

STAFF REPORT

FILE NO.: PDC08-030

Submitted: 5/14/2008

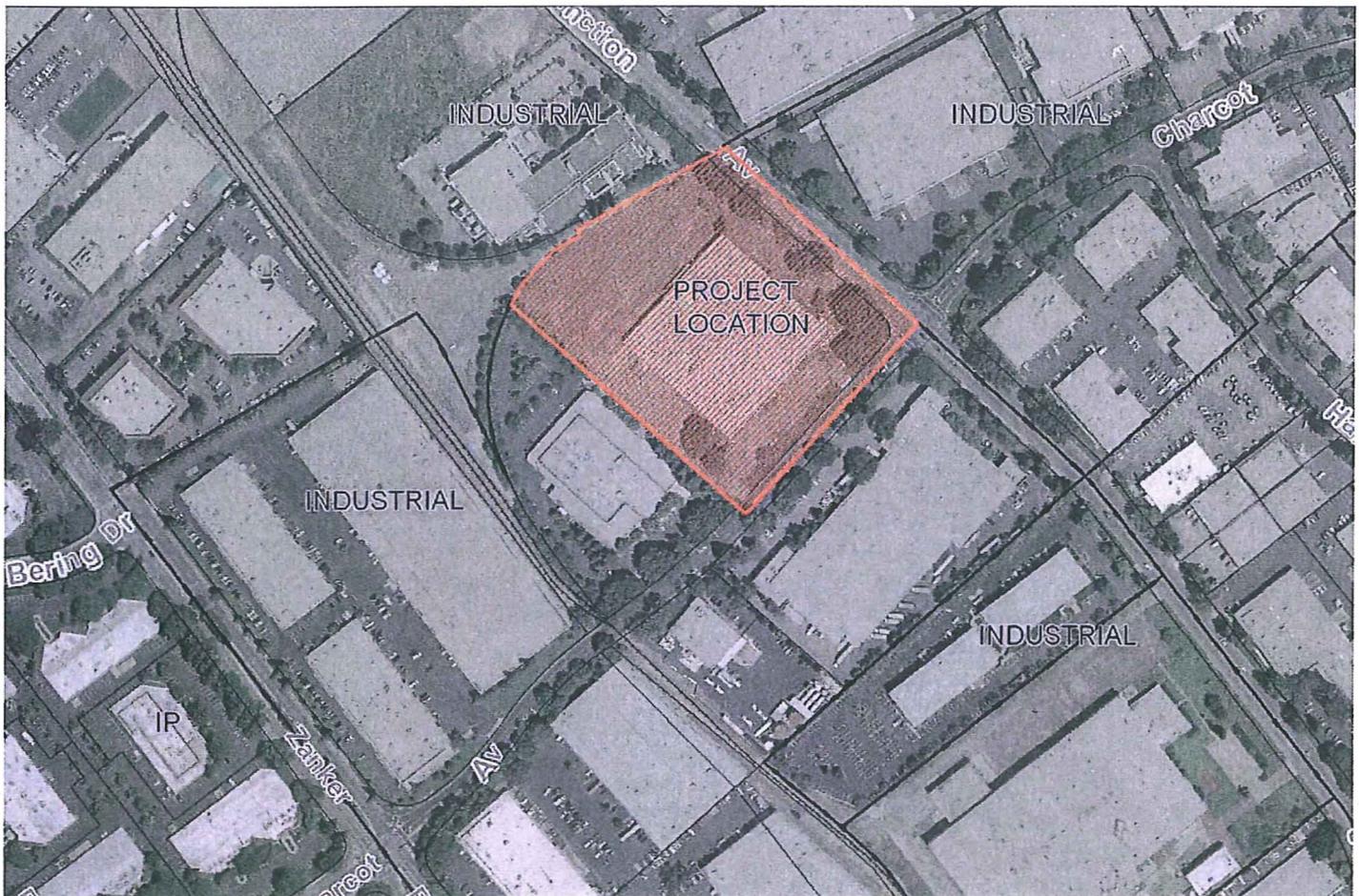
PROJECT DESCRIPTION: Conforming Planned Development Rezoning from LI(PD) Light Industrial Planned Development Zoning District to LI(PD) Light Industrial Planned Development Zoning District to allow 118,500 sq. ft of light industrial uses on a 6.67 gross acre.

Existing Zoning	A(PD) Planned Development
Proposed Zoning	A(PD) Planned Development
General Plan	Industrial Park
Council District	4
Annexation Date	April 14, 1964
SNI	No
Historic Resource	No
Redevelopment Area	North San Jose
Specific Plan	North San Jose Area Development Policy

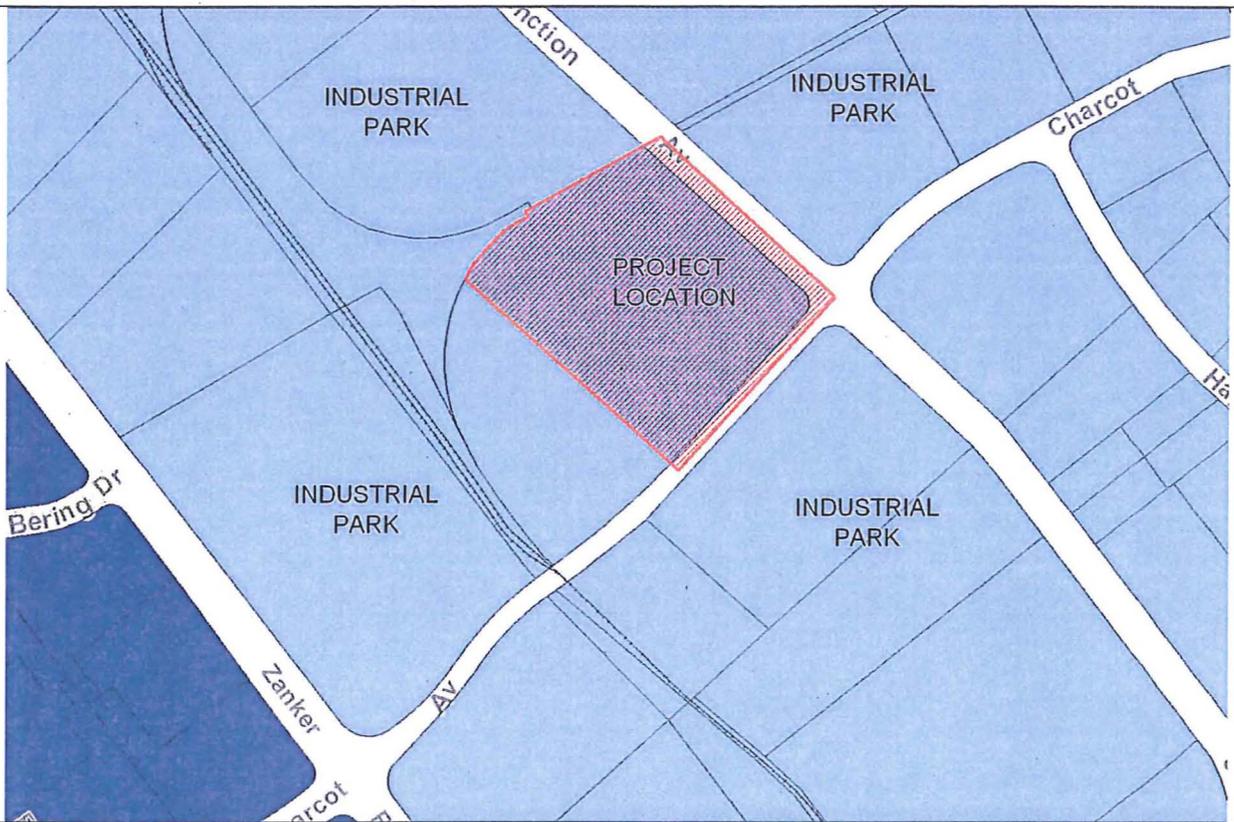
LOCATION: West corner of Charcot Avenue and Junction Avenue.

