

FILE NO. PDC10-001
MIRASSOU PROJECT
DEVELOPMENT STANDARDS
REVISED 12/1/10

In any cases where the graphic plans and text may differ, this text takes precedence.

ALLOWED USES

COMMERCIAL (NEW BUILDINGS)

- The permitted, special, and conditional uses of the CP Commercial Pedestrian Zoning District, as amended, except that drive-through uses are not permitted. Conditional and special uses shall require the approval of a Planned Development Permit.

MIXED-USE AREA (INCLUDES FORMER MIRASSOU WINERY BUILDING, HERITAGE HOUSE & AREAS WITHIN 150 FEET OF RUBY AVENUE)

- *Ruby Avenue*- New mixed use or commercial building(s) may be developed with ground floor commercial uses with the permitted, special, and conditional uses of the CP Commercial Pedestrian Zoning District, as amended, except that drive-through uses are not permitted. The square footage of commercial uses shall be within the allowances identified in these development standards. Conditional and special uses shall require the approval of a Planned Development Permit. If such a building(s) is developed with commercial uses, the entire ground floor of said building must be developed and used as such. Any commercial use, including related parking, may extend up to 150 feet in depth from the edge of the Ruby Avenue right-of-way. Such properties may include residential uses above in accordance with the maximum number of units allowed under this zoning (any new such buildings may also be developed solely as attached residential units without commercial uses).
- *Former Winery Building*- The permitted, special, and conditional uses of the CP Commercial Pedestrian Zoning District, as amended, except that drive-through uses are not permitted. Conditional and special uses shall require the approval of a Planned Development Permit. Alternatively, residential units (in combination or not with commercial uses) or live/work units may also be allowed in accordance with the maximum number of residential units allowed under this zoning.
- *Heritage House*- The permitted, special, and conditional uses of the CP Commercial Neighborhood Pedestrian Zoning District, as amended, except that drive-through uses are not permitted. Conditional and special uses shall require the approval of a Planned Development Permit. Alternatively, the building may be used solely for residential uses or one live/work unit in accordance with the maximum number of units allowed under this zoning.

RESIDENTIAL AREA:

- Multi-family residential, courthomes (as defined by the Residential Design Guidelines), single-family detached residential in conjunction with courthomes provided that the number of single-family detached houses do not exceed 40% of the overall number of units within the project.

DEVELOPMENT STANDARDS

HISTORIC STRUCTURES:

- The developer of the project shall be responsible for the preservation, rehabilitation, and maintenance of the Historic Winery building and the Heritage House, until such time that the building or buildings are sold.

COMMERCIAL AND MIXED USE

MAXIMUM SQUARE FOOTAGE:

- Commercial: up to 25,000 square feet total (includes Mirassou building, heritage house, and potential Ruby Avenue commercial development)

SETBACKS:

Perimeter:

- Building/parking to north property line (Aborn Road): 15 feet
- Building/parking to west property line(s) (adjacent to residential): 25 feet
- Building/parking to east property line (Ruby Avenue): 5 feet*
*25' min. within 100 feet of Aborn Road
- Building/parking to south property line 10 feet**
**8' min. adjacent to new public streets

MAXIMUM BUILDING HEIGHT:

- Stories: Three (3)
- Single-story building: 35 feet
- Multi-story building: 45 feet
- Historic Structures: As is

PARKING REQUIREMENTS:

- Parking shall be provided per Title 20, Table 20-190, as amended.

BICYCLE PARKING REQUIREMENTS:

- 1 space per 20 required auto spaces

MOTORCYCLE PARKING REQUIREMENTS:

- 1 space per 20 required auto spaces

RESIDENTIAL AREA

NUMBER OF UNITS

- Minimum 75 units
- Maximum 107 units

A portion of the residential units may be placed within the commercial/mixed use area buildings provided that the overall number of units for the project does not exceed 107.

