



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** January 29, 2009

**COUNCIL DISTRICT:** 9  
**SNI AREA:** N/A

**SUBJECT: PDC08-037. PLANNED DEVELOPMENT ZONING FROM A(PD) TO A(PD) PLANNED DEVELOPMENT AND PLANNED DEVELOPMENT PERMIT PD08-062 TO ALLOW A HOTEL WITH 22 ADDITIONAL ROOMS FOR A TOTAL OF UP TO 322 ROOMS, AND A 40% REDUCTION IN THE REQUIRED ON-SITE PARKING ON A 3.2 GROSS ACRE SITE LOCATED ON THE SOUTHWEST CORNER OF NORTH FIRST STREET AND SKYPORT DRIVE.**

## RECOMMENDATION

The Planning Commission voted 6-0-0-1 (Cahan abstained), to recommend that the City Council approve the proposed rezoning from A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow a hotel with 22 additional rooms for a total of up to 322 rooms, and a 40% reduction in the required on-site parking on a 3.2 gross acre site. The Commission also recommended the City Council approve the associated Planned Development permit, with an additional condition that the hotel provide shuttle service for hotel guests to businesses within five miles, and to strongly encourage green building practices, 6-0-0-1 (Cahan abstained).

## OUTCOME

Should the City Council approve the Planned Development Rezoning and Planned Development Permit, the applicant would be able to obtain building permits for the proposed project and support the City's economic development goals as described above.

## BACKGROUND

On January 28, 2009, the Planning Commission held a public hearing to consider the proposed Planned Development Rezoning and Planned Development permit. The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning and permit. Staff made a brief presentation and indicated that draft Development Standards had been prepared and circulated to the Commission (see attached).

Dan Sell of Barry Swenson Builders spoke on behalf of the applicant, and explained the project and the target market, as an airport-oriented hotel with the light rail available nearby. No one from the public spoke in favor of or in opposition to the proposal.

Commissioner Do asked the applicant if the project could be built to be more green, incorporating sustainable building practices, or installing solar power generation. The applicant answered that those construction methods were not part of the applicant's program, and that the plans are already in plan check for building permits.

Chairman Zito asked if the applicant would be amenable to a condition to provide shuttle service for hotel guests to businesses within five miles of the hotel in addition to the airport to minimize the need for guests to rent and store cars on site. The applicant agreed to the proposed condition which is included in the Planning Commission recommendation.

Commissioner Do asked if the project was subject to the green building policy. The Director of Planning indicated that the green building policy was not in effect at the time of application of this project and therefore did not apply, although the applicant could voluntarily work to incorporate some green principles.

The Commission then closed the public hearing.

Commissioner Campos made a motion to recommend that the City Council approve the project, and strongly recommended that green building practices be incorporated into the project, and proposed adding the condition for a shuttle to the airport and businesses within five miles for hotel guests.

Commissioners Kamkar and Jensen both indicated support for using the Green Building Policy for the project, but it was not recommended as a condition.

The Planning Commission then voted 6-0-0-1 (Commissioner Cahan abstaining) to approve the project as recommended by staff.

## **ANALYSIS**

The proposed rezoning and Planned Development permit for a 322 room hotel will allow construction of a much needed airport-supporting pair of hotels, and support the economic development goals of the City in difficult economic times. A full analysis of the project, the level of reduced parking proposed and the treatment of the project interface with the First Street and Skyport Drive frontages is contained in the attached staff report.

## **EVALUATION AND FOLLOW-UP**

The applicant will be required to secure building permits from the Building Division to construct the proposed hotel. The applicant commented the building plans are already in the building department for plan check.

### **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 community meeting was held for the project on September 4, 2008 at the Bold Knight Bistro. The noticing radius was 500 feet to property owners and residents. Some residents expressed concern about the proposed landscape treatment of the public right-of-way along the First and Skyport frontages. Staff indicated the building setbacks would be maintained with a more urban character on First Street.

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. A notice for the Planned Development Rezoning was also published in a local newspaper, the Post Record. This staff report has been posted on the City's website. Staff has been available to respond to questions from the public.

### **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, and provides for construction of a hotel project that will support the airport and the City's economic development goals.

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**COST SUMMARY/IMPLICATIONS**

Not applicable.

**BUDGET REFERENCE**

Not applicable.

**CEQA**

CEQA: Resolution No. 72768, and addenda thereto.

  
 JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact John Davidson at 535-7895.

