

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

Hearing Date/Agenda Number
CC: 12/4/07 11.1(e)

File Number: C07-050

Application Type:
Conforming Conventional Rezoning

Council District: 6

Planning Area: West Valley

Assessor's Parcel Number: 497-51-015

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Sanhita Mallick

Location: East side of South Winchester Boulevard, approximately 65 feet northerly of Williams Rd

Gross Acreage: 0.18

Net Acreage: N/A

Net Density: N/A

Existing Zoning: R-1-5 Single Family Residence District

Existing Use: Detached Single Family Residential

Proposed Zoning: CP – Commercial Pedestrian

Proposed Use: Commercial

GENERAL PLAN

Land Use/Transportation Diagram Designation:
General Commercial

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

North: Commercial

CO- Commercial Office

East: Detached single-family residence

R-1-8 Single-Family Residence

South: Detached single-family residence

CO- Commercial Office

West: Retail and multi-family residences (across
Winchester Boulevard)

R-1-8 (PD) Planned Development & RM- Multi-Family
Residence District

ENVIRONMENTAL STATUS

Environmental Impact Report (GP2020 EIR certified 8-16-94)
 Negative Declaration circulated on
 Negative Declaration adopted on April 26, 2007

Exempt
 Environmental Review Incomplete

FILE HISTORY

Date Filed: July 5, 2007

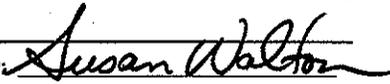
Annexation Title: Maypark No. 17

Date: June 10, 1980

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial
 Uphold Director's Decision

Date: 11-13-07

Approved by: 
 Action
 Recommendation

OWNERS

ARCHITECT

Ronnie Berry Trustee & Et Al
Po Box 9112
San Jose CA 95157

Eugene Sakai
Studio S Squared Architecture
19 N 2nd St Unit 205
San Jose CA 95112

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: SM

Department of Public Works: None

Other Departments and Agencies: None

GENERAL CORRESPONDENCE:

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

Kathryn Berry, the property owner, is requesting a conforming conventional rezoning of the subject property from the R-1-5 Single Family Residence Zoning District to CP-Commercial Pedestrian Zoning District to allow commercial development of the site.

The 0.18 gross acre site is currently developed with one detached single-family residence constructed in around 1962. Physical changes to the site and to the existing building are not considered as part of this application.

A Conditional Use Permit (File No. CP07-073), currently under review by staff, proposes construction of a new 4,300 square feet commercial building on this parcel, and the adjacent parcel to the south (a total of 0.38 acres).

The site is rectangular in shape with approximately 60 feet of frontage along South Winchester Boulevard. The site is surrounded by commercial uses to the north and west, by single-family detached residences to the east and south, and multi-family residences to the west across South Winchester Boulevard. The project site is located within the Winchester Transit-Oriented Development Corridor and Winchester Strong Neighborhood Initiative area.

GENERAL PLAN CONFORMANCE

A General Plan Amendment was approved in June 2005 to change the General Plan Land Use Transportation Diagram designation of the site from Medium Low Density Residential (8 DU/AC) to General Commercial. The proposed rezoning to the CP-Commercial Pedestrian Zoning District is consistent with the site's new General Plan Land Use/Transportation Diagram designation of General Commercial in that this designation supports a wide variety of commercial uses, and allows development of pedestrian-friendly buildings along a major transit corridor.

The project meets the intent of the Winchester Transit-Oriented Development Corridor Goal by facilitating redevelopment of properties with commercial use along the identified transit corridor. The project also furthers the Winchester Strong Neighborhood Improvement Plan by facilitating commercial use on an underutilized parcel, which is a top priority in the neighborhood improvement process.

ENVIRONMENTAL REVIEW

A Mitigated Negative Declaration adopted on April 26, 2007 for the General Plan Amendment indicates that the project will not result in a significant environmental impact when the identified mitigations are incorporated. The Mitigated Negative Declaration addressed issues such as air quality, biological resources, geology and soils, noise, traffic, water quality and construction related impacts. The proposed rezoning is consistent with the General Plan and therefore the environmental clearance for the project is provided by this Negative Declaration. A copy of the Mitigated Negative Declaration is attached to this staff report.

ANALYSIS

The proposed rezoning to CP - Commercial Pedestrian Zoning District would facilitate commercial uses consistent with the General Plan designation of General Commercial, and will facilitate development in a manner consistent with the development pattern along Winchester Boulevard which is a major transit corridor. The zoning of the nearby commercial developments is CO-Commercial Office which is compatible with this proposal. The development standards of CP-Commercial Pedestrian Zoning District do not require a minimum front setback. This will facilitate the potential redevelopment of the subject with a more urban development pattern envisioned by the General Plan for transit-oriented corridors.

PUBLIC OUTREACH

The property owners and occupants within a 500-foot radius were sent public hearing notices for the City Council hearing. This staff report has been posted on the City's web site. Signage has been posted at the site to inform the public about the proposed change. Staff has been available to discuss the proposal with interested members of the public. The subsequent Conditional Use Permit has been presented to the Winchester NAC during their scheduled NAC meeting on September 19, 2007. It is anticipated that the pending Conditional Use Permit for a commercial building will be considered by the Planning Commission in mid December.

