



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: October 2, 2017

COUNCIL DISTRICT: 6

SUBJECT: PDC17-018 AND PD17-011. PLANNED DEVELOPMENT REZONING FROM THE R-1-8 SINGLE-FAMILY RESIDENCE ZONING DISTRICT TO THE R-1-8(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW THE DEVELOPMENT OF TWO FLAG LOTS; AND A PLANNED DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF AN EXISTING SINGLE-FAMILY HOME AND ASSOCIATED ACCESSORY STRUCTURES AND THE CONSTRUCTION OF THREE (3) SINGLE-FAMILY DETACHED HOMES ON A 0.42-GROSS ACRE SITE.

RECOMMENDATION

The Planning Commission voted 5-0-2 (Bit-Badal, Vora absent) to recommend that the City Council adopt a resolution denying the proposed rezoning and Planned Development Permit as recommended by staff.

OUTCOME

Should the City Council deny the Rezoning and Planned Development Permit as recommended by the Planning Commission and staff, the applicant will not be able to move forward with the proposed project. Should the Council support the development of flag lots at the subject site, the Council would need to direct staff to complete a full project review and an environmental analysis for this project and to bring the environmental clearance and entitlements back to the Planning Commission and City Council for review and consideration. A full project review and an environmental analysis were not completed for this project at this time because staff's recommendation was for denial, and the applicant requested to proceed directly to hearings by the Planning Commission and City Council.

BACKGROUND

The owners of an existing 18,575 square foot lot located at 1220 Curtiss Avenue, in the Willow Glen neighborhood, propose to develop three single-family detached residences on separate lots, including two flag lots and one common driveway lot. A parcel map application has not been submitted to date, but a Flag lot development in a single-family neighborhood is subject to City Council Policy 6-

19 (adopted in 1990), as well as relevant land use policies in the *Envision San José 2040 General Plan* (adopted in 2011). City Council Policy 6-19 requires flag lots to be considered through the Planned Development zoning process.

On September 13, 2017, the Planning Commission held a public hearing to consider the proposed rezoning from the R-1-8 Single-Family Residence Zoning District to the R-1-8(PD) Planned Development District (File No. PDC17-018) and the associated Planned Development Permit (File No. PD17-011). The Director of Planning, Building and Code Enforcement recommended denial of the proposed Planned Development Rezoning and Planned Development Permit.

In the verbal staff report, staff stated that the proposed project would allow the subdivision of an existing single-family lot into four smaller lots, including two flag lots and one common lot, in an established residential neighborhood where the predominant development pattern is otherwise characterized by single-family detached homes on larger lots with deep rear yards.

Staff cited the following Land Use Policies from the *Envision San José 2040 General Plan* in relation to the proposed project and how the proposed flag lot development is inconsistent with such policies:

- Land Use Policy LU-9.15 states that flag lots may be appropriate on ***hillside properties*** but are discouraged within other parts of the City. In areas of steep terrain, flag lots are often the only way to provide viable access to a property from the public right-of-way. In such circumstances, the driveway (“pole”) of the flag lot may extend across the front or side of an adjacent property, and houses built on both lots are able to maintain a clear and visible relationship to the street.

Analysis: The subject site at 1220 Curtiss Avenue is not located in a hillside area, and the proposed flag lots are needed only to allow higher density development on the subject site in the form of three detached houses stacked one behind on three smaller lots. Further, the new lots would differ in size, shape, and dimensions from all other lots in the surrounding area, and the two rear houses would not have a clear and visible relationship to the street. A fourth common lot would be created to allow a shared private driveway. Since the proposed flag lot development is not located in a hillside area, the only rationale for the flag lots is the applicants’ desire to achieve additional development on the site. Therefore, the proposed project is inconsistent with General Plan Policy LU-9.15 as described above.

- Land Use Policy LU-11.2 discourages flag lots that would increase the density of an area and disrupt an established neighborhood pattern. Policy LU-11.2 also encourages the development of second units (granny or in-law units) in lieu of creating flag lots.

Analysis: The Curtiss Avenue neighborhood is characterized by single-family detached homes on larger lots with deep rear setbacks. In this neighborhood, the average lot size is roughly 8,400 square feet, and the average density is approximately 6.7 dwelling units per acre (DU/AC). The subject site is currently developed with a single-family residence which yields a density of 2.38 DU/AC. The proposed development would create four small lots, including two flag lots and one common driveway lot, with an average lot size of roughly 4,600 square feet and an average density of approximately 7.14 DU/AC. This significant decrease in lot size and

increase in density is inconsistent with the prevailing development pattern of the neighborhood and entirely inconsistent with the densities of the properties that directly border the site to the north and south (3.22 DU/AC and 3.7 DU/AC, respectively).

In December 2016, the City Council amended the Zoning Ordinance to further implement the General Plan and support the development of second units (granny or in-law units) "by right" in most residential neighborhoods. Staff advised the applicant that a second granny/in-law unit could be built on the subject site by right, but the applicants chose to pursue three larger units on smaller individual lots, including two flag lots, through a Planned Development rezoning.

In addition to the General Plan, staff explained that City Council Policy 6-19, adopted in December 1990, provided specific criteria for the development of flag lots in single-family neighborhoods and required that new flag lots be approved through the Planned Development zoning process. Staff further explained that in adopting its policy on the use of flag lots, the Council sought to quell the increasing speculative use of flag lots to intensify development in older single-family neighborhoods throughout San José. Staff noted that despite the adoption of City Council Policy 6-19 in 1990, some flag lot development was approved over the years. As part of the General Plan Update in 2011, the City Council adopted clear General Plan policies to discourage further development of flag lots except in hillside areas where steep terrain or other constraints may require irregular lot shapes. The purpose of these General Plan policies was to provide clear guidance related to flag lot developments.

In establishing Policy 6-19 for flag-lot development, the Council expressed its intent to curtail the incremental encroachment of higher density, small-lot development into established residential neighborhoods, such as Willow Glen. Current General Plan policies direct this type of new, high-density development away from established single-family neighborhoods and into designated growth areas. Council Policy 6-19 includes the following statement:

"Many problems result [from the use of flag lots], especially in areas designated medium density residential (8DU/AC). These problems threaten the character and stability of existing neighborhoods which are vital elements of the City's housing stock. For these reasons, increasing residential density in predominantly single-family detached neighborhoods through the use of flag lots shall not be considered as Infill Housing Policy development."

Staff repeated the Council's direction that "flag lots are not appropriate in situations where a series of large lots could be converted to smaller lots, thereby raising the density and changing the character of the neighborhood." Staff noted that three other small-lot subdivisions had been approved along Curtiss Avenue in 1986, 2002, and 2005, and stated that these developments had been approved prior to adoption of the *Envision San José 2040 General Plan*. Staff suggested that creating flag lots to accommodate three single-family detached homes would fundamentally change the character of a neighborhood where the predominant pattern is one home on one large lot with deep setbacks. Several General Plan policies related specifically to flag-lot development clarify that the intent of Council Policy 6-19 is to curtail intrusive small-lot development in traditional large-lot neighborhoods.

The applicant addressed the Commission and stated his opinion that approval of the proposed flag lot was a matter of interpreting the General Plan and a political decision. The applicant suggested

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that the use of Planned Development zoning allowed the property owner to set aside the usual R-1-8 development standards and create whatever development parameters were necessary to allow maximum development of the flag lots. The applicant stated that he had been the developer of one of the other small-lot subdivisions on Curtiss Avenue and that allowing additional development on larger lots in this neighborhood and throughout the City would help alleviate the housing crisis in the area.

Staff responded that in matters of policy interpretation, the City Council has unique competence to interpret its own policies, and by law, the Council is given great deference to determine whether a proposed project is or is not consistent with its General Plan. The General Plan policy is clear on this issue and the City Council has recently considered and denied similar requests. For example, staff explained that the Planning Commission recently recommended denial of a similar flag lot proposal on Minnesota Avenue in Willow Glen. In making its recommendation for denial on the previous request, the Planning Commission focused on the incompatibility of small-lot development within an established neighborhood and the inconsistency of the proposed flag lot with specific General Plan policies. This application was withdrawn by the applicant before it could proceed to the City Council for a final decision.

Staff explained that flag lots may be appropriate on hillside property because the steep terrain makes it difficult to access a building site other than by configuring the lots in irregular shapes. Flag lots make sense in areas where access to a site may require the driveway to extend along the property boundary. In such cases, the houses are not stacked but can maintain a presence on the street as required by the General Plan Policy and Council Policy. In non-hillside areas, flag lots change the neighborhood character because the residences are stacked one behind the other with the rear residences having no visible connect to the street or surrounding neighborhood. The General Plan provides policies that seek to preserve the prevailing development pattern in established neighborhoods and to ensure that new housing is similar to what was already there to preserve the community and not increase density by allowing the development of flag lots.

Commissioner Allen asked staff to explain why the three flag lot subdivisions had been approved in this area in 1986, 2002, and 2005, if such actions were contrary to the City's development policies. Staff suggested that Council Policy 6-19 was not being strictly enforced prior to adoption of the 2040 General Plan, but specific language related to flag lots had been included in the General Plan Update to address this issue.

Commissioner Allen moved to accept staff's recommendation to deny the proposed Planned Development Rezoning and Planned Development Permit as described. Commissioner Abelite seconded the motion.

The Planning Commission then voted 5-0-2 (Bit-Badal, Vora absent) to recommend that the City Council deny the proposed rezoning and Planned Development Permit as recommended by staff.

ANALYSIS

A complete analysis of the issues regarding the proposed Planned Development rezoning and flag lot development, including General Plan conformance and consistency with Council Policy 6-19, is contained in the attached staff report to the Planning Commission.

In addition to the analysis provided in the attached staff report, staff would like to highlight the following General Plan land use policies that have been adopted to preserve the general character and density of mature residential neighborhoods that are designated as non-growth areas. The proposed flag lot development is also inconsistent with each of these additional policies:

- LU-2.3 To support the intensification of identified growth areas, and to achieve the various goals related to their development throughout the City, restrict new development on properties in non-growth areas.
- LU-9.8 When changes in residential densities in established neighborhoods are proposed, the City shall consider such factors as neighborhood character and identity, historic preservation; compatibility of land uses and impacts on livability; impacts on services and facilities, including schools, to the extent permitted by law; accessibility to transit facilities; and impacts on traffic levels on both neighborhood streets and major thoroughfares.
- LU-9.17 Limit residential development in established neighborhoods that are not identified growth areas to project that confirm to the site's Land Use/Transportation Diagram designation and meet Urban Design policies in [the General] Plan.
- LU-11.2 Support subdivisions of residential lots if the new lots reflect the established pattern of development in the immediate area, including lot sizes and street frontages. Discourage residential developments, such as court homes or flag lots, that increase residential densities for an area or disrupt an established neighborhood pattern. Allow new development of a parcel, including one to be subdivided, to match the existing number of units on that parcel; design such subdivisions to be compatible with and, to the degree feasible, consistent with the form of the surrounding neighborhood pattern. Consider allowing secondary units (granny or in-law units) in lieu of creating flag lots, sub-standard lots, or parcels that disrupt an established neighborhood pattern.
- LU-11.3 Direct all significant new residential growth to identified growth areas to further the environmental, transit, healthy community, and other *Envision General Plan* objectives. Limit infill development within areas designated as Residential Neighborhood on the Land Use/Transportation Diagram to project that maintain the prevailing neighborhood form and density as it exists on adjoining properties, with particular emphasis upon establishing and/or maintaining a consistent streetscape form between new and existing development.
- LU-11.6 For new infill development, match the typical lot size and building form of any adjacent development, with particular emphasis given to maintaining consistency with other development that fronts onto a public street to be shared by the proposed

new project. As an exception, for parcels already developed with more than one dwelling unit, new development may include up to the same number of dwelling units as the existing condition. The form of such new development should be compatible with and, to the degree feasible, consistent with the form of the surrounding neighborhood pattern.

EVALUATION AND FOLLOW UP

Should the City Council deny the Rezoning and Planned Development Permit as recommended by the Planning Commission and staff, the applicant would not be able to move forward with the proposed project.

Should the Council wish to support the proposed flag lot development, the Council would need to direct staff to complete the full project review and an environmental analysis for the proposed project and return to the Planning Commission and City Council for review and consideration of the environmental clearance and entitlements. A full project review and an environmental analysis was not completed for this project at this time because staff's recommendation was for denial, and the applicant requested to proceed directly to hearings by the Planning Commission and City Council.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy to inform the public about the project. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The Rezoning and Planned Development Permit were also published in a local newspaper, and a sign was posted on the property. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

COORDINATION

Preparation of this memorandum has been coordinated with the City Attorney's Office.

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CEQA

The project is Exempt from environmental review under California Environmental Quality Act (CEQA) Guidelines Section 15270 for projects which are disapproved. The project qualifies for this exemption because staff recommends denial of the project.

/s/

ROSALYNN HUGHEY, Interim Director
Planning, Building and Code Enforcement

For questions, please contact Planning Official, Steve McHarris, at (408) 535-7893.

Attachments: Planning Commission Staff Report and Attachments
Draft Resolution



PLANNING COMMISSION STAFF REPORT

File Nos.	PDC17-018 & PD17-011
Applicant	Rick and Holly Hartman, HOMETEC Architecture
Location	East side of Curtiss Avenue, approximately 650 feet southerly of Willow Street (1220 Curtiss Avenue)
Existing Zoning	R-1-8 Single-Family Residence
Proposed Zoning	R-1-8(PD) Planned Development
Council District	6
Historic Resource	Unknown
Annexation Date	October 1, 1936
CEQA	CEQA Guideline Section 15270 for Projects Which Are Disapproved

APPLICATION SUMMARY:

The following applications are proposed for the 0.42 gross acre site located at 1220 Curtiss Avenue:

PDC17-018 – Planned Development Rezoning (PDC17-018) from the R-1-8 Single-Family Zoning District to the R-1-8(PD) Planned Development Zoning District to allow three-single family detached residences, including two flag lots, on 0.42-gross acre site.

PD17-011 – Planned Development Permit (PD17-011) to allow the demolition of an existing residence and accessory structures for the construction of three (3) single-family detached residences on a 0.42-gross acre site in the R-1-8 Single-Family Residential Zoning District.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend **denial** of the proposed Planned Development Rezoning and Planned Development Permit to the City Council based on the findings stated in this staff report and attached proposed resolution.

GENERAL PLAN CONSISTENCY	
General Plan Designation	Residential Neighborhood <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent
Consistent Policies	None
Inconsistent Policies	LU-9.15, LU-11.1, LU-11.2, IP-1.7

SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Residential Neighborhood	R-1-8 Single Family Residence	Single-family Detached Residences
South	Residential Neighborhood	A(PD) Planned Development	Single-family Detached Residences
East	Urban Residential	R-M Multiple Residence	Single-family Detached Residences, Multi-family Residences
West	Residential Neighborhood	A(PD) Planned Development	Single-family Detached Residences
RELATED APPLICATIONS			
Date	Action		
05/18/15	File No. PRE15-091: Preliminary Review to subdivide existing single-family lot into three lots (create flag lot).		

PROJECT DESCRIPTION

On March 15, 2017, a Planned Development Permit was filed to allow the demolition of an existing residence and accessory structures for the construction of three single-family detached residences on the 0.42-gross acre subject site. On April 27, 2017, a Planned Development Zoning application was filed for concurrent review for the development of three single-family residences, including two flag lots. No parcel or tentative map application was filed.

Site Location and Surrounding Uses

The subject site, located at 1220 Curtiss Avenue, contains approximately 0.42-gross acres and is located on the southeast side of Curtiss Avenue, approximately 650-feet southerly of Willow Street. The property is developed with an existing single-family residence and accessory structures located behind the residence (see Figure 1).



Figure 1: Aerial Map of Site Location and Adjacent Neighborhood

The property is surrounded on all sides by single-family residences except for one parcel to the east which is developed as a multi-family condominium. All properties in the surrounding area follow a historic development pattern of one single-family detached home on one lot with the exception of two multifamily residential parcels to the north (zoned R-M Multiple Family) and three flag-lot developments to the south and north of the subject site.

In 1986, one larger lot located south of the subject site at 1254 Curtiss Avenue was subdivided into three smaller parcels and developed with three single-family residences on small lots (File No. PDC86-045). In 2002 and in 2005, two additional large lots located at 1182 and 1163 Curtiss Avenue were subdivided into three and four smaller parcels and developed with three and four single-family residences, respectively (File Nos. PDC01-084 and PDC05-031). There are roughly 12 other large lots with deep setbacks located in this area of Curtiss Avenue.

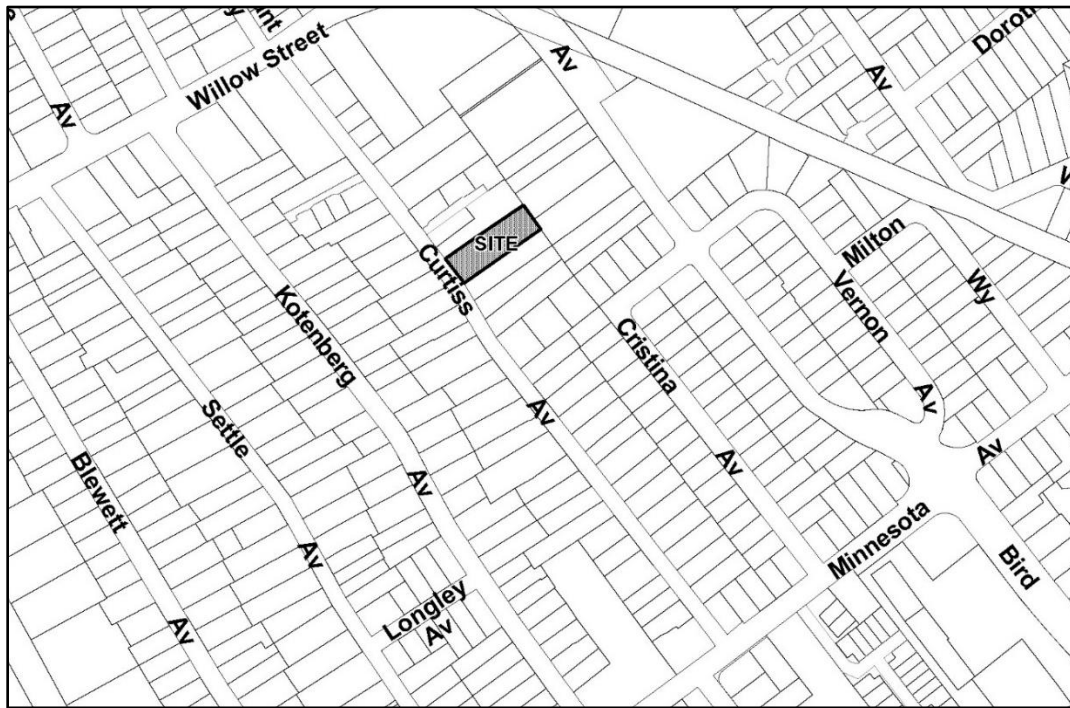


Figure 2: Parcel Map of the Surrounding Neighborhood

Background

On May 18, 2015, a Preliminary Review Application (File No. PRE15-091) was submitted for a three-lot subdivision of an existing 0.43-gross acre lot. This application proposed three single-family residences on three lots ranging in size from approximately 4,200 square feet to 5,500 square feet. Staff advised the applicant that a three-lot subdivision could not be supported at this location given its inconsistency with Envision San José 2040 General Plan Land Use Policies LU-11.1 and LU11.2 and Council Policy 6-19, which provides specific criteria and standards for the development of flag lots in single-family neighborhoods. Collectively, these policies discourage the development of flag lots in non-hillside areas and the development of residential subdivisions that do not reflect the prevailing form and pattern of development in the surrounding neighborhood.

In lieu of the flag lots, planning staff recommended that the applicant consider a secondary dwelling unit at the rear of the property pursuant to Section 20.30.150 (Secondary Units) of the San José Municipal Code. A copy of Planning's comment letter is attached.

On March 15, 2017, a Planned Development Permit application was submitted by a different applicant seeking approval for the demolition of the existing single-family home and the construction three single family-homes on the existing 18,573 square foot lot, including two interior flag lots (see Figure 3). Unit No. 1, as shown in Figure 3 below, would have an area of approximately 5,208 square feet (56 feet x 93 feet) with frontage on Curtiss Avenue. The existing one-story single-family residence, built in 1905, would be demolished to allow the construction of a new 2,651-square foot two-story residence with attached two-car garage.

Unit No. 2 and Unit No.3 would both be the interior flag lots with total areas of 3,747 square feet (56 ft. x 67 ft.) and 5,945 square feet (78 feet x 77 feet), respectively. These units would be located behind Unit No. 1 and would be accessed via a new shared private driveway along the northern boundary of the property. A 2,592-square foot and a 3,004-square foot single-family residence with attached two-car garages are proposed on Unit #2 and Unit #3, respectively.

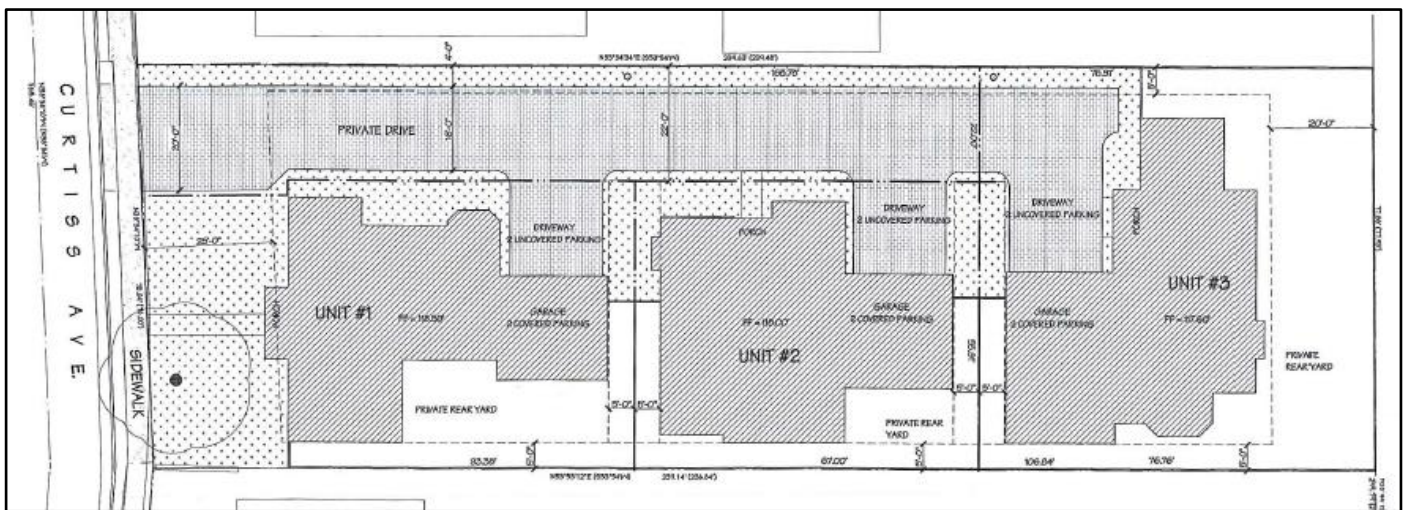


Figure 3: Proposed Site Plan

In March 2017, staff met with and advised the applicant that the proposed Planned Development Permit could not be supported by staff due to incompatibility with the General Plan and City Council policies pertaining to flag lots and neighborhood preservation. Furthermore, a Planned Development Zoning had not been filed. During this meeting, staff notified the applicant and property owner that a Preliminary Review Application (File No. PRE15-091) had previously been submitted for the subject site and was not supported due to similar reasons. The applicant was advised to: 1) withdraw the application, or; 2) proceed with the proposed Planned Development Permit and associated Planned Development Zoning with a staff recommendation of denial.