Council District: 4

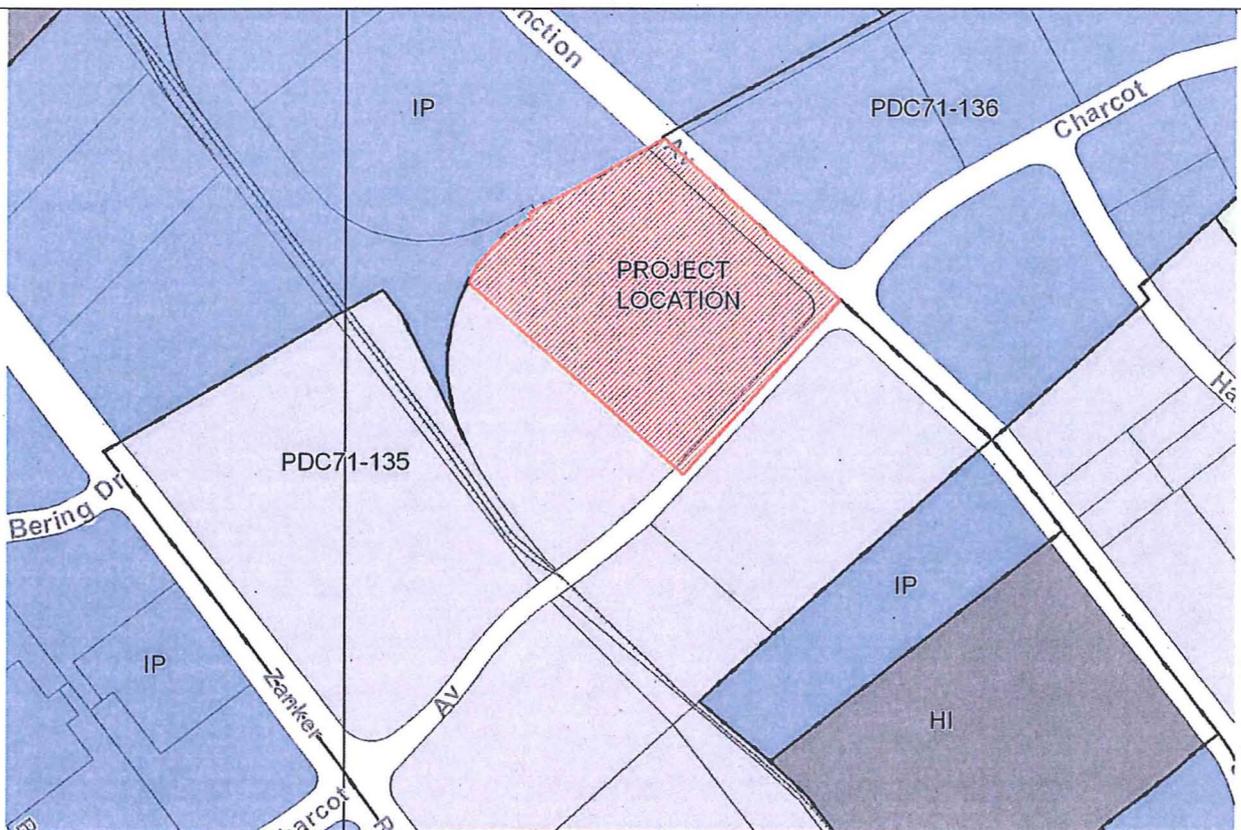
Aerial Map



GENERAL PLAN



ZONING



RECOMMENDATION

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

1. The proposed rezoning is consistent with the San José 2020 General Plan Land Use/Transportation designation of Industrial Park.
2. The proposed zoning will facilitate development that is compatible with existing uses on surrounding properties.
3. The proposed zoning includes development standards and conditions to control permitted and conditional land uses so that they will not generate traffic levels exceeding those of the base allowable Floor Area Ratio under the North San José Area Development Policy.

BACKGROUND

On May 14, 2008, the applicant, Club Auto Sport, filed a Planned Development Rezoning application to modify the set of allowed uses, and other requirements included in the Development Standards for the existing Planned Development Zoning district (File No. PDC71-135), approved in 1971. The project, already in operation, is a commercial condominium facility which provides individual ownership of units and the shared use of common facilities for the storage, vehicle performance-related research, and maintenance of vintage and collectable cars. The applicant has two primary goals in this PD rezoning request; first, to clarify the range of primary uses allowed on the site and add other ancillary uses not currently permitted in order to enhance the ongoing operation, and second, to create appropriate conditions and limitations through these revised Development Standards so that a project consistent with the proposed rezoning can be considered as a Low Intensity Industrial use, consistent with the North San Jose Area Development Policy (Policy). Under the Policy, these "Low Intensity" industrial uses are considered to have minimal or no impact on peak hour traffic, and therefore, are not considered as a part of the 26.7 million square feet of potential new industrial capacity covered by the Policy and are not expected or required to contribute traffic impact fees toward the future transportation infrastructure identified in the Policy. Following City Council approval of the proposed rezoning, and subsequent processing of a Planned Development Permit, the applicant anticipates that some portion of the traffic impact fees previously submitted to the City to facilitate timely implementation of the auto condominium project may be reimbursed.

Project Site Description

The 6.7 gross acre site is located on the west corner of Junction Avenue and Charcot Avenue (521 Charcot Avenue). The site is currently developed with a 90,000 square foot, one-story industrial building that has been converted to 76 auto storage condominiums, a parking lot and landscaping. Improvements to the existing building and site were approved by the Director of Planning through a Planned Development Permit (File No. PD07-053) and subsequent permit amendments; however, a 24,200 square foot building also approved as a part of this permit has not yet been constructed. The subject site is surrounded by existing light industrial buildings on all sides.

ANALYSIS

The primary issues analyzed as a part of this Planned Development rezoning are the establishment of the primary permitted uses as "Low Intensity Industrial Uses" per the North San Jose Area Development

Policy, and the addition of the ancillary uses of incidental office, private and public events, and commercial support which are not permitted under the existing zoning

North San Jose Area Development Policy Requirements

Under the North San Jose Development Policy, approved in June 2005, new development within the Policy area is required to pay a traffic impact fee on new square footage in order to fund the mitigation measures needed to meet future traffic conditions as described in the traffic analysis and environmental impact report prepared for the Policy. The approved Planned Development Permit (File No. PD07-053) which provided for improvements to and subdivision into condominium units of the existing 90,000 square foot building, also allows future construction of a 24,200 square foot building. The Permit included a condition for payment of the associated traffic impact fee prior to issuance of Public Works Clearance for the project. In 2007, the traffic impact fee for North San Jose was set at \$11.14 per square foot, resulting in a required fee for the project of \$269,588 on 24,200 square feet of new construction. The applicant has paid this fee, in order to facilitate the implementation of the Club Auto Sport car condominiums in the pre-existing 90,000 square foot building, although the applicant has stated that the project's automobile storage and related common facilities and uses are low intensity in nature and should not be subject to the square footage fee. The applicant has also proposed to refine the set of uses allowed on the site as contained in the draft Development Standards to provide additional ancillary supportive uses on site which will enhance the operation of the facility for its members, but which would not increase the overall intensity of the use, nor increase the peak hour trip distribution under the Policy.

Low Intensity Industrial Uses

The Policy states that the traffic impact fee can be calculated for Low Intensity uses on a per-trip basis (rather than a square footage basis), based on the table of Traffic Impact Fees included in the Policy. For industrial projects that include replacement of existing industrial square footage with low intensity uses, the existing amount of square footage is considered to be a part of the pre-Policy condition and is not subject to the Traffic Impact Fee. In the case of conversions to low intensity uses, the pre-existing square footage provides a trip "credit" for the site. In this case, the existing 90,000 square foot building, which was originally built to house industrial uses, provides a credit on the site for the trips associated with 90,000 square feet of industrial development. The current primary use of the building as individual auto storage and maintenance has a significantly lower trip generation rate than the industrial uses for which it was originally constructed. In addition, the required parking ratio included in the Draft Development Standards has a reduced parking requirement for primary uses of 1.2 parking spaces per 1000 square feet of net building area, rather than 1 space per 350 square feet for industrial uses to reflect the lower intensity of the use.

