

PLANNED DEVELOPMENT PERMIT

FILE NO.	PD08-015
LOCATION OF PROPERTY	675 N. Sixth Street
ZONING DISTRICT	A(PD) Planned Development
GENERAL PLAN DESIGNATION	Medium High Density Residential (MHDR 12-25 DU/AC)
PROPOSED USE	Planned Development Permit to allow the construction of 75 attached affordable senior residential units on a 0.55 gross acre site.
ENVIRONMENTAL STATUS	Use of Japantown Corporation Yard EIR
APPLICANT / ADDRESS	First Community Housing 75 E. Santa Clara Street, No. 1250 Attn. Jeff Oberdorfer San Jose, CA 95113

FACTS

The Director of Planning finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Medium High Density Residential (12-25 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The proposed residential density is 136 DU/AC.
3. The site is zoned A(PD) Planned Development.
4. The subject lot contains approximately 0.55 acres and is located on the west side of N. Sixth Street between Jackson and Taylor Streets.
5. The subject site is currently vacant.
6. The project proposes the construction of 75 attached affordable senior residential units on the site.
7. The proposed project will meet all of the development regulations set forth in Planned Development Zoning, File No. PDC08-010, including but not limited to heights, setbacks, densities, parking and environmental mitigation.
8. No ordinance sized trees are proposed for removal as part of the subject development.
9. The environmental impacts of the development of up to 85 affordable senior housing units, with a minimum of 40 parking spaces on the subject site, were addressed by a Final EIR entitled, "Japantown Corporation Yard Redevelopment Project," and findings were adopted by City Council Resolution No. 74384 on May 20, 2008. Specifically, the following impacts were reviewed and found to be adequately considered by the EIR: Land use; Population, Employment and Housing; Transportation; Circulation and Parking; Air Quality; Noise;

Geology Soils and Seismicity; Hydrology and Water Quality; Hazards; Cultural Resources; Biological Resources; Visual Resources; Shade/Shadow; Utilities; Public Services/Facilities; Energy; and Global Climate Change. The project includes mitigation measures that reduce any potentially significant impacts to a less than significant level.

FINDINGS

The Director of Planning concludes and finds, based on the analysis of the above facts, that:

1. The Planned Development Permit, as issued, furthers the policies of the General Plan, in that:
 - a. The proposed development conforms to the General Plan Land Use/Transportation Diagram designation of Medium High Density Residential (12-25 DU/AC) for the site through the use of an Alternate Discretionary Use Policy (Affordable Housing), and is compatible with the surrounding area.
 - b. The project furthers the Growth Management Major Strategy, as the change will facilitate infill development that is within an urban neighborhood and business district north of the downtown area.
 - c. The project furthers the Housing Major Strategy, as the project will maximize the infill housing opportunity well placed to take advantage of commercial services, transit opportunities and other amenities, in a form that is compatible with the surrounding development pattern.
 - d. Consistent architectural themes have been integrated into the design.
 - e. The building scale does not overwhelm the neighborhood.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property in that:
 - a. The proposed project conforms to the approved General Development Plan.
3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious, in that:
 - a. The architectural elements of the proposed project are integrated into a harmonious whole.
 - b. On-site structures are compatible in terms of height and massing.
 - c. The project conforms to the Residential Design Guidelines.
4. The environmental impacts of the project including, but not limited to Land use; Population, Employment and Housing; Transportation; Circulation and Parking; Air Quality; Noise; Geology Soils and Seismicity; Hydrology and Water Quality; Hazards; Cultural Resources; Biological Resources; Visual Resources; Shade/Shadow; Utilities; Public Services/Facilities; Energy; and Global Climate Change, which, even if insignificant for the purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties. Any potential negative effects on adjacent property or properties have been addressed in that:

- a. The environmental impacts of the development of up to 85 affordable senior housing units, with a minimum of 40 parking spaces on the subject site, were addressed by a Final EIR entitled, "Japantown Corporation Yard Redevelopment Project," and findings were adopted by City Council Resolution No. 74384 on May 20, 2008.
- b. The project will not result in any reasonably foreseeable environmental impacts.