On April 27, 2017, the applicant submitted a Planned Development Zoning contrary to staff's recommendation. The applicant requested that their rezoning application proceed straight to public hearing before the Planning Commission and City Council without final staff review of the proposed project or environmental review. As a result, neither the Public Works Department nor the Fire Department have provided a Final Memo with input on the proposed project. Therefore, in the event the City Council supports approval of the flag lot development, the City Council will need to direct staff to complete the usual project review and environmental analysis and return to the Planning Commission and the City Council for consideration of the environmental clearance and project entitlements.

ANALYSIS

The Planned Development Rezoning and Planned Development Permit, as currently proposed, has been analyzed for conformance with: 1) the Envision San José 2040 General Plan, 2) City Council Flag Lot Policy 6-19, 3) the San Jose Municipal Code, 4) the Residential Design Guidelines, and 5) the California Environmental Quality Act (CEQA).

Envision San José 2040 General Plan Conformance

The subject site is designated Residential Neighborhood on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan.

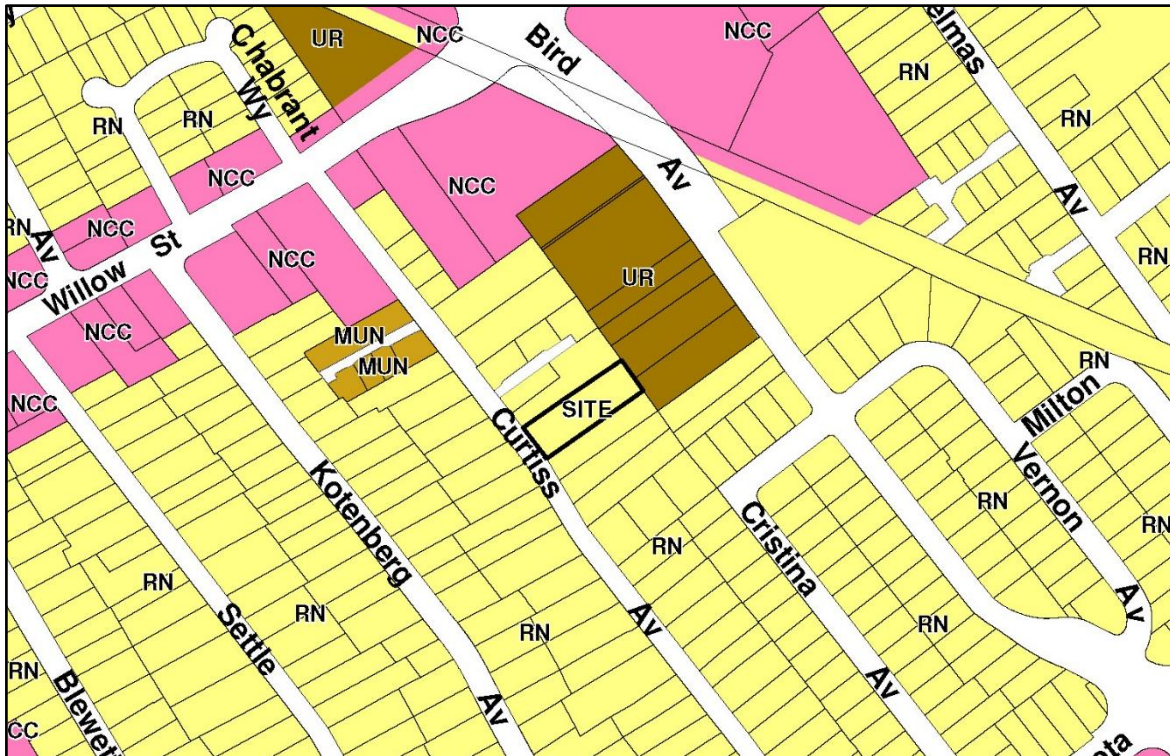


Figure 4: General Plan Land Use Designation

This designation is applied broadly throughout the City to encompass most of the established, single-family residential neighborhoods. The intent of this designation is to preserve the existing character of these neighborhoods and to strictly limit new development to infill projects which closely conform to the existing prevailing neighborhood character. New infill development should improve and/or enhance existing neighborhood conditions by completing the existing neighborhood pattern and maintaining the quality and character of the surrounding neighborhood. Maximum density in areas designated RN shall be limited to eight dwelling units per acre, or the prevailing neighborhood density, whichever is lower.

Analysis: As noted above, the intent of the Residential Neighborhood designation is to preserve the existing character of established, single-family neighborhoods and to strictly limit new development to infill projects which closely conform to the existing prevailing neighborhood character as defined by density, lot size and shape, massing and neighborhood form and pattern. Particular emphasis should be given to maintaining consistency with other homes fronting onto the public street to be shared with the proposed new project.

The existing prevailing neighborhood character of Curtiss Avenue is defined by single-family homes and standard lot shapes (rectangles) of varying depths. The neighborhood includes a pocket of multi-family residential development and three flag-lot developments, which were created by subdividing larger lots with deep rear setbacks into smaller lots. Roughly twelve lots of similar size and shape remain along Curtiss Avenue. In recent years, a significant number of older homes in this area have been either demolished and replaced with larger new homes or enlarged; however, this type of development maintains the prevailing density and predominant neighborhood development pattern of one single-family home on one larger lot with ample setbacks.

In 1986, one larger lot located to the south of the subject site at 1254 Curtiss Avenue was subdivided into three smaller parcels and developed with three small-lot, single family residences (PDC86-045). In 2002 and in 2005, two larger lots were also subdivided into three and four smaller parcels and developed with three and four single-family residences, respectively (PDC01-084 and PDC05-031). These projects were developed prior to adoption of the 2040 General Plan in November 2011. Specific development policies in the current General Plan were adopted to support Council Policy 6-19, which states that flag lots are not appropriate in situations where a series of larger lots could be converted to smaller lots, thereby raising the density and changing the character of the neighborhood. Allowing the subject site to be subdivided into three smaller lots would result in the conversion of a series of four large lots into smaller parcels, thereby raising the density and further changing the character of Curtiss Avenue.

While shallower lots and the aforementioned developments contribute to an increase in residential density, the average density of the neighborhood is 6.7 dwelling units per acre. The subject site is currently developed with a single-family residence which yields a density of 2.38 dwelling units per acre. Development of the site with three single-family residences, as proposed, would result in a density of 7.14 dwelling units per acre, which exceeds the prevailing neighborhood density and is entirely inconsistent with the densities of the properties that directly border the site to the north and south (3.22 DU/AC and 3.7 DU/AC, respectively).

Based on the above, the proposed flag lot would be inconsistent within the historic and prevailing development pattern in an established, single-family neighborhood and would not improve or enhance or maintain the quality and character of the surrounding area.

The proposed project is inconsistent with the following General Plan policies:

1. Land Use Policy LU-9.15: New single-family flag lots may be appropriate on hillside properties but are discouraged within other parts of the City. Flag lot development in non-hillside areas should have a clear and visible relationship to the neighborhood and the street and should be consistent with the applicable zoning district which can assure that relationship. To strengthen neighborhood preservation policies and objectives of this plan, the City Council has adopted a policy establishing criteria for the use of flag lots.

Analysis: The subject site is not located in a hillside area, and the proposed flag lots are needed only to allow the construction of two additional single-family residences. If approved, the proposed Planned Development Rezoning and Planned Development Permit would allow the applicant to file for a parcel or tentative map to enable subdivision of the existing large lot into three smaller lots. The two rear residences would be largely hidden from view and would not have a clear and visible relationship to the neighborhood or the street. The proposed flag lots would not be consistent with the prevailing form and pattern of development in the surrounding neighborhood, which features one single-family home on rectangular lots with a few minor exceptions. In this case, the proposed flag lot would create a unique lot

configuration with three lots differing in size, shape, and dimensions from the majority other lots in the surrounding neighborhood.

The City Council adopted Policy 6-19 in December 1990 to establish specific criteria for flag lots. This policy states that flag lots are not appropriate in situations where a series of large lots could be converted to flag lot developments, thereby raising the density and changing the character of the neighborhood. As discussed above, three flag-lot developments currently exist to the north and the south of the subject site. These flag lots were approved under the previous 2020 General Plan and would not be supported under the current development policies of the Envision San José 2040 General Plan and Council Policy 6-19. Allowing the subject site to be subdivided into three smaller lots would continue the conversion of large lots into smaller parcels, thereby raising the density and further changing the character of this neighborhood.

2. Land Use Policy LU-11.1: Design all new single-family detached residences so that each home has a frontage on a public street or on a private street that appears and functions as a public street.

Analysis: Through a subdivision of the subject single-family site, the applicant proposes to build three new residences. The residence identified as Unit 1 on the proposed Site Plan (see Figure 3) would have 56 feet of frontage on Curtiss Avenue; however, the residences identified as Units 2 and 3 would be located toward the rear of the site, behind Unit 1, and would not have significant frontage on a public street or a private street. As discussed above, each lot would have access from Curtiss Avenue via a new common private driveway along the northern boundary of the property. This 16-foot ingress/egress easement is designed as a private drive, not a public or private right-of-way. Furthermore, no sidewalk or pedestrian access is provided along the shared driveway which is typical in the design of public and private right-of-ways.

3. Land Use Policy LU-11.2: Support subdivisions of residential lots if the new lots reflect the established pattern of development in the immediate area, including lot sizes and street frontages. Discourage residential developments, such as court homes or flag lots, that increase residential densities for an area or disrupt an established neighborhood pattern. Allow new development of a parcel, including one to be subdivided, to match the existing number of units on that parcel; design such subdivisions to be compatible with and, to the degree feasible, consistent with the form of the surrounding neighborhood pattern. Consider allowing second units (granny or in-law units) in lieu of creating flag lots, substandard lots or parcels that disrupt an established neighborhood pattern.

Analysis: As discussed under the General Plan analysis, the proposed flag lot does not reflect the historic and prevailing pattern of development in the surrounding neighborhood. Curtiss Avenue is developed primarily with single-family residences on rectangular lots of varying depths and sizes. The proposed flag lot would result in lot sizes that are consistent with the smaller single-family lots in the neighborhood; however, these lots contain single-family residences that are oriented towards and have frontage on Curtiss Avenue. Three small-lot, flag lot projects have been developed to the south and north of the subject site, but these and a handful of other higher density properties are exceptions to the historic and prevailing development pattern in this neighborhood and should not be cited as precedent to support the current proposal. The proposed flag lot would create another exception to the historic and prevailing development pattern in an established, single-family neighborhood and would not improve, enhance, or maintain the quality and character of the surrounding neighborhood.

4. Implementation Policy IP-1.7: Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics that require special consideration due to those constraints.

Analysis: City Council Policy 6-19 requires that new flag lots shall be created through the Planned Development zoning process. The subject site is located within a standard R-1-8 Residence Zoning District site and is similar to other large lots with deep rear setbacks in the surrounding neighborhood. The existing one-story single-family residence at the front of the site is also consistent with the prevailing development pattern of the surrounding neighborhood.

The proposed Planned Development would allow the creation of three smaller lots and the construction of three, two-story single-family residences. Two of the residences would not have frontage on Curtiss Avenue. The subject site is not constrained by unusual physical characteristics as other properties in the area have similar dimensions, and the only purpose of the proposed flag lot development would be to accommodate additional development on the property.

City Council Policy 6-19: Flag Lot Development in Single-family Neighborhoods

Policy 6-19 provides specific flag lot criteria for flat land areas. In established, predominantly single-family detached neighborhoods, the following criteria shall apply:

1. Flag lots are not appropriate in situations where a series of large lots could be converted to flag lot developments, thereby raising the density and changing the neighborhood character.

Analysis: In 1986 (PDC86-045), one larger lot located to the south of the subject site at 1254 Curtiss Avenue was subdivided into three smaller parcels and developed with three small-lot, single family residences. As mentioned above, Policy 6-19 was adopted to curtail this type of higher density, small-lot development in established, single-family residential neighborhoods. In 2002 (PDC01-084) and in 2005 (PDC05-031), two larger lots were also subdivided into three and four smaller parcels and developed with three and four single-family residences, respectively. These developments were approved under the San Jose 2020 General Plan which did not contain land use policies against the creation of flag lot development in non-hillside areas of the City. Furthermore, under the 2020 General Plan, the property at 1163 Curtiss Avenue (File no. PDC05-031) was designated Medium High Density Residential which permitted residential density between 12 and 25 DU/AC. With the 2040 General Plan update, this property has since been designated Residential Neighborhood. Subdividing the subject site into three smaller lots would be contrary to Council Policy 6-19 because it would be the fourth conversion of a series of large lots into smaller parcels, thereby raising the overall density of development on this portion of Curtiss Avenue and further changing the character of the surrounding neighborhood.

2. Neighborhoods that may be appropriate for flag lot development have uniformity of single-family lot sizes, but with an occasional and unique in its neighborhood, larger parcel, suitable for flag lot projects.

Analysis: The existing prevailing neighborhood character of Curtiss Avenue is defined by single-family homes and standard lot shapes (rectangles) of varying depths. The subject site is one of several historically larger parcels. As previously discussed, a pocket of multi-family residential exists to the north of the site as well as three larger lots to the south and north of the site that were subdivided into 10 smaller parcels in 1986 and the 2000's. Subdivision of the subject site into three smaller lots, including two internal flag lots, could possibly be the

catalyst for a series of conversions from large lots to small lots as several other parcels along Curtiss Avenue could also seek similar redevelopment. The subject site is not unique in its neighborhood as roughly twelve other properties in the adjacent neighborhood have similar dimensions and deep rear setbacks.

3. In neighborhoods which are designated medium low density residential (8DU/AC), parcels considered for flag lot development are recommended to be approximately 8,000 square feet in size. At a minimum, the parcel must be larger than the average, or of a unique configuration, in the surrounding area in order to generously meet R-1 setback zoning codes.

Analysis: The subject site contains approximately 18,573 sf. The proposed subdivision would result in three parcels – a front lot (Unit 1) containing approximately 5,208 sq. ft., a middle lot (Unit 2) containing approximately 3,747 sq. ft., and a rear lot (Unit 3) containing approximately 5,945 sq. ft. The proposed lot sizes are inconsistent with this policy and do not provide adequate space to meet the development standards of the R-1 Zoning District. In addition, the irregular shape and location of the two smaller flag lots away from the street are inconsistent with the prevailing neighborhood character.

4. Flag lot units located away from the street shall maintain a presence to the street, be oriented to the street, and be visible from the street. A larger front unit is not acceptable as a means to meet the street presence requirement.

Analysis: The residences on Unit 2 and Unit 3 would be set back approximately 100 feet and 170 feet, respectively, from Curtiss Avenue, which is significantly deeper than the typical 20 to 25-foot front setback for other single-family residences in this area and required by the R-1 development standards. The residence on Unit 2 does not conform to the above policy as it has no presence on Curtiss Avenue and is neither oriented toward nor visible from the street. Although a portion of the residence identified as Unit 3 would be partially visible from the street and its front door is oriented towards Curtiss Avenue, it has limited visibility beyond the unit identified as Unit 1 and is inconsistent with the intent of the above objective.

5. Flag lots shall be approved only through the Planned Development zoning process.

Analysis: Development of the proposed flag lot requires City Council approval of this application for a Planned Development Rezoning from the R-1-8 Single-Family Residence Zoning District to the R-1-8(PD) Planned Development Zoning District and a subsequent Planned Development Permit and Tentative Map. However, as noted in General Plan Implementation Policy IP-1.7, the City discourages the use the PD Zoning Process as standard zoning districts are intended to allow the appropriate type and intensity of development in a particular area. Furthermore, the subject site is not unique nor merits special considerations beyond other properties in the surrounding context.

6. Orientation, setbacks, and private yards should conform to the following criteria:

- a. All units shall orient to the street.

Analysis: The residence identified as Unit 2 is not oriented towards Curtiss Avenue. While the front door of the residence identified as Unit 3 is oriented west towards Curtiss Avenue, it does not have a significant presence due to limited visibility and a deep setback from the street.

- b. Each unit shall have both a “front” and “rear” yard on opposite sides of the unit.
- c. Front yard setback for the front unit must match neighborhood pattern. “Front” setbacks for rear units must meet R-1 standards.

- d. Rear yards for all units shall be a minimum of 1200 square feet, with a minimum dimension of 25 feet.

Analysis: Consistent with the R-1-8 development standards and the prevailing neighborhood development pattern, the front unit would maintain a 25-foot front setback from Curtiss Avenue and a five-foot side yard setback from the adjacent residence; however, the rear setback is not consistent with the required 20-foot rear yard setback of the R-1-8 Zoning District. The front and rear setbacks of the middle unit do not meet these development standards nor does the front setback of the rear unit. The proposed front unit would have an approximately 765-square foot rear yard area (17'-1" depth), the proposed middle unit would have an approximately 416-square foot rear yard area (15'-8" depth), and the rear unit rear yard is proposed at approximately 1,660-square feet (21'-4" depth). All interior setbacks are proposed at five feet.

- e. Setbacks from interior project boundaries should be 10 feet on the first floor and 20 feet on the second floor to neighboring rear yard, and five feet from a neighboring side yard.

Analysis: All interior setbacks are established at five feet which is inconsistent with the above standards. The side setback from Unit 2, which is adjacent to the rear yard of unit 1, is proposed to be five-feet for both the first and second floors.

- f. A common driveway for all units is encouraged; multiple driveways are discouraged.

- g. Driveways shall be a minimum of 10 feet wide, with a minimum of three feet of landscaping on either side.

Analysis: All three residences would have access from Curtiss Avenue via a shared 16-foot wide driveway with a minimum of three feet of landscape on either side.

- h. Parking ratios for each unit shall be in conformance with the Residential Design Guidelines, varying by unit size. Guest parking for units not having street frontage shall be provided at each unit.

- i. Adequate vehicle turnaround space shall be provided for each unit (typically a 26-foot minimum dimension).

Analysis: Consistent with the Residential Design Guidelines, each unit would have a two-car, attached garage with an 18-foot long two-car driveway for guest parking. Consistent with the Flag Lot Development Policy, both driveways would also accommodate adequate vehicle turn-around. It should be noted that unit 3 exceeds the maximum 150-foot hose reach, therefore, adequate emergency vehicle access is required. The current design does not account for adequate emergency vehicle access.

- j. To protect the privacy of yard areas on neighboring properties, large windows and decks on the second floor shall orient to on-site yard areas, not to surrounding properties.

Analysis: The current plans call for three, two-story single-family residences. The balconies on the second floor of each unit are oriented towards the north, onto the common driveway.

- k. Drainage shall follow pre-existing drainage patterns, which may require obtainment of easements from adjacent property owners. Padding up the rear of the site to achieve drainage to the street is discouraged.

Analysis: The proposed rezoning application includes conceptual grading and drainage plans. The Public Works Department has not issued a Final Memorandum indicating whether the project is in compliance with City stormwater requirements.

1. The mass of the front and back units should be consistent with the average mass in the surrounding neighborhood.

Analysis: The residences on the properties that directly abut the subject site to the north and south are developed with single-story, single-family residences. While the massing of Unit 1 steps back at the interfaces between these residences, the proposal includes a two-story massing along the street which is inconsistent with the historic development pattern of the neighborhood. The second floors of Units 2 and 3 also step back in response to adjacent single-story neighbors. The size and design of the proposed buildings are not the primary issue with the project.

Zoning Ordinance Conformance

The subject property is located in the R-1-8 Single-Family Residence Zoning District which is intended primarily for single-family residences and secondary dwellings. Pursuant to the Table 20-60 of Section 20.30.200 of the San Jose Municipal Code, development in the R-1-8 Zoning District is subject to the following development standards (see Figure 5).

Given that the proposed project includes deviations from the R-1-8 Zoning District development standards and includes a flag lot configuration, a Planned Development Zoning is required.

	Required	Proposed
Minimum Lot Size	5,445 sf	Unit 1 – 5,208 sf Unit 2 – 3,747 sf Unit 3 – 5,945 sf
Front Setback:	20 feet	Unit 1 – 25 feet Unit 2 – 100 feet Unit 3 – 170 feet
Side Setback,	5 feet	All units – 5 feet
Rear Setback,	20 feet	Unit 1 – 5 feet Unit 2 – 5 feet Unit 3 – 20 feet
Maximum Height	35 ft., 2.5 stories	All units – 2 stories

Figure 5: R-1-8 Single-Family Residence Zoning District Development Standards

Planned Development Findings

Pursuant to Section 20.190.940, the director, the planning commission on appeal, or the city council as appropriate, may not issue a planned development permit unless all of the following findings are made:

1. The Planned Development Permit, as issued, is consistent with and furthers the policies of the General Plan; and

Analysis: As explained in detail above, the Planned Development Permit is not consistent with nor furthers the policies of the General Plan in that the proposed flag lot configuration is inconsistent with Land Use Policy LU-9.15, which discourages the use of flag lot development in non-hillsides area of the City. Furthermore, the proposed residences would not have significant frontage on a public street or a private street which is inconsistent with Land Use Policy LU-11.1.

2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property; and

Analysis: As explained in detail above, the proposed Planned Development Permit is not consistent with the site's current R-1-8 Zoning. The proposed Planned Development Zoning associated with the development is recommended for denial as it does not conform to City Council Flag Lot Policy 6-19 as well as the goals and policies of the General Plan, as discussed above.

3. The Planned Development Permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: As currently designed, the proposed Planned Development Permit is not consistent with the development standards of City Council Flag Lot Policy 6-19, as discussed above. This policy was established to preserve the City's existing single-family neighborhoods from redevelopment with small-lot, high-density development. Furthermore, the policy explicitly states that flag lot developments are not appropriate in neighborhoods where a series of larger lots could be converted to flag lot developments, thereby raising the density and changing the neighborhood character. Subdivision of the subject site into three smaller lots, including two internal flag lots, would result in the fourth flag lot conversions. Additionally, several other parcels along Curtiss Avenue that share similar dimensions could possibly be converted. The proposed parcel sizes do not meet the recommended square footage of 8,000 square feet. The residence on Parcel 2 has no presence on Curtiss Avenue and is neither oriented toward nor visible from the street. While a portion of the residence on Parcel 3 would be visible from the street and its front door is oriented towards Curtiss Avenue, it has limited visibility beyond the unit on Parcel 1.

4. 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; and

The proposal includes the construction of three, Spanish-style homes. Although no other homes in the adjacent neighborhood are designed with a similar style, the massing and architectural character of the residences are compatible with one another and create harmonious aesthetic across the site but not with the neighborhood. The size and design of the proposed buildings are not the primary issue with the project.

5. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

Analysis: Because this project was recommended for denial, the current environmental review is a statutory exemption under California Environmental Quality Act (CEQA) Guidelines Section 15270 for Projects Which Are Disapproved. Full environmental review was not performed because the applicant requested to proceed straight to public hearing before the Planning Commission and City Council.

Demolition Permit Evaluation Criteria

Under the provisions of Section 20.80.460 of the San José Municipal Code, prior to the issuance of any development permit, which allows for the demolition, removal or relocation of a building, the following shall be considered to determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation:

1. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;

2. The failure to approve the permit would jeopardize public health, safety or welfare;
3. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
4. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
5. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
6. Rehabilitation or reuse of the existing building would not be feasible; and
7. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

The project includes the demolition of the existing single-story, single-family residence which was constructed in 1905. This structure is not listed on the City's Historic Resources Inventory; however, its age may qualify as a historic resource. A Historic Assessment, as requested by Planning staff, was not submitted with the application. Therefore, its historic value cannot be determined at this time. Demolition of this residence for the construction of three, single-family residences would result in further densification of this historically single-family neighborhood. Based on the above considerations, staff does not recommend demolition of this structure.

Residential Design Guidelines

The development standards recommended in the Residential Design Guidelines are intended to ensure compatibility with existing development in the surrounding neighborhood. The applicant proposes to demolish the existing single-family residence, built in 1905, in order to accommodate three, Spanish-style homes. While other properties along Curtiss Avenue have been redeveloped, either renovated or demolished and rebuilt, the proposed style is inconsistent with the existing architectural character of the neighborhood which is developed primarily with single-story craftsman style homes.

