COUNCIL AGENDA: 03-18-08
ITEM: 11.4

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: **SEE BELOW**

DATE: February 25, 2008

COUNCIL DISTRICT: 8
SNI: N/A

TRANSMITTAL MEMO

PDC07-097. CONSIDER DENIAL OR CONTINUATION OF PROCESSING OF PROPOSED PLANNED DEVELOPMENT REZONING FROM THE A(PD) RESIDENTIAL ZONING DISTRICT TO THE A(PD) RESIDENTIAL ZONING DISTRICT TO ALLOW 29 SINGLE-FAMILY DETACHED RESIDENCES ON A 7.24 GROSS ACRE SITE, LOCATED AT THE SOUTHEAST CORNER OF YERBA BUENA ROAD AND HIGHWAY 101.

The Planning Commission will hear this project on March 12, 2008. The memorandum with Planning Commission recommendations will be submitted under different cover. We hope the submittal of this staff report is of assistance in your review of this project.

for Susan Walton
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Jean Hamilton at (408) 535-7800.

P.C. Agenda: **03/12/2008**
Item No. 4.c.

STAFF REPORT
PLANNING COMMISSION

FILE NO.: PDC07-097 **Submitted: November 15, 2007**

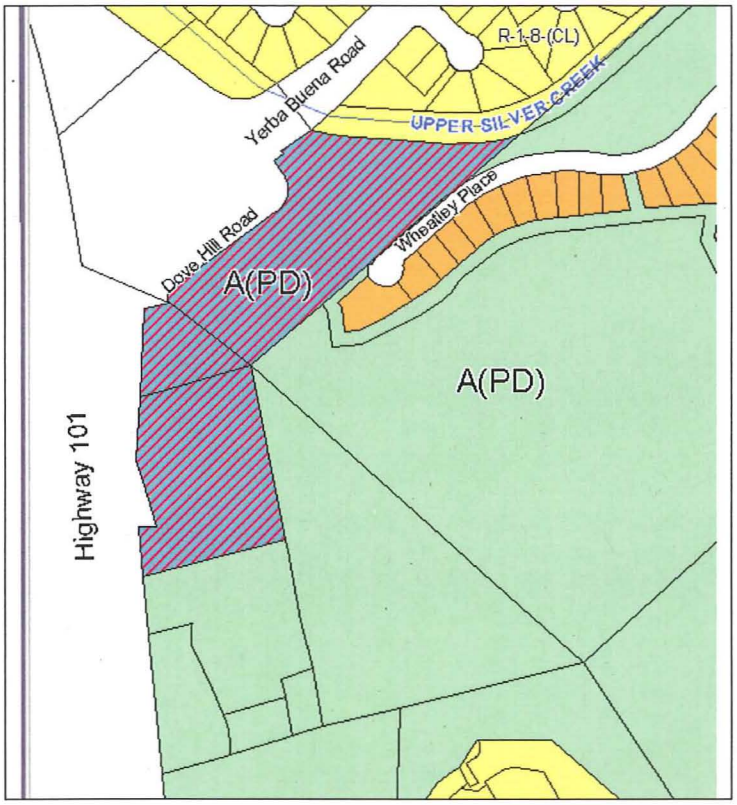
PROJECT DESCRIPTION: Planned Development Rezoning from A(PD) that supports a church use to A(PD) to allow 29 single-family detached residences on a 7.24 gross acres site

LOCATION: 3800 Dove Hill Road, which is on the southside of Yerba Buena Road, approximately 300 feet from the Highway 101 overpass on Yerba Buena Road.

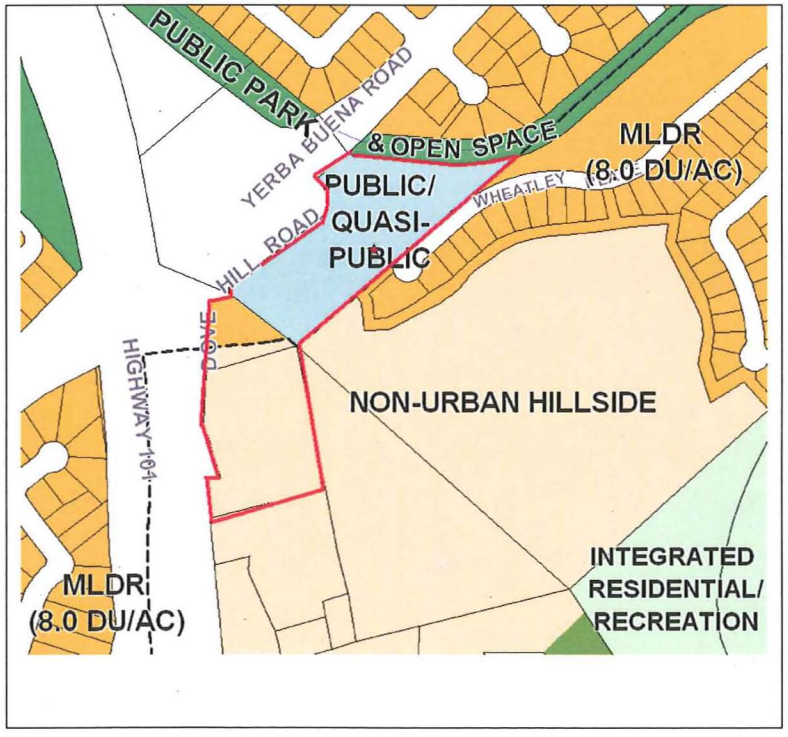
Existing Zoning	A(PD) Planned Development
Proposed Zoning	A(PD) Planned Development
General Plan	Public/Quasi Public
Council District	8
Annexation Date	5/8/1972
SNI	None
Historic Resource	No
Redevelopment Area	No
Specific Plan	N/A
Owner	Joey Lo & Mei Chu Huang
Applicant's Contact	Gerry De Young

AERIAL

ZONING



GENERAL PLAN



RECOMMENDATION

Planning staff recommends that the Planning Commission forward a recommendation of denial of the proposed Planned Development Rezoning to the City Council for the following reasons:

1. The proposed project is inconsistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Public Quasi Public.
2. The project does not conform to the Hillside Development Policies of the San José 2020 General Plan.
3. The project does not conform to the Evergreen Development Policy.
4. The proposed project is not conformance with the Residential Design Guidelines.

Should the Planning Commission choose to recommend to the City Council to consider some level of single-family residential development on this site, staff recommends that the Planning Commission recommend that the City Council deny this rezoning application and direct the applicant to file for a General Plan Amendment to consider areas and densities for residential development. Should a General Plan Amendment be submitted for consideration, staff would complete a thorough analysis of the policy level issues impacting potential development at the site and would then make a recommendation to Planning Commission and City Council regarding the appropriate development, if any, for the site. Such a General Plan Amendment application should be filed only after the completion of the Evergreen-East Hills Development Policy update if and when traffic allocation becomes available.

BACKGROUND & DESCRIPTION

The applicant, Joey Lo & Mei Chu Huang, represented by Gerry De Young, filed an application requesting to rezone the property from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow 29 single family residential lots on a 7.24 gross acre site. The proposed 29 single family units are situated in a garden town home configuration.

The site was the subject of a privately initiated General Plan Amendment in 1995 to change the Land Use/Transportation diagram designation from Non-Urban Hillside to Public/Quasi Public and a Planned Development rezoning in 2001 to support a church use. The support for the change at that time was predicated on the argument that a church use was a less intensive form of development that could be accommodated on the site and that there was a need for additional sites for churches to locate to relieve the pressure from locating in the industrial areas of the City. The proposed church has never been built. Well over half of the site is at or above the 15% slope line for this area.

This site is also in the Evergreen Development Policy area and has no traffic allocation. Until the Evergreen East Hills Development Policy (EEHDP) is updated, City Council's January 27, 2004 directive to staff has been to discourage the filing of rezonings and General Plan Amendments in the Evergreen area for residential uses that require additional residential unit allocation or density increases. Staff made the applicant aware of this City Council direction, yet the applicant chose to file the application.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act Guidelines Section 15270 (14 Cal. Code of Regs. § 15270(a)), states that CEQA does not apply to a project which a public agency rejects or disapproves. The purpose of this section in CEQA is to allow for initial screening of projects on the merits to allow for quick disapprovals where the agency determines that the project cannot be approved (14 Cal.Code of Regs. § 15270(b)). Staff is recommending denial of the proposal based primarily on General Plan inconsistency, and Environmental Clearance is not legally required for this project at this time because the action by the City Council is only an initial screening to determine if denial is appropriate. The City Council cannot approve the project at this time.

An approval would most likely require the preparation of a Mitigated Negative Declaration (MND) or Environmental Impact Report (EIR). While it may be possible to reduce some potential significant impacts to a level of insignificance, the MND or EIR would not be able to reconcile inconsistencies with many key General Plan policies.

ANALYSIS

The key issues analyzed as part of this early consideration process include lack of conformance with the General Plan, Evergreen Development Policy, and Residential Design Guidelines. Visibility of the site is also highlighted.

General Plan Conformance

The subject site is designated Public/Quasi-Public (PQP) on the City of San José's 2020 General Plan Land Use/Transportation Diagram. The PQP designation is used to designate areas for public land uses, such as schools, colleges, libraries, and fire stations. In addition, such institutions as churches, private schools, and private hospitals are also appropriate for this designation.

The applicant, in order to find the project in conformance with the General Plan, has requested the project be considered under an Alternate Discretionary Use Policy specific to the use of surplus land designated Public/Quasi-Public on the General Plan Land Use/Transportation diagram. Staff considers this to be an inappropriate use of the Surplus Public/Quasi-Public Discretionary Alternate Use Policy. The Surplus Public/Quasi-Public Discretionary Alternate Use Policy is intended to allow an alternate use of the property designated for PQP without an amendment to the Land Use/Transportation Diagram if the proposed alternate use is compatible with existing and planned uses on neighboring properties and is consistent with applicable General Plan Policies. Over half to three quarters of the site is above the 15% slope line. Hillsides are the most extensive and visually prominent feature addressed as part of the Greenline Strategy in the General Plan. The proposed use of 29 single family residential units will result in a development that is not consistent the General Plan Policies related to hillside development, as discussed below in more detail.

Further, designating the area as "surplus" PQP land is not appropriate, because the land has never been used for a PQP use. The General Plan Land Use/Transportation Diagram designation of the site was changed from Non-Urban Hillside to PQP in 1995 to facilitate a church development, with the specific acknowledgement that an institutional form of development was less intensive and could possibly be accommodated on the hillside. Additionally, there was and continues to be a need for land set aside for church uses outside the residential and industrial areas of the city. Because the church development never occurred, a new analysis of the appropriate General Plan Land Use/Transportation Diagram designation is fitting if not reverted back to Non-Urban Hillside.

Hillside Development Policy #6. *Grading on hillsides should be minimized.* The proposal does not comply with this Policy because it would require a large number of retaining walls, some of which reach up to 10 feet in height. Given that the site is comprised of mostly steep terrain, the long expanse of streets and homes would require retaining walls spanning many portions of the site, thereby violating Hillside Development Policy #6.

Both the uphill and downhill rows of homes provide poignant examples of the extent of proposed grading. On the downhill side, the ground-floor pad elevations vary by approximately 8 feet. Along the same downhill pads, the current grading on the site varies by approximately 34 feet. Similarly, the pad elevations vary by approximately 27 feet on the uphill side, while the existing grade varies by approximately 56 feet. This demonstrates how significant the existing grade would be impacted by the proposed development.

Hillside Development Policy #7. *Because street construction on slopes often requires a disruptive amount of grading, modified street sections designed for both utility and minimum grading are encouraged.* The proposal does not comply with this policy because the grade differential is requiring two driveways to serve two rows of units, rather than one driveway serving both rows of units. The fact that the proposed development would be served by more streets means that much more of the site needs to be graded to be relatively flat to accommodate these streets, which results in the use of excessive grading and retaining walls.

Hillside Development Policy #8. *Construction techniques and housing types adaptable to a variable terrain, such as cluster housing, split pads and stepped foundations, should be utilized on sloped sites. Conventional single flat-pad construction is discouraged.* The proposal does not comply with this policy. As noted in the discussion for Hillside Development Policy #6, the variation in the pad elevations is minimal compared to the existing grade change across the same stretch of land. Large retaining walls are needed to accommodate the development as proposed.

Hillside Development Policy # 12. *The City encourages the preservation of hillside vegetation and, if vegetation must be removed, it should require appropriate revegetation and planting projects in hillside areas.* The proposal does not comply with this policy because it proposes the majority of the site to be graded and developed, leaving virtually no room for replanting of vegetation. The large retaining walls and steep slopes proposed on the downhill side pose additional problems in that the design provides no ability to plant trees on the downhill side of the development. The ability to plant trees on a downhill slope could serve to soften the development and minimize visibility, however, the trees, if they could be planted, would not eliminate the aesthetic impacts from the proposed development.

The proposed use of the Surplus Public/Quasi-Public Discretionary Alternate Use Policy of the General Plan is also not appropriate because the General Plan states that Discretionary Alternate Use Policies should not be used on sites covered by an Area Development Policy unless the implementation of the proposal furthers the goals and strategies of the Area Development Policy. The site is located within an Area Development Policy, the Evergreen Development Policy area. As discussed in more detail below, the proposed project does not further the goals and strategies of the current Evergreen Development Policy, as the site has no traffic allocation.

Visibility of Site

The site is considered the gateway to the Evergreen area, and is highly visible from the Valley floor and Highway 101. The proposed development of 29 residences will appear engineered and disrupt the scenic value of the last remaining hillside in this viewshed traveling south on Highway 101. The hillside is very prominent traveling south on Highway 101. Views from the proposed homes would be dominated by one of the Valley's busiest freeways.

Highway 101 from location of proposed residences (above)
Subject site from Highway 101 (left)

Lack of Conformance to Evergreen Development Policy

The 1976 Evergreen Development Policy (EDP) ensured that the total number of existing and proposed dwelling units would be able to maintain acceptable traffic standards for the area. Subsequent revisions to the EDP in 1995 identified a total of 4,759 dwelling units that were to be included in a benefit assessment district to further fund infrastructural improvements. This parcel, previously designated Non-Urban Hillside on the City's Land Use/Transportation Diagram, was

traffic allocation. This proposed development and any residential development for that matter, beyond one single family residence, would not be in conformance to the Evergreen Development Policy.

The Evergreen-East Hills Development Policy Update is underway and projected to be brought to Planning Commission and City Council in the Fall of 2008. The proposed updated policy would support 500 additional residential units in the Evergreen-East Hills area. Depending on the outcome of the policy, and what criteria are included within it, this site may be able to draw from the additional traffic capacity approved in the EEHDP area. Any proposal will still need to conform with all other applicable General Plan policies, including hillside policies, environmental regulation, and design guidelines.

Until the EEHDP is updated, the City Council's January 27, 2004 directive to staff is still in effect. That direction is to discourage the filing of rezonings and General Plan Amendments in the Evergreen area for residential uses that require additional residential unit allocation or density increases. Staff requests that if the applicant chooses at a later date to file a General Plan Amendment on the site, that it be filed only after the City Council has approved an updated Evergreen-East Hills Development Policy.

Lack of Conformance to Residential Design Guidelines

The proposed configuration places the backs of the units with garage doors as the side most visible from off-site. Further, the proposal would put back yards of the uphill units fronting onto Wheatley Place, so existing homes fronting onto Wheatley Place would face the back yards of the homes across the street. In addition, the 3-story residences are proposed to be 36 feet wide, with only approximately 6 feet of separation between the units. Given the height and narrowness of the units, these structures will read from the valley floor as very tall townhomes that appear attached, and not single-family detached residences. In addition, the narrowness and height of the units will make it very difficult to convey any articulation or architectural interest on the building facades. Complete analysis of the proposal's design deficiencies has not been completed, as larger policy level analysis regarding the appropriateness of residential development has been the focus.

PUBLIC OUTREACH

Signage has been posted at the site to notify the neighbors and public of the proposed rezoning. Notices of the public hearing before the Planning Commission and City Council were published in a local newspaper, posted on the City of San José website, and distributed to the owners and tenants of all properties located within 1000 feet of the project site. This staff report was made available on the Planning Department's website one week prior to the Planning Commission hearing. Staff has been available to discuss the project with interested members of the public.

Project Manager: Reena Mathew **Approved by:** Jean Hamilton **Date:** 3/5/08

Applicant's Contact	Attachments:
Gerry De Young Ruth and Going P.O. Box 26460 San José, CA 95159	Partial Reduced Plan Set