



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

Project File Number, Description, and Location

PDC06-063. Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 17 single-family detached residences on a 26.4 gross acre site located at northeast corner of Juliet Park Drive and Rosemar Avenue. (Rosemar Enterprises Corporation, Owner)

Council District: 5

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 1,000 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **December 8, 2008**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **November 18, 2008** and ends on **December 8, 2008**.

A public hearing on the project described above is tentatively scheduled for **December 10, 2008** at 6:30 in the City of San Jose Council Chambers, 200 East Santa Clara Street, San Jose, CA 95113. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the **Dr. Roberto Cruz Alum Rock Branch** Library, San José, CA, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call at (408) 535-3555.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: 11/18/08

Susana White
Deputy

**DRAFT
MITIGATED NEGATIVE DECLARATION**

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

NAME OF PROJECT: Rosemar

PROJECT FILE NUMBER: PDC06-063

PROJECT DESCRIPTION: Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 17 single-family detached residences on a 26.4 gross acre site and subsequent permits

PROJECT LOCATION & ASSESSORS PARCEL NO.: Northeast corner of Juliet Park Drive and Rosemar Avenue (8735 TRACT); APN's 612-68-001, -002, -005, -007, -008, -009, -011

COUNCIL DISTRICT: 5

APPLICANT CONTACT INFORMATION: Ruth and Going, Inc., Attn: Mr Gerry Deyoung, P. O. BOX 26460, San Jose, CA 95159-6460, (408) 236-2400

FINDING

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

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

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

III. AIR QUALITY – The project will not have a significant impact on this resource, therefore no mitigation is required.

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

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

VI. GEOLOGY AND SOILS – Report was prepared for the site by ES Geohazard Technologies, Consulting Engineers and Geologists. A copy of the report, entitled Certificate of Geologic Hazard Clearance Proposed 16 Lot SFD Residential Development (PDC06-063), Rosemar Avenue East of Juliet Avenue, Project NO.: 3-16653 (07-027670), dated April 29, 2008, is included in Appendix A of the Initial Study.

1. All recommendations of the project's geotechnical and geologic report and geotechnical consultant must be followed. All geotechnical constraints and methods of geologic hazard mitigation identified in your reports must be implemented.
2. The conceptual grading plan, Reference 3 (the conceptual lotting/grading plan dated 6/08/06), shall be modified in accordance with Reference 2, the supplemental Geohazard Engineering Analysis, dated 3/31/08, above to include a retaining wall at the base of slopes on Lots 6 and 7 to mitigate earthquake induced landslide potential. The plan must also include a sub-drain system to mitigate the groundwater seep on Lot 9.
3. This Clearance applies only to the project specified in References 1 (Geological Hazards Evaluation and Soil Engineering Study, dated 8/20/07), 2 and 3 above. Any proposed changes in the geotechnical or civil engineering consultants of record, the approved reports or plans, or the project design, location, or concept must be reviewed by the City's Engineering Geologist. Significant changes may require a new Geologic Hazard Clearance.
4. All earthwork, foundation installation, drainage improvements, geologic/seismic hazard mitigation measures and related facilities shall be inspected by project Engineering Geologist and Geotechnical Engineer during each phase of site grading and construction, and documented by submission to the City of final geotechnical and geologic reports.
5. If any unanticipated hazardous geologic or subsurface conditions are encountered during the grading, or if there are any modifications in the grading or geologic hazard mitigation measures, the City's Engineering Geologist must be immediately notified. In such an event, a supplemental geologic/geotechnical investigation must be performed and submitted to the City for review and approval prior to progressing further with the project.

VII. HAZARDS AND HAZARDOUS MATERIALS – Prior to the issuance of Public Works clearance, a remediation program for the on-site soil removal shall be submitted to the satisfaction of the Director of Planning, the Environmental Services Department and the Regional Water Quality Control Board. The applicant shall implement the approved plan to the satisfaction of the Director of Planning. Actions shall include, but will not be limited to, verification of suitability for development by documentation of the quality of soil used to replace excavated soils.

1. As a part of project grading, the top two (2) feet of soils shall be replace with clean soil, so as to avoid impacts from naturally occurring asbestos (NOA). The contaminated soils shall be removed and disposed of at an appropriate facility, to the satisfaction of the Director of Public Works.

2. Future homeowners will be notified that they may encounter asbestos in any subsurface excavations greater than two feet in depth and that special precautions will be required to comply with adopted standards to reduce risks to an acceptable level. Future homeowners will also be advised of the excavation precautions necessary if they plan to install a spa or pool.
3. A dust mitigation plan to minimize exposure to NOA (per the Bay Area Air Quality Management District regulations) shall be submitted to the Environmental Services Department.

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

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

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

XI. NOISE – The project shall incorporate building sound insulation to meet the requirements of the California Building Code to reduce interior noise levels to 45 dBA or lower, using standard construction techniques. 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. 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.

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

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

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

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

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

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

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **December 8, 2008**, any person may:

Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: 11-18-08 SBWalsh
Deputy

Adopted on: _____
Deputy

8/26/05