A majority of the older homes in this neighborhood have detached garages that are located at the rear of their property. The recently renovated or newly built homes have attached garages. While they do not follow the historic development pattern, these garages are located behind the main living areas and are not visible from Curtiss Avenue. The proposed units also contain attached two-car garages which are not visible from the public right of way.

Consistent with the Guidelines, the proposed massing of each unit steps away from the side and rear yards of the adjacent neighbors. The overall maximum height of the development is proposed at 28'-6" which is below the maximum height of 35 feet allowed in the R-1-8 Zoning District.

As noted above, the size and design of the proposed buildings are not the primary issue with the project. For all of the reasons set forth above, and more specifically the inconsistency with the cited General Plan and City Council Policy 6-19, staff recommends that the Planning Commission recommend denial of the Planned Development Rezoning and Planned Development Permit applications.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Because this project was recommended for denial, the current environmental review is a statutory exemption under California Environmental Quality Act (CEQA) Guidelines Section 15270 for Projects Which Are Disapproved. Full environmental review was not performed because the applicant requested to proceed straight to public hearing before the Planning Commission and City Council. Furthermore, a Historic Assessment, as requested, was not submitted by the

applicant. In the event that the City Council desired to approve the proposed Planned Development Zoning and Planned Development Permit, the Council would need to direct staff to complete the typical project review and the environmental analysis for this project. The project would then return to hearings for full consideration by Planning Commission and City Council.

PUBLIC HEARING NOTIFICATION

To inform the public of the proposed project, staff followed Council Policy 6-30: Public Outreach Policy. Public Hearing Notices were mailed to the owners and tenants of all properties located within 500 feet of the project site. Copies of the Public Hearing Notice and this staff report were also posted on the City’s website one week prior to the hearing date. Staff has been available to respond to questions from the public.

Project Manager: Shaunn Mendrin

Approved by:  , Planning Official for Rosalynn Hughey, Interim Planning Director

Date: 9/6/17 

Attachments:
Exhibit A: Draft PD Permit Denial Resolution
Exhibit B: Reduced Plan Sets
Exhibit C: PRE15-091 Comment Letter
Exhibit D: City Council Policy 6-19 Flag Lot Development
Exhibit E: Development Standards
Exhibit F: Public Comments

Owner:	Applicant:
Goldsilverisland Properties, LLC Ying-Min Li 1525 McCarthy Boulevard, Suite 100 Milpitas, CA 95035	HOMETEC Architecture Rick and Holly Hartman 619 North 1st Street San Jose, CA 95112

RESOLUTION NO.

A Resolution of the Planning Commission of the City of San José denying a Planned Development Rezoning (PDC17-018) from the R-1-8 Single-Family Zoning District to the R-1-8(PD) Planned Development Zoning District to allow three single-family detached residences on 0.42-gross acre site and a Planned Development Permit (PD17-011) to allow the demolition of an existing residence and accessory structures for the construction of three (3) single-family detached residences on a 0.42-gross acre site in the R-1-8 Single-Family Residential Zoning District.

FILE NO. PDC17-018, PC17-011

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on March 15, 2017, an application (File No. **PD17-011**) was filed with the City of San José for a Planned Development Permit to allow the demolition of an existing residence and accessory structures for the construction of three single-family detached residences on a 0.42-gross acre site in the R-1-8 Single Family Zoning District. On April 27, 2017, a Planned Development Zoning application (File No. **PDC17-018**) was filed for concurrent review to allow the subdivision of an existing single-family parcel into three lots, including two flag lots, for the development of three single-family residences; and

WHEREAS, the subject property is all that real property more particularly described in Exhibit "A," entitled "Legal Description," which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this Planning Commission conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, the Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this Planning Commission received and considered the reports and recommendation of the City's Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this Planning Commission received in evidence a plan for the subject property entitled, "Three New Homes For: GoldSilverIsland Properties, LLC" dated received July 14, 2017, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said public hearing before the Planning Commission was conducted in all respects as required by the San José Municipal Code and the rules of this Planning Commission; and

WHEREAS, this Planning Commission has heard and considered the testimony presented to it at the public hearing, and has further considered written materials submitted on behalf of the project applicant, City staff, and other interested parties;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSE THAT:

After considering evidence presented at the Public Hearing, the Planning Commission finds that the following are the relevant facts and findings regarding this proposed project:

1. **Project Description.** Application for a Planned Development Rezoning to allow the subdivision of an existing single-family parcel into three lots, including two flag lots, for the development of three single-family residences; and a Planned Development Permit to allow the demolition of an existing residence and accessory structures and the construction of three single-family detached residences on the 0.42-gross acre subject site.
2. **Project Background.** On May 18, 2015, a Preliminary Review Application (File No. PRE15-091) was submitted for a three-lot subdivision on an existing 0.43-gross acre lot. This application proposed three single-family residences on three lots ranging in size from approximately 4,200 square feet to 5,500 square feet. Staff advised the applicant that a three-lot subdivision could not be supported at this location given its inconsistency with Envision San José 2040 General Plan Land Use Policies LU-11.1 and LU11.2 and Council Policy 6-19, which provides specific criteria and standards for the development of flag lots in single-family neighborhoods. These policies discourage both the development of flag lots in non-hillside areas and the development of residential subdivisions that do not reflect the prevailing form and pattern of development in the surrounding neighborhood. Planning staff recommended that the applicant consider a secondary dwelling unit at the rear of the property pursuant to Section 20.30.150 (Secondary Units) of the San José Municipal Code. A copy of Planning's comment letter is attached.

On March 15, 2017, a Planned Development Permit application was submitted by a different applicant to allow the subdivision of the existing 18,573 square foot lot into three smaller lots, including two interior flag lots (see Figure 3). Unit # 1, as depicted below, would have an area of approximately 5,208 square feet (56 feet x 93 feet) with frontage on Curtiss Avenue. The existing one-story single-family residence, built in 1905, would be demolished to allow the construction of a new 2,651-square foot two-story residence with attached two-car garage.

Unit No. 2 and Unit No. 3 would be the interior flag lots with total areas of 3,747 square feet (56 ft. x 67 ft.) and 5,945 square feet (78 feet x 77 feet), respectively. These units would be located behind the residence on Curtiss Avenue and would be accessed via a new shared private driveway along the northern boundary of the property. A 2,592-square foot and a 3,004-square foot single-family residence with attached two-car garage are proposed on Unit #2 and Unit #3, respectively.

In March 2017, staff met with and advised the applicant that the proposed Planned Development Permit could not be supported by staff due to incompatibility with the General Plan and City Council policies pertaining to flag lots and neighborhood preservation. Furthermore, a Planned Development Zoning application had not been filed. During this meeting, staff notified the applicant and property owner that a Preliminary Review Application (File No. PRE15-091) had previously been submitted for the subject site and that due to similar reasons, could not be supported. The applicant was advised to: 1) withdraw the application, or; 2) proceed with the proposed Planned Development Permit and associated Planned Development Zoning with a staff recommendation of denial.

On April 27, 2017, the applicant submitted a Planned Development Zoning contrary to staff's recommendation. The applicant requested that their rezoning application proceed straight to public hearing before the Planning Commission and City Council without final staff review of the proposed project or environmental review. As a result, neither the Public Works Department nor the Fire Department have provided a Final Memo with input on the proposed project. Therefore, in the event the City Council supports approval of the flag lot development, the City Council will need to direct staff to complete the usual project review and environmental analysis and return to the Planning Commission and the City Council for consideration of the environmental clearance and project entitlements.

3. **Site Description and Surrounding Uses.** The subject site, located at 1220 Curtiss Avenue, contains approximately 0.42-gross acres and is located on the southeast side of Curtiss Avenue, approximately 650-feet southerly of Willow Street. The property is developed with an existing single-family residence and accessory structures located behind the residence.

The property is surrounded on all sides by single-family residences except for one parcel to the east which is developed as a multi-family condominium. All properties in the surrounding area follow a historic development pattern of one single-family detached home on one lot with the exception of two multifamily residential parcels to the north (zoned R-M Multiple Family) and three flag-lot developments to the south and north of the subject site.

In 1986, one larger lot located south of the subject site at 1254 Curtiss Avenue was subdivided into three smaller parcels and developed with three single-family residences on small lots (File No. PDC86-045). In 2002 and in 2005, two additional large lots located at 1182 and 1163 Curtiss Avenue were subdivided into three and four smaller parcels and developed with three and four single-family residences, respectively (File Nos. PDC01-084 and PDC05-031). There are roughly 12 other large lots with deep setbacks located in this area of Curtiss Avenue.

4. **General Plan.** The subject site has an Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Residential Neighborhood. This designation is applied broadly throughout the City to encompass most of the established, single-family residential neighborhoods. The intent of this designation is to preserve the existing character of these neighborhoods and to strictly limit new development to infill projects which closely conform to the existing prevailing neighborhood character. New infill development should improve and/or enhance existing neighborhood conditions by completing the existing neighborhood pattern and maintaining the quality and character of the surrounding neighborhood. Maximum density in areas designated RN shall be limited to eight DU/AC, or the prevailing neighborhood density, whichever is lower.

Analysis: As noted above, the intent of the Residential Neighborhood designation is to preserve the existing character of established, single-family neighborhoods and to strictly limit new development to infill projects which closely conform to the existing prevailing neighborhood character as defined by density, lot size and shape, massing and neighborhood form and pattern. Particular emphasis should be given to maintaining consistency with other homes fronting onto the public street to be shared with the proposed new project.

The existing prevailing neighborhood character of Curtiss Avenue is defined by single-family homes and standard lot shapes (rectangles) of varying depths. The neighborhood includes a pocket of multi-family residential development and three flag-lot developments, which were created by subdividing larger lots with deep rear setbacks into smaller lots. Roughly twelve lots of similar size and shape remain along Curtiss Avenue. In recent years, a significant number of older homes in this area have been demolished and replaced with larger new homes or enlarged; however, this type of development maintains the prevailing density and predominant neighborhood pattern of one single-family home on one larger lot with ample setbacks.

In 1986, one larger lot located to the south of the subject site at 1254 Curtiss Avenue was subdivided into three smaller parcels and developed with three small-lot, single family residences (PDC86-045). In 2002 and in 2005, two larger lots were also subdivided into three and four smaller parcels and developed with three and four single-family residences, respectively (PDC01-084 and PDC05-031). These projects were developed prior to adoption of the 2040 General Plan in November 2011. Specific development policies in the current General Plan were adopted to support Council Policy 6-19, which states that flag lots are not appropriate in situations where a series of larger lots could be converted to smaller lots, thereby raising the density and changing the character of the neighborhood. Allowing the subject site to be subdivided into three smaller lots would result in the conversion of a series of four large lots into smaller parcels, thereby raising the density and further changing the character of Curtiss Avenue.

While shallower lots and the aforementioned developments contribute to an increase in residential density, the average density of the neighborhood is 6.7 dwelling units per acre. The subject site is currently developed with a single-family residence which yields a density of 2.38 dwelling units per acre. Development of the site with three single-family residences, as proposed, would result in a density of 7.14 dwelling units per acre, which exceeds the prevailing neighborhood density and is entirely inconsistent with the densities of the properties that directly border the site to the north and south (3.22 DU/AC and 3.7 DU/AC, respectively).

Based on the above, the proposed flag lot would be inconsistent within the historic and prevailing development pattern in an established, single-family neighborhood and would not improve or enhance or maintain the quality and character of the surrounding area.

The proposed project is inconsistent with the following General Plan policies:

- a. Land Use Policy LU-9.15: New single-family flag lots may be appropriate on hillside properties but are discouraged within other parts of the City. Flag lot development in non-hillside areas should have a clear and visible relationship to the neighborhood and the street and should be consistent with the applicable zoning district which can assure that relationship. To strengthen neighborhood preservation policies and objectives of this plan, the City Council has adopted a policy establishing criteria for the use of flag lots.

Analysis: The subject site is not located in a hillside area, and the proposed flag lots are needed only to allow the construction of two additional single-family residences. If approved, the proposed Planned Development Rezoning and Planned Development Permit would allow the applicant to file for a parcel or tentative map to enable subdivision of the existing large lot into three smaller lots. The two rear residences would be largely hidden from view and would not have a clear and visible relationship to the neighborhood or the street. The proposed flag lots would not be consistent with the prevailing form and pattern of development in the surrounding neighborhood, which features one single-family home on rectangular lots with a few minor exceptions. In this case, the proposed flag lot would create a unique lot configuration with three lots differing in size, shape, and dimensions from the majority other lots in the surrounding neighborhood.

The City Council adopted Policy 6-19 in December 1990 to establish specific criteria for flag lots. This policy states that flag lots are not appropriate in situations where a series of large lots could be converted to flag lot developments, thereby raising the density and changing the character of the neighborhood. As discussed above, three flag-lot developments currently exist to the north and the south of the subject site. These flag lots were approved under the previous 2020 General Plan and would not be supported under the current development policies of the Envision San José 2040 General Plan and Council Policy 6-19. Allowing the subject site to be subdivided into three smaller lots would continue the conversion of large lots into smaller parcels, thereby raising the density and further changing the character of this neighborhood.

- b. Land Use Policy LU-11.1: Design all new single-family detached residences so that each home has a frontage on a public street or on a private street that appears and functions as a public street.

Analysis: Through a subdivision of the subject single-family site, the applicant proposes to build three new residences. The residence identified as Unit 1 on the proposed Site Plan (see Figure 3) would have 56 feet of frontage on Curtiss Avenue; however, the residences identified as Units 2 and 3 would be located toward the rear of the site, behind Unit 1, and would not have significant frontage on a public street or a private street. As discussed above, each lot would have access from Curtiss Avenue via a new common private driveway along the northern boundary of the property. This 16-foot ingress/egress easement is designed as a private drive, not a public or private right-of-way. Furthermore, no sidewalk or pedestrian access is provided along the shared driveway which is typical in the design of public and private right-of-ways.

- c. Land Use Policy LU-11.2: Support subdivisions of residential lots if the new lots reflect the established pattern of development in the immediate area, including lot sizes and street frontages. Discourage residential developments, such as court homes or flag lots, that increase residential densities for an area or disrupt an established neighborhood pattern. Allow new development of a parcel, including one to be subdivided, to match the existing number of units on that parcel; design such subdivisions to be compatible with and, to the degree feasible, consistent with the form of the surrounding neighborhood pattern. Consider allowing second units (granny or in-law units) in lieu of creating flag lots, substandard lots or parcels that disrupt an established neighborhood pattern.

Analysis: As discussed under the General Plan analysis, the proposed flag lot does not reflect the historic and prevailing pattern of development in the surrounding neighborhood. Curtiss Avenue is developed primarily with single-family residences on rectangular lots of varying depths and sizes. The proposed flag lot would result in lot sizes that are consistent with the smaller single-family lots in the neighborhood; however, these lots contain single-family residences that are oriented towards and have frontage on Curtiss Avenue. Three small-lot, flag lot projects have been developed to the south and north of the subject site, but these and a handful of other higher density properties are exceptions to the historic and prevailing development pattern in this neighborhood and should not be cited as precedent to support the current proposal. The proposed flag lot would create another exception to the historic and prevailing development pattern in an established, single-family neighborhood and would not improve, enhance, or maintain the quality and character of the surrounding neighborhood.

- d. **Implementation Policy IP-1.7:** Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics that require special consideration due to those constraints.

Analysis: City Council Policy 6-19 requires that new flag lots shall be created through the Planned Development zoning process. The subject site is located within a standard R-1-8 Residence Zoning District site and is similar to other large lots with deep rear setbacks in the surrounding neighborhood. The existing one-story single-family residence at the front of the site is also consistent with the prevailing development pattern of the surrounding neighborhood.

The proposed Planned Development would allow the creation of three smaller lots and the construction of three, two-story single-family residences. Two of the residences would not have frontage on Curtiss Avenue. The subject site is not constrained by unusual physical characteristics as other properties in the area have similar dimensions, and the only purpose of the proposed flag lot development would be to accommodate additional development on the property.

5. **City Council Policy 6-19: Flag Lot Development in Single-family Neighborhoods.** Council Policy 6-19 provides specific flag lot criteria for flat land areas. In established, predominantly single-family detached neighborhoods, the following criteria shall apply:

- a. Flag lots are not appropriate in situations where a series of large lots could be converted to flag lot developments, thereby raising the density and changing the neighborhood character.

Analysis: In 1986 (PDC86-045), one larger lot located to the south of the subject site at 1254 Curtiss Avenue was subdivided into three smaller parcels and developed with three small-lot, single family residences. As mentioned above, Policy 6-19 was adopted to curtail this type of higher density, small-lot development in established, single-family residential neighborhoods. In 2002 (PDC01-084) and in 2005 (PDC05-031), two larger lots were also subdivided into three and four smaller parcels and developed with three and four single-family residences, respectively. These developments were approved under the San Jose 2020 General Plan which did not contain land use policies against the creation of flag lot development in non-hillside areas of the City. Furthermore, under the 2020

General Plan, the property at 1163 Curtiss Avenue (File no. PDC05-031) was designated Medium High Density Residential which permitted residential density between 12 and 25 dwelling units per acre. With the 2040 General Plan update, this property has since been designated Residential Neighborhood. Subdividing the subject site into three smaller lots would be contrary to Council Policy 6-19 because it would be the fourth conversion of a series of large lots into smaller parcels, thereby raising the overall density of development on this portion of Curtiss Avenue and further changing the character of the neighborhood.

- b. Neighborhoods that may be appropriate for flag lot development have uniformity of single-family lot sizes, but with an occasional and unique in its neighborhood, larger parcel, suitable for flag lot projects.

Analysis: The existing prevailing neighborhood character of Curtiss Avenue is defined by single-family homes and standard lot shapes (rectangles) of varying depths. The subject site is one of several historically larger parcels. As previously discussed, a pocket of multi-family residential exists to the north of the site as well as three larger lots to the south and north of the site that were subdivided into 10 smaller parcels in 1986 and the 2000's. Subdivision of the subject site into three smaller lots, including two internal flag lots, could possibly be the catalyst for a series of conversions from large lots to small lots as several other parcels along Curtiss Avenue could also seek similar redevelopment. The subject site is not unique in its neighborhood as roughly twelve other properties in the adjacent neighborhood have similar dimensions and deep rear setbacks.

- c. In neighborhoods which are designated medium low density residential (8DU/AC), parcels considered for flag lot development are recommended to be approximately 8,000 square feet in size. At a minimum, the parcel must be larger than the average, or of a unique configuration, in the surrounding area in order to generously meet R-1 setback zoning codes.

Analysis: The subject site contains approximately 18,573 sf. The proposed subdivision would result in three parcels – a front lot (Unit 1) containing approximately 5,208 sq. ft., a middle lot (Unit 2) containing approximately 3,747 sq. ft., and a rear lot (Unit 3) containing approximately 5,945 sq. ft. The proposed lot sizes are inconsistent with this policy and do not provide adequate space to meet the development standards of the R-1 Zoning District. In addition, the irregular shape and location of the two smaller flag lots away from the street are inconsistent with the prevailing neighborhood character.

- d. Flag lot units located away from the street shall maintain a presence to the street, be oriented to the street, and be visible from the street. A larger front unit is not acceptable as a means to meet the street presence requirement.

Analysis: The residences on Unit 2 and Unit 3 would be set back approximately 100 feet and 170 feet, respectively, from Curtiss Avenue, which is significantly deeper than the typical 20 to 25-foot front setback for other single-family residences in this area and required by the R-1 development standards. The residence on Unit 2 does not conform to the above policy as it has no presence on Curtiss Avenue and is neither oriented toward nor visible from the street. Although a portion of the residence identified as Unit 3 would be partially visible from the street and its front door is oriented towards Curtiss Avenue, it has limited visibility beyond the unit identified as Unit 1 and is inconsistent with the intent of the above objective.

- e. Flag lots shall be approved only through the Planned Development zoning process.

Analysis: Development of the proposed flag lot requires City Council approval of this application for a Planned Development Rezoning from the R-1-8 Single-Family Residence Zoning District to the R-1-8(PD) Planned Development Zoning District and a subsequent Planned Development Permit and Tentative Map. However, as noted in General Plan Implementation Policy IP-1.7, the City discourages the use the PD Zoning Process as standard zoning districts are intended to allow the appropriate type and intensity of development in a particular area. Furthermore, the subject site is not unique nor merits special considerations beyond other properties in the surrounding context.

- f. Orientation, setbacks, and private yards should conform to the following criteria:

- i. All units shall orient to the street.

Analysis: The residence identified as Unit 2 is not oriented toward Curtiss Avenue. While the front door of the residence identified as Unit 3 is oriented west toward Curtiss Avenue, it does not have a significant presence due to limited visibility and a deep setback from the street.

- ii. Each unit shall have both a “front” and “rear” yard on opposite sides of the unit.

- iii. Front yard setback for the front unit must match neighborhood pattern. “Front” setbacks for rear units must meet R-1 standards.

- iv. Rear yards for all units shall be a minimum of 1200 square feet, with a minimum dimension of 25 feet.

Analysis: Consistent with the R-1-8 development standards and the prevailing neighborhood development pattern, the front unit would maintain a 25-foot front setback from Curtiss Avenue and a five-foot side yard setback from the adjacent residence; however, the rear setback is not consistent with the required 20-foot rear yard setback of the R-1-8 Zoning District. The front and rear setbacks of the middle unit do not meet these development standards nor does the front setback of the rear unit. The proposed front unit would have an approximately 765-square foot rear yard area (17'-1" depth), the proposed middle unit would have an approximately 416-square foot rear yard area (15'-8" depth), and the rear unit rear yard is proposed at approximately 1,660-square feet (21'-4" depth). All interior setbacks are proposed at five feet.

- v. Setbacks from interior project boundaries should be 10 feet on the first floor and 20 feet on the second floor to neighboring rear yard, and five feet from a neighboring side yard.

Analysis: All interior setbacks are established at five feet which is inconsistent with the above standards. The side setback from Unit 2, which is adjacent to the rear yard of unit 1, is proposed to be five-feet for both the first and second floors.

- vi. A common driveway for all units is encouraged; multiple driveways are discouraged.

- vii. Driveways shall be a minimum of 10 feet wide, with a minimum of three feet of landscaping on either side.

Analysis: All three residences would have access from Curtiss Avenue via a shared 16-foot wide driveway with a minimum of three feet of landscape on either side.

- viii. Parking ratios for each unit shall be in conformance with the Residential Design Guidelines, varying by unit size. Guest parking for units not having street frontage shall be provided at each unit.
- ix. Adequate vehicle turnaround space shall be provided for each unit (typically a 26-foot minimum dimension).

Analysis: Consistent with the Residential Design Guidelines, each unit would have a two-car, attached garage with an 18-foot long two-car driveway for guest parking. Consistent with the Flag Lot Development Policy, both driveways would also accommodate adequate vehicle turn-around. It should be noted that unit 3 exceeds the maximum 150-foot hose reach, therefore, adequate emergency vehicle access is required. The current design does not account for adequate emergency vehicle access.

- x. To protect the privacy of yard areas on neighboring properties, large windows and decks on the second floor shall orient to on-site yard areas, not to surrounding properties.

Analysis: The current plans call for three, two-story single-family residences. The balconies on the second floor of each unit are oriented towards the north, onto the common driveway.

- xi. Drainage shall follow pre-existing drainage patterns, which may require obtainment of easements from adjacent property owners. Padding up the rear of the site to achieve drainage to the street is discouraged.

Analysis: The proposed rezoning application includes conceptual grading and drainage plans. The Public Works Department has not issued a Final Memorandum indicating whether the project is in compliance with City stormwater requirements.

- xii. The mass of the front and back units should be consistent with the average mass in the surrounding neighborhood.