Further, the Director of Planning concludes and finds, based on the analysis of the above facts, that:

- a. The proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approves, pursuant to Section 20.80.440(B) and Chapter 20.100 of the San José Municipal Code, the subject Planned Development Permit.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, the after hours use has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/ Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of 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 Quality 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 approval authority.
4. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by

the “Building Code” shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

5. **Conformance with Plans.** Construction and development shall conform to approved plans entitled, “Japantown Senior Apartments”, dated October 10, 2007, and last revised February 23, 2010, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
6. **Revocation.** This Permit is subject to revocation for violation of any of its provisions or conditions.
7. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
8. **Planned Development District Effectuated.** Once this Planned Development Permit is accepted, the use of territory not covered by the permit shall only be land uses consistent with the Planned Development Zoning District and only upon issuance of a Planned Development Permit for those uses.
9. **Air Quality.** Consistent with guidance from the BAAQMD, the following actions shall be required.
 - a. *Demolition.* The following controls shall be implemented during demolition:
 - i Water during demolition work, including the break-up of pavement and infrastructure, to control dust generation;
 - ii Cover all trucks hauling demolition debris from the site; and
 - iii Use dust-proof chutes to load debris into trucks whenever feasible.
 - b. *Construction.* The following controls shall be implemented at all construction sites:
 - i Water all active construction areas at least twice daily and more often during windy periods;
 - ii Active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers to control dust;
 - iii Cover all trucks hauling soil, sand, and other loose materials;
 - iv Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;
 - v Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality;
 - vi Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
 - vii Apply non-toxic soil stabilizers to inactive construction areas;
 - viii Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
 - ix Limit traffic speeds on unpaved roads to 15 mph;

- x Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
 - xi Replant vegetation in disturbed areas as quickly as possible;
 - xii Install baserock at entryways for all exiting trucks, and wash off the tires or tracks of all trucks and equipment in designated areas before leaving the site; and
 - xiii Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.
- c. *Vehicle Trip Generation.* The *BAAQMD CEQA Guidelines* document identifies potential mitigation measures for various types of projects. The following measures shall be implemented to further reduce vehicle trip generation and resulting emissions from the project:
- i Provide transit facilities (e.g., bus bulbs/turnouts, benches, shelters).
 - ii Provide bicycle lanes and/or paths, connected to community-wide network.
 - iii Provide sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network.
 - iv Provide secure and conveniently located bicycle and storage.
 - v Implement feasible transportation demand management (TDM) measures including a ride-matching program, coordination with regional ridesharing organizations and provision of transit information and free ECO passes to all residential tenants.
- d. *Noise.* The following controls shall be implemented at all construction sites.
- i All construction vehicles or equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers
 - ii The project contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site as much as is reasonably feasible.
 - iii The construction contractor shall locate equipment staging in areas that would create the greatest distance feasible between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.
 - iv Except as otherwise permitted, construction activities shall be restricted to between 7:00 a.m. and 7:00 p.m. Monday through Friday. No construction shall be permitted on Sundays or federal holidays.
 - v All noise sensitive development located within 310 feet of Taylor Street or within 50 feet of 7th Street shall include an alternate form of ventilation, such as an air conditioning system, in order to ensure that windows can remain closed for a prolonged period of time All on-site outdoor activity areas shall be located so that they are completely sheltered by buildings from direct exposure to Taylor Street.

10. **Hydrology and Stormwater.** The following shall be required.

