



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** April 13, 2009

**COUNCIL DISTRICT:** 8  
**SNI AREA:** N/A

**SUBJECT: PDC09-008. PLANNED DEVELOPMENT REZONING FROM THE R-1-8 RESIDENTIAL ZONING DISTRICT TO THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO 19 SINGLE-FAMILY DETACHED RESIDENCES OR UP TO 14 SINGLE-FAMILY DETACHED RESIDENCES ADJACENT TO A POSSIBLE FUTURE NEW FIRE STATION ON A 3.21 GROSS ACRES SITE. (NOTE: THIS SITE IS ONE OF SEVERAL LOCATIONS BEING CONSIDERED FOR A POSSIBLE NEW FIRE STATION).**

## RECOMMENDATION

The Planning Commission voted 7-0 to recommend that the City Council approve the Planned Development Zoning from R-1-8 Single Family Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to 19 single-family residents or up to 14 single-family residences adjacent to a possible future fire station on a 3.21 gross acres site, with development standards as proposed by staff and to consider the creation of through vehicular and pedestrian access from the new street of the proposed project to Flintcrest Drive.

## OUTCOME

Should the City Council approve the Planned Development Rezoning, up to 19 single-family detached residences may be built on the subject 3.21 gross acre site, consistent with the development standards for the subject rezoning. This future development would be subject to a Planned Development Permit.

## BACKGROUND

On April 8, 2009, the Planning Commission held a public hearing to consider the proposed Planned Development Rezoning. Staff explained minor modifications to the proposed development standards regarding architecture, setback encroachments, flood elevation requirements, and the prohibition of structures and deep-rooted trees within the easement held by the Santa Clara Valley Water District (SCVWD).

April 13, 2009

Subject: PDC09-008

Page 2

The applicant, Reyad Katwan, was available to answer questions from the Commissioners. Bonnie Mace, a member of public, spoke in favor of the project. However, Ms. Mace did express concerns regarding the setbacks of the fire station to the existing residences (recommended that the living quarters be closer to the north end of the project and the hoses be located closer to the south end of the project), prefers a 20' setback to the existing residential properties, the pipes in the Water District easement need to be protected, and the project needs to interface well with South White Road.

Commissioners Zito, Jansen and Kamkar inquired about the pipes in the SCVWD easement, whether those pipes could be relocated or not, and the clearance of future sewer lines. Mr. Katwan responded that the pipes are not proposed to be relocated but the SCVWD could relocate the pipes to any part of the easement, and there is enough grade change on the site for the sewer lines to not have to cross the Water District Pipes.

Commissioners Jensen, Zito, Cahan and Do recommended that the new street be connected through to the existing Flintcrest Drive cul-de-sac, in order to improve the pedestrian-friendliness of the larger neighborhood. The applicant explained the necessary adjacent property is privately owned, how he had contacted the two separate property owners about the creation of a through-street, to which they were not supportive and would not voluntarily participate in any transactions to sell their private property to allow through traffic in front of their homes. Staff explained that during the Planned Development Permit stage Planning staff could work with Public Works, the private property owners and the developer to explore creation of a pedestrian thoroughfare, although staff is not optimistic there will be public support for such access.

Commissioner Zito asked how the project conforms to the Evergreen-East Hills Development Policy (EEHDP). Staff responded that this project is the first to come to Planning Commission and City Council since the approval of the EEHDP. As required by the EEHDP, the applicant will pay approximately \$13,000 per unit that will go towards traffic improvements within the vicinity of the project.

Commissioner Zito also inquired to the status of the fire station. Neil Stone, from the Public Works Real Estate Division, explained that the site was in the CEQA review process. Once the CEQA clearance is completed, then City Council can make a decision to locate a fire station at this site or not. Mr. Stone went on to say that the site is one of three being considered for a fire station in the vicinity.

Geoff Cady, an Administrative Officer for the Fire Department, stated that if the new street was connected through to Flintcrest Drive, the additional traffic would cause navigational challenges for the fire trucks and any truck would have to exit the station onto South White Road anyway. However, the Fire Department would have no objections to an Emergency Vehicle Access (in lieu of a public street) that would connect the two cul-de-sacs. Mr. Stone added that any such inclusion of easements into the real estate transactions would cause an overall delay to the City acquiring a portion of the site for a fire station, should the City Council select that location.

The Planning Commission made the motion to recommend that the City Council approve the Planned Development Zoning from R-1-8 Single Family Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to 19 single-family residents or up to 14

single-family residences adjacent to a possible future fire station on a 3.21 gross acres site, with development standards as proposed by staff and to consider the creation of through vehicular and pedestrian access from the new street of the proposed project to Flintcrest Drive.

### ANALYSIS

The proposed project, as recommended by staff, conforms to the General Plan land use designation for the site. See original staff report for additional discussion.

### EVALUATION AND FOLLOW-UP

Should the rezoning be approved by the City Council, the applicant will be required to secure a Planned Development Permit from the Planning Director in order to implement the subject rezoning.

### POLICY ALTERNATIVES

Denial of the subject rezoning would mean that the existing zoning, R-1-8 Single-Family Residence, would remain. This would allow subdivision of the subject property and construction of three single-family detached residences on approximately 1.01 acre lots.