Analysis: The residences on the properties that directly abut the subject site to the north and south are developed with single-story, single-family residences. While the massing of Unit 1 steps back at the interfaces between these residences, the proposal includes a two-story massing along the street which is inconsistent with the historic development pattern of the neighborhood. The second floors of Units 2 and 3 also step back in response to adjacent single-story neighbors. The size and design of the proposed buildings are not the primary issue with the project.

- 6. **Zoning Ordinance Compliance.** The subject property is located in the R-1-8 Single-Family Residence Zoning District which is intended primarily for single-family residences and secondary dwellings. Pursuant to the Table 20-60 of Section 20.30.200 of the San Jose Municipal Code, development in the R-1-8 Zoning District is subject to the following development standards.

	Required	Proposed
Minimum Lot Size	5,445 sf	Unit 1 – 5,208 sf Unit 2 – 3,747 sf Unit 3 – 5,945 sf
Front Setback:	20 feet	Unit 1 – 25 feet Unit 2 – 100 feet Unit 3 – 170 feet
Side Setback,	5 feet	All units – 5 feet
Rear Setback,	20 feet	Unit 1 – 5 feet Unit 2 – 5 feet Unit 3 – 20 feet
Maximum Height	35 ft., 2.5 stories	All units – 2 stories

Given that the proposed project includes deviations from the R-1-8 Zoning District development standards and includes a flag lot configuration, a Planned Development Zoning is required.

7. **Residential Design Guidelines Conformance.** The development standards recommended in the Residential Design Guidelines are intended to ensure compatibility with existing development in the surrounding neighborhood. The applicant proposes to demolish the existing single-family residence, built in 1905, in order to accommodate three, Spanish-style homes. While other properties along Curtiss Avenue have been redeveloped, either renovated or demolished and rebuilt, the proposed style is inconsistent with the existing architectural character of the neighborhood which is developed primarily with single-story craftsman style homes.

A majority of the older homes in this neighborhood have detached garages that are located at the rear of their property. The recently renovated or newly built homes have attached garages. While they do not follow the historic development pattern, these garages are located behind the main living areas and are not visible from Curtiss Avenue. The proposed units also contain attached two-car garages which are not visible from the public right of way.

Consistent with the Guidelines, the proposed massing of each unit steps away from the side and rear yards of the adjacent neighbors. The overall maximum height of the development is proposed at 28'-6" which is below the maximum height of 35 feet allowed in the R-1-8 Zoning District.

As noted above, the size and design of the proposed buildings are not the primary issue with the project. For all of the reasons set forth above, and more specifically the inconsistency with the cited General Plan and City Council Policy 6-19, staff recommends that the Planning Commission recommend denial of the Planned Development Rezoning and Planned Development Permit applications.

8. **Environmental Review.** Under the provisions of Section 15270 of the State Guidelines for Implementation of the California Environmental Quality Act, this Planned Development Zoning and Planned Development Permit are found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended (CEQA), if the public agency disapproves of the project. Section 15270 states that an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved. Full environmental review was not performed because the applicant requested to proceed straight to public hearing before the Planning Commission and City Council. Furthermore, a Historic Assessment, as requested, was not submitted by the applicant. In the event that the City Council desired to approve the proposed Planned Development Zoning and Planned Development Permit, the Council would need to direct staff to complete the typical project review and the environmental analysis for this project. The project would then return to hearings for full consideration by Planning Commission and City Council.
9. **Planned Development Findings.** Pursuant to Section 20.190.940, the director, the planning commission on appeal, or the city council as appropriate, may not issue a planned development permit unless all of the following findings are made:
- a. The Planned Development Permit, as issued, is consistent with and furthers the policies of the General Plan; and
- Analysis: As explained in detail above, the Planned Development Permit is not consistent with nor furthers the policies of the General Plan in that the proposed flag lot configuration is inconsistent with Land Use Policy LU-9.15, which discourages the use of flag lot development in non-hillsides area of the City. Furthermore, the proposed residences would not have significant frontage on a public street or a private street which is inconsistent with Land Use Policy LU-11.1.*
- b. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property; and
- Analysis: As explained in detail above, the proposed Planned Development Permit is not consistent with the site's current R-1-8 Zoning. The proposed Planned Development Zoning associated with the development is recommended for denial as it does not conform to City Council Flag Lot Policy 6-19 as well as the goals and policies of the General Plan, as discussed above.*
- c. The Planned Development Permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency; and
- Analysis: As currently designed, the proposed Planned Development Permit is not consistent with the development standards of City Council Flag Lot Policy 6-19, as discussed above. This policy was established to preserve the City's existing single-family neighborhoods from redevelopment with small-lot, high-density development. Furthermore, the policy explicitly states that flag lot developments are not appropriate in neighborhoods where a series of larger lots could be converted to flag lot developments, thereby raising the density and changing the neighborhood character. Subdivision of the subject site into three smaller lots, including two internal flag lots, would result in the fourth flag lot conversions. Additionally, several other parcels along Curtiss Avenue that*

share similar dimensions could possibly be converted. The proposed parcel sizes do not meet the recommended square footage of 8,000 square feet. The residence on Parcel 2 has no presence on Curtiss Avenue and is neither oriented toward nor visible from the street. While a portion of the residence on Parcel 3 would be visible from the street and its front door is oriented towards Curtiss Avenue, it has limited visibility beyond the unit on Parcel 1.

- d. 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; and

The proposal includes the construction of three, Spanish-style homes. Although no other homes in the adjacent neighborhood are designed with a similar style, the massing and architectural character of the residences are compatible with one another and create harmonious aesthetic across the site but not with the neighborhood. The size and design of the proposed buildings are not the primary issue with the project.

- e. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

Analysis: Because this project was recommended for denial, the current environmental review is a statutory exemption under California Environmental Quality Act (CEQA) Guidelines Section 15270 for Projects Which Are Disapproved. Full environmental review was not performed because the applicant requested to proceed straight to public hearing before the Planning Commission and City Council.

10. Demolition Permit Evaluation Criteria. Under the provisions of Section 20.80.460 of the San José Municipal Code, prior to the issuance of any development permit, which allows for the demolition, removal or relocation of a building, the following shall be considered to determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation:

- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
- b. The failure to approve the permit would jeopardize public health, safety or welfare;
- c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
- d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
- e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
- f. Rehabilitation or reuse of the existing building would not be feasible; and
- g. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

The project includes the demolition of the existing single-story, single-family residence which was constructed in 1905. This structure is not listed on the City's Historic Resources Inventory; however, its age may qualify as a historic resource. A Historic Assessment, as requested by Planning staff, was not submitted with the application. Therefore, its historic value cannot be determined at this time. Demolition of this residence for the construction of three, single-family residences would result in further densification of this historically single-family neighborhood. Based on the above considerations, staff does not recommend demolition of this structure.

In accordance with the findings set forth above, a Planned Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **denied**.

DENIED this 13th day of September, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

NICK PHAM
Chairperson

ATTEST:

ROSALYNN HUGHEY
Acting Director of Planning, Building & Code Enforcement
Planning Commission Secretary

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.



THREE NEW HOMES FOR:

GOLDSILVERISLAND PROPERTIES, LLC

1220 CURTISS AVENUE, SAN JOSE, CA. 95125

CIVIL ENGINEER
 ROBERT WANG
 RW ENGINEERING
 505 Altamont Drive
 Milpitas, CA 95036
 408-262-1899 rwengineering@gmail.com

LANDSCAPE ARCHITECT
 Mara Young
 650-327-2644 marayoung@gmail.com

SOILS ENGINEER
 CAPEX Engineering
 Gary Hou, PE
 POB 14198
 Fremont, CA 94539
 510-668-1815 capexinc888@gmail.com

OWNER
 Goldsilverisland Properties, LLC
 Ying-Min Li
 1525 McCarthy Blvd, Suite 1000
 Milpitas, CA 95035
 yingminli@hotmail.com 408-896-3369

ARCHITECT
 HOMETEC Architecture, Inc.
 Richard A. Hartman, AIA
 619 N 1st Street
 San Jose, CA 95112
 408-995-0496 hometecarch@gmail.com

PROJECT DESCRIPTION:
 REZONE EXISTING R1-B TO R1-B(PD)
 SUBDIVIDE PROPERTY FOR 3 SFR UNITS
 WITH PRIVATE DRIVEWAY. EACH HOME TO BE
 SIMILAR SPANISH STYLE WITH QUALITY DETAILING
 AND MISSION TILE ROOFS. ALL HOMES FEATURE
 A 2-CAR GARAGE AND 2-CAR DRIVEWAY.
 ALL HOMES HAVE FRONT ORIENTATION ONTO PUBLIC
 STREET OR THE PRIVATE DRIVEWAY.
 CARE HAS BEEN TAKEN TO HAVE ALL MAJOR WINDOWS
 FACE CURTIS AT THE FRONT OR THE REAR YARD OR
 TO INTERNAL SPACES ONLY, NOT TO SIDE NEIGHBORS.
 THIS PROJECT RESEMBLES SEVERAL OTHER PROJECTS
 ON THE STREET.

SHEET INDEX

- 1 TITLE SHEET
- 2 LAND USE PLAN
- 3.0 SITE PLAN
- 3.1 SITE PLAN
- 4.0 GRADING PLAN
- 4.1 UTILITY PLAN
- 4.2 SECTIONS
- 5 N/A
- 6 N/A
- 7 BUILDING ELEVATIONS
- 7.1 PROPERTY CROSS SECTIONS
- 8 N/A
- 9 BUILDING FLOOR PLANS
- 10 PRELIMINARY LANDSCAPE PLAN

REVISIONS	BY
PLANNING 6-20-17	▲

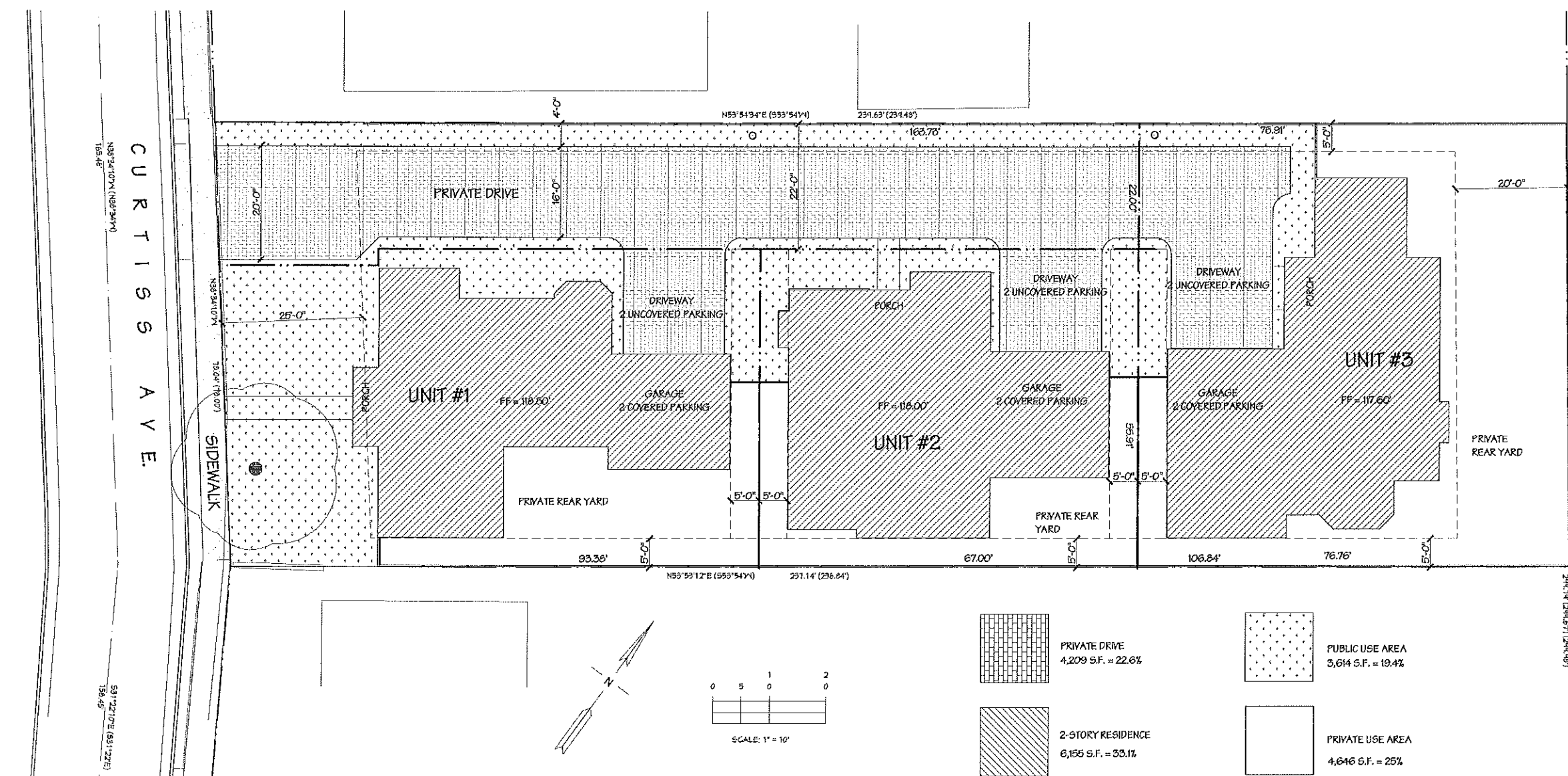
HOMETEC
 ARCHITECTURE, INC.
 619 NORTH FIRST STREET, SAN JOSE, CA 95112

RICHARD A. HARTMAN
 A.I.A.
 408.995.0496
 RichardA.Hartman@gmail.com

3 NEW HOMES FOR:
GOLDSILVERISLAND PROPERTIES, LLC
 1220 CURTISS AVENUE, SAN JOSE, CA. 95125

Date	4-18-17
Scale	1/4" = 1'-0"
Drawn	RAH
Job	17-003
Sheet	1
of	Sheets

PD17-018



DEVELOPMENT STANDARDS

Proposed R1-B(FD)

SUBJECT PROPERTY
 Front = 35'
 Side = 5'
 Rear = 20'

Interior FD Setbacks
 Unit 1: Front (west) = 25'
 Side (north, south) = 5'
 Rear (east) = 5'
 Unit 2: Front (north) = 5'
 • Side (east, west) = 5'
 • Rear (south) = 5'
 Unit 3: Front (west) = 5'
 • Side (north, south) = 5'
 • Rear (east) = 20'

Parking
 Each unit to have a 2-car garage.
 Each unit to have a minimum 18' deep driveway.

Maximum Height = 30'

FAR = as approved, no additions allowed

HOMETEC
 ARCHITECTURE, INC.
 619 NORTH FIRST STREET, SAN JOSE, CA 95112

3 NEW HOMES FOR:
GOLDSILVERISLAND PROPERTIES, LLC
 1220 CURTISS AVENUE, SAN JOSE, CA 95125

Date	1-18-17
Scale	1/4" = 1'-0"
Drawn	RAH
Job	17-003
Sheet	2
of	Sheets

REVISIONS	BY
FLANNING 6-20-17	▲

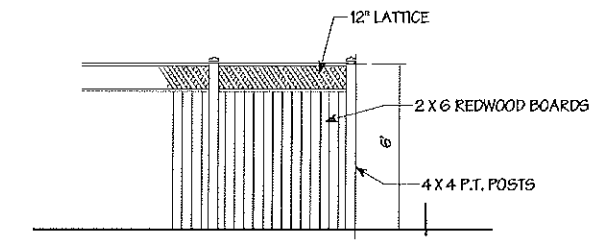
LAND USE PLAN (CONCEPTUAL)

A.P.N.: 429-01-005
 ZONING: R1-B SINGLE FAMILY ZONING DIST.
 LOT SIZE: 18,573.56 S.F.
 EXISTING HOUSE: 1,360 S.F.
 NEW HOUSES:
 UNIT #1: 1st FLOOR: 1,507 S.F. 2nd FLOOR: 1,144 S.F. TOTAL: 2,651 S.F.
 UNIT #2: 1,542 S.F. 1,050 S.F. 2,592 S.F.
 UNIT #3: 1,632 S.F. 1,372 S.F. 3,004 S.F.
 GARAGES: 2-CAR ATTACHED @ 400 S.F. MIN. EACH
 F.A.R. ALLOWED: 18,573 X .46 = 8,567 S.F.
 PROPOSED: 8,247 S.F.
 DEVELOPMENT STANDARDS = R-1-B (PD)
 TYPE OF CONSTRUCTION: VB
 OCCUPANCY GROUP: R-3, U
 THIS PROJECT SHALL COMPLY WITH 2016 CBC, CRC, CMG, CPC, CEC, CFC, CAL GREEN, CAL ENERGY CODE, AND LOCAL ORD.

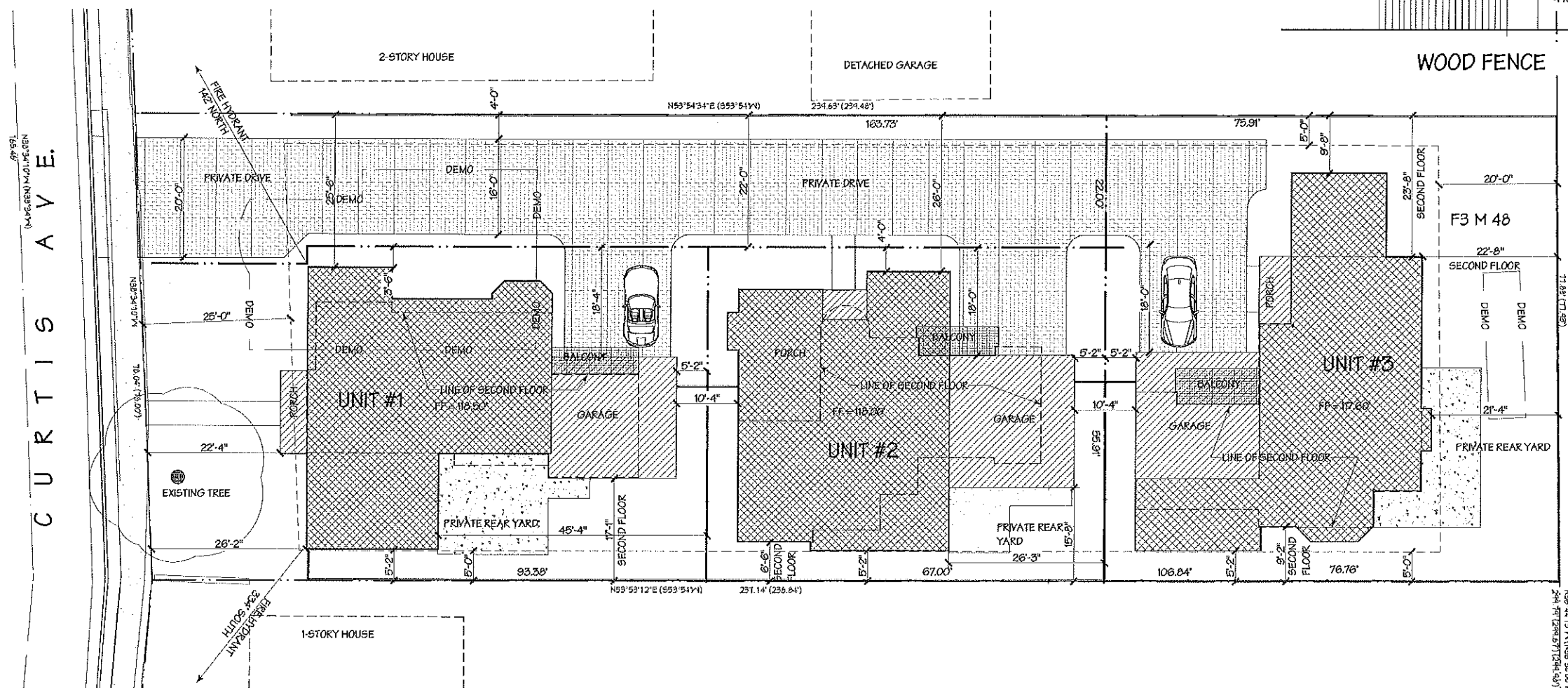


SITE DATA

VICINITY MAP



WOOD FENCE



SITE PLAN (CONCEPTUAL)

1" = 10'-0"

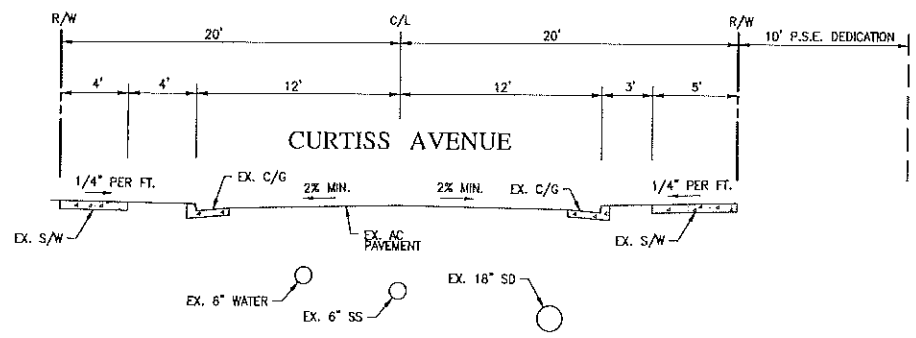
REVISIONS	BY
FLANNING 6-20-17	▲

HOMETEC
 ARCHITECTURE, INC.
 RICHARD A. HARTMAN
 A.L.A.
 408-982-2406
 Home Ave Architects.com
 619 NORTH FIRST STREET, SAN JOSE, CA 95112

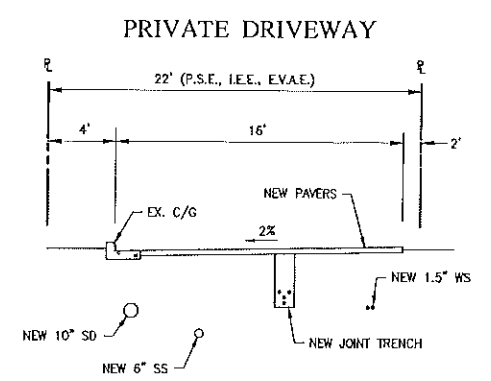
3 NEW HOMES FOR:
GOLDSILVERISLAND PROPERTIES, LLC
 1220 CURTISS AVENUE, SAN JOSE, CA. 95125

Date	4-18-17
Scale	1" = 10'-0"
Drawn	RAH
Job	17-003
Sheet	3.0
of	Sheets

CURTISS AVE.



