

STAFF REPORT
PLANNING COMMISSION

FILE NO.: PDC08-018

Submitted: 3/19/08

PROJECT DESCRIPTION: Planned Development Rezoning from CG Commercial General Zoning District to A(PD) Planned Development Zoning District for construction of two live/work units on a 0.08 gross acre site.

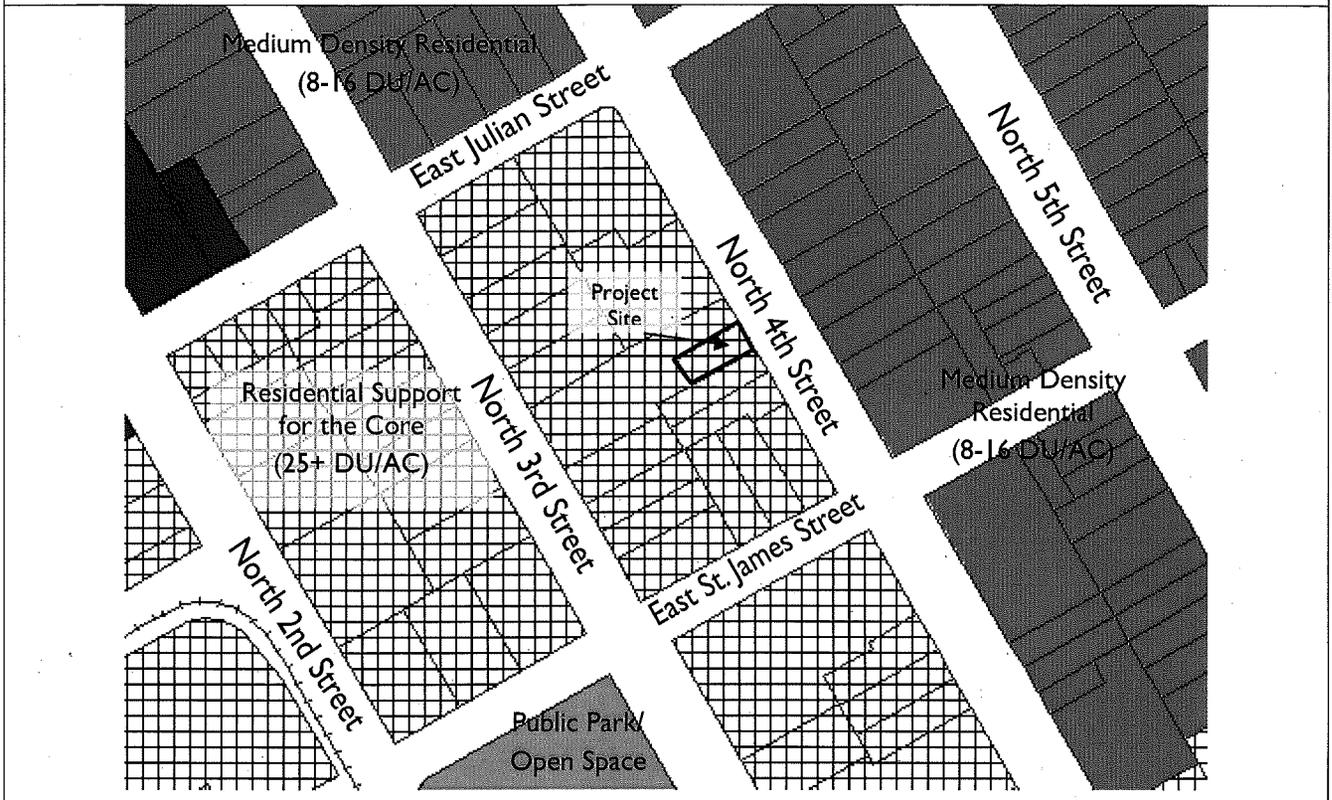
Existing Zoning	CG Commercial General
Proposed Zoning	A(PD) Planned Development
General Plan	Residential Support for the Core (25+ DU/AC)
Council District	3
Annexation Date	3/27/1850 (Original City)
SNI	N/A
Historic Resource	No
Redevelopment Area	Yes
Specific Plan	N/A

LOCATION: West side of North 4th Street, approximately 230 feet north of East St. James Street.