The North San Jose Area Development Policy states that Low Intensity Industrial Uses include highly automated manufacturing facilities, warehouse, storage and distribution facilities, and buildings built primarily to house machines or utility equipment. The Policy also states that to be considered a low intensity industrial use, any proposed development must demonstrate that future uses on the site will generate traffic *equivalent to or less than* the trip credit associated with the subject property's base square footage (in this case, 90,000 square feet) and that such uses must be developed with a site plan consistent with the proposed intensity of use. The City must be able to confirm that adequate controls are in place through either site design measures or through enforceable permit conditions to ensure that the proposed use or possible future use of the property will not generate traffic levels exceeding those of the site's base trip credit. This Planned Development rezoning provides the mechanism for the City to balance the applicant's need for flexibility and a range of uses on this site, with the need for certainty under the Policy that the overall site activity will remain a low intensity use.

Ancillary Uses

In addition to the need to clarify the primary use as low intensity, the applicant has requested refinement of the uses considered appropriate with the intent of the project and the inclusion of uses of a more commercial nature which were not considered or specifically allowed under the original Planned Development. Staff has analyzed these uses to determine whether they are appropriate as ancillary uses given the primary permitted and conditional uses on site, the nature of the surrounding industrial area, within the context of intensity as it relates to the Traffic Impact Fee as discussed above. Staff has placed limitations on the incidental office, commercial support and assembly uses included in the draft Development Standards in order to ensure the project remains consistent with the "low intensity" designation as requested by the applicant, meaning that the proposed project would not increase the overall intensity of the uses on the site nor increase the peak hour trip distribution under the North San Jose Policy, and that the project would remain consistent with the overall industrial character of the site and area.

Incidental Office Uses

The existing 1971 Planned Development zoning included business office as an allowed use, which use type normally exceeds the traffic threshold for Low Intensity Industrial Uses as considered by the Policy. The applicant indicated that a prohibition of any office use could preclude a number of other uses from locating in the building if they required a small amount of incidental office for their operation. To respond to this concern, staff has included the use category "Incidental Office" as a permitted use in the Draft Development Standards subject to the following conditions:

1. The incidental office is directly related to and supportive of an existing Permitted or Conditional Use operating in the same tenant space/condominium, and;
2. The incidental office occupies no more than ten percent (10%) of the tenant space/condominium floor area used and occupied by the existing subject Permitted or Conditional Use.

The proposed restriction on the amount of incidental office included as a part of any permitted or conditional use will allow the overall use of the site to still be considered Low Intensity Industrial without increasing the number of trips associated with the use.

Private and Public Events

The previously approved Planned Development Permit included the construction of an approximately 6000 square foot showroom area on the eastern corner of the existing building facing the intersection of Junction Avenue and Charcot Avenue. The original purpose of this area was to provide display space for some of the vehicles stored within the facility for the benefit of other members. Through this rezoning application, the applicant has requested that a small number of private and public events per year be permitted in this facility. These events fall into two types. The first are private social club meetings for the members of Club Auto Sport which are directly related to the primary vehicle storage use. In order to ensure that these events do not impact the intensity or character of the overall use, they have been limited to a maximum attendance of 100 people and are required to be held within the showroom and clubhouse areas. To ensure there is no impact on peak hour traffic distribution in the area, such events have been limited to the hours between 7 pm and midnight from Monday through Fridays, and on Saturdays and Sundays between 6 am and midnight.

The second type of event is a larger private or public event, with attendance of up to 500 people who are not necessarily members of Club Auto Sport. Staff has expressed concern that events of this type could impact the site's peak hour traffic generation and also impact other industrial users in the area. To address this concern, staff has included Private and Public Special Events as a conditional use in this

zoning district, and therefore subject to a Planned Development Permit. As included in the Draft Development Standards, Private and Public Special Events are defined and conditioned as follows:

1. Private and Public Special Events. A Planned Development Permit shall be required for any private or public event that meets any of the following criteria:
 - a. Involves more than 100 participants
 - b. Displaces required parking spaces
 - c. Requires an off-site parking arrangement
 - d. Occurs outside of the hours of 7 pm to midnight Monday through Friday and 6 am to midnight Saturday and Sunday

Such Events shall be limited to twelve (12) per calendar year. In the instance that a Master Event Permit is approved by the Director of Planning, a Permit Adjustment shall be required on an individual event basis in order to ensure compliance with this condition.

Through close coordination with the applicant and the Department of Public Works, staff has concluded that up to twelve events per calendar year could be considered incidental to the primary uses on site, and would not result in a sufficient frequency to be considered regular assembly occurrences. The requirement for a Planned Development Permit to allow such larger-scale gatherings would enable staff to monitor the frequency with which events occur by issuing a Master Planned Development Permit for a set number of events, and subsequently keep a record of each individual event with a minor administrative action, such as a Permit Adjustment. To the extent a greater number of large-scale events were planned to occur, the use could cease to qualify as a low intensity use under the North San Jose Area Development Policy, and a rezoning would then be first required.

Commercial Support

In consultation with the applicant, ancillary commercial support uses have been included in the draft Development Standards as a conditional use for the convenience of owners/users of the subject property. While commercial support is not included in the Zoning Code under the LI Light Industrial Zoning District, staff believes it is consistent with this site's Industrial Park General Plan Designation which encourages a limited amount of supportive and compatible commercial uses, when those uses are of a scale and design that provides support to the needs of businesses and their employees in the immediate industrial area. While the commercial support development standards included in this Planned Development Rezoning conform to the standards provided in the Zoning Ordinance, the use has been made conditional to allow staff to review proposals for potential interface or use compatibility with surrounding uses. Similar to the incidental office use described above, commercial support is proposed to be limited to 10% of the building's total square footage and would therefore not negatively impact traffic associated with other uses on site.

Conclusion

The proposed Planned Development Rezoning provides sufficient controls to limit the permitted and conditional uses so that they will not generate traffic levels exceeding those of the base allowable Floor Area Ratio under the North San Jose Area Development Policy. The addition of supportive commercial uses that could potentially reduce vehicle trips is also strongly encouraged by the Policy. The Policy specifically includes design criteria that promote the development of a high-end corporate center in the North San Jose area and promote the use of alternative modes of transportation within the Policy area. These criteria are intended to enhance and reinforce property values and property utility; showcase creativity; provide for levels of pedestrian and vehicle circulation consistent with increased density; promote vibrant, well-designed, pedestrian and bicycle friendly areas; establish consistent building orientation; provide flexibility; accommodate security needs; and foster long-term sustainability and encourage green building principles. The inclusion of high-end, user related services within close proximity to Core Area supports the intent of the Policy, as does the potential for fostering new

innovation in automotive related industries by clustering such uses in this type of facility. The nature of the users accessing this facility in addition to the controls placed in the Draft Development Standards will ensure that the specialization of the permitted uses will not fundamentally alter the industrial character of the site or area, will not impair the utility or value of adjacent properties and will not adversely impact the wider area.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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 sign has been posted on the project site. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper and 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 City Attorney, the Department of Public Works, the Building Department and the Fire Department.