1 TYPICAL PUBLIC STREET SECTION
NOT TO SCALE



2 TYPICAL PRIVATE DRIVEWAY SECTION
NOT TO SCALE

GENERAL NOTES:

- APN: 429-01-005
- EXISTING ZONING: RESIDENTIAL
- PROPOSED USE: RESIDENTIAL (3-LOT SUBDIVISION)
- WATER: SAN JOSE WATER COMPANY
- STORM & SEWER (ON-SITE): PRIVATE
- STORM & SEWER (OFF SITE): CITY OF SAN JOSE
- GAS & ELECTRIC: PG&E
- TELEPHONE: AT&T
- CABLE TV: COMCAST
- SOLID WASTE & RECYCLING: GREENWASTE RECOVERY, INC.
- TOTAL ACREAGE OF PROPOSED SUBDIVISION: 0.426 ACRE ± (18,576 S.F. ±)

ABBREVIATION

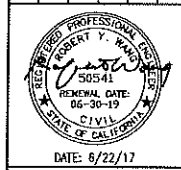
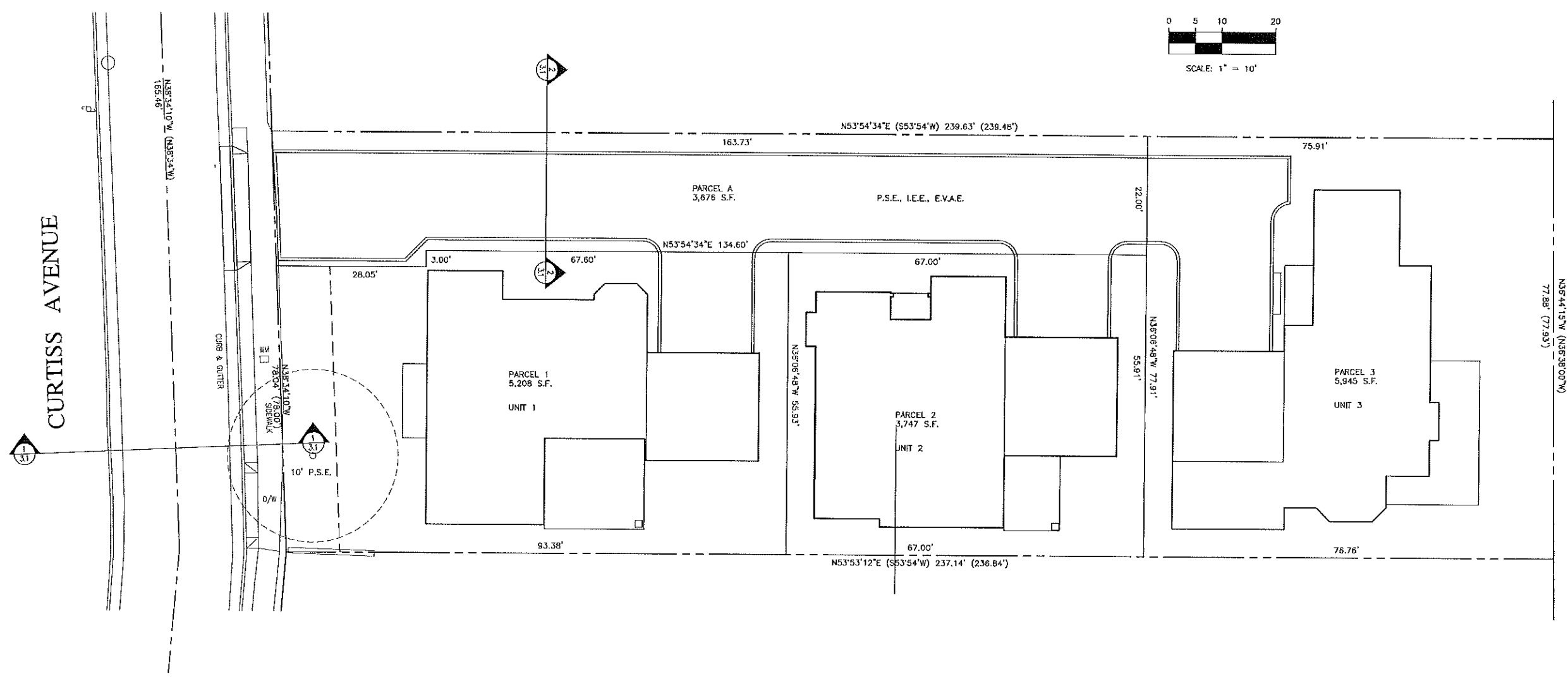
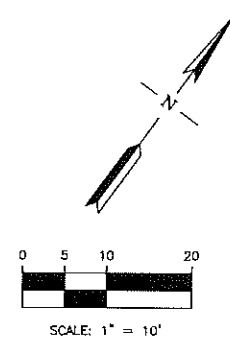
- P.S.E. PUBLIC SERVICE EASEMENT
- E.V.A.E. EMERGENCY VEHICLE ACCESS EASEMENT
- I.E.E. INGRESS & EGRESS EASEMENT

SITE BENCHMARK:

SURVEY CONTROL SET MAG NAIL
ELEVATION=116.41' (NAVD 88 DATUM)

BASIS OF BEARINGS:

THE BEARING N56°28'00"W OF CENTERLINE OF AMERICAN WAY AS SHOWN ON TRACT MAP NO. 548 FILED IN BOOK 25 OF MAPS AT PAGE 36, SANTA CLARA COUNTY RECORDS.

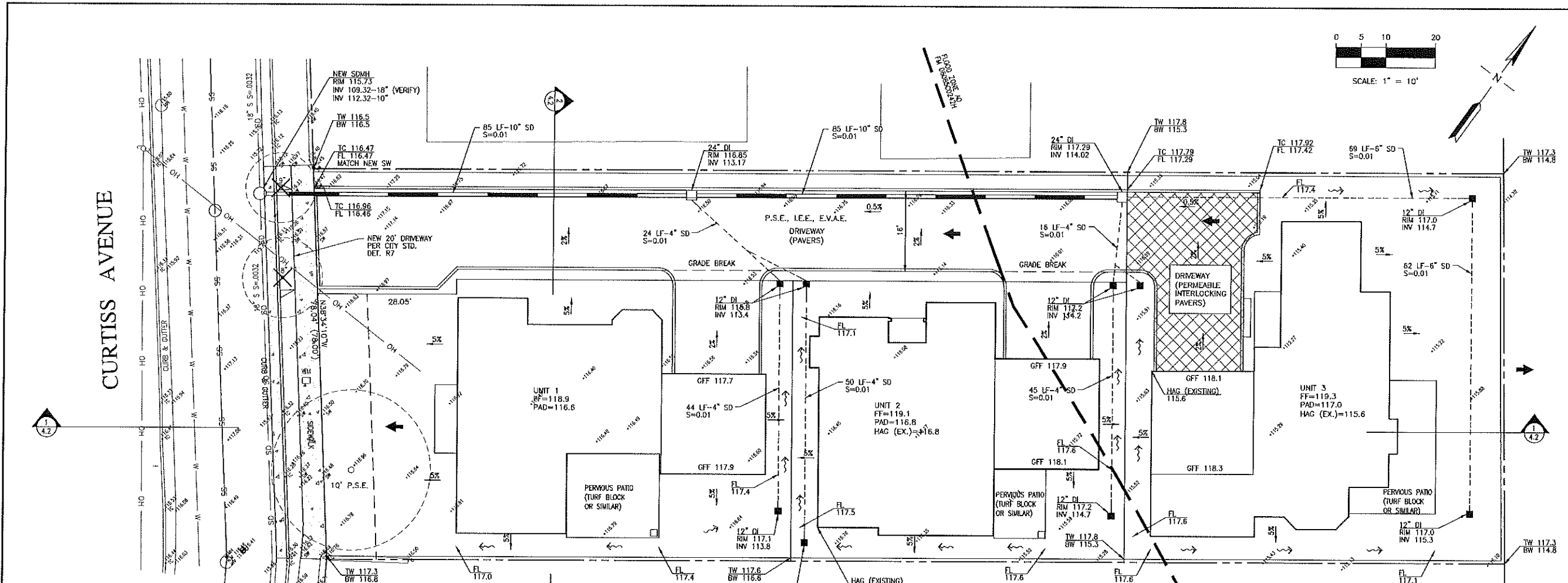


RW RW ENGINEERING, INC.
CIVIL ENGINEERS LAND SURVEYORS
505 ALPHEA DRIVE MILPITAS, CA 95035
(P) (408) 262-1899 (FAX) (408) 824-5555
rwengineering@gmail.com

SITE PLAN
1220 CURTISS AVENUE
SAN JOSE CALIFORNIA
Project No.: _____
Designed: RW Checked: RW Date: 3/7/17

SHEET
3.1
PW PROJECT #
3-XXXXX

NO.	REVISIONS	DATE	BY	CSJ



- LEGEND**
- PROPERTY LINE
 - CENTERLINE
 - SS UTILITY LINE-TYPE AS NOTED
 - ☉ STREET LIGHT
 - ☐ ELEC UTILITY BOX-TYPE AS NOTED
 - ⊕ WM WATER METER
 - ⊕ WV WATER VALVE
 - ⊕ CUB CURB CATCH BASIN
 - ⊕ FH FIRE HYDRANT
 - MH MANHOLE-TYPE AS NOTED
 - CO SANITARY SEWER CLEANOUT
 - PP-CH POWER POLE W/ OVERHEAD WIRE
 - ⊕ BENCHMARK
 - ⊕ MON MONUMENT
 - 12" TREE-TRUNK DIAMETER IN INCHES SPECIES NOTED WHEN KNOWN
 - ← OVERLAND RELEASE

EARTHWORK TABLE

CUT (CY)	FILL (CY)	IMPORT/EXPORT (CY)
100	50	50

NOTE: EARTHWORK QUANTITIES ON THIS TABLE ARE FOR INFORMATION ONLY.

TABLE 1: PERVIOUS PAVEMENT

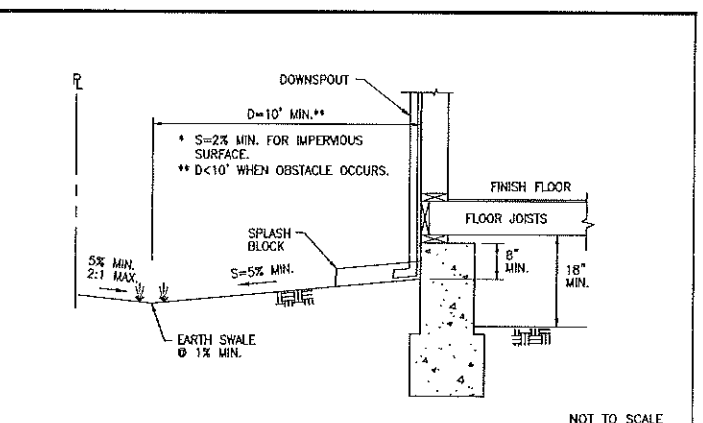
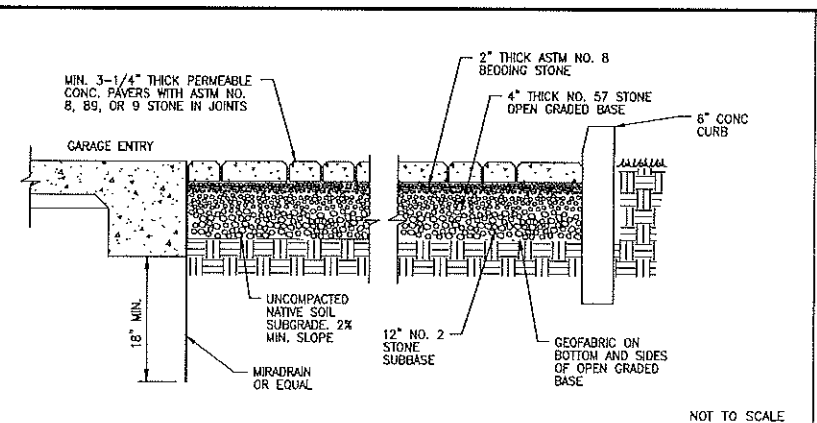
IMPERVIOUS AREA ID #	SURFACE TYPE	SIZE (SF)	TYPE	C.3.d VOLUME CF (1)	DEPTH OF SUBBASE REQ'D FT (2)	DEPTH PROVIDED FT
PER1	DRIVEWAY	779	PAVERS	36.5	0.16	1

(1) % IMPERVIOUS AREA=50%
 MAP GAGE=13.9 INCHES (SJ AIRPORT)
 CF=1.05
 S=1% SOIL TYPE D (SALTY CLAY)
 UNIT BASIN STORAGE VOLUME=0.53
 DESIGN VOLUME=CFxSUBDRAINAGE AREA/12

(2) SUBBASE=NO. 2 STONE
 30% VOID RATIO
 DEPTH REQUIRED=C.3.D VOLUME/DRAINAGE AREAx0.3

TABLE 2: PROJECT DATA

PERVIOUS AND IMPERVIOUS SURFACE COMPARISON TABLE			
A. PROJECT PHASE NUMBER:	N/A	B. TOTAL SITE (ACRES):	0.43
C. TOTAL SITE EXISTING IMPERVIOUS SURFACES (SQUARE FEET)	2,581	D. TOTAL AREA OF SITE DISTURBED (ACRES):	0.43
E. IMPERVIOUS SURFACES	EXISTING CONDITION OF SITE AREA DISTURBED (SQUARE FEET)	PROPOSED CONDITION OF SITE AREA DISTURBED (SQUARE FEET)	
		REPLACED (1)	NEW (2)
ROOF AREA(S)	1,963	961	5,098
PARKING	N/A	N/A	N/A
S/W, PATIO, D/W, ETC	618	903	2,581
STREET (PUBLIC)	N/A	N/A	N/A
STREET (PRIVATE)	N/A	N/A	N/A
TOTAL IMPERVIOUS SURFACES:	E.1: 2,581	E.2: 1,854	E.3: 7,679
F. PERVIOUS SURFACES			
LANDSCAPED AREAS	15,995	8,802	717
PERVIOUS PARKING	N/A	1,514	N/A
OTHER PERVIOUS SURFACES	N/A	N/A	N/A
TOTAL PERVIOUS SURFACES:	F.1: 15,995	F.2: 8,316	F.3: 717
G. TOTAL PROPOSED REPLACE + NEW IMPERVIOUS SURFACES (E.2 + E.3):	9,543		
H. TOTAL PROPOSED REPLACE + NEW PERVIOUS SURFACES (F.2 + F.3):	9,033		
I. PERCENT OF REPLACEMENT OF IMPERVIOUS AREA IN RE-DEVELOPMENT PROJECTS (E2/C X 100)	NOT A RE-DEVELOPMENT PROJECT		



1 PERMEABLE INTERLOCKING PAVERS (PIP) NOT TO SCALE

2 TYPICAL GRADING AROUND FOUNDATION NOT TO SCALE

NO.	REVISIONS	DATE	BY	CSJ

DATE: 6/22/17

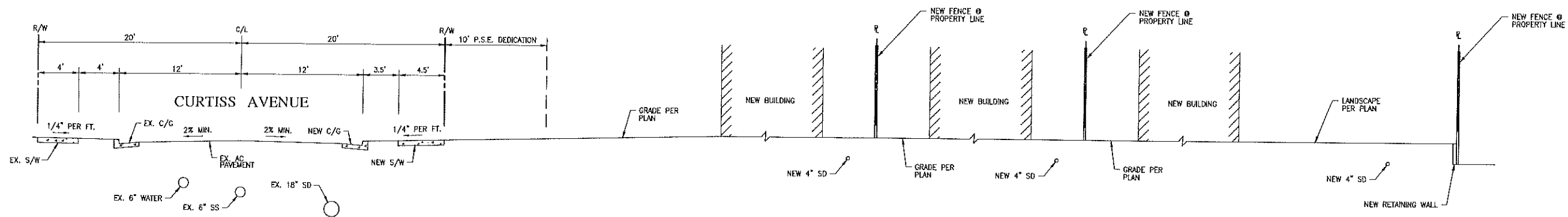
RW ENGINEERING, INC.
 CIVIL ENGINEERS LAND SURVEYORS
 505 ALAMONT DRIVE, MILPITAS, CA 95035
 (P) (408) 262-8898 (FAX) (408) 824-5556
 rweengineering@gmail.com

PRELIMINARY GRADING & DRAINAGE PLAN
 1220 CURTISS AVENUE
 SAN JOSE, CALIFORNIA

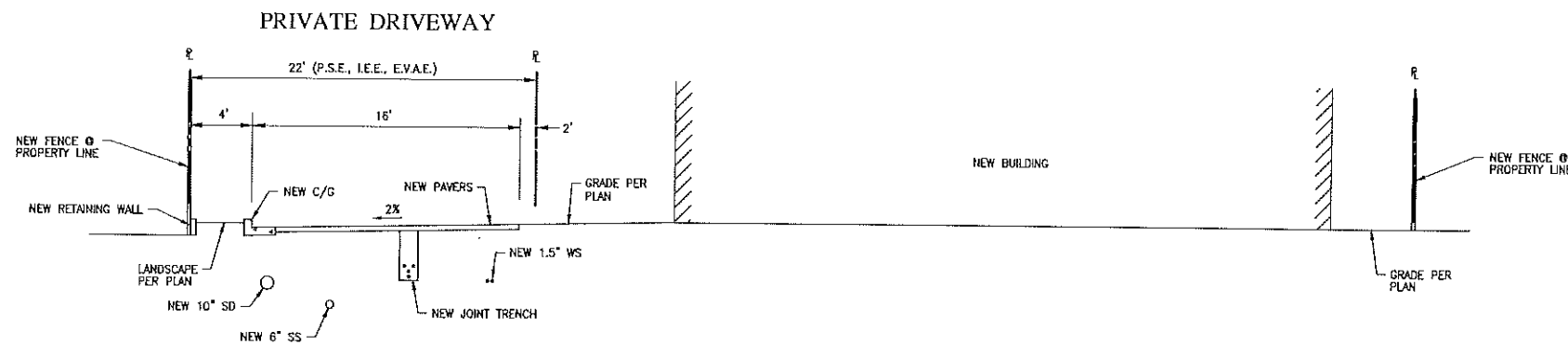
Project No.: _____
 Designer: RW Checked: RW Date: 3/7/17

SHEET
4

PW PROJECT #
 3-XXXX

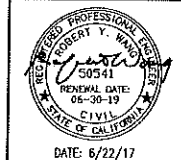


1
4.2 TYPICAL PUBLIC STREET SECTION
NOT TO SCALE



2
4.2 TYPICAL PRIVATE DRIVEWAY SECTION
NOT TO SCALE

NO.	REVISIONS	DATE	BY	CSJ



RW
RW ENGINEERING, INC.
 CIVIL ENGINEERS LAND SURVEYORS
 505 ALDAMONT DRIVE, MILPITAS, CA 95035
 (P) (408) 262-1899 (FAX) (408) 874-5556
 rweengineering@gmail.com

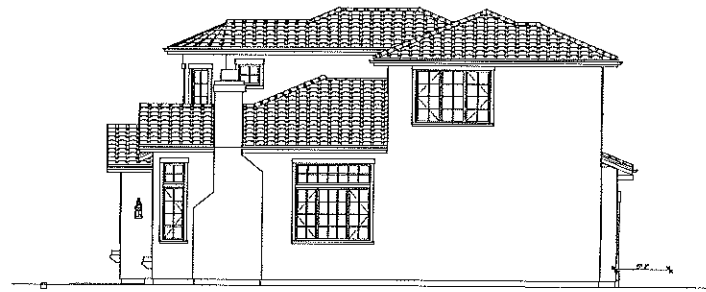
SECTIONS
 1220 CURTISS AVENUE
 SAN JOSE CALIFORNIA
 Project No. [] Design: RW Checked: RW Date: 3/7/17

SHEET
4.2
 PW PROJECT #
 3-XXXXX

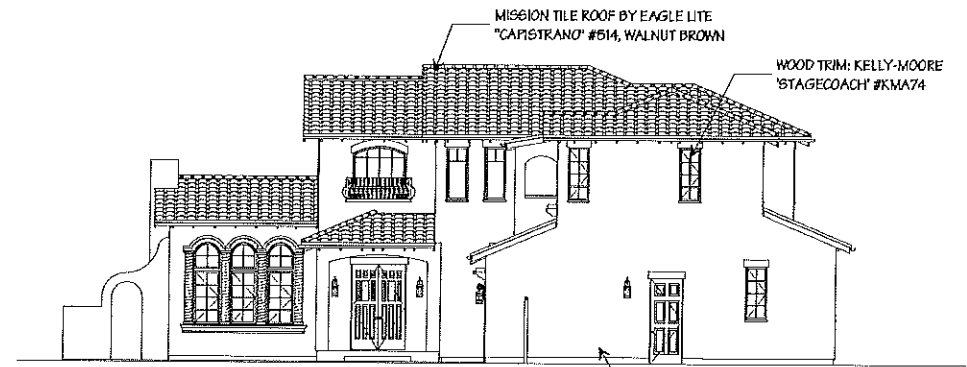


WEST ELEVATION

STUCCO COLOR - KELLY-MOORE
'BRIG O'DOON' #KM4545



WEST ELEVATION



WEST ELEVATION

STUCCO COLOR - KELLY-MOORE
'CITY LOFT' #KM4566



NORTH ELEVATION



NORTH ELEVATION

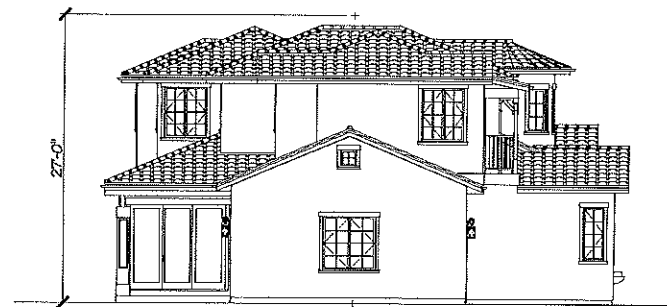
STUCCO COLOR - KELLY-MOORE
'KINGS RANSOM' #KM4650



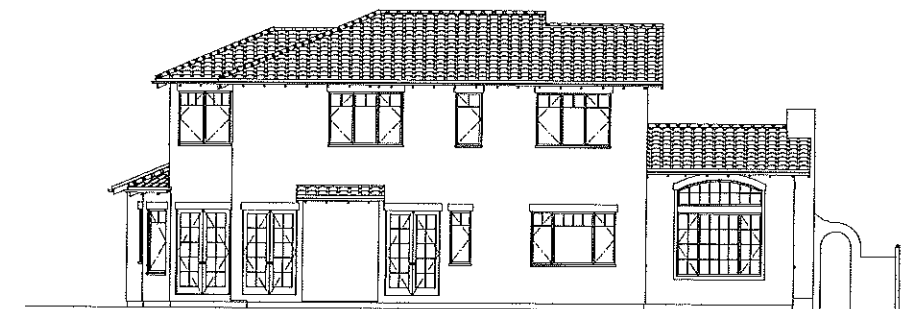
NORTH ELEVATION



EAST ELEVATION



EAST ELEVATION



EAST ELEVATION



SOUTH ELEVATION

UNIT #1



SOUTH ELEVATION

UNIT #2



SOUTH ELEVATION

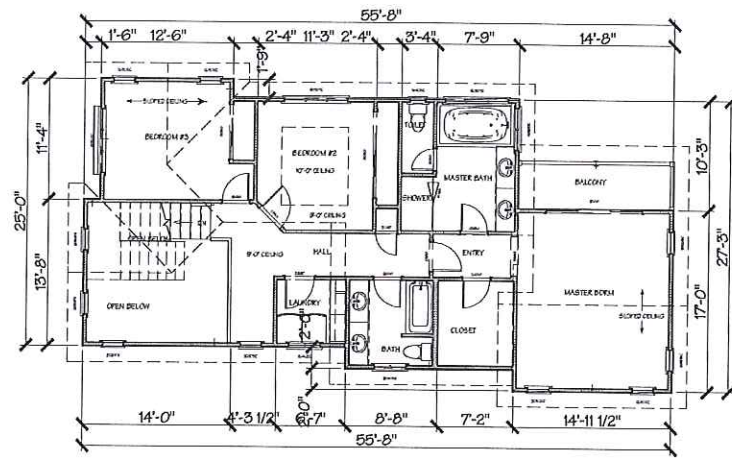
UNIT #3

REVISIONS	BY
PLANNING 6-20-17	▲

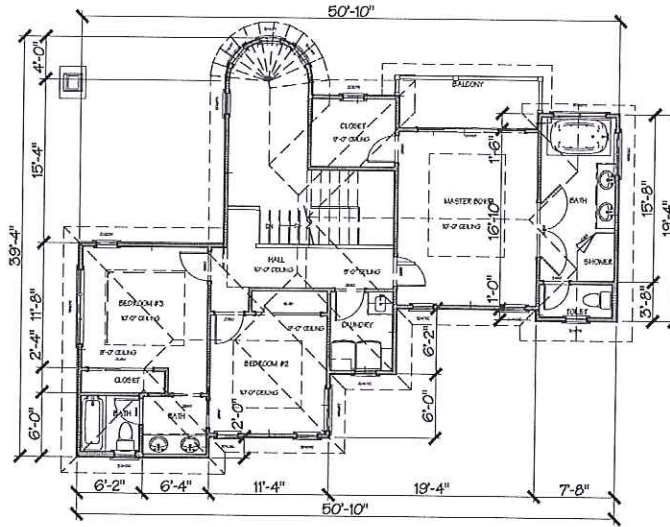
RICHARD A. HARTMAN
ARCHITECTURE, INC.
619 NORTH FIRST STREET, SAN JOSE, CA 95112
408.995.4496
rhartman@raha.com

