

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 10-26-05 Item # 4.b.
C.C. 11-15-05

File Number
PDC05-022

Application Type
Planned Development Rezoning

Council District
4

Planning Area
Berryessa

Assessor's Parcel Number(s)
237-01-022 & 237-01-023

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Sanhita Mallick

Location: Northwest corner of Old Oakland Road and Rock Avenue

Gross Acreage: 4.7 ac

Net Acreage: 4.62 ac

Net Density: 21.2 dwelling units/acre

Existing Zoning: IP- Industrial Park

Existing Use: Pallet and vehicle storage yard

Proposed Zoning: A (PD) Planned
Development

Proposed Use: Up to 98 single-family attached residential units.

GENERAL PLAN

Completed by: SM

Land Use/Transportation Diagram Designation
Medium Density Residential (12-25 DU/AC)

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: SM

North: Office and Industrial Use

IP –Industrial Park

East: Multi-Family Residential

HI-Heavy Industrial

South: Single-family homes

A(PD) Planned Development

West: Industrial Uses/Mobile Home
Park

IP- - Industrial Park / Medium Density Residential (8 - 16
DU/AC)

ENVIRONMENTAL STATUS

Completed by: SM

Environmental Impact Report found complete (GP 2020 EIR certified
8/16/1994)
 Negative Declaration circulated on
 Negative Declaration adopted on September 14, 2005

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: SM

Annexation Title: Orchard No. 29

Date: 6/23/1960

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial
 Uphold Director's Decision

Date October 20, 2005

Approved by: _____
 Action
 Recommendation

APPLICANT/OWNER/DEVELOPER

Pestana Ernest E Trustee
2225 Oakland Road
San Jose, CA 95131

Mike Keany / HMH Engineers
1570 Oakland Road, Suite 200
San Jose, CA 95131

Robert Hencken / Summer Hill Homes
777 California Avenue
Palo Alto, CA

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: SM

Department of Public Works

See attached memorandum

Other Departments and Agencies

See attached memoranda from the Fire Department, Environmental Services Division, Department of Parks and Neighborhood Services, Santa Clara County, Valley Transportation Authority, Department of Transportation.

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Summerhill Homes, is requesting to rezone the subject site from IP-Industrial Park to A(PD) Planned Development Zoning District to allow up to 98 single-family attached residential units on the northwest corner of Oakland Road and Rock Avenue at a density of 21.2 dwelling units per acre (DU/AC). A Planned Development Permit (File No. PD05-) is currently on file and under review.

This rezoning proposal is moving forward at this time, consistent with the recent General Plan Amendment (File No. GP05-04-01), approved on October 18, 2005, which changed the General Plan land use designation on this site from Industrial Park with Mixed Industrial Overlay to Medium High Density Residential (12-25 DU/AC).

Site and Surrounding Uses

The site is a triangular-shaped parcel, the eastern portion of which is currently used for wood pallet manufacturing and storage (*Sal's Pallet*). There are also several storage sheds on the property. The western part of the site is leased for the outdoor storage of trucks, cars, and trailers. The site is relatively flat and unpaved. Both the Oakland Road and Rock Avenue frontages are unimproved and are lined with mature trees along the street.

Based on historic aerial photos, the site was used for agricultural purposes from the 1930s through the early 1960s, and used for various industrial uses from the late 1950s to the present.

There are 69 trees on the site, of which 17 are ordinance size, which are proposed to be removed. The trees include Elm, Elderberry, Redwood, Locust, Privet, and various ornamental species including Palm, Olive and Fig trees.

There is currently a mix of residential and industrial land uses surrounding the site, including light industrial office to the north of the site, heavy industrial uses across Oakland Road to the east, single family residential units under construction across Rock Avenue to the south and mobile home park, and industrial uses to the west. The residential development to the south of the project site is zoned A(PD) Planned Development with a density of 11.3 dwelling units per acre and is developed with single-family detached homes under construction. The mobile home

park to the southwest of the site (Casa Del Lago Mobile Home Park) is located on an approximately 51-acre site and was built in the early 1970s. Orchard Elementary School is situated approximately 900 feet to the south of the project site, adjacent to the recently constructed single-family homes mentioned above.

