

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: Cannery Park Village

PROJECT FILE NUMBER: PDC08-036

PROJECT DESCRIPTION: A Planned Development Rezoning from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow for the redevelopment of the site with up to 403 residential units, a $\pm 5,500$ square foot restaurant, $\pm 8,500$ square feet of artist studio space, and 0.61 acres of park land.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Northwest corner of N. 10th and E. Taylor Streets. (APN: 249-07-006; 249-09-001)

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: CP Associates, L.P, Libitzky Development Corporation Contact: Don Lapidus, Lapidus & Associates, 991 Solana Court, Mountain View, CA 94040 (650) 949-1529

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 AND FOREST 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** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- V. CULTURAL RESOURCES** –
- a. Immediately after the site is cleared of structures, the project proponent shall retain a qualified archaeologist to search for buried archeological resources. In the event that resources are discovered, the archaeologist should 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.

The historic report shall be provided to the qualified archeologist to identify potentially sensitive areas, and a plan for the identification and evaluation of these resources be prepared in advance of site clearing. In the event that resources are discovered that qualify for inclusion on the CRHR, 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.

- b. The project applicant shall submit photographic documentation as specified by the professional staff at History San Jose for the two City Structures of Merit on the site (Buildings 3 and 4). The documentation modes, level, and number/orientation of views shall be approved by the City’s Historic Preservation Officer. Two copies of the completed documentation shall be submitted to the City’s Historic Preservation Officer. One copy should be retained by History San Jose for their archives. The photo documentation shall conform to the City’s standard requirements set forth below. Provide selected black and white views of the existing building according to the following standards:
- i. *Cover sheet* – The documentation shall include a cover sheet identifying the photographer, providing the address of building, common or historic name of the building, date of construction, date of photographs, and description of photographs.
 - ii. *Camera* – A 35mm camera.
 - iii. *Lenses* – No soft focus lenses. Lenses may include normal focus length, wide angle and telephoto.
 - iv. *Filters* – Photographer’s choice. Use of a pola screen is encouraged.
 - v. *Film* – Must use black and white film; tri-X, Plus-X, or T-Max film is recommended.
 - vi. *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.
 - vii. *Lighting* – Sunlight is usually preferred for exteriors, especially of the front façade. 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.

- viii. *Technical* – All areas of the photograph must be in sharp focus.
- ix. *Submission of Photo-Documentation*: Provide three copies of the documentation, including the original prints and negatives, to the Historic Preservation Officer for approval and distribution to History San Jose (Jim Reed, History San Jose, 1650 Senter Road, San Jose, CA 95112-2599, (408) 287-2290), the California Room at the MLK Jr. Library (Bob Johnson, Dr. MLK Jr. Library, California Room, 150 E. San Fernando St., San Jose, CA 95112, (408) 808-2136), and the Northwest Information Center at Sonoma State University. Digital photos may be provided as a supplement to the above photo-documentation, but not in place of it. Digital photography shall be recorded on a CD and submitted with the above.

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. Prior to construction, the applicant shall obtain approval of a Corrective Action Plan (CAP) or similar from the Santa Clara County Department of Environmental Health that identifies measures for appropriately removing and/or managing chemicals detected in onsite soils and groundwater in accordance with all regulatory requirements to assure public health and safety.

IX. HYDROLOGY AND WATER QUALITY – The project will not have a significant impact on this resource, therefore no mitigation is required.

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. When refining the project’s site plan, continue to locate noise-sensitive outdoor use areas away from adjacent noise sources. Shield noise-sensitive spaces with buildings or noise barriers whenever possible.
- b. Project-specific acoustical analyses shall be prepared so that the design of the residential units would be sufficient to adequately reduce interior noise levels to 45 dBA DNL or lower. Building sound insulation requirements would need to 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. Preliminary calculations indicated that residential units would require sound rated windows

and doors with ratings ranging from STC 28-30 to assure that the 45 dBA DNL indoor standard is met. 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 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. The State Building Code mandates this procedure.

- c. Locate proposed residential structures no closer than 55 feet from the edge of the railroad track. (Note: vibration levels attenuate with distance from the tracks; the recommended building setback of 55 feet would yield vibration levels of 80 VdB or less.)
- d. Alternatively, residential structures located closer than 55 feet from the edge of the railroad track would require completion of an additional, comprehensive, vibration study of the building design that demonstrates that railroad train vibration levels would be adequately reduced at primary living spaces. Proper support of foundation systems for residential structures should be considered and building design should avoid resonant frequencies that coincide with primary frequencies of train-generated ground vibration (10 Hz and 20 Hz). Vibration isolation of buildings has been recently considered for residential applications.

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 –

- a. The applicant shall pay the Protected Intersection Traffic Impact Fee for the intersections of North First Street/Taylor Street, North Tenth Street/Hedding Street, North Eleventh Street/Taylor Street, and North Thirteenth Street/Hedding Street. Since the project impacts four protected intersections, the estimated project cost is \$3,000 X 182 AM peak hour trips, plus a 3.5% annual cost escalation adjustment = \$546,000. In order to finalize the offsetting improvements to be constructed by the project, a community meeting shall be held to determine agreed upon improvements and the project proponent shall submit improvement plans to the City of San Jose, Department of Public Works for review and approval prior to issuance of any building permits.¹
- b. The applicant shall participate in the US 101/Oakland/Mabury TDP Traffic Impact Fee Program. Since the project would send a portion of PM peak hour trips through the US 101/Oakland Road interchange, the proponent would be required to pay a fair share

¹ Note: the intersection of North First Street/Taylor Street also met the peak hour warrant indicating that further analysis is required to determine if a traffic signal is necessary. Additional analysis may include evaluation of vehicle queuing and delay. Other options such as traffic control devices, signage, or geometric changes may be required depending on existing field conditions.

contribution toward the planned interchange improvements. [The TDP traffic impact fee is \$30,000 per each new PM peak hour trip that added to the US 101/Oakland Road interchange; therefore, the estimated fee would be approximately \$1,410,000.] The project shall pay the US 101/Oakland/Mabury TDP Traffic Impact Fee prior to Public Works clearance or issuance of any building permits.

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 **December 6, 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 November 16, 2010 to December 6, 2010


Deputy

Revised 6-4-10 jam