

May 28, 2010

Michael Van Every
Republic Urban Properties, LLC
95 S. Market Street, 3rd Floor
San Jose, CA 95113

Valley Transportation Agency
3331 N. First Street
San Jose, CA 95113

Dear Applicant:

RE: File No. PDC08-061: Planned Development Rezoning from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District to remove three existing warehouse buidlings and allow up to 800 multi-family residences and 30,000 square feet for commercial use on a 8.25 gross acre site

We have received and reviewed your revised plans, referenced above and dated April 21, 2010, for development at/on the southwest corner of West San Carlos Street and Sunol Street (860 W. San Carlos St.). The purpose of this letter is to provide you with information as early as possible so you can appropriately respond to the issues identified below.

Please note that, given the scale of this project, additional comments could be made as the public review process continues and if additional or new information is received at a later date. In addition, as revisions to the project are completed, additional comments may be given and fees re-assessed as appropriate.

RESPONSE

Overall, we are very pleased with the improvements of the project since the original submittal, particularly with the design of the retail development on San Carlos and Block A. It was nice to see such positive feedback at the recent community meeting. While the comments below are very specific in some cases, it is our intent to work with you to refine certain elements of the project design so that as we near the end of this process, we can draft performance standards and zoning conditions to reflect the desired outcome rather than relying on conceptual drawings.

Density: This project does not take full advantage of the density and height opportunities provided as part of the recently approved General Plan Amendment for the site. The City and the General Plan 2040 task force identify this site as a key growth area which should maximize the development opportunity for up to 800 units consistent with the 125 DU/AC. The project should take full advantage of the close proximity Light Rail Transit (LRT) by increasing the density of Block C since this area is closest to the existing and future transit stations. This block should have a density that is higher than Blocks B & C. Additional density should be accomplished by the addition of a third tower element placed on this block placed parallel to the new west edge street nearest the corner at Auzerais Avenue. Three identical height towers would not provide appropriate variation, therefore it might be appropriate to reduce the tower

heights on the other blocks. See additional comments under “Architecture” section about variation of tower heights.

Light Rail Station: Per previous agreements, the owner/developer should provide a \$2 million contribution towards the development and construction of a future LRT station adjacent to the KB development and this project site. The recently approved General Plan Amendment to increase the density for this site was based substantially on the site’s proximity to a future station as described above. The City is considering a trigger or zoning condition that ties the last phase of development (issuance of a building permit) for one of the three proposed blocks to the completion of the future LRT station consistent with City Council direction at the General Plan stage.

Boundary of Planned Development Rezoning. This project should expand the boundary to include the triangular area at the northwest corner of Auzerias and Sunol. Unfortunately, the area that includes the angled parking along future West Way cannot be part of this rezoning because this area was recently rezoned in conjunction with the County Pocket Annexation and cannot be rezoned for two years from the date of the annexation. The use of “required” parking for this area would require a Special Use Permit.

Commercial Development: Retail development should be maximized to 30,000 square feet, ideally excluding live/work space. Clarify whether the live work ground floor area is proposed to be counted as commercial and indicate the square footage. The three live/work units on Sunol Street should be replaced with retail space that have at least 55 feet of depth. Similarly, the live/work units should be replaced with all residential units unless it can be demonstrated that that the live/work unit can be designed as viable commercial space. The signs should conform to the Sign Ordinance. The electronic billboard proposed within the trolley stop commercial area does not comply with these regulations.

Street Cross Sections and Dedication: See Public Works memorandum for complete information. The information noted below highlights particular issues that have site design implications.

San Carlos Street. The street cross section for San Carlos is problematic and has project site design implications. In summary, the existing median island should not be shifted as this create lane alignment problems on San Carlos Street east of Sunol. Additionally, this would impact westbound traffic lanes. The left turn pocket to accomplish north bound traffic on Sunol should not be eliminated. The right travel lane (nearest the project) should be 22 feet wide and should not have sidewalk/tree pop-outs within the parking lane. While we appreciate the sidewalk variation and extra width from an urban design perspective, this complicates drainage along the curb and any potential future bus stops along the project frontage. Given the need for the elimination of the sidewalk/tree pop-outs within the parking lane, the remaining 15 foot sidewalk (11 feet public + 4 feet private) becomes somewhat marginal and should be increased to 20 feet as recommended by the recently adopted standards for Transit Oriented Development within the Residential Design Guidelines.