3 NEW HOMES FOR
GOLDSILVERISLAND PROPERTIES, LLC
1220 CURTISS AVENUE, SAN JOSE, CA 95125

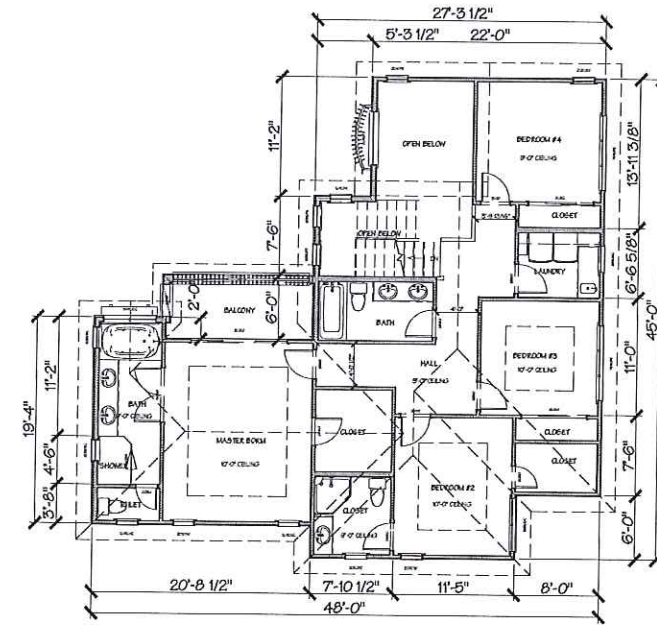
Date	4-18-17
Scale	1/4" = 1'-0"
Drawn	KAH
Job	17-003
Sheet	7
of	Sheets



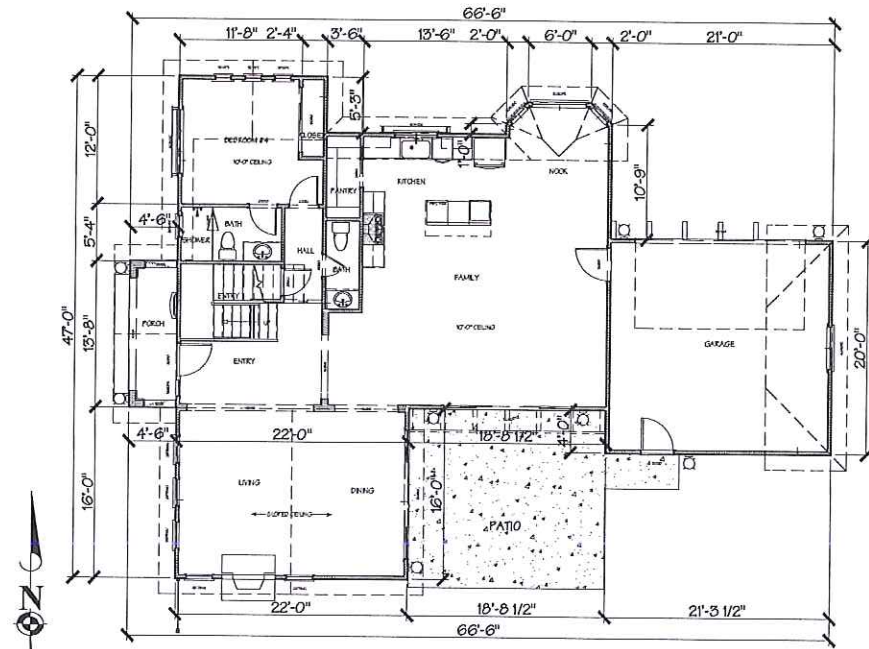
SECOND FLOOR PLAN



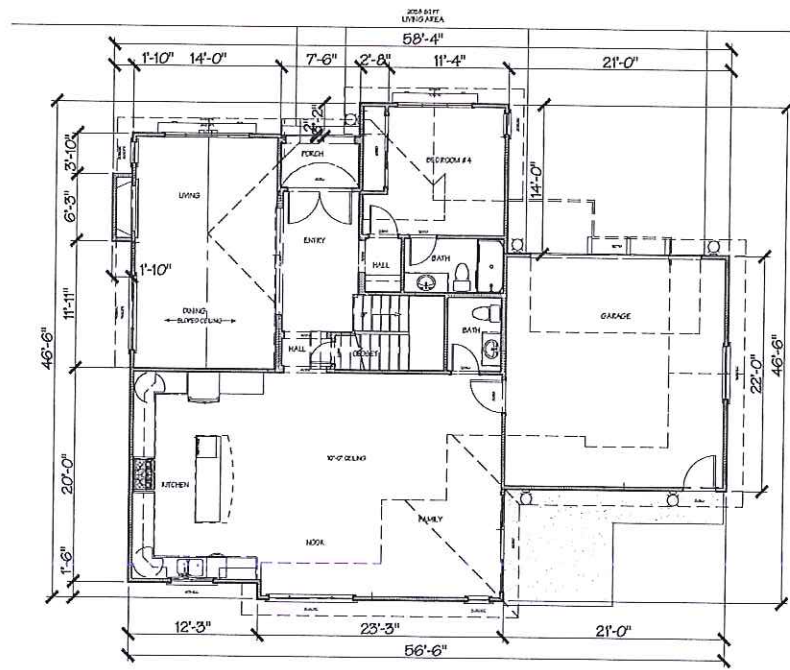
SECOND FLOOR PLAN



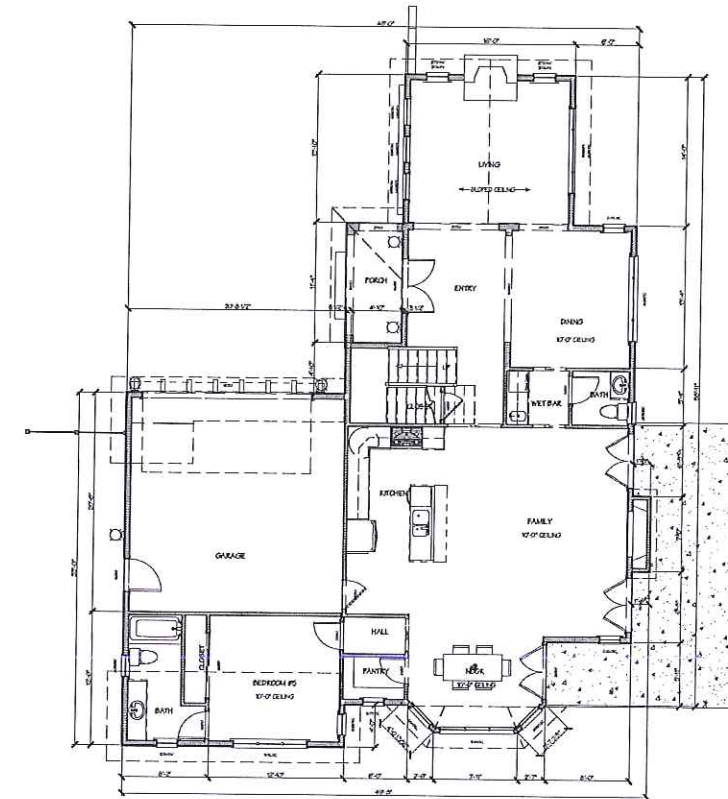
SECOND FLOOR PLAN



FIRST FLOOR PLAN
UNIT #1



FIRST FLOOR PLAN
UNIT #2



FIRST FLOOR PLAN
UNIT #3

REVISIONS	BY
PLANNING 6-20-17	1

RICHARD A. HARTMAN
A.I.A.
609-995-0496
RichardA@hometec.com

HOMETEC
ARCHITECTURE, INC.
619 NORTH FIRST STREET, SAN JOSE, CA 95112

3 NEW HOMES FOR:
GOLDSILVERISLAND PROPERTIES, LLC
1220 CURTISS AVENUE, SAN JOSE, CA. 95125

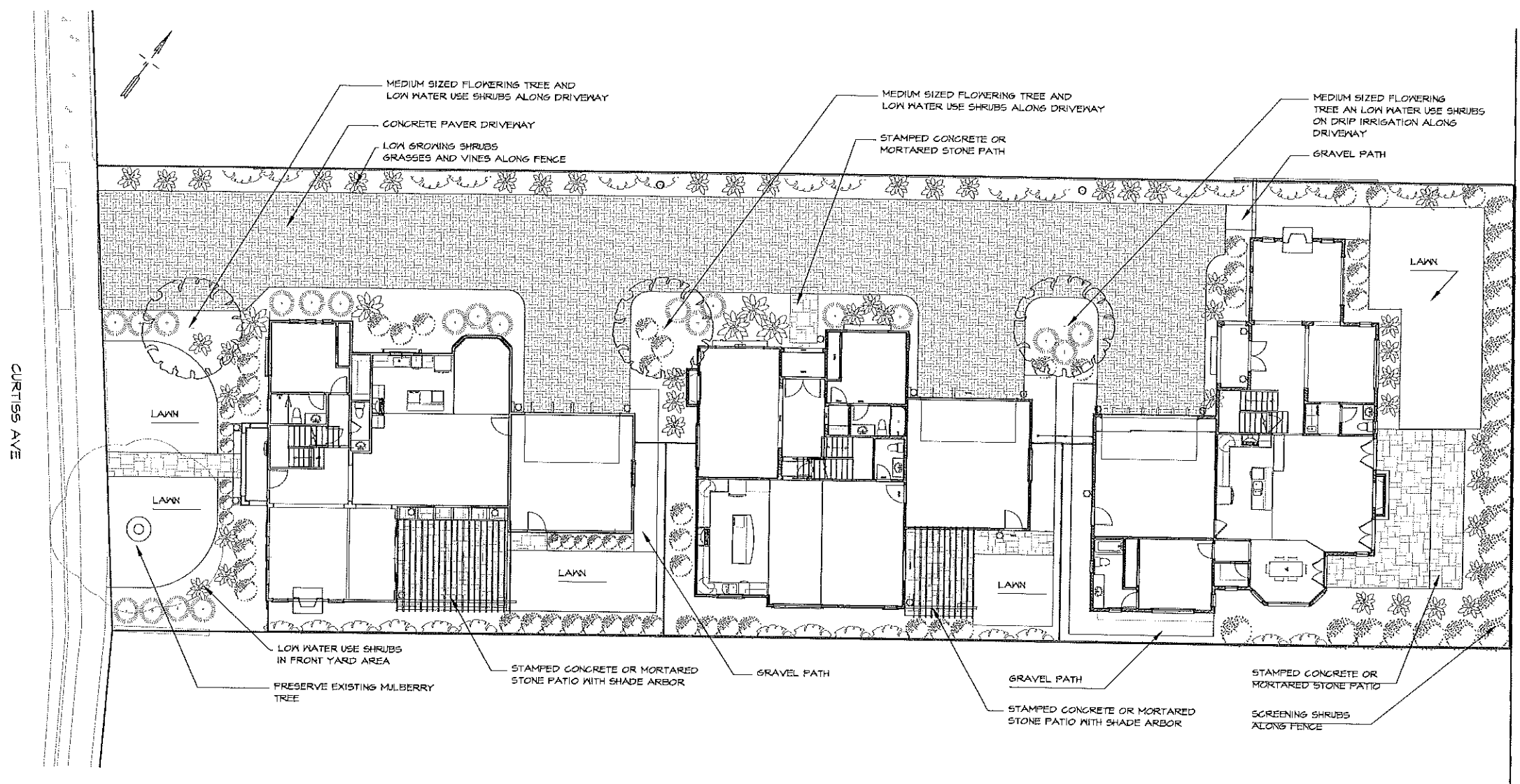
Date 4-18-17
Scale 1/4" = 1'-0"
Drawn RAH
Job 17-003
Sheet

REVISIONS	BY



PRELIMINARY LANDSCAPE PLAN

**NEW RESIDENCES
1220 CURTISS AVENUE
SAN JOSE, CA**



CURTISS AVE



PRELIMINARY LANDSCAPE PLAN

SCALE: 1/10" = 1'-0"

APN: 429-01-005

DRAWN	MY
CHECKED	MY
DATE	3/5/17
SCALE	1/10" = 1'-0"
JOB NO.	300
SHEET	L-1

OF SHEETS

June 17, 2015

Samir Sharma
1220 Curtiss Avenue
San Jose, CA 95134

RE: File No. PRE15-091: Preliminary Review Application to review subdivision of a single lot into three lots, on a 0.43 gross acre site, in the R-1-8 Single-Family Residence Zoning District

Dear Mr. Sharma,

Thank you for your preliminary application to review request for subdivision of one lot into three lots for construction of three single-family residences at 1220 Curtiss Avenue. Your application has undergone preliminary review by planning staff based on the information presented in the application package. A Preliminary Review evaluates the project's compliance with the San Jose General Plan and Zoning Code, and offers site and architectural plan review if possible. At this time, your project does not comply with the San Jose General Plan and with the current Zoning District standards. Without conformity to the General Plan and Zoning Code, staff generally cannot support the project.

General Plan: Residential Neighborhood

The Envision San Jose 2040 General Plan Designation is Residential Neighborhood which promotes infill development that closely conforms to the prevailing existing neighborhood character (density, lot size, massing, neighborhood form, and development pattern). Only when an infill site is completely separated from existing neighborhoods is it allowed to establish a unique character with respect to density, lot size, etc. In addition, General Plan Land Use Policy LU-11.1 states that design of all new single-family detached residences shall have a street frontage on a public street. General Plan Land Use Policy LU-11.2 states that subdivisions of residential lots shall reflect the established pattern of development in the immediate area including the lot sizes and street frontages. Staff's initial response to the proposed development of the site at 8 dwelling units per acre is that it does not match the existing neighborhood character. Residential Neighborhood would allow a maximum density of 8 dwelling units per acre if the density matches those of the adjacent sites. Since the adjacent sites appear to have mostly single-family detached structures with deep lots, the proposed subdivision is not in compliance with the General Plan. The lot at 1182 Curtiss Avenue was subdivided with an older General Plan and therefore cannot be compared with this proposal.

Zoning: R-1-8 Single-Family Residence

Per Section 19.36.200 for lot frontage requirements, each lot shall have frontage of not less than fifty-five feet on a street. Moreover, flag lots are discouraged in areas where the pattern and the relationship of the lot to the public street are not clearly consistent to the neighborhood block pattern or maintain a street presence. Additionally, flag lots have to be consistent with the City Council Policy 6-19 and each parcel must meet a minimum lot-size requirement of 8,000 square feet or more and maintain minimum setback requirements for front and rear yards per development standards for R-1-8 single-family zoning district. The proposal is for reduced front and rear setbacks and for lot sizes less than 8,000 square feet, which are not compatible to adjacent and surrounding residences on this block of the street. As mentioned above, certain parcels on this block were developed under an older General Plan and hence are not applicable comparative examples. Due to the lack of General Plan and Zoning Ordinance conformance, staff would not be able to support a three-lot residential subdivision for this parcel.

Next Steps

This parcel could have a second dwelling unit which could be developed per Section 20.30.150 of the San Jose Municipal Code. The second unit could be rented but the parcel shall maintain single ownership.

Please be advised that this summary does not constitute a final review. Additional comments may be necessary upon review of any additional information and plan revisions submitted in response to this letter.

If you have any questions regarding this preliminary proposal or need clarification, feel free contact me via email at rina.shah@sanjoseca.gov or by phone at 408-535-7835. We can also discuss any concerns you may have by scheduling a meeting in the next few weeks.

Sincerely,

RShah

Rina Shah
Project Manager

Flag Lot Policy

BACKGROUND

Policy Number: 6-19
Effective Date: 12/11/90

This Council policy implements the 1989 General Plan action: **To strengthen the Neighborhood Preservation policy and objectives of the General Plan, the City Council may adopt a policy to establish criteria for the use of flag lots.**

Throughout the older neighborhoods of the City of San Jose, certain properties in predominantly single family detached neighborhoods were developed with deep lots. In recent years, there has been increasing speculative interest in additional development or redevelopment of these parcel through the use of flag lots. Many problems result, especially in areas designated medium low density residential (8 DU/AC) including overdensification of narrow streets, large asphalt areas created to access rear units and the overwhelming mass of new units incompatible with the existing neighborhood. These problems threaten the character and stability of existing neighborhoods which are vital elements of the City's housing stock. For these reasons, increasing residential density in predominantly single family detached neighborhoods through the use of flag lots shall not be considered as Infill Housing Policy development.

The following Flag Lot Criteria for flat land areas pertain only to established areas of San Jose developed predominantly as single-family, detached neighborhoods. A Council Policy regarding flag lot development which would apply to mixed housing types, multiple densities, and varying lot sizes shall also be developed.

Flag Lot Criteria for Flat Land Areas

In established, predominantly single family detached neighborhoods, the following criteria shall apply:

1. Flag lots are not appropriate in situations where a series of large lots could be converted to flag lot developments, thereby raising the density and changing the character of the neighborhood.

2. Neighborhoods that may be appropriate for flag lot development have uniformity of single-family lot sizes, but with an occasional and unique in its neighborhood, larger parcel, suitable for flag lot projects.
3. In neighborhoods which are designated medium low density residential (8 DU/AC), parcels considered for flag lot development are recommended to be approximately 8,000 square feet in size. At a minimum, the parcel must be larger than the average, or of an unique configuration, in the surrounding area in order to generously meet R-1 setback zoning codes.
4. Flag lot units located away from the street shall maintain a presence to the street, be oriented to the street, and be visible from the street. A larger building mass for the flag lot unit in relation to the front unit is not acceptable as a means to meet the street presence requirement.
5. Flag lots shall be approved only through the Planned Development zoning process.
6. Orientation, setbacks and private yards should conform to the following criteria:
 - All units shall orient to the street.
 - Each unit shall have both a "front" and "rear" yard on opposite sides of the unit.
 - Front yard setback for the front unit must match neighborhood pattern. "Front" setbacks for rear units must meet R-1 standards.
 - Rear yards for all units shall be a minimum of 1200 square feet, with a minimum dimension of 25 feet.

- Setbacks from interior project boundaries should be:
 - To a neighboring rear yard, 10 feet for first floor and 20 feet for second floor.
 - To a neighboring side yard, 5 feet.
- A common driveway for all units is encouraged; multiple driveways are discouraged.
- Driveways shall be a minimum of 10 feet wide, with a minimum of 3 feet of landscaping on either side.
- Parking ratios for each unit shall be in conformance with the Residential Design Guidelines, varying by unit size. Guest parking for units not having street frontage shall be provided at each unit.
- Adequate vehicle turn-around space shall be provided for each unit (typically a 26-foot minimum dimension).
- To protect the privacy of yard areas on neighboring properties, large windows and decks on the second floor shall orient to on-site yard areas, not to surrounding properties.
- Drainage shall follow pre-existing drainage patterns, which may require obtainment of easements from adjacent property owner. Padding up the rear of the site to achieve drainage to the street is discouraged.
- The mass of the front and back units should be consistent with the average mass in the surrounding neighborhood.

DEVELOPMENT STANDARDS – 1220 Curtiss Avenue, San Jose, CA

PD17-011

PDC17-018

Proposed R1-8(PD)

SUBJECT PROPERTY

Front = 35'

Side = 5'

Rear = 20'



Interior PD Setbacks

Unit 1: Front (west) = 25'

Side (north, south) = 5'

Rear (east) = 5'

Unit 2: Front (north) = 5'

Side (east, west) = 5'

Rear (south) = 5'

Unit 3: Front (west) = 5'

Side (north, south) = 5'

Rear (east) = 20'

Parking

Each unit to have a 2-car garage.

Each unit to have a minimum 18' deep driveway.

Maximum Height = 30'

FAR = as approved, no additions allowed

Sorice, Elia

From: Pierluigi Yahoo <pierluigi1@yahoo.com>
Sent: Wednesday, March 29, 2017 8:06 AM
To: Sorice, Elia
Cc: Lipoma, Emily
Subject: Re: PD17-011

Thank you Elia and Emily.

Sent from my iPhone

On Mar 29, 2017, at 07:48, Sorice, Elia <Elia.Sorice@sanjoseca.gov> wrote:

Hello Pierluigi,

We met with the applicants for the project at 1220 Curtiss Avenue and it sounds like they intend to file a PD Zoning application for the project. As you mentioned, this is a flag lot configuration which is in conflict with several General Plan policies and City Council Policy 6-19. We are still early in the review process but staff's recommendation would be for denial.

Thank you,

Elia Sorice

Elia Sorice | Planner II
City of San Jose | Planning Division | PBCE
200 E. Santa Clara Street, San Jose, CA 95113
elia.sorice@sanjoseca.gov | (408) 535-7829

From: Pierluigi Yahoo [<mailto:pierluigi1@yahoo.com>]
Sent: Wednesday, March 22, 2017 9:32 PM
To: Lipoma, Emily <emily.lipoma@sanjoseca.gov>
Cc: Sorice, Elia <Elia.Sorice@sanjoseca.gov>
Subject: Re: PD17-011

Thank you.

Sent from my iPhone

On Mar 23, 2017, at 00:30, Lipoma, Emily <emily.lipoma@sanjoseca.gov> wrote:

Hello!

We're still quite early on in the review process: in addition to looking into what's being proposed, we're also looking into if the property has a PD zoning or a record of any preliminary review applications discussing the proposal. Thus, I'm afraid I don't have much clarity on the project just now, but hope to by the end of the week. Elia Sorice, the project manager, is cc-ed.

Kind regards,

Emily

Emily Lipoma | AICP | Supervising Planner
Planning Division | City of San Jose
200 East Santa Clara Street, 3rd Floor, Tower
San Jose, CA 95113-1905
Emily.Lipoma@sanjoseca.gov | Phone: (408) 535-7903

From: Pierluigi Yahoo <pierluigi1@yahoo.com>
Sent: Thursday, March 16, 2017 8:50:04 AM
To: Lipoma, Emily
Subject: PD17-011

Hi Emily,

Hope all is well.

Do you have a perspective on this proposal on Curtiss Ave? Appears to be flag lot.

Thank you

Sent from my iPhone

Sorice, Elia

From: jeanann2@aol.com
Sent: Wednesday, March 29, 2017 8:05 AM
To: Sorice, Elia
Cc: Lipoma, Emily
Subject: Re: PD17-011/1220 Curtiss

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Ella,

Thank-you for following up and reaching out. Please place me on an interest list to review the historic report prior to your acceptance in final form. Willow Glen's history is an area of my history scholarship.

Thank-you,
Jean Dresden

-----Original Message-----

From: Sorice, Elia <Elia.Sorice@sanjoseca.gov>
To: jeanann2 <jeanann2@aol.com>
Cc: Lipoma, Emily <emily.lipoma@sanjoseca.gov>
Sent: Wed, Mar 29, 2017 8:00 am
Subject: RE: PD17-011/1220 Curtiss

Hello Jean,

Thank you for your email. My name is Elia Sorice and I am the project manager assigned to project PD17-011 at 1220 Curtiss Avenue. We appreciate your concerns and are still early in the review process. I was not able to locate this particular property on the City's Historic Resources Inventory but did see that it was built in 1905. Any structure older than 50 years requires a historic assessment to in order to determine its historic value.

Thank you,

Elia Sorice

Elia Sorice | Planner II
City of San Jose | Planning Division | PBCE
200 E. Santa Clara Street, San Jose, CA 95113
elia.sorice@sanjoseca.gov | (408) 535-7829

From: Lipoma, Emily
Sent: Thursday, March 16, 2017 12:57 PM
To: jeanann2@aol.com
Subject: Re: PD17-011/1220 Curtiss

Hi Jean,

I haven't seen the file yet, so I have no information on the proposal right now. I'll share with the project manager (the file is currently unassigned) that you'd like to remain informed of the project.

