

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Fleetwood Homes, File Nos. GP08-10-01 and PDC08-051.

A proposed General Plan Amendment to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Medium Density Residential (8-16 DU/AC) and a Planned Development Rezoning to allow for the construction of up to 8 single-family detached residential units and subsequent permits on an 0.85 acre site. The project is located in Council District: 10

California State Law requires the City of San José to conduct environmental review for all pending projects. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. Based on an initial study, the Director of Planning, Building & Code Enforcement has concluded that the project described above will not have a significant effect on the environment. The project location **does not** contain a listed toxic site.

The purpose of this notice is to inform the public of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on May 26, 2009, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **May 5, 2009** and ends on **May 26, 2009**. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance.

The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp>

For additional information, please call Lesley Xavier at (408) 535-7852.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: May 5, 2009


Susan Walsh
Deputy

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Fleetwood Homes

PROJECT FILE NUMBER: GP08-10-01 and PDC08-051

PROJECT DESCRIPTION: General Plan Amendment to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Medium Density Residential (8-16 DU/AC) and a Planned Development Rezoning to allow for the construction of up to 8 single-family detached residential units and subsequent permits on an 0.85 acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: 696-24-002;

COUNCIL DISTRICT: 10

APPLICANT CONTACT INFORMATION: Michael Roberts Construction Inc.
1660 Dell Avenue
Campbell, CA 95008

FINDING

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

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

- I. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

- II. AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- III. AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IV. BIOLOGICAL RESOURCES** –
- **Raptors.** If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report to the City's Environmental Principal Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.

 - **Bats.** Surveys for roosting bats shall be conducted by a qualified biologist no more than thirty (30) days prior to any building demolition or removal, construction activities or Oak tree relocation and/or removal. If a female or maternity colony of bats is found on the project site, and the project can be constructed without disturbance to the roosting colony, a bat biologist shall designate buffer zones (both physical and temporal) as necessary to ensure the continued success of the colony. Buffer zones may include a 200-foot buffer zone from the roost and/or timing of the construction activities outside the maternity roosting season (after July 31 and before March 1). If an active nursery roost is known to occur on the site and the project cannot be conducted outside of the maternity roosting season, bats may be excluded after July 31 and before March 1 to prevent the formation of maternity colonies. Such exclusion shall occur under the direction of a bat biologist, by sealing openings and providing bats with one-way exclusion doors. In order to avoid excluding all potential maternity roosting habitat simultaneously, alternative roosting habitat, as determined by the bat biologist, should be in place at least one summer season prior to the exclusion. Adjacent Oaks and Oak Woodland areas should be preserved to the maximum extent feasible as potential bat roosting habitat. Bat roosts should be monitored as determined necessary by a qualified bat biologist, and the removal or displacement of bats shall be performed in conformance with the requirements of the CDFG. A biologist report outlining the results of pre-construction surveys and any recommended buffer zones or other mitigation shall be submitted to the satisfaction of the City's Environmental Principal Planner prior to the issuance of any grading, building, or tree removal permit.

V. CULTURAL RESOURCES –

- If no resources are discovered, the archaeologist shall submit a report to the City's Environmental Principal Planner verifying that the required monitoring occurred and that no further mitigation is necessary.
- If evidence of any archaeological, cultural, and/or historical deposits are found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the City's Environmental Principal Planner, describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources.)
- In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
 - a) In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
 - b) 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.

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

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

VIII. HYDROLOGY AND WATER QUALITY –

- The project will elevate the lowest floor above the flood level and obtain an Elevation Certificate (FEMA Form 81-31) for each structure prior to the issuance of a building permit.
- or
- The applicant shall submit a Flood Study to demonstrate that there are no flooding impacts due to the development of the site since there is currently no floodway mapped on portions of the Alamos Creek. (Although the City of San Jose will submit a Letter of Map Revision (LOMR) to FEMA to re-establish this floodway, this would delay the project.)
- Due to the project sites former use an orchard, a pesticide evaluation of the shallow soil shall be conducted prior to the approval of building permits. A minimum of 10 samples composite in a 4 to 1 ratio is required. The pesticide evaluation shall be submitted to the City of San Jose Environmental Services Department (ESD), Municipal Environmental Compliance.

IX. LAND USE AND PLANNING – The project will not have a significant impact on this resource, therefore no mitigation is required.

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

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

- Construct an acoustically-effective barrier approximately 6 to 8 foot high fence or wall along the property lines of the four lots along Almaden Expressway as identified in the Traffic Noise Assessment Study.
- Install sound control windows as identified in the Traffic Noise Assessment Study.

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

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

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

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

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

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

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on May 26, 2009, any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: May 5, 2009



Deputy

Adopted on: _____

Deputy

Revised 10.20.08 sbw