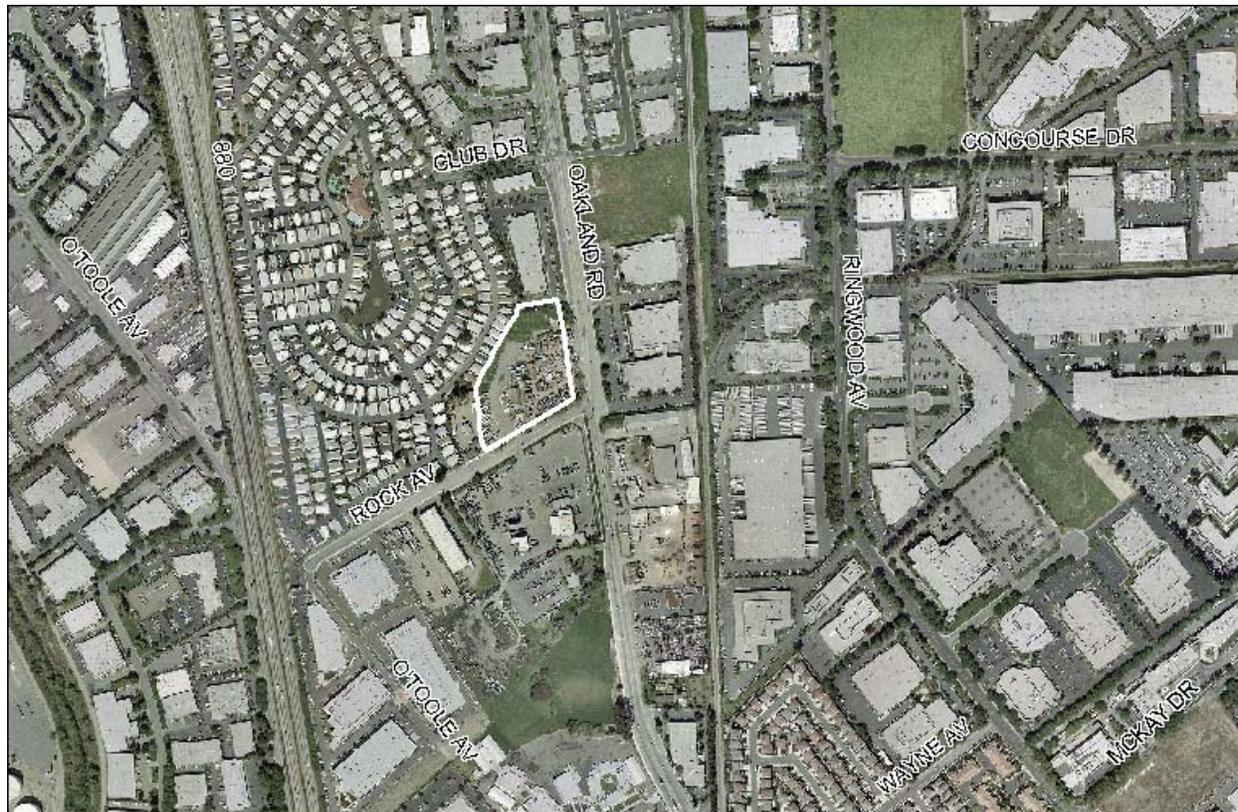


Fig.1. Aerial Photograph of the site and surrounding area.