Regards,
Emily

Emily Lipoma | AICP | Supervising Planner
Planning Division | City of San Jose
200 East Santa Clara Street, 3rd Floor, Tower
San Jose, CA 95113-1905
Emily.Lipoma@sanjoseca.gov | Phone: (408) 535-7903

From: jeanann2@aol.com <jeanann2@aol.com>
Sent: Thursday, March 16, 2017 9:24:48 AM
To: Lipoma, Emily
Subject: PD17-011/1220 Curtiss

Hi Emily,

The RSS feed included this item for 3 homes on 0.4 acres. There is an existing 1905 home.

Will there be a historic report? I have some notes that suggest this 1905 structure may meet a standard of historic. My notes are incomplete so I can't make a strong argument at this time. (I plan to look into it next week).

Please put me on a list to follow this project.

Thank-you,

Jean Dresden
JeanAnn2@aol.com

Sorice, Elia

From: Sorice, Elia
Sent: Monday, June 05, 2017 11:34 AM
To: 'Tom Liggett'
Subject: RE: PD17-011/PDC17.018/1220 Curtiss Ave.

Good morning Tom,

Thank you for your comments and input related to Planned Development Zoning PDC16-018 and Planned Development Permit PD17-011 for 1220 Curtiss Avenue. Your email will be added to the public record for both projects.

To clarify, the site is currently zoned R-1-8 Single-Family Residence Zoning District which permits one single-family dwelling. The property owner is requesting to rezone from the current Zoning District to a Planned Development Zoning District in order to allow the construction of three homes. Grading and drainage issues are currently being addressed by Public Works and the project is proposing a wood fence along the north, south and east property boundaries.

Please note that both projects are still under review and nothing has been approved at this time. The decision to approve or deny the projects will take place at public hearings by Planning Commission and City Council. A hearing notice will be circulated to the community once hearing dates are set.

Thank you,

Elia Sorice

Elia Sorice | Planner II
City of San Jose | Planning Division | PBCE
200 E. Santa Clara Street, San Jose, CA 95113
elia.sorice@sanjoseca.gov | (408) 535-7829

From: Tom Liggett [mailto:tomliggett@sbcglobal.net]
Sent: Thursday, June 01, 2017 6:38 PM
To: Sorice, Elia <Elia.Sorice@sanjoseca.gov>
Subject: FW: PD17-011/PDC17.018/1220 Curtiss Ave.

From: Tom Liggett [mailto:tomliggett@sbcglobal.net]
Sent: Thursday, June 1, 2017 5:50 PM
To: elia.sorice@sanjoseca.gov
Subject: PD17-011/PDC17.018/1220 Curtiss Ave.

Dear Ms. Sorice;

I just viewed the sign in front of 1220 Curtiss Ave., San Jose.

I am the neighbor immediately adjacent to 1220 (I own 1206 Curtiss Ave.).

I was immediately surprised by two factors:

The property is zoned for two homes, yet three homes are planned.

1. Has a variance been granted?

If so why was I not notified?

2. I did not note elevation markings on the proposal.

The City has historically required all properties on the East side of Curtiss Ave. to be elevated in their Eastern portions.

Will the homes at 1220 be built on the native/existing grade?

Will a retaining wall be required?

That last consideration is *very* important to me.

I will *NOT* willingly accept any design which leaves me with a good-neighbor-type retaining wall/fence array.

I will legally oppose any project which includes a good neighbor-type retaining wall/fence array.

I look forward to hearing from you.

Myron Thomas Liggett, Jr.

Sorice, Elia

From: still6345@yahoo.com
Sent: Friday, June 02, 2017 5:26 PM
To: Sorice, Elia
Subject: Planning Department

Follow Up Flag: Follow up
Flag Status: Flagged

Public Comments

Folder Number: 2017 010537 DV

Project Manager: Elia Sorice

Hi, I regularly park on Curtiss Ave in Willow Glen. I saw the notices for one of our older homes to be removed and replaced with 3 new buildings. I have the following concerns. I feel if additional homes are added to the property they need to have sufficient parking on the premises to include parking for guests. There are a couple of properties in the area closer to the ends of the street which do not have much guest parking if any and the street is really crowded especially at late at night if this property and others add more residences without parking, there won't be any room left for existing residents. My second concern is that the existing house in the front really fits the character of the neighborhood including the houses immediately next door which are smaller. It's also a very old home and might be considered historic. If additional residences are added I would really hope they can find a way to keep the existing house at the front of the street to preserve them.

Name: Neil Rische
Email: still6345@yahoo.com
Telephone Number:

Web Server: www.sjpermits.org

Client Information: Mozilla/5.0 (Windows NT 10.0; WOW64; rv:53.0) Gecko/20100101 Firefox/53.0

Sorice, Elia

From: Sorice, Elia
Sent: Friday, June 09, 2017 11:46 AM
To: 'blaahh4040@aol.com'
Subject: RE: Planning Department

Good morning Dirk,

Thank you for your comments regarding file no. H17-027 at 27 S. 1st Street. Your email will be added to the public record for the project.

Kind regards,

Elia Sorice

Elia Sorice | Planner II
City of San Jose | Planning Division | PBCE
200 E. Santa Clara Street, San Jose, CA 95113 elia.sorice@sanjoseca.gov | (408) 535-7829

-----Original Message-----

From: blaahh4040@aol.com [mailto:blaahh4040@aol.com]
Sent: Thursday, June 08, 2017 5:30 PM
To: Sorice, Elia <Elia.Sorice@sanjoseca.gov>
Subject: Planning Department

Public Comments
Folder Number: 2017 021275 DV
Project Manager: Elia Sorice

fantastic infill project for this location. blends modern design with the historic surroundings well to help bring transition the neighborhood to it's modern neighbors a few blocks over.

Name: Dirk Birkin
Email: blaahh4040@aol.com
Telephone Number:

Web Server: www.sjpermits.org
Client Information: Mozilla/5.0 (Windows NT 6.1; WOW64; rv:53.0) Gecko/20100101 Firefox/53.0

Sorice, Elia

From: glenn casey <thpanther@yahoo.com>
Sent: Wednesday, July 12, 2017 12:49 PM
To: Sorice, Elia; Chrisdcasey; Glenn Casey
Subject: PD17-011

Follow Up Flag: Follow up
Flag Status: Flagged

Elia Sorice,

Regarding the property development request described as PD17-011 on 1220 Curtiss Avenue.

Nobody in the neighborhood wants the neighborhood to change like that anymore as it does not reflect the diversity of the neighborhood.

Property Manager at 1228 Curtiss Avenue, San Jose, CA 95125

Glenn Casey
408-771-4156

Owner at 1228 Curtiss Avenue, San Jose, CA 95125

Christopher Casey
408-603-6365

Thank you for your attention to this matter.



BEACON ECONOMICS

August 14, 2017

Mr. Shaunn Mendrin
Supervising Planner
City of San José
200 E. Santa Clara Street
Tower, 3rd Floor
San José, CA 95113

SITE ADDRESS: 1220 Curtiss Avenue

RE: Planned Development Rezoning (PDC17-018) from the R-1-8 Single-Family Zoning District to the R-1-8(PD) Planned Development Zoning District to allow three single family detached residences on 0.42 gross acre site.

Dear Mr. Mendrin:

The purpose of this letter is to provide you with information on potential economic benefits that would result from the proposed rezoning. First, by keeping an older structure in a large plot of land in urban San José, the City forgoes a substantial amount of surplus revenue from property tax and indirect revenue from additional household expenditures.

In addition, though the General Plan was very recently updated, the General Plan still ignores the reality of a very tight supply of housing in the community. In the face of a statewide housing shortage that is even more prominent in the Silicon Valley area, burdensome regulations such as minimum lot size requirements worsen the high housing costs that are a direct result of the housing shortage.

Economic Benefits

The current decision, issued on May 26, 2017 ignores the massive potential economic benefits that could be generated with the proposed rezoning plan. Based on property information from the Office of the Assessor, the property tax paid for the property in 2016 was \$21,268. Should the rezoning allow three houses be built, each would sell for \$1.5 million to \$1.9 million based

on our model.¹ This means assuming a composite property tax rate of 1.2121%,² the potential tax revenue collected would range from \$57,000 to \$62,000 in total, or almost triple the current amount collected. The additional property tax revenue could support programs such as road maintenance, parks and recreation area maintenance, and schools. And this is not including other fees and taxes such as the Residential Construction Tax, Strong Motion Instrumentation Program Assessment, Building Standards Administration Special Revolving Fund that are associated with the new construction.

Table 1: Estimated Assessed Value and Property Tax Revenue³

	Low Estimates	High Estimates
Property 1	\$1,542,345	\$1,651,497
Property 2	\$1,458,235	\$1,576,198
Property 3	\$1,711,722	\$1,903,825
Property Tax Rate	1.2121%	1.2121%
Property Tax Revenue	\$57,116	\$62,198

Sources: Zillow; Office of the Assessor, County of Santa Clara

As it stands, the site currently has one house built over 100 years ago, which may not be up to modern building standards on insulation, cooling/heating, and electrical wiring. Should the proposed project be accepted, which would also overturn Proposition 13 protections, the site would have three households instead of one. This has additional tax revenue impacts beyond the aforementioned property taxes. Based on consumer expenditure data from Bureau of Labor Statistics' Consumer Expenditure Survey, the average household expenditure within a 1-mile radius of 1220 Curtiss Avenue was one hundred and seven thousand dollars per annum, or \$321,000 for three households in the proposed project. Below is a detailed breakdown of the modeled expenditure per household:

Table 2: Average Household Expenditure Within One Mile of the Site

¹ To estimate the prices of the constructed homes, data on lot size, property size, the number of bedrooms, the number of bathrooms, year built, heating and cooling, and current estimates are collected for properties nearby the target site on real estate websites such as Zillow.com. An econometric model using these variables are constructed to regress the predicted property value.

² This property tax rate assumes the property is purchased between August 2017 to December 2017, where the annual tax bill is 1.2121% of the purchase price according to the Supplemental Tax Estimator, which can be found at < <https://www.sccassessor.org/index.php/online-services/supplemental-calculator>>

³ Estimates as of July 2017. Due to the current housing market, these estimates are likely conservative as the housing market is expected to appreciate.

Expenditure Category	Amount Spent per Household	Amount Spent (3 Households)
Housing and Housing Related Expense	\$41,056.24	\$123,168.72
Food and Beverage	\$13,690.23	\$41,070.69
Transportation	\$11,796.93	\$35,390.79
Travel, Entertainment, and Recreation	\$8,135.62	\$24,406.86
Health Care	\$7,849.48	\$23,548.44
Clothing	\$3,488.55	\$10,465.65
Education	\$2,529.04	\$7,587.12
Other Expenses	\$18,592.22	\$55,776.66
Total Expenditure per Household	\$107,138.31	\$321,414.93

Source: Consumer Expenditure Surveys, Bureau of Labor Statistics

Many of these expenditure items, such as education and transportation, are spent locally, which accrue additional direct, indirect, and induced economic benefits. For example, money spent on food away from home in a local restaurant creates a direct impact, as money is spent for the restaurant to operate the business – namely inventory (food), utilities, and salaries to employees. The money the local restaurant pays to its suppliers and employees recirculates, creating an indirect impact. Finally, additional consumer and business spending occurs as employees, business owners, and others spend their income in the local economy, which creates an induced impact.

In addition to the property taxes and local expenditures generated by the three households, many of the largest spending categories – such as food away from home, transportation, clothing, and entertainment – often have taxable components that can stimulate the local economy.

Compared to the rest of the properties on the block, the lot size of 1220 Curtiss Ave (0.42 acre) is more than twice as big as the average lot size of the block, which is just slightly above 8,000 square feet. On the other hand, the property size of the single-family homes on the block averaged 1,800 square feet, or approximately one-third larger than the house on 1220 Curtiss Avenue, which measured 1,360 square feet. From a Floor-to-Area ratio standpoint, the FAR of 1220 Curtiss Avenue is currently 0.7, or one-third of the 0.22 FAR averaged in the block. This is a very inefficient use of land considering that the FAR of the target site is less than one-third of the average FAR of nearby properties.

The Reality of the Housing Situation in San José

Low home inventories are making the process of finding affordable housing a challenge for many workers in the area. When the 2012 General Plan was written and adopted, the Plan had a “jobs first” approach as the City faced the lingering effects of the Great Recession and had a

very high unemployment rate. Now that unemployment rate has decreased considerably, the City's jobs-to-housing ratio has increased drastically. It makes little sense for the General Plan to continue to solely focus on jobs when the housing supply shortage is a far more serious issue.

Based on population data from the California Department of Finance, the City of San José has experienced some of the strongest growth in new households in the Bay Area – a 15% increase since 2000; compared to an 11% increase in Santa Clara County, 14% in the City of Santa Clara, and 11% in San Francisco.⁴ Though in Milpitas, the number of new households grew by 22%, San José still had higher growth in households than Cupertino (7%), Mountain View (5%), Palo Alto (5%), and Sunnyvale (4.5%).

The average household in San José (3.21 persons per household) is also considerably more crowded compared to other cities in the Bay Area:

- Santa Clara County: 3.02
- Cupertino: 2.98
- Mountain View: 2.40
- City of Santa Clara: 2.73
- Sunnyvale: 2.71
- San Francisco: 2.32
- Fremont: 3.11
- Oakland: 2.59
- Concord: 2.89
- San Mateo: 2.64

Furthermore, permit activity has also been slow in San José compared to surrounding cities in Santa Clara County. In 2016, just 219 new construction single-family permits were issued for San José, which is even fewer than the 230 issued for nearby Sunnyvale – a city with less than one-sixth of San José's population - according to the Construction Industry Research Board. Indeed, the number of new construction permits issued in San José for both single-family and multi-family categories has been on a continuous decline relative to permits issued in Santa Clara County overall. In 2000, 47 percent of all new construction single-family permits were issued in San José. In recent years, however, just 10 percent and 14 percent of all new construction single-family permits were issued in San José in 2015 and 2016, respectively.⁵

⁴ City/County Population and Housing Estimates, California Department of Finance.

⁵ Similar trend also occurred for new construction multi-family housing permits. In 2000, 74% of all new construction multi-family housing permits issued in Santa Clara County were issued in San José, compared to 54% in 2016.

Below is a comparison of permitting activities and changes in the number of households among cities with a minimum population of 50,000 in Santa Clara County:

Table 3: New Residential Construction Permits and Households, 2010 to 2016

City/Place	New Residential Permits	Change in Households	Permit to Household Ratio
Santa Clara (City)	3,161	824	3.84
Sunnyvale	3,609	1,656	2.18
Milpitas	3,612	1,752	2.06
Gilroy	2,348	1,419	1.65
Palo Alto	1,155	725	1.59
San José	19,427	17,705	1.10
Cupertino	724	-516	-1.40
Santa Clara (County)	41,032	27,191	1.51
San Francisco	22,190	19,459	1.14

Source: California Department of Finance; Construction Industry Research Board

With the exception of Cupertino, which actually experienced a decrease in total households, San José has by far the lowest permit-to-household ratio.

Yet, since 2000, the number of households in San José as proportional to the number of households in the entire Santa Clara County had been increasing until 2014, when the share declined and persisted. As a result, while the vacancy rate has remained stable at 4.4% in Santa Clara County, the vacancy rate in San José has dropped from 4% in 2010 to 3.4% in 2016.⁶ San José has the second-lowest vacancy rate in Santa Clara County (Milpitas has the lowest vacancy rate, at 2.4% in 2016). In fact, San Francisco's vacancy rate is twice as high as that of San José.

Between 2010 and 2015, employment in the Silicon Valley area grew by 367,000 jobs, but housing units only increased by 57,000 during the same period: an average of 6.4 jobs created per one housing unit created.⁷ Furthermore, between 2012 to 2016, the 5-year period after the adoption of the Envision San José 2040 General Plan in November 2011, the number of new households had exceeded the number of new housing units in every year except for 2016.

The current minimum lot size required for single-family residences in areas zoned as R-1-8 is 5,445 square feet, which is also the lowest minimum lot size currently required among all single-family zones. Minimum lot size requirements, in the name of preserving neighborhood

⁶ City/County Population and Housing Estimates, California Department of Finance.

⁷ Based on data sets from the U.S. Census Bureau, California Department of Finance, and Bureau of Labor Statistics.

characteristics, is counterintuitive for the following reasons. First, strict adherence to a definite minimum lot size requirement may lack the flexibility in responding to sensitive resources during lot-by-lot development that occurs outside of the subdivision process. In addition, minimum lot size restrictions inherently exacerbate sprawl.

In fact, many nearby cities that are smaller and have lower population density than San José have less stringent minimum lot size requirements. It makes little sense for the City to adhere stringently to the requirement.

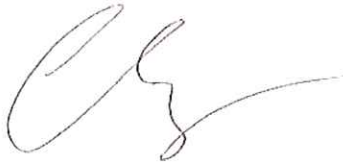
Table 4: Minimum Lot Size for Single-Family Residential Zoning Areas and Population Density

City	Minimum Lot Size	Population Density	Zoning District
San José	5,445	5,481	R-1-8
Cupertino	5,000	5,311	R1-5
Oakland	5,000	5,158	RD-1, RD-2
Milpitas	2,500	5,084	R1-2.5
Hayward	5,000	2,347	RS (for interior lot)

Source: Housing Element of the City's General Plan; USA.com

The consequences that arise from minimum lot size regulations are that minimum lot size requirements serve as restrictions on housing supply and make housing more expensive. Typically, regulations specifying minimum lot sizes increase home prices, all else equal. Furthermore, these regulations exclude lower-income families, which may increase gentrification as a result. Preserving neighborhood characteristics is important, but it should not be at the expense of quality of life in the community. Instead, this rezoning gives the city a great opportunity to add housing without upending a community.

Sincerely,



Christopher J. Thornberg, PH.D.
Founding Partner, Beacon Economics
08/14/2017

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE DENYING A PLANNED DEVELOPMENT REZONING FROM THE R-1-8 SINGLE FAMILY ZONING DISTRICT TO THE R-1-8 (PD) PLANNED DEVELOPMENT ZONING DISTRICT AND DENYING A PLANNED DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF AN EXISTING RESIDENCE AND ACCESSORY STRUCTURES FOR THE CONSTRUCTION OF THREE SINGLE-FAMILY DETACHED RESIDENCES ON INDIVIDUAL LOTS, INCLUDING TWO FLAG LOTS, ON A 0.42-GROSS ACRE SITE LOCATED ON THE SOUTHEAST SIDE OF CURTISS AVENUE, APPROXIMATELY 650 FEET SOUTHERLY OF WILLOW STREET (1220 CURTISS AVENUE)

FILE NOS. PDC17-018 and PC17-011

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on March 15, 2017, and April 27, 2017, applications (File Nos. PDC17-018 and PD17-011) were filed by the applicant, HOMETEC Architecture/Rich and Holly Hartman, with the City of San José for a Planned Development Rezoning from the R-1-8 Single Family Zoning District to the R-1-8 (PD) Planned Development Zoning District, and a Planned Development Permit to allow the demolition of an existing residence and associated accessory structures for the construction of three single-family detached residences on individual lots, including two flag lots, on a 0.42-gross acre site, on that certain real property situated in the R-1-8 Single Family Zoning District and located on the southeast side of Curtiss Avenue, approximately 650-feet southerly of Willow Street (1220 Curtiss Avenue, which real property is sometimes referred to herein as the “subject property”); and

WHEREAS, the subject property is all that real property more particularly described in Exhibit "A," entitled “Legal Description,” which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this Planning Commission conducted a hearing on said application on September 13, 2017, notice of which was duly given; and

WHEREAS, at said hearing, the Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing the Planning Commission made a recommendation to the City Council respecting said matter based on the evidence and testimony; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this City Council received and considered the reports and recommendation of the City's Planning Commission and the City's Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a plan for the subject property entitled, "Three New Homes for GoldSilverIsland Properties, LLC" dated received July 14, 2017, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said public hearing before the City Council was conducted in all respects as required by the San José Municipal Code and the rules of this City Council; and

WHEREAS, this City Council has heard and considered the testimony presented to it at the public hearing, and has further considered written materials submitted on behalf of the project applicant, City staff, and other interested parties;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

After considering evidence presented at the Public Hearing, the City Council finds that the following are the relevant facts and findings regarding this proposed project:

1. **Site Description and Surrounding Uses.** The subject site, located at 1220 Curtiss Avenue, contains approximately 0.42-gross acres and is located on the southeast side of Curtiss Avenue, approximately 650-feet southerly of Willow Street. The property is developed with an existing single-family residence and accessory structures located behind the residence. The subject site has a Residential Neighborhood General Plan designation and is in the R-1-8 Residential Zoning District.

The property is surrounded on all sides by single-family residences except for one parcel to the east which is developed as a multi-family condominium. All properties in the surrounding area follow a historic development pattern of one single-family detached home on one lot with the exception of two multifamily residential parcels to the north (zoned R-M Multiple Family) and three flag-lot developments to the south and north of the subject site.

In 1986, one larger lot located south of the subject site at 1254 Curtiss Avenue was subdivided into three smaller parcels and developed with three single-family residences on small lots (File No. PDC86-045). In 2002 and in 2005, two additional large lots located at 1182 and 1163 Curtiss Avenue were subdivided into three and four smaller parcels and developed with three and four single-family residences, respectively (File Nos. PDC01-084 and PDC05-031). Development approvals for all of these small-lot subdivisions were obtained prior to adoption of the *Envision San José 2040 General Plan*. There are roughly 12 other large lots with deep setbacks located in this area of Curtiss Avenue.

2. **Project Description.** An application for a Planned Development Rezoning from the R-1-8 Single Family Zoning District to the R-1-8 (PD) Planned Development Zoning District; and a Planned Development Permit to allow the demolition of an existing residence and associated accessory structures and the development of three single-family detached residences on individual lots, including two flag lots, on a 0.42-gross acre subject site.

- 3. Project Background.** On May 18, 2015, a different applicant submitted a Preliminary Review Application (File No. PRE15-091) for the proposed demolition of an existing single-family residence and associated accessory structures at 1220 Curtiss Avenue, in the Willow Glen neighborhood, and the development of three single-family detached residences on individual lots on the same 0.42-gross acre site. This application proposed a total of four new lots, including two flag lots and one common driveway lot, ranging in size from approximately 4,200 square feet to 5,500 square feet.

Staff advised the applicant that the proposed development project could not be supported at this location because it was inconsistent with *Envision San José 2040 General Plan* Land Use Policies LU-11.1 and LU11.2 and Council Policy 6-19: Flag Lots, which provides specific criteria and standards for the development of flag lots in single-family neighborhoods. These policies discourage both the development of flag lots in non-hillside areas and new residential development in established neighborhoods that does not reflect the prevailing density and character of the surrounding neighborhood. Planning staff recommended that the applicant consider a secondary dwelling unit at the rear of the property pursuant to Section 20.30.150 (Secondary Units) of the San José Municipal Code. A copy of Planning's comment letter is attached.

On March 15, 2017, the current applicant submitted a Planned Development Permit application to develop the existing 18,573-square foot lot with three new single-family detached residences on individual lots, including two flag lots and one common driveway lot. Council Policy 6-19 requires flag lot development to be considered through the Planned Development process. Unit No. 1 of the proposed Planned Development would have a lot size of approximately 5,208 square feet (56 feet by 93 feet) with frontage on Curtiss Avenue. The existing one-story single-family residence on the Unit No. 1 site, which was built in 1905, would be demolished and replaced with a new 2,651-square foot two-story residence.