FISCAL/POLICY ALIGNMENT

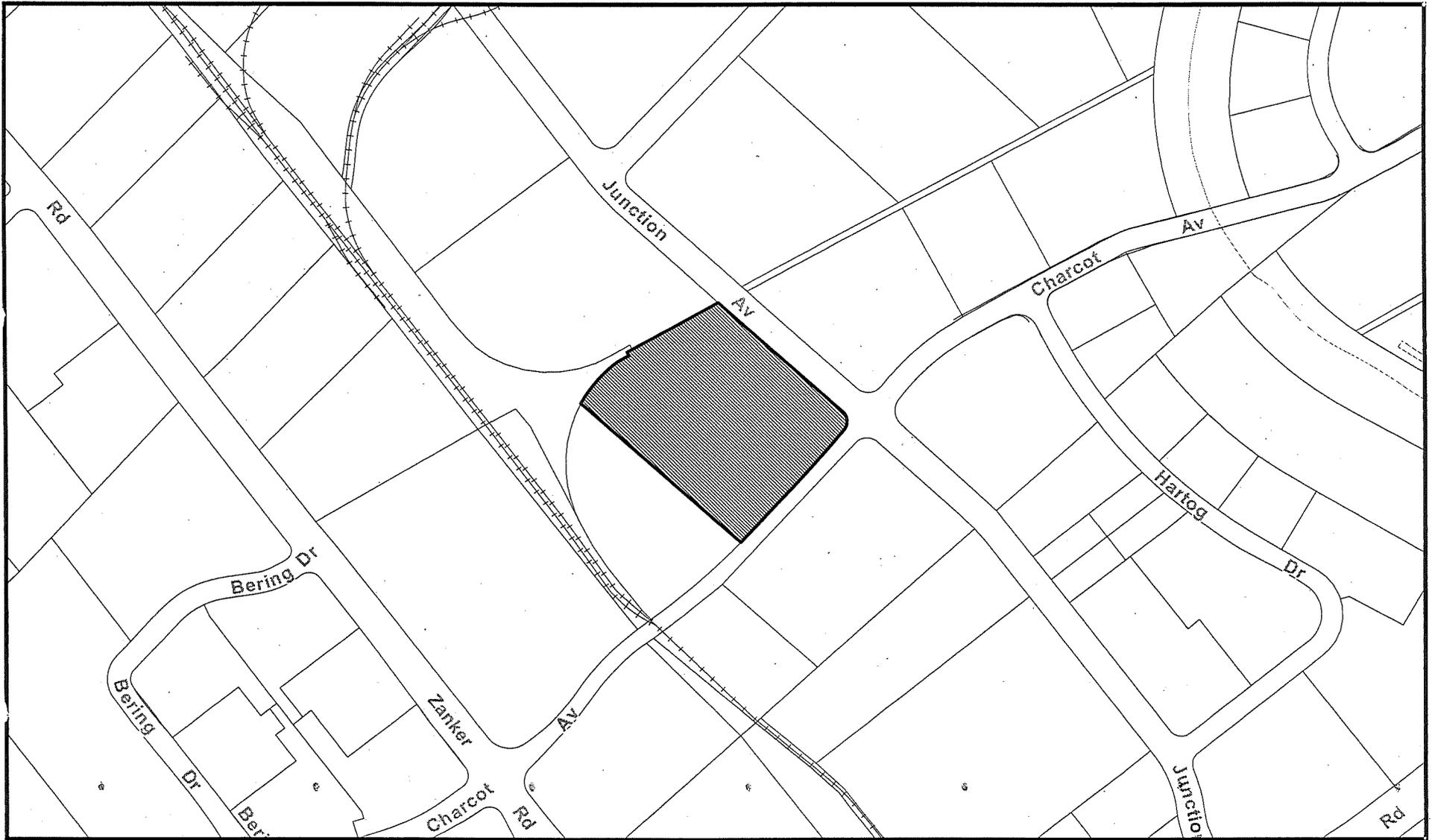
This project is consistent with applicable General Plan goals and policies as described above.

CEQA

EIR Resolution No. 72768 on June 21, 2005 and Addenda thereto.

Project Manager: Chris Burton **Approved by:** Susan Walton **Date:** October 29, 2008

Applicant:	Attachments:
Club Auto Sport – Silicon Valley C/O Tom Purtell 2051 Junction Avenue San Jose CA 95131	Location Map Draft Development Standards Public Works Memorandum Fire Department Memorandum Addendum to NSJ EIR Plan Set



05/14/2008

Scale: 1"= 400'
Noticing Radius: 500 feet

File No: PDC08-030

District: 4

Quad No: 51

PDC08-030

Draft Development Standards

PURPOSE

This Planned Development Zoning District is intended to allow for a specialized, safe and secured place to store vintage and collectable cars and vehicles. The project is a commercial condominium that will allow for individual ownership and the use of common facilities. As adjunct uses, the facility will also include concierge services and an auto enthusiast social club.

The proposed development has demonstrated that such uses generate less than or equivalent amounts of traffic corresponding to the subject property's base square footage. The proposed use or possible future use of the property will not generate traffic levels exceeding those of the base allowable FAR without subsequent review of potential traffic impacts.

Although the intent of the facility is to provide the above-mentioned auto related uses, the light industrial uses enumerated below are considered appropriate to the site and surrounding area and are therefore also included and subject to the following limitations.

PLANNED DEVELOPMENT PERMIT REQUIRED

A Planned Development Permit is required in accordance with Section 20.100.910 of Title 20 of the Municipal Code, as amended.

USE REGULATIONS

The following uses may be permitted on this site provided that specific use(s) proposed are implemented in a manner consistent with the other requirements of this Planned Development Zoning District. The determination of consistency shall be made by the Director of Planning, or alternatively, through the Planned Development Permit Process (or by the Planning Commission on Appeal)

Permitted Uses

1. Storage and warehousing establishments including automobiles and vehicles. Outdoor storage of vehicles is permitted within fenced or landscape screened areas.
2. Automotive vehicle research and development, including non-retail/commercial tuning, service and assembly of vehicles for performance related research and development. These facilities shall be limited to two vehicle work stations, each intended to accommodate a single motor vehicle together with the persons, equipment and tools required for the repair or servicing of said vehicle provided that if said space contains a service rack, lift or pit, it is no larger than 600 square feet, and if it does not contain a service rack, lift or pit, it is no larger than 400 square feet.
3. Outdoor storage of Recreational Vehicles (including electrical charging and waste discharge but excluding any overnight stay or on-site recreational use of said vehicles).
4. Wholesale and retail sales establishments for auto related parts and accessories.
5. Light manufacturing and Assembly (product assembling or mixing, where previously processed components or manufactured parts produced off-site are fitted together into a complete machine or blended together to form a non-combustible and non-explosive product).
6. Mail-order and catalogue stores and warehouses.
7. Printing, lithographing and book binding establishments.
8. Limited vehicles sales, leasing or auto brokerage. Provides for incidental office per the standards below with storage of up to ten (10) vehicles within the tenant space/condominium. Storage of more than ten vehicles or storage of vehicles for sale in outdoor areas is subject to the issuance of a Planned Development Permit. No storage of vehicles for sale shall occur in areas designated for parking.

9. Wash and detail facilities, as an ancillary use to the auto/vehicle storage use.
10. Photo processing and development.
11. Private social club meetings ancillary to the auto/vehicle storage use. These events are limited to a maximum 100 people and are to be held within the 10,000 sq. ft. showroom and clubhouse areas Monday to Friday between 7 pm and midnight and between 6 am and midnight on Saturdays and Sundays.

Incidental Office Uses

Incidental office uses are permitted in this Planned Development Zoning District, subject to the following conditions:

1. The incidental office is directly related to and supportive of an existing Permitted or Conditional Use operating in the same tenant space/condominium, and;
2. The incidental office occupies no more than ten percent (10%) of the tenant space/condominium floor area used and occupied by the existing subject Permitted or Conditional Use.

