

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: September 11, 2008

COUNCIL DISTRICT: 3
SNI AREA: N/A

SUBJECT: PDC08-016 Planned Development Rezoning from the R-2 Residential District to the A(PD) Residential District to allow the demolition of five multi-family attached residences and construct four single-family detached residences on a 0.25 gross acre site.

RECOMMENDATION

The Planning Commission voted unanimously to recommend that the City Council adopt an ordinance to approve the subject planned development rezoning from the R-2 Residential District to the A(PD) Residential District to allow the demolition of five multi-family attached residences and construct four single-family detached residences on a 0.25 gross acre site, with the development standards as recommended by staff.

OUTCOME

Should the City Council approve the Planned Development Rezoning, the subject 0.25 acre parcel would be subdivided into up to four lots, consistent with the development standards for the subject rezoning. This future development would be subject to a Planned Development Permit.

BACKGROUND

On September 10, 2008, the Planning Commission held a public hearing to consider the proposed Planned Development Rezoning. The applicant's representative, Gerry DeYoung of Ruth & Going, Inc., was present and spoke in support of the project. There were no members of the community that spoke on the project.

Staff clarified that the development standards as recommended by staff did not include the required minimum open space, which were discussed in the staff report. These requirements were read into the record and a revised copy of the General Development Plan Notes has been attached.

Gerry DeYoung proposed a 7-foot setback along North 15th Street in order to have a larger build-able envelope. Mr. DeYoung stated that the Modern Ice development to the north of the project

site had created a precedent for 10-foot setbacks and that reduced setbacks at the project site would therefore be compatible to the neighborhood. Mr. DeYoung presented a site plan from a project in Willow Glen with 5-foot setbacks and said that the proposed project was similar enough to warrant such setbacks.

Chairman Zito asked how the project qualified for the Two Acre Rule Discretionary Alternate Use Policy and why an 8-foot setback along Berryessa Road was acceptable.

Staff stated that the site design was unique in that the conceptual elevations turned the garage doors away from the public right of way. Staff also stated that the proposed development standards included a required architectural style, which is rarely included in such development ordinances, in order to ensure the development would be compatible to the architectural fabric of the neighborhood. The 8-foot setback along Berryessa Road aligns with the existing structures on the same block and would not be a greater impact than the existing development.

Commissioner Kamkar questioned if staff's motivation for a greater setback along North 15th Street was to reduce the number of units on the site from four to three.

Staff assured the Commission that the number of units was supported by staff. The development standards that staff recommended allow flexibility so that a different layout or product type could conform to the standards and still allow for a four-unit development.

Commissioner Jensen commented that shared driveways can lead to problems between neighbors and that tandem garages should be considered as an alternative to shared driveways. Commissioner Jensen also stated that she appreciated the architecture and thought it would fit in well with the neighborhood.

The Planning Commission then closed the public hearing, and voted unanimously to forward a recommendation to approve the project with the development standards as recommended by staff.

ANALYSIS

The proposed project, as recommended by staff, conforms to the Two-Acre Rule Discretionary Use Policy, in that it is of exceptional design and is harmonious with the existing neighborhood development. See original staff report for additional discussion.

EVALUATION AND FOLLOW-UP

The applicant will be required to secure a Planned Development Permit from the Planning Director in order to implement the subject rezoning.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

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

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30; Public Outreach Policy. The applicant mailed copies of the site plan to residents within 500 feet of the project site, along with comments sheets that the residents could mail to the Planning staff. The project was present to the 13th Street NAC on August 21, 2008. Concerns from the community members included compatibility of architecture, intrusion into the existing neighborhood, the view from the new public park and the reduced setbacks as proposed by the applicant that "choke down" at the intersection. Other comments were that housing that is not low-income is good for the neighborhood and homeowner occupied residences provide some stability to the area. 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.

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BUDGET REFERENCE

Not applicable.

CEQA

CEQA: Mitigated Negative Declaration


 JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Avril Baty at 408-535-7800.

