



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: August 10, 2006

COUNCIL DISTRICT: 5
SNI AREA: Mayfair

SUBJECT: PDC05-013. PLANNED DEVELOPMENT REZONING FROM R-1-8 SINGLE FAMILY RESIDENCE ZONING DISTRICT TO CP(PD) COMMERCIAL PEDESTRIAN PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO 7,000 SQUARE FEET FOR COMMERCIAL USES AND UP TO 14 SINGLE-FAMILY ATTACHED RESIDENCES ON A 0.618 GROSS ACRE SITE

RECOMMENDATION

The Planning Commission voted 5-0-2, with Commissioners Platten and Zito absent, to recommend that the City Council approve the proposed Planned Development Rezoning from R-1-8 Single Family Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 7,000 square feet for commercial uses and up to 14 single-family attached residences on a 0.618 gross acre site as recommended by staff.

OUTCOME

Should the City Council approve the Planned Development Rezoning, up to 7,000 square feet for commercial uses and up to 14 single-family attached residences may be built on the subject 0.618 gross acre site, consistent with the Development Standards for the subject rezoning. This future development would be subject to additional Development Permits and subdivision maps.

BACKGROUND

On August 9, 2006, the Planning Commission held a public hearing to consider a Planned Development Rezoning from R-1-8 Single Family Residence District to CP(PD) Residential Zoning District to allow up to 7,000 square feet for commercial uses and up to 14 single-family attached residences on a 0.618 gross acre site. The Director of Planning recommended that the base zoning district be A-Agriculture instead of proposed CP-Commercial Pedestrian, and that the fourth story of the building be eliminated.

Planning Staff distributed a copy of the revised development standards including the provision for allowing alternative and alternating use parking arrangements subject to issuance of a Planned Development Permit.

The applicant's representative, Erik Schoennauer, indicated that the Mayfair Neighborhood Association Committee (NAC) had reviewed the project during the three meetings that the applicant had with the NAC committee, and that they unanimously supported the project. He noted that the proposed project will provide jobs, services and housing in the area and requested the Commission to support the project. No other member of public provided testimony at the hearing.

In response to Commissioner Kalra's inquiry about the possible commercial uses that may go in the building, Mr. Schoennauer indicated that a dental office may be housed in one of the commercial spaces while other retail use or food services may be accommodated in the rest of the spaces.

Mr. Schoennauer indicated that the project should be considered for the Discretionary Alternative Use Policy (Two-Acre Rule), because the project is exceptional since it provides vertical mixed uses, basement parking rather than surface parking and the common open space in excess of the recommendation of Residential Design Guidelines.

In response to Commissioner Kalra's question, Mr. Schoennauer clarified that there would be elevators from the basement parking garage to upper floors. In response to Commissioner Kamkar's concern about the Grading and Drainage Plan indicating that the parking area is drained to the sanitary sewer system, Department of Public Works staff indicated that the approach is consistent with standard engineering practices for covered parking garages.

Commissioner Kalra inquired about the process through which off-sale of alcoholic beverages, which is a conditional use in the proposed zoning district, would be allowed. Planning staff explained that off-sale of alcoholic beverages would only be allowed through a Planned Development Permit process, which is heard by the Planning Director, and may be heard by the Planning Commission on appeal. Staff also clarified that this process would ensure involvement of public in the decision making. Commissioner Campos indicated that the permit request will also be reviewed against a variety of City policies. Mr. Schoennauer indicated that per his discussion with the Council Office, sale of alcohol as incidental to food services appears to be only option for any alcohol-related use in this development.

Commissioner Kamkar raised similar concern about after-midnight use. Staff explained that such a use will go through similar permitting process as for off-sale of alcohol. Mr. Schoennauer indicated that since the development will contain residential uses, after-midnight uses are not anticipated due to incompatibility with residential uses.

Commissioner Dhillon indicated that he liked the project, particularly the architecture, and recommended that when the building is redesigned to contain three stories only, the dormer windows should be retained. Mr. Schoennauer expressed his willingness to work with the Planning staff at the Development Permit stage to refine the design.

The Public hearing was then closed. Planning staff indicated that they are pleased at the applicant's willingness to work with staff to refine the project.

Commissioner Kalra expressed his concern about a condition in the Traffic Memo that prohibits left turns on King Road from the project.

Commissioner Dhillon made a motion that the Commission recommend that the City Council approve the proposed rezoning as recommended by the Planning Department.

ANALYSIS

The proposed rezoning of the site from R-1-8 Residence District to A(PD) Planned Development Zoning District, as conditioned, is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Neighborhood/Community Commercial, based upon the use of the Discretionary Alternative Use Policy, provides an opportunity to further important goals and strategies of the General Plan and is in substantial conformance with the Residential Design Guidelines.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. 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. The rezoning was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

A community meeting was held in conjunction with the Mayfair SNI NAC meeting at the Mayfair Community Center on April 27, 2006. Approximately 25 people attended the meeting. City staff and the applicant presented the Planned Development Zoning application along with the revised General Plan Amendment request. Public comments included the need to scale down the height and massing of the proposed development, the need to incorporate security elements into the development, and the need for the proposed residential units to be affordable. City staff and the applicant explained that although 20 percent of the residential units within the Redevelopment Area in which the site is located are required to be affordable, the specific requirements for affordability

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for units on the subject site are based on criteria provided by the City and Redevelopment Agency in response to a specific proposal. The Mayfair SNI NAC then voted unanimously to support the proposed concept of uses on the site.

COORDINATION

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

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan policies and City Council approved design guidelines as further discussed in attached staff report.

COST SUMMARY/IMPLICATIONS

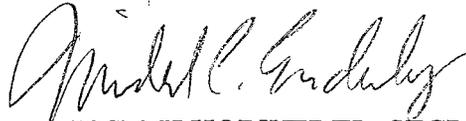
Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

Mitigated Negative Declaration adopted on March 22, 2006.



JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Susan Walton at 408-535-7847.

Attachments: Revised Development Standards

PDC05-013
REVISED Draft Development Standards

Uses

1. PERMITTED USES. For-sale and/or rental flats (condominiums and/or apartments) and permitted uses of the CP Commercial Pedestrian Zoning District of the City of San Jose Zoning Ordinance, as amended. Live work uses may be allowed with a Planned Development Permit.
2. CONDITIONAL USES. Conditional Uses of the CP Commercial Pedestrian Zoning District of the City of San Jose Zoning Ordinance, *as amended*, shall be allowed subject to approval of a Planned Development Permit(s)/Amendment(s). These uses included:
 - a. *Off-Sale of Alcohol*. Sale of alcohol for off-site consumption shall be allowed subject to approval of a Planned Development Permit by the Director of Planning. The sale of alcohol for on-site consumption will be allowed when incidental to a restaurant.
 - b. *After Midnight Uses*. Commercial uses operating between the hours of 12 midnight and 6 a.m. shall be allowed subject to approval of a Planned Development Permit by the Director of Planning.
3. RESIDENT SERVING SUPPORT USES

Also permitted within the Residential/Mixed-Use Parcels are resident-serving support uses such as leasing offices, club houses, health clubs, fitness rooms, meeting rooms, pools and other residential amenities.

Physical Development Standards

1. DEVELOPMENT SIZE AND DENSITY
 - A maximum of 14 dwelling units shall be permitted. The minimum number of units shall be 7.
 - A maximum of 7,000 square feet and a minimum of 6,000 square feet of retail/commercial uses.
2. SETBACKS:
 - *Building Setbacks*.
 - i. Ground Floor:
 1. West (South King Road)- 0 feet
 2. North (Residential use)- 50 feet
 3. South (Commercial Use) – 5 feet
 4. East (Rear) – 45 feet
 - ii. Upper Floors:

1. West (South King Road)- 0 feet
 2. North (Residential use)- 50 feet
 3. South (Commercial Use) – 10 feet
 4. East (Rear) – 45 feet
- *Landscaped Setbacks.* A minimum of 5-foot wide landscaped area shall be maintained on the north side, and a minimum of 6-foot wide landscaped area shall be maintained on the east (rear) side.
 - *Exceptions.* Minor architectural projections such as chimneys and bay windows, not exceeding 10'-0" in length, may project into the building setback on north, east and west side by no more than 2'-0" for a horizontal distance, no more than 20% of the building elevation length. Porches located on the second floor or above may extend up to 2 feet into the setback areas on north, east and west sides.
3. NO. OF STORIES. Maximum number of stories would be three.
 4. HEIGHT. Buildings, structures shall not exceed 45 feet. *Exception.* Non-habitable architectural projections and special treatments (e.g., chimneys, weather vanes, cupolas, pediments and other devices) shall be permitted to project above the maximum height limits to create architectural variation. Non-habitable mechanical and equipment rooms shall also be permitted to exceed the height limit provided that such equipment is screened from predominant public view or architecturally integrated within the building. Such projections shall not exceed 5 feet in height and shall be limited in area to no more than 20% of the floor area of the uppermost habitable floor.
 5. PRIVATE OPEN SPACE FOR RESIDENTIAL USES. At least 60 square feet of private open space for each unit, with a minimum depth of 6 feet.
 6. COMMON OPEN SPACE FOR RESIDENTIAL USES. At least 200 square feet of usable common open space. Areas of decorative landscaping or passageways cannot be counted towards common open space.
 7. OFF-STREET PARKING AND LOADING STANDARDS.
 - Residential parking standards shall comply with the City of San Jose's Residential Design Guidelines, which is as follows:
 - i. Studios 1.4 spaces/unit
 - ii. 1 Bedrooms. 1.5 spaces/unit
 - iii. 2 Bedrooms. 1.8 spaces/unit
 - iv. 3 Bedrooms. 2.0 spaces/unit
 - v. Each additional bedroom above 3. 0.15 paces/unit/room
 - vi. Units designed as dual master bedroom units per Residential Design Guidelines shall provide extra parking at a rate of 0.2 additional parking spaces/unit.

- Commercial Parking Standards. Per parking standards of the City of San Jose Zoning Ordinance, as amended.
- Bicycle parking shall be provided in conformance with the requirements of the Zoning Ordinance, as amended.

8. **ALTERNATING USE AND/OR ALTERNATIVE PARKING ARRANGEMENT. Approval of Alternating and/or Alternative Parking arrangement between residential and commercial uses shall be allowed subject to approval of a Planned Development Permit by the Director of Planning.**¹

9. AFFORDABLE HOUSING. The project shall meet the Inclusionary Housing Policy. An affordability agreement shall be provided to the satisfaction of the Director of Planning prior to the issuance of a Planned Development Permit.

10. ENVIRONMENTAL MITIGATIONS:

- *Air quality during construction.* The following construction practices shall be implemented during all phases of construction for the proposed project to prevent visible dust emissions from leaving the site: 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) apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas during construction of the site; 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; and 5) sweep public streets daily, or as often as needed, with water sweepers, to keep streets free of visible soil material.
- *Biological Resources.* If possible, construction should be scheduled between September and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys shall be conducted no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish &

¹ Dated August 9, 2006

Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the City's Environmental Principal Planner, to the satisfaction of the Director of Planning, prior to the issuance of any grading or building permit.

□ *Hazards And Hazardous Materials.*

- i. If a well is found on the project site, a well destruction permit shall be obtained from the Santa Clara Valley Water District and the well shall be destroyed in accordance with District standards.
- ii. If a septic system is found during construction, it shall be abandoned in accordance with the requirements of the Santa Clara County Sewage Disposal Ordinance.
- iii. If an underground storage tank(s) is found during construction, a closure plan shall be prepared and a permit for the removal of the underground storage tank(s) shall be obtained and the underground storage tank(s) removed in accordance with City procedures.
- iv. The project site shall be viewed by a qualified environmental professional during demolition and pre-grading activities to observe areas of the property that may have been obscured by existing structures or pavement for such items as stained soils, septic systems, underground storage tanks, and/or unforeseen buried utilities; and, if found, a mitigation program shall be developed, submitted to the City's Environmental Principal Planner, and implemented with such measures as soil testing, removal and/or offsite disposal at a permitted facility, to the satisfaction of the Director of Planning and the City's Municipal Environmental Compliance Officer.
- v. If any evidence of soil and/or groundwater impact from the adjacent former underground storage tank site is encountered during grading/excavation work, the Santa Clara Valley Water District shall be contacted; testing shall be done; and, if warranted, a mitigation plan shall be developed and implemented with measures such as soil removal and/or treatment, and groundwater treatment.

□ *Hydrology And Water Quality.*

- i. A Notice of Intent and a Storm Water Pollution Prevention Plan that addresses both construction and post-construction periods and specifies erosion and sediment control measures, waste disposal controls, maintenance responsibilities and non-stormwater management controls, shall be submitted to the RWQCB and maintained onsite, respectively, to comply with the stormwater discharge requirements of the NPDES General Permit.

- ii. A Storm Water Pollution Prevention Plan (SWPPP) in compliance with the local NPDES permit shall be developed and implemented including: 1) site description; 2) erosion and sediment controls; 3) waste disposal; 4) implementation of approved local plans; 5) proposed post-construction controls, including description of local post-construction erosion and sediment control requirements; 6) Best Management Practices (BMPs) such as the use of infiltration of runoff onsite, first flush diversion, flow attenuation by use of open vegetated swales and natural depressions, stormwater retention or detention structures, oil/water separators, porous pavement, or a combination of these practices for both construction and post-construction period water quality impacts; and 7) non-storm water management.
 - iii. The project shall incorporate Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges to the maximum extent practicable.
- *Noise*
- i. Mechanical ventilation shall be provided in accordance with Uniform Building Code requirements when windows are to be closed for noise control.
 - ii. Windows and sliding glass doors shall be maintained closed and STC 30 to 34 or higher rated windows and glass doors shall be installed at all the façades facing or perpendicular to South King Road of units 1 through 4 on each floor to ensure an interior noise level of 45 dB DNL can be achieved.
 - iii. Prior to the issuance of an occupancy permit, building plans for all units shall be checked by a qualified acoustical consultant to ensure that noise levels are attenuated sufficiently to the satisfaction of the Director of Planning.
 - iv. Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any onsite or offsite 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.
 - v. 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 poorly maintained engines or other components.