

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, California 95113

Hearing Date/Agenda Number

CC: 01-29-08

11.1(d)

File Number: C07-048

Application Type:

Conforming Conventional Rezoning

Council District: 4

SNI: N/A

Planning Area: Berryessa

Assessor's Parcel Number: 237-05-053

STAFF REPORT

PROJECT DESCRIPTION

Completed by: John W. Baty

Location: North side of Ridder Park Drive at the southeast corner of Interstate 880 and Brokaw Road

Gross Acreage: 16.65

Net Acreage: N/A

Net Density: N/A

Existing Zoning: IP – Industrial Park

Existing Use: Vacant

Proposed Zoning: CG – Commercial General

Proposed Use: Commercial

GENERAL PLAN

Land Use/Transportation Diagram Designation:

Combined Industrial/Commercial

Project Conformance:

Yes No

See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

North: Brokaw Road and Coyote Creek

A - Agriculture

East: Coyote Creek

A - Agriculture

South: Industrial (Mercury News)

HI – Heavy Industrial

West: Interstate 880

IP – Industrial Park and HI – Heavy Industrial

ENVIRONMENTAL STATUS

Environmental Impact Report (North San José Policy Update EIR certified 6-21-05 per City Council Resolution No. 72768 – State Clearinghouse #2004102067)

Negative Declaration circulated on

Negative Declaration adopted on

Exempt

Environmental Review Incomplete

FILE HISTORY

Date Filed: July 2, 2007

Annexation Title: Orchard No. 30

Date: February 14, 1961

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval

Approval with Conditions

Denial

Uphold Director's Decision

Date: 01-29-08

Approved by:

Action

Recommendation

OWNERS

San José Real Property Holdings, LLC
Karole Morgan-Prager
2100 Q Street
Sacramento, CA 95816
(916) 321-1908

DEVELOPER

Sand Hill Property Company
Rochelle Lopez
489 S. El Camino Real
San Mateo, CA 94402
(650) 344-1500

PUBLIC AGENCY COMMENTS RECEIVED	Completed by: JWB
Department of Public Works: None	
Other Departments and Agencies: None	
GENERAL CORRESPONDENCE:	
Letter from Val Monte Partners 1, LLC (Orest Grelli) – August 1, 2007	
ANALYSIS AND RECOMMENDATIONS	

BACKGROUND

Sand Hill Property Company is requesting a conforming conventional rezoning of the subject property from the IP – Industrial Park Zoning District to the CG – Commercial General Zoning District to allow development of the site with retail uses. The IP – Industrial Park Zoning District only allows limited retail in support of primary industrial park uses.

The area of the proposed rezoning is approximately 16.65 acres and the site is currently undeveloped. A Site Development Permit (File No. H07-025) is pending to allow construction of a 169,486 square foot home improvement warehouse building (Lowe's) and a 25,000 square foot retail building.

In 2001, a Site Development Permit (File No. H00-063) was approved for 265,000 square feet for office/research and development uses under the Industrial Park land use designation; however, due to market conditions, the approved project was never constructed. In 2007 a General Plan Amendment was approved (File No. GP07-04-01) to change the land use designation to Combined Industrial/Commercial.

The site has approximately 1,000 feet of frontage along Ridder Park Drive and is bounded by Interstate 880 to the west, Brokaw Road to the north and Coyote Creek to the east.

This rezoning is being submitted directly to Council per Section 20.120.100 of the Zoning Ordinance for Ordinances Conforming to the General Plan, as the CG – Commercial General Zoning District is in conformance to the Combined Industrial/Commercial General Plan designation.

GENERAL PLAN CONFORMANCE

The proposed rezoning to the CG – Commercial General Zoning District is consistent with the site's San Jose 2020 General Plan Land Use/Transportation Diagram designation of Combined Industrial/Commercial in that this designation is intended for commercial, office, or industrial uses. "Big Box" retail as a stand-alone use or as part of a larger retail development is appropriate in this designation.

ENVIRONMENTAL REVIEW

The project site is located within the boundaries of the *North San José Area Development Policy*. The Final Environmental Impact Report (EIR) for the North San José Area Development Policies Update was certified and the project approved by the City Council in June 2005. Santa Clara County and the Cities of Milpitas and Santa Clara subsequently legally challenged the EIR. In December 2006, the Santa Clara County Superior Court approved a settlement over all legal challenges and deemed the EIR adequate.

An Initial Study was prepared for the Conforming Rezoning and Site Development Permit applications in accordance with an addendum to the Final EIR. The Initial Study analyzed potential impacts from the proposed project.

For the project as a whole, the Initial Study evaluated impacts related to air quality, biotics, cultural resources, geology, hydrology and hazardous materials. Based on the analysis in the Initial Study, it has been concluded that the North San José Area Development Policies Update Final EIR adequately addresses the environmental effects of the proposed project, and the project would not result in significant environmental effects that are not already identified in the Final EIR. The project as a whole, therefore, meets the eligibility requirements for preparation of an addendum and does not require a supplemental EIR or Negative Declaration.