### 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 on Tuesday, March 3, 2009, and attended by approximately 9 residents. Comments stated by the community members in attendance included: concerns about privacy impacts, concerns that the existing neighborhood is mostly single-story while the proposed development is two stories, ranch-style architecture desired to fit development into neighborhood, high quality development requested, air flow to northern neighbor may be impacted, and locations of new street lights and fire hydrants.

HONORABLE MAYOR AND CITY COUNCIL

April 13, 2009

Subject: PDC09-008

Page 4

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.

### **COORDINATION**

This project was coordinated with the Department of Public Works, Fire 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: MND (Mitigated Negative Declaration)

  
for JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact Avril Baty at 408-535-7800.

## PDC09-008 General Development Plan Notes

(As recommended by Planning Commission)

### Development Standards

Permitted Uses:	Permitted uses shall be up to 19 single-family detached residential units (total) and those permitted uses of the R-1-8 Single-Family Residence Zoning District, as amended. Net density shall not exceed 8.0 dwelling units per acre. Conditional and Special uses of the R-1-8 Single-Family Residence Zoning District are allowed with the issuance of a Planned Development Permit.
Maximum Building Height:	30 feet and two (2) stories, as defined in the Zoning Ordinance, as amended.
Minimum Lot Size:	3,500 square feet
Parking Requirements:	(2) covered spaces per unit.
Setbacks:	
Front Setback:	15 feet
Side Setback:	4 feet
Corner Side Setback:	8 feet
Rear Setback:	15 feet / 20 feet (2 <sup>nd</sup> floor along northern and eastern property line of overall Planned Development Zoning site)

**Architectural Standards:** Architecture of any proposed structure shall be compatible with the existing neighborhood.

**Stairs and Porches:** Unenclosed porches and stairways, may extend into a setback area not more than six (6) feet. Porches and stairs can be covered.

**Minor Architectural Projections:** Minor architectural projections such as, but not limited to, fireplaces, bump-outs, tankless water heaters, 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, whichever is greater, provided that such extensions maintain a minimum side setback of three feet.

**Accessory Structures & Buildings:** Retaining walls shall not exceed two (2) feet in height from grade to top of wall. All other accessory structures and buildings shall meet the requirements of the Zoning Ordinance Section 20.30.500, as amended.

**Fencing:** All fencing and gates on the subject site shall not exceed three (3) feet in height within any front setback area. Adjacent to a street, the fence height shall be a maximum of three (3) feet within three (3) feet of property line. All other fencing shall not exceed seven (7) feet in height.

**Water Pollution Control Plant:** 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 plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose – 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.

**Archaeology:** 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.

**Parkland Dedication Ordinance:** The project shall conform to the requirements of the Parkland Dedication Ordinance.

**Public Off-Site Improvements:** All public off-site improvements shall be implemented to the satisfaction of the Director of Public Works. Prior to the issuance of building permit(s), the applicant shall be required to obtain a Public Works clearance. Said clearance will require the execution of a Construction Agreement that guarantees the completion of the public improvements.

**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 shall meet the numeric sizing design criteria specified in City Policy 6-29.

**Environmental Mitigation Measures:** The following mitigation measures are required to reduce potentially significant effects to a less than significant level.

1. Hydrology and Water Quality:

- a. Prior to the issuance of a Building Permits, the applicant shall obtain an Elevation Certificate (FEMA Form 81-31) for each proposed structure within the AH flood zone, based on construction drawings, prior to issuance of building permits; and an Elevation Certificate based on finished construction is required for each built structure prior to issuance of an occupancy permit.
- b. Elevate the lowest floor above 134.00' NAVD88, or 131.00' NGVD29.
- c. Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or otherwise protected from flood damage.

2. Transportation and Traffic:

- a. This project is within the Evergreen Development Policy area has no existing allocation. Therefore, Traffic Impact Fee payment shall be required for the proposed residential units. The 2008 residential Traffic Impact fee is \$13,214 for each proposed unit. This

fee is subject to annual increase per the Construction Cost Index published by the Engineering News Record (ENR).

3. Utilities and Service Systems:

- a. Structures shall not be built on, deep rooted shrubs and trees shall not be planted within with Santa Clara Valley Water District easement, and that a Homeowner's Association and/or Conditions, Covenants and Restrictions shall be required to enforce these requirements.
- b. At the Grading Permit stage, the applicant's engineer shall verify that there is adequate protection of the pipes within the Water District's easement.

## Baty, Avril

---

**From:** Carol [mblues@bashman.com]  
**Sent:** Thursday, April 09, 2009 9:32 PM  
**To:** Baty, Avril  
**Cc:** bill@bashman.com; Prevetti, Laurel  
**Subject:** PDC09-008, homes/fire station on White Road

Avril,

While watching the proposal for PDC09-008 before the Planning Commission last night, we was dismayed about the discussion for making the cul-de-sac at the back of the property go through to the homes on the other side of the property. As you may know, we live in this area, next to the former golf course/current cow pasture. This impacts the privacy of more than just the people who live directly next to the property line, but rather the homes all along the streets. A street change would bring more traffic into an area where there are already many cul-de-sacs.

The fact that this would be a detriment to the proposed fire station should be enough to discontinue this possibility. We really want to see the fire station get there as soon as possible, and this would only delay things. We would not be in favor of this change to the proposed project.

Carol Ashman

"Meanwhile and far away, when the day is done"  
Justin Hayward, Moody Blues  
<mblues@bashman.com>