



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: October 26, 2006

COUNCIL DISTRICT: 9
SNI AREA: None

SUBJECT: PDC06-055. PLANNED DEVELOPMENT REZONING FROM A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW 23 SINGLE-FAMILY DETACHED RESIDENCES ON A 1.68-GROSS ACRE SITE ON THE SOUTHEAST CORNER OF FOXWORTHY AND LEIGH AVENUES

RECOMMENDATION

The Planning Commission voted 4-2-1, Commissioners Kamkar and Zito opposed, Commissioner Pham absent, to recommend that the City Council approve the proposed Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow 23 single-family detached residences on an approximately 1.68 gross acre site.

OUTCOME

Should the City Council approve the Planned Development Rezoning as recommended by the Planning Commission, 23 single-family detached residences would be built on the subject 1.68 gross-acre site, consistent with the attached Development Standards for the rezoning. The project would require the City Council to find General Plan conformance through the use of the General Plan's Two-Acre Rule Discretionary Alternate Use Policy to allow residential uses on non-residentially designated property.

BACKGROUND

On October 24, 2006 the Planning Commission held a public hearing to consider a Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow 23 single-family detached residences on a 1.68 gross acre site. The Director of Planning recommended conditional approval of the project in that staff believes a residential project at the density proposed is an appropriate use for the site, and recommended the applicant be directed to work with staff to re-design the project to eliminate the significant site design issues, including building orientation towards interior property lines, narrow perimeter setbacks, and marginal location of private open space, in order to be eligible for use of the Two-Acre

Rule Discretionary Alternate Use Policy to find General Plan conformance for this project on this non-residential site.

Staff noted that additional correspondence had been received from the applicant, the Cambrian Park Little League and area property owner (see attached). Staff made a brief summary of the written staff report and highlighted the salient issues of the applicant's proposal and highlighted other projects similar to staff's proposal. The applicant, Mark Lazzarini, made a presentation commenting specifically on the quality of architecture. In response to Commissioner Zito, the applicant clarified various setbacks along Leigh Avenue and nature of private open space areas. Commissioner Platten asked the applicant to explain why the project was exemplary and eligible for the Two Acre Rule, given staff's concerns about perimeter setbacks and pathways, a central driveway, and open spaces that are located at a six-foot setback to the property line along Leigh Avenue. The applicant explained that interior lots would be open to the ball field with the use of open fencing, which would help to increase natural surveillance both on the field, and along the walkway. The applicant commented there would be additional enhancements to improve the character of the driveway through outdoor lighting and more landscaping to give it a more street-like character. Continuing in response to Commission Platten, the applicant commented that the setback to the ball field at 15 feet would exceed that recommended by the Residential Design Guidelines of 10 feet for project setbacks adjacent to incompatible uses, and that residents would not have to traverse the entire length of the walkway due to the provision of open space cut-throughs to the walkway. The applicant further responded to Commissioner Platten's third concern about nature of private open spaces, indicating that previous projects used similar configuration and stated he believes it works well.

The architect closed by commenting that architectural detailing from front of house could be repeated for the rear of units and that additional landscaping could be added. The applicant explained, in response to Commission Kamkar's question, the nature of the glass block element of a six-foot wall for noise attenuation to enclose the front yard open spaces, and stated additional trellis work could soften the look of the project along Leigh Avenue.

In response to a question from Commissioner Zito about staff's proposed carriage house design, the applicant commented that this project is too small to accommodate that product type and that it might work well as part of a larger project, and stated it would not maximize the density on this narrow site. In response to Commissioner Zito's question about the difference between the staff and applicant views of exemplary design, the applicant explained the individual guidelines in detail and stated that the adjacent ballfield use should be treated as an incompatible use with a smaller setback than the guidelines would require from a public open space.

Commissioner Zito asked staff whether the project was an exemplary design. Staff responded that primary issue is the nature of site plan, which puts more than half of the units facing interior property lines, that the setbacks are not adequate for front doors facing perimeter property lines, and that a private open space setback of six feet from Leigh Avenue is too small to be considered exemplary. Staff also clarified that the adjacent condominium/townhouse project had a setback of closer to 20 to 25 feet and that other houses across Leigh have front setbacks of 25 feet.

Commissioner Platten made the motion to find the applicant's proposed project to be of exemplary design and recommended approval. Commissioner Platten commented that the site is a tapered infill

site and that applicant's responses answered design questions adequately, but he also commented he understood staff's concerns.

Commissioner Kalra stated support for the motion but commented that the driveway needs to be enhanced as discussed by applicant to make it more of a neighborhood feel, and stressed that fencing along ball field must be open fencing, because wood fencing would result in "closed in" feeling along the walk, and stated design was just barely adequate.

Commissioner Zito indicated that he liked the eclectic design of the project, but noted that it is important to defend the integrity of the Two Acre Rule and its requirement for exemplary design, and felt that the project did not meet the Two Acre rule standard of exemplary design, particularly in relation to the perimeter pathways, and the location of the private open spaces.

Commissioner Kamkar asked for clarification about the nature of the private open spaces, with a lot line running through the center. Staff clarified that each of the property owners would have reciprocal easements so that, although the open spaces are proposed in a zero lot line configuration, the location of the property lines would allow windows on all sides of the houses, which would not be allowed on the property line. Commissioner Kamkar also asked about how traffic would change as a result of the project, and staff explained that the residential use would generate significantly less traffic than the existing office building. Commissioner Kamkar stated he could not support the motion because he felt that it was important to defend the integrity of the Two-Acre Rule.

Commissioner Dhillon stated that perhaps the square footage of the houses could be reduced, which could allow more area to be devoted to yard area. The applicant responded that the floor plan really required at least 1,800 square feet, and added it would be quite difficult to downsize, and good programming of the proposed common open spaces would enhance the project.

Commissioner Zito asked about reducing the unit count to increase private open space and to increase perimeter setbacks. Staff responded that the private open space provided already meets the Residential Design Guidelines requirements, and that reducing the unit count would not help perimeter setbacks as the narrow dimension of the site is the main problem to achieve two rows of houses.

Commissioner Campos indicated he felt that the project was of good design and that having units oriented towards the ball fields would enhance safety, and that the project architecture was exemplary.

ANALYSIS

The proposed rezoning of the site from A (PD) Planned Development Zoning to A(PD Planned Development Zoning , as recommended by the Planning Commission , is consistent with the San Jose 2020 General Plan Land Use/Transportation Diagram designation of Office, with the Planning Commission's determination that the project is of exemplary design. This would then qualify the project for the use of the Two Acre Rule, and further the goals and strategies of the General Plan. Staff's recommendation for use of the Two Acre Rule includes a recommendation for alternative site design in order to find the project exemplary.

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 at the Camden Community Center on September 13, 2006 which was fairly well attended. The community expressed concerns about the project, including traffic safety in the neighborhood and on-street parking. The applicant indicated that a "right-in, right-out" driveway would likely be a condition of approval for the driveway proposed at Foxworthy Avenue.

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.

HONORABLE MAYOR AND CITY COUNCIL

Date: October 26, 2006

Subject: PDC06-055

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CEQA

Mitigated Negative Declaration adopted on October 10, 2006.


for JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Susan Walton at 408-535-7800.

Attachments

cc: Leigh Avenue Partners, LLC, 19903 Hilltop Way, Saratoga, CA 95070
Tony Arreolo, 255 West Julian Street, Ste.502, San Jose, CA 95110



DAL PROPERTIES LLC

255 W. Julian Street, Suite 502
San Jose, CA 95110-2405

Phone: 408.298.9302
Fax: 408.298.9306
Email: DALPropertiesLLC.com

October 25, 2006

Xavier Campos, Chairman
& Planning Commissioners
Planning Commission
200 E. Santa Clara Street
San Jose, CA 95113

RE: PDC06-055 Proposed 23 Urban Detached Homes
at the South East Corner of Leigh & Foxworthy
Agenda Item: 4a

Honorable Chairman Campos and Commissioners:

On behalf of DAL Properties LLC, we request that the Planning Commission uphold our project's Mitigated Negative Declaration and recommend to the City Council approval of the proposed 23 Unit Urban detached home development as proposed by the applicant and be of the opinion that the project is consistent with the General Plan through the use of the Two Acre Rule Discretionary Alternate Use Policy recognizing that the proposed development:

- has a net density of 13.69 DU/AC and is in conformance with several of the General Plan's Major Strategies for efficient infill development and is compatible with the surrounding neighborhood.
- meets and in most cases exceeds the City Residential Design Guidelines.

The proposed development meets or exceeds the design guidelines and we will continue to work with staff to improve on our site plan to add additional enhancements for safety, architectural features and to further enhance a sense of community within the proposed development. We have successfully incorporated these types of enhancements in several similar developments previously approved by the City Council in the City of San Jose.

For your information, the proposed site plan and product type are the result of input we received from staff and the community. Over the past several months, we refined our site plan as we included input from planning staff; which we feel has resulted in a site plan that furthers General Plan objectives while providing a high quality design and product type and density that is consistent with the surrounding neighborhood. The proposed density and product type provide a nice transition from the town home development to the south of the site and the single family homes to the West and North of the site.



It is important to note that the existing office buildings were actively marketed without any activity and have been vacant for over eighteen months. This vacancy has resulted in the buildings being targeted with burglaries, vandalism, theft, trespassing and vagrancy. Also, the property has been the subject of several police reports and has suffered damages of over One Hundred Thousand Dollars. The current state of the property and land-use designation represent a serious health and safety threat to the community; which would be remedied by the expeditious processing of this PD Zoning under the Two Acre Rule Discretionary Alternative Use Policy.

We believe our proposed development merits consideration under the two acre rule because the development is: consistent with the General Plan, compatible with the surrounding neighborhood, consistent with the Design Guidelines and is supported by staff recommended use of the Two Acre Rule to change the use from office to residential.