- a. Demonstrate through the preparation of a detailed hydraulic analysis, that implementation of proposed drainage plans for the applicable development site would not increase total off-site peak flow rates, or exceed the capacities of local system components. The project must use drainage components and methods that are designed in compliance with City of San Jose standards. The grading and drainage plans shall be reviewed for compliance with these requirements by the City of San Jose Department of Public Works. Any improvements deemed necessary by the City will be part of the conditions of approval.
- b. The applicant shall prepare a SWPPP designed to reduce potential impacts to surface water quality through the construction period of the project. The SWPPPs must be maintained on-site and made available to City inspectors and/or Water Board staff upon request. The SWPPPs shall include specific and detailed BMPs designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPPs shall specify properly designed centralized storage areas that keep these materials out of the rain. An important component of the stormwater quality protection effort is the knowledge of the site supervisors and workers. To educate on-site personnel and maintain awareness of the importance of stormwater quality protection, site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPPs. The SWPPPs shall specify a monitoring program to be implemented by the construction site supervisor, which must include both dry and wet weather inspections. In addition, in accordance with State Water Resources Control Board Resolution No. 2001-046, monitoring would be required during the construction period for pollutants that may be present in the runoff that are “not visually detectable in runoff.” BMPs designed to reduce erosion of exposed soil may include, but are not limited to: soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control; that is, keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. If hydroseeding is selected as the primary soil stabilization method, then these areas shall be seeded by September 1 and irrigated as necessary to ensure that adequate root development has occurred prior to October 1. Entry and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions.

11. **Hazardous Materials.**

- a. Prior to development activities at the parking lot site, a minimum of four surface soil samples shall be collected below the existing site paving by a qualified environmental professional (e.g., Professional Geologist, Professional Engineer) and analyzed for lead and other metals (EPA Method 6000/7000 series), Total

Petroleum Hydrocarbons as gasoline, diesel, and motor oil (EPA Method 3630/8015M), fuel-related volatile organics and oxygenates (EPA Method 8260), and polynuclear aromatic hydrocarbons (EPA Method 8270) by a California-certified laboratory. The results of the samples shall be compared to Water Board Environmental Screening Levels (ESLs) for future residential and commercial receptors and construction workers. Documentation of the sampling and comparisons of site data to ESLs shall be provided to the City and SCCEHD as necessary prior to issuance of a Planned Development Permit. If site soils contain contaminants above the ESLs for residential, commercial, and/or construction workers, any required additional site characterization, site remediation, or other required activities shall be completed by the responsible party under the direction of a regulatory oversight agency prior to site development.

- b. The contractor(s) shall designate storage areas suitable for material delivery, storage, and waste collection. These locations must be as far away from catch basins, gutters, drainage courses, and water bodies as possible. All hazardous materials and wastes used or generated during project site redevelopment activities shall be labeled and stored in accordance with applicable local, state, and federal regulations, and General Plan policies for Hazardous Materials and Fire Hazards. In addition, an accurate up-to-date inventory, including Material Safety Data Sheets, shall be maintained on-site to assist emergency response personnel in the event of a hazardous materials incident. All maintenance and fueling of vehicles and equipment shall be performed in a designated, bermed area, or over a drip pan that will not allow run-off of spills. Vehicles and equipment shall be regularly checked and have leaks repaired promptly at an off-site location. Secondary containment shall be used to catch leaks or spills any time that vehicle or equipment fluids are dispensed, changed, or poured.
- c. The contractor(s) shall prepare emergency procedures including notification procedures in the event of spills or other on-site hazardous materials releases, evacuation procedures, spill containment procedures, and required personal protective equipment, as appropriate, in responding to the emergency. Use, storage, disposal, and transport of hazardous materials during construction activities shall be performed in accordance with existing local, state, and federal hazardous materials regulations. These emergency procedures shall be prepared by the contractor(s) and submitted to the City prior to earthworking activities.