PDC08-016 General Development Plan Notes (revised)

Development Standards

Permitted Uses:	Permitted uses shall be up to four (4) single-family detached residential units (total) and those permitted uses of the R-1-8 Single-Family Residence Zoning District, as amended. Conditional and Special uses of the R-1-8 Single-Family Residence Zoning District are allowed with the issuance of a Planned Development Permit.
Maximum Building Height:	30 feet and two (2) stories, as defined in the Zoning Ordinance, as amended.
Minimum Lot Size:	2,400 square feet
Parking Requirements:	(2) covered spaces per unit.

Setbacks:

Front Setback along Berryessa Road:	8 feet
Corner Side Setback along Berryessa Road:	6.5 feet
Front Setback along N. 15 th Street:	12 feet
Interior Setback:	3 feet

Architecture: Residences are to be in the style of 1920's and/or 1930's craftsman and/or bungalow design.

Accessory Structures & Buildings: Retaining walls shall not exceed two (2) feet in height from grade to top of wall. All other accessory structures and buildings shall meet the requirements of the Zoning Ordinance Section 20.30.500, as amended.

Fencing: All fencing and gates on the subject site shall not exceed three (3) feet in height within any front setback area. Adjacent to a street, the fence height shall be a maximum of three (3) feet within three (3) feet of property line. All other fencing shall not exceed seven (7) feet in height.

Private Open Space: A minimum of 400 square feet of private open space shall be provided for each unit, which may be a cumulative total of private yards and private balconies/decks.

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.

Archaeology: 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 Removals: Trees removed shall be replaced at the following ratios:

Diameter of Tree to be Removed	Type of Tree to be Removed		Minimum Size of Each Replacement Tree
	Native	Non-Native	
18 inches or greater	5:1	4:1	24-inch box
12 - 18 inches	3:1	2:1	24-inch box
less than 12 inches	1:1	1:1	15-gallon container

x:x = tree replacement to tree loss ratio

Note: Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

The species and exact number of trees to be planted on the site will be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage.

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

Public Off-Site Improvements: All public off-site improvements shall be implemented to the satisfaction of the Director of Public Works. Prior to the issuance of building permit(s), the applicant shall be required to obtain a Public Works clearance. Said clearance will require the execution of a Construction Agreement that guarantees the completion of the public improvements.

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 shall meet the numeric sizing design criteria specified in City Policy 6-29.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED AT THE SOUTHWEST CORNER OF BERRYESSA ROAD AND NORTH FIFTEENTH STREET TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT

WHEREAS, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, a Mitigated Negative Declaration (MND) was prepared for a rezoning project under File No. PDC08-016, and said MND is adopted on September 5, 2008; and

WHEREAS, the Council is the decision-making body for the proposed subject rezoning to A(PD) Planned Development Zoning District; and

WHEREAS, this Council of the City of San José has considered and approves said ND prior to approval of this project; and

WHEREAS, the proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as A(PD) Planned Development Zoning District.

The base district zoning of the subject property shall be A-Agricultural. The PD zoning of the subject property shall be that development plan for the subject property entitled, "Esquina Berryessa," **last revised September 23, 2008.**

Said General Development Plan is on file in the office of the Director of Planning and is available for inspection by anyone interested therein, and said General Development Plan is by this reference adopted and incorporated herein the same as if it were fully set forth herein.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference.

SECTION 2. The district map of the City is hereby amended accordingly.

SECTION 3. The land development approval that is the subject of City File No. PDC08-016 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed by the California Regional Water Quality Control Board for the San Francisco Bay Region.

PASSED FOR PUBLICATION of title this 23rd day of September, 2008 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