CONSISTENCY WITH THE RESIDENTIAL DESIGN GUIDELINES (RDG's):

The housing type being proposed blends the features of single-family detached homes with clustered garden town-homes. In most instances, the project as proposed meets or exceeds the RDG's. (See RDG's/Development Comparison Exhibit)

Award Winning Architecture. The high quality architecture of the proposed development is consistent with the Residential Design Guidelines of providing a variation of building articulations, massing and finish materials. The Dahlin Group architects have won several awards in other California communities where they provided a similar rich architecture as proposed at this San Jose development.

Site Design Builds on Existing Neighborhood Pattern. The project is consistent with RDGs and improves on the existing lotting pattern of this predominantly detached single family neighborhood, by eliminating vehicle garage access from Leigh Avenue and instead provides access from a private drive from the rear of the units; thus enhancing traffic safety. Our site plan is consistent with the RDG's that call for single family detached homes in new subdivisions "...should front-on or side-on to minor and collector streets." This orientation can be viewed as superior than the second alternative concept offered by staff because site plan two offered by staff provides 5 driveway points on to Leigh Avenue that could result in traffic safety hazards.

Setback with Incompatible Land-Use (School). The proposed development complies with the Residential Design Guidelines for SFD lots of less than 3000 SF in size. The proposed development exceeds the front setback guidelines along the School property (having a GP designation of quasi public/public land use) by providing a minimum of 14 feet to a maximum of 15 feet in front setbacks. The RDG's call for a 10 foot setback to incompatible uses. The adjacent site is used by two groups. The former school building is leased to a non-profit entity (After School Adventures) providing day care and after school programs. The School property are used and maintained by the Camden Little League. Both uses further support the quasi public/ public designation of the site. The one side setback of 8 feet (Lot 1) can be found consistent with the RDG's as part of the



planned urban character of this infill parcel. This one side setback condition can also be viewed to meet the RDG's when applying setback Averaging. The average setback of the units fronting the School property equals 12.5 feet exceeding the 10 foot minimum suggested by the guidelines.

Open Space/Enhancements. The total combined open space requirement for the proposed 23 unit development is 10,350 square feet. This 23 unit development provides a combined open space of 11,700 sq ft (1,360 open space sq ft more than required). The private open space along Leigh Avenue, works well in concert with the building architecture to break-up the massing and to promote greater articulation and visual enhancement along Leigh Avenue. Patios, and private open space adjacent to the living units along the side, or, rear are permissible under the RDG's. During the PD Permit stage additional attention will be given to these private opens space areas providing architectural treatment and utilization of materials that provide sound attenuation to enhance the quality of these private outdoor open spaces along Leigh Avenue. This type of treatment has been previously approved by the city of San Jose in similar developments.

Additional Planning Staff Suggestions to Improve on the Proposed Site Plan:

Long Pathway and Pedestrian Safety. Planning staff suggests further safety enhancements along the perimeter walkway next to the School property to the east of the site. Additional enhancements can be incorporated in the PD permit stage such as additional lighting and careful selection of fencing material (tubular or rod iron) to maintain openness for visibility while providing a secure walking environment. The common open space breaks along the school perimeter edge allowed clustering of homes in sets of three which diminished the need for pedestrians having to traverse the entire length of the site and also helped enhance safety by providing active use of these common open areas.

Sense of Community. The density achieved by the site plan will place 23 homes within close proximity to one another and organized through a Home Owners Association will further foster a sense of community. Also, careful programming of the common open spaces during the PD Permit stage can create opportunities for more interaction among neighbors. The private outdoor open spaces for each unit along the perimeter adjacent to the school property will be enclosed by a three foot fence. The low fencing of these areas will secure and define the private open space area while still promoting interaction with neighbors passing by and will further promote a greater sense of community. This type of fencing and private open space configurations have previously been approved by the City Council in Willow Glen, Tradezone Street, 9th and Taylor and San Antonio & 34th Street.

Concept Alternatives. Review of the First Concept Alternative with Staff earlier in the application process resulted in a site plan that would yield fewer units. While an innovative product, it did not maximize the density of this infill site yielding only eleven



units. This product is better suited and as part of larger planned parcels or master planned communities where a broader range of product is desirable.

Upon preliminary review of staff's Second Concept Site Plan Alternative, several potential design features make this a product that is less able to meet the General Plan objectives and Residential Design Guidelines. Attainment of several residential design guidelines is questionable such as: guest parking, side and rear setbacks, ingress and egress safety along Leigh Avenue. It is important to note that the cluster homes in staff's option two site plan produce ingress/egress conflicts which result in safety issues because of the proposed 5 driveways on Leigh Avenue. Furthermore, ten of the homes in the Second Concept Alternative would have side-on orientation to Leigh Avenue which is inconsistent to the single-family residential pattern along Leigh Avenue and less desirable. The driveway orientation conditions expose all of the units to the increase noise levels along Leigh Avenue. Furthermore, it presents some operational challenges and potential conflicts as garbage and recycling pick-up would have to occur on Leigh Avenue. The Second Concept Alternative also lacks internal pedestrian circulation throughout the site, thereby reducing the overall sense of community. This alternative is also deficient in that it lacks common opens space and guest parking that may be achievable only by a significant reduction in the number of units (effectively reducing overall project size to 18 units).

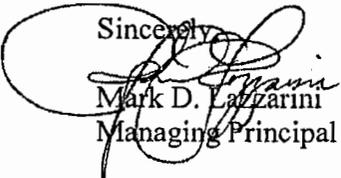
Conclusion

DAL Properties has worked closely with staff, and has incorporated many of staff's suggestions to improve and enhance the overall site design and livability of this community. We are confident that we work with Staff during the PD Permit Stage to further add enhancements to the site.

We request that the Planning Commission uphold the Mitigated Negative Declaration and recommend approval of the project under the GPs Two Acre Rule as proposed by the applicant and forward such recommendation to the City Council.

Thank you for your consideration.

Sincerely,

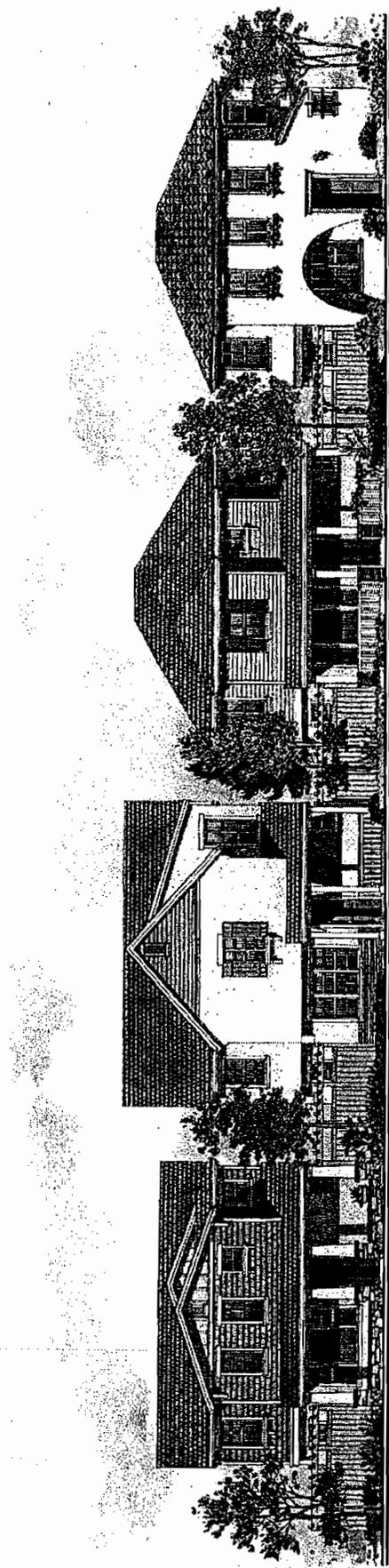

Mark D. Lazzarini
Managing Principal

c. J. Davidson, Planning Department
S. Saha, Planning Department

Enc.