Conditional Uses - Subject to the issuance of a Planned Development Permit

1. Vehicle repairs, service, fueling and washing.
2. Ancillary commercial support uses required for the convenience of occupants of the subject property as defined by the Commercial Support standards contained below.
3. Trucking establishments/corporation yards:
4. Telecommunications related transmitters, repeater stations, and towers.
5. Public utility facilities.
6. Trade/vocational/driving schools.
7. Private and Public Special Events. A Planned Development Permit shall be required for any private or public event that meets any of the following criteria
 - a. Involves more than 100 participants
 - b. Displaces required parking spaces
 - c. Requires an off-site parking arrangement
 - d. Occurs outside of the hours of 7 pm to midnight Monday through Friday and 6 am to midnight Saturday and Sunday

Such Events shall be limited to twelve (12) per calendar year. In the instance that a Master Event Permit is approved by the Director of Planning, a Permit Adjustment shall be required on an individual event basis in order to ensure compliance with this condition.

Commercial Support

1. Commercial support is a Conditional use in this A(PD) Planned Development Zoning District and subject to the following limitations:
 - a. Such commercial uses serve the immediate area, and;
 - b. Such commercial uses are located entirely within buildings occupied by primary uses Permitted in the Zoning District, and;
 - c. The sum of all such commercial uses in the buildings occupies no more than ten percent (10%) of the gross floor area of any building or no more than 20,000 square feet of any building, whichever is less; or, in the case of medical offices as the sole commercial support use in a building, occupies no more than twenty percent (20%) of the gross floor area of any building or no more than 20,000 square feet of any building, whichever is less, and;
 - d. Such commercial uses are limited to the following:
 - i. Retail; including off sale of alcohol, subject to a Conditional Use Permit
 - ii. Recreation, Commercial/Indoor
 - iii. Personal service establishment
 - iv. Public eating establishment
 - v. Financial institution
 - vi. Medical clinic

- vii. Medical Office
- viii. Amusement game devices, up to nine (9) per business establishment, as an (incident) to one or more of the above enumerated commercial uses.

Transportation Note

Any substantive interior or exterior modifications (as determined by the Director of Planning) or Conditional Use as described above, that will result in expansion or intensification of the use will be subject to the approval of a Planned Development Permit. Each Planned Development Permit will be assessed for its potential to alter the assumptions made by this action with relation the low-intensity uses permitted by right in this Zoning District. Staff will determine if the proposed change in use or building modifications exceed the baseline traffic assumptions and whether the project is subject to the North San Jose Area Development Policy Traffic Impact Fee (City Ordinance 27493). The Traffic Impact Fee shall be collected at issuance of Building Permits, Certificate of Occupancy, or prior to the commencement of any associated use.

Performance Standards

No primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:

1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust, vibration, radiation, or fumes; or
3. In a manner that creates a public or private nuisance.

Without limiting the generality of the preceding subsection, the following specific standards shall apply in the Industrial Zoning Districts:

1. Incineration - There shall be no incineration on any site of any waste material
2. Vibration - There shall be no activity on any site that causes ground vibration which is perceptible without instruments at the property line of the site.
3. Air Pollution - Total emissions from any use or combination of uses on a site shall not exceed the emissions and health risk thresholds as established by the Director of Planning.
4. Noise - The sound pressure level generated by any use or combination of uses shall not exceed the decibel level at any property line as shown in Table 20-135 Zoning Ordinance, except upon issuance and in compliance with a Planned Development Permit as provided in Chapter 20.100 of the Zoning Ordinance.

Late Night Use and Activity

No commercial uses shall occur between the hours of 12:00 midnight and 6:00 A.M. except pursuant to and in compliance with a Planned Development Permit.

Development Standards

Building Intensity - 60% Maximum

Building Height - Primary: 45' maximum or subject to General Plan Height Policies

Parking

1. Permitted Uses - 1.2 spaces per 1000 sq.ft.

2. Conditional Uses - Consistent with the parking requirements of the City of San José Zoning Ordinance, as amended.

Lots and Yards

1. Minimum area – 10,000 sq. ft.
2. Minimum size for nonresidential condominiums – 750 sq. ft.
3. Minimum setback
 - a. Front: Junction Ave – 25'
Charcot Ave – 20'
Buses/trucks/RVs – 100'
 - b. Side – 0'
 - c. Rear – 0'
4. All surface and elevated outdoor equipment or outdoor storage areas shall be screened from off-site view
5. All areas used for outdoor activity shall be appropriately paved to control dust and provide adequate drainage

Environmental Mitigation

1. **Temporary Construction Air Quality:** The following construction practices will be implemented during all phases of construction to prevent visible dust emissions from leaving the site:
 - a. Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses will be kept damp at all times, or will be treated with non-toxic stabilizers or dust palliatives;
 - b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
 - c. 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;
 - d. 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
 - e. Sweep streets daily, or more often if necessary (preferably with water sweepers), if visible soil material is carried onto adjacent public streets.
2. **Hazards and Hazardous Materials.**
 - a. **Asbestos-Containing Materials:** The structures to be removed will be surveyed for the presence of asbestos-containing materials at the demolition permit stage; and if any suspect ACM are present, they will be sampled prior to demolition in accordance with NESHAP guidelines, and all potentially friable ACM will be removed prior to building demolition and disposed of by offsite burial at a permitted facility in accordance with NESHAP, Cal-OSHA and BAAQMD requirements.
 - b. **Lead Based Paint:** The structures to be removed will be surveyed for the presence of lead based paint at the demolition permit stage; and if any suspect LBP is present, it will be sampled prior to demolition, and all potential LBP will be removed prior to building demolition and disposed of by offsite burial at a permitted facility in accordance with EPA and OSHA requirements.

3. **Construction Noise.** The following measures shall be implemented by the project developer and/or construction site supervisor to reduce potential construction noise impacts to surrounding neighbors:
- a. Notify neighbors of the schedule and type of equipment used for each phase of construction;
 - b. Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site 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.
 - c. 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 poor maintained engines or other components.
 - d. Locate noisy stationary equipment (i.e., generators or compressors) away from neighboring residences;
 - e. Require that vehicles and compressors turn off engines when not in use;
 - f. 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.
 - g. Designate a construction noise coordinator who would be available to respond to complaints from neighbors and take appropriate measures to reduce noise.

4. **Biological Resources**

Trees to be removed shall be mitigated 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	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12 - 18 inches	3:1	2:1	none	24-inch box
less than 12 inches	1:1	1:1	none	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.

- a. 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.
- b. 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:
 - 1) The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees.
 - 2) An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement. Contact Todd Capurso, PRNS Landscape Maintenance Manager, at 277-2733 or todd.capurso@sanjoseca.gov for specific park locations in need of trees.
 - 3) A donation of \$300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. Contact Rhonda Berry, Our City Forest, at (408) 998-7337 x106 to make a donation. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of a development permit.

5. **Archaeology.** Construction workers will be alerted of the potential that site clearing and trenching may uncover buried archaeological materials. Indicators of buried materials are: darker than surrounding soils, concentration of bones, stone or shell fish, artifacts of these materials, evidence of fires such as ash, charcoal, fire affected rock or earth, and human and/or animal burials. If evidence of any archaeological, cultural, and/or historical deposits is found, the following standard measures shall be taken:
 - a. Retain a qualified archaeologist to spot-check monitor construction to search for potentially buried archaeological resources. Monitoring shall continue at the archaeologist's discretion, until native soils have been exposed to a depth that would rule out the existence of buried cultural resources.
 - b. In the event that any cultural materials are discovered, the project archeologist shall designate the area where work shall be stopped until the presence of the find is verified. Work shall be halted within 25 feet of the find while it is evaluated by a qualified archaeologist and appropriate recommendations are made. Recommendations could include evaluation, collection, recordation, analysis, and reporting of any significant cultural materials. If the find is determined to be significant, a mitigation program shall be prepared and submitted to the Director of Planning, Building, and Code Enforcement for consideration and approval.
 - c. Pursuant to §7050.5 of the Health and Safety Code, and §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 their authority, the Coroner shall notify the Native American Heritage Commission to 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.
 - d. A final report shall be submitted to the City's Environmental Principal Planner prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the City's Environmental Principal Planner.
6. **Soil Investigation.** The soil investigation report addressing the potential hazard of liquefaction shall 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).
7. **Conformance with Uniform Building Code.** The proposed structures on the site shall be designed and constructed in conformance with the Uniform Building Code Guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking on the site.
8. **Hazardous Materials.** The following standard measures shall be implemented as part of the project.
 - a. Prior to interior and exterior modifications, the onsite building shall be surveyed for asbestos containing materials (ACMs). All potentially friable asbestos shall be removed prior to building demolition in accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. All demolition activities shall be undertaken in accordance with Cal/OSHA standards, contained in Title 8 of the California Code of Regulations §1529, to protect workers from exposure to asbestos. Materials containing more than one percent asbestos are also subject to BAAQMD regulations.
 - b. Prior to interior and exterior modifications, the onsite building shall be surveyed for lead-based paint. All peeling and flaking lead-based paint shall be removed in accordance with Cal/OSHA standards contained in Title 8 of the California Code of Regulations §1532, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based

paint or coatings shall be disposed of at a landfill that meets the acceptance criteria for such waste.