COORDINATION

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

RECOMMENDATION

Planning staff recommends approval of the proposed zoning for the following reasons:

1. The proposed rezoning is in conformance with the General Plan Land Use/Transportation Diagram designation of General Commercial.
2. The proposed rezoning would allow commercial uses on this site which is compatible with the surrounding uses.
3. The proposed rezoning would allow pedestrian-friendly commercial uses consistent with Winchester Transit-Oriented Development Corridor Goal and Winchester Strong Neighborhood Improvement Plan.

Attachments:

Location Map

Plot Plan

Mitigated Negative Declaration



File Number: C07-050

Council District: 6

Quad Number: 98

Scale: 1"= 300'

Noticing Radius: 500'

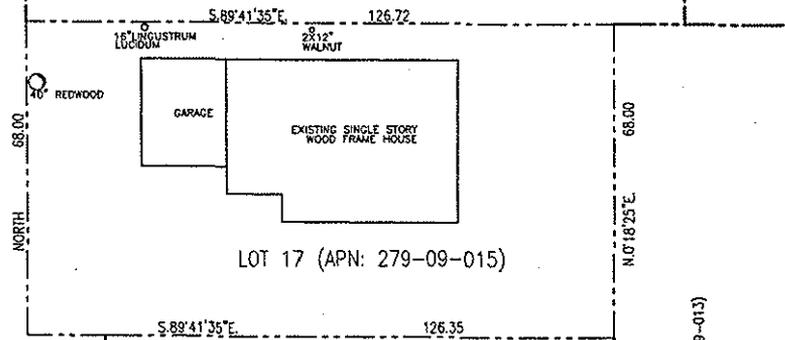
 **Subject Site**



FRUITDALE AVE



LOT 1 (APN: 279-09-016)



LOT 17 (APN: 279-09-015)

LOT 16 (APN: 279-09-014)

LOT 15 (APN: 279-09-013)

NORTH
WINCHESTER BLVD (43' - 60' R/W)
408.57 (408.53)

PRESENT OWNER(S)
LOT 17: MR. RONNIE BERRY

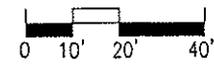
THERE ARE NO ACTIVE OR DEACTIVATED
WATER WELLS ON THE PROPERTIES

$\Delta = 10^{\circ}23'06''$
 $R = 800.00'$
 $L = 145.00'$

WILLIAMS ROAD (43' R/W)

LEGEND

- ⊙ FD CITY MONUMENT
- 3/4" IRON PIPE TO BE SET



REVISIONS	BY

**EXHIBIT "B" - PLOT PLAN
THE BERRY BUILDING
960-990 S WINCHESTER BLVD
SAN JOSE, CA**

DRAWN BY:
J
CHECKED BY:
YI-RAN WU
DATE:
AUG 17, 2007
SCALE:
1"=40'-0"

SHEET
1

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: 960 & 990 Winchester Boulevard

PROJECT FILE NUMBER: GP06-06-02

PROJECT DESCRIPTION: General Plan amendment to change the Land Use/Transportation Diagram designation on a 0.4-acre site from Medium Low Density Residential (8 DU/AC) to General Commercial.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Northeast corner of Winchester Boulevard and Williams Road (960 & 990 South Winchester Boulevard); APNs 279-09-014, -015

COUNCIL DISTRICT: 6

APPLICANT CONTACT INFORMATION: Ronnie Berry, c/o Eugene Sakai, AIA
19 N. 2nd St., Suite 205
San Jose, CA 95113
esakai@studios2arch.com
tel: 408-998-0983

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 not have a significant impact on this resource, therefore no mitigation is required.
- IV. **BIOLOGICAL RESOURCES** – There is currently one ordinance-sized tree on the property, measuring 100 inches in circumference. In the event of future development and removal of the ordinance-sized tree, replacement planting will be provided.
- V. **CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VI. **GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VII. **HAZARDS AND HAZARDOUS MATERIALS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VIII. **HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IX. **LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- X. **MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XI. **NOISE** – Based on measurements of existing noise levels, the exterior noise level at the site varies from 70 dBA to 73.5 dBA. Future commercial uses would be required to limit internal noise exposures to 45 dBA.
- 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 not have a significant impact on this resource, therefore no mitigation is required.
- XIV. **RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XV. **TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVI. **UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

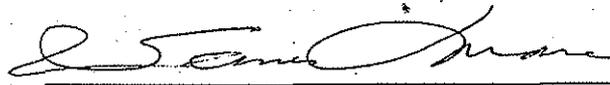
PUBLIC REVIEW PERIOD

Before 5:00 p.m. on April 24, 2007, 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.

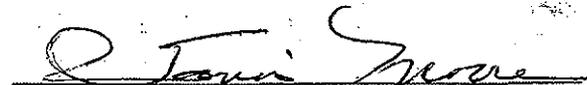
Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: April 4, 2007



Deputy

Adopted on: April 26, 2007



Deputy

Revised 8/26/05 JAC