STAFF REPORT
PLANNING COMMISSION

FILE NO.: PDC08-016

Submitted: March 12, 2008

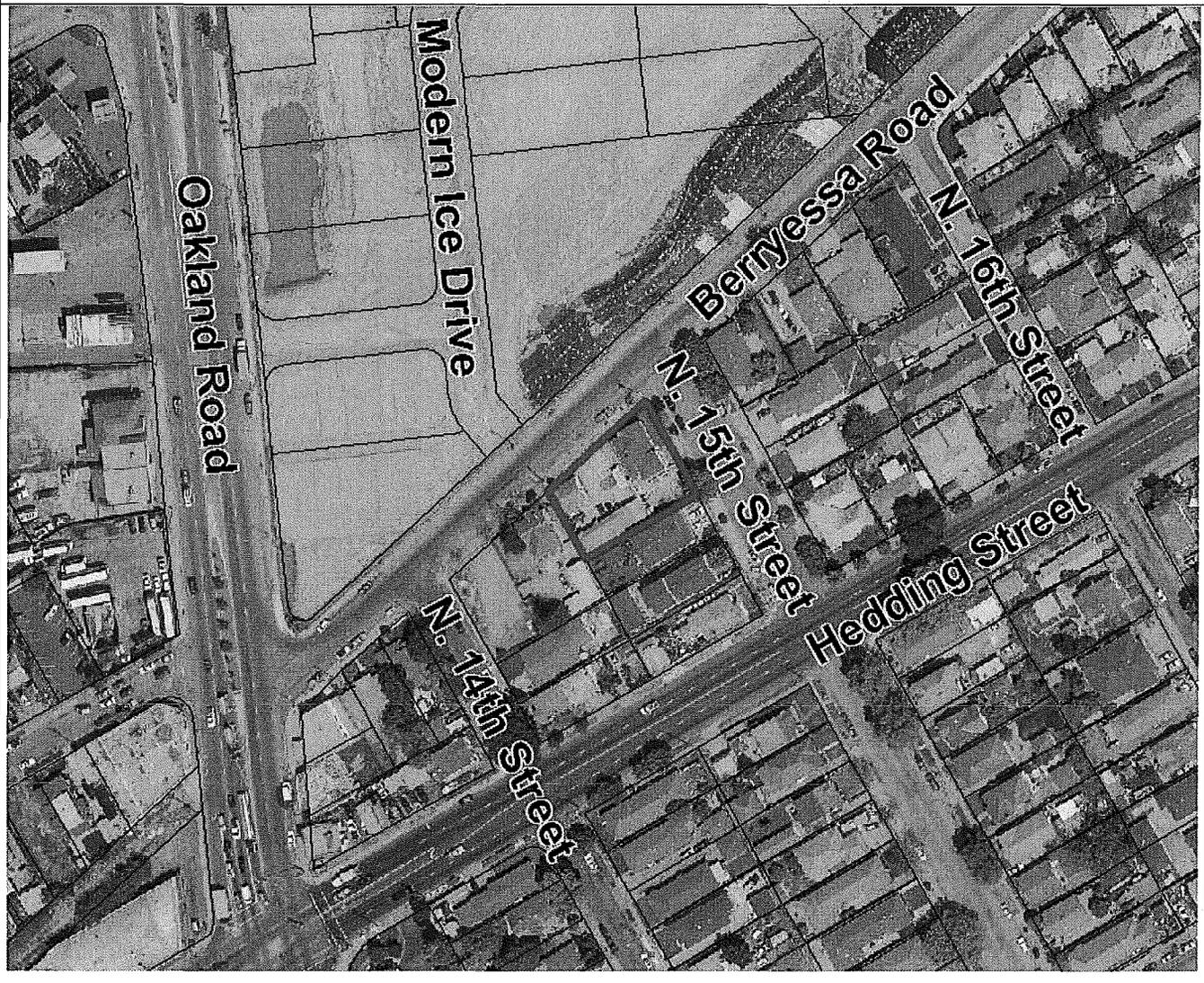
PROJECT DESCRIPTION:

Planned Development Rezoning from the R-2 Residence District to the A(PD) Planned Development District to allow 4 single-family detached residences on a 0.25 gross acre site.

