

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

File No. and Project Name/Description:

File No. PDC07-064. A Planned Development Rezoning from R-1-1 Single-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow for the development of up to nine (9) single-family detached units on a 0.95 gross 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 Planning Commission's intent to consider and make a recommendation on a Mitigated Negative Declaration for the proposed project at a public hearing on October 27, 2010, and for the City Council to consider and adopt the Mitigated Negative Declaration at a public hearing on November 9, 2010, and to provide the opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **October 7, 2010**, and ends on **October 27, 2010**. 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 contact the Lesley Xavier, by phone at (408) 535-7852 or by e-mail at lesley.xavier@sanjoseca.gov.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: 10/7/2010


John Davidson
Deputy

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: 16440 Almaden Expressway

PROJECT FILE NUMBER: PDC07-064

PROJECT DESCRIPTION: A Planned Development Rezoning from R-1-1 Single-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow for the development of up to nine (9) single-family detached units on a 0.95 gross acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: East side of Almaden Expressway, approximately 250 feet north of Redmond Avenue (APN: 696-24-001)

COUNCIL DISTRICT: 10

APPLICANT CONTACT INFORMATION: Hudson Industrial Equities, Inc., 483 Horning Street, San Jose, CA 95112, (408) 271-0500

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 –

- a. The following construction practices will be implemented during all phases of construction to prevent visible dust emissions from leaving the site.
 - i. 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;
 - ii. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
 - iii. 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;
 - iv. 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
 - v. Sweep streets daily, or more often if necessary (preferably with water sweepers), if visible soil material is carried onto adjacent public streets.

IV. BIOLOGICAL RESOURCES –

- a. If possible, construction should be scheduled between September 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 biologist 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 shall be conducted no more than thirty (30) days prior to the initiation of these activities. The surveying biologist 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 biologist shall, in consultation with the California Department of Fish and Game, designate a construction-free buffer zone (typically 250 feet) around the nest, which shall be maintained until after the breeding season has ended and/or a qualified biologist has determined that the young birds have fledged. 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 City's Environmental Principal Planner prior to the issuance of any grading or building permit.
- b. Surveys for roosting bats shall be conducted by a qualified bat biologist no more than thirty (30) days prior to any building demolition or removal, construction activities, or oak tree relocation and/or removal. If no bats are observed to be roosting in these features, then no further action would be required and construction activities could proceed. 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 qualified bat biologist shall designate buffer zones (both physical and temporal) as necessary to ensure the continued success of the colony; buffer zones may include a 200-foot buffer zone from the roost and/or timing of the

construction activities outside the maternity roosting season (after July 31st and before March 1st).

- c. If an active maternity roost is known to occur on the site and the project cannot be conducted outside of the maternity roosting season, bats shall be excluded after July 31st and before March 1st to prevent the formation of new maternity colonies. Such exclusion shall occur, under the direction of a qualified bat biologist, by sealing openings and providing bats with one-way exclusion doors. Bat roosts shall be monitored as determined necessary by a qualified bat biologist, and the removal or displacement of bats shall be performed in conformance with California Department of Fish and Game requirements.
- d. A biologist report outlining the results of pre-construction bat surveys and any recommended buffer zones or other mitigation shall be submitted to the City's Environmental Principal Planner and shall be approved to the satisfaction of the Director of Planning prior to the issuance of any grading, building, or tree removal permit.

V. CULTURAL RESOURCES –

- a. A qualified archaeologist shall be required to monitor all site clearing activities and subsequent grading and trenching operations until the monitor is satisfied that there is no potential for discovering discrete archaeological deposits and/or human burial concentrations, as follows:
 - i. 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.
 - ii. If evidence of any archaeological, cultural, and/or historical deposits is found, hand excavation and/or mechanical excavation shall proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines.
 - iii. 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 to be completed in order to mitigate archaeological impacts (including resource recovery and/or avoidance, testing and analysis, removal, reburial, and curation of archaeological resources at a recognized storage facility). A final report shall verify completion of the mitigation program to the satisfaction of the City's Environmental Principal Planner.
 - iv. 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.

