



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: September 24, 2009

COUNCIL DISTRICT: 4
SNI AREA: N/A

SUBJECT: File No. PDC09-006, Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow (1) the addition of a gas station as a permitted use in the North Village Commercial area; (2) the projects participation in the amended US-101/Oakland/Mabury Transportation Development Policy; and (3) single-family detached dwellings in the North Village Neighborhood (N3a) as a permitted use, on a 120.4 gross acre site located on both sides of Berryessa Road just west of Union Pacific Railroad tracks and east of Coyote Creek (Flea Market).

RECOMMENDATION

The Planning Commission voted 5-1-1 (Commissioner Do Opposed, Commissioner Platten absent) to recommend that the City Council approve the Planned Development Rezoning to allow (1) adding a gas station as a permitted use in the North Village Commercial area; (2) allowing the project to participate in the amended US-101/Oakland/Mabury Transportation Development Policy; and (3) allowing additional single-family detached dwellings in the North Village Neighborhood (N3a), on a 120.4 gross acre site located on both sides of Berryessa Road just west of Union Pacific Railroad tracks and east of Coyote Creek (Flea Market).

OUTCOME

Should the City Council approve the Planned Development Rezoning, the applicant would be able to move forward with a Planned Development Permit and subsequent building permits to allow for the construction of single-family detached residential units on the subject site, a gas station, and language will be added to the Mitigation Program that will allow for the Flea Market development project to participate in an amended US-101/Oakland/Mabury Transportation Development Policy to satisfy the projects traffic impact mitigation.

BACKGROUND

On September 23, 2009, 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 Planned Development Rezoning with the staff alternative,

which includes: (1) adding a gas station as a permitted use in the North Village Commercial area; (2) allowing the project to participate in the amended US-101/Oakland/Mabury Transportation Development Policy; and (3) not allowing additional single-family detached dwellings. The project was on the evening's public hearing calendar.

Planning staff made the following comments regarding the project:

- The proposed Planned Development Rezoning is focused on three specific changes. Staff, nor the applicant, is proposing to change anything else from the original Planned Development Zoning.
- Planning staff recommends approval of the addition of a gas station use with no incidental service or repair because it is consistent with the intent of the North Village Commercial area which is to provide for a full grocery retail center and compatible uses serving a community-wide need.
- Planning staff also recommends approval of the of the projects participation in an amended US-101/Oakland/Mabury Transportation Development Policy to satisfy the projects traffic impact mitigation, because it will allow near term commercial development to occur and allow the City the flexibility to prioritize interchange funding as part of the development requirements.
- Planning staff does not recommend approval for the allowance of additional single-family detached units within the project. This site is a prime opportunity for intensification of residential uses. The subject site is located within a BART Station Area Node and within a proposed Transit-Oriented Village as contemplated under the Envision San Jose 2040 General Plan Update process. Allowing a single-family detached, residential project as proposed by the applicant, conflicts with the intent and spirit of these areas and will guarantee that any development will be at the low end of the minimum density range. The applicant currently has a Planned Development Permit on file to allow for a single-family detached development at a density of 24 to 33 dwelling units per acre. The minimum density for the site is 20 + dwelling units per acre.

The applicant, Erik Schoennauer, then spoke on the item and added that in order to make their project financially feasible, they need single-family detached units to secure a commercial tenant, which will in turn pay for the required infrastructure improvements. They are not asking to allow single-family detached on the whole site, but just on four blocks.

There were no speakers from the public on the proposed project. The Planning Commission then closed the public hearing and discussed the item. Commissioner Zito made a motion to approve the Planned Development Rezoning per the applicant's request to allow for the addition of (1) a gas station as a permitted use in the North Village Commercial area; (2) the projects participation in the amended US-101/Oakland/Mabury