



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: May 30, 2008

COUNCIL DISTRICT: 4

SNI AREA: N/A

SUBJECT: PDC07-042. PLANNED DEVELOPMENT REZONING FROM A(PD) PLANNED DEVELOPMENT TO THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW COMMERCIAL AND INDUSTRIAL (OFFICE, RETAIL, RESTAURANT, AND WAREHOUSE) USES ON A 4.01 ACRES ON THE SOUTH SIDE OF MURPHY AVENUE 400 FEET EASTERLY OF OLD OAKLAND ROAD.

RECOMMENDATION

The Planning Commission voted 6-0-1, Commissioner Zito absent, to recommend that the City Council approve the proposed Planned Development Rezoning from A(PD) Planned Development to the A(PD) Planned Development Zoning District to allow commercial and industrial (office, retail restaurant and warehouse) uses on a 4.01 gross acre site.

OUTCOME

Should the City Council approve the Planned Development Rezoning, the allowed uses for the existing industrial building would expanded to allow a greater variety of potential uses as described above with the approval of a subsequent Planned Development Permit.

BACKGROUND

On May 28, 2008, the Planning Commission held a public hearing to consider the proposed Planned Development Rezoning. The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning. The applicant was not present. Five area residents spoke regarding the proposal and cited on-going concerns about the site's past use with a banquet hall facility. They stated that the operator had continuously ignored permit requirements, and that late night noise issues from loud music had been a recurring problem. Staff noted that the proposed list of allowed uses in the draft Development Standards would not permit a banquet hall, and in fact, expressly prohibits banquet halls, private clubs, entertainment establishments or any other similar uses. In response to strong neighborhood testimony regarding the past noise impacts, the Commissioners asked staff and the City Attorney to explain potential options for providing standards in the rezoning which would promote more neighborhood-compatible uses on the site in the future, including limits on noise levels, and which would be easily enforceable.

Staff explained that a set of related conditions would be more likely to be effective than providing a limit on the noise levels, as such a limit can be hard to enforce. Staff noted that the proposed rezoning provides for a mixture of industrial, office and commercial/retail uses, but that the retail uses would be limited to 14,000 square feet of the 53,000 square foot building. In response to Commissioners Kalra and Jensen's expressed concerns over the potential for a 14,000 square foot restaurant, staff explained that there is insufficient on-site parking to accommodate a restaurant of that size, but that smaller restaurants in general would be less likely to have congregation and noise issues as associated with past operation of a large banquet facility. In response to Commissioner Kalra's question about a specific project condition which could be added to the Development Standards to better avoid impacts on the adjacent neighborhood, staff suggested a possible limit on the size of individual restaurants, and proposed 100 seats as the criterion, and in further discussion with Commission Jensen, also included removal of the outdoor patio area on the side of the building nearest to single-family residential, and closure of retail and restaurant uses (non-industrial) uses by 10 p.m. Commissioner Jensen moved approval of the rezoning and the revised staff recommendation, including:

- 1) The maximum seating for any restaurant tenant is 100 seats.
- 2) The existing rear patio shall be removed.
- 3) All non-industrial uses shall be limited to the hours of 6:00 a.m. to 10:00 p.m.

The Planning Commission then voted 6-0-1, Commissioner Zito absent, to approve the project as recommended by staff.

ANALYSIS

An analysis of General Plan conformance and consistency with the Commercial Design Guidelines is contained in the attached staff report.

EVALUATION AND FOLLOW-UP

The applicant will be required to secure a Planned Development Permit from the Planning Director in order to implement the subject rezoning.

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)**

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- 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.

Signs describing the project have been displayed at the project site on all street frontages. 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. The Planning Commission's agenda is posted on the City of San José's website along with this staff report. Staff has been available to respond to questions from the public. No comments or correspondence by the public have been received.

COORDINATION

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

FISCAL/POLICY ALIGNMENT

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

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

CEQA: Exempt, PDC07-042


for JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Mike Enderby at 408-535-7843.