

# X. REDEVELOPMENT

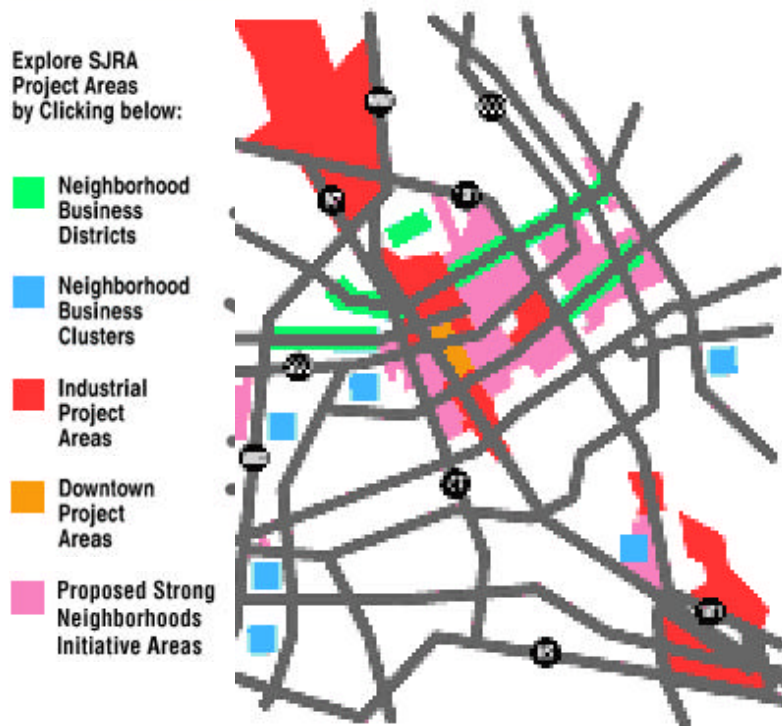
The review of the Redevelopment Agency was primarily aimed at examining RdA entitlement and permitting processes in relation to similar processes administered by City Departments. The study did not include a full organizational analysis of the Redevelopment Agency.

## A. PROFILE

The San Jose Redevelopment Agency (RdA) was created by the City of San Jose in 1956. The San Jose City Council, acting as a separate legal entity, serves as the governing body of the RdA. The staff of the RdA report directly to the RdA Board of Directors and are not a part of the City's administrative structure. RdA offices are located at 50 West San Fernando Street within their downtown redevelopment project area .

The RdA's mission is to revitalize and enliven San Jose's Downtown Area and the additional targeted neighborhoods and industrial areas, as shown in Figure 16.

**Figure 16**  
**Redevelopment Areas**



The RdA is funded through “tax increment financing” pursuant to California law. This method of financing enables redevelopment agencies to collect a portion of the

property tax revenue that results from new development within adopted project areas. Typically, bonds backed by tax increment revenue are sold in order to finance redevelopment efforts. Such bonds are not a debt of the City and are repaid solely from tax increment revenue collected by the Redevelopment Agency.

Certain limitations apply to the use of tax increment financing. As an example, tax increment proceeds cannot be used for City operating expenses. Further, a minimum of 20% of the revenue must be used for affordable housing purposes. The RdA has committed more funding than the legally mandated 20% of gross tax increment revenues for affordable housing purposes. The FY 02/03 budget includes \$37 million in tax increment and an additional \$49 million in bond proceeds.

A total of 85 to 90% of the existing tax increment revenue (\$186 million annually) is generated from the industrial project areas of the RdA.

The RdA operating budget is \$28 million, of which \$14.1 million is for Agency employee compensation, \$2.2 million is for consulting services and \$7 million is for City support services. The total Capital Budget for 2002-02 is approximately \$460 million. The total staff numbers 136 FTE's, seven of which are currently vacant and 129 are currently filled.

## **B. DIVISION OF LABOR: CITY/RdA**

In January of 1990, the administrative responsibilities of the RdA and the City were defined by an "implementation plan" adopted by the City Council and the Redevelopment Agency Board of Directors. The implementation plan outlines the parameters within which the respective staffs of the City and RdA operate and defines the duties and responsibilities of each organization for the administration of redevelopment activities within the City of San Jose.

