COUNCIL AGENDA: 04-04-06
ITEM: 11.8

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: March 23, 2006

COUNCIL DISTRICT: 5
SNI AREA: GATEWAY EAST

SUBJECT: PDC05-098. PLANNED DEVELOPMENT REZONING FROM A(PD) RESIDENTIAL ZONING DISTRICT TO THE A(PD) RESIDENTIAL ZONING DISTRICT TO ALLOW 11 SINGLE-FAMILY DETACHED RESIDENTIAL UNITS ON A 1.38 GROSS ACRES SITE ON THE WEST SIDE OF SOUTH 34TH STREET, ACROSS FROM LOS SUENOS AVENUE.

RECOMMENDATION

The Planning Commission voted 7-0-0, to recommend that the City Council approve the Planned Development Zoning as recommended by staff with two conditions of approval: 1) The private drive should be a commonly-owned parcel to be maintained by a Homeowners Association, and 2) the interior side setback of the proposed lots should be increased to five feet on one side of the units.

BACKGROUND

On March 22, 2006, the Planning Commission held a public hearing to consider a Planned Development Rezoning to allow 11 single-family detached residential units on a 1.38-gross acre site.

Staff made a brief report clarifying the parking section on page 4 of the staff report, indicating that 14 additional parking spaces were being proposed along the private street, and not in the private driveways.

Three speakers spoke on the project with concerns regarding: how parking would be guaranteed in the future for existing houses along the proposed private street; future water and gas supplies for new houses; and drainage from proposed lots to existing lots.

The applicant indicated that he would replace the existing water system for existing houses to remain with new pipes and meters to be relocated from 34th street to the private drive, and that the private drive would include one guest parking space for each new and existing home.

Commissioner Zito asked about the provision of storage space for the new homes and expressed concern regarding the proposal for tandem parking. The applicant confirmed that 3 feet of storage would be provided at the back of the proposed tandem garages.

Several commissioners expressed concern regarding the proposed ownership and maintenance of the private drive. The applicant explained that a road maintenance agreement was proposed for future maintenance of the private drive parcel. In response to Commissioner Zito, the applicant explained his proposed method for one homeowner owning the private drive and being responsible for its maintenance, rather than creating a homeowners association. In response to Commissioner James, the applicant commented that it was not yet determined which residential lot the private street would be attached to. Several commissioners were concerned with potential problems arising from the applicant's proposal for maintenance of the private street. Staff clarified that the applicant's proposal is for the private street to be included as part of a single residential lot, and the City attorney indicated that the required configuration of the street parcel should be included in the Development Standards.

In response to Commissioner Dhillon, staff indicated that the applicant's proposal is not the usual preferred solution but that there were two previous approvals on the site that did not include a homeowners association, and current project just added three new units.

Commissioner Levy expressed concern regarding the proposed side setbacks for the new homes. The applicant explained that the perimeter setbacks for the house lots would be 5 feet and the interior setback would be 3.5 feet. Levy stated he would like to see a 5-foot interior setback on at least one side of the houses to allow for access and room for garbage cans.

Several commissioners questioned whether 34th street could be vacated to allow for more room for the development. Public Works staff explained that vacation would be infeasible due to a large existing water main in the cul-de-sac which would need to be relocated, and an emergency vehicle access connecting between 34th street and Sawgrass Drive to the north.

Staff clarified that the Draft Development Standards required a 5-foot as perimeter setback, and that a 5 foot interior setback could be included as a revision to the Standards; that the parking currently proposed on the private drive could be moved to the south side of the street to accommodate the concerns of residents of existing lots to be worked out at the Planned Development Permit stage; and in response to Commissioner Levy, that the architecture still needs work and would be refined at the Planned Development Permit stage.

The Planning Commission recommended approval of the proposed Planned Development Zoning with two changes to the Draft Development Standards (see attached):

1) The private drive should be a commonly-owned parcel to be maintained by a homeowners association

2) The interior side setback of the proposed lots should be increased to five feet on one side of each unit.

PUBLIC OUTREACH

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. Staff has been available to discuss the project with members of the public. This staff report has been available for review on the City's web site.

COORDINATION

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

CEQA

An Addendum was prepared to the Mitigated Negative Declaration for the approved Zoning, File No PDC04-033. The Mitigated Negative Declaration addressed the development allowed under the larger of the two prior Planned Development Zonings (5 units). The Addendum addresses the addition of 6 units (3 units approved under Planned Development Zoning File No. PDC03-021 with an Exemption and 3 units proposed under the current Zoning) and concludes that the changes proposed to the project will not result in any new significant traffic or other impacts on the environment.

Susan Walton
for JOSEPH HORWEDEL
Secretary, Planning Commission

Attachment

cc: Innovative Housing Solutions, LLC, Grant Denmark, Managing Member, P.O. Box 320156
Los Gatos, CA 95032

PLANNED DEVELOPMENT ZONING PDC05-098
DRAFT DEVELOPMENT STANDARDS

Area A – The area including all lots located to the north of the private driveway
Area B – The area including all lots located south of the private driveway

PERMITTED USES

Permitted Uses:

AREA A – Up to seven (7) Single-Family detached residences.
AREA B – Up to four (4) single-family detached residences.

DEVELOPMENT STANDARDS

Note: Where these development standards conflict with other information included on the Land Use Diagram, these standards shall take precedence.