Aerial Map



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends approval of the proposed Planned Development Rezoning for the following reasons:

1. The proposed project at 25 DU/AC is consistent with the San José 2020 General Plan Land Use/Transportation designation of Residential Support for the Core (25+ DU/AC).
2. The proposed project is in conformance with the Residential Design Guidelines through its site and architectural design.
3. The proposed project, two live/work units, is compatible with surrounding land uses of commercial, office, and multi-family residential.

BACKGROUND & DESCRIPTION

On March 19, 2008, the applicant filed a Planned Development Rezoning from CG Commercial General Zoning District to A(PD) Planned Development Zoning District for construction of two attached live/work units on a 0.08 gross acre site, on the west side of North 4th Street, approximately 230 feet north of East St. James Street. A Planned Development Rezoning is required because the developer proposes to develop the property in a configuration that is not supported in a conventional residential zoning district. Specifically, the project proposes live/work units on a substandard lot.

The proposed project would allow two live/work units on an existing vacant lot. The surrounding uses include multi-family residential, commercial, and office uses. The proposed live/work project would be compatible with all surrounding uses.

GENERAL PLAN CONFORMANCE

This site has a designation of Residential Support for the Core (25+ DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram. This designation permits development with commercial uses on the first two floors, with residential use on upper floors, as well as wholly residential projects. Development within this category is intended to expand the potential for residential development in close proximity to central area jobs, and to create new consumer markets in the Downtown area. The residential density associated with this application is 25 DU/AC, which falls within the range of the existing designation.

This project also supports the Urban Conservation/Preservation and Downtown Revitalization General Plan Major Strategies in that it proposes development on a vacant infill parcel in the greater Downtown area that already has access to public services and amenities.

ENVIRONMENTAL REVIEW

Under the provisions of Section 15303(b) of CEQA, in urban areas, up to three new single-family detached residences are exempt from environmental review. This project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended, in that it is for a total of two residential dwelling units and there are no significant environmental effects associated with the project or the site.

ANALYSIS

The proposed Planned Development Rezoning would facilitate development of a small, vacant infill parcel into two live/work units. The primary issue associated with the proposed project is conformance

with the Residential Design Guidelines with regards to setbacks, open space, and parking. For the purposes of this analysis, the proposed project is considered to be two rowhouses.

Setbacks

The Residential Design Guidelines suggest setbacks for rowhouses of 15 feet in the front, 15 feet in the rear, and 5 feet on either side. The project proposes setbacks of 17 feet in the front with 20 feet to the garage, 10 feet in the rear, and 0 feet on the sides. Planning staff supports the applicant's proposal because the project site is located in a highly urban area within the Residential Support for the Core General Plan designation, which calls for high-density housing. In order to fit two units on this 37.5 foot wide lot, zero side setbacks are necessary, and would not negatively impact the neighborhood. Similarly, a rear setback of 10 feet is sufficient for this lot because the site backs up to a multi-family residential development with a large paved rear setback area and much of the development on the block maintains similar rear setbacks. It is important that the proposed setbacks match or are comparable to those in the nearby vicinity of the subject site.

Parking

For single-family development, the Residential Design Guidelines recommends two covered parking spaces per unit. The proposed development would include the construction of two-car attached tandem garages for each unit, with driveway aprons a minimum of 18 feet in length to accommodate parking of an additional vehicle, meeting the Residential Design Guidelines standard. Planning staff finds this to be sufficient parking for the proposed use because of the site's location within easy access to downtown San Jose and various options for public transit. Additionally, metered street parking is available on 4th Street and adjacent blocks.

Open Space

For rowhouses, the Residential Design Guidelines recommend 400 square feet of private open space per unit. The proposed project includes 450 square feet of private open space per unit. Therefore, the project exceeds the private open space recommended by the Residential Design Guidelines.

PUBLIC OUTREACH

Public outreach for this project was conducted in conformance with the City Council Policy 6-30. A sign was posted on-site to notify neighbors of the proposed development. The rezoning was also published in a local newspaper, the Post Record. A notice of this Planning Commission public hearing and subsequent City Council hearing was mailed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. This staff report is also posted on the City's Website. Staff has been available to respond to questions from the public.