## PDC08-037 Draft Development Standards 1/27/09

Allowed Use: Hotel, up to 322 guest rooms

Development Standard	Requirement
Building Height	Up to 120'
Building Setback – N. First Street	27' from face of curb
Building Setback – Skyport Drive	33' from face of curb
Interior setbacks	0' from property line
Required parking	195 spaces for 322 guest rooms, or 0.61 spaces per guest room
Required loading	1 space

### ENVIRONMENTAL MITIGATION PDC08-037 & PD08-062

#### **Air Quality - Regional and Local Air Quality**

The project shall implement measures identified by BAAQMD to reduce long-term contributions to regional and local emissions, which may include, but are not limited to, the following:

- Providing secure and conveniently placed bicycle parking and storage facilities at parks and other facilities;
- Using electric lawn and garden equipment for landscaping maintenance;
- Constructing transit amenities such as bus turnouts/bus bulbs, benches, and shelters;
- Providing direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development; and
- Utilizing reflective (or high albedo) and emissive roofs and light colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand.

#### **Air Quality – Construction-Related Impacts**

- Water all active construction areas at least twice daily.
- Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites.
- Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.

- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.

**Biology – Tree Removal**

- The proposed project shall replace trees removed at the following ratios:

<b>Table 4.0-1 City Standard Tree Replacement Requirements</b>			
<b>Diameter of Tree to be Removed</b>	<b>Native</b>	<b>Non-Native</b>	<b>Minimum Size of Each Replacement Tree</b>
18 inches or greater	5:1	4:1	24-inch box
12 – 18 inches	3:1	2:1	24-inch box
Less than 12 inches	1:1	1:1	15-gallon container
Notes: X:X = Tree replacement to tree loss ratio Trees greater than 18-inches in diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.			

- The species and exact number of trees to be planted on the site will be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.
- Replacement trees are to be above and beyond standard landscaping; required street trees do no count as replacement trees.
- In the event that 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, prior to removal of the subject trees:
  - 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 neighborhood streets, local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.
  - A donation of \$300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Planning Project Manager prior to removal of the subject trees.

## **Biology – Tree Protection**

- The project proponent shall retain an ISA (International Society of Arboriculture)-certified 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 6 ft. 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 ISA.
- **During Construction**
  - No grading, construction, demolition or other work shall occur within the TREE PROTECTION ZONE. Any modifications must be approved and monitored by the consulting arborist.
  - Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.
  - Supplemental irrigation shall be applied as determined by the consulting arborist.
  - If injury should occur to any tree during construction, it shall be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied.
  - No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the TREE PROTECTION ZONE.
  - Any additional tree pruning needed for clearance during construction must be performed or supervised by the consulting arborist and not by construction personnel.
  - 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 – Prehistoric Resources**

- 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 reinter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

- In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius of the find 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.
- A final report shall be submitted to the City's Environmental Principal Planner when mitigation is completed. 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 – On-site Soils**

- The buildings would be designed and constructed in accordance with the design-level geotechnical investigation prepared for the project site, which identifies the specific design features that will be required, 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 Geologist prior to issuance of a grading permit or Public Works Clearance for the project.
- Standard grading and best management practices will be implemented to prevent substantial erosion and siltation during development of the site.
- To provide a more uniform bearing surface for at-grade buildings and other at-grade improvements, any undocumented fill will be removed and replaced by engineered fill.
- Backfill material that is undocumented will be removed and replaced by engineered fill. Some of the excavation backfill material extends below the design ground water depth of seven feet. Excavations will go approximately two feet below the ground surface level. The contractor shall use dewatering equipment during removal of the previous backfill and use construction basic fabric and crushed rock to stabilize the bottom of excavations extending near or below the ground water level.
- The project shall comply with the construction and design recommendations for earthwork, foundations, concrete slabs and pedestrian pavements, vehicular pavements, and conventional retaining walls that are provided in the geotechnical report for the project.

### **Geology and Soils – Seismicity and Seismic Hazards**

- The 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 on the site.

### **Geology and Soils – Groundwater**

- Contractors should be made aware of the moisture sensitivity of the underlying soils that can result in subgrade instability, temporary construction dewatering, and/or potential compaction difficulties. If the subgrade becomes unstable during grading or trench excavations, additional stabilization techniques may be required prior to

fill placement and/or compaction. Subgrade stabilization techniques may include the use of geotechnical stabilization fabric or grid, crushed rock, or chemical treatment. Evaluation of conditions in the field at the time of construction would determine the type, level and extent of mitigation alternatives required. Excavated materials being reused for fill will likely require additional drying out or blending with dryer material prior to reuse

#### **Hazards and Hazardous Materials – Former Underground Storage Tanks**

- A Site Management Plan (SMP) will be prepared to establish management practices for handling impacted soil and/or fill material that may be encountered during site development and/or future soil-disturbing activities. Components of the SMP will include: a detailed discussion of the site background; preparation of a health and safety plan by an industrial hygienist; notification procedures if previously undiscovered structures, significantly impacted soil, or free fuel product is encountered during construction; sampling and laboratory analyses of excess soil requiring disposal at an appropriate waste disposal facility; soil stockpiling protocols; and protocols to manage ground water that may be encountered during trenching and/or subsurface excavation activities. The SMP will also include protocols for the excavation and appropriate on-site or off-site disposition of pesticide and metal-impacted fill material encountered in the area of test pits TP-3 and TP-11. The SMPs will be submitted to the Planning Department for review and approval prior to issuance of grading permits. In addition, prior to site development, a copy of the SMP will be forwarded to the Santa Clara County Environmental Health Department.