LEIGH AVENUE

SAN JOSE, CALIFORNIA

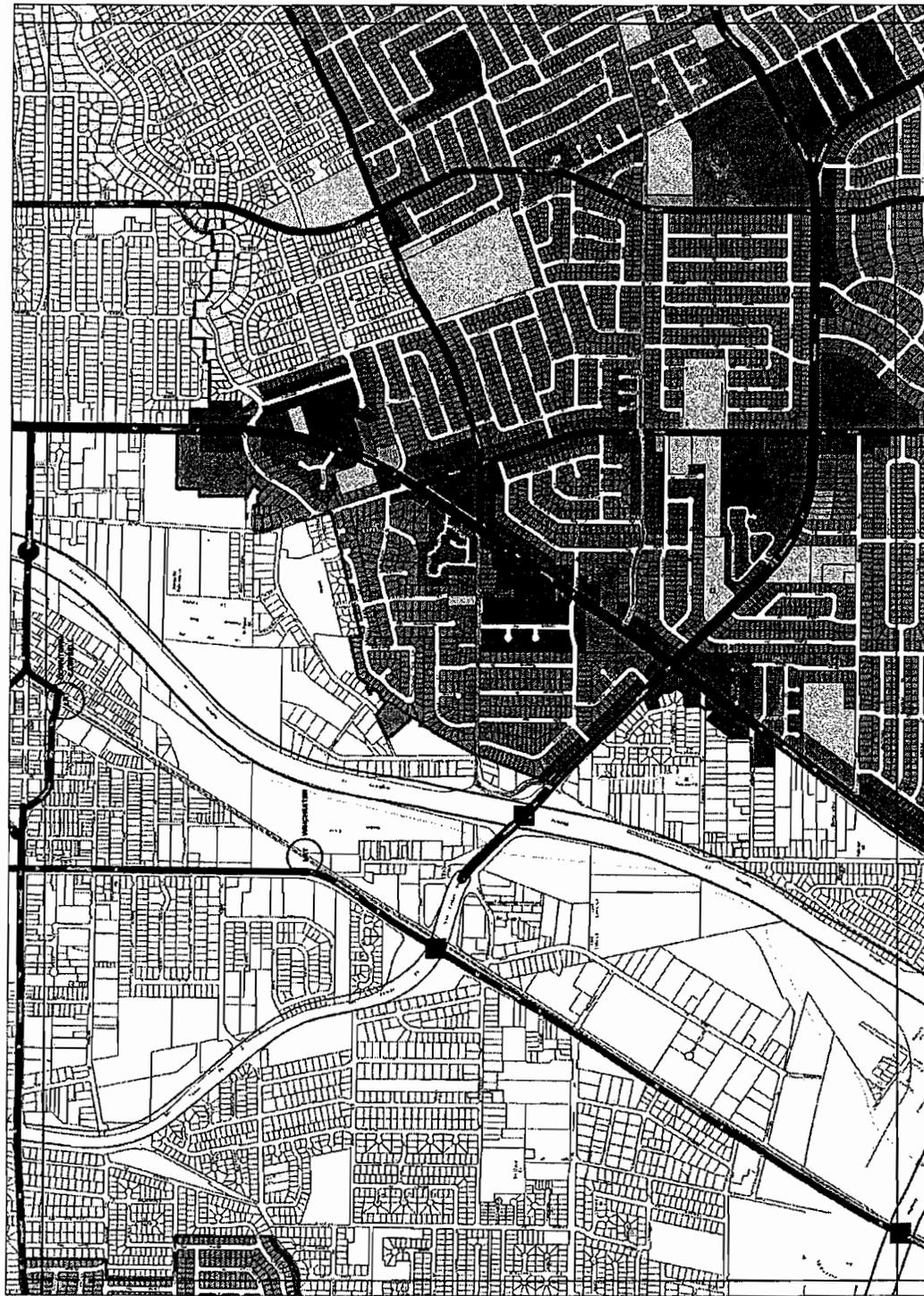


BY
EDENBRIDGE INC.

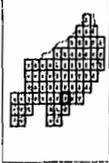
OCTOBER 17, 2008 PROJECT NO: 942,007

DAHLIN GROUP

3411 Ocean Oaks
Palo Alto, CA 94304
650.351.7200
650.351.7201 Fax



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Scale: 1" = 600'
Updated: July 27, 2006

GENERAL PLAN Land Use/Transportation Diagram

Map Legend

	Major Arterial
	Major Freeway
	Major Freeway with HOV 3+
	Major Freeway with HOV 2+
	Major Freeway with HOV 1.5
	Major Freeway with HOV 1
	Major Freeway with HOV 0.5
	Major Freeway with HOV 0
	Major Freeway with HOV 0.5 and HOV 1
	Major Freeway with HOV 1 and HOV 1.5
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Planned Communities
 Portions of the map are special jurisdictions of
 Planned Communities and other land use information
 other information concerning potential development
 in these areas is contained in the text portion of the
 San Jose 2030 General Plan.



Department of Planning, Building & Code Enforcement
 Planning Services Division

PDC06-055 23 Urban Detached Homes Leigh Avenue at Foxworthy Avenue
 Comparison of Setbacks and other Residential Design Guidelines (RDG)

Guidelines	RDG's	Proposed Development	Meets RDG's	Exceeds RDG's	Comments
Parking					
Parking Covered	46	46		X	
Parking Open	14	17		X	Includes 4 Off-street Parking w/in 150' per guidelines
Parking Total	60	63		X	
Open Space					
Open Space Total/unit	450	468		X	Includes Private and Common Spaces
Open Space Total	10350	10764		X	
Setbacks					
Front to Adjacent Public Quasi-Public-Incompatible Use	10	14-15		X	Current GP Designation of Public/quasi public Restricted use non-profit daycare/after school programs Camden Little League
Side condition (Lot 1) to Public Quasi-Public Incompatible Use	10	12.5		X	When applying setback averaging to open space frontage
Side Separation (interior)	6	7		X	Exceeds minimum 3.0 setback to property lines
Front Setbacks to existing Townhomes common open space	5	15		X	
Building Separation to existing Townhomes	30	45		X	
Setback to Leigh Avenue	35	12 to 14	X		24 to 28 to Curb. RDG allows these setbacks for urban infill. Staff agrees with proposal.

Leigh Avenue Partners, LLC
John N. Heringer, M.D., Manager
18803 Hilltop Way
Saratoga, CA 95070
(408) 741-2204

August 28, 2006

Council Member Judy Chirco
City of San Jose, District 9
200 East Santa Clara Street
San Jose, CA 95113

RE: 3002 Leigh Avenue, San Jose, CA 95124
(Southeast corner of Leigh and Foxworthy Avenue)

Dear Council Member Chirco:

As one of the 3002 Leigh Avenue property owners and longtime business owner in Council District Nine, I am writing to ask you to support DAL Properties' proposed rezoning of our property and to make you aware of some recent break-ins into our property by vandals.

After more than 18 months of offering the property for commercial and office uses and not having any success, we believe that the proposed single family detached housing development will compliment the existing residential properties to the north, west and south of the property.

Furthermore, expediting and approving the proposed housing community, will also help in riding the area of vandalism on our property that could cause health and safety concerns to the surrounding neighborhood. The property has become a safety hazard due to vagrants sleeping under the sheltered walkways and young people congregating in the evening. Most recently, vandals burglarized and did major damage to the largest building. Since the building has been vacant, we have had 4 break-ins. Vandals caused major damage and stole copper pipes and copper wires from the finished ceiling above the parking area of the largest building. Vandals also have cut active copper water pipes, causing water to gush out of the remaining pipes into the parking area and from there into the drainage pipes resulting in a large current water bill. San Jose Water Company doesn't seem willing to compromise on the water invoice, despite the circumstances causing the water use. For safety reasons we were forced to turn off the water to the building and all the electrical power. On another occasion, vandals tore copper wires out of the main electrical panel and using a chain, pulled down several feet of copper pipe. Unfortunately they also pulled out part of the emergency fire sprinkler system and caused more flooding, requiring the fire department to respond and turn off the water to the fire

01 201 2007

sprinkler system. In total, it appears that vandals have caused in excess of \$100,000 dollars in damage to our buildings. Moreover, because the buildings have been vacant for more than 60 days, the insurance policy does not cover the cost of the damages.

I share all of this information with you in order to appeal to you and your staff to assist wherever possible in expediting our zoning change to allow the proposed residential community. The buildings are incapacitated now due to the vandalism which has forced us to shut down water and power, making the area even more vulnerable. The health and safety issues are very much a concern to me and the developer. We are currently exploring other interim measures including an onsite caretaker or perimeter fencing, although my concern is that the fencing would create an eyesore and not do much for future trespassing or prevention. Local neighbors are also concerned and incensed at the damage which has been imposed. They have written makeshift signs on the ceiling tiles knocked down by the vandals, warning trespassers to stay away and that they are being filmed on camera by neighbors. I have spoken to several neighbors, and although the medical buildings were a resource during their busy years, the consensus is definitely that a residential development will make a nice addition to the area which is otherwise all residential.

For your information, the property is owned by Leigh Avenue Partners, LLC, which is comprised of me and my partner, Dr. John Font. Dr. Font and I have been business owners in the area since 1977, having operated a Medical Office and a school at this location for several years. Dr. Font and I are now both "semi-retired," and the property has been vacant for over a year and marketed for sale or commercial lease for over 18 months with no success. The only true interest in the property has been by developers with the intent to change the PD zoning to allow for residential development.

I thank you and your staff in advance for your assistance. I would like to meet with you and your staff to discuss these issues further. I will call your office for an appointment at your earliest convenience. Meanwhile, if you would like to talk further regarding any issues I have raised, I am available at the above office number or by cell (408) 398-0148.

Sincerely,


Dr. John N. Heringer

Attachments

CC: John Davidson
Suparna Saha
Department of Planning Building and Code Enforcement
200 East Santa Clara Street
San Jose, CA 95113



Cambrian Park Little League

FSIAR/ISHFD 1956

P.O. Box 24645 • San Jose, California 95154-4645



Mr. Mark Lazzarini
DAL Properties, LLC
255 W. Julian Street, Suite 502
San Jose, CA 95110

October 23, 2006

Dear Mark,

Thank you for taking the time to review your development proposal with me. The Cambrian School District continues to be a terrific sponsor of our league, allowing us the use of the Steindorf School property for the last fifty years. We hope to be here another fifty. As such, we appreciate the opportunity to provide you with input on this project.

We agree with your belief that a highly attractive single family detached community will enhance the surrounding neighborhood. We also understand that since the construction will be happening adjacent to our fields that our program will most likely be inconvenienced. Hopefully, the inconvenience will be minimal. As you know, security is currently an issue associated with the vacancy of your property. Last year, we had one of our sheds burglarized and lost our riding mower. Just this past weekend, vandals dumped trash on our fields and turned over some of our bleachers. We are confident that the current security issues will be less frequent with more families in close proximity.

Our board spent quite a bit of time discussing this matter with only three real concerns beyond the inconvenience of the construction. First, the safety of our players, families and volunteers is paramount. We expect that you will take all precautions to keep our kids safe during this project. Second, we enjoy many trees along our perimeter and would like to see the environment better off after completion of the project. Lastly, we would like some input on the fencing that will border the property for security and aesthetics.