Project Description

The proposed rezoning would allow up to 98 attached residential units, the conceptual site plan shows units clustered in 13 detached three-story buildings. These individual buildings house between 6 and 9 units. Fifty-seven (57) of the residential units front onto a triangular-shaped common open space. The remainder of the proposed units front on to Oakland Road (setback 30-feet) and on Rock Avenue (setback 14 feet). The project proposes 17 four-bedroom units, 55 three-bedroom and 26 two-bedroom units. All the units are proposed to have two-car garages, either in a tandem or side-by-side configuration, accessed from internal driveways at the ground level. This is typical of a Garden Townhouse type of unit. The buildings will be 3 stories and are proposed to have a maximum height of 42 feet above grade. The conceptual architecture plans indicate that a portion of the third floor will be stepped back from the front of the building. Private open space is provided in the form of patios and balconies, which range from 60 to 180 square feet per unit. The project proposes a 22,700 square feet open space area at the center of the development, or approximately 230 square feet per unit.

Vehicular and pedestrian access to the site is provided by means of a 25-foot wide driveway from Rock Avenue. Pedestrian access is also provided through several pedestrian paseos that are linked to the sidewalks on Rock Avenue and Oakland Road. Another major pedestrian access into the project is proposed approximately 60 feet northerly of the corner of Rock Avenue and

Oakland Road, and leads into the centrally-located common open space within the site via other walkways. A 20-foot wide emergency vehicular access (EVA) for the Fire Department is provided along the northern property line of the project. The EVA is accessible from Oakland Road.

The draft Development Standards propose an on-site parking ratio of 2.4 spaces per unit. The project provides a total of 225 on-site parking spaces that include 194 covered parking spaces within two-car garages, and 29 surface parking spaces. There will also be 32 on-street parking spaces available along the project's frontage on Oakland Road. and Rock Avenue.

ENVIRONMENTAL REVIEW

A Mitigated Negative Declaration adopted on September 14, 2005 indicates that the project will not result in a significant environmental impact when the identified mitigations are incorporated. A copy of the adopted MND is attached with this staff report. The Mitigated Negative Declaration addressed issues such as air quality, biological resources, geology and soils, noise, Traffic, Water Quality, Air Quality and Construction related impacts. With the implementation of the proposed mitigation measures, which include construction related mitigation for potential noise, urban runoff, air quality, and water quality impacts, the project will not have a significant impact on the environment.

GENERAL PLAN CONFORMANCE

The proposed project site is designated Medium High Density Residential (12-25 DU/AC). On October 18, 2005, the City Council approved a General Plan Amendment on this site to change the General Plan Land Use designation of Light Industrial to the current designation. The proposed project density is 20.6 dwelling units per acre, which is within the density range of 12-25 DU/AC. Based on this analysis, staff concludes that the rezoning conforms to the San Jose 2020 General Plan.

Greenline/Urban Growth Boundary (UGB) and Housing Major Strategies

The proposed project also furthers the closely related Greenline and Housing Major Strategies of the General Plan. The Greenline/Urban Growth Boundary Strategy specifies that urban development should only occur within the Urban Service Area where urban services can be efficiently provided. The Housing Strategy promotes higher density infill housing, especially close to transit facilities, to ensure the efficient use of land, to reduce the pressure to build more housing at the fringe of the City, to reduce traffic congestion and to promote an adequate supply of housing for existing and future residents. The Housing Strategy recognizes that continued economic growth in the City and region could be adversely affected by an inadequate supply of housing.

The subject site is situated within the existing urbanized area of the City of San Jose, with retail commercial centers located a half mile southerly of the site. Thus, the site provides an opportunity for infill development in support of the above-mentioned strategies. The current rezoning proposal has the potential to 1) increase the housing supply, 2) maximize the efficient use of existing infrastructure, and 3) reduce pressure for growth outside the UGB.

ANALYSIS

The analysis section addresses the adequacy of the proposed project with respect to the proposed interface with adjoining uses and streets, building orientation and open space. The project was also reviewed for compliance with the Residential Design Guidelines for Garden Townhouses and Cluster Homes as the proposed project exhibits characteristics of both types of residential units.