12. **Cultural Resources.**

- a. If human remains are discovered during archaeological investigations or construction, any such remains shall be treated in accordance with the requirements of CCR Title 14(3) §15064.5(e), which has particular procedures that apply to the discovery of remains of Native American origin. These procedures are provided below.
 - i. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of the County must be contacted to determine that no investigation of the cause of death is required, and
 - ii. If the coroner determines the remains to be Native American the coroner shall contact the Native American Heritage Commission within 24 hours.

- 1) The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.
- 2) The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC §5097.98, or
- 3) Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

- (1) The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission;
- (2) The descendent identified fails to make a recommendation; or
- (3) The landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

iii Compliance with the requirements of CCR Title 14(3) §15064.5(e) shall be coordinated with the Native American community contacts already established for this project. If, following the fulfillment of the notification requirements described above, human remains are discovered that are determined to not be of Native American origin, then the City shall consult with the appropriate descendent community regarding means for treating or disposing of the human remains, and any associated items, with appropriate dignity.

b. Research conducted by the Anthropological Studies Center has established that it is likely that the project area may contain significant archaeological resources associated with historic-era Japanese and Chinese settlement. To identify these resources in the field, the Director of Planning shall require that an Archaeological Research Design, Testing, and Evaluation Plan (ARDTEP), be implemented prior to issuance of grading permits. The ARDTEP will guide fieldwork and help to determine if identified archaeological remains constitute significant archaeological resources. The ARDTEP shall be prepared by professionals who meet the Secretary of the Interior's Professional Qualifications Standards in historical archaeology, prehistoric archaeology, and history (36 CFR Part 61, Appendix A).

i The ARDTEP shall be subject to review and approval by the Director of Planning in consultation with the City of San Jose Historic Preservation Officer. On approval, the Planning Director shall require that the terms of the ARDTEP be carried out by professionals who meet the Secretary of

- the Interior's Professional Qualifications Standards in historical archaeology, prehistoric archaeology, and history (36 CFR Part 61, Appendix A). The ARDTEP will be used to inform the City's decision regarding project design, and will be carried out prior to project construction.
- ii Following implementation of the ARDTEP, the project archaeologist shall submit a report (the content of which is specified in the ARDTEP) of his/her findings to the Planning Department. If the project archaeologist, in consultation with the Planning Department, determines that significant archaeological resources are present, and that such resources may be impacted by the project, then the Planning Department shall require the preparation and implementation of an Archaeological Treatment Plan to mitigate project impacts. The Plan may include archaeological data recovery, archaeological monitoring, and/or public interpretation of important remains. The Archaeological Treatment Plan is described below in Mitigation Measure CULT-2b.
 - iii Unavoidable project impacts on significant archaeological resources shall be treated according to the requirements of an Archaeological Treatment Plan (ATP). The Director of Planning (or their designated representative) shall review, authorize, and require the implementation of the ATP, which shall be prepared by professionals who meet the Secretary of the Interior's Professional Qualifications Standards in historical archaeology, prehistoric archaeology, and history (36 CFR Part 61, Appendix A), and who will work in consultation with the City and the appropriate descendent communities. The ATP shall specify the treatment of previously identified significant archaeological resources, as well as the treatment of property types that may be uncovered during additional archaeological excavation. Depending on the nature of the resources and project impacts, the ATP may include requirements for any or all of the following: additional archaeological identification efforts, data recovery (scientific excavation), laboratory analysis, preparation of technical and interpretive reports, *in situ* preservation of remains, archaeological monitoring during construction, and the preparation of feasible public outreach products. Treatment, including archaeological data recovery, shall be limited to significant archaeological resources that may be adversely impacted by the project.
 - iv After the City has approved the project design and the ATP has been implemented, the City, in consultation with the project archaeologist, may determine that it is necessary to prepare an Archaeological Monitoring Plan. This decision will be based on information about field conditions collected during the Archaeological Monitoring Plan's implementation, and will specifically address the likelihood that undiscovered, significant archaeological resources may be present in the project area and may be impacted by project activities. The decision shall be made by the Director of Planning.
- c. The purpose of the Archaeological Monitoring Plan (AMP) will be to ensure that significant archaeological resources discovered during construction are identified, evaluated, and appropriately treated. The City will review, authorize, and require the implementation of the AMP. The AMP shall be reviewed, authorized, and its

implementation required by the Director of Planning. The AMP shall include the following requirements:

- i Construction monitoring shall be undertaken by an individual who meets the Secretary of the Interior's Professional Qualifications Standards in historical archaeology and/or prehistoric archaeology (36 CFR Part 61, Appendix A), as appropriate in relation to the anticipated resources. A Native American cultural monitor shall be present if previous archaeological excavations indicate that Native American archaeological deposits may be discovered. The cultural monitor's function shall be to advise the project archaeologist and the City regarding the respectful treatment of any prehistoric archaeological remains that are uncovered.
- ii The City, in consultation with the project archaeologist, shall determine which project activities and/or which portions of the project area will be archaeologically monitored. This information will be included in the AMP. In most cases, all soil-disturbing activities in sensitive portions of the project area—such as demolition, foundation removal, excavation, grading, utilities installation, and foundation work—will require archaeological monitoring. The project archaeologist shall have the authority to redirect construction personnel and equipment while discoveries are being assessed. The monitoring and project archaeologists would make every effort to ensure that evaluation and treatment of remains is carried out with as little disruption as possible. If it is necessary to suspend construction for more than one working day, the project archaeologist shall consult with the City to assess the appropriate course of action. During construction monitoring, if the project archaeologist and the City determine that the finds in question represent significant archaeological resources, and that these resources may be adversely impacted by the project, then the City shall require the implementation of the appropriate portions of the Archaeological Treatment Plan to mitigate project effects on significant resources. These efforts may include archaeological data recovery and public interpretation of important remains.
- d. The proposed project shall have regular groundfloor entries along N. Sixth Street. While of varying scales and designs, the nine contributing buildings along the west side of N, Sixth Street, although interrupted by vacant parcels and surface parking lots, create a pedestrian-scaled rhythm of ground floor entries and storefronts. The project shall maintain and extend the scaled rhythm established by the contributing historic buildings along N. Sixth Street. The project should not “wall off” this portion of N. Sixth Street with an undifferentiated, continuous façade. Nor shall the buildings be set so far back from the street that N. Sixth Street fails to feel like a commercial-lined street. Building to the property line on N. Sixth Street from Jackson Street to is desirable.
- e. The proposed project shall employ setbacks and horizontal façade elements to reflect the scale of the San Jose Japantown Historic District along the following portions of N, Sixth Street: that portion of the project area adjacent to Building 16 (i.e., the City parking lot site). This mitigation measure shall not be construed to require specific building materials or design elements. Proposed buildings immediately adjacent to Building 16, shall incorporate horizontal façade elements

to distinguish the first story or two from the stories above. Such elements will prevent the taller proposed buildings from overwhelming the contributing one- and two-story buildings on the west side of North 6th Street.

