



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: May 28, 2009

COUNCIL DISTRICT: 3
SNI AREA: Washington

SUBJECT: PDC08-035. PLANNED DEVELOPMENT REZONING TO ALLOW THE CONSTRUCTION OF A MIXED-USE DEVELOPMENT WITH UP TO 5,350 SQUARE FEET OF COMMERCIAL USES, UP TO 50 ATTACHED RESIDENTIAL UNITS AND THE RELOCATION OF ONE NATIONAL REGISTER ELIGIBLE HOUSE LOCATED THAT THE SOUTHWEST CORNER OF S. FIRST STREET AND EDWARDS AVENUE.

RECOMMENDATION

The Planning Commission voted 6-1-0 (Kamkar opposed) to recommend that the City Council approve a Planned Development Rezoning to allow the construction of up to 50 residential units and approximately 5,350 square feet of commercial uses, including demolition of five existing structures and relocation of one National Register eligible house.

OUTCOME

Should the City Council approve the Planned Development Rezoning, a Planned Development Permit could be considered for approval which would allow up to 50 attached residential units and up to 5,350 square feet of commercial space and relocation of one National Register eligible house on a 1.09 gross acre site, consistent with the development standards for the subject rezoning.

BACKGROUND

The applicants, Dean and David Hanson are proposing a Planned Development Rezoning on a 1.09 gross acre site located at the southwest corner of South First Street and Edwards Avenue to allow the development of up to 5,350 square feet of commercial retail uses and 50 attached residential units and one relocated single-family house. The subject site is surrounded by a residential neighborhood directly to the west and commercial development to the north, south, and east along South First Street. The project is located in the Downtown Frame Area and within the Guadalupe Transit Corridor (TOD).

May 28, 2009

Subject: PDC08-035

Page 2

The site is currently developed with a commercial structure and five single-family residences, and two billboards. The proposed Rezoning would allow for the demolition of five structures, two of which were identified as Structures of Merit, and the on-site relocation and rehabilitation of one single family house identified as eligible for the National Register of Historic Places within the adjacent compatible residential neighborhood. The neighborhood was recommended for designation by the Historic Landmarks Commission as the Guadalupe/Washington Conservation Area, to be considered by the City Council at a June 2, 2009 hearing. Two billboards are also proposed to be removed as part of this project.

Planning Commission Hearing

On May 27, 2009, the subject rezoning was heard before the Planning Commission at a public hearing. Staff identified that a minor technical correction related to the setback on Edwards Avenue be made to allow a 6-foot setback rather than 7 feet. The project architect, Kelly Melendez, spoke on behalf of the project. Commissioner Kamkar expressed concern that 52 of the 79 parking spaces provided within the project were proposed to be tandem spaces. Ms. Melendez noted that each pair of tandem spaces would be dedicated for the use of residents of the two-bedroom residential units. Planning Staff further noted that while the Commission had previously had concerns about tandem parking provided within private garages, such as for townhouse projects, that could be utilized for storage rather than parking; in this case all of the project parking is located within an open parking garage where no private storage can occur.

Commissioner Do recommended increasing the private setback on South First Street to effectively provide a wider sidewalk. He further recommended the project design draw upon references from the Mission Revival style commercial building proposed for demolition and utilize balconies to animate the South First Street façade.

Commissioner Jensen asked, given the proposed increase in density on the site by use of the discretionary policy, how the project would be considered to be of exceptional design. Planning Staff stated that the well-designed proportions of the modern storefronts are compatible with the character of South First Street, while the courtyards and lower scale townhouse units are sensitive to the existing residential uses to the rear of the site. In addition, the project proposes to relocate the distinctive early twentieth century eclectic Craftsman with Mission Revival influence National Register eligible Oldham-Long House while retaining its residential setting by increasing setbacks, step backs, and landscaping. Commissioner Jensen stated that these features would be expected of any project, and asked that staff continue to work with the applicant through the Planned Development Permit stage to encourage an exceptional design.

Commissioner Cahan recommended that the project continue to work to create the most pedestrian friendly context possible for the immediate neighborhood.

Chair Zito noted Commissioner Jensen's comments, and noted that the project could commemorate the history of the site, including the noteworthy Structures of Merit proposed for demolition as well as the National Register eligible house by including an educational exhibit in the project.

A motion was made to consider the Mitigated Negative Declaration and to recommend that the City Council approve a Planned Development Rezoning to allow the construction of up to 5,350 square feet of commercial uses and to 50 attached residential units including demolition of five existing structures and relocation of one National Register eligible house. The Commission voted 6-1-0 (Kamkar opposed) to approve the motion.

ANALYSIS

Please see attached Planning Commission Staff Report for further analysis.

EVALUATION AND FOLLOW-UP

Not Applicable. 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. Two community meetings were held at the Washington Neighborhood Advisory Committee. 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, 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. Please see attached Planning Commission Staff Report for further information.

HONORABLE MAYOR AND CITY COUNCIL

May 28, 2009

Subject: PDC08-035

Page 4

COORDINATION

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

FISCAL/POLICY ALIGNMENT

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

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

MND (Mitigated Negative Declaration)

for 
JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Sally Zarnowitz, Project Manager, at 408-535-7800.

cc: Kelly Melendez, Melendez and Koo Studio, 1663 Mission Street Ste 501, San Francisco CA 94103

PDC08-035
South First Street Apartments
Development Standards
Revised 5/27/09

The following notes are to be incorporated on the final General Development Plan upon City Council Approval. These notes supercede all other notes currently identified on said plan(s).

Permitted Use

- 1) Residential: Up to 50 multi-family attached residential units and one relocated single-family detached historic house. Conditional and special uses of the R-M Residence District (R-1-8 District for the historic house) may be considered with a Planned Development Permit Amendment. The project shall comply with the City's Inclusionary Housing Ordinance (affordable housing)
- 2) Commercial: Up to 5,350 square feet of commercial uses shall conform to the CP-Commercial Pedestrian Zoning District standards. (Conditional and special uses of this district may be considered with a Planned Development Permit Amendment)

Maximum Building Height/Stories

Commercial & attached units: 56 feet maximum/4 stories
(38 feet maximum for townhouses/recreation rooms
within 30 feet of westerly perimeter property line)

Single-family detached house (historic): 30 feet/2.5 stories

Perimeter Setbacks (Commercial/Attached Units)

Front: First St.	0 feet
Edwards St.	6 feet
Rear: Garage/Podium/courtyard walls:	7 feet
Building less than 38 feet in height	10 feet
Other attached units/commercial uses	30 feet
Interior Side:	10 feet

(Note: While the historic house is not proposed to be on a separate parcel at this time, it may be subdivided from the attached unit component of the project provided that adequate easements are in place between said house and the attached units to comply with fire code regulations and to provide a 20 foot deep rear yard for the single-family house.)

Perimeter Setbacks (Relocated Single-Family Historic House)

Front:	17 feet
Rear:	10 feet
Side:	5 feet

Additions shall conform to R-1-8 standards

Required Parking

Commercial: Vehicular parking is required per Zoning Ordinance Table 20-200 as amended. Currently the code requires 1:200 (space per net square foot) with a 10% reduction allowed since the project is in a TOD corridor. Tandem parking spaces may not be used. The project may count curbside parking spaces along the project frontage and/or utilize an alternating parking arrangement (shared parking) with the residential component of the project as deemed appropriate at the PD Permit stage.

Attached Residential Units: Parking for attached units shall be provided in accordance with the Residential Design Guidelines as noted below. An additional 10% reduction is allowed since the project is in a TOD corridor.

Studio units: 1.4 per unit
1 Bedroom units 1.5 per unit
2 Bedroom units 1.8 per unit with non-tandem spaces
2 Bedroom units 2.0 per unit with tandem spaces
Bicycle parking is required at a ratio of one (1) bicycle space per four (4) residential units.

Single-Family Detached House: 1 covered space/detached garage, 1 driveway apron space.

Minimum Open Space (Attached Units)

Private: 60 square feet per unit (50% of the units may have min. of 40 square feet provided that an equivalent increase in the common open is provided)

Common: 100 square feet per unit of usable open space

General Notes

Water Pollution Control Plant Notice

Pursuant to part 2.75 of chapter 15.12 of the San José Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the city manager makes a determination that the cumulative sewage treatment demand on the San José – Santa Clara water plant will cause the total sewage treatment demand to meet or exceed the capacity of the San José – 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.

Street Trees

The Public right-of-way shall be planted with street trees as directed by the City Arborist.

Private Infrastructure Standards

Private infrastructure standards will meet or exceed City's Common Interest Development Standards.

Post-Construction Storm Water Treatment Controls

The city's national pollutant discharge system (NPDES) permit compliance requires this project to incorporate post-construction mitigation measures to control the discharge of pollutants into the storm drainage system to the maximum extent practical. Planned development permit plans for this project shall include design details of all post construction storm water treatment controls proposed for the project to the satisfaction of the Director of Planning.

Park Impact Fees & Parkland Dedication Ordinance

The applicant shall comply with the requirements of the Park Impact Ordinances, pursuant to Ordinance 24172 (Chapter 14.25 of Title 14 of the San José, Municipal Code) and the project shall comply with the Parkland Dedication Ordinance.

Environmental Mitigation**Geology and Soils**

- Erosion: A City-approved Erosion Control Plan will be developed and implemented prior to approval of a grading permit or Public Works clearance with such measures as (1) the timing of grading activities during the dry months, if feasible; (2) temporary and permanent planting of exposed soil; (3) temporary check dams; (4) temporary sediment basins and traps; or (5) temporary silt fences.
- Seismic Shaking: 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.
- Liquefaction and Expansive Soils: The soil and foundation report submitted to the City addressing the potential hazard of liquefaction and expansive soils will be submitted to, and 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 California Geologic Survey (Special Publication 117).

Hydrology and Water Quality

- A Notice of Intent and Stormwater 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, to comply with the stormwater discharge requirements of the NPDES General Permit.

- Stormwater treatment control measures will be hydraulically sized prior to issuance of a development permit in conformance with the 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.

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 existing land uses shall be kept damp at all times or shall be treated with non-toxic stabilizers or dust palliatives.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard.
- Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Sweep daily (or more often, if necessary, preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites to prevent visible dust from leaving the site; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality.
- Sweep streets daily (or more often, if necessary, preferably with water sweepers), if visible soil material is carried onto adjacent public streets.
- Suspend excavation and grading activities when winds or instantaneous gusts exceed 25 mph.
- Limit the area subject to excavation grading and other construction activity at any one time.

Biological Resources

Trees:

- Any tree that is removed will be replaced by the addition of one or more new trees at the ratios shown in Table 1.

Table 1: Tree Replacement 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
12-17 inches	3:1	2:1	None	24-inch box
Less than 12 inches	2:1	1:1	None	15-gallon container

- The species and exact number of trees to be planted will be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement.
- Replacement trees are to be above and beyond standard landscaping; required street trees do not count as replacement trees.
- 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.
 - The size of a 15-gallon replacement tree may be increased to a 24-inch box and count as two replacement trees.
 - An alternative site(s) may be identified for tree planting. Alternative sites may include local parks or schools or the installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of Planning, Building, and Code Enforcement.
 - A donation of \$300.00 per mitigation tree will be paid to Our City Forest or San José Beautiful for in-lieu-of offsite tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately 3 years. A donation receipt for offsite tree planting will be provided to the Planning Project Manager prior to issuance of a development permit.

Cultural Resources

Structure of Merit Demolition: Standard Measures

Because historic resources are irreplaceable, General Plan Policy states that their preservation should be a key consideration in the development review process. While demolition of a Structure of Merit is not a significant environmental impact, Standard Measures to address the loss of these historic resources that add to the historic fabric of the City of San Jose Historic Resources Inventory are identified below.

Building	Location	Historical Significance
Liguori Meats	957 South First Street	Mission Revival Structure of Merit
Oldham-Long House	985-985½ South First Street	Craftsman/Mission Revival Eligible National Register
Paul and Mary Cribari House	987 South First Street	Neoclassical Structure of Merit

Source: Archives and Architecture, 2009.

Professional Qualifications

- The documentation is to be conducted by a qualified consultant meeting the professional qualification standards of the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.

Department of Parks and Recreation, Primary Record (DPR A) and Building, Structure, and Object (DPR 523B) Forms

- The bound and electronic copy of the Historic Report and/or DPR forms for the Structures/Site

Non-HABS Archival Photo-Documentation

- Cover sheet - The documentation shall include a cover sheet identifying the following: photographer, address of building, common or historic building name, date of construction, date of photographs and description of photographs.
- Camera - A 35 mm camera.
- Lenses - May include normal focus length, wide angle and telephoto (no soft focus).
- Filters - Photographer's choice. Use of a pola screen is encouraged.
- Film - Must use black and white film; tri-X, Plus-X, or T-Max film is recommended.
- View - Perspective view- front and other elevations. All photographs shall be composed to give primary consideration to the architectural and/or engineering features of the structure with aesthetic considerations necessary, but secondary.
- Lighting - Sunlight is usually preferred for exteriors, especially of the front facade. Light overcast days, however, may provide more satisfactory lighting for some structures. A flash may be needed to cast light into porch areas or overhangs.
- Technical - All areas of the photograph must be in sharp focus.

Submission of Photo-Documentation

Evidence that the documentation for addresses 955,957,959,961, and 987 South First Street, including the original prints and negatives, has been submitted to History San José (Attention: Jim Reed, 1650 Senter Road, San José, CA 95112-2599, (408) 287-2290), shall be submitted to the Historic Preservation Officer prior to the approval of the Planned Development Permit.

Evidence that the documentation, including the original prints and negatives, has been submitted to History San José (Attention: Jim Reed, History San José, 1650 Senter Road, San José, CA 95112-2599, (408) 287-2290), shall be submitted to the Historic Preservation Officer. Digital photos may be provided as a supplement to, but not in place of, the above photo-documentation. The above shall be accompanied by a transmittal stating that the documentation is submitted in fulfillment of standard measures for the loss of the structure of merit, which shall be named and the address stated.

Relocation: Prior to issuance of Public Works clearance, the structure(s) shall be advertised for relocation. The project applicant shall provide evidence that the structure has been retained and advertised for relocation by placing an advertisement in a newspaper of general circulation, posting on a website, and onsite posting for 30 days.

Salvage: If relocation is not successful, prior to issuance of Public Works Clearance, the structure and site shall be retained and advertised for salvage by placing an advertisement in a newspaper of general circulation, posting on a website, and onsite posting for 30 days.

Discovery of Unknown Resources

If a potentially significant cultural resource is encountered during subsurface earthwork activities, all construction activities within a 50-foot radius of the find shall cease until a qualified archaeologist determines whether the resource requires further study. Any previously undiscovered resources found during construction shall be recorded on appropriate Department of Parks and Recreation (DPR) forms and evaluated for significance in terms of CEQA criteria. Potentially significant cultural resources consist of but are not limited to stone, bone, wood, and shell artifacts; fossils; and features including hearths, structural remains, and historic dumpsites.

If human remains are encountered during earth-disturbing activities within the project area, all work in the adjacent area shall stop immediately and the Santa Clara County Coroner's office shall be notified. If the remains are determined to be Native American in origin, both the Native American Heritage Commission (NAHC) and any identified descendants shall be notified by the coroner and recommendations for treatment solicited (CEQA Guidelines Section 15064.5; Health and Safety Code Section 7050.5; Public Resources Code Sections 5097.94 and 5097.98).

MITIGATION MEASURES:

Implementation of the following mitigation measures will reduce potential impacts to cultural resources to less than significant levels:

- Relocate the house located at 985 South First Street to Edwards Avenue (as noted on the plans), and meet the Secretary of Interior Standards.
- The building located at 985-985½ South First Street would require further documentation in the form of HABS or HABS type of documentation proportionate with the level of significance of the building prior to relocation. Prior to approval of the Planned Development Permit, evidence that the HABS or HABS documentation has been submitted to History San José (Attention: Jim Reed, History San José, 1650 Senter Road, San José, CA 95112-2599, (408) 287-2290), shall be submitted to the Historic Preservation Officer.

Hazards and Hazardous Materials

Implementation of the following mitigation measures would mitigate the impact described above to a less than significant level:

- Prior to the issuance of a demolition permit, a visual inspection/pre-demolition survey, and possible sampling, will be conducted by a qualified professional, in conformance with state and local laws, before the building is demolished, to determine the presence of asbestos-containing materials and/or lead-based paint.
- All potentially friable asbestos-containing materials shall be removed in accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards, contained in Title 8 of the California Code of Regulations (CCR), Section 1529, to protect workers from exposure to asbestos. Materials containing more than 1 percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations 1532.1, including employees training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings will be disposed of at landfills that meet acceptance criteria for the waste being disposed.
- Prior to issuance of a grading permit, soil technicians and operators must be aware of any underground storage tanks, buried debris, or other potential adverse environmental condition that may be discovered in the property. If any one of these conditions is encountered, then the soil engineer must be notified and the specific condition appropriately remedied in accordance with the local, County, and state requirements.

- Any deep excavations that would be created during site development such as the removal of basements, septic tanks, foundations, trees, should be left open for further adequate geotechnical investigation, unless their immediate backfill is necessary.
- The presence of any unusual odor, or suspicious materials during demolition and/or mass grading operations should be reported immediately to the Soil Engineer, the San Jose Building Division, and the property owner.
- Any paint containers, water sealers, basements, cement pads, appliances, trash, refused lumber, cabinets, transite pipe, abandoned septic tank, paved parking lot, utility boxes, etc. should be carefully removed offsite prior to the demolition and/or grading operations of the subject property. All of the removed items should be disposed according to local, County, and state regulations.

Hydrology and Water Quality

Implementation of the following mitigation measures, consistent with NPDES Permit and City Policy requirements, will reduce potential construction impacts to surface water quality to less than significant levels:

- A Storm Water Pollution Prevention Plan (SWPPP) in compliance with the local NPDES permit shall be developed and implemented, including
 - Site description
 - Erosion and sediment controls
 - Waste disposal
 - Implementation of approved local plans
 - Proposed post-construction controls, including description of local post-construction erosion and sediment control requirements
 - 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 the construction- and post-construction-period water quality impacts
 - Non-stormwater management
- The project shall comply with applicable provisions of the following two City Policies: Post-Construction Urban Runoff Management Policy (6-29) and Post-Construction Hydromodification Management Policy (8-14).
- Prior to the issuance of a grading permit, the project shall comply with State Water Resources Control Board's NPDES General Construction Activities Permit, to the satisfaction of the Director of Public Works, as follows:

- The applicant shall develop, implement, and maintain a Storm Water Pollution Prevention Plan (SWPPP) for controlling stormwater discharges associated with construction activity.
- The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board.
- Prior to the issuance of a Planned Development Permit, the applicant must provide details of specific best management practices (BMPs) including, but not limited to, bioswales, disconnected downspouts, landscaping to reduce impervious surface area, and inlets stenciled, "No Dumping - Flows to Bay" to the satisfaction of the Director of Planning, Building and Code Enforcement.
- The project shall comply with Provision C.3 of NPDES permit Number CAS0299718, which provides enhanced performance standards for the management of stormwater of new development.
- The project shall comply with applicable provisions of the following City Policies: (1) Post-Construction Urban Runoff Management Policy (6-29), which establishes guidelines and minimum BMPs for all projects, and (2) Post-Construction Hydromodification Management Policy (8-14), which provides for numerically sized (or hydraulically sized) TCMs.

Noise

Implementation of the following mitigation measures would also reduce potential construction impacts on noise to less than significant levels:

- Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, for any onsite or offsite work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components.