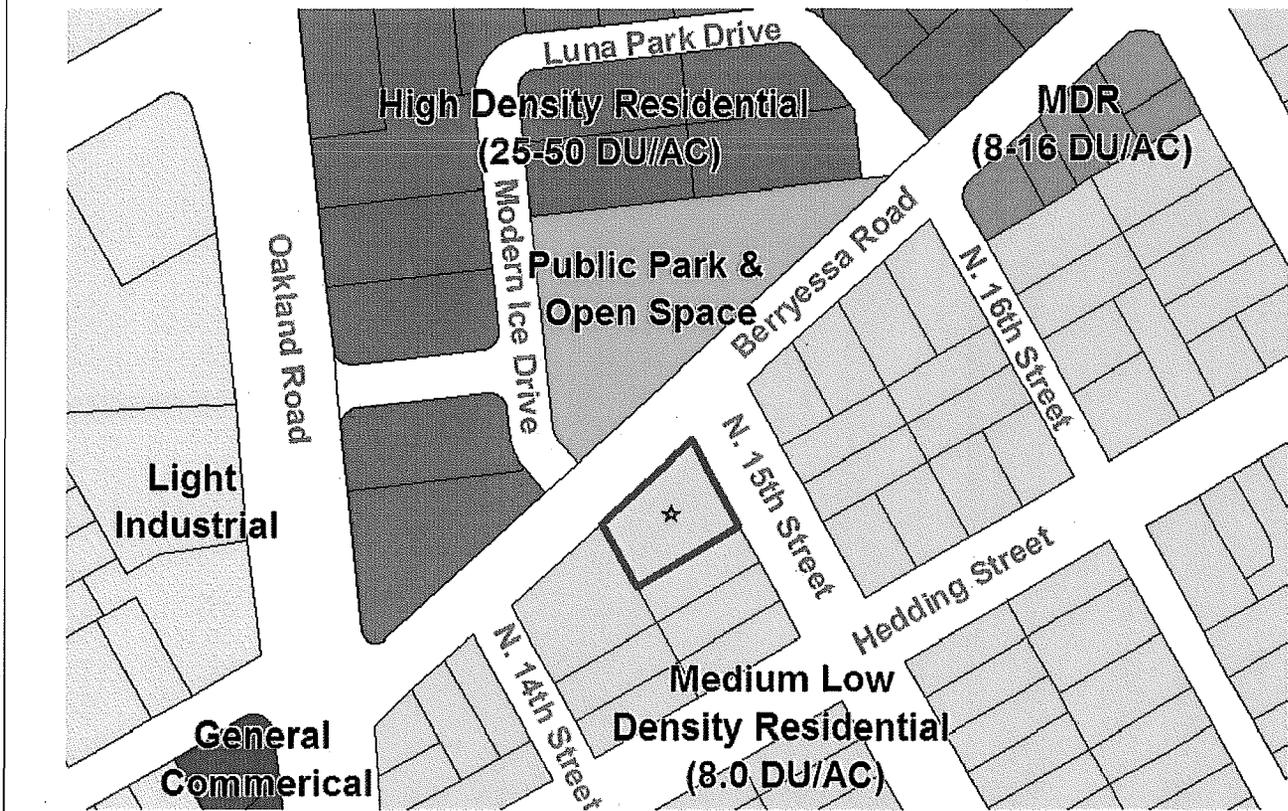
LOCATION: Southwest corner of Berryessa Road and N. 15th Street

Existing Zoning	R-2 Two-Family Residential
Proposed Zoning	A(PD) Planned Development
General Plan	Medium Low Density Residential (8.0 DU/AC)
Council District	3
Annexation Date	January 2, 1942
SNI	13 th Street
Historic Resource	No
Redevelopment Area	Yes
Specific Plan	No

Aerial Map



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends approval of the proposed Planned Development Rezoning for the following reasons:

1. The proposed project is consistent with the San José 2020 General Plan with the application of the Discretionary Alternate Use Policy Two-Acre Rule, and supports several of the General Plan goals and policies as well as major strategies, including housing and growth management, with development regulations as recommended by staff.
2. The proposed zoning is compatible with existing uses on the adjacent and neighboring properties.
3. The proposed project will be in conformance with the Residential Design Guidelines with development regulations as recommended by staff.

BACKGROUND & DESCRIPTION

This application is for a Planned Development Rezoning to allow demolition of five existing multi-family dwelling units and allow construction for up to four new single-family detached residences on 0.25 gross acres. A Planned Development Rezoning is required because the developer proposes to develop the property in a configuration that is not supported in any of the City's conventional residential zoning districts. Specifically, the project proposes minimum lot areas per living unit that are smaller than what is allowed by conventional residential zoning districts.

