the NPDES - C.3 Requirements Review Fee. Prior to the project being cleared for the hearing and approval process, a sum of \$200 shall be paid to the Development Services Cashier using the attached invoice(s).
2. **Street Vacation:** A street vacation is required in order to accomplish the land use plan as shown. The street vacation process requires further discretionary approval by the City Council and the project will be subject to this process prior to Public Works Clearance. The applicant did not provide a preliminary title report for the street portion to be vacated. Therefore, a title report must be submitted at this time.

3. **Private Street:**

- a) Eliminate storm "inlet to inlet" connections within street. Connect inlets to main utilizing laterals. The material for the private storm main must be City standard RCP (or DIP as an acceptable alternative) with sufficient cover.
- b) The material for the private sanitary main must be City standard VCP with sufficient cover.

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.

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

4. **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.
5. **Transportation:** This project is exempt from the Level of Service (LOS) Policy, and no further LOS analysis is required because the project proposes less than 15 single family detached units.
6. **Street Vacation:** A street vacation is required in order to accomplish the land use plan as shown. The street vacation process requires further discretionary approval by the City Council and the project will be subject to this process prior to Public Works Clearance. The property to be vacated may be subject to a sale and disposition process, which may involve public auction.
7. **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.

8. **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. Numeric sizing will not be required if the PD application is submitted and deemed complete on or before August 15, 2006, otherwise the following will be required to be submitted at the PD stage:
 - a) The project's Stormwater Control Plan showing the location and function of all post-construction treatment control measures, and all trees eligible for post-construction treatment control credits.
 - b) The numeric sizing calculations based on the Stormwater Control Plan, prepared by a qualified stormwater professional (civil engineer, licensed architect or landscaped architect), used to determine runoff quantity and to design/select the post-construction treatment control measures.
 - c) Inspection and maintenance information on the post-construction treatment control measures
9. **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.
10. **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.
11. **Street Improvements:**
 - a) Construct new curb, gutter, and sidewalk along Shenado Place frontage. Provide a detached sidewalk with park strip.
 - b) 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.
12. **Complexity Surcharge (In-Fill):** This project has been identified as an in-fill project. Based on established criteria, the public improvements associated with this project have been rated medium complexity. An additional surcharge of 25% will be added to the Engineering & Inspection (E&I) fee collected at the street improvement stage.
13. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.

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

Please contact me at 408-535-6897 or Gary Jansen at 408-535-6895 if you have any questions.

Ryan Do
Project Engineer
Transportation and Development Services Division

RD:gj
6000_13878449032.DOC

DATE: 05/03/06

TO: Jeff Roche

FROM: Nadia Naum-Stoian

Re: Plan Review Comments

PLANNING NO: PDC06-026

DESCRIPTION: Planned Development Rezoning from R-1-1 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 7 single-family detached residences on a 0.83 gross acre site

LOCATION: south side of Shenado Place, approximately 500 feet easterly of Gerine Blossom Drive

ADDRESS: south side of Shenado Place, approximately 500 feet easterly of Gerine Blossom Drive

FOLDER #: 06 012457 ZN

The Fire Department's review was limited to verifying compliance of the project to Article 9, Appendix III-A, and Appendix III-B of the 2001 California Fire Code with City of San Jose Amendments (SJFC). Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.

- These comments are based on the following information from drawings dated 4/15/06 by Hometec Arch. & by Mission Eng.

Largest building: 2300 sq. ft.

Construction Type: V N

Occupancy Group: R3

Number of stories: 2

1. Access as shown is in compliance as long as both sides of the driveway are painted red with marking per:
 - **Curbs are required to be painted red and marked as "Fire Lane - No Parking" under the following conditions: (show exact locations on plan)**
 - i) **Roads, streets, avenues, and the like that are 20 to less than 26 feet wide measured from face-of-curb to face-of-curb shall have curbs on both sides of the road painted and marked**
2. Calculate 2000gpm: 1000gpm from existing public hydrant on Shenado place plus 1000gpm at the point of connection for the on site hydrant shown on drawing #4. The on site hydrant has to deliver minimum 1000gpm at 20psi- velocity in the pipe not to exceed 15feet/sec.

Please ask the applicant to immediately contact Tim Town of San Jose Municipal Water Service at 408- 277-3671 to get the water flow information.

Provide a copy of the letter from San Jose Municipal Water Service that indicates the water flow available.

All exterior structures shall within 150 feet from an approved emergency vehicle access road without crossing property lines as per fire code. If crossing property lines recorded easement to be provided.

Note: The plans shall be submitted to the Fire Department *by appointment only* (call Nadia Naum-Stoian) as soon as possible.

Nadia Naum-Stoian
Fire Protection Engineer
Bureau of Fire Prevention
Fire Department
(408) 535-7699

Roche, Jeff

From: Judith Amos [jamos23@yahoo.com]
Sent: Thursday, July 06, 2006 10:21 AM
To: jeff.roche@sanjoseca.gov
Cc: anthony.drummond@sanjoseca.gov; es@stanfordalumni.org; Judith Amos
Subject: Shenado Lane LLC - file no. PDC06-026

Jeff,

We had a brief conversation a while back and you sent me the proposed drawings. My name is Judy Amos and my husband Paul and I live next door to the Shenado Lane LLC project on the Pecan Blossom side. I have the usual concerns when something of this magnitude happens in the neighborhood.

We have a special request which I am putting in writing. There is currently a chainlink fence between our property and the field where the LLC is taking place. We would like to keep our area private by requesting the project to erect a 7-8 foot block wall between the properties to replace the current fence.

I am sending this on to Forrest Williams and Erik Schoennauer as well.

Sincerely,
Judy Amos