- f. Should the implementation of Mitigation Measures demonstrate that construction-related vibration levels may be in excess of the damage threshold, a qualified geologist or other professional with expertise in ground vibration and its effect on existing structures shall determine the likelihood that such vibration would damage any of the contributing buildings of the San Jose Japantown Historic District (Building 16, in particular). If such damage is likely, the qualified professional shall develop specifications regarding the restriction and monitoring of construction activities that shall be incorporated into the contract. Project modifications recommended by the qualified professional shall be made prior to project construction to reduce vibrations to below damage threshold levels.
 - g. The monitoring architect (described above) shall establish a training program for construction personnel to emphasize the importance of protecting the historical buildings in the vicinity of the project area. This program shall include information on recognizing historic fabric and materials, and directions on how to exercise care when working around and operating equipment near historical buildings, including the proper storage of materials. The program shall also include information on ways to minimize vibrations from demolition and construction, as well as ways to monitor and report any potential damage to historical buildings from such vibration. A provision for establishing this training program shall be incorporated into the contract, and the contract provisions would be reviewed and approved by the City of San Jose's Historic Preservation Officer.
 - h. If paleontological resources are encountered during project subsurface construction, the all work within 25 feet of the discovery shall be redirected and a qualified paleontologist contacted to evaluate the finds and make recommendations. If the exposed geological formation is found to contain significant paleontological resources, such resources shall be avoided by project activities, if feasible. If project activities cannot avoid the paleontological resources, the resources shall be evaluated for their significance. If the resources are found to be significant, adverse effects shall be mitigated. Mitigation may include, but is not limited to, monitoring, data recovery and analysis, and accessioning of all fossil material to a paleontological repository. A final report documenting the methods, findings, and recommendations of the consulting paleontologist shall be prepared and submitted to the paleontological repository.
13. **Biological Resources.**
- a. Loss of ordinance size trees will be mitigated by implementation of landscaping plans approved by the City of San Jose, in conformance with the City of San Jose Landscape and Irrigation Guidelines and City of San Jose Planning Department specifications. For private projects, the City of San Jose requires tree replacement for those trees greater than 18 inches in diameter with 24-inch box trees at a ratio of 4:1 (trees planted to trees removed).
 - b. All work on trees proposed for removal or pruning as part of Redevelopment should occur during the non-breeding season (August 1 to February 28) in the year prior to the start of grading if feasible. If tree pruning or removal cannot occur in the non-breeding season, then a preconstruction survey for active bird nests shall be conducted. Surveys to determine the presence of active raptor and

bird nests on or adjacent to the construction area shall be conducted by a qualified biologist no more than 30 days prior to the initiation of construction related activities, including removal of existing vegetation or facilities. Results from the survey shall be submitted to the Environmental Principal Planner. If native birds are observed nesting on or within 100 feet from the site, exclusion zones shall be established around all active nests. The size of the exclusion zone shall be determined based on consultation with the CDFG, which typically requires a zone of 50 to 300 feet around the nest, depending on the bird species. Active Cooper's hawk nests within urban areas would likely require a 100-foot exclusion zone. No activity shall be allowed inside the exclusion zone until a qualified biologist has determined that the young have successfully fledged from the nest or that the nest is no longer active.

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. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
2. **Transportation:**
 - a) This project was included in the Japantown Corporation Yard Residential Mixed-Use Project Traffic Impact Analysis/EIR, which has significant impacts at three protected intersections (1st & Taylor, 10th & Hedding, and 10th & Taylor). This project will be required to pay the Protected Intersection LOS fee per City policy, which is currently \$3,000 per peak hour trip.
 - i) The Protected Intersection LOS fee is based on total project trips and not project trips through the protected intersections. Per the Japantown Corporation Yard EIR, this project will generate 32 peak hour trips. However, a 9% transit reduction can be applied which results in 29 reduced peak hour trips. Currently, the total fee is \$87,000 (29 trips x \$3,000).
 - ii) The developer will be required to construct traffic improvements equivalent to the calculated fee in lieu of paying the fee. The project is required to coordinate with the neighborhood, DOT, and Public Works to identify the appropriate traffic improvements to the satisfaction of the Director of Public Works.
 - b) This project also falls under another transportation policy, the US-101/Oakland/Mabury Transportation Development Policy. This policy requires new residential and commercial developments that generate vehicular trips at either of the Policy Interchange make a fair share contribution towards the upgrade of US-101/Oakland interchange and construction of US-101/Mabury

Interchange. However, based on the proposed land use (senior housing), there are no anticipated trips to the interchange during peak commute hours. Therefore, no traffic impact fee will be required.