Mark, we believe the long-term impact of this project will be positive for the neighborhood and we are confident that DAL Properties will work closely with us to insure that our concerns are dealt with appropriately. Good luck in the approval process. I look forward to working with you.

Warm regards,


Michael Cunniff
2006-07 President
Cambrian Park Little League

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street, Tower 3
San José, California 95113

Hearing Date/Agenda Number
P.C. 10-25-06 Item No. 4.a.
C.C. 11-14-06 Item No.

File Number PDC06-055

Application Type
Planned Development Rezoning

Council District 9

Planning Area
Willow Glen

Assessor's Parcel Number(s)
419-05-041

STAFF REPORT

PROJECT DESCRIPTION

Completed by: **Suparna Saha**

Location: **Southeast corner of Foxworthy and Leigh Avenues**

Gross Acreage: 1.68

Net Acreage: 1.68

Net Density: 13.7 DU/AC

Existing Zoning: A(PD) Planned
Development

Existing Use: Vacant Office Building

Proposed Zoning: A (PD) Planned
Development

Proposed Use: 23 Single-family detached residential units

GENERAL PLAN

Land Use/Transportation Diagram Designation
Office

Project Conformance:

Yes No

See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

North: Single-family Residential

R-1-8 Single-Family Residence District

East: Cambrian School District
(former school site)

R-1-8 Single-family Residence District

South: Multi-family Residence

R-M Multi-Residence District

West: Single-family Residential

R-1-8 Single-family Residence District

ENVIRONMENTAL STATUS

Environmental Impact Report found complete February 1, 2000

Exempt

Negative Declaration circulated on September 27, 2006

Environmental Review Incomplete

Negative Declaration adopted on October 10, 2006

FILE HISTORY

Annexation Title: **Cherryhurst No. 3-B**

Date: **November 8, 1956**

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

- Approval
 Approval with Conditions
 Denial
 Uphold Director's Decision

Date: **October 19, 2006**

Approved by: *Susan Walton*
 Action
 Recommendation

OWNER

Leigh Avenue Partners, LLC
18803 Hilltop Way
Saratoga, CA 95070

DEVELOPER

Tony Arreola
255 West Julian Street, Ste. 502
San Jose, CA 95110

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: **SS**

Department of Public Works

See attached memorandum

Other Departments and Agencies

See attachments

GENERAL CORRESPONDENCE

See attachments

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Leigh Avenue Partners, LLC, is proposing a rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 23 single-family detached "garden townhouse type" residences on a 1.68 gross acre site. The project site is located at the southeast corner of Foxworthy and Leigh Avenues. The surrounding land uses include residential uses to the north, south, and west of the project site, and a former school facility currently used intermittently by a non-profit organization, a baseball field and athletic field to the east of the project site.

The project site, which consists of one legal lot, is currently developed with three office buildings that total 25,460 square feet and surface parking. The buildings are currently unoccupied, and are proposed to be demolished. Trees and landscaping, including grass areas and shrubs, exist along the perimeter of the project site and buildings, as well as throughout the parking areas. The site has an elongated rectangular shape and is generally flat.

Project Description

The project proposes to rezone the 1.68-acre site to A(PD) Planned Development to allow for the development of 23 single-family detached residences, at a density of 13.7 dwelling units per acre. The project proposes twenty-three 1,860 square-foot, two-story single-family residences (refer to site plan). The residences are proposed to have four bedrooms, two and one-half baths, and two-car garages. Each unit will have a porch area, adjacent to the to the private open space located in the side setback area. Each unit's side open space area will encroach three (3) feet into the adjacent unit's side setback, with a reciprocal easement granted to the property owners for use as private open spaces. The project will provide a total of thirteen (13) off-street parking spaces in addition to the enclosed two-car garages. There are three non-contiguous common open space areas on the project site (refer to site plan). The project includes landscaping throughout the project site, which would include canopy trees, vertical shrubs, and low ground cover, and would preserve 29 of the trees existing on the site. The project site currently has a General Plan land use designation of Office and is zoned A(PD) -Planned Development Zoning District. The applicant is requesting the application of the General Plan Discretionary Alternate Use Policy: Two Acre Rule to allow residential development of this office site. These aspects project are discussed in greater detail under the General Plan Conformance.

GENERAL PLAN CONFORMANCE

The project proposes to rezone 1.68 gross acres site to develop 23 single-family detached residential units at a density of 13.7 dwelling units per acre. The project site is designated *Office* on the City's General Plan Land Use Transportation Diagram. The applicant's proposed project of 23 units at a density of 13.7 DU/AC would require the application of the Two Acre Rule Discretionary Alternate Use Policy to find the project in conformance with the General Plan. The General Plan's Two-Acre Rule Discretionary Alternate Use Policy, allows parcels with a non-residential General Plan land use designation to be developed under any residential or non-residential category.

While staff believes that generally, residential use of this vacant office property is appropriate, in using the Two-Acre Rule Discretionary Alternate Use Policy, the General Plan recognizes that development of some infill sites that are two-acres or less may require innovative design solutions. The appropriate density for a given site should be determined based on compatibility with surrounding with surrounding land uses. Projects developed under this policy should be of exceptional design and should exceed minimum standards of the Zoning Ordinance and adopted design guidelines.

The proposed project is a Planned Development rezoning, to construct housing on a parcel that is less than two acres in size developed with a non-residential use. As discussed in the Analysis section below, staff believes that the proposed project does not meet the General Plan standard of exemplary design, in large part due to the fact that the project is organized around a central driveway, which orients more than half of the units towards perimeter property lines with insufficient setbacks, and would not create a sense of community within the project.

ENVIRONMENTAL REVIEW

An Initial Study was prepared for the project and a Mitigated Negative Declaration was circulated for public review by the Director of Planning on September 27, 2006. The primary issues that were addressed in the environmental review are ambient noise and the project's impacts on existing trees. The project includes mitigation measures that will reduce any potential significant impacts to less than significant level.

The proposed residential units nearest to Leigh and Foxworthy Avenues would be exposed to existing and future noise levels in excess of 60 dBA. The applicant would work with staff to design appropriate noise barriers to reduce noise for private exterior use areas at the Planned Development Permit stage. The applicant will be required to disclose the project's proximity to the adjacent ball fields and identify that noise generated by these activities would be audible at the project site.

The tree survey identifies 77 trees currently existing on the site. The applicant is proposing to preserve 29 trees (27 non-ordinance size trees and 2 ordinance size trees). The development of the proposed project, however, would result in the removal of 48 trees (44 non-ordinance size trees and 4 ordinance size trees (greater than 56 inches in circumference)). However, because the trees are mainly landscape trees and non-native species, the loss of these trees is not considered a significant environmental impact. Mitigation tree planting at the City's established replacement rates has been included in the project to offset the removal of these trees.

ANALYSIS

The primary issues associated with this project are compatibility with the surrounding neighborhood and conformance with the Residential Design Guidelines. Staff's review of the proposed project indicates it is not in conformance with the intent of the development standards recommended in the Residential Design Guidelines (RDG) with regard to site design, setbacks, and open space, particularly in that the design of the project, around a central drive aisle, creates a number of site design issues, and does not foster a sense of interactive community. The central drive aisle, along with the unit design, creates narrow perimeter setbacks and marginal private open space locations that are also problematic.

Site Design

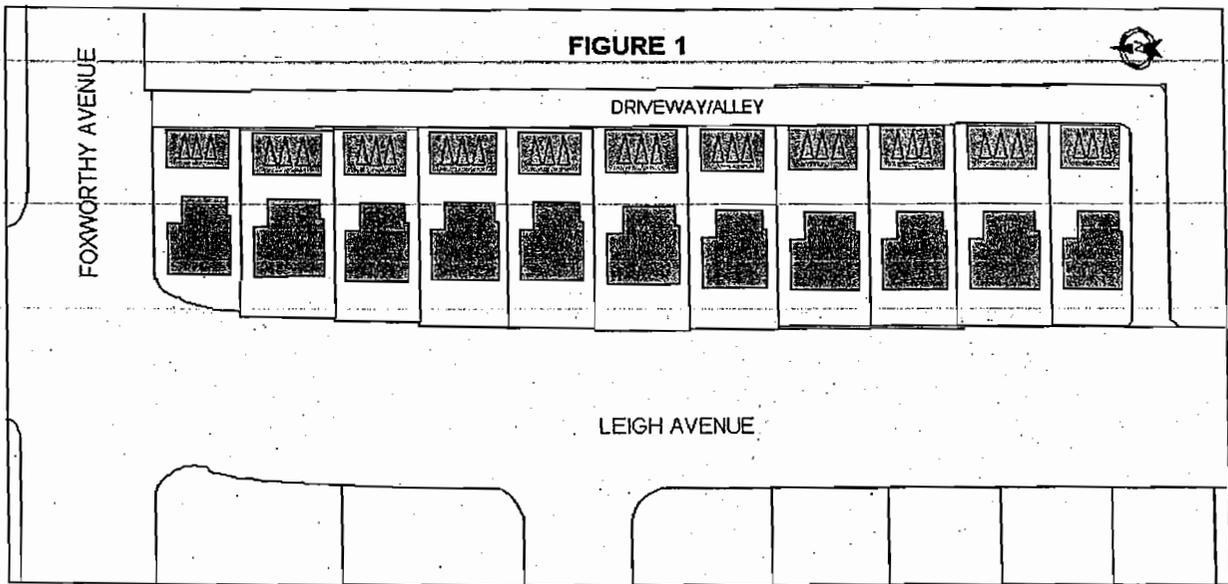
The double-loaded drive aisle proposed by the applicant creates a number of site design concerns. First and foremost, the drive aisle forces the orientation of twelve of the twenty-three units towards an interior property line, either adjacent to the ball field or to the neighboring condominiums. This, in turn, creates the need for pedestrian pathways along the edges of the property, directly adjacent to property line fencing, to provide access to the front doors of those units. Staff considers this narrow setback in combination with a long pathway an undesirable situation, which creates concerns for pedestrian safety, and is a primary reason that staff is not supportive of using the Two-Acre Rule Discretionary Alternate Use Policy for this residential project, as proposed by the applicant.