The portions of the implementation plan that are relevant to this study are summarized as follows:

### **✍ General Plan**

City staff is responsible for the preparation, adoption and amendment of General Plan documents subject to review and comment by the RdA.

### **✍ Redevelopment Plans**

The RdA acts as Lead Agency for the planning, adoption and implementation of Redevelopment Plans in all existing and future redevelopment project areas, with referral, review and adoptive action by the City.

### **Environmental Review**

The City is the Lead Agency for the processing of CEQA mandated environmental review for all public and private projects. The RdA will prepare, or cause to be prepared, documents necessary for environmental review of projects initiated or regulated by the RdA.

### **Subdivision**

The City is responsible for the regulation of subdivisions of real property and other changes of property boundaries pursuant to the City's Subdivision Ordinance. Applications for tentative maps, lot line adjustments and lot combinations are referred to RdA for review and comment.

### **Historic Preservation**

The City is responsible for the designation of Historic Landmarks and Landmark Districts administered pursuant to the Historic Preservation Ordinance. Designation proposals are referred to the RdA for review and comment. The City retains the authority to issue most Historic Preservation Permits for designated historic landmarks and landmark districts areas with referrals to the RdA for review and comment. Within the Downtown Core and Julian Stockton areas, the RdA has the authority to issue Historic Preservation Permits for designated historic landmarks and landmark districts with referrals to the Historic Landmarks Commission for review and comment. Both the City and RdA administer the Historic Permit process pursuant to the Historic Preservation Ordinance with appeals heard by the City Council.

### **Land Use Development**

Administration of zoning regulations for private and public land use and development are divided between the City and the RdA, as follows:

#### Downtown Core Area and Julian Stockton Area

The Executive Director of the RdA has the authority to approve all permits and other entitlements *except* for the authority to zone and rezone property, which is retained by the City Council. Development permits acted upon by the Agency's Director can be appealed to the Planning Commission. The Planning Commission's decision is final for most permits. For Conditional Use Permits, the Planning Commission's decision can be appealed to the City Council, who makes the final decision. An anomaly is the Sidewalk Café Permit, which is heard by the Agency's Director and can be appealed to the City Council. The implementation of this authority, as described by the implementation agreement, is to include the adoption of a new "Downtown Zoning District" with related Code amendments, followed by a rezoning of these areas to conform to the new zoning district. Authority would then be vested in the

Executive Director to issue Conditional Use Permits, Site Development Permits and other Title 20 permits for property within these two areas.

To date, the authority of the Executive Director to approve permits and entitlements has not been fully exercised. This is due to the fact that Historic Preservation issues have delayed the adoption of a Downtown Zoning Ordinance, and many of developments that occur within the area of the Executive Director's authority are not zoned in conformance to the General Plan. This being the case, development approvals still require action by the City of San Jose. Short-term amendments to facilitate development in the core area are proposed for City Council action in October 2002. Long-term zoning amendments to accommodate the range of development envisioned by the Downtown Strategy Plan are projected for the summer of 2003.

#### Downtown Frame Area (Excluding Julian Stockton)

Except for properties zoned "Downtown Support," the City retains the responsibility for the administration of all zoning regulations with referral of development applications to the RdA for review and comment.

The City and RdA agreed to jointly draft a "Downtown Support Zoning District" (covering areas for which the RdA may consider providing financial support) within which the Executive Director of the RdA would have the authority to issue Conditional Use Permits, Site Development Permits and other zoning permits. Appeals within this District would be heard first by the Planning Commission and then by the City Council. Rezoning of properties to the Downtown Support Zoning District would be recommended upon the initiation of negotiations between and property owner/developer and the RdA, with a reversion to General Plan zoning designation in the event negotiations fail to result in a development agreement.

#### Neighborhood Business Districts and Other Redevelopment Project Areas

The City retains the responsibility for the administration of zoning regulations in neighborhood business districts and redevelopment project areas outside the Downtown Core Area and the Downtown Frame Area. Development applications are referred to the RdA for review and comment.

#### ✍ **Building Permits and Code Enforcement**

The City retains the responsibility for issuing Building Permits and enforcing related provisions of the Municipal Code.