Interface with Surrounding Uses

Staff believes the proposed project is oriented appropriately in respect to the surrounding uses. The buildings front onto Oakland Road and Rock Avenue so that they orient outward and face to the residential development on the south side of Rock Avenue. This is preferable to having the units backing up to the streets, with a sound wall along the street, which can impede the creation of a residential neighborhood. In order to mitigate a potentially significant noise impact, the adopted Mitigated Negative Declaration specifies that the project should reorient the private open space or include architectural revisions to mitigate the noise impact on the private open spaces. Staff is recommending the inclusion of a landscaped median island within Oakland Road as a condition of the Planned Development Permit to make the livability of the project which fronts onto a heavily traveled street. A median island will provide a visual buffer between the proposed residential development and the existing Industrial uses on the opposite side of Oakland Road.

Site Setbacks and Interfaces

The proposed project includes a 36-foot setback between the residential projects and the property line adjacent to the existing mobile home park. This area includes a five-foot wide landscaped setback area and a 20-foot wide driveway. The proposed rear setback is less than what the Residential Design Guidelines recommend for separation between single-family rear yards and 3-story structures. Staff acknowledges that this setback is less than typically provided, however, given the triangular shape of the lot provision of a larger setback would reduce the size and usefulness of the internal open space area which is an important amenity for the project. The proposed conceptual architecture shows that the third floor is setback from the face of the building. Landscaping is proposed along the rear of the site to further limit visibility of the three-story structures from the adjoining residential project. The project proposes a setback of at 36 feet from both the northerly property line which is adjacent to the existing industrial park uses to the north, which is in conformance with the Residential Design Guidelines

Parking

There are 225 parking spaces proposed at a ratio of 2.3 on-site spaces per dwelling unit. In addition there are 29 on-site surface parking spaces as well. The Residential Design Guidelines indicate for a project of this type, there should be 254 on-site spaces given the mix of four (17), three (55) and two-bedroom (26) units. As part of street improvements included in the project, 32 on-street parking spaces will be located along the Oakland Road and Rock Avenue frontages of the site. On-street parking is generally given credit for .5 spaces per stall towards meeting the parking standards. As such, total parking is provided at 2.4 spaces per unit. In view of the 29

available on-street parking spaces, the 225 on-site spaces provided (2.3 spaces per unit) is somewhat less, but generally consistent with the intent of the Residential Design Guidelines

Open Space

The project proposes a sufficient amount of both private and shared common open space to meet the needs of the future residents of the project. The Residential Design Guidelines indicate new residential developments comprised of townhomes should provide common open space at the rate of 150 square feet per dwelling unit. The requirement is lower for developments with stacked flat type units. The intent behind the open space requirement is to provide a “usable open space requirement for recreation and social activities” of the residents.

The project proposes a centralized common open space, approximately 22,000 square feet in area (approximately 224 square feet/unit) that can be used for recreational and social activities and which slightly exceeds the Guidelines requirements. In the absence of a park in the immediate vicinity, this open space will be an amenity to the residents of the development, especially for families with young children.

The Guidelines recommend that townhomes similar to those proposed by the applicant provide private open space at the rate of 300 square feet per unit. Private open space can occur in the form of a rear yard, patio, balcony and/or deck with a minimum width for such space of 15 feet. The current project proposes approximately 180 square foot front patios, which are 14 feet wide. The corner units propose approximately 60 square foot front or side balconies and patios, which are 14 feet wide.

However, as discussed earlier, the project proposes a large common open space that can be used for recreation and social activities, which can be considered as a valuable amenity for the development generally, and particularly families with children. Planning staff believes that this centralized common open space will provide a sufficient amount of private open space for residents of the project. As previously indicated, the proposed private open space areas along the Oakland Road frontage may need to be relocated or redesigned at the PD Permit stage to address a potentially significant noise impact from traffic on Oakland Road.

Conformance with the Parkland Dedication Ordinance (PDO)

The closest park to the subject site is located in the City of Milpitas 1.4 miles from the site. Townsend Park and Flickinger Park are the closest San José parks to the site, and each are approximately two miles from the site. The playground of Orchard School located approximately 900 feet south of the project site, would also serve as recreational space for the proposed residential development.