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

VII. GREENHOUSE GAS EMISSIONS– The project will not have a significant impact on this resource, therefore no mitigation is required.

VIII. HAZARDS AND HAZARDOUS MATERIALS –

- a. A Soil Management Plan that provides protocol for contractors in the event that pockets of buried structures and/or residual petroleum-impacted soil are encountered in the vicinity of the former underground storage tanks during site grading activities shall be prepared and implemented.
- b. Soil at the location of the sample with the dieldrin concentration detected above the residential CHHSL (S-3) shall be excavated for appropriate offsite disposal.
- c. After excavation, horizontal (step-out) samples shall be collected at approximately 1 foot below ground surface and analyzed for dieldrin to verify that the impacted soil has been sufficiently removed from the site and the remaining soil is safe.

IX. HYDROLOGY AND WATER QUALITY –

- a. Buildings shall be designed so that the finished floor is elevated above the project FEMA flood level.

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

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

XII. NOISE –

- a. A 9-foot-high noise attenuation barrier shall be constructed around the rear yard of the home closest to Almaden Expressway (Lot 1), turning to connect air-tight to the side of the house along the north end of the yard.
- b. To control flanking noise, the 9-foot-high barrier shall be continued along the south property line for a distance of 115 feet, at 8 feet high for a distance of 16 feet, at 7 feet high for a distance of 20 feet, and at 6 feet high for a distance of 64 feet to terminate at the east end of the third house from Almaden Expressway (Lot 5).
- c. A 6-foot-high noise attenuation barrier shall be constructed between the two homes in the second row from Almaden Expressway (Lots 2 and 3).
- d. A 6-foot-high noise attenuation barrier shall be constructed between the second and third homes from Almaden Expressway along the north property boundary (Lots 2 and 4).
- e. Windows and doors shall be operable but all windows and doors of living spaces within 125 feet of the centerline of Almaden Expressway, and with a north, south or west orientation, shall be maintained closed at all times.
- f. Windows and doors shall be operable but all second floor and unshielded first floor windows and doors of living spaces between 125 feet and 270 feet of the centerline of Almaden Expressway, and with a north, south or west orientation, shall be maintained closed at all times.
- g. Windows and doors shall be operable and STC 34 or higher rated windows and doors shall be installed at the second floor and unshielded first floor living spaces of the home closest to Almaden Expressway (Lot 1).

- h. Windows and doors shall be operable and STC 28 or higher rated windows and doors shall be installed at shielded first floor living spaces of the home closest to Almaden Expressway (Lot 1).
- i. Windows and doors shall be operable and STC 28 or higher rated windows and doors shall be installed at living spaces on the east façade of the home closest to Almaden Expressway (Lot 1), but the windows and doors shall be maintained closed at all times.
- j. Windows and doors shall be operable and STC 28 or higher rated windows and doors shall be installed at shielded first floor living spaces within 125 feet of the centerline of Almaden Expressway of the home of the second row from Almaden Expressway along the southerly site boundary (Lot 3).
- k. Windows and doors shall be operable and STC 31 or higher rated windows and doors shall be installed at second floor and unshielded first floor living spaces of the two homes in the second row from Almaden Expressway (Lots 2 and 3).
- l. Windows and doors shall be operable and STC 28 or higher rated windows and doors shall be installed at second floor and unshielded first floor living spaces of the two homes in the third row from Almaden Expressway (Lots 4 and 5).
- m. All units shall be equipped with forced air ventilation systems to allow the occupants the option of maintaining the windows closed to control noise, and maintain an interior noise level of 45 dB DNL.
- n. Prior to issuance of building permits, the developer shall retain a qualified acoustical consultant to check the building plans for all units to ensure that interior noise levels will be attenuated to 45 dB DNL to the satisfaction of the Director of Planning, Building and Code Enforcement.

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

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

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

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

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

XVIII. 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 mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **October 27, 2010**, 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

Circulation period, from October 7, 2010 to October 27, 2010



Deputy

Revised 6-4-10 jam