#### ✍ **Public Works Projects**

Funds budgeted for the design/planning of RdA public works projects are to be authorized upon Notice to Proceed for the project. Funds budgeted for project construction will be authorized at the time the project is advertised for construction.

The timing of funding authorization for the involvement of City staff when planning redevelopment public works projects has proven problematic in that it has prevented the early involvement in planning for projects not yet “authorized.” Apparently, steps have been taken to authorize funds earlier than required by the Implementation Agreement so that City and RdA staff can work more closely on projects in the early planning stages.

The issuance of permits and the administration of City Codes with respect to Fire Safety, Building Administration and Public Works, including review of operations and maintenance guidelines for public facilities, are the responsibility of the City.

The RdA will be the lead agency for studies, policies, planning and design development with City Public Works participation where applicable.

For RdA-funded projects in the public right-of-way, City Public Works retains the responsibility for studies related to underground utilities, traffic and transportation, construction documents and construction management, with RdA approval. RdA-funded special projects not in the right-of-way will be designed and constructed by RdA subject to permits and code administration as previously described.

#### ✍ **Office of Economic Development**

The Office of Economic Development reports to the City Manager in light of its Citywide responsibilities, with appropriate costs for economic development within RdA areas paid for by RdA. The total budget for the City’s Office of Economic Development (funded by the Agency as part of the City support services) is \$ 1 million. In addition, the majority of the Agency’s budget targets economic initiatives.

## **C. CUSTOMER COMMENTS**

Two methods were used to obtain customer comments in relation to Redevelopment. A mail survey as shown in Figure 17 was sent to 88 customers. Fifteen surveys were returned with a return rate of 17%. Although this is a normal response by percentage, some care must be taken in interpreting these results given the small number of surveys.

This survey is similar to the comprehensive survey sent to all City permit customers as described in Chapter II. The right hand column on Figure 17 shows the percentage of Disagree or Strongly Disagree of each question. Normally negatives between 15 to 30% are areas of concern. Negatives exceeding 30% are more serious areas of concern. As can be seen, 11 of the 15 question responses exceed the 30% threshold. We had expected the Redevelopment customers to be substantially more satisfied than

the City customers. However, a comparison of the Chapter II responses and Figure \_\_ responses indicates that this is not the case. The negative responses to Question 14 is particularly revealing as to how coordination is working between Redevelopment and the other City departments. As we have discussed in this report, considerable work is necessary to improve these relations.

Our redevelopment analyst contacted a number of Redevelopment's clients to obtain their comments. Responses were received from five developers. Most were satisfied by the work of both Redevelopment staff and other City staff. Issues or suggestions included:

- ✍ There is a lack of cooperation and communication between Redevelopment staff and City staff.
- ✍ There is some overlap in services
- ✍ The Fire Department has problems with historic renovations.

**Figure 17**  
**Redevelopment Permits – Customer Surveys**

1. Please check off the types of development activities you have processed through the City during the past twelve months.

<input checked="" type="checkbox"/> Conditional Use Permit	<input checked="" type="checkbox"/> Special Use Permit
<input checked="" type="checkbox"/> Permit/Sign Adjustments	<input checked="" type="checkbox"/> Planned Development Permit
<input checked="" type="checkbox"/> Sidewalk Café Permit	<input checked="" type="checkbox"/> Tree Removal Permit
<input checked="" type="checkbox"/> Site Development Permit	<input checked="" type="checkbox"/> Other (list) _____

2. Please indicate the capacity in which you worked.

<input checked="" type="checkbox"/> One time user of the development review and approval process
<input checked="" type="checkbox"/> Frequent user of the development review and approval process