The properties to the east, west, and south of the subject property are developed with a mix of single-family and two-family residences, which were built around 1910 to 1950. To the north, there is the recently constructed Modern Ice residential development and new public park.

ANALYSIS

Environmental Review

An Initial Study was prepared for the project and a Mitigated Negative Declaration was circulated for public review by the Director of Planning on August 12, 2008. The Director of Planning, Building and Code Enforcement intends to adopt said Negative Declaration on September 2, 2008. The primary issues that were addressed in the environmental review included air quality due to temporary construction impacts and noise related impacts due to construction noise and existing ambient noise levels. Mitigation for these impacts include: specific construction practices, sweeping and watering; and minimum STC-rated windows and sound-attenuation fencing/walls. No additional significant environmental impacts are anticipated from the project.

General Plan Conformance

The subject property has a land use designation of Medium Low Density Residential (8.0 DU/AC) on the San José 2020 General Plan Land Use/Transportation Diagram. The proposed development at 16.0 DU/AC is not consistent with this designation. However, the Discretionary Alternate Use Policy entitled Two-Acre Rule allows parcels with a residential land use designation to be developed at a higher or lower density range provided that such units are compatible with surrounding uses and the project has an exceptional design.

This proposal is in conformance with the General Plan Residential Land Use Policies in that 1) the land to be used for the future development will be fully and efficiently utilized to maximize the potential to add to the housing stock, 2) the project is integrated with the surrounding uses to blend in with the neighborhood, 3) consistent architectural themes have been integrated into the design, and 4) the building scale does not overwhelm the neighborhood. The project conforms to the General Plan Housing Major Strategy, which seeks to provide a variety of housing opportunities, and the Growth Management Major Strategy, which encourages infill development within urbanized areas to achieve the most efficient use of urban facilities and services.

The project maintains the existing pattern of single-family residences that front North 15th Street. The mass of the proposed residents matches that which is allowed by right on the adjacent properties zoned R-2 Two-Family Residence. The project proposes a density that is between densities that are existing at the adjacent properties, bridging the density gap in the neighborhood, by providing a lower density product on a higher density subdivision pattern.

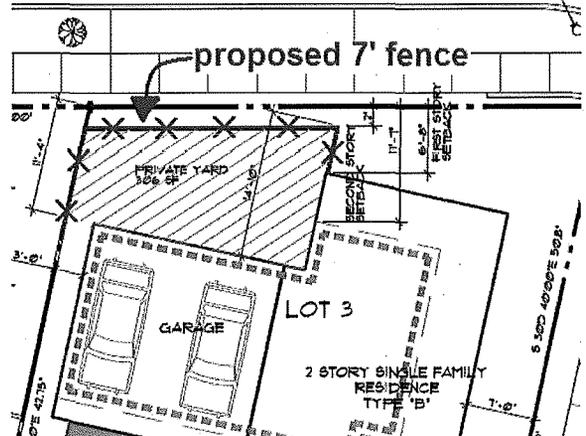
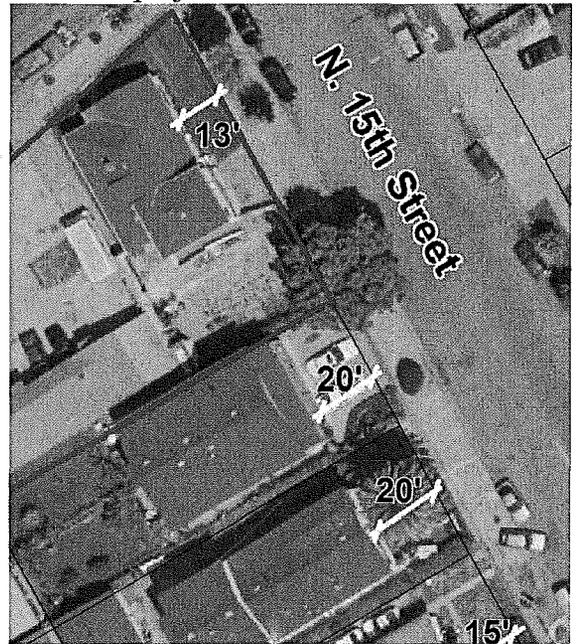
The project, as proposed under the Two Acre Rule policy, has a creative site design that incorporates a shared driveway/parking court, for adjoining units. This design screens the garage doors from the street, minimizes repetitive driveways in the front setback and allows for better continuity of the front setback landscaping. The Policy states that projects should exceed the minimum standards of the Zoning Ordinance and adopted design guidelines. While the project incorporated a unique driveway solution, the proposed setbacks and private open spaces (as discussed in more detail below) vary from the minimum recommended standards.