3. **Grading/Geology:**

- a) A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
- b) Prior to approval for any grading permits, the contractor(s) for the applicable site shall prepare procedures to be undertaken in the event that previously unreported contamination or subsurface hazards are discovered during redevelopment activities (e.g., identified by odor or visual staining), including a contingency plan for sampling of unknown materials, and shall designate personnel responsible for implementation of these procedures. The procedures shall be submitted by the contractor(s) with the application for a grading permit(s) from the City of San Jose Department of Public Works.
- c) The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, 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 State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

4. **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) Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- b) 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.

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. **Sanitary:** Based on invert elevations and monitoring data, backwater preventer valves are highly recommended within the project site.

7. **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.
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. **Undergrounding:** The In Lieu Undergrounding Fee shall be paid to the City for the frontage adjacent to Sixth Street prior to issuance of a Public Works clearance. One hundred percent (100%) of the base fee in place at the time of payment will be due. Currently, the 2010 base fee is \$393 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's 20 City Average Cost Index. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued. (Based on the 173' frontage on North 6th Street, this fee is approximately \$67,989.)
10. **Street Improvements:**
 - a) This project must conform to the Jackson-Taylor Specific Plan. Replace existing curb, gutter, and sidewalk with a 10' detached sidewalk with a 5' park strip.
 - b) Close unused driveway cuts.
 - c) Proposed driveway width to be 26'.
 - d) Dedicate approximately 2' for street purposes along project frontage.
 - e) Dedication and improvement of the public streets shall be to the satisfaction of the Director of Public Works.
 - f) 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:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
12. **Street Trees:** Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in the park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings. The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only. Contact the City Arborist at (408) 277-2756 for the designated street tree.
 - a)