AREA A

Minimum Lot Size: 2,600 square feet

Maximum Height: 30 feet, 2 stories

Minimum Setbacks:
Front:
Building -15 feet
Porch – 10 feet
Interior side – 3.5 feet on one side of the unit and 5 feet on the other side (each lot shall have a minimum of one interior side setback of 5 feet).
Corner side - 5 feet
Perimeter side – 5 feet
Rear - 15 feet for lots 1-5 and 14.5 feet for lots 6 and 7.

AREA B

Minimum Lot Size: 3,550 square feet

Maximum Height: 30 feet, 2 stories

Minimum Setbacks:
Front:
Building -15 feet
Porch – 10 feet
Interior side – 3.5 feet on one side of the unit and 5 feet on the other side (each lot shall have a minimum of one interior side setback of 5 feet).
Perimeter side –5 feet
Rear - 20 feet

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AREA A and B

All trellises, pools, spas, accessory structures, fences, and decks and accessory structures shall conform to the R-1-8 Residence District Standards and shall be allowed by right with no review or approval by the Director of Planning. Other approvals may still be required. All other changes shall require Director of Planning approval.

Additions shall require permits in accordance with the requirements of part 9 of chapter 20.100 (Single-Family House Permits) of the Zoning Ordinance as amended.

Note: Minor architectural projections, such as chimneys and bay windows, may project into the building setback by no more than 2'-0" for a horizontal distance not to exceed 10'-0" in length.

Minimum Driveway Length: 18 feet

Minimum Parking: 2 covered spaces + 1 off-street parking spaces per unit

PRIVATE STREET DESIGN AND MAINTENANCE

The private driveway shall be commonly owned and maintained by a Homeowners Association and shall include at a minimum:

- A 4-foot park strip with street trees along the entire northerly side of the private drive and along the southerly side along the frontage of lots located in Area B
- A 4-foot sidewalk along the frontage of lots in Area A and B.

The private street shall be designed and constructed in accordance the Common Interest Subdivision Ordinance as amended.

OFF-SITE IMPROVEMENTS

All public off-site improvements shall be implemented to the satisfaction of the Director of Public Works. Prior to the issuance of building permit(s), the applicant shall be required to obtain a Public Works clearance. Said clearance will require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works.

PLANNED DEVELOPMENT ZONING PDC05-098
DRAFT DEVELOPMENT STANDARDS

1. Applicant shall be responsible to remove and replace curb, gutter, AC pavement, and sidewalk damaged during construction of the proposed project.
2. Remove and replace broken or uplifted curb, gutter, and sidewalk along 34th Street.
3. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

AFFORDABLE HOUSING

The project is located within the Gateway East Strong Neighborhoods Initiative Redevelopment Area. Prior to the approval of a Planned Development Permit, the property owner shall ensure that at least 20 percent of the units in the subject development are affordable to persons and families of low or moderate income as required by State law for the required time period by recording an affordability agreement on the property or by entering into an agreement with the City of San Jose to the satisfaction of the Director of Housing.

ENVIRONMENTAL MITIGATION

Mitigation shall be implemented as identified in the Negative Declaration prepared for the project (PDC04-033). Alternative mitigation may be approved by the Director of Planning based on a finding that the alternative measures reduce the impacts of the project to a non-significant level.

Air Quality

1. Water all active construction areas at least twice daily or as often as needed to control dust emissions.
2. Cover all trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
3. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
4. Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
5. Sweep public streets daily, or as often as needed, with water sweepers, to keep streets free of visible soil material.
6. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
7. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust.
8. Limit traffic speeds on unpaved roads to 15 mph.
9. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

10. Replant vegetation in disturbed areas as quickly as possible.

Biological Resources

All non-orchard trees that are to be removed shall be replaced at the following ratios:

- Each tree less than 12" in diameter to be removed = one 15 gallon tree
- Each tree 12" to 18" diameter to be removed = two 24" box trees
- Trees 18" in diameter or greater shall not be removed unless a Tree Removal Permit has been approved for the removal of such trees. Each tree 18" in diameter or greater to be removed = four 24" box trees

The species and exact number of trees to be planted on the site will be determined in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement. In the event the developed portion of the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented at the permit stage:

- An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.
- A donation of $300 per mitigation tree to San Jose Beautiful or Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Director of Planning, Building, and Code Enforcement prior to issuance of a grading permit.

Archaeology

There shall be monitoring of site excavation activities to the extent determined by a qualified professional archaeologist to be necessary to insure accurate evaluation of potential impacts to prehistoric resources.

1) If no resources are discovered, the archaeologist shall submit a report to the City's Environmental Principal Planner verifying that the required monitoring occurred and that no further mitigation is necessary.

2) If evidence of any archaeological, cultural, and/or historical deposits are found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the City's Environmental Principal Planner, describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources.)

3) In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:

   a) In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

   b) A final report shall be submitted to the City's Environmental Principal Planner prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the City's Environmental Principal Planner.

Noise

All units should be provided with an adequate forced-air mechanical ventilation system satisfactory to the City of San Jose Building Department to allow occupants the option of controlling noise while maintaining a habitable interior environment.

Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components.

PLANNED DEVELOPMENT ZONING PDC05-098
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WATER POLLUTION CONTROL PLANT NOTICE

Pursuant to part 2.75 of chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the city manager makes a determination that the cumulative sewage treatment demand on the San Jose – Santa Clara water plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose – Santa Clara water pollution control plant to treat such sewage adequately and within the discharge standards imposed on the city by the state of California regional water control board for the San Francisco Bay region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.