Residential Design Guidelines

Setbacks

In utilizing a creative site design, the proposed building setbacks vary somewhat from the recommended setbacks in the Residential Design Guidelines, which state the setback for two-story residences along a minor residential street is 18 feet. The building setback along North 15th Street is proposed to be seven (7) feet. The Zoning Ordinance would allow an average of the existing block to determine a front setback, per section 20.30.240, and this block of N. 15th Street averages approximately 17 feet. Using this same practice, staff recommends that there be a setback of no less than 12 feet, which is closer to the average setback along the block and is one foot less than the existing setback.

In addition, the applicant has proposed a two-foot setback for a seven (7) foot tall fence for one unit along Berryessa Road, for a length of approximately 25 feet. The corner side setback requirement for fences in conventional Residential Zoning Districts is



five (5) feet. Staff is in support of the two-foot setback in order to preserve as much private open space as possible and a landscape buffer between the public right-of-way and the private rear yard of the proposed residence will be designed to minimize the impact of the fence.

Open Space

The Residential Design Guidelines specify that only 400 square feet of private open space per unit is needed for each single-family residences in a project of this size. As proposed, two residences would have private rear yards of 555 square feet, one residence would have a rear yard of 378 square feet, and another would have a rear yard of 355 square feet. Staff recommends that all the proposed residences have a minimum of 400 square feet of private open space, but this can be a cumulative total of open space provided within private yards and private balconies.

Architecture

At the 13th Street NAC meeting on August 21, 2008, community members expressed concern about the architecture not conforming to the variety of the housing styles in the area and that new, box-like houses would degrade the neighborhood fabric. In response, the applicant has modified the conceptual architecture to emulate the 1920's craftsman and bungalow style. For this project to continue to be supported as conforming to the General Plan through the Discretionary Alternate Use Policy, Two Acre Rule, the exceptional design standard will be required. This exceptional design standard will be required as stated in the General Development Plan Notes and at the Planned Development Permit stage.

Parking

The proposed development would include the construction of four attached two-car garages. There are six parking spaces available on the public street adjacent to the project. Therefore, a total of 14 spaces are available for residents and their guests. The Residential Design Guidelines recommend 2 covered spaces per unit, as well as 1.3 additional spaces per unit for those without an apron space. The additional parking needs to be onsite or within 150 feet of the unit and can be off-site. This would result in the requirement of 14 spaces total. The eight on-site spaces for the units plus the six on-street spaces adjacent to the project meets the recommended parking.

PUBLIC INTEREST

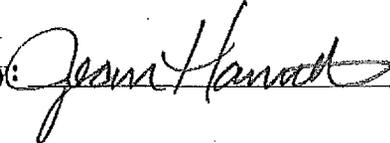
At the 13th Street NAC meeting on August 21, 2008, neighbors stated that:

- This development would be a catalyst for further demolition of older homes for new, more densely built developments
- The architecture needs to be more compatible to the surrounding area
- The change to this corner could ruin the fabric of the neighborhood, therefore the property looks like it could just be renovated instead of demolished and re-built
- The adjacent property (to the west) would be especially vulnerable to being overly developed
- Single-family residential homeowners are a good thing and provide some stability to the area, especially since there are some blocks that have almost no owners on site
- Unsure if project is a step in the right direction for the neighborhood
- More housing that is not low-income is a good thing
- The NAC is not certain about supporting setbacks that choke down at the intersection
- The view of the fencing from the new public park is of concern.

PUBLIC OUTREACH

- 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)**
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Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. The project was presented to the 13th Street SNI NAC. 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.