9. Hydrology and Water Quality.

- a. A Notice of Intent and a Storm Water Pollution Prevention Plan that addresses both construction and post-construction periods and specifies erosion and sediment control measures, waste disposal controls, maintenance responsibilities and non-stormwater management controls, will be submitted to the RWQCB and maintained onsite, respectively, to comply with the stormwater discharge requirements of the NPDES General Permit.
- b. Stormwater treatment control measures will be hydraulically sized prior to issuance of a Planned Development (PD) Permit in conformance with provisions of the City's Post-Construction Urban Runoff Management Policy and to adopted Santa Clara Valley Pollution Prevention Program NPDES Permit C.3 provisions to the satisfaction of the Director of Public Works and the Director of Planning.
- c. Construction: 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.
- d. Post-Construction
 - 1) 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. Hydraulically-sized bioswales or other landscaped-based BMPs shall be incorporated into the stormwater drainage design.
 - b. Roof drains shall discharge and drain into landscaped areas located away from the building foundation to an unpaved area wherever possible.
 - c. A Continuous Deflective Separation (CDS) or equivalent mechanical unit to treat stormwater flows shall be installed near the outfall of the storm drainage system.
 - 2) A maintenance and monitoring program shall be finalized at the PD Permit stage to the satisfaction of the Director of Planning.
 - a. 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.

Memorandum

TO: Christopher Burton
Planning and Building

FROM: Ryan Do
Public Works

**SUBJECT: FINAL RESPONSE TO
DEVELOPMENT APPLICATION**

DATE: 06/18/08

PLANNING NO.: PDC08-030
DESCRIPTION: Conforming Planned Development Rezoning from LI(PD) Light Industrial Planned Development Zoning District to LI(PD) Light Industrial Planned Development Zoning District to allow 118,500 sq. ft of light industrial uses on a 6.67 gross acre.
LOCATION: westerly corner between Charcot Ave. and Junction Ave.
P.W. NUMBER: 3-18225

Public Works received the subject project on 05/20/08 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:**
 - a) An area wide traffic impact analysis was prepared as part of the North San Jose Area Development Policy, adopted June 2005. Traffic impacts were identified and resulted in area-wide traffic impact fees. This project is covered under the North San Jose EIR.
 - b) Consistent with North San Jose EIR, this project is required to pay a traffic impact fee (TIF). The 2007 fee is \$11.14 per square foot of all new industrial development within the Policy Area and subject to annual escalation of 3.3%. This fee must be paid prior to issuance of public works clearance.

- c) The Policy allows collection of the TIF for low intensity uses based on the trip generation of the proposed use. For a project to qualify under the criteria the applicant must meet all of the following:
 - i) Complete a trip generation analysis that is approved by the Department of Public Works.
 - ii) Complete a Planned Development rezoning process to limit the use(s) on the site to those approved in the trip generation analysis.
 - iii) Reconfigure the parking to only accommodate the low intensity use(s) approved in the trip generation analysis.
 - iv) If the applicant would like to include alternate land uses as part of the zoning the TIF will be based on the highest generator allowed under the zoning.

- 3. **Street Improvements:**
 - a) Install standard city sidewalk along both public street frontages to the satisfaction of the Director of Public Works.
 - b) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontages.
 - c) Install handicap ramps (2) at opposite returns across Charcot Avenue.
 - d) Repair, overlay, or reconstruction of deteriorated asphalt pavement areas will 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.)

- 4. **Street Trees:** Install missing street trees within public right-of-way along both project street frontages per City standards. Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings.

Please contact the Project Engineer, Norman Mascarinas, at 408-535-6812 if you have any questions.

Ryan Do
Acting Senior Engineer
Transportation and Development Services Division



Memorandum

To: Christopher Burton

From: Russell Chung

SUBJECT: INITIAL RESPONSE TO
DEVELOPMENT APPLICATION

DATE: 05/27/08

Re: Plan Review Comments

PLANNING NO: PDC08-030

DESCRIPTION: Conforming Planned Development Rezoning from LI(PD) Light Industrial Planned Development Zoning District to LI(PD) Light Industrial Planned Development Zoning District to allow 118,500 sq. ft of light industrial uses on a 6.67 gross acre.

LOCATION: westerly corner between Charcot Ave. and Junction Ave.

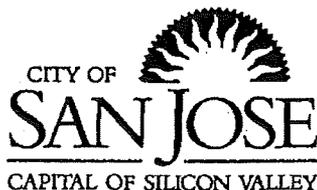
ADDRESS: westerly corner between Charcot Ave. and Junction Ave. (521 CHARCOT AV)

FOLDER #: 08 019918 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.

Access is not impacted by the scope of work. Fire flow should already be available at the site (no actual new building proposed). See previous planning permits for further requirements.

Russell Chung
Fire Protection Engineer
Bureau of Fire Prevention
408-535-7697



**ADDENDUM TO AN EIR
USE OF A FINAL EIR PREPARED FOR A PREVIOUS PROJECT**

Pursuant to Section 15164 of the CEQA Guidelines, the City of San Jose has prepared an Addendum to an Environmental Impact Report (EIR) because minor changes made to the project that are described below do not raise important new issues about the significant impacts on the environment.

PROJECT DESCRIPTION AND LOCATION

PD07-053. Planned Development Permit for the new construction of a 24,200 sq ft building and the condominium conversion of an existing 90,000 sq ft building for auto related uses on a 6.67 gross acres site.
Council District 4. County Assessor's Parcel Number: 237-28-036

The environmental impacts of this project were addressed by a Final EIR entitled, "North San Jose Area Development Policies Update and findings were adopted by City Council Resolution No. 72768 on June, 2005. Specifically, the following impacts were reviewed and found to be adequately considered by the EIR:

- | | | |
|-------------------------|------------------------|-----------------------------|
| Traffic and Circulation | Soils and Geology | Noise |
| Cultural Resources | Hazardous Materials | Land Use |
| Urban Services | Biotics | Air Quality |
| Aesthetics | Airport Considerations | Microclimate |
| Energy | Relocation Issues | Construction Period Impacts |
| Transportation | Utilities | Facilities and Services |
| Water Quality | | |

ANALYSIS:

The City of San Jose may take action on the proposed project as being within the scope of the North San Jose Area Development Policies Update Final EIR adequately addresses the environmental effects of the proposed project, and project would not result in significant environmental effects that are not already identified in the Final EIR. The project, therefore, meets the eligibility requirements for preparation of an addendum and does not require a supplemental EIR or ND. Further analysis is included below.

Chris Burton
Project Manager

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Date 8/28/07

Alcani Danilchen
Deputy

ANALYSIS:

The following discussion describes the environmental impacts that could occur as a result of the project. The potential environmental impacts of the proposed project are evaluated based on the analysis provided in the Final EIR for the North San Jose Area Development Policy Update (NSJ Final EIR) certified in 2005, supplemented with site-specific technical review. The impacts and mitigation measures identified in the certified Final EIR sufficiently address the environmental effects of the proposed project, as described below.