ANALYSIS

The proposed rezoning from the IP – Industrial Park Zoning District to the CG - Commercial General Zoning District would facilitate a broader range of commercial uses consistent with the enumerated uses noted in the Commercial section of the Zoning Ordinance and the Combined Industrial/Commercial General Plan designation.

PUBLIC OUTREACH

The property owners and occupants within a 500-foot radius were sent public hearing notices for the City Council hearing. This staff report has been posted on the City's web site. Signage has been posted at the site to inform the public about the proposed change. Staff has been available to discuss the proposal with interested members of the public.

The attached correspondence from Val Monte Partners 1, LLC represents general support for the rezoning to allow development of the subject site with retail uses, but raises specific concerns about the proposed site layout and traffic issues that will be addressed through the Site Development Permit process.

COORDINATION

This project was coordinated with the Department of Public Works, Fire Department, Building Division, Environmental Services Department and the City Attorney.

RECOMMENDATION

Planning staff recommends approval of the proposed zoning for the following reasons:

1. The proposed rezoning is in conformance with the General Plan Land Use/Transportation Diagram designation of Combined Industrial/Commercial.
2. The proposed rezoning would allow a range of commercial uses on this site which is compatible with the surrounding residential uses.

Attachments:

Location Map

Letter from Val Monte Partners 1, LLC



Scale: 1"= 500'
Noticing Radius: 500'



 Subject Site

File Number: C07-048 & H07-025
Council District: 4
Quad Number: 51

August 1, 2007

From: Val Monte Partners 1 LLC
1296 Frontera Way, Millbrae, Ca. 94030

To: San Jose Planning Commission
200 E. Santa Clara Street
San Jose, California 95113

Re: Commission Agenda Item: H 07-025 Final Plan Review
15.6 Acre Site @ Ridder Park Dr./I-880/ Brokaw Road ("Development Site")

To Rodrigo Orduna-Project Manager, Susan Walton-Principal Planner, and Honorable Commissioners:

INTRODUCTION

As you may know, we are the owners of the only property (981 Ridder Park Dr.) located directly across Coyote Creek from the subject Lowe's Retail Project. We have been business owners and taxpayers in this location for 18 years and maintained our commercial office building in first class condition.

While we wish to support a project which generates additional tax revenues for the City and promotes the orderly development of neighboring projects, it is neither reasonable nor fair to disproportionately burden our property or other affected properties along Ridder Park Dr. with the foreseeable adverse burdens which the applicant's project will create. Accordingly, we have attempted to be open and available for many months to evaluate the plans and identify our concerns with the City and project applicant.

PREVIOUS EFFORTS TO MEET AND CONFER

Over the past few months since our initial comments at the March 28th Planning Commission meeting, we have highlighted two important problems that are directly associated with this existing development plan (H 07-025). We have done so by contacting and expressing these concerns with any and all City departments associated with this project. Also on April 4th, we meet with the applicant's representatives, at the site, to express our concerns directly with them.

Though they are cordial and polite, regrettably, they have been unwilling to compromise in any manner, and feel under no responsibility to address project impacts which we have identified early on and in good faith.

REQUEST FOR PLANNING COMMISSION ASSISTANCE TO REQUIRE PLAN REVISIONS

We have recently viewed the applicants Final Proposal, submitted for review and comment on July 9th. We see no changes from their Preliminary Plan that might address

any of our stated concerns. Accordingly, we do not support the present plan. We request the Planning Commission to require the project applicant to undertake reasonable plan revisions which do address the identified concerns in a responsible manner.

As per the recommendation of various Planning Staff members, and in the interest of time, we are submitting these comments by email. They are a brief re-statement of the problems, and their implications to the City and the community, as well as our recommended solutions for consideration.

We request that you incorporate these remarks as part of your upcoming "30 Day Response to the Applicant". A more comprehensive set of comments with graphic displays demonstrating our solutions will follow if necessary, at a future date. Also, a follow-up hard copy of these comments will be sent to all departments.

SPECIFIC IDENTIFIED CONCERNS

(1.) Increased Homeless & Vagrancy Problem

We believe the existing, and longstanding local homeless and vagrancy problems of this area may significantly expand into a **Public Health & Safety Problem** for the immediate community, if the City does not seize this unique opportunity to address this problem at this location.

Please note! There are numerous encampments under 5 overpasses in less than a ½ mile stretch of Coyote Creek, right next to an expanding residential and retail area. The City can no longer tolerate allowing these homeless encampments to continue. Occasional police round-ups are merely a temporary and inadequate solution.

As the sole property owners, most heavily impacted by the homeless activity along this crucial stretch of Coyote Creek; and being long time observers of this activity, we are well qualified to make recommendations to the City in this regard.

Proposed 6' High Wall Is Not The Right Approach

If the 6 ft. high wall proposed in the Final Plan is intended to be a mitigating factor in reducing the homeless problems along the Creek, or for protecting the Creek from the development, it is misguided and inadequate. Undoubtedly, it will screen the homeless presence **from** the retail users, but it will do nothing to discourage the homeless presence in the Creek, or eliminate their intimidating encampments. To the contrary, it will certainly aggravate the problem by giving the homeless more anonymity, encourage more vagrant activity, more crime, theft, and of course more of the accompanying drug and alcohol use. **It will in turn serve only to reduce the possibility of developing the Creek successfully for recreational use.**

Proposed Solution: Retention of Open & Safe Exchange

We recommend that the City require anyone wishing to develop this unique gateway property for retail, to provide for an open and safe exchange between the Retail Use and the anticipated Recreational Park and Trail use along the Creek.

It is only by opening up the Creek in this fashion (**not walling it off**), that the City can significantly deter vagrant activity and homeless encampments which thrive in the area. These encampments need obscurity and anonymity to persist, and walling off the Creek as proposed by the applicant will certainly exacerbate this undesirable situation.

Locating the Big Box along the Creek and there by necessitating the use of an enormous barrier wall is a **fundamental design flaw** in the project plan. This would be a tragic mistake by the City that will cause the immediate businesses and residents to suffer the long-term unintended result for decades to come.

DO NOT ALLOW LOWE'S TO LOCATE THE BIG BOX ALONG THE CREEK

RELOCATE THE BIG BOX TO THE SOUTH OR NORTHWEST PORTION OF THE DEVELOPMENT SITE, ALONG THE FREEWAY

This will:

- *Eliminate the need for a huge wall.**
- *Allow future use of the Creek for recreational park and trail use.**
- *Help address homeless/vagrancy problems along the Creek.**
- *Help address Public Health & Safety issues.**
- *Reduce potential liability issues to the City.**

We are confident that many departments, in particular the Parks Department, as well as the Police Department Liaison to the Planning Commission, will echo our comments, and enthusiastically support our recommendation. We request that you enlist their remarks.

(2.) Specific Negative Traffic Impacts to Ridder Park Dr. at Brokaw Rd.

Regardless of credits for past entitlements, 200,000 sq./ft. of new retail development adjacent to 880 will pull in significant amounts of new traffic from **all** parts of San Jose. This will require infrastructure augmentation to support the additional trip generation rates of this retail use.

If this is not addressed, then the added traffic burden will directly impact the inadequate two lane portion of Ridder Park Dr. directly in front of our property. This road is only a “minor local collector”, not a major arterial. This inevitably will make it too difficult and dangerous for our tenants and their visitors to get in and out of the parking lot.

POSSIBLE TRAFFIC MITIGATION SOLUTIONS

The City needs to consider traffic mitigation measures to protect the safety and welfare of neighboring properties, including ours, and maintain good safe access in and out of the driveways along Ridder Park Drive.

a) Potential Widening Of Ridder Park Drive

If possible widen Ridder Park Dr. at Brokaw Rd., improve the intersection, and add left turn lanes.

b) Addition Of A Signal Light @ Ridder Park Dr. & Schallenberger Rd.

By controlling the length and timing of the left hand turn signal from Ridder Park Dr. leaving the development, onto the Bridge section of Ridder Park Dr. going to East Brokaw Rd., much can be done to allow “traffic openings” for tenants to safely enter and exit our driveway.

Also the duration of the light can be used to discourage the use of Ridder Park Dr., and encourage the use of Schallenberger Rd. to get back to 880, thereby further reducing the increase in Trip Traffic in front of our driveway.

c) Limiting Heavy Truck Traffic On Ridder Park Dr.

Make all heavy truck traffic, in and out of the development, use the main arteries of Schallenberger Rd. and East Brokaw, instead of Ridder Park Dr.

d) Extension of 880 Northbound Off-Ramp

The ultimate solution would be to have CalTrans extend the existing north bound off ramp from 880 on to East Brokaw Road, south along 880 so that the off ramp itself can then feed directly into the Lowe’s site by way of the existing 4 lane wide end Section of Ridder Park Dr. that runs along 880. Of course the existing off ramp serving E.Brokaw Rd. could remain as is, or could be improved as well.

This solution would go a long way towards opening up a great many other access solutions serving the subject development and the larger community, especially if existing street infrastructure on Schallenberger Rd. is finally completed.

CONCLUSION

Ultimately our concerns surround public health and safety issues for our tenants and visitors to our commercial office building.

If our tenants cannot use the building SAFELY, because of an aggravated vagrant/homeless problem, and/or because it becomes too hard to attain access to and from the driveway due to traffic congestion resulting from this project, then our longstanding investment in this community will be drastically diminished, and the property will be made to suffer the loss of utility and value.

With patience, it is possible to have a retail project at this location which responsibly addresses our reasonable concerns. We believe that this project offers an excellent opportunity to demonstrate the wisdom of one particular Police Department motto: **“Reduction of crime through good environmental design.”**

We respectfully request your help in addressing these concerns, and thank you in advance for your efforts on our behalf.

Very truly yours,

Oreste (Russ) Grelli

of GFP management LLC,
Sole managing member for Val Monte Partners I LLC
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