Project Manager: Avril Baty **Approved by:**  **Date:** 9/2/08

<p>Applicant: Gerry DeYoung % Ruth and Going, Inc. 2216 The Alameda San Jose, CA 95126</p>	<p>Attachments: General Development Plan Notes Mitigated Negative Declaration Final Public Works Memo Reduced Plan Set</p>
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PDC08-016 General Development Plan Notes

Development Standards

- Permitted Uses:** Permitted uses shall be up to four (4) single-family detached residential units (total) and those permitted uses of the R-1-8 Single-Family Residence Zoning District, as amended. Conditional and Special uses of the R-1-8 Single-Family Residence Zoning District are allowed with the issuance of a Planned Development Permit.
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- | | |
|---|----------|
| Front Setback along Berryessa Road: | 8 feet |
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Fencing: All fencing and gates on the subject site shall not exceed three (3) feet in height within any front setback area. Adjacent to a street, the fence height shall be a maximum of three (3) feet within three (3) feet of property line. All other fencing shall not exceed seven (7) feet in height.

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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 Removals: Trees removed shall be replaced at the following ratios:

Diameter of Tree to be Removed	Type of Tree to be Removed		Minimum Size of Each Replacement Tree
	Native	Non-Native	
18 inches or greater	5:1	4:1	24-inch box
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x:x = tree replacement to tree loss ratio

Note: Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

The species and exact number of trees to be planted on the site will be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage.

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

Public Off-Site Improvements: All public off-site improvements shall be implemented to the satisfaction of the Director of Public Works. Prior to the issuance of building permit(s), the applicant shall be required to obtain a Public Works clearance. Said clearance will require the execution of a Construction Agreement that guarantees the completion of the public improvements.

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 shall meet the numeric sizing design criteria specified in City Policy 6-29.

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: Esquina Berryessa

PROJECT FILE NUMBER: PDC08-016

PROJECT DESCRIPTION: Planned Development Rezoning from the R-2 Residential District to the A(PD) Residential District to allow the demolition of five existing residences and the construction of four single-family detached residences on a .25 gross acre site and subsequent permits.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Southwest corner of Berryessa Road and N. 15th Street (674 Berryessa Road); APN: 249-12-048

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: Gerry DeYoung, % Ruth & Going, Inc., 2216 The Alameda, San Jose, CA 95126

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 for the proposed project to prevent visible dust emissions from leaving the site.
 - Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to 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) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall 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:

- Surveys for roosting bats shall be conducted by a qualified biologist no more than thirty (30) days prior to any building demolition or removal, construction activities, or oak tree relocation and/or removal. If a female or maternity colony of bats is found on the project site, then a qualified bat biologist shall designate buffer zones (both physical and temporal) as necessary to ensure the continued success of the colony; buffer zones may include a 200-foot buffer zone from the roost and/or timing of the construction activities outside the maternity roosting season (after July 31st and before March 1st).
- If an active nursery roost is known to occur on the site and the project cannot be conducted outside of the maternity roosting season, bats shall be excluded after July 31st and before March 1st to prevent the formation of maternity colonies. Such exclusion shall occur, under the direction of a qualified bat biologist, by sealing openings and providing bats with one-way exclusion doors. Bat roosts shall be monitored as determined necessary by a qualified bat biologist, and the removal or displacement of bats shall be performed in conformance with California Department of Fish and Game requirements.

- 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** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- 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:**
- Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9 a.m. to 5 p.m. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions.

Rules and regulation pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of a developer appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site. The Director of Planning, at his discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the developer.

- The developer will implement a Construction Management Plan approved by the Director of Planning, Building and Code Enforcement to minimize impacts on the surrounding sensitive land uses to the fullest extent possible. The Construction Management Plan would include the following measures to minimize impacts of construction upon adjacent sensitive land uses:
 1. Early and frequent notification and communication with the neighborhood of the construction activities.
 2. Prohibit unnecessary idling of internal combustion engines.
 3. Designate a "noise disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.
- 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 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.
- As this project is in an area with a noise level between 60 DNL and 70 DNL, this project will include mechanical ventilation, which will allow the windows to be closed for noise control and will reduce the noise levels inside the units by 25 DNL.
- Sound rated windows and door assemblies are required, with an STC rating of 28. Install windows and glass doors so that the sliding window and glass door panels form an air-tight seal when in the closed position and the window and glass door frames are caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound infiltration.