QUESTION	STRONGLY AGREE	AGREE	NO OPINION	DISAGREE	STRONGLY DISAGREE	NOT APPLICABLE	
3. When submitting an application, I have generally found the Redevelopment Agency staff to be responsive and helpful.	2	6	2	4	1		33.3%
4. In general, Redevelopment Agency staff have provided positive solutions to help me with my applications.	4	4	2	3	2		33.3%
5. I found the handouts supplied by the Redevelopment Agency to be useful and informative in explaining the requirements I had to meet.	2	6	4	1	0	2	7.7%
6. I found the submittal requirements and forms clear and easy to use.	2	8	1	3	0	1	21.4%
7. After I submitted my application, review and analysis of my application was complete and accurate. Additional problems that should have been caught in the initial review did <b>not</b> surface later.	3	7	0	4	1	0	33.3%
8. Within the constraints of the Redevelopment Plan or other regulations, the staff was practical in applying standards and regulations to the analysis and review of my application.	3	5	1	4	2	0	40.0%
9. Redevelopment Agency staff were courteous when reviewing my application.	5	8	2	0	0	0	0.0%
10. Redevelopment Agency staff were knowledgeable and made few mistakes in conducting a review of my application and plans.	2	9	2	2	0	0	13.3%
11. When Redevelopment Agency staff found problems during review of my application and plans, they were thorough and clear in explaining what I had to do to correct those problems.	3	5	1	5	1	0	40.0%



## D. JUST ANOTHER DEVELOPER

An unfortunate impression of many City staff interviewed is that the RdA is “just another developer” and should not be granted any “special treatment”. This impression fails to recognize that the Redevelopment Agency was created by the City as a means to resolve significant social/physical/economic problems in the selected project areas. Further, when correctly applied, redevelopment can reduce public costs and greatly enhance public revenues for the good of entire community. City staff, by failing to give priority to RdA projects, is failing to take advantage of one of the most effective tools available to insure the long-term economic health of the City.

**305. Recommendation: City staff should recognize that redevelopment projects are not “just another developer” and careful coordination with the Redevelopment Agency is essential.**

## E. ORGANIZATIONAL OVERVIEW

Cities throughout the country have taken various approaches to organizing the redevelopment function. Often the smaller cities organize redevelopment as a city department reporting to the city manager. In larger cities the function often tends toward more independence from other city departments. Some examples from our benchmark work include:

- ✍ Anaheim – City department
- ✍ Long Beach – City department
- ✍ Milpitas
- ✍ Phoenix
- ✍ Portland
- ✍ Sacramento
- ✍ San Diego
- ✍ Santa Clara

San Jose set its structure through a 1990 agreement, as previously described. Although the staff is independent and the Executive Director reports directly to the Redevelopment Board, many of the functions are integrated with City Departments. For example:

- ✍ Planning serves as the lead agency for the CEQA process.
- ✍ Redevelopment processes planning permits in the Downtown Core and Julian Stockton areas, but Planning processes planning permits in the remaining redevelopment areas.

- ✍ Planning is responsible for the General Plan and Zoning Ordinance.
- ✍ Redevelopment is the lead agency for Redevelopment Plans.
- ✍ Public Works is responsible for all off-site improvements.
- ✍ Building is responsible for private building plan check and inspection.
- ✍ Public Works is responsible for public building plan check and inspection.
- ✍ Redevelopment attorneys report to the City Attorney.

Irrespective of organization the following two features are important:

- ✍ Downtown revitalization requires a specific focus that normally supports an independent approach. Given San Jose's downtown needs, we believe any major structural change to the RdA at this time would be counter-productive.
- ✍ Irrespective of structure, it is essential that a good working relationship exists between Redevelopment staff and the rest of the City structure.

In San Jose, there continues to be some friction between City staff and Redevelopment staff. However, both staffs appear to see the need to improve working relations and many feel that in fact this is occurring. Various functions are briefly described below with recommendations for improvement.

## **Economic Development**

Coordination between Redevelopment and Economic Development appears good. Some suggested to us that the Redevelopment Agency sets the economic development strategy within the redevelopment areas and Economic Development sets the economic development strategy outside of the redevelopment areas. This would be an oversimplification of the desired relationship and too narrow a view. The City's broad economic development strategy needs to be a focus of a variety of instruments and actions, as follows:

- ✍ Economic Development should be concerned about the City's economic development strategy both inside and outside of redevelopment areas.
- ✍ The City's General Plan, whose care and feeding is a responsibility of the Planning function, should also have an economic development component.
- ✍ The Economic and Neighborhood Development City Service Area (END CSA) should be a key forum to work out any conflicts and set a citywide strategy.
- ✍ The strategy for downtown is set through the Strategy 2000 effort.
- ✍ The strategy for other redevelopment areas is set as part of the Redevelopment Plans, which should be consistent with the Citywide strategy.