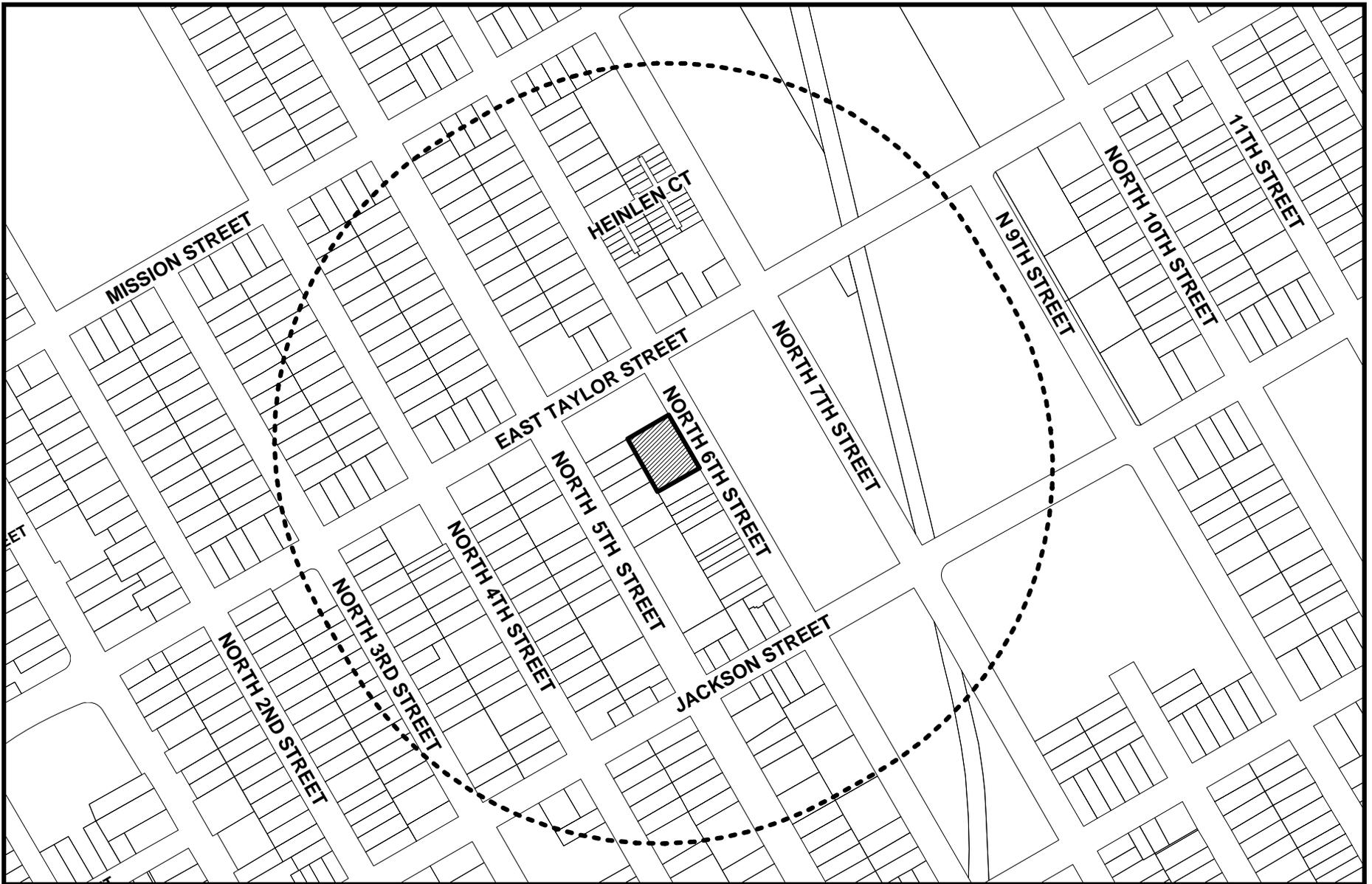
13. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a) *Park Impact Fees.* The applicant shall provide evidence to the Chief Building Official that the applicable Park Impact Fees, pursuant to Ordinance 24172 (Chapter 14.25 of Title 14 of the San José Municipal Code), have been paid to the satisfaction of the Director of Public Works.
 - b) *Construction Plans.* This permit file number PD08-015 shall be printed on all construction plans submitted to the Building Division.
 - c) *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - d) *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - e) *Street Number Visibility.* Street numbers of the buildings shall be easily visible at all times, day and night.
 - f) *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - g) *Tentative Map.* Prior to the issuance of a Building Permit, the developer shall secure a Tentative Map.
14. **Fire Clearance for Issuing Permits.** The Fire Department's review was limited to verifying compliance of the project to Article 9, Appendix III-A, and Appendix III-B of the 2001 California Fire Code with City of San Jose Amendments (SJFC). Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.
15. **Fire Flow.** Required fire flow for the site is as approved in writing by the Fire Chief.
16. **Fire Retardant Roof.** All buildings shall have fire retardant roofs subject to the satisfaction of the Fire Chief.
17. **Landscaping.** Planting and irrigation are to be provided as indicated on the approved plans. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced. Permanent irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
18. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San Jose Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect prior to Certificate of Occupancy.

19. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
20. **Storm Water Stenciling.** All drain inlets shall be labeled “No Dumping—Flows to Bay.” Please contact the City of San José, Department of Public Works, at (408) 277-5161 to obtain free stencils.
21. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
22. **Lighting.** On-site, exterior, unroofed lighting shall conform to the Outdoor Lighting Policy and shall use fully cut-off and fully shielded, Low-Pressure Sodium fixtures. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
23. **Fencing.** Fence height and materials shall be as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.
24. **Tract Sales Office/Model Homes.** This permit does not include the approval of a tract sales office/model homes complex. Such use requires a Permit Adjustment approved by the Director of Planning.
25. **Tree Removal.** No ordinance sized trees are approved as part of the subject development as shown on the approved landscape plan.

APPROVED and issued on this **23rd day of April, 2010.**

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Deputy



Approx. Scale: 1" = 400'
Map Created On: 02/11/2008
Noticing Radius: 1,000 feet

File No: PDC08-010, PD08-015

District: 3

Quad No: 67