Aesthetics

The project consists of the construction of a 24,200 square foot one story concrete tilt-up building. The building will stand at 24' high and will be finished to match the existing buildings on site. The visual conditions in the North San Jose area are described in the 2005 NSJ Final EIR. The visual analysis focused on conformance of new development with established City of San Jose design guidelines. The Final EIR concluded that the increased development in the North San Jose Area would result in less-than-significant impacts in the area of degradation of visual character. The project is located in an industrial setting comprising of predominantly 1970's single-story concrete buildings. The project would have a less-than-significant impact on aesthetics of the area. The project would not result in significant new or increased aesthetic impacts beyond those already identified in the 2005 NSJ Final EIR.

Agricultural Resources

The project is located on property identified as urban/built-up land on the Important Farmlands Map, is not under Williamson Act contract, and does not involve any agricultural uses. Development of the proposed project, therefore, would not impact agricultural land or resources.

Air Quality

Development of the proposed project could generate air pollutant emissions from the generation of additional traffic to the site. The NSJ Final EIR concludes that additional development in the NSJADP area would result in less-than-significant impacts associated with localized carbon monoxide concentrations. However, the EIR did conclude that additional development would have a significant impact on regional air quality from the emission of criteria air pollutants, specifically the emissions of ozone precursors and PM₁₀. Only a limited number of employees will be on site on a regular basis and as such the related traffic from the project will be minimal. Automobiles will be stored on the site but will not be in regular use and thus not generate additional traffic that may impact air quality. The project would not result in new or increased air quality impacts beyond those already identified in the 2005 NSJ Final EIR, since emissions from the project were included in the development assumptions for the EIR air quality analysis and the traffic levels anticipated on site will be of a minimal nature.

Construction of the proposed project would result in the generation of locally elevated levels of PM₁₀ (dust). The Final EIR identifies construction activities as a significant impact that would be reduced to a less-than-significant level with incorporation of standard air quality protection measures mandated by the Bay Area Air Quality Management District (BAAQMD). The proposed project would not result in new or increased air quality impacts beyond those already identified in the 2005 NSJ Final EIR.

Biological Resources

The project site is located within a developed area. The project site is developed with an existing warehouse building, associated surface parking lots, and landscaped areas. Due to the developed nature of the project site and human disturbance, the species diversity at the project site is extremely low. Wildlife species expected to occur on the project site are those adapted to human activity, including mourning doves, rock doves, raccoons, and opossums.

The project site is not located within an adopted Habitat Conservation Plan or other approved local, regional, or state habitat conservation plan.

The *City of San José Tree Ordinance* defines an ordinance-sized tree as any woody perennial plant characterized by having main stem or trunk which measures 18 inches or greater in diameter at a height of 24 inches above natural grade slope. A multi-stem tree is considered a single tree and measurement of that tree includes the sum of the diameter of the tree trunks of that tree.

A tree removal permit is required from the City for the removal of ordinance-sized trees. A tree survey of the project site was completed by *HMH Engineers* in May 2007. There are 51 existing trees on the project site. Of the 51 trees on-site, 25 are ordinance-sized. The most common trees on the site are Ash Trees.

The project would result in the removal of 14 trees on-site, including seven ordinance-sized. The development of the proposed project, therefore, would contribute to the significant impact to trees identified in the certified 2005 NSJ Final EIR. The proposed project, however, would not result in any new or more significant impacts to trees than were described in the certified 2005 NSJ Final EIR.

The proposed project shall replace trees removed at the following ratios:

Table 4.4-2 Standard Tree Replacement Requirements		
Diameter of Tree to be Removed	Non-Native	Minimum Size of Each Replacement Tree
18 inches or greater	4:1	24-inch box
12 – 18 inches	2:1	24-inch box
Less than 12 inches	1:1	15-gallon container
Notes: X:X = Tree replacement to tree loss ratio Trees greater than 18-inches in diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.		

Since the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building, and Code Enforcement:

- The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
- An alternative site(s) shall be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.
- A donation of \$300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Planning Project Manager prior to issuance of a development permit.

The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant impacts to biological resources than those addressed in the certified 2005 NSJ FPEIR.

Cultural Resources

An archaeological investigation was conducted by Archaeological Resource Management for the site, dated July 17, 2007. This investigation consisted of an archival search, a surface reconnaissance, an evaluation of the potential significance of the property according to the California Register of Historic Resources, and a written report of the findings with appropriate recommendations.

The cultural resource evaluation for the subject site revealed that there are no recorded prehistoric or historic sites within or adjacent to the project area. Three recorded sites are located within one half mile of the project area: CA-SCL-569H, P-43-926, and P-43-927. Traces of non-significant historic cultural materials, including butchered faunal bone, ceramic fragments, and glass were noted during the surface reconnaissance. In general, the subject area is in a portion of San Jose that is well-known for having numerous buried archaeological deposits. The region east of the Guadalupe River has yielded several prehistoric resources found buried beneath alluvial soils. The Guadalupe River has changed its alignment over the centuries leaving alluvial build-up which covers over ground surfaces. Most of these sites have been found during archaeological testing, archaeological monitoring, and construction excavation.

The NSJ Final EIR identifies the potential for disturbance of archaeological resources as a significant impact that would be reduced to a less-than-significant level with incorporation of mitigation including site specific analysis in sensitive areas and implementation of protective measures during construction. The project site has undergone archaeological review and the project proposes to implement standard City measures during construction (if potential artifacts are encountered) to avoid disturbance of and/or impacts to archeological resources. In addition, it is recommended that a qualified archaeologist spot-check monitor construction activities into native soils for the project.

The proposed project would not result in new or increased impacts to cultural resources beyond those already identified in the 2005 NSJ Final EIR.

Geology and Soils

The NSJ Final EIR identified soils and seismic hazards as potentially significant impacts that would be reduced to a less-than-significant level with mitigation. This mitigation requires preparation of project-level soils and geotechnical investigations prior to issuance of a Public Works Clearance and Building Permit, and implementation of design recommendations. A design-level geotechnical report is currently being prepared and all recommendations will be submitted and implemented as part of the project. In addition, all structures on the site would be designed and constructed in accordance with the Uniform Building Code Guidelines for seismic zone 4 to avoid damage from seismic shaking. The project would not result in new or increased geologic or soils impacts beyond those already identified in the Final EIR.

Hazards and Hazardous Materials

The NSJ Final EIR identified the possible presence of hazardous materials on development sites, such as contamination with fuels, oils, metals, pesticides and other substances, which could be released during construction and pose health risks to construction workers and/or the public. This was identified as a significant impact for development or redevelopment of a parcel within the Policy area.

The site could contain hazardous materials in soils and groundwater that have not been discovered. The project as proposed does not include redevelopment of the existing site and earthwork activities are reduced to a minimum to accommodate the addition of the 24,200 sq ft building. In addition, the site does not appear on the Hazardous Waste and Substances Sites (Cortese) List. The Cortese List is a planning document used by the State, local agencies and developers to comply with the California Environmental Quality Act requirements in providing information about the location of hazardous materials release sites. Government Code section 65962.5 requires the California Environmental Protection Agency to develop at least annually an updated Cortese List. DTSC is responsible for a portion of the information contained in

the Cortese List. Other State and local government agencies are required to provide additional hazardous material release information for the Cortese List.

Due to its age, the existing structure on the site may contain asbestos containing materials (ACMs), lead-based paint, and PCB-containing materials. Specific analytical testing for these materials would be conducted prior to any construction activities, and suspect materials removed prior to interior/exterior alterations.

The proposed auto related uses do not use of substantial amounts of hazardous materials. Should businesses occupy the site that use, store, and/or transport hazardous materials, the implementation and enforcement of local, state, and federal regulations regarding hazardous materials would minimize impacts from such use to a less-than-significant level. The project would not result in new or increased hazardous materials impacts beyond those already identified in the Final EIR.