The Department of Parks, Recreation and Neighborhood Services (PRNS) recommended that the project submit payment of in-lieu fees instead of on-site dedication of parkland. PRNS also recommended that the applicant should maintain the common open space provided on site and shall be eligible for receiving park credits per the Parkland Dedication Ordinance.

PUBLIC OUTREACH

A community meeting was held by the applicant on August 24, 2005 at Casa de Lago Clubhouse on 2151 Oakland Road. The clubhouse is located on the campus of the Casa De Lago Mobile Home Park located adjacent to the subject site. The meeting was attended by approximately seven members of the community, all of whom lived within the mobile home park, except one representative of Independence High Neighborhood Association. Project-related comments included safety and convenience of the residents (particularly children) during the construction period, parking of vehicles adjacent to the mobile home park along Rock Avenue which is a safety hazard for the mobile park residents, timeframe for the construction of traffic signal at Rock and Oakland intersection and narrowing of Rock Avenue near the Oakland intersection.

Notices of the public hearing before the Planning Commission and City Council were published, posted on the City of San Jose web site and distributed to the owners and tenants of all properties located within 1,000 feet of the project site. A notice indicating the public review period of Draft Mitigated Negative Declaration for the project was also mailed to property owners and tenants within 1,000 feet of the project site and was posted on the City web site. Staff has been available to discuss the project with members of the public.

CONCLUSION

Planning staff supports the proposed Planned Development rezoning for development of up to 98 attached single-family residential units, as it will implement the San Jose 2020 General Plan by facilitating the use of the site which is consistent with the Medium High Density Residential (12-25 DU/AC) General Plan designation, and is compatible with the surrounding uses.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend that the City Council approve the subject rezoning for the following reasons:

1. The proposed project is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Medium High Density Residential (12-25 DU/AC) and provides an opportunity to further important goals and strategies of the General Plan for high-density, infill development within the Urban Service Area.
2. The proposed project is in substantial conformance with the Residential Design Guidelines.
3. The proposed rezoning is compatible with existing uses on the adjacent and neighboring properties.

Attachments:

Memorandum from Department of Public Works, ESD, Police and Fire Department

Memorandum from Department of Transportation

Location Map

Mitigated Negative Declaration

Planset

The following Development Standards are to be placed on the Land Use Plan for this Planned Development Zoning once the Zoning is approved by the City Council.

PLANNED DEVELOPMENT ZONING PDC 05-022

EXHIBIT C: LAND USE PLAN AND DEVELOPMENT STANDARDS

PERMITTED USES:

Up to 98 single-family attached residences.

DEVELOPMENT STANDARDS:

Maximum Height: 42 feet

Number of stories: Three

Perimeter Setbacks:

Oakland Road Frontage
(From Property Line): Living Area of interior units 30-feet
Corner units on both sides of each building can encroach into this setback by a maximum of 4 feet.
Porches/covered entries: 23-feet

Rock Road Frontage:
(from back of sidewalk) Living Area of interior units 14 feet
Corner units on both sides of each building can encroach into this setback by a maximum of 4 feet.
Porches/covered entries: 7-feet

Westerly property line
(Along existing Mobile Home Parks) First Floor Garages, 36-feet,
33 feet, Second Floor and above

South-westerly Property Line
(Along existing industrial uses) 36 feet

Northerly Property Line 45 feet

Minimum Building Separation (wall to wall)

Front to Front 30 feet, excepting for the units on the north and south corners of the common open space, where a minimum of 20 feet is allowed.

Side to side 20 feet along Oakland Road and Rock Avenue. A minimum of 10 feet in all other instances. The side-to-side separation in all these instances will be provided to the satisfaction of the Director of Planning at the development permit stage.