The applicant's site design also does not help to create a sense of community within the project as is a fundamental goal of the RDG. The primary way that the residents will arrive on the site will be to drive into their garages, park, and enter their houses through the garage. Front doors will be largely unused, even by guests, especially given the fact that no parking is allowed along the Leigh Avenue edge of the project, and the long narrow perimeter walkway along the other edge. This lack of pedestrian activity along the Leigh Avenue side of the project, and especially along the "fronts" of units facing the ballfield, neither enhances pedestrian safety, nor builds an integrated community amongst the residents of the project. This is of particular concern considering that the width and speed of Leigh Avenue presents a significant barrier to residents integrating in a strong way with those across the street.

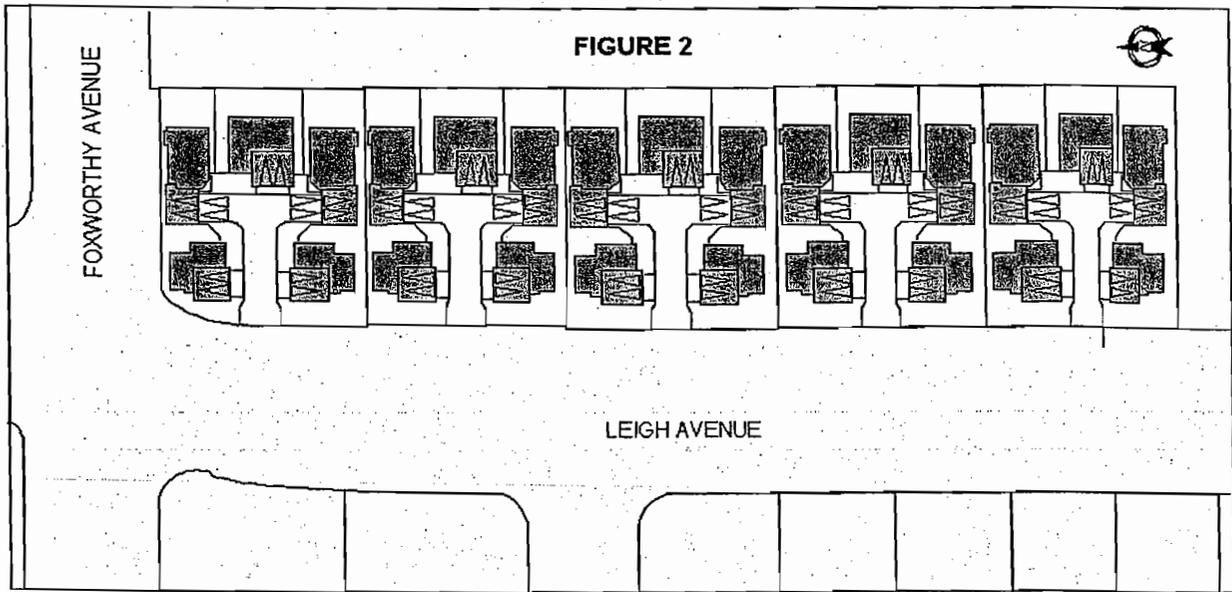
Staff has developed two concept alternatives to the applicant's proposed site plan that address the issue of creating a sense of community within the project, and that would eliminate units fronting directly onto the long interior property line with the ball field. The first alternative, shown in Figure 1, consists of a total of twenty-two units in a single-family with detached secondary unit configuration. The secondary units, as shown, could be up to 1200 square feet in area, if proposed as two stories over a three-car garage. The larger unit would use two of the garage spaces, while the secondary unit would be allocated one garage space. An additional on-site guest parking space could possibly be provided on each lot, adjacent to the garage. A driveway around the interior perimeter of the property would allow the garages to be placed at the rear of the lot, and would also function as a physical separation between the units and the adjacent properties. The additional height of a two-story unit over the garage along this portion of the site would not create compatibility issues with the adjacent use which in this case, rather than existing housing, is a large ball field.

The open space area between the two units could either be shared by all residents, or could belong to the main unit, with the secondary unit's open space provided in the form of an upper level balcony. Staff has discussed this concept with the applicant, and the applicant has initially

indicated that while possible, such a project could be risky on a small site, and would perhaps be more appropriate as a small part of a much larger project. Staff believes there is a need and a likely market for this type of housing arrangement in the City.



A second concept alternative, shown in Figure 2, consists of a total of up to twenty-five units configured in five courts. In this configuration, none of the units faces a perimeter lot line, and the units are configured in such a way as to encourage interaction between the neighbors on each of the courts. Although this arrangement, as drawn by staff, shows the possibility of up to twenty-five units, modifications could be appropriate to address a possible concern with the close proximity of one driveway to the intersection of Leigh and Foxworthy Avenues, and the possibility of providing additional on-site guest parking, given the no parking restriction on Leigh Avenue. Staff is confident that at least twenty-two units could be accommodated on the site.



Staff has worked diligently with the applicant to continue to make modifications to the applicant's proposed site design to reduce the need for residents to walk long distances along a narrow pathway along the long property line against the ball field. The applicant has proposed the creation of several small open spaces that help separate the rear units into groups of three and allow the doors some of the back row of units to be oriented towards these cut-through pathways. ~~This modification of the site plan somewhat alleviates the long, unbroken narrow pathway~~ corridor of approximately 450 feet in length, and minimizes the need for all visitors to these back units to walk that full length of the perimeter pathway.

The applicant's proposal does result in a Leigh Avenue frontage with a solid line of houses, helping to maintain the sense of enclosure along the street that the current office building provides, and echoing the single-family houses across the street.

Setbacks

To continue with more specific analysis of the applicant's proposal, the site design includes a front setback of 12 -14 feet from Leigh Avenue. While this is less than the 35-foot setback that the *Residential Design Guidelines* generally recommend for a major public street, the *RDG's* allow a reduction for infill urbanized, higher density areas of the City. Staff believes that the proposed front setback is adequate given the relatively high-density nature of the project and its adjacent surroundings, and has retained a similar setback in the alternative concept designs.

However, the proposed perimeter setbacks from adjacent uses are substandard. The setback for units along the south boundary (Lots 10 - 12) will have a 15 foot separation, where the *RDG* recommendation is 20 feet, from the adjacent townhomes. The units (Lots 1-9) facing the ballfield will have a minimal setback of only 8 to 15 feet in different locations. The *RDG* recommends a building setback of 25 feet from public open space uses, which is the most appropriate adjacent use category offered in the *Residential Design Guidelines*. Although a setback of the full 25 feet may not be necessary, staff is very concerned that a minimum of even 15 feet is not maintained.

Private Open Spaces

Each of the units has an enclosed semi-private open space ranging from 330-414 square feet at the front corner of the unit, enclosed by a fence and physically separated from the front entry area. Each of the units will use approximately 60 square foot of the adjacent neighbor's side yard, an improvement over a zero-lot line arrangement which results in a prohibition of windows on the side wall. The owners will be granted reciprocal easements rights over these portions of their neighbor's setbacks. In contrast, under the *Residential Design Guidelines*, private open space is usually provided at the side or rear of a home, and seldom at the front.

The private yards proposed are especially problematic along Leigh Avenue, in that the yards front directly on to Leigh and extend beyond the front walls of the residences. As shown, the fencing that would surround the private open space, which would most likely be five or six feet in height, would be at a six-foot setback from the front property line. In staff's opinion, this is too close to Leigh Avenue, an arterial street, and not an appropriate streetscape along this major thoroughfare.

Parking

Parking is provided on-site at slightly below the ratio recommended in the RDGs' of 2.6 parking spaces for each of the units, for a total of 59 on-site spaces, where 60 spaces would be the guideline. Each of the 23 units has a two-car garage, and a total of 13 uncovered guest parking spaces are provided on the site. The surface parking spaces are fairly evenly and functionally distributed on the site in relation to the residential units.

Architecture

This project consists of two-story units with a height of approximately 33 feet. The unit type and general style of the proposed structures are compatible with existing development in the neighborhood. As is typical for a Planned Development Rezoning, the architecture that is shown is considered "conceptual" and will undergo further review by staff at the Planned Development Permit stage. Two-story massing and other aspects of the architectural treatment may be subject to further review, in order to avoid a boxy or monotonous appearance. Building materials, roofing, colors, and other details would also be selected for their compatibility with the neighborhood development pattern.

PUBLIC OUTREACH

Noticing for the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site. A notice of the rezoning was also published in the San Jose Post Record, in accordance with the City Council's Public Outreach Policy. Staff has been available to discuss the project with interested parties.

Community Meeting

A Community Meeting was held at the Camden Community Center on September 13, 2006 which was fairly well attended. The community expressed concerns about the project, including traffic safety in the neighborhood and on-street parking. The applicant indicated that a 'right-in, right-out' driveway would likely be a condition of approval for the driveway proposed on Foxworthy Avenue.

RECOMMENDATION

Planning staff recommends the Planning Commission recommend conditional approval of the project in that a residential use at the density proposed is an appropriate use for the site, and direct the applicant to work with staff to re-design the project to eliminate the site design issues, including building orientation towards interior property lines, narrow perimeter setbacks, and marginal location of private open space, in order to be eligible for use of the Two-Acre Rule Discretionary alternate use policy to find General Plan conformance for this project on a non-residential site.