## **CEQA, Lead Agency**

The Lead Agency responsibilities for CEQA are currently handled by Planning, with action on all EIR's by the Planning Commission. Some believe that the Lead Agency role for redevelopment projects should be transferred to the Redevelopment staff. This opinion was partially generated by recent processes surrounding the so-called Palladian EIR. However, upon examination, we believe this example is not a good example to justify a change. While we could not make an independent judgement, those we interviewed suggested the following:

- ✍ Some problems existed with both Redevelopment and Planning staff who handled this project.
- ✍ The consultant hired to complete the EIR appeared to have problems with the EIR preparation.
- ✍ When the project finally got to the Planning Commission the Planning staff played a very useful role in working through the process.

The CEQA Guidelines suggest that the “Lead Agency means the public agency which has the principal responsibility for carrying out or approving a project.” While for certain projects the principal responsibility is with the Redevelopment Agency, for other redevelopment projects it is with the City. In any case, the Guidelines allow the community to decide, i.e. “An agreement may also provide for cooperative efforts by two or more agencies by contract, joint exercise of powers or similar devices.” In San Jose’s case, the agreement is contained in the 1990 City agreement on redevelopment roles. Good arguments can be made on both sides of this question. Arguments include:

- ✍ Redevelopment should be responsible since slowness in CEQA review can slow down redevelopment projects. While this could at times be true, the other solution to this concern is improving Planning’s work on CEQA. We are recommending some improvements, as discussed in the chapter on Planning.
- ✍ There is some value in providing environmental consistency across all City functions. We concur with this position. Planning already handles environmental review for all other City functions.
- ✍ CEQA requires some expertise due to the complexity of CEQA regulations as well as the complexity of environmental issues. Is it reasonable or cost effective to develop two staffs with CEQA expertise? Neither Redevelopment nor Planning has the cadre of CEQA experts that we would expect to find in a city of San Jose’s size and sophistication. As such, it may be best to strengthen the function within Planning
- ✍ Most City attorneys we interviewed feel the current procedure is workable.
- ✍ While some Redevelopment staff feels that the Agency should be the Lead Agency, other Redevelopment staff feel the current process is workable.

- ✍ Some believe the current system provides some checks and balances in the system. If Redevelopment is the Lead, they are handling CEQA for their own projects and this may present a conflict of interest. There may be some validity to this concern, but the CEQA process itself contains many checks and balances and full public disclosure. Additionally, the courts have not been reluctant to take on CEQA cases, which puts pressure on all Lead Agencies for good performance.
- ✍ Additionally, the elected officials can make the final decisions as actions can be appealed to this level.

**306. Recommendation: The Lead Agency for CEQA should remain with Planning.**

**307. Recommendation: Planning should be more responsive to Redevelopment by decreasing processing timelines for CEQA documents and increasing consultation and coordination.**

## **Public Works**

Redevelopment staff has expressed several concerns in relation to Public Works, as follows:

- ✍ Public Works staff was instructed to bill only for capital projects. Therefore, when they were asked to be involved in pre-development planning on a project that was not yet determined to be a capital project, staff refused to be involved because they could not bill their time. We concur that this would be a problem. However, the new Director of Public Works assured us that this policy has now been changed.
- ✍ At times, projects get tagged with very expensive surprises in the form of public works conditions that weren't discussed during early review or even after initial sign-off. This should not occur for redevelopment projects or, for that matter, for any public or private project.

**308. Recommendation: Public Works should reinforce the policy indicated in the Economic and Neighborhood Development CSA that projects should receive thorough, complete and consistent review in the first cycle of staff review.**

- ✍ At times, public improvement plans for improvements in the public right-of-way in redevelopment areas have not had review by Redevelopment staff. We understand that a procedure for this sign-off has now been instituted. We agree with this approach.