Rear to rear 30 feet, First Floor Garages

24 feet, Second Floor and above

Setback Encroachments:

Minor architectural projections, such as chimneys, sills, eaves, canopies, bay windows may project into any setback area or building area by no more than 2 feet for a horizontal distance not to exceed 10 feet in length, nor more than 20 percent of the building elevation length.

Parking 2.4 spaces unit. On-street parking is credited as .5 spaces toward the overall parking requirement. Two enclosed spaces shall be provided per unit.

Common Open Space: The project shall provide a minimum of 220 square feet per unit of usable common open space. Paseos or areas with decorative landscaping are not considered as usable common space and cannot be counted toward the common open space requirements.

Private Open Space: Private open space shall be at least 60 square feet per unit.

Fences: All fences shall be subject to approval of the Director of Planning.

LANDSCAPING

The Developer and/or subsequent Home Owner's Association shall maintain on site landscaping areas and landscaping areas along the public right-of-way areas/streets to the satisfaction of the Director of Public Works.

AIR QUALITY

The following controls shall be implemented during all construction phases of the project:

- Water all active construction sites at least twice daily;
- Cover all trucks hauling soil, sand and other loose materials or require all trucks to maintain at least two feet of freeboard;
- 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;
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for 10 days or more);
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust;
- Limit traffic speeds on unpaved roads to 15 mph;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways; and
- Replant vegetation in disturbed areas as quickly as possible.

BIOLOGICAL RESOURCES

Nesting 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 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.

Tree Removal. The exact number of trees to be removed or relocated will be determined at the Planned Development Permit stage. In making the final decision, Director of Planning will consider issues such as potential conflict of the tree's location with the development, health of the tree, whether the tree may survive and/or adapt well when relocated. In the Director of Planning.

The project will be required to conform to the City's tree preservation ordinance, and will provide replacement trees in conformance with City policy. Replacement trees will be over and above the regular landscaping to be provided on the site. All non-orchard trees that are to be removed shall be replaced at the following ratios:

- Each tree less than 12" in diameter to be removed = one 15 gallon tree
- Each tree 12" to 18" diameter to be removed = two 24" box trees
- Trees greater that 18" diameter shall not be removed unless a Tree Removal Permit has been approved for the removal of such trees. Each tree greater than 18" diameter to be removed = four 24" box trees

The species and exact number of trees to be planted on the site will be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement. In the event the developed portion of the site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented at the permit stage:

- An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of Planning, Building and Code Enforcement.
- A donation of \$300 per mitigation tree to San Jose Beautiful or Our City Forest for in-lieu off-street planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Environmental Principal Planner prior to issuance of a development permit.

Tree protection: The following tree protection measures will also be included in the project in order to protect trees to be retained during and after construction.

- Pre-construction treatments:
 - i. The applicant shall retain a consulting arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection.
 - ii. Fence all trees to be retained to completely enclose the TREE PROTECTION ZONE prior to demolition, grubbing or grading. Fences shall be 6 ft. chain link or equivalent as approved by consulting arborist. Fences are to remain until all grading and construction is completed.
 - iii. Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.

- During construction:
 - iv. No grading, construction, demolition or other work shall occur within the TREE PROTECTION ZONE. Any modifications must be approved and monitored by the consulting arborist.
 - v. Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.
 - vi. Supplemental irrigation shall be applied as determined by the consulting arborist.
 - vii. If injury should occur to any tree during construction, it shall be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied.
 - viii. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the TREE PROTECTION ZONE.
 - ix. Any additional tree pruning needed for clearance during construction must be performed or supervised by an Arborist and not by construction personnel.
 - x. As trees withdraw water from the soil, expansive soils may shrink within the root area. Therefore, foundations, footings and pavements on expansive soils near trees shall be designed to withstand differential displacement.