South Lane and extension of Earle Street. The use of private streets is acceptable provide that there are appropriate public easements for pedestrian and bike use. The street cross section for both streets are acceptable, but the sidewalks should be at least 12 feet in width. The depth of the private patios could be reduced to help accomplish the wider sidewalks for these streets as well as for San Carlos Street. There should be at least 5 feet of landscaping between the back edge of the sidewalk and private open space patios.

Sunol Street. The Midtown Specific Plan (MSP) identifies that Sunol should be a 60’ right-of-way rather than 58 feet. Additionally the MSP does not identify a cross section design that includes sidewalk/tree pop-outs within the parking lane. As with San Carlos Street, the

sidewalk/tree pop-outs within the parking lane should be eliminated. A minimum 15 foot sidewalk (combination of public/private) should be provided. A transition of the sidewalk and curb location to respect existing LRT crossing gate improvements is acceptable.

Auzerais Avenue. The curb to curb street section and alignment should match the size and design of the adjacent KB project. The sidewalk/tree pop-outs within the parking lane should be eliminated. A minimum 15 foot sidewalk (combination of public/private) should be provided. Stairs from the patios should not encroach into the public right-of-way.

West Way. The median island should be deleted. The angled parking spaces are acceptable, but there should be a 60 foot separation from an intersecting streets and the first parking space. The use a valley gutters in the public right of way is problematic. Add a 10 foot sidewalk (with tree wells) on the west side of West Way. The street section for the segment without diagonal parking should be 40 feet, not 32 feet (curb to curb) and should accommodate parallel parking on both sides of the street. There should be at least 5 feet of landscaped area between the back of walk and adjacent wall/property lines on the western edge of the site.

Project Setbacks: The project setbacks as proposed are acceptable, except that there should be at least 5 feet of landscaping between the back edge of the sidewalk and private open space patios irrespective of the location of the actual property line.

Project Height: The project generally appears to meet the overall height requirements set forth in the amended MSP, except it should be more clearly noted that the maximum street wall height can not exceed 65 feet from the sidewalk grade to the top of the parapet. The plans are unclear in that it identifies that the height of the street wall is 63'-6" to the roof deck and is not clear is that is measured from the elevated patios or the sidewalk grade. There should be greater variation in height of the overall building walls along West Way to avoid repetition. Portions of buildings on each of the three blocks should have sections with a height variation of around 10 feet (range from 55 to 65 feet in overall height). A performance standard will need to be developed and included on the final Land Use Plan to establish the extent of the variation for each block.

FAA/OEI Requirements. The project will need to comply with FAA and OEI height limitations at the time of the issuance of Planned Development Permits. It appears that the project is currently in compliance with these regulations.

Addition of Third Tower. Greater height, in the form of a third tower should be added to Block 3 to maximize density opportunities nearest the future LRT station. The towers will also help increase density while opening up greater opportunities for increasing the size of common open space areas. As previously stated, three identical height towers would not provide appropriate variation, therefore it might be appropriate to reduce and/or vary the tower heights on the other blocks.

Open Space: Mid-rise and high-rise units should have at least 60 square feet of private open space per unit for at least 50% of the units, per the TOD policies as noted in the City's Residential Design Guidelines. The "averaging" of private open space square footage would not be acceptable. The conceptual plans do not indicate whether the proposal will conform to this requirement. The project should provide 100 square feet of common open space per unit. Each block should comply with this requirement. A reduction in the private open space requirements may be considered for projects that are in very close proximity to a public park. In this case, staff would be willing to consider a reduction to 90 square feet per unit as proposed for Blocks B and C which are closest to the park.

For private open space elements on the ground floor adjacent to a public or private street, there should be at least 5 feet of landscaping between the back edge of the sidewalk and private open space patio.