- ✍ Redevelopment feels they are treated by Public Works as any other developer. As discussed above, we do not share this perspective. Public Works needs to recognize the special nature of some redevelopment projects. Likewise, at times Redevelopment may wish to require conditions that exceed normal City standards.

## **Building Division**

Redevelopment funds a Building Division “ombudsman” to look after RdA projects and this system seems to work well.

## **Historic Preservation Issues**

There has been some confusion between Planning, Redevelopment and the Historic Preservation Commission re historic preservation within redevelopment areas. For example, we were told that the City Council approved a Parking Management Plan designating specific parking sites after months of negotiations. One of the approved sites had a small building on it that had been used to house some early inventions of IBM. The Planning Department placed an item on the Council agenda designating the building as a Historic Landmark. The result is that the City Council approved the historic designation after they had just approved a parking plan which would call for acquisition of the site for public parking. This contradictory action creates the need for new environmental review and may increase the price and time frame of the acquisition. RdA funds 50% of a Historic Preservation Officer, so this kind of coordination problem should not exist. Some people we interviewed feel that Redevelopment in the past has not been adequately sensitive to historic preservation concerns.

**309. Recommendation:** The Redevelopment Agency should prepare a memorandum of understanding concerning Historic Preservation issues and functions with Planning and the Historic Landmarks Commission.

We have also received feedback that both Building and Fire may not be adequately sensitive to the need for special standards for adaptive reuse of historic buildings.

**310. Recommendation:** Building and Fire should review their approach to requirements for historic buildings.

## **Planning Issues**

There is a concern within Redevelopment for projects in redevelopment areas that are not the subject of RdA involvement initially, but rather come to the City via an application for development approval. This is particularly critical for projects

requiring a General Plan amendment or rezoning. It should be a simple process for Planning to have a routine referral to Redevelopment. Once Redevelopment is on the AMANDA system, it may also be possible to provide a special flag for any project within a redevelopment area.

**311. *Recommendation:* Planning should work with Redevelopment to determine how Redevelopment wishes to have projects within redevelopment areas flagged for their review.**

There is some confusion that occurs between Redevelopment and Planning on streetscape and façade improvement plans. Redevelopment may have paid professional architects to design the project according to the City’s preliminary review only to have Planning want to redesign the project. On the other hand, Planning is concerned that streetscape and façade projects conform to the Commercial Design Guidelines, and Secretary of Interior standards for modifications to historic structures where appropriate. Issues such as landscaping, lighting, garbage, and signage are also considered appropriate to review when new investments are made on non-conforming structures and properties. Better coordination is required as those projects are scoped out so that agreements are not reached with the property owner on a façade without a sense of the other issues. This, like some of the other issues, occurs when Planning or Redevelopment is not adequately sensitive to each other’s interest.

**312. *Recommendation:* Planning and Redevelopment should arrive at a formal agreement on timing and responsibilities regarding streetscape and façade improvements.**

## **F. PERMITTING PROCESS**

This is not a full organizational review of the Redevelopment Agency. However, we believe there may be opportunities for better alignment and improvement of services as related to Redevelopment’s permitting and development. As such, a separate analysis would be useful to ensure the Agency’s functional responsibilities, staff and decision-making are properly aligned and that its processes are clear and work effectively to facilitate development.

**313. *Recommendation:* The Executive Director of the Redevelopment Agency should address the issues highlighted above. She may wish to consider use of an outside organizational consultant to assist in this effort.**

## **G. REDEVELOPMENT WEB SITE**

Redevelopment has a good Web site with much useful information. However, we noticed that the site does not contain any information on permitting. Even if this report's recommendation to return permitting to Planning is accepted, the Web site could have a reference to how redevelopment permits are processed and by whom. If the report's recommendation is not accepted and Redevelopment retains permitting authority, then permitting features should be added to the Redevelopment Agency's Web site.

**314. *Recommendation:* The Redevelopment Agency's Web site should have permit information added.**

## **H. TEAM BUILDING**

While relations between RdA staff and City staff are improving, more needs to be done to assure good cooperation and teamwork.

**315. *Recommendation:* Whatever final arrangements are ultimately decided upon, thought should be given to a comprehensive "team building" effort between Redevelopment and City staff using the services of an outside facilitator.**