Project Manager: Licinia McMorrow Approved by: *Jean Hamilton* Date: *5/19/08*

Owner/Applicant: Eugene Sakai Studio S Squared Architecture, Inc. 19 N. 2 nd Street, Suite 205 San Jose, CA 95113	Attachments: Development Standards Exemption Final Public Works Memo Reduced Plan Set
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PDC08-018
4th Street Live/Work

General Development Standards

Permitted Use

Up to 2 attached live/work units.

Limitations on Live/Work Use

An owner or employee of the business must occupy the living space of each unit. A maximum of two employees who do not reside in the unit may be present on site at any given time. Permitted uses shall be in conformance with uses permitted in the CP Commercial Pedestrian Zoning District.

Minimum Lot Size

1,687 square feet

Setbacks

Front:

Living Area: 17'

To Garage: 20'

Rear:

Living Area: 10'

Sides: 0'

Maximum Building Height/Stories

35' maximum from grade/3 stories

Required Parking

2 covered spaces per unit

1 space per unit for office use, located in driveway apron.

Minimum Private Open Space

400 square feet per unit

General Notes

Water Pollution Control Plant Notice

Pursuant to part 2.75 of chapter 15.12 of the San José 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 José – Santa Clara water plant will cause the total sewage treatment demand to meet or exceed the capacity of the San José – Santa Clara water pollution control plant to treat such sewage adequately and within the

discharge standards imposed on the city by the state of California regional water control board for the San Francisco Bay region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.

Street Trees

The Public right-of-way shall be planted with street trees as directed by the City Arborist.

Private Infrastructure Standards

Private Infrastructure standards will meet or exceed Public Improvement standards.

Post-Construction Storm Water Treatment Controls

The city's national pollutant discharge system (NPDES) permit compliance requires this project to incorporate post-construction mitigation measures to control the discharge of pollutants into the storm drainage system to the maximum extent practical. Planned development permit plans for this project shall include design details of all post construction storm water treatment controls proposed for the project to the satisfaction of the director of planning.

Park Impact Fees & Parkland Dedication Ordinance

The applicant shall comply with the requirements of the Park Impact Ordinances, pursuant to Ordinance 24172 (Chapter 14.25 of Title 14 of the San José, Municipal Code) and the project shall comply with the Parkland Dedication Ordinance.

Standard Environmental Measures

Air Quality

The following construction practices shall be implemented during all phases of construction for the proposed project to prevent visible dust emissions from leaving the site.

- 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 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; and
- Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.

Cultural Resources

Should evidence of prehistoric cultural resources be discovered during construction, work within 50 feet of the find shall be stopped to allow adequate time for evaluation and mitigation by a qualified professional archaeologist. The material shall be evaluated and if significant, a mitigation program including collection and analysis of the materials at a recognized storage facility shall be developed and implemented under the direction of the City's Environmental Principal Planner.

As required by County ordinance, this project has incorporated the following guidelines. - 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.

Geology and Soils

- The proposed structures on the site would 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 on the site.
- A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report).

Hydrology and Water Quality

Implementation of the following measures, consistent with NPDES Permit and City Policy requirements, will reduce potential construction impacts to surface water quality to less than significant levels:

Construction Measures

- Prior to the commencement of any clearing, grading or excavation, the project shall comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit, to the satisfaction of the Director of Public Works, as follows:
 1. The applicant shall develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities;
 2. The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB).

- The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay*. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, 200 E. Santa Clara Street, San José, California 95113. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES Permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 535-8300.
- The project applicant 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 requirements for keeping adjacent streets free of dirt and mud during construction. The following specific BMPs will be implemented to prevent stormwater pollution and minimize potential sedimentation during construction:
 1. Utilize on-site sediment control BMPs to retain sediment on the project site;
 2. Utilize stabilized construction entrances and/or wash racks;
 3. Implement damp street sweeping;
 4. Provide temporary cover of disturbed surfaces to help control erosion during construction;
 5. Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

Post-Construction Measures

- Prior to the issuance of a Planned Development Permit, the applicant must provide details of specific Best Management Practices (BMPs), including, but not limited to, bioswales, disconnected downspouts, landscaping to reduce impervious surface area, and inlets stenciled "No Dumping – Flows to Bay" to the satisfaction of the Director of Planning, Building and Code Enforcement.
- The project shall comply with Provision C.3 of NPDES permit Number CAS0299718, which provides enhanced performance standards for the management of stormwater of new development.
- The project shall comply with applicable provisions of the following City Policies – 1) Post-Construction Urban Runoff Management Policy (6-29) which establishes guidelines and minimum BMPs for specific land uses and 2) Post-Construction Hydromodification Management Policy (8-14) which provides for numerically sized (or hydraulically sized) TCMs.