XII. POPULATION AND HOUSING – The project will not have a significant impact on this resource, therefore no mitigation is required.

XIII. PUBLIC SERVICES – The project will not have a significant impact on this resource, therefore no mitigation is required.

XIV. RECREATION – The project will not have a significant impact on this resource, therefore no mitigation is required.

XV. TRANSPORTATION / TRAFFIC – The project will not have a significant impact on this resource, therefore no mitigation is required

XVI. UTILITIES AND SERVICE SYSTEMS – The project will not have a significant impact on this resource, therefore no mitigation is required.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on September 2, 2008, any person may:

Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

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.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: 8/12/08
Deputy

SBWalsh

Adopted on: _____
Deputy

Memorandum

TO: Avril Baty
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

**SUBJECT: FINAL RESPONSE TO
DEVELOPMENT APPLICATION**

DATE: 09/03/08

PLANNING NO.: PDC08-016
DESCRIPTION: Planned Development Rezoning from the R-2 Residential District to the A(PD) Residential District to allow 4 single-family detached residences on a 0.25 gross acre site
LOCATION: southwest corner of Berryessa Road and N. 15th Street
P.W. NUMBER: 3-18354

Public Works received the subject project on 09/03/08 and submits the following comments and requirements.

Project Conditions:

Public Works Clearance for Building Permit(s) or Map Approval: Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

1. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
2. **Transportation:** This project is exempt from the Level of Service (LOS) Policy, and no further LOS analysis is required because the project proposes 15 units of Single Family detached or less.
3. **Grading/Geology:**
 - a) A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - b) A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.

4. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges.
5. **Flood: Zone D**
The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D.
6. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
7. **Parks:** In accordance with the Parkland Dedication and Park Impact Ordinances (SJMC 19.38/14.25), the park impact fee will be due for any additional living units that are built.
8. **Street Improvements:**
 - a) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - b) Remove and replace broken or uplifted curb, gutter, and sidewalk along North 15th Street and Berryessa Road frontages.
 - c) Remove decorative pavement and construct CSJ standard sidewalk with parkstrip along project frontages.
 - d) Close unused driveway cut(s).
 - e) Remove existing curb drains located adjacent to existing driveway on North 15th Street.
 - f) Upgrade handicap ramps to meet current ADA requirements by installing the detectable warning feature (see CSJ Standard Details R-10 or R-11) at the opposite returns across North 15th Street and Berryessa Road.
 - g) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans. (To assist the Applicant in better understanding the potential cost implications resulting from these requirements, existing pavement conditions can be evaluated during the Planning permit review stage. The Applicant will be required to submit a plan and the applicable fees to the PW Project Engineer for processing. The plan should show all project frontages and property lines. Evaluation will require approximately 20 working days.)
9. **Complexity Surcharge:** 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.

10. **SNI:** This project is located within the Thirteenth Street SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
11. **Sanitary:** Submit a conceptive sanitary sewer plan at the PD permit stage.
12. **Electrical:**
 - a) 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.
 - b) Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
 - c) Provide clearance for electroliers from overhead utilities and request clearance from utility companies. Clearance from electrolier(s) must provide a minimum of 10' from high voltage lines; 3' from secondary voltage lines; and 1' from communication lines.
 - d) To assist the Applicant in better understanding the potential cost implications resulting from these requirements, the electroliers along the project frontage can be evaluated during the Planning permit review stage. The Applicant will be required to submit a plan and the applicable fees to the PW Project Engineer for processing. The plan should show all project frontages and property lines. Evaluation will require approximately 15 working days.
13. **Street Trees:**
 - a) Remove non-standard shrubs and/or trees within the public right-of-way and install trees per City Arborist.
 - b) Contact the City Arborist at (408) 277-2756 for the designated street tree.
 - c) Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings.

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



Ebrahim Sohrabi
Senior Civil Engineer
Transportation and Development Services Division