CULTURAL RESOURCES

Construction workers will be alerted of the potential that site clearing and trenching may uncover buried archaeological materials. If evidence of any archaeological, cultural, and/or historical deposits is found, the following measures shall be taken:

- A qualified professional archaeologist will be notified and all further excavation activity shall be monitored. There shall be no excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains, until archaeological monitoring by the qualified archeologist begins.
- 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:
 - 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.
 - 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.

STORMWATER MANAGEMENT

The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay*. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, 200 E. Santa Clara Street, San Jose, California 95113. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES Permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 535-8300.

Construction Phase. Prior to the commencement of any clearing, grading or excavation, the project shall comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit as follows:

- The applicant shall develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities;

- ❑ The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB).

The project applicant shall comply with the City of San Jose Grading Ordinance, including erosion and dust control during site preparation and with the City of San Jose Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific BMPs will be implemented to prevent stormwater pollution and minimize potential sedimentation during construction:

- Restriction of grading to the dry season (April 15 through October 15);
- Utilize on-site sediment control BMPs to retain sediment on the project site;
- Utilize stabilized construction entrances and/or wash racks;
- Implement damp street sweeping;
- Provide temporary cover of disturbed surfaces to help control erosion during construction;
- Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

Post-Construction Phase. The project shall incorporate post-construction BMPs and treatment control measures in conformance with the provisions of the City’s Post-Construction Urban Runoff Management Policy, including numerically sized vegetative swales, disconnected roof leaders and bubble-up drainage emitters, and pervious paving materials.

NOISE

The project shall be constructed in conformance with the STC rating recommendations for windows and doors contained in the report entitled *Pestana Site – San Jose, California, Environmental Noise Study*, prepared by Charles M. Salter Associates, Inc., dated August 5, 2005. The table is reproduced below:

<u>Location</u>	<u>STC Rating</u>
Eastern facades fronting Oakland Road including northern and southern facades of corner rooms of end units perpendicular to Oakland Road Eastern and southern facades of unit 1 corner rooms in the eastern 9-plex fronting on Rock Avenue	33
Northern and southern facades perpendicular to Oakland Road, not including the corner rooms of end units Eastern and southern facades for units 1 through 3 in the eastern 9-plex fronting on Rock Avenue, not including the corner rooms of unit 1	30
All other southern facades fronting Rock Avenue	26
All other facades not listed above	No mitigation required.

All units shall have forced air ventilation systems to allow the windows to remain closed so that an interior noise level of 45 dBA can be achieved. Prior to issuance of occupancy permits, building plans for all units will be checked by a qualified acoustical consultant to ensure that noise levels are attenuated sufficiently.

Prior to the approval of a Planned Development permit, architectural revisions and/or re-orientations of private open space shall be made so that no open space exceeds 70 dB DNL. Additional noise reports may be required to project the noise level of any relocated open spaces to the satisfaction of the Director of Planning.

Construction Noise: The following measures shall be implemented by the project developer and/or construction site supervisor to reduce potential construction noise impacts to surrounding neighbors:

- ❑ Notify neighbors of the schedule and type of equipment used for each phase of construction;
- ❑ Limit hours of construction to between 7:00 a.m. and 7:00 p.m. on weekdays, when construction occurs within 500 feet of existing residences, in conformance with City standards;
- ❑ Locate noisy stationary equipment (i.e., generators or compressors) away from neighboring residences;
- ❑ Require that all construction equipment be in good working order and that mufflers be inspected for proper functioning;
- ❑ Require that vehicles and compressors turn off engines when not in use;
- ❑ Utilize available noise suppression devices and techniques as appropriate, in conformance with General Plan policy; and
- ❑ Designate a construction noise coordinator who would be available to respond to complaints from neighbors and take appropriate measures to reduce noise.

TRAFFIC

The project applicant shall make a fair share contribution to the installation of a traffic signal at the intersection of Rock Road and Oakland Road, to the satisfaction of the Director of Public Works.

The project frontage along Rock Road, west of Oakland Road, shall be improved to match the roadway width west of the site, including bike lanes and a sidewalk that connects with the existing sidewalk west of the site.