Noise

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

- The contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components.
- Locate stationary noise generating equipment as far as possible from sensitive receptors. Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.

Public Services and Recreation

- In accordance with California Government Code Section 65996, the developer shall pay a school impact fee, to the School District, to offset the increased demands on school facilities caused by the proposed project.
- The project shall conform to the City's *Park Impact Ordinance (PIO)* and *Parkland Dedication Ordinance (PDO)* (Municipal Code Chapter 19.38).

STATEMENT OF EXEMPTION

FILE NO. PDC08-018

LOCATION OF PROPERTY west side of N. 4th Street approximately 230 feet north of E. St. James Street (237 North 4th Street)

PROJECT DESCRIPTION Planned Development Rezoning from CG Commercial General Zoning District to A(PD) Planned Development Zoning District for construction of two live/work units and subsequent permits on a 0.08 gross acre site.

ASSESSOR'S PARCEL NUMBER 467-01-034

CERTIFICATION

Under the provisions of Section 15303(b) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

15303. New Construction or Conversion of Small Structures

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include; but are not limited to:

- (b) A duplex or similar multi-family residential structure, totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Date May 16, 2008


Deputy

Project Manager: Lycinia McMorro

(Rev. 4/11/07)



Memorandum

TO: Licinia McMorrow
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

SUBJECT: FINAL RESPONSE TO
DEVELOPMENT APPLICATION

DATE: 05/14/08

PLANNING NO.: PDC08-018
DESCRIPTION: Planned Development Rezoning from CG Commercial General Zoning District to A(PD) Planned Development Zoning District for construction of two live/work units on a 0.08 gross acre site
LOCATION: west side of N. 4th Street approximately 230 feet north of E. St. James Street
P.W. NUMBER: 3-16933

Public Works received the subject project on 05/06/08 and submits the following comments and requirements.

Project Conditions:

Public Works Clearance for Building Permit(s) or Map Approval: Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, 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.

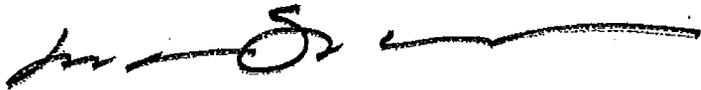
1. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
2. **Grading/Geology:**
 - a) A grading permit may be required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - b) The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be

consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.

3. **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.
4. **Flood: Zone D**
The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D.
5. **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.
6. **Parks:** In accordance with the Parkland Dedication and Park Impact Ordinances (SJMC 19.38/14.25), the park impact fee will be due for any additional living units that are built.
7. **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 and gutter along project frontage.
 - c) Construct 12' sidewalk along project frontage per the San Jose Downtown Streetscape Master Plan.
 - d) Relocate existing water meter. Coordinate with San Jose Water Company.
 - e) Remove/relocate existing parking meter. Coordinate with the Department of Transportation.
 - 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.
8. **Complexity Surcharge:** 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.
9. **Sanitary:**
 - a) Submit a conceptive sanitary sewer plan at the PD permit stage.
 - b) The project is required to submit plan and profile of the private sewer mains with lateral locations for final review and comment prior to construction.

10. **Storm:** Eliminate the area drain connection between the two lots or provide Private Storm Drainage Easement (PSDE) over the piping system of both lots.
11. **Greater Downtown Area Masterplans:** This project is located within the Greater Downtown area. Public improvements shall conform to the Council approved San Jose Downtown Streetscape and Street and Pedestrian Lighting Master Plans.
12. **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) To assist the Applicant in better understanding the potential cost implications resulting from these requirements, the electroliers along the project frontage can be evaluated during the Planning permit review stage. The Applicant will be required to submit a plan and the applicable fees to the PW Project Engineer for processing. The plan should show all project frontages and property lines. Evaluation will require approximately 15 working days.
13. **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 cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings.

Please contact the Project Engineer, Vivian Tom, at (408) 535-6819 if you have any questions.



Ebrahim Sohrabi
Senior Civil Engineer
Transportation and Development Services Division