



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Stephen M. Haase

SUBJECT: SEE BELOW

DATE: October 13, 2005

COUNCIL DISTRICT: 6

SUBJECT: PDC04-112. Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 19 single-family detached residences on a 3.3 gross acre site located east of Hervey Lane, approximately 230 feet south of Padres Drive

RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend that the City Council approve the proposed rezoning, as recommended by staff.

BACKGROUND

On October 12, 2005, the Planning Commission held a public hearing to consider a Planned Development rezoning from R-1-8 Single-Family Residence District to A(PD) Planned Development District to allow up to 19 single-family detached residences on a 3.3 gross acre site.

Staff Presentation

Staff indicated that a memorandum from the Santa Clara Valley Water District, received after the preparation of the staff report, had been distributed to members of the Planning Commission prior to the hearing (see attached). Staff explained that the easement discussed in the Water District memorandum had since been removed from the current plan set for the project and was no longer proposed by the applicant. Staff also clarified that in the western section of the property, where no houses are proposed, the portion of the project needed for the trail will be retained by the applicant, while the remainder of the area will be transferred to the church.

The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning.

Applicant's Presentation and Public Testimony

Greg Pinn, of Pinn Brothers Fine Homes, spoke on behalf of the applicant. He noted that the project had been a difficult one and that over a year had elapsed working with staff and the consultant team to reach a compromise to satisfy the neighbors, staff and the applicant.

Ash Pirayou spoke on behalf of the Assyrian Church of the East, located directly to the north of the project. Mr. Pirayou noted that the church had concerns regarding the interface between proposed residences on the site and the use of the church property. He indicated that the church now supported the current proposed project.

Chris deGroot, a resident at 1451 Hervey Lane, spoke in support of the project. He stated that the current site is an eyesore and that the proposed project will be an improvement to the existing conditions.

Commissioner Zito questioned the applicant regarding the Water District's request that the project be reduced from 19 to 18 units in order to provide a 100' riparian corridor setback for the cul-de-sac bulb. John Moniz responded on behalf of the applicant, stating that the current proposal was a compromise and the applicant balanced providing enough riparian corridor setback and providing a buffer from the existing church.

Commissioner Campos asked staff's opinion regarding the Water District's request for a reduction in the number of units. Staff responded that the current proposal represented a reasonable compromise and that there were many constraints on the site between providing the riparian setback, providing the trail and public street, providing a tot lot and providing a buffer between the church and the project, and that the setback proposed of greater than 60' was a significant improvement over the existing situation on proximate sites.

Commissioner Zito questioned the applicant regarding the staff proposal that the property to be transferred to the church be removed from the proposed zoning and the potential ramifications. John Moniz stated that the agreement between the applicant and the church had already been reached and the applicant supported the staff's proposal.

The Planning Commission then closed the public hearing.

Planning Commission Discussion

Commissioner Campos made a motion to approve the project as recommended by staff. He stated that the project was a good and creative use of a railroad right-of-way and would remove an eyesore from the existing neighborhood. Commissioner James noted that the homeowners near the project supported the project and that he would support the approval of the project.

Commissioner Levy stated that he was concerned with the lack of the 100-foot riparian corridor setback from the cul-de-sac bulb and was not sure that he could support the motion without a 100-foot setback.

Commissioner Zito questioned the staff regarding the flooding issues in the area. Public Works staff stated that removal of the railroad berm would result in placing other properties in the flood zone, and that grading the new public street towards the river might also lead to additional flooding issues in the neighborhood. Public Works staff commented that the applicants are proposing to oversize their stormwater piping (15" diameter pipes versus the required 12") and that increased sizing will provide some additional relief to storm drainage in the area.

Commissioner Zito acknowledged staff's belief that everything that can be done is being done regarding flooding issued.

Commissioner Levy questioned staff as to what the riparian corridor setbacks were on the properties to the north and south of the project property. Staff noted that the setbacks were much less than the 60-foot setback provided by the project, perhaps closer to 20 to 25 feet.

Commissioner Zito proposed a friendly amendment to Commissioner Campos' motion that a 100-foot riparian corridor setback be provided by the project. Commissioner Campos declined this amendment. Commissioner Levy stated that after looking more closely at the adjacent sites, he recognized that the proposed project greatly improved the riparian setback compared to surrounding development, and that a 100-foot setback would not be practical in light of the desire to ensure a public street and trail connection.

Commissioner Dhillon stated that he supported the motion and that the use of the General Plan Two-Acre Rule on the site's net acreage rather than the gross acreage was a good solution, given that approximately one-third of the site would be public street.