Hydrology and Water Quality

The NSJ Final EIR identified potential water quality impacts from pre- and post-construction development activities as a significant impact. Mitigation was identified in the NSJ Final EIR to reduce these impacts to a less-than-significant level. This mitigation included compliance with the NPDES permit, which requires implementation of site-specific SWPPPs and BMPs to control discharge non-point source pollution. The project proposes to implement a storm water quality control plan that incorporates vegetated swales, media filtration units, and possibly hydrodynamic separator units to meet City and regional requirements. The project would also comply with the requirements of the NPDES requirements to avoid impacts during and after construction. The project will not result in new or increased impacts to water quality beyond those already identified in the NSJ Final EIR.

The project proposes a storm water management system to control runoff and maintain water quality. This plan includes installation of an Upflo Filter Unit to filter storm water runoff before it enters the City's drainage system. This unit captures a wide range of organic and inorganic solids and pollutants, including total suspended solids, sediments, oil and grease, and other debris under high flow rate conditions. An operations and maintenance plan for the CDS unit would be incorporated into final project design. This plan would be prepared in accordance with the manufacturer's specifications and include such measures as staff training, inspection schedules, cleanout methods, and maintenance responsibilities.

San Jose is required to comply with the National Clean Water Act regulations regarding the reduction of non-point source pollutants, as mandated by the National Pollutant Discharge Elimination System (NPDES) and regulated by the RWQCB. The storm water program of the NPDES requires construction activities disturbing one acre or more of land to obtain a NPDES storm water permit. Section C.3 requirements of the NPDES Permit call for a variety of storm water management measures, including post-construction treatment control measures. The project would be subject to NPDES requirements, and applicable provisions of the City's Post-Construction Urban Runoff Management Policy (6-29).

The project could contribute to storm water pollution that could affect water quality. In order to comply with the City's NPDES permit, the developer would implement a series of measures to avoid impacts to water quality. The following measures shall be implemented as part of the project during construction.

- Obtain and comply with the NPDES General Construction Activity Storm Water Permit. Prior to construction, the developer shall file a Notice of Intent and prepare a Storm Water Pollution Prevention Plan (SWPPP).
- Restrict grading to the dry season or meet City requirements for grading during the rainy season.
- Use BMPs to retain sediment on the project site.
- Place burlap bags filled with drain rock around storm drains to route sediment and other debris away from the drains.

- Provide temporary cover of disturbed surfaces to help control erosion during construction.
- Provide permanent cover to stabilize the disturbed surfaces.

In addition, the project proposes permanent, post-construction stormwater treatment measures in compliance with provision C.3 of the City of San Jose's NPDES Permit, including the installation of a CDS stormwater treatment unit and incorporation of green roof technology, as described above.

The project would not have a significant impact on hydrology or water quality. The project would not result in new or increased impacts to hydrological resources beyond those already identified in the North San Jose Development Area Policies Update Final EIR.

Land Use

The NSJ Final EIR identified the following significant land use impacts: 1) land use conflicts associated with introducing additional residential uses in industrial areas, 2) secondary traffic impacts on residential uses from additional traffic on cut-through routes and near new intersections. The project does not propose residential uses, nor is it located in an area that will increase traffic in residential areas. The project would not have a significant impact on land use. The project would not result in new or increased land use impacts beyond those already identified in the 2005 NSJ Final EIR.

Mineral Resources

The project would not result in new or increased mineral resource impacts compared with the 2005 NSJ Final EIR.

Noise

The NSJ Final EIR identified noise generated by future development in the North San Jose area as significant along roadway segments containing sensitive uses (i.e., residences). The project does not propose residential uses, nor is it located in an area that will impact noise levels in residential areas. The proposed project consists of an automobile condominium development to facilitate the storage of high-end automobiles and associated uses. The types of auto related uses permitted on the property are limited by the Planned Development Zoning District (PDC71-135) which prohibits auto dismantling and repair. Only a limited number of employees will be on site on a regular basis and as such the related noise from the project will be minimal.

Construction of the project would temporarily increase noise levels at nearby receptors. The Final EIR identifies construction noise as a significant impact that would be reduced to a less-than-significant level with incorporation of standard construction noise abatement measures. Such measures would be included during project construction. The proposed project would not result in new or increased noise impacts beyond those already identified in the certified 2005 Final EIR.

Population and Housing

Implementation of the proposed project will have a less-than-significant impact on population and housing in San Jose. The project would not result in new or increased impacts to population and housing beyond those already identified in the 2005 NSJ Final EIR because the use is non-residential and will not induce additional unplanned housing demand.

Public Services

Proposed use may result in an incremental increase in calls for fire and police protection services. This increase in demand may require additional staffing or other resources, but is not expected to require construction of new police and fire facilities. The additional demand for school, park, library, and other

related public services is typically associated with residential uses. Since the project does not include a residential component, it would not affect these services.

The NSJ Final EIR concluded that development in the North San Jose area would not result in significant adverse environmental impacts associated with exceeding the capacity of the water supply, sanitary sewer/wastewater treatment, storm drainage, or waste disposal systems. The project would not have a significant impact on public services as it is a non-residential use and has a minimal occupancy on site. The project would not result in new or increased impacts to public services beyond those already identified in the NSJ Final EIR.

Recreation

The City has adopted the Parkland Dedication and Park Impact Ordinances that require residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. The project does not propose any residential development; therefore it would not impact recreational services or be subject to the PDO or PIO.

The project would not have a significant impact on recreation. The project would not result in new or increased impacts to recreational facilities or services beyond those already identified in the NSJ Final EIR.

Transportation

A traffic analysis was prepared for the NSJ EIR that evaluated level of service impacts at 220 intersections and 124 directional freeway segments. The results of the traffic analysis indicated that development of the North San Jose area would result in significant traffic impacts at numerous intersections and freeway segments. At some locations, these significant impacts were determined to be unavoidable due to physical constraints and/or jurisdictional authority.

Only a limited number of employees will be on site on a regular basis and as such the related traffic from the project will be minimal. Automobiles will be stored on the site but will not be in regular use and thus not generate additional traffic. The traffic impacts from the proposed industrial/commercial development have been analyzed and accounted for in the assumptions used for the 2005 NSJ Final EIR. The project would not result in additional traffic trips beyond those assumed in the 2005 Final EIR.

In order to reduce traffic impacts, the project proposes to comply with the City's North San Jose Area Development Policy Traffic Impact Fee Ordinance. These fees will be used to fund construction of a series of transportation improvements identified in the 2005 NSJ Final EIR.

Even with these prescribed improvements for the North San Jose Area, traffic impacts at some locations would remain significant and unavoidable; the City Council adopted a statement of overriding considerations for this impact.

The proposed project would not result in any new roadway, transit, or pedestrian impacts or impacts of greater severity than were already disclosed in the 2005 NSJ Final EIR.

Utilities and Services

The NSJ Final EIR did not identify any significant impacts from buildout of the North San Jose Area on utilities. Likewise, the incremental increase in utility demands from the proposed project is not expected to impact utility systems.

The project would not result in new or increased impacts to utilities beyond those already identified in the 2005 NSJ Final EIR.

Conclusion

Based on the analysis provided in this evaluation, the proposed project would not substantially degrade or reduce wildlife species or habitat or impact cultural resources. Impacts from buildout of the North San Jose Area were evaluated in the 2005 NSJ Final EIR. Mitigation, including program-level and policy measures, was identified to avoid or reduce impacts associated with future development. The types of auto related uses permitted on the property are limited by the Planned Development Zoning District (PDC71-135) which prohibits auto dismantling and repair. Only a limited number of employees will be on site on a regular basis and as such the related noise and traffic from the project will be minimal. The project would not result in new or increased impacts beyond those already identified in the 2005 NSJ Final EIR, since trips from the project were included in the development assumptions for the analysis.