Alternatively, if the Planning Commission is of the opinion that the proposed project is of exemplary design and can be found consistent with the General Plan through the use of the Two Acre Rule Discretionary Alternate Use Policy, then the Planning Commission could forward a recommendation of approval of the project, as proposed by the applicant, to the City for the following reasons:

1. Although the site's General Plan Land Use/Transportation Diagram designation is Office, the project can be found consistent with the General Plan under the Two Acre Rule Discretionary alternate use policy for parcels with a non-residential land use designation, in that:
2. The proposed project conforms to the objectives of the Residential Design Guidelines.
3. The project furthers the goals and objectives of the City's in-fill housing strategies.
4. The proposed rezoning is compatible with existing and proposed uses on adjacent properties.
5. The proposed project represents an innovative or exemplary design on this infill site.

Attachments:

Draft Development Standards

Public Works Memorandum

Fire Department Memorandum

Environmental Services Department

Original Mitigated Negative Declaration

DEVELOPMENT STANDARDS

PDC06-055

The following development regulations are to be placed on the General Development Plan upon approval of the Planned Development Zoning by the City Council.

Development Standards:

Up to 23 single-family detached residences.

Minimum lot size: 2,160 square feet

Maximum height: 30 feet

Maximum stories: 2 stories

Perimeter Setbacks:

Leigh Avenue: 12 – 14 feet

Foxworthy Avenue: 12 feet

Former school ground: 8 – 15 feet

South side adjacent to condominiums: 15 feet

Separations:

Rear to rear: 28 feet

Side to side: 7 feet

Minor Architectural Projections and Stairs

Minor architectural projections such as fireplaces and bay windows may project into any setback or building separation by up to 2 feet for a length not to exceed 10 feet or 20 percent of the building elevation length.

Parking:

Two (2) garage spaces per unit plus one (1) guest parking spaces for each residential unit.

Thirteen (13) on site guest spaces are provided. Guest parking spaces can be on-street spaces adjacent to the project site.

Open Space:

Private and common open space shall be provided in the amount of at least 468 (private 330 + common open space 138) square feet per unit. The 468 square feet shall be counter as a combination of common and private open space areas for each unit. Private open space at the side of the adjacent units and front setbacks shall be counted towards the total cumulative open space numbers. There will be 0 feet lot line with reciprocal easement to use the side open space. For units facing Leigh Avenue, the former school grounds and condominium project to the south the private open spaces are at the front of the units. Open space areas shall be designed to provide the maximum amount of useable area.

Private Infrastructure standards are to meet or exceed Public Improvement standards:

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 Pollution Control Plant represented by

approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose-Santa Clara Water Pollution Control to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality 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

The Environmental issues and Mitigation Measures are as follows:

AIR QUALITY

Mitigation Measures:

- Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two (2) feet of freeboard.
- Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality.
- Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.

BIOLOGICAL RESOURCES

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

Diameter of Tree to be Removed	Non-Native Replacement Ratio	Minimum Size of Each Replacement Tree
18 inches or greater	4:1	24-inch box
12 - 18 inches	2:1	24-inch box
less than 12 inches	1:1	15-gallon container

Notes:
x:x = tree replacement to tree loss ratio
Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

- In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building, and Code Enforcement, at the development permit stage:
 - The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
 - An alternative site(s) shall be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjoining properties for screening purposes to the satisfaction of the Director of Planning, Building, and Code Enforcement.
 - A donation of \$300 per mitigation tree to *Our City Forest* or *San Jose Beautiful* for in-lieu off-site tree planting in the community. These funds shall be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of a development permit.
- The following tree protection measures shall be included in the project in order to protect trees to be retained during construction:

Pre-Construction Treatments

- The applicant shall retain a consulting arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection.
- Fence all trees to be retained to completely enclose the TREE PROTECTION ZONE prior to demolition, grubbing or grading. Fences shall be six feet chain link or equivalent as approved by consulting arborist. Fences are to remain until all grading and construction is completed.
- Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.

During Construction

- Prior to the issuance of any approval or permit, the consulting arborist shall inventory all trees on-site as to their size, species and location on the lot and the inventory shall be submitted on a topographical map to the Director of Planning, Building, and Code Enforcement;

¹ Contact Todd Capurso, PRNS Landscape Maintenance Manager, at (408) 277-2733 or todd.capurso@sanjoseca.gov for specific park locations in need of trees.

- Damage to any tree during construction shall be reported by the person causing the damage, the responsible to the Director of Planning, Building, and Code Enforcement,
- and the contractor or owner shall treat the tree for damage in the manner specified by the consulting arborist.
- No construction equipment, vehicles or materials shall be stored, parked or standing within the tree dripline; and
- Drains shall be installed according to city specifications so as to avoid harm to trees due to excess watering; and
- Wires, signs and other similar items shall not be attached to trees; and
- Cutting and filling around the base of trees shall be done only after consultation with the consulting arborist and then only to the extent authorized by the consulting arborist; and
- No paint thinner, paint, plaster or other liquid or solid excess or waste construction materials or wastewater shall be dumped on the ground or into any grate between the dripline and the base of the tree or uphill from any tree where certain substances might reach the roots through a leaching process; and
- Barricades shall be constructed around the trunks of trees as directed by the Director of Planning, Building, and Code Enforcement so as to prevent injury to trees making them susceptible to disease causing organisms; and
- Wherever cuts are made in the ground near the roots of trees, appropriate measures shall be taken to prevent exposed soil from drying out and causing damage to tree roots (SJMC 13.32.130).
- As trees withdraw water from the soil, expansive soils may shrink within the root area. Therefore, foundations, footings and pavements on expansive soils near trees shall be designed to withstand differential displacement.

CULTURAL RESOURCES

- Construction personnel involved in the site clearing and subsequent grading and trenching shall be warned that there is a potential for the discovery of archaeological materials. Indicators of the archaeological site deposits include, but are not limited to, the following: darker than surrounding soils, evidence of fire (as, fire altered rock and earth, carbon flecks), concentrations of stone, bone and shellfish, artifacts of these materials and burials, either animal or human.
- 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:

- 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.
- 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.

GEOLOGY AND SOILS

- Buildings shall be designated and constructed in accordance with the design-level geotechnical investigation prepared for the site, which identifies the specific design features that will be required for the project, including site preparation, compaction, trench excavations, foundation and subgrade design, drainage and pavement design. The geotechnical investigation shall be reviewed and approved by the City Public Works Department prior to issuance of a building permit for the project.
- The project shall implement standard grading and best management practices to prevent substantial erosion and siltation during development of the site.
- The proposed project shall be designed and constructed in conformance with the Uniform Building Code guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking and seismic-related hazards, including liquefaction, on the site.

HAZARDOUS MATERIALS

- The project site shall be reviewed by an environmental professional during future site demolition and pregrading activities. Any storage tanks, wells, drums, and debris shall be removed under the guidance of a qualified environmental professional and in accordance with the Santa Clara County Fire Department requirements for above ground fuel tank removal.
- As appropriate, a lead survey of painted surfaces and soil around the building built prior to 1978 shall be performed prior to demolition. Cal/OSHA Lead in Construction Standard, Title 8, CCR 1532.1 shall be followed during demolition activities, including employee

training, employee air monitoring and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the waste being disposed.

- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities shall be undertaken in accordance with OSHA standards contained in Title 8 of the CCR, Section 1529, to protect workers from exposure to asbestos. Specific measures could include air monitoring during demolition and the use of vacuum extraction for asbestos-containing materials.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site.
- Materials containing more than one percent one (1) percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one (1) percent asbestos shall be completed in accordance with BAAQMD requirements.

HYDROLOGY

Pre-Construction

- Prior to construction of the project, the City shall require the applicant to submit a Storm Water Pollution Prevention Plan (SWPPP) and a Notice of Intent (NOI) to the State of California Water Resource Quality Control Board to control the discharge of storm water pollutants including sediments associated with construction activities. Along with these documents, the applicant may also be required to prepare an Erosion Control Plan. The Erosion Control Plan may include Best Management Practices (BMPs) as specified in the California Storm Water Best Management Practice Handbook (such as silt fences/straw waddles around the perimeter of the site, regular street cleaning, and inlet protection) for reducing impacts on the City's storm drainage system from construction activities. The SWPPP shall include control measures during the construction period for:
 - Soil stabilization practices,
 - Sediment control practices,
 - Sediment tracking control practices,
 - Wind erosion control practices, and
 - Non-storm water management and waste management and disposal control practices.
- Prior to issuance of a grading permit, the applicant shall be required to submit copies of the NOI and Erosion Control Plan (if required) to the City Project Engineer, Department of Public Works. The applicant shall also be required to maintain a copy of the most current SWPPP on-site and provide a copy to any City representative or inspector on demand.
- Each Phase of development shall comply with the City of San José Grading Ordinance, including erosion- and dust-control during site preparation, and with the City of San José

Zoning Ordinance requirement for keeping adjacent streets free of dirt and mud during construction.

Post-Construction

- The proposed development shall comply with the NPDES permit issued to the City of San José and other co-permittees of the SCVURPPP, and with the provisions of the City's Post-Construction Urban Runoff Management Policy, which require the inclusion in the site design of pollutant source control and stormwater treatment control measures to the maximum extent practicable. At the Planned Development permit stage, the applicant shall submit plans for BMPs and numerically sized TCMs, but not limited to the following:
 - Vegetated swales and flow-through areas;
 - Bioretention areas or basins;
 - Disconnected downspouts that are directed into landscape areas;
 - Minimization of impervious surfaces and increased use of permeable pavement;
 - Location of all storm drain inlets to be stenciled with, "No Dumping! Flows to Bay;" and
 - Location and design of trash enclosures (all shall be covered) and materials handling areas.
- The project shall comply with Provision C.3 of NPDES permit Number CAS0299718, which provides enhanced performance standards for the management of stormwater for new development.
- The project shall comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29), which establishes general guidelines and minimum BMPs for specific land uses and numerically sized (or hydraulically sized) TCMs.