Commissioner Zito stressed that the City's application of the Riparian Corridor Policy should be tightened up to ensure 100 feet. He also expressed concern over the project's use of the Two-Acre Rule and possible precedent, although he stated that he would support the motion.

PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties located within 1000 feet of the project site. A community meeting was held for this project at the Gardner Community Center on December 2, 2004. Community members expressed support for development of the site but indicated concern regarding the potential impact that the project would have on flooding in the area. Existing residents of the area indicated that the railroad berm on the site increased the incidence of flooding in their area and requested that the berm be removed. Immediately adjacent neighbors also expressed concern regarding the interface between their property and the proposed trail. Representatives of the Assyrian Church, which is located to the north of the project site, expressed concern about potential conflicts between their use and the new proposed single-family residences. They requested as great a setback as possible between the church and the proposed homes. The staff report was available on the Planning Department web site one week prior to the original Public Hearing date. Staff has been available to discuss the project with interested members of the public.

COORDINATION

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

HONORABLE MAYOR AND CITY COUNCIL

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CEQA

Mitigated Negative Declaration, File No. PDC04-112.

 *Susan Walton*
STEPHEN M. HAASE
Secretary, Planning Commission

cc: John Moniz, Pinn Brothers Construction, 1475 Saratoga Avenue, Unit 250, San Jose, CA
95129



Santa Clara Valley
Water District



Post-It® Fax Note 7671		Date 10/11	# of pages 2
To Ed Schreiner	From Vincent Stephens		
Co./Dept. City Planning	Co. SCVWD		
Phone #	Ext. FYI		
Fax # 292-6055	Fax #		

5750 ALMADEN EXPWY
 SAN JOSE, CA 95118-3686
 TELEPHONE (408) 265-2600
 FACSIMILE (408) 266-0271
 www.valleywater.org
 AN EQUAL OPPORTUNITY EMPLOYER

File: 30467
 Guadalupe River

October 11, 2005

Mr. Edward Schreiner
 Department of Planning, Building, and
 Code Enforcement
 City of San Jose
 200 East Santa Clara Street
 San Jose, CA 95113

Subject: PDC04-112, Draft Mitigated Negative Declaration for Residential Subdivision
 Northerly of Hervey Lane on Old Western Pacific Railroad Corridor, San Jose,
 CA

Dear Mr. Schreiner:

The Santa Clara Valley Water District (District) has reviewed the subject environmental documents which we received on September 28, 2005. The District offers the following comments on the proposed project and environmental documents:

1. The site is subject to flooding from both the Guadalupe River and overland flows originating from Ross Creek. During a 100-year flood event, these flood flows coningle on the site and pond. It is the District's understanding that a floodplain evaluation for the project was completed by the applicant and it was determined that there were no impacts. The report should be included with the Initial Study and the findings should be identified and discussed.
2. The setback from the riparian corridor can be increased by eliminating the last unit in the subdivision and placing the cul-de-sac further away from the river. This would be in accordance with the City of San Jose's 100-foot riparian corridor setback policy. Based on several different site plans, the subdivision appeared to be economically viable with fewer units (18). The additional unit (No. 19) necessitates the encroachment of the cul-de-sac improvements into the setback area which is contrary to the city's riparian corridor policy. The District recommends that the last unit be removed from the subdivision and the site improvements be redesigned to meet the 100-foot setback.
3. The site plans show an easement over District lands. The District will not grant the easement because it was determined during discussions with city planning staff that the diameter of the cul-de-sac is adequate to meet fire department requirements for emergency vehicle access. A separate trail link between Padres Drive and the new subdivision will be evaluated at another time.

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4. The District is not interested in the ownership of the remnant piece of land that is associated with the proposed development. The District will accept a voluntary dedication of easement over the west bank of the Guadalupe River top of bank, plus some additional distance in order to create a contiguous access corridor on the west side of the river. This additional distance should not be any greater than necessary to move equipment or inspection vehicles north to south (e.g., 18 feet).
5. According to District Ordinance 83-2, a construction permit is required prior to initiating work. Please have the applicant revise the site plan, as well as plans for grading, drainage, landscaping, and fencing for engineering review.

District Staff are available to discuss this project at your convenience. Please reference District File No. 30467 on further correspondence regarding this matter.

If you have any questions or need additional information, you can reach me at (408) 265-2607, extension 2439.

Sincerely,



Vincent M. Stephens, P.E.
Associate Civil Engineer
Community Projects Review Unit

cc: D. Chesterman, A. Gurevich, S. Tippetts, C. Haggerty, D. Cheong, V. Stephens, File (2)

vms:jl

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