SETBACKS

Courthomes (with shared driveways):

Front:	10 feet (8 feet for porches)
Corner side:	10 feet (8 feet for porches)
Side:	5 <u>3.5</u> feet
Rear:	5 feet (must also comply with private open space requirements)

Single-Family Detached Homes:

Front:	10 feet (8 feet for porches), 18 feet for front facing garages
Corner side:	10 feet (8 feet for porches)
Side:	5 4 feet
Rear:	5 feet (must also comply with private open space requirements)

Townhouse Units (adjacent to Ruby Avenue without ground floor commercial uses):

Front (building):	15 feet
Front (patio):	5 feet
Corner side:	8 feet
Side:	N/A
Rear:	20 feet

~~Internal Separations (all non-attached units): 5 feet setback from property line and 10 feet between buildings~~

MAXIMUM BUILDING HEIGHT:

- Non-attached houses: 35 feet and/or 2.5 stories
- Attached units: 45 feet and/or 3 stories
- Historic Structures: As is

All buildings shall conform to the building height plane requirements set forth in the Evergreen Specific Plan.

PARKING REQUIREMENTS:

- Studio: 2.2
- 1 Bedroom: 2.3
- 2 bedroom: 2.5
- 3 Bedroom: 2.6
- Over 3 Bedroom: 0.15 (per additional bedroom over 3)

PRIVATE OPEN SPACE REQUIREMENTS:

- Courthomes: 350 square feet minimum with and average of 400 square feet, and a 15 foot minimum dimension
- Single-family detached houses (non-courthome): 400 square feet, 15 foot minimum dimension
- Attached units- units on ground floor: 120 square feet, 10 foot minimum dimension.
- Attached units- units not on ground floor: 60 square feet, 6 foot minimum dimension.
- Units within historic structures: None required.

COMMON OPEN SPACE REQUIREMENTS:

- Non-attached units: 200 square feet per unit
- Attached units: 150 square feet per unit
- Units within historic structures: None required.

The common open space requirements can be reduced for units within close proximity (1000 feet) of a public park.

The Courthome component shall provide an average of 200 square feet of front courtyard landscaping per unit.

MINOR ARCHITECTURAL PROJECTIONS:

- Minor architectural projections such as fireplaces, bay windows, patios and porches may project into any setback or building separation by up to 2 feet for a length not to exceed 10 feet or 20% of the building elevation length.

ARCHITECTURAL DESIGN:

- The architectural design of the residential development shall conform to the standards of the Residential Design Guidelines.

STREETS AND PASEOS

- All new streets shall be public and shall provide good connections between Alessandro Drive and Ruby Avenue.
- The network of streets shall provide a frontage road next to the existing lake along the south side of the project.
- The Ruby Avenue frontage shall be punctuated by at least two public streets.
- A 50-foot wide At the Planned Development Permit stage, the developer shall work with the City to consider a paseo shall be provided to that connects the open space area on the adjacent KB Home project to the south and the historic Mirassou Winery building to the southern area of the site to the satisfaction of the Director of Planning, Building, and Code Enforcement.
- The street sections may be modified at the PD Permit stage to include Landscape pop-outs in lieu of curbside parking, as described in the Evergreen Specific Plan to enhance the paseo and views of adjacent lake.
- The location of streets may be adjusted at the Planned Development Permit stage of the development process to the satisfaction of the Director of Planning, Building, and Code Enforcement.

Note to Planning Commission: All other development standard notes from Pages 5-12 remain unchanged. Please refer to previous draft.

PUBLIC WORKS

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. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
2. **Grading/Geology:**
 - a) A grading permit is required prior to the issuance of a Public Works Clearance.
 - b) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - c) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - d) A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.
3. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29.
 - a) The project's preliminary Stormwater Control Plan and numeric sizing calculations have been reviewed. Please see "Actions / Revisions" sections for comments. At PD stage, submit the final Stormwater Control Plan and numeric sizing calculations.
 - b) Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - c) A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating the all post construction storm water pollution control BMPs have

been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.