NOISE

Mitigation Measures:

- Design and construct noise barriers to reduce noise at private exterior use areas. Preliminary calculations indicate that six to eight foot noise barriers would be sufficient to reduce exterior noise levels to 60 dBA DNL or less at residential use areas adjacent to Leigh Avenue and Foxworthy Avenue (Lots 1-11 and 23). Exterior noise levels would be 60 dBA DNL in the private outdoor use areas of Lots 12-22 assuming the shielding provided by the residential units and existing barriers that would remain with the project. The final detailed design of the heights and limits of these barriers shall be completed at the time that the final grading plan is submitted.
- Disclose the project's proximity to the adjacent ball fields and identify that noise generated by these activities would be audible at the project site.
- Disclose the project's proximity to the adjacent ball fields and identify that noise generated by these activities would be audible at the project site.

- Project-specific acoustical analyses shall be completed to insure that interior noise levels shall be 45 dBA DNL or lower. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation for all new units, so that windows could be kept closed at the occupant's discretion to control noise. Special building construction techniques (e.g., sound-rated windows and building facade treatments) may be required for new residential uses adjacent to Leigh Avenue. These treatments include, but are not limited to, sound rated windows and doors, sound rated wall constructions, acoustical caulking, etc. The specific determination of what treatments are necessary will be conducted on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved prior to issuance of a building permit. Feasible construction techniques such as these would adequately reduce interior noise levels to 45 dBA DNL or lower.
- Noise-generating construction activities shall be limited to the hours between 7:00 AM and 7:00 PM 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.
- Locate stationary noise generating equipment as far as possible from sensitive receptors. Acoustically shield stationary noise sources when located in areas adjoining sensitive receptors.
- Prohibit unnecessary idling of construction equipment.
- The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive residential uses so that construction activities can be scheduled to minimize noise disturbances.
- The project sponsor shall designate a "disturbance coordinator" who shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures warranted to correct the problem be implemented.
- Conspicuously post a telephone number for the disturbance coordinator at the construction site.

PUBLIC SERVICES

- In accordance with Government Code 65996, the developer shall pay a school impact fee to offset the increased demands on school facilities caused by the proposed project.
- The project shall conform with the City's *Park Impact Ordinance* (PIO) and *Parkland Dedication Ordinance* (PDO).

Memorandum

TO: Suparna Saha
Planning and Building

FROM: Mirabel Aguilar
Public Works

**SUBJECT: INITIAL RESPONSE TO
DEVELOPMENT APPLICATION**

DATE: 07/10/06

Approved



Date

07/10/06

PLANNING NO.: PDC06-055
DESCRIPTION: Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 24 single-family detached residences on a 1.68 gross acre site
LOCATION: Southeast corner of Foxworthy and Leigh Avenues
P.W. NUMBER: 3-03364

Public Works received the subject project on 05/22/06 and submits the following comments and requirements. **Upon completion of the Action/Revisions Required items by the applicant, Public Works will forward a Final Memo to the Department of Planning prior to the preparation of the Staff Report for Public Hearing.**

Actions / Revisions Required:

1. **Public Works Development Review Fee:** Based on established criteria, this project has been rated medium complexity. An additional fee of \$895 is due for complexity. This project is subject to the NPDES - C.3 Requirements Review Fee (\$1,270). Prior to the project being cleared for the hearing and approval process, a sum total of \$2,615 shall be paid to the Development Services Cashier using the attached invoice(s).
2. **Stormwater Runoff Pollution Control Measures:**
 - a) **Submit the following:**
 - i) The project's preliminary Stormwater Control Plan showing the location and function of all post-construction treatment control measures, and all trees eligible for post-construction treatment control credits.
 - ii) The preliminary numeric sizing calculations based on the Stormwater Control Plan, prepared by a qualified stormwater professional (civil engineer, licensed architect or landscape architect), used to determine runoff quantity and to design/select the post-construction treatment control measures.
 - iii) Inspection and maintenance information on the post-construction treatment control measures.

- b) Applicant is required to meet with Public Works staff to review the proposed Stormwater Control Plan.

3. **Street Improvements:**

- a) Parking is not allowed along Leigh Avenue and Foxworthy Avenue project frontages. Remove tick marks from plans.
- b) Remove the proposed driveway along the Foxworthy Avenue project frontage due to proximity to the Leigh/Foxworthy intersection.
- c) It is recommended that the proposed driveway along Leigh Avenue be relocated to align with the intersection of Leigh Avenue and Geneva Street.
- d) Construction of detached sidewalk with park strip shall be required along all project frontages.

4. **Storm:**

- a) Submit a conceptive grading/drainage plan prior to approval.
- b) Indicate the overland release path in arrows.
- c) The release path must be paved.
- d) On-site ponding must be less than one foot.
- e) Finished floor elevations must be one foot higher than overland release elevation.

- 5. **Private Streets:** Revise plans to show preliminary/conceptual private street cross section including street dimensions, cross slopes, curb & gutters, and sidewalks.

Project Conditions:

Public Works Clearance for Building Permit(s): Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

Public Works Approval of Parcel Map or Tract Map: Prior to the approval of the tract or parcel map by the Director of Public Works, the applicant will be required to have satisfied all of the following Public Works conditions.

- 6. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
- 7. **Transportation:** An in-house traffic distribution has been performed for this project based on 24 peak hour trips. We conclude that the subject project will be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3) and a determination for a negative declaration can be made with respect to traffic impacts.

8. **Grading/Geology:**
 - a) A grading permit is required prior to the issuance of a Public Works Clearance.
 - b) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - c) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - d) A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.

9. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29 -or- the project shall provide an Alternative Measure, where installation of post-construction treatment control measures are impracticable, subject to the approval of the Director of Planning, Building & Code Enforcement.
 - a) The project's preliminary Stormwater Control Plan and numeric sizing calculations have been reviewed. At PD stage, submit the final Stormwater Control Plan and numeric sizing calculations.
 - b) Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.

10. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

11. **Parks:** In accordance with the Parkland Dedication and Park Impact Ordinances (SJM 19.38/14.25), the park impact fee will be due for any additional living units that are built.

12. **Undergrounding:** The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Leigh Avenue prior to issuance of a Public Works clearance. One hundred percent (100%) of the base fee in place at the time of payment will be due. (Currently, the base fee is \$224 per linear foot of frontage.)

13. Street Improvements:

- a) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- b) Remove and replace curb, gutter, and sidewalk along project frontage.
- c) Close unused driveway cut(s).
- d) Proposed driveway width to be 26'.
- e) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- f) 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.

14. Complexity Surcharge (In-Fill): This project has been identified as an in-fill project. Based on established criteria, the public improvements associated with this project have been rated medium complexity. An additional surcharge of 25% will be added to the Engineering & Inspection (E&I) fee collected at the street improvement stage.

15. Electrical:

- a) Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- b) Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
- c) Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 5' in residential areas.

16. Street Trees:

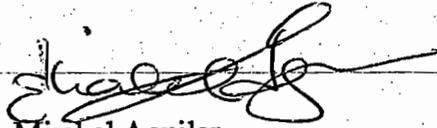
- a) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
- b) Contact the City Arborist at (408) 277-2756 for the designated street tree.
- c) Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings.
- d) All existing trees that are to be removed should be shown on the plan by species and diameter. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.

17. Private Streets:

- a) Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.

- b) The plan set includes details of private infrastructure improvements. The details are shown for information only; final design shall require the approval of the Director of Public Works.

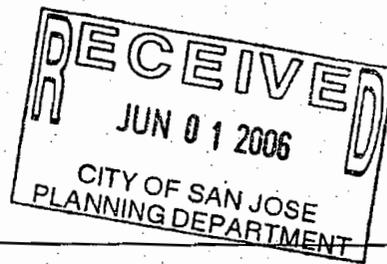
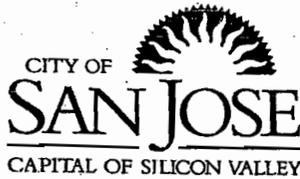
Please contact me at (408) 535-6822 or Jeff Lee at (408) 535-7877 if you have any questions.



Mirabel Aguilar
Project Engineer

Transportation and Development Services Division

MA:jl
6000_16277402001.DOC



Memorandum

DATE: 05/26/06

TO: Suparna Saha

FROM: Nadia Naum-Stoian

Re: Plan Review Comments

PLANNING NO: PDC06-055

DESCRIPTION: Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 24 single-family detached residences on a 1.68 gross acre site

LOCATION: southeast corner of Foxworthy and Leigh Avenues

ADDRESS: southeast corner of Foxworthy and Leigh Avenues (3002 LEIGH AV)

FOLDER #: 06 015272 ZN

The Fire Department's review was limited to verifying compliance of the project to Article 9, Appendix III-A, and Appendix III-B of the 2001 California Fire Code with City of San Jose Amendments (SJFC). Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.

- These comments are based on the following information from drawings dated 5/16/06 by Charles Davidson Eng., and 4/28/06 by Dahlin Group Arch.

Largest building: +/-2300 sq. ft.

Construction Type: V N

Occupancy Group: R3

Number of stories: 2

1. The project plans as submitted, do not comply with the Fire Code. The following are discrepancies noted:

a) Fire apparatus access roads are not in accordance with the requirements of the SJFC. The turning radius by unit 11 is less than the required minimum of 30feet.

b) The plans do not indicate that the required fire flow of 2000GPM will be available at the project site. Please ask the applicant to immediately contact Jim Bariteau of San Jose Water Co. at 408-279-7874 to get the water flow information.

c) The plans do not show location of hydrants. The required fire flow shall be provided through 2 hydrants.