Parks: At the General Plan Amendment stage, the developer offered to dedicate 3.99 acres of off-site property to expand Del Monte Park. This should occur prior to the issuance of Building Permits for the first phase. Alternatively, an on-site park location should be provided.

Parking: We are very pleased to see a dedicated garage floor for the commercial parking needs. The City's standards for retail commercial parking in Neighborhood Business Districts is 1:400 rather than 1:200 as for other types of commercial development. A 10% reduction (for close transit proximity) for commercial parking using the 1:400 ratio may not be applied.

This project seems to utilize a significant amount of tandem parking for the residential units. In most cases, the parking ratios for 2 bedroom units and/or smaller units are 1.8/unit or less. The collection of ".8 increments" for example works for the benefit of the overall project because it can be combined and shared between units. In the instance where tandem parking is provided, the tandem set of parking spaces is not conducive for sharing with other units. For this reason, when tandem parking is provided, the tandem set of two spaces must be assigned to a single unit, even if the parking requirement would otherwise normally be only 1.8 (or less). Since each block will be developed as an individual phase, each block should be able to independently meet its commercial and residential parking requirements. The parking table should be modified to distinguish between regular and tandem parking space. In addition it should reflect the parking requirement of 2 spaces per unit when such units will meet the parking requirements through the use of tandem parking.

Block A: Based on our calculations, there appears to be a shortfall of 35 parking spaces for the residential component and a surplus of 15 spaces for the commercial component (assuming a commercial parking ratio of 1:400). There are 41 curbside parking spaces, in which a portion could be considered toward meeting the parking requirement.

Block B: There appears to be a shortfall of 41 parking spaces for the residential component. The majority of the parking spaces are set in a tandem configuration. There are no commercial uses proposed for this block, hence no requirement in this regard. There are 35 curbside parking spaces, in which a portion could be considered toward meeting the parking requirement.

Block C: There appears to be a total surplus of 22 parking spaces (assuming a commercial parking ratio of 1:400). There are 9 curbside parking spaces, in which a portion could be considered toward meeting the parking requirement. There is the potential to add additional parallel parking next to this block on West Way.

Guest Parking: Provide clarity about how on-site guest parking will be provided. Typically, 10% of the parking should be made available for guests in a non-tandem configuration. An alternating parking arrangement could be considered to address residential guests parking within the commercial parking level after 9:00 p.m.

Bike Parking: There should be bike parking areas at the street level that can better serve customers for the proposed retail establishments.

Commercial Service/Loading Areas: Access to the primary loading court on West Way should be better defined. The site plan indicated that a tree pop-out and parallel parking space block the access. Loading spaces for the commercial area fronting on Sunol should be provided. Perhaps the two closest on-street parking spaces on the Earle Street extension could be marked as a loading area. There should be similar loading spaces provided in close proximity to the retail space at the Trolley Stop Plaza.

Affordable Housing. The subject project is located in the Burbank/Del Monte Redevelopment area. Although there is a temporary suspension in place, this Redevelopment Project Area is subject to the

City's Inclusionary Housing Policy, and the Project includes construction or substantial rehabilitation of residential units, so prior to issuance of a building or foundation permit for the project, the owner of the property described in this permit shall comply with the City's Inclusionary Housing Policy and record against the property written evidence of compliance with the City's Inclusionary Housing Policy, including, if required, recorded affordability restrictions and/or evidence of payment of an in lieu fee. Affordability restrictions and other written evidence of compliance shall be in a form acceptable to the City. You can reference the Inclusionary Housing Policy online from <http://www.sjredevelopment.org/housing.htm>.

Architecture. The recent Architectural Review Committee (ARC) provided good comments for the refinement of the project design. Staff feels that it would be appropriate to incorporate all of these suggestions into the project. Some of the suggestions may be included in the Planned Development Rezoning in the form of a performance standard, other issues can be addressed at part of the review of the subsequent Planned Development Permit.

