

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

*Project File Number, Description, and Location*

**PDC08-035:** Planned Development Rezoning from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to demolish five existing structures, two of which qualify for the Historic Resources Inventory as Structures of Merit, relocate one National Register-eligible single-family residence, and construct up to 50 84 attached residential units and 3,716 5,350 square feet of commercial uses on a 1.09 gross acres site, located on the southwest corner of Edwards Avenue and South First Street. (Barriga Emilio Et Al, Jose Montero, Owners/MAK Studio, Applicant) Council District: 3

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 **April 15, 2009**, 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 **March 24, 2009** and ends on **April 15, 2009**.

A public hearing on the project described above is tentatively scheduled for **May 13, 2009 at 6:30 p.m.** 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 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 **Sally Zarnowitz** at (408) 535-7834.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement



Circulated on: March 24, 2009

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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:** PDC08-035 - South First Street Mixed Use

**PROJECT FILE NUMBER:** PDC08-035

**PROJECT DESCRIPTION:** Planned Development Rezoning from LI Light Industrial and R-M Multiple Family Residence Zoning Districts to A(PD) Planned Development Zoning District to allow up to 50 residential units and 5,350 square feet of commercial/retail and subsequent permits on a 1.08 gross acre site.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** Southwest corner of Edwards Avenue and South First Street; 264-37-061, 264-37-062, 264-37-063, 264-37-064, 264-37-065 and 264-37-066.

**COUNCIL DISTRICT:** 3

**APPLICANT CONTACT INFORMATION:** MAK Studio, Attn: Kelly Melendez, 99 Colton Street, San Francisco, CA 94103, (415)861-5646

**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. BIOLOGICAL RESOURCES** – The following measures shall be implemented into the project to prevent impacts to biological resources:

Trees: Any tree that is removed will be replaced by the addition of one or more new trees at the ratios shown in Table 1.

**Table 1: Tree Replacement Ratios**

Diameter of Tree To Be Removed	Type of Tree To Be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12-17 inches	3:1	2:1	None	24-inch box
Less than 12 inches	2:1	1:1	None	15-gallon container

The species and exact number of trees to be planted will be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement.

Replacement trees are to be above and beyond standard landscaping; required street trees do not count as replacement trees.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building, and Code Enforcement, at the development permit stage.

- The size of a 15-gallon replacement tree may be increased to a 24-inch box and count as two replacement trees.
- An alternative site(s) may be identified for tree planting. Alternative sites may include local parks or schools or the installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of Planning, Building, and Code Enforcement.
- A donation of \$300.00 per mitigation tree will be paid to Our City Forest or San José Beautiful for in-lieu-of offsite tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately 3 years. A donation receipt for offsite tree planting will be provided to the Planning Project Manager prior to issuance of a development permit.

**III. CULTURAL RESOURCES** – The following measures shall be implemented into the project to prevent impacts to cultural resources:

- Relocation of the National Register eligible house located at 985 South First Street, to Edwards Avenue (as noted on the plans), in conformance to the Secretary of the Interior's Standards.
- The building located at 985 South First Street would require further documentation in the form of HABS or HABS-type of documentation proportionate with the level of significance of the building prior to relocation. Prior to approval of the Planned Development Permit, evidence that the HABS documentation has been submitted to History San Jose (Attention: Jim reed, History San Jose, 1650 Senter Road, San Jose CA 95112-2599, (408) 287-2290), shall be submitted to the Historic Preservation Officer.

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

**V. HAZARDS AND HAZARDOUS MATERIALS** – Implementation of the following mitigation measures would mitigate the impact described above to a less than significant level:

- Prior to the issuance of a demolition permit, a visual inspection/pre-demolition survey, and possible sampling, will be conducted by a qualified professional, in conformance with state and local laws, before the building is demolished, to determine the presence of asbestos-containing materials and/or lead-based paint.
- All potentially friable asbestos-containing materials shall be removed in accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards, contained in Title 8 of the California Code of Regulations (CCR), Section 1529, to protect workers from exposure to asbestos. Materials containing more than 1 percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations 1532.1, including employees training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings will be disposed of at landfills that meet acceptance criteria for the waste being disposed.
- Prior to issuance of a grading permit, soil technicians and operators must be aware of any underground storage tanks, buried debris, or other potential adverse environmental condition that may be discovered in the property. If any one of these conditions is encountered, then the soil engineer must be notified and the specific condition appropriately remedied in accordance with the local, County, and state requirements.
- Any deep excavations that would be created during site development such as the removal of basements, septic tanks, foundations, trees, should be left open for further adequate geotechnical investigation, unless their immediate backfill is necessary.
- The presence of any unusual odor, or suspicious materials during demolition and/or mass grading operations should be reported immediately to the Soil Engineer, the San Jose Building Division, and the property owner.
- Any paint containers, water sealers, basements, cement pads, appliances, trash, refused lumber, cabinets, transite pipe, abandoned septic tank, paved parking lot, utility boxes, etc. should be carefully removed offsite prior to the demolition and/or grading operations of the subject property. All of the removed items should be disposed according to local, County, and state regulations.

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

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

**VIII. NOISE** – Implementation of the following mitigation measures would also reduce potential noise impacts to less than significant levels:

- To reduce exterior noise impacts, the applicant shall construct 42-inch high acoustically effective air-tight railings, per specifications in Appendix D of the Noise Report dated August 20, 2008. Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, for any

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

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

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

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

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

**XIV. 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 **April 15, 2009**, 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: 3/24/09

  
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Deputy

Adopted on: 5/14/09

  
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Deputy

MND/JAC 8/26/05