#### **Hazards and Hazardous Materials – Hydraulic Lifts**

- If a hydraulic lift or other subsurface equipment is encountered during site development activities, the equipment will require special handling and disposal. The SMP will describe protocols to be performed if such equipment is discovered during construction, including notification, field oversight by an environmental consultant, appropriate removal procedures, and verification sampling.

#### **Hazards and Hazardous Materials – Asbestos**

- Any asbestos-impacted fill material off-hauled will be disposed at an appropriately licensed off-site waste disposal facility. Prior to disturbing such material, an asbestos and dust mitigation plan (ADMP) will be prepared and submitted to the Bay Area Air Quality Management District (BAAQMD) for their review and approval. The provisions of the approved ADMP will be implemented at the beginning and maintained throughout the duration of site development. The ADMP will include track-out prevention and control measures, controls for disturbed surface areas and storage piles, on-site controls for earth moving activities, and controls for off-site transport. The ADMP may also include air monitoring if required by the BAAQMD.

### **Hydrology and Water Quality – Flooding**

- The finished floor of structures shall be located one foot above (43.5 feet) the highest existing curb on the site (42.5 feet) to avoid 100-year storm flood levels of one to two feet.

### **Hydrology and Water Quality – Water Quality Construction**

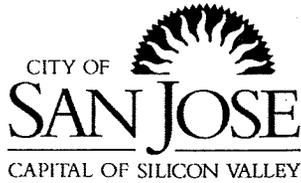
- Comply with the SCVURPPP NPDES General Construction Activity Stormwater Permit issued to the City of San José and other co-permittees of the SCVURPPP, and shall include measures to control pollutants discharged into the stormwater system. Future activities that require a permit from the City of San José will be evaluated for BMPs including, but not limited to the following:
  - Preclude non-stormwater discharges to the stormwater system.
  - Incorporate effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
  - Cover soil, equipment, and supplies that could contribute pollution prior to rainfall events or monitor runoff.
  - Perform monitoring of discharges to the stormwater system.
  - The project will comply with the City's Grading Ordinance.

### **Noise – Short-term Construction Impacts**

- Construction-related activities shall be limited to the hours of 7 AM to 6 PM Monday through Friday and 8 AM to 5 PM. 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 to adjacent uses.
- Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Locate stationary noise generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- 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 facilities so that construction activities can be scheduled to minimize noise disturbance.
- Designate a “disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

### **Noise – Interior Noise**

- Per the requirements of the 2007 California Building Code, project-design-specific acoustical analyses will be conducted to confirm that interior noise levels will be reduced to 45 dBA DNL or lower. The specific determination of what noise insulation treatments are necessary will be made 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.
- Building sound insulation requirements will include the provision of forced-air mechanical ventilation for units proposed in noise environments exceeding 60 dBA DNL, so that windows could be kept closed at the occupants' discretion to control noise.
- If required based on the acoustical analysis, special building techniques (e.g., sound-rated windows and building facade treatments) will be included to maintain interior noise levels at or below acceptable levels. These treatments would include, but are not limited to, sound rated windows and doors, sound rated wall constructions, acoustical caulking, protected ventilation openings, etc. Preliminary calculations indicate that hotel rooms nearest North First Street would require sound rated windows and doors with ratings ranging from STC 35-38 to assure that the 45 dBA DNL indoor standard is met. Rooms nearest Skyport Drive would likely require sound rated windows and doors with ratings ranging from STC 32-35.



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** January 20, 2009

**COUNCIL DISTRICT:** 3  
**SNI:** None

## T R A N S M I T T A L M E M O

The projects being considered are located on a 3.21 gross acre site, located at/on the Southwest corner of N. First Street and Skyport Drive (Green Valley Corp, Owner). Council District 3. SNI: None. CEQA: North San Jose EIR Resolution No. 72628, and Addenda thereto.

1. PDC08-037. Planned Development Rezoning from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow 22 additional hotel rooms to a previous approved project for a total of up to 321 hotel rooms.
2. PD08-062. Planned Development Permit to construct a 215,828 square foot 321-room hotel.

The Planning Commission will hear this project on January 28, 2009. The memorandum with Planning Commission recommendations will be submitted under different cover. We hope the submittal of this staff report is of assistance in your review of this project.

  
JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions please contact Darryl Boyd at (408) 535-7800.