- a. The corner of Sunol and San Carlos looks great. This design character should extend the full length of San Carlos Street.
- b. Splitting and flipping the towers is a very smart move. The project should maintain the highest density possible and add a third tower closest to the future transit station.
- c. In the last ARC Meeting for the project at the GP Amendment phase, the committee was not opposed to three towers, but it was recommended to avoid three identical high-rise elements. This comment is still applicable. A third tower should consider a different orientation and the height of each tower should re-evaluated to avoid an identical appearance.
- d. The buildings, variation and lively massing are very successful. The high-rise buildings need to read as residential buildings, whereas right now they look too much like office buildings with uniform curtain walls and too much glass.
- e. In general the massing and facades fronting West Way need more variety. There should be greater variation in height of the overall building walls along West Way to avoid repetition. Portions of buildings on each of the three blocks should have sections with a height variation of around 10 feet (range from 55 to 65 feet in overall height). Perhaps one block, such as the middle, could be different. In addition, Block C should not be all the same height – it needs variety. There are a lot of positive qualities in Blocks A and B – Block C should set the tone.
- f. Consider the wind created by high-rise construction. Consider designing façade elements to mitigate the wind on the middle block especially.
- g. The “fingers” projecting into the courtyard open space in Block A are problematic in terms of light. If Block C were made more dense, perhaps the density could be slightly reduced on Block A to create wider common open areas.
- h. To a greater extent the public right-of-way should conform to City design standards. Customized sidewalks and street designs “privatize” the public realm.
- i. The stacked parking mechanisms were a concern particularly in relation to the low parking ratio provided on site.

- j. The live/work units are quite deep and windows were only on the street facade because they were tucked quite far under the high-rise. This lack of window is problematic in terms of code required natural light reaching the rear of the units.

Environmental Issues. This project is obligated to follow-up on any outstanding environmental issues identified in the EIR.

- a. *Green Building Ordinance.* This project is subject to the Green Building Ordinance. See link for additional information: http://www.sanjoseca.gov/planning/green_building/default.asp
- b. *Stormwater Runoff Quality.*
 1. Reiterate original comment to use more landscaped based treatment in accordance with City Council Policy 6-29.
 2. Be aware that the Planned Development Permit may be subject to mandatory Low Impact Development (LID) measures that will go into effect in 2011.
 3. Indicate location and dimension of Bioretention Cells on Stormwater Control Plan, Landscape and Grading Plans. Suggest use of Green Roofs and flow-through planter boxes.
 4. For each drainage area, specify the size and types of impervious and pervious areas. Clearly show the boundaries of each drainage area.
 5. The soil type and groundwater depth make the site suitable for the utilization of pervious materials on private roadways and sidewalks and parking stalls in public right of way.
 6. Utilize flow through planter boxes to treat stormwater runoff.
 7. Provide an installation, operation, and maintenance plan for the proposed Source Control Measures and Treatment Control Measures. The maintenance plan should include sufficient detail to identify who is responsible for maintaining these systems and the maintenance schedule.
 8. Indicate how roof top drainage will be treated.
 9. Treatment of runoff from private property is not allowed in public right of way.

Memorandums from other Departments: See attached.

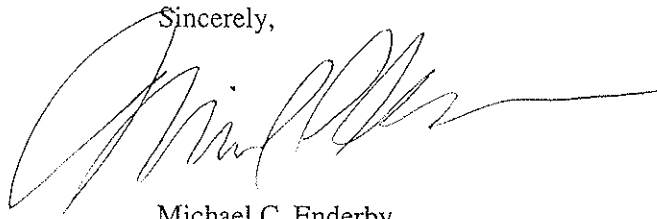
Community Meeting Comments. Although there was a good list prepared of all the comments raised by the community, there should be a developer response prepared for future discussion with staff. Many of these comments should be included in the project.

CONCLUSION

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

you have any questions regarding the information contained in this letter, please feel free to contact me via e-mail at mike.enderby@sanjoseca.gov or to give me a call on my direct line at 408-535-7843.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Enderby", with a long horizontal flourish extending to the right.

Michael C. Enderby,
Senior Planner

cc: All property owners
Attachments