Unit No. 2 and Unit No. 3 would be interior flag lots located behind Unit No. 1, with lot sizes of approximately 3,747 square feet (56 feet by 67 feet) and 5,945 square feet (78 feet by 77 feet), respectively. Unit No. 2 would be developed with a 2,592-square foot single family residence, and Unit No. 3 would be developed with a 3,004-square foot single-family residence. All three units would include attached two-car garages and would share a private driveway on a separate common lot (Parcel A) with access from Curtiss Avenue.

In March 2017, staff advised the applicant that the proposed Planned Development Permit could not be supported due to incompatibility with the General Plan and City Council policies pertaining to flag lots and neighborhood preservation. Furthermore, a Planned Development Zoning application had not been filed. During this meeting, the applicant and property owner were notified that a Preliminary Review Application (File No. PRE15-091) had previously been submitted in May 2015 for the subject site and that due to similar reasons, could

not be supported. The applicant was advised to: 1) withdraw the application, or; 2) proceed with the proposed Planned Development Permit and associated Planned Development Rezoning with a recommendation to the City Council for denial.

On April 27, 2017, the applicant and the property owner chose to proceed and submitted a Planned Development Rezoning application. The applicants requested that their rezoning application along with the Planned Development Permit application proceed straight to public hearing before the Planning Commission and City Council without full project review by the Department of Planning, Building and Code Enforcement and without any environmental review. As a result, neither the Public Works Department nor the Fire Department have provided a Final Memorandum with feedback on the proposed project, and no CEQA analysis and determination can be made. Therefore, if the City Council supports the possible flag lot development, staff will need to complete required project review and conduct full environmental analysis for subsequent consideration by the Planning Commission and City Council.

4. **General Plan.** The subject site has an Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Residential Neighborhood (RN). This designation is applied broadly throughout the City to encompass most of the established, single-family residential neighborhoods. The intent of this designation is to preserve the existing character of these neighborhoods and to strictly limit new development to infill projects which closely conform to the existing prevailing neighborhood character. New infill development should improve and/or enhance existing neighborhood conditions by completing the existing neighborhood pattern and maintaining the quality and character of the surrounding neighborhood. Maximum density in areas designated RN shall be limited to eight dwelling units per acre (DU/AC), or the prevailing neighborhood density, whichever is lower.

Analysis: As noted above, the intent of the Residential Neighborhood designation is to preserve the existing character of established, single-family neighborhoods and to strictly limit new development to infill projects which closely conform to the existing prevailing neighborhood character as defined by density, lot size and shape, massing and neighborhood form and pattern. Particular emphasis should be given to maintaining consistency with other homes fronting onto the public street to be shared with the proposed new project.

The existing prevailing neighborhood character of Curtiss Avenue is defined by single-family homes and standard lot shapes (rectangles) of varying depths. The neighborhood includes a pocket of multi-family residential development and three flag-lot developments, which were created by subdividing larger lots with deep rear setbacks into smaller lots. Roughly twelve lots of similar size and shape remain along Curtiss Avenue. In recent years, a significant number of older homes in this area have been demolished and replaced with larger new homes or enlarged; however, this type of development maintains the prevailing density and

predominant neighborhood pattern of one single-family home on one larger lot with ample setbacks.

As an exception to the prevailing character, in 1986, one larger lot located to the south of the subject site at 1254 Curtiss Avenue was subdivided into three smaller parcels and developed with three small-lot, single family residences (PDC86-045). In 2002 and in 2005, two larger lots were also subdivided into three and four smaller parcels and developed with three and four single-family residences, respectively (PDC01-084 and PDC05-031). These projects were developed prior to adoption of the 2040 General Plan in November 2011. The 2040 General Plan includes clear policies to remedy this trend by discouraging any development of flag lots except in hillside areas

Specific development policies in the current General Plan were adopted to support Council Policy 6-19, which states that flag lots are not appropriate in situations where a series of larger lots could be converted to smaller lots, thereby raising the density and changing the character of the neighborhood. Allowing the subject site to be subdivided into three smaller lots would result in the further conversion of large lots along Curtiss Avenue into smaller parcels, thereby raising the density and further changing the character of the neighborhood.

While shallower lots and the aforementioned developments contribute to an increase in residential density, the average density of the neighborhood is 6.7 DU/AC. The subject site is currently developed with a single-family residence which yields a density of 2.38 DU/AC. Development of the site with three single-family residences, as proposed, would result in a density of 7.14 DU/AC, which exceeds the prevailing neighborhood density and is entirely inconsistent with the densities of the properties that directly border the site to the north and south (3.22 DU/AC and 3.7 DU/AC, respectively).

Based on the above, the proposed flag lot would be inconsistent within the historic and prevailing development pattern in an established, single-family neighborhood and would not improve or enhance or maintain the quality and character of the surrounding area.

The proposed project is inconsistent with the following General Plan policies:

- a. Land Use Policy LU-9.15: New single-family flag lots may be appropriate on hillside properties but are discouraged within other parts of the City. Flag lot development in non-hillside areas should have a clear and visible relationship to the neighborhood and the street and should be consistent with the applicable zoning district which can assure that relationship. To strengthen neighborhood preservation policies and objectives of this plan, the City Council has adopted a policy establishing criteria for the use of flag lots.

Analysis: The subject site is not located in a hillside area, and as discussed above, the proposed Planned Development is inconsistent with several General

Plan land use policies and Council Policy 6-19: Flag Lot Development in Residential Neighborhoods. In this case, the sole purpose of the flag lots is to accommodate the development of two additional single-family residences on a large parcel in an established single-family neighborhood. If approved, the proposed Planned Development Rezoning and Planned Development Permit would allow the applicant to file for a parcel or tentative map to enable subdivision of the existing large lot into three smaller buildable lots and one common lot for a shared driveway. The two rear residences would be largely hidden from view and would not have a clear and visible relationship to the neighborhood or the street. The proposed flag lots would not be consistent with the prevailing form and pattern of development in the surrounding neighborhood, which features one single-family home on large lots with deep rear setbacks. In this case, the proposed flag lot would create a unique lot configuration with three lots differing in size, shape, and dimensions from the majority of other lots in the surrounding neighborhood.

The City Council adopted Policy 6-19 in December 1990 to establish specific criteria for flag lots. This policy states that flag lots are not appropriate in situations where a series of large lots could be converted to flag lot developments, thereby raising the density and changing the character of the neighborhood. As discussed above, three flag-lot developments currently exist to the north and the south of the subject site. These flag lots were approved under the previous 2020 General Plan and would not be supported under the current development policies of the Envision San José 2040 General Plan and Council Policy 6-19. Allowing the subject site to be subdivided into three smaller lots would continue the conversion of large lots into smaller parcels, thereby raising the density and further changing the character of this neighborhood.

- b. Land Use Policy LU-11.1: Design all new single-family detached residences so that each home has a frontage on a public street or on a private street that appears and functions as a public street.

Analysis: The proposed project would result in the development of three single-family detached residences on separate lots, including two flag lots and one common lot (Parcel A) for the shared private driveway. The residence identified as Unit No. 1 would have 56 feet of frontage on Curtiss Avenue, but the residences identified as Unit Nos. 2 and 3 would be located behind Unit No. 1 and would not have significant frontage on a public street or a private street. As discussed above, each lot would have access from Curtiss Avenue via a common private driveway along the northern boundary of the property. This 16-foot ingress/egress easement is designed as a private drive, not a public or private street. Furthermore, no sidewalk or pedestrian access is provided along the shared driveway which is typical in the design of public and private streets.

- c. Land Use Policy LU-11.2: Support subdivisions of residential lots if the new lots reflect the established pattern of development in the immediate area, including

lot sizes and street frontages. Discourage residential developments, such as court homes or flag lots, that increase residential densities for an area or disrupt an established neighborhood pattern. Allow new development of a parcel, including one to be subdivided, to match the existing number of units on that parcel; design such subdivisions to be compatible with and, to the degree feasible, consistent with the form of the surrounding neighborhood pattern. Consider allowing second units (granny or in-law units) in lieu of creating flag lots, substandard lots or parcels that disrupt an established neighborhood pattern.

Analysis: As discussed under the General Plan analysis above, the proposed flag lot does not reflect the historic and prevailing pattern of development in the surrounding neighborhood. Curtiss Avenue is developed primarily with single-family residences on rectangular lots of varying depths and sizes. The proposed flag lot would result in lot sizes that are consistent with the smaller single-family lots in the neighborhood; however, these smaller neighborhood lots contain single-family residences that are oriented towards and have frontage on Curtiss Avenue. Three small-lot, flag lot projects have been developed to the south and north of the subject site, but these and a handful of other higher density properties were approved prior adoption of the Envision San José 2040 General Plan, are exceptions to the historic and prevailing development pattern in this neighborhood, and therefore should not be cited as precedent to support the current proposal. The proposed flag lot would create another exception to the historic and prevailing development pattern in an established, single-family neighborhood and would not improve, enhance, or maintain the quality and character of the surrounding neighborhood.

- d. Implementation Policy IP-1.7: Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics that require special consideration due to those constraints.

Analysis: City Council Policy 6-19 requires that new flag lots be created through the Planned Development zoning process. The subject site is located within a standard R-1-8 Residence Zoning District site and is similar to other large lots with deep rear setbacks in the surrounding neighborhood. The existing one-story single-family residence at the front of the site is also consistent with the prevailing development pattern of the surrounding neighborhood.

The proposed Planned Development would allow the creation of three smaller lots and the construction of three, two-story single-family residences. Two of the residences would not have frontage on Curtiss Avenue. The subject site is not constrained by unusual physical characteristics as other properties in the area have similar dimensions, and the only purpose of the proposed flag lot

development would be to accommodate additional development on the property.

5. City Council Policy 6-19: Flag Lot Development in Single-family Neighborhoods. Council Policy 6-19 provides specific flag lot criteria for flat land areas. In established, predominantly single-family detached neighborhoods, the following criteria shall apply:

- a. Flag lots are not appropriate in situations where a series of large lots could be converted to flag lot developments, thereby raising the density and changing the neighborhood character.

Analysis: See discussion above.

- b. Neighborhoods that may be appropriate for flag lot development have uniformity of single-family lot sizes, but with an occasional and unique-for-its-neighborhood larger parcel, suitable for flag lot projects.

Analysis: The existing prevailing neighborhood character of Curtiss Avenue is defined by single-family homes and standard lot shapes (rectangles) of varying depths. The subject site is one of several historically larger parcels. As previously discussed, a pocket of multi-family residential units exists to the north of the site as well as three larger lots to the south and north of the site that were subdivided into 10 smaller parcels in 1986 and the 2000's. Subdivision of the subject site into three smaller lots, including two internal flag lots, could possibly be the catalyst for a series of conversions from large lots to small lots as several other parcels along Curtiss Avenue could also seek similar redevelopment. The subject site is not unique in its neighborhood as roughly twelve other properties in the adjacent neighborhood have similar dimensions and deep rear setbacks.

- c. In neighborhoods which are designated medium low density residential (8 DU/AC), parcels considered for flag lot development are recommended to be approximately 8,000 square feet in size. At a minimum, the parcel must be larger than the average, or of a unique configuration, in the surrounding area in order to generously meet R-1 setback zoning codes.

Analysis: The subject site contains approximately 18,573 square feet. The proposed project would result in three single-family homes, including two on flag lots – a front lot (Unit No. 1) containing approximately 5,208 square feet, a middle lot (Unit No. 2) containing approximately 3,747 square feet and a rear lot (Unit No. 3) containing approximately 5,945 square feet. The proposed lot sizes are inconsistent with this policy and do not provide adequate space to meet the development standards of the R-1-8 Zoning District. In addition, the irregular shape and location of the two smaller flag lots away from the street are inconsistent with the prevailing neighborhood character.

- d. Flag lot units located away from the street shall maintain a presence to the street, be oriented to the street, and be visible from the street. A larger front unit is not acceptable as a means to meet the street presence requirement.

Analysis: The proposed residences on Unit No. 2 and Unit No. 3 would be set back approximately 100 feet and 170 feet, respectively, from Curtiss Avenue, which is significantly deeper than the typical 20- to 25-foot front setback for other single-family residences in this area and required by the R-1 development standards. The residence on Unit No. 2 does not conform to the above policy as it has no presence on Curtiss Avenue and is neither oriented toward nor visible from the street. Although a portion of the residence identified as Unit No. 3 would be partially visible from the street and its front door is oriented towards Curtiss Avenue, it has limited visibility beyond the unit identified as Unit No. 1 and is inconsistent with the intent of the above objective.

- e. Flag lots shall be approved only through the Planned Development zoning process.

Analysis: Development of the proposed flag lot requires City Council approval of this application for a Planned Development Rezoning from the R-1-8 Single-Family Residence Zoning District to the R-1-8(PD) Planned Development Zoning District and a subsequent Planned Development Permit and Tentative Map. However, as noted in General Plan Implementation Policy IP-1.7, the City discourages the use of the PD Rezoning process as standard zoning districts are intended to allow the appropriate type and intensity of development in a particular area. Furthermore, the subject site is not unique nor merits special considerations beyond other properties in the surrounding context.

- f. Orientation, setbacks, and private yards should conform to the following criteria:

- i. All units shall orient to the street.

Analysis: The residence identified as Unit No. 2 is not oriented toward Curtiss Avenue. While the front door of the residence identified as Unit No. 3 is oriented west toward Curtiss Avenue, it does not have a significant presence due to limited visibility and a deep setback from the street.

- ii. Each unit shall have both a “front” and “rear” yard on opposite sides of the unit.
- iii. Front yard setback for the front unit must match neighborhood pattern. “Front” setbacks for rear units must meet R-1 standards.
- iv. Rear yards for all units shall be a minimum of 1200 square feet, with a minimum dimension of 25 feet.

Analysis: Consistent with the R-1-8 development standards and the prevailing neighborhood development pattern, Unit No. 1 would maintain a 25-foot front setback from Curtiss Avenue and a five-foot side yard setback from the adjacent residence; however, the rear setback is not consistent with the required 20-foot rear yard setback of the R-1-8 Zoning District. The front and rear setbacks of Unit No. 2 do not meet these development standards nor does the front setback of Unit No. 3.

As proposed, Unit No. 1 would have an approximately 765-square foot rear yard area (17 feet, 1-inch depth), Unit No. 2 would have an approximately 416-square foot rear yard area (15 feet, 8 inches depth), and Unit No. 3 would have an approximately 1,660-square foot rear yard (21 feet, 4 inches depth). None of the rear yards meet the minimum dimension of 25 feet, and only Unit No. 3 meets the minimum area.

- v. Setbacks from interior project boundaries should be 10 feet on the first floor and 20 feet on the second floor to neighboring rear yard, and 5 feet from a neighboring side yard.

Analysis: All interior setbacks are five feet, which is inconsistent with the above standards. The side setback from Unit No. 2, which is adjacent to the rear yard of Unit No. 1, is proposed to be five feet for both the first and second floors.

- vi. A common driveway for all units is encouraged; multiple driveways are discouraged.
- vii. Driveways shall be a minimum of 10 feet wide, with a minimum of three feet of landscaping on either side.

Analysis: All three residences would share an access driveway from Curtiss Avenue. The proposed driveway would have a width of 16 feet and three feet of landscape on either side.

- viii. Parking ratios for each unit shall be in conformance with the Residential Design Guidelines, varying by unit size. Guest parking for units not having street frontage shall be provided at each unit.
- ix. Adequate vehicle turnaround space shall be provided for each unit (typically a 26-foot minimum dimension).

Analysis: Consistent with the Residential Design Guidelines, each unit would have an attached two-car garage and a private driveway area approximately 18 feet in length in front of each garage to accommodate two additional guest parking spaces. The combined dimensions of the private driveway areas and the shared common driveway (Parcel A) provide adequate space for vehicle turn-around. However, Unit No. 3

exceeds the maximum 150-foot “hose” reach required by the Fire Department; therefore, adequate emergency vehicle access would be required. The current site design does not provide adequate emergency vehicle access.

- x. To protect the privacy of yard areas on neighboring properties, large windows and decks on the second floor shall orient to on-site yard areas, not to surrounding properties.

Analysis: The current plans call for three, two-story single-family residences. The balconies on the second floor of each unit are oriented towards the north, onto the common driveway. The applicant did not provide an exhibit showing how second-story windows would be oriented to protect the privacy of neighboring properties. This is a significant issue when two-story homes are proposed on flag lots that allow additional development at the rear of larger lots. Staff would need additional time to analyze the location of second-story windows on the proposed homes in relation to potential privacy concerns by the neighbors.

- xi. Drainage shall follow pre-existing drainage patterns, which may require obtainment of easements from adjacent property owners. Padding up the rear of the site to achieve drainage to the street is discouraged.

Analysis: The proposed rezoning application includes conceptual grading and drainage plans. Full project review, including referral to other City departments, was not completed for this project because the applicant requested to proceed directly to hearings by the Planning Commission and City Council with a recommendation for denial. The Public Works Department has not reviewed the application materials or issued a Final Memorandum indicating whether the project is in compliance with City stormwater requirements.

- xii. The mass of the front and back units should be consistent with the average mass in the surrounding neighborhood.

Analysis: Properties immediately adjacent to the subject site on the north and south are developed with single-story, single-family residences. While the massing of Unit No. 1 steps back at the interfaces between these residences, the proposal includes a two-story massing along the street which is inconsistent with the historic development pattern of the neighborhood. The second floors of Unit Nos. 2 and 3 also step back in response to adjacent single-story neighbors.

- 6. **Zoning Ordinance Compliance.** The subject property is located in the R-1-8 Single-Family Residence Zoning District which is intended primarily for single-family residences and secondary dwellings. Pursuant to the Table 20-60 of Section

20.30.200 of the San José Municipal Code, development in the R-1-8 Zoning District is subject to the following development standards.

	R-1-8 Zoning Standard	Proposed PD Zoning Standard
Minimum Lot Size	5,445 sf	Unit 1 – 5,208 sf Unit 2 – 3,747 sf Unit 3 – 5,945 sf
Front Setback:	20 feet	Unit 1 – 25 feet Unit 2 – 100 feet Unit 3 – 170 feet
Side Setback,	5 feet	All units – 5 feet
Rear Setback,	20 feet	Unit 1 – 5 feet Unit 2 – 5 feet Unit 3 – 20 feet
Maximum Height	35 ft., 2.5 stories	All units – 2 stories

Planned Development Zoning is required for the development of flag lots. The Planned Development Zoning may also allow any proposed deviations from the R-1-8 Zoning District development standards a show in the above Table.

7. Residential Design Guidelines Conformance. The development standards recommended in the Residential Design Guidelines are intended to ensure compatibility with existing development in the surrounding neighborhood. The applicant proposes to demolish the existing single-family residence, built in 1905, in order to accommodate three, Spanish-style homes. While other properties along Curtiss Avenue have been redeveloped, either renovated or demolished and rebuilt, the proposed style is inconsistent with the existing architectural character of the neighborhood which is developed primarily with single-story craftsman style homes.

A majority of the older homes in this neighborhood have detached garages that are located at the rear of their property. The recently renovated or newly built homes have attached garages. While they do not follow the historic development pattern, these garages are located behind the main living areas and are not visible from Curtiss Avenue. The proposed units also contain attached two-car garages which are not visible from the public right-of-way.

Consistent with the Guidelines, the proposed massing of each unit steps away from the side and rear yards of the adjacent neighbors. The overall maximum

height of the development is proposed at 28.5 feet, which is below the maximum height of 35 feet allowed in the R-1-8 Zoning District.

8. **Environmental Review.** Under the provisions of Section 15270 of the State Guidelines for Implementation of the California Environmental Quality Act, this Planned Development Zoning and Planned Development Permit are found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended (CEQA), if the public agency disapproves of the project. Section 15270 states that an initial screening of projects, based on the merits of the project, can be used for determining that the project would not be approved prior to the initiation of the CEQA process. Full environmental review was not performed by the City as lead agency, and submittal of a Historic Assessment of the existing residence was not provided to the City by the applicant. In the event that the City Council does not deny the proposed Planned Development Zoning and Planned Development Permit, staff would need to complete full project review and environmental analysis for this project. The project would then return to hearings for consideration by Planning Commission and City Council.

9. **Planned Development Findings.** Pursuant to Section 20.190.940, a Planned Development Permit may not be issued unless all of the following findings are made:
 - a. The Planned Development Permit, as issued, is consistent with and furthers the policies of the General Plan; and
Analysis: As explained in detail above, the Planned Development Permit is not consistent with nor furthers the policies of the General Plan in that the proposed flag lot configuration is inconsistent with Land Use Policy LU-9.15, which discourages the use of flag lot development in non-hillsides area of the City. Furthermore, the proposed residences would not have significant frontage on a public street or a private street which is inconsistent with Land Use Policy LU-11.1.

 - b. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property; and
Analysis: As explained in detail above, the proposed Planned Development Permit is not consistent with the site's current R-1-8 Zoning. The proposed Planned Development Zoning associated with the development is recommended for denial as it does not conform to City Council Flag Lot Policy 6-19 as well as the goals and policies of the General Plan, as discussed above.

 - c. The Planned Development Permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: As explained in detail above, the proposed Planned Development Permit is not consistent with the development standards of City Council Policy 6-19: Flag Lot Development. This policy was established to preserve the City's existing single-family neighborhoods from redevelopment with small-lot, high-density development. The policy explicitly states that flag lot developments are not appropriate in neighborhoods where a series of larger lots could be converted to flag lot developments, thereby raising the density and changing the neighborhood character. Development of the subject site with three single-family residences on separate lots, including two flag lots, would result in the fourth conversion of a large lot into smaller lots in the Curtiss Avenue neighborhood. This conversion could set a precedent for further flag lot development of at least 12 similar large parcels along Curtiss Avenue.

This project proposes lot sizes that do not meet the minimum lot size of 8,000 square feet as recommended in Council Policy 6-19. Unit No. 2 and Unit No. 3 would have no direct frontage on Curtiss Avenue, as required by Policy 6-19, and neither lot is oriented toward nor visible from the street. While a portion of the residence on Unit No. 3 would be visible from the street and its front door is oriented towards Curtiss Avenue, the proposed development has limited visibility beyond Unit No. 1 at the front of the site.

- d. 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; and

The proposed project includes the construction of three, Spanish-style homes. Although no other homes in the adjacent neighborhood are designed with a similar style, the massing and architectural character of the residences are compatible with one another and create harmonious aesthetic across the site but not with the neighborhood.

- e. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

Because this project was recommended for denial, the current environmental review is a statutory exemption under California Environmental Quality Act (CEQA) Guidelines Section 15270 for Projects Which Are Disapproved. Full environmental review was not performed because the applicant requested to proceed straight to public hearing before the Planning Commission and City Council.

- 10. Demolition Permit Evaluation Criteria.** Under the provisions of Section 20.80.460 of the San José Municipal Code, prior to the issuance of any development permit, which allows for the demolition, removal or relocation of a building, the following

shall be considered to determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation:

- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
- b. The failure to approve the permit would jeopardize public health, safety or welfare;
- c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
- d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
- e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
- f. Rehabilitation or reuse of the existing building would not be feasible; and
- g. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

The project includes the demolition of an existing single-story, single-family residence, which was constructed in 1905 and is located at the front of the site. This structure is not listed on the City's Historic Resources Inventory; however, its age may qualify as a historic resource. A Historic Assessment of the existing residence, which has not been submitted to the City by the applicant, would be required as part of the environmental analysis prior to demolition of the structure. Demolition of this residence for the construction of three, single-family residences would result in further densification of this historically single-family neighborhood. Based on the above considerations, staff does not recommend demolition of this structure.

Based on all of the above facts and findings for this Planned Development Rezoning and Planned Development Permit application, this proposal to rezone the site to R-1-8 (PD) Planned Development Zoning District and a Planned Development Permit to allow the construction of three single-family detached residences on a 0.42 gross acre site, is hereby **denied**.

DENIED this ___ day of ___ 2017, by the following vote:

RD:JVP:JMD
9/18/2017

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk