

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: March 9, 2006

COUNCIL DISTRICT: 4

SUBJECT: PDC05-060. PLANNED DEVELOPMENT PREZONING FROM UNINCORPORATED COUNTY TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO 199 MULTI-FAMILY ATTACHED HOMES ON AN APPROXIMATELY 10 ACRE SITE LOCATED AT THE SOUTHWEST CORNER OF CAPITOL AVENUE AND MABURY ROAD

RECOMMENDATION

The Planning Commission voted 5-1-0-1, Commissioner Zito opposed and Commissioner Platten abstained, to recommend that the City Council approve the proposed rezoning as recommended by staff.

BACKGROUND

On March 8, 2006 the Planning Commission held a public hearing to consider a Planned Development Prezoning from Unincorporated County to A(PD) Planned Development Zoning District to allow up to 199 multi-family attached residential units and two existing single-family homes on a 10.9 gross acre site located on the southwest corner of Capitol Avenue and Mabury Road. The Director of Planning recommended approval of the proposed project

ANALYSIS

Staff provided additional correspondence received following preparation of the staff report. (see attached)

The applicant's representative, John Moniz of Pinn Brothers, made a presentation on the project before the Commission, clarifying that the Planned Development Permit currently on file is for the town home-style units only and excludes the podium building, that the proposed number of units, up to 199 units, was required to conform to the density range of the General Plan designations on the site, that architectural design of the project would be dealt with in detail at the development permit stage and that parking for the project is adequate with reduction for proximity to transit included. He further indicated that the design responded to community concerns and that 39 of the on-site orchard trees would be relocated on the site.

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In response to concerns of Commissioner Zito regarding impact on historic homes, Mr. Moniz clarified that the project is set back more than 100 feet, and that some orchard trees would need to be removed. Staff clarified that a change in the General Plan was approved years ago during the Housing Opportunities Study, Phase I, to provide density near transit and it was assumed that the orchard, or parts of it, would need to be removed from the site for any high density development. Staff further clarified that under the current proposal, the historic homes would remain unaffected with a significant buffer.

In response to Commissioner James, Mr. Moniz clarified that the developer is willing to install signal at the Mabury Road and Cedarville Lane intersection, and indicated that Fire Permit was on file and that the developer would work with Fire staff, and that bike racks in response to VTA comments would be provided for, and that the developer has asked the school district for alternative ways to assist schools in addition to paying state-mandated mitigation fees. Mr. Moniz further noted that the school district had not come up with suggestions to date.

Kerri Hamilton, representing Berryessa Citizen's Advisory Council, indicated that the community has an interest in preserving the historic house and remainder of the orchard grounds in the long term, expressed concern about existing parking situation on streets surrounding the site, and traffic from the existing high density development on Baton Rouge Drive nearby. She expressed concern that the ultimate density of the development would be 40 dwelling units/acre if whole site were developed, and presented photos taken during Sunday morning showing current parking situation. Mike Flaughter, also representing Berryessa Citizen's Advisory Council, expressed concern that the distance to the site from nearest VTA light rail station could be more than 2000 feet and that the highest density podium building is located furthest away from the station.

Shiloh Ballard, representing Silicon Valley Leadership Group, speaking in favor of the project, indicated that the concern of the employers in the area is the provision of housing for employees, especially proximate to transit. In response to Commissioner Zito, she explained the aspects of affordability for the group, both subsidized projects and those that are market rate.

Mr. Moniz, for the applicant, clarified that architecture of the homes would be reflective of the historic homes, explained that the project would only get half credit for on-street spaces being created by the project, and that park in-lieu fees would be paid. In response to Commissioner Campos, he noted that all townhomes are proposed to have Spanish tile roofs under the currently-filed Planned Development Permit, and that although the podium building is not yet subject to development permit, he would work with staff to propose an acceptable architectural design, which will also be reviewed by the Historic Landmarks Commission. Commissioner Campos stressed that architectural design is key component of compatibility with the neighborhood.

Commissioner James stated that the project is near enough to light rail to be considered a transit corridor project to meet needs of City, but that City and area residents need to benefit from documentation of history of the site and that history should be protected. Mr. Moniz noted that design elements were being developed to highlight Messina Family history to be displayed in a prominent location on the site. Planning staff responded to the concern about historic issues and indicated that the Historic Landmarks Commission had recommended that the remainder site be

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pursued for City Landmark status and to further work for good design on podium building with articulation for better relationship and additional screening trees, exact details of which would be worked out at the development permit stage. Staff commented that it is not yet clear if the remainder site will be developed.

Commissioner Levy commented that it could be likely that the remainder property would develop and whole site could be at 39.5 dwelling units/acre, and inquired if a future build-out would bring the requirement of an on-site park. In response to Commissioner Levy's further question, John Moniz clarified that 50 percent of the proposed units have tandem parking. The public hearing was then closed.

Public Works staff clarified that traffic analysis had identified that Level of Service (LOS) for intersections in the project vicinity would be within City's acceptable standards, and that freeway analysis showed no impact on freeway, and that the applicant is required to install a signal at Mabury Road and Cedarville Lane intersection. Staff stated that proximate intersections were not included on the City's list of protected intersections.

Commissioner Platten expressed concern regarding the Fire Department's Memorandum, stating it was out of date and indicated non-approval of the project, and suggested that the Chair send a letter to the Fire Chief relaying the commission's concern regarding lack of clarity in memos and suggesting that Fire Department staff come to Planning Commission hearings to clarify fire-safety related issues. The applicant explained the ongoing process with the Fire Department regarding fire hydrant locations and crash gates, and indicated that Fire staff would not approve development of the Planned Development Permit if fire safety concerns not adequately addressed.

Commissioner Zito also expressed concern regarding the "age" of the comment memos from other City Departments regarding the project and encouraged that updated memos be provided when significant changes occur. In response to Commissioner Zito's question regarding a need for an EIR for the project due to historic impacts, the Planning Director clarified that the mitigated Negative Declaration for the project tiered off the EIR for the Housing Opportunities Phase I study.

In response to Commissioner Zito, Dave Mitchell from the Parks Department, explained the use of the project's park in-lieu fees to fund future development of proximate County land into a neighborhood park with play equipment, soccer fields and a dog park.

Commissioner James moved approval of the proposed rezoning and stated it will be a good project, expressed difficulty with memos in the file, but concurred that the standard Fire Permit process would result in safe project. Commissioner Levy suggested that the site is really developing at more than 39 dwelling units/acre and might be too dense and that there is need for more commercial use in the area. Commissioner Campos expressed concern about quality of other agency memos in the file. He then explained the need for the Commission to support city policy to try to move people out of cars and that the 10 percent reduction in the parking requirement helps to encourage that lifestyle.

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Commissioner Platten indicated that he did not believe that the record before him, including the non-supportive Fire Memo, would allow him to vote on project and that the Chair should send a letter to the Fire Chief. Chair Dhillon requested that Counsel draft a letter to summarize issues.

Commissioner Zito stated that although the project was well designed, he had concerns regarding the project, and that the site should have been subject to a General Plan change to address the development of the whole site. He noted the existing parking issues in the neighborhood and expressed concern that 50% of the units having tandem garages could exacerbate the problem. In addition, he indicated that, given the increase in units required to meet the General Plan density, some units could have been set aside as affordable and expressed concern that there were not sufficient amenities in walking distance for these 3-4 bedroom homes. He indicated he could not support the project for these reasons.

Commissioner Levy expressed concern that the project did not address the planning for the entire site at this time, and that particular protection was not indicated for burrowing owls. Staff indicated that no burrowing owls were found on site, and that other biological mitigations were identified in the staff report.

Commissioner Campos stated that it was a sad commentary that future residents might not be willing to walk the length of a high school campus in order to buy milk.

PUBLIC OUTREACH

Two community meetings were held by the applicant. The first community meeting was held on August 8, 2005 at East Side Union High School District Office located on 830 North Capitol Avenue, approximately 1000 feet northerly of the project location. The follow-up community meeting was held on January 12, 2006 at Piedmont High School. At both the meetings, another Planned Development Rezoning project by the same developer on a 2-acre site located across Capitol Avenue from the subject site was also discussed. The first meeting was attended by approximately twenty-two members of the community, and the second one was attended by approximately fifty members of the community. Project-related comments included additional concerns with traffic on Cedarville Lane, lack of park and open space in the area, the need of traffic signal on the intersection of Mabury and Cedarville, lack of potential on-street parking on Cedarville Lane, and construction-related dust and noise impact.

Planning staff has received an email from Kerri Hamilton of Berryessa Community Advisory Council, with comments on traffic, parking and historic issues. Planning staff has also received a letter from a local resident with comments on the height of the podium building. The email and the letter had been attached to the staff report. Subsequent to the preparation of the staff report, planning staff has received additional correspondence in the form of emails, in opposition to the project, from Kerri Hamilton, Ty Greaves, Steve Greenbrook and Dale Osborn, President of Berryessa Citizens Advisory Council. The emails are attached to this memorandum.

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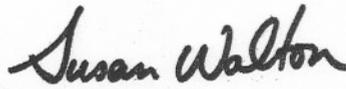
Notices of the public hearing before the Planning Commission and City Council were published, posted on the City of San Jose web site and distributed to the owners and tenants of all properties located within 1,000 feet of the project site. A notice indicating the public review period of Draft Mitigated Negative Declaration for the project was also mailed to property owners and tenants within 1,000 feet of the project site and was posted on the City web site. Staff has been available to discuss the project with members of the public.

COORDINATION

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

CEQA

Mitigated Negative Declaration adopted on February 14, 2006.


 JOSEPH HORWEDEL
Secretary, Planning Commission

Attachments:

Email correspondences from members of the community

Mallick, Sanhita

From: sgreenbrook@aol.com
Sent: Tuesday, March 07, 2006 5:24 PM
To: District4@sanjoseca.gov; Sanhita.Mallick@sanjoseca.gov
Cc: kerrihamilton2004@yahoo.com
Subject: PCD05-060 Messina Estate

To: San Jose Planning Commission Members -

Sirs,

In regard to the proposed Construction on the Messina Estate reference PDC05-060 I am in full support of the issues and comments raised by Kerri Hamilton.

My comments and observations on this Project are:

I am very concerned about the proposed construction of additional (what I would term as High Density or) HD housing on the historical Messina property in that my understanding is that in doing so will potentially eliminate the eligibility of this property for State and/or National Historic Registry.

We seem to believe that old should be replaced with new and that this is good.

Not so, we need to embrace the old and existing that is part of the heritage of this area, ie the orchards and buildings of the era, before it all became so called "Silicon Valley"

This site is one, if not the only one historical site left in our (my) community. The site (the house including the adjacent orchards) should be retained and revered and I urge you to consider these issues before allowing any part of this property to be "plowed under" for more High Density Housing.

The addition of these units would also add to the already intolerable traffic problems this area. Namely,

- a), the completion of HD housing (some still under construction) at Baton Rouge development, on Gilcrist at Capitol and
- b), the completion of the Terramina Square HD units on N. White at McKee, and
- c), the completion of the Arbor Terraces HD units on McKee at Capital.

Also there are HD units under construction on Capital at Penitencia Creek.

The **current** traffic problems are two fold.

Firstly there is insufficient parking for the existing high density units in all three (completed) locations mentioned above, which is evidenced by the parking of vehicles not only on the street outside of these units but also directly across the street (or any nook that can be found).

The second issue regarding traffic problems is the flow of traffic (or lack thereof) at commute times, and at the weekends, in that, access to the Highway 680 corridor for this area is only at Capitol/Berryessa or Capitol/Mckee.

With the addition of the Light Rail at these intersections, the traffic build up (back-up) waiting for these Traffic Lights to change is unacceptable.

In addition please be aware that in the evening there is a dangerous situation whereby traffic is backed up on the 680 Freeway waiting to access the off ramps for McKee (particularly bad) and Berryessa (getting progressively worse).

The Northbound Alum Rock 680 Freeway Onramp is very close to the McKee Exit Off-ramp, (approximately 1100 yards), making an already dangerous situation, [backup] even worse).

Freeway traffic is traveling at 65-80mph next to stationary vehicles waiting to exit.

The upshot is that if the units on the Messina estate were constructed, the already intolerable

3/8/2006

traffic problems already existing would be exacerbated with no foreseeable relief.

The quality of life for the residence in the area of Berryessa/North Valley has already been significantly compromised in the past several years due specifically to the "Light Rail" (of which a very small percentage of local residence use) causing delays and secondly the additional housing which has brought significantly more traffic congestion.

I Thank you for your consideration of the above,

Sincerely

Steve Greenbrook.

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March 6, 2006

City of San Jose Planning Commission
c/o Mr. Joseph Horwedel
Acting Director of Planning, Building, and Code Enforcement
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113-1905

RE: PDC05-060 Messina Property (Capitol/Mabury)

Dear Mr. Horwedel and Commissioners,

On behalf of the Berryessa Citizens Advisory Council (BCAC) representing Berryessa and North San Jose communities, we respectfully submit this letter for the record as it relates to the above referenced project.

While we are happy that Pinn Bros. (a local developer with a quality reputation) is the developer bringing forth this application, we still have serious concerns and questions about the proposed project.

First, the Messina site is considered to be the most historically and architecturally significant site in our area which hasn't yet been given a Landmark designation. It is highly valued by our community and is one of the last remaining sites of significance which gives our area a spirit of place. As the staff report for the Historic Landmarks Commission indicates, development on a significant portion of the historic orchard will disqualify a substantial portion of the site from the State or National Historic Registry. Additionally, the application does nothing to protect the remainder of the site, which was unfortunately given a Transit Corridor Residential designation and a medium-high density designation under HOS1, from future development.

Second, while the development proposed would bring the entire site to an overall density of over 20 dwelling units per acre to satisfy the transit corridor designation, the portion to be developed under this application would have nearly 40 units per acre. We believe that this density is very high considering that it is not being brought forth with a General Plan Amendment to protect the historic remainder site from future development, and that this site as described in the Staff Report as suburban is not at, but between, transit stations and freeway entrances in an area with severe parking and traffic circulation issues already existing.

Third, we believe that this site should be disqualified from the 10% parking discount for transit proximity, and we will provide photo documentation of the existing parking situation at the hearing.

Fourth, we are also concerned about traffic and level of service impacts. Our area is severely impacted by peak commute directionality because of its location, and as the background numbers in the traffic report indicate, the left-turn lanes at Capitol/Berryessa and Mabury/Capitol already have severe shortages of storage with the projects previously approved but not yet complete. Also, the background and cumulative numbers aren't likely very realistic since they include the 9% vehicle trip discount allowed under CMP. While we wish that those numbers were accurate, we know that they are not.

We now have a partially functioning transit corridor, and it will be decades before there is any chance of a rapid transit connection in the area. *The Initial Study even estimates only twelve transit riders would be generated by the proposed project, and that number may be optimistic.* Additionally, the cumulative numbers for the Berryessa intersection are fast approaching the upper end of LOS D, which is still required to be retained under City policy. In fact we believe that this project will in reality push this intersection to LOS E, because of the inaccuracy of the background and cumulative numbers with the 9% discounting allowed for vehicle trips.

Fifth, we are also concerned about providing adequate open space for residents in a neighborhood which is extremely deficient in such, and about protecting quality of life for future residents who will already be burdened with record-high property prices and mortgages.

To summarize, our concerns about this project include historical, density, parking, traffic, circulation, and open space.

Sincerely,

Dale Osborn
President, Berryessa Citizens Advisory Council
408-926-6106

cc: Chuck Reed, Mayor Gonzales and Council, Sanhita Mallick, John Moniz

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CITY CLERK
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