2. Please advise the applicant to submit plans to the Fire Department that provide the following information:

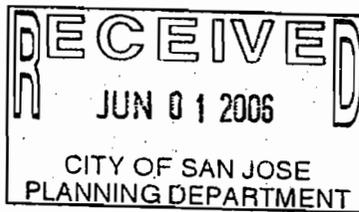
- a) Width, length, and grade of the fire apparatus access roads, streets, avenues, and the like. Every portion of all building exterior walls shall be within 150 feet of an access road. The fire access shall:
- be at least 20 feet wide;
 - have an unobstructed vertical clearance of not less than 14 feet;
 - be designed and maintained to support the loads of fire apparatus of at least 69,000 pounds;
 - have a minimum inside turning radius of 30 feet and an outside turning radius of 50 feet;
 - be designed with approved provisions for turning around of fire apparatus if it dead ends and is in excess of 150 feet; N/A
-
- **Curbs are required to be painted red and marked as "Fire Lane - No Parking" under the following conditions: (show exact locations on plan)**
 - i) **Roads, streets, avenues, and the like that are 20 to less than 26 feet wide measured from face-of-curb to face-of-curb shall have curbs on both sides of the road painted and marked**
 - ii) **Roads, streets, avenues, and the like that are 26 to less than 32 feet wide measured from face-of-curb to face-of-curb shall have one curb painted and marked**

- b) Location of fire hydrants. The average distance between hydrants shall not exceed 500 feet. New hydrants are required for the new private street. Show existing hydrants on Leigh.
-
- c) Available fire flow. Provide a copy of the letter from San Jose Water Co. that indicates the water flow available.
-

Note: The plans shall be submitted to the Fire Department *by appointment only* (call Nadia Naum-Stoian) as soon as possible.



Nadia Naum-Stoian
Fire Protection Engineer
Bureau of Fire Prevention
Fire Department
(408) 535-7699



Memorandum

ENVIRONMENTAL SERVICES DEPARTMENT (ESD)

TO: Suparna Saha
Department of Planning,
Building, & Code Enforcement

FROM: Geoff Blair
Environmental Services Department

SUBJECT: Response to Development Application

DATE: Staff Review Agenda
June 1, 2006

APPROVED: *Geoff Blair* **DATE:** *6-1-06*

PLANNING NO. :	PDC06-055
LOCATION:	3002 Leigh Avenue. Southeast corner of Foxworthy and Leigh Avenues.
DESCRIPTION:	Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 24 single-family detached residences on a 1.68 gross acre site.
APN:	41905041

ESD received the subject project and is submitting the following conditions and comments. Questions regarding these comments may be directed to the program contact given or to me at (408) 277-3828.

Stormwater Runoff	San Jose/ Santa Clara Water Pollution Control Plant (Plant)	Source Control	South Bay Water Recycling (SBWR)	Green Building	Integrated Waste Management (IWM)	Water Efficiency
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Integrated Waste Management (IWM)

Single Family Residential

1. Collection vehicle access (vertical clearance, street width and turnaround space) and street parking are common issues pertaining to new developments. All residential projects must be designed¹ such that they will accommodate garbage and recycling collection vehicles and program setout guidelines. If vehicle access is limited due to clearance issues, street parking, or inaccessible private streets, some services (such as street sweeping or yard trimmings collection) may not be performed, or the property owner may be subject to additional charges. These additional charges may include monthly charges for on-premise (backyard) collection or yard trimmings cart collection. For questions regarding garbage and recycling collection issues, contact the Recycle Plus Program at (408) 535-3515.

¹ In accordance with the San Jose Residential Design Guidelines

2. It is recommended that scrap construction and demolition debris be recycled instead of disposing of it in a landfill. An infrastructure exists within San Jose to accommodate such recycling efforts. Integrated Waste Management staff can provide assistance on how to recycle construction and demolition debris from the project, including information on where to conveniently recycle the material. For further information, contact the Commercial Solid Waste Program at (408) 535-3515.

Water Efficiency

Residential

The proposed development should consider installation of the following water efficient equipment as applicable:

- **High Efficiency Toilets** (1.0 gal/flush) and/or **Dual Flush Toilets** (0.8-1.1 gal/flush for liquids, 1.6 gal/flush for solids) maximize water efficiency. High Efficiency Toilets use at least 20% less water than standard Ultra-Low Flush Toilets (1.6 gal/flush) and Dual Flush Toilets save water by offering two separate flush settings.
- **Water Conserving Dishwashers** can save several gallons of water per load over conventional dishwashers and typically also save energy.
- **High Efficiency Clothes Washers** are more water-and energy-efficient, using from 35 to 50 percent less water and saving up to 50 percent in energy costs over conventional clothes washers.

Financial incentives may be available for installing various types of residential, commercial, industrial or institutional water efficient appliances or equipment. Contact the Santa Clara Valley Water District for more information and availability.

Call the Santa Clara Valley Water District Water Conservation Hotline at (408) 265-2607 ext 2554 or visit www.valleywater.org

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Lands of Leigh Avenue Partners, LLC.

PROJECT FILE NUMBER: PDC06-055

PROJECT DESCRIPTION: Planned Development Rezoning from A(PD) to A(PD) to allow up to 23 single-family detached residences on a 1.66 gross acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Southeast corner of Leigh and Foxworthy Avenues; 419-05-041.

COUNCIL DISTRICT: 9

APPLICANT CONTACT INFORMATION: DAL-Properties LLC, Mark Lazzarini, 255 West Julian Street, Suite 502, San Jose, CA 95110.

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE
POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

- I. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- II. **AGRICULTURE RESOURCES** – The project will not have a significant impact on this

resource, therefore no mitigation is required.

III. AIR QUALITY – The project will have a less than significant impact on this resource, with mitigation measures:

- Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two (2) feet of freeboard.
- Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality.
- Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.

IV. BIOLOGICAL RESOURCES – The project will have a less than significant impact on this resource, therefore no mitigation is required.

V. CULTURAL RESOURCES – The project will have a less than significant impact on this resource, therefore no mitigation is required.

VI. GEOLOGY AND SOILS – The project will have a less than significant impact on this resource, therefore no mitigation is required.

VII. HAZARDS AND HAZARDOUS MATERIALS – The project will have a less than significant impact therefore no mitigation is required.

VIII. HYDROLOGY AND WATER QUALITY – The project will have a less than significant impact on this resource, therefore no mitigation is required.

IX. LAND USE AND PLANNING – The project will have a less than significant impact on this resource, therefore no mitigation is required.

X. MINERAL RESOURCES – The project will not have an impact on this resource, therefore no mitigation is required.

XI. NOISE – The project will have a less than significant impact with mitigation measures:

- Design and construct noise barriers to reduce noise at private exterior use areas. Preliminary calculations indicate that six to eight foot noise barriers would be sufficient to reduce exterior noise levels to 60 dBA DNL or less at residential use areas adjacent to Leigh Avenue and Foxworthy Avenue (Lots 1-11 and 23). Exterior noise levels would be 60 dBA DNL in the private outdoor use areas of Lots 12-22 assuming the shielding provided by the residential units and existing barriers that would remain with the project. The final detailed design of the heights and limits of these barriers shall be completed at the time that the final grading plan is submitted.
- Disclose the project's proximity to the adjacent ball fields and identify that noise generated by these activities would be audible at the project site.
- Disclose the project's proximity to the adjacent ball fields and identify that noise generated by these activities would be audible at the project site.
- Project-specific acoustical analyses shall be completed to insure that interior noise levels shall be 45 dBA DNL or lower. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation for all new units, so that windows could be kept closed at the occupant's discretion to control noise. Special building construction techniques (e.g., sound-rated windows and building facade treatments) may be required for new residential uses adjacent to Leigh Avenue. These treatments include, but are not limited to, sound rated windows and doors, sound rated wall constructions, acoustical caulking, etc. The specific determination of what treatments are necessary will be conducted on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved prior to issuance of a building permit. Feasible construction techniques such as these would adequately reduce interior noise levels to 45 dBA DNL or lower.
- Noise-generating construction activities shall be limited to the hours between 7:00 AM and 7:00 PM 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.
- Locate stationary noise generating equipment as far as possible from sensitive receptors. Acoustically shield stationary noise sources when located in areas adjoining sensitive receptors.
- Prohibit unnecessary idling of construction equipment.
- The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive residential uses so that construction activities can be scheduled to minimize noise disturbances.

- The project sponsor shall designate a “disturbance coordinator” who shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures warranted to correct the problem be implemented.
- Conspicuously post a telephone number for the disturbance coordinator at the construction site.

XII. POPULATION AND HOUSING – The project will not have a significant impact on this resource, therefore no mitigation is required.

XIII. PUBLIC SERVICES – The project will have a less than significant impact on this resource, therefore no mitigation is required.

XIV. RECREATION – The project will have a less than significant impact on this resource, therefore no mitigation is required.

XV. TRANSPORTATION / TRAFFIC – The project will have a less than significant impact on this resource, therefore no mitigation is required.

XVI. UTILITIES AND SERVICE SYSTEMS – The project will have a less than significant impact on this resource, therefore no mitigation is required.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE – The project would not create Significant amounts of noise, air quality, or land use impacts, biological resources or any other significant impacts to the site. With implementation of the mitigation measures the project would not result in less than significant air-quality, noise, cultural resources, or hydrology and drainage impacts.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on October 16, 2006, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, San José CA 95113-1905 and include a \$100 filing fee. The written protest should make a “fair argument” based on

substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Joseph Horwedel, Acting Director
Planning, Building and Code Enforcement

Circulated on: September 27, 2006


Deputy

Adopted on: _____

Deputy

Revised 8/26/05 JAC