4. **Stormwater Peak Flow Control Measures:** Projects that are required to install treatment control measures are encouraged to comply with the requirements of the City's Post-Construction Hydromodification Management Policy (City Council Policy 8-14) to control the project's hydromodification impacts that can cause increased erosion and other impacts to beneficial uses of local rivers, streams and creeks.
 - a) It is recommended that the project install treatment control measures that have flow-control benefits such as bioretention facilities, infiltration trenches, filter strips, and vegetated swales.
5. **Flood: Zone D.** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D.
6. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
7. **Municipal Water:**
 - a) In accordance with City Ordinance #23975, Major Water Facilities Fee is due and payable. Contact Tim Town at (408) 277-3671 for further information.
 - b) Connect to the Recycled Water Main pipeline for irrigation, and other appropriate water uses.
8. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within in the Subject Chapter and the Associated Fees and Credit Resolutions.
9. **Assessments:** The proposed project is located within the boundaries of Community Facilities District No. 4 (Evergreen Improvements) which specifies the number of residential units and the number of commercial square footage allocated to undeveloped properties within the boundaries of the district. A portion of 659-57-010, near the Village Square, has been allocated 8,000 square feet for commercial use. A special tax is due prior to approval of the parcel or final map. The special tax is \$120,012.90 and is adjusted annually each February 1st based on the construction cost index for the San Francisco Bay Area. This parcel does not have any residential allocation.

The proposed project also is located within the boundaries of Community Facilities District No. 2 which taxes for the maintenance and operation of specific enhanced landscaped public features in the Evergreen Specific Plan Area. The special tax will commence the fiscal year following subdivision and is collected through the County property tax bills. The special tax for fiscal year 2009-10 is calculated at \$442.42 to

\$575.16 per residential unit and \$884.96 per acre for non residential uses and is adjusted annually by the Consumer Price Index for the San Francisco Bay Area.

10. **Street Improvements:**

- a) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
- b) Close unused driveway cut(s).
- c) Proposed driveway widths to be 26'.
- d) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- e) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

11. **Electrical:**

- a) Existing electroliers along the project frontages will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans
- b) To assist the Applicant in better understanding the potential cost implications resulting from these requirements, the electroliers along the project frontage can be evaluated during the Planning permit review stage.

12. **Street Trees:** Install street trees within public rights-of-way along all project street frontages per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". The locations of the street trees will be determined at the street improvement stage. Street trees shall be installed in accordance with the Evergreen Specific Plan. Obtain a DOT street tree planting permit for any proposed street tree plantings. Contact the City Arborist at (408) 277-2756 for the designated street tree.

13. **Private Streets:** Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.

14. **Back-up Landscape Improvements:** Retain landscape architect to prepare Landscape Improvement Plans for Type 2 back-up landscape improvements within the public right-of-way of Aborn Road and Ruby Avenue per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects".

ENVIRONMENTAL MITIGATION

Air Quality:

- 4.3-1 The contractor shall implement the following Best Management Practices per the BAAQMD:
- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - h. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- 4.3-2 Due to the potential exceedance of the NO_x threshold, the project proponent or contractor shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used for construction (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average of 20% NO_x reduction and 45% particulate matter reduction compared to the most recent CARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options if certified for NO_x reduction by the CARB. These measures shall be verified by the City in consultation with a qualified air quality consultant

Biological:

- 4.4-1 Should project construction be scheduled to commence between February 1 and August 31, the project proponent shall retain a qualified biologist to conduct a pre-construction survey for nesting special-status avian species within the onsite trees as well as all trees within 250 feet of the site. This survey shall occur within 30 days prior to the onset of construction.

If pre-construction surveys undertaken during the nesting season locate active nests within or near construction zones, these nests and an appropriate buffer around them (as determined by a qualified biologist) shall remain off-limits to construction until the nesting season is over. Suitable setbacks from occupied nests shall be established by the biologist.

- 4.4-2 The project proponent shall retain a qualified biologist to conduct a pre-construction survey for burrowing owls within 30 days prior to the onset of construction. This survey shall be conducted according to methods described in the Staff Report on Burrowing Owl Mitigation (CDFG, 1995). All suitable habitats of the study area shall be covered during this survey.

If pre-construction surveys undertaken during the breeding season (February 1 through August 31) locate active nest burrows within or near construction zones, these nests and an appropriate buffer around them as determined by a qualified biologist will remain off-limits to construction until the breeding season is over.

During the non-breeding season (September 1 through January 31), resident owls may be relocated to alternative habitat. The relocation of resident owls shall be conducted in accordance with a relocation plan prepared by a qualified biologist. Passive relocation is the preferred method of relocation. This plan shall provide for the owl's relocation to nearby lands possessing available nesting and foraging habitat. Any mitigation or relocation plan for the owls is subject to review and approval by CDFG.

- 4.4-3 Prior to demolition, the project proponent shall retain a qualified bat specialist to perform a detailed bat survey to determine if special-status bat species are roosting or breeding in the onsite buildings to be demolished. The bat specialist should look for individuals, guano, staining, and vocalization by direct observation and potential waiting for nighttime emergence. The survey shall be conducted during the time of year when bats are active, between April 1 and September 15. If demolition is planned within this timeframe, the survey shall be conducted within 30 days of demolition. An initial survey could be conducted to provide early warning if bats are present, but a follow-up survey will be necessary within 30 days. If demolition is planned outside this timeframe (September 16 through March 31), the survey should be conducted in September prior to demolition. If no bats are observed to be roosting or breeding in these structures, then no further action would be required, and demolition can proceed.

If a non-breeding bat colony is found in the structures to be demolished, the individuals should be humanely evicted via the partial dismantlement of the buildings prior to demolition under the direction of a qualified bat specialist to ensure that no harm or "take" would occur to any bats as a result of demolition activities. If a maternity colony is detected in the buildings, then a construction-free buffer should be established around the structure and remain in place until it has been that the nursery is no longer active. Demolition should preferably be done between March 1 and April 15 or August 15 and October 15 to avoid interfering with an active nursery.

- 4.4-4 The project proponent shall replace any tree to be removed with new trees in accordance with the City's Tree Replacement Ratios.

In the event 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, at the development permit stage:

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees.
- Identify an alternative site(s) 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.
- Provide a donation of \$300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community.

- 4.4-5 The project proponent shall implement the recommendations in the tree survey (HortScience Inc., 2009, see Appendix C).

Cultural Resources:

- 4.5-1 After the site is cleared of structures and pavement, the project proponent shall retain a qualified archaeologist to visually inspect the ground surface. In the event that Native American habitation and/or use of the area are discovered, the archaeologist shall submit a plan for the evaluation of the resource to determine its eligibility for inclusion on the California Register of Historic Resources. If eligible, a plan for mitigation/preservation of the resources shall be submitted to the City's Environmental Principal Planner for approval before any construction-related earthmoving is allowed inside the zone of archaeological sensitivity.
- 4.5-2 Prior to issuance of any grading permits, the project proponent shall commission a photographic survey of the site and buildings in accordance with the City's standards and/or to the satisfaction of the professional standards of the archivist at History San Jose. The documentation shall be submitted to the City's Historic Preservation Officer for distribution.
- 4.5-3 The project proponent shall preserve and rehabilitate the two historic buildings to be retained (winery building and Heritage House) in accordance with the standards set forth in the *Secretary of Interior's Standards for Rehabilitation and Rehabilitating Historic Buildings*. The character defining features of the historic buildings shall be maintained in accordance with the standards. Prior to rehabilitation planning, a Historic Structure Report shall be prepared to show how the character defining features and overall rehabilitation of the historic buildings will conform to the standards. Rehabilitation plans shall be submitted to the City's Historic Preservation Officer prior to issuance of the appropriate permits for review. Final rehabilitation plans shall be completed to the satisfaction of the Director of Planning, Building, and Code Enforcement.
- 4.5-4 During the interim period until a reuse/adaptive reuse is determined and rehabilitation work begins, the historic resources shall be stabilized to protect them from further deterioration and protected from vandals, construction equipment or activities and infestations. An interim plan shall be submitted to the City's Historic Preservation Officer for review prior to issuance of any building permits.

The 1937 winery building does not have a defined use; compatible uses may include light industrial warehouse use and commercial mixed uses such as a restaurant, wine shop/storage, and fitness center. The Peter Mirassou House and gardens also do not have a defined use; compatible uses may include a single family residence, community center, or restaurant. Adaptive reuse of the historic buildings to be preserved shall adhere to the Secretary of Interior Standards, as set forth in Mitigation 4.5-3 above.

Hazards and Hazardous Materials:

- 4.7-1 Prior to construction, the applicant shall retain a qualified consultant to determine the full lateral and vertical delineation of pesticide, arsenic, and lead contamination in onsite soils. For areas where contamination exceeds applicable standards, the applicant shall prepare a Remediation Action Work Plan or similar, subject to review and approval from the overseeing agency (e.g., California Department of Toxic Substances Control, City of San Jose, or Regional Water Quality Control Board). The Work Plan shall identify measures for appropriately removing and/or managing chemicals detected in onsite soils, in accordance with all regulatory requirements for the intended uses.
- 4.7-2 If soils impacted by petroleum hydrocarbons are encountered during earthwork in the area of the former gas tanks or elsewhere on the site, as indicated by dark stained soil, the material shall be segregated, sampled, and appropriately disposed of at an approved site if concentrations above appropriate health standards are detected. The Santa Clara County Department of Environmental Health shall be notified of such actions.
- 4.7-3 A mold study, as part of a moisture intrusion study, shall be conducted for the Heritage House prior to renovation and reuse. A trained professional (with a minimum qualification of being a Professional Engineer, Certified Industrial Hygienist, or AIA-Architect) shall be retained to assess mold and moisture intrusion conditions using sampling and analysis techniques and engineering/architectural principles, in accordance with the recommendations of Occupational Safety and Health Administration, National Institute for Occupational Safety and Health, Environmental Protection Agency, American Conference of Governmental Industrial Hygienists, California Department of Public Health, and American Industrial Hygiene Association. Any required remediation shall include removal of all mold, fungal growth, and contaminated materials, and correction of potential moisture intrusion source (roof leaks, condensation, pipe leaks, etc.).

Noise:

- 4.10-1 Final design plans shall locate noise-sensitive outdoor residential use areas away from adjacent noise sources. Noise-sensitive spaces with buildings or noise barriers shall be shielded whenever possible, in accordance with the recommendations of the noise assessment (Salter Associates, 2009).
- 4.10-2 Project-specific acoustical analyses are required so that the design of the residential units will be sufficient to adequately reduce interior noise levels to 45 dBA DNL or lower. Building sound insulation requirements would include the provision of forced-air

mechanical ventilation for all new units with direct line to significant transportation noise sources in the project vicinity, so that windows could be kept closed at the occupant's discretion to control noise. Special building sound insulation treatments may be required. These treatments would include, but are not limited to, sound rated windows and doors, sound rated wall constructions, acoustical caulking, protected ventilation openings, etc. The specific determination of what treatments are necessary would be determined on a unit-by-unit basis. The results of the analysis, conducted during the final design phase of the project, including the description of the necessary noise control treatments to achieve acceptable noise levels inside the living units, shall be submitted to the City along with the building plans and approved prior to issuance of a building permit.

- 4.10-3 Standard noise abatement practices shall be implemented during all phases of construction for the proposed project:

Traffic and Circulation:

- 4.13-1 Prior to the issuance of a building permit, the project proponent shall submit a traffic operations analysis for the project to the City of San Jose, prepared by a qualified transportation consultant. This analysis shall evaluate traffic operations and access in the immediate project area and identify required improvements, subject to review and approval by the San Jose Department of Transportation.
- 4.13-2 The developer shall provide payment of the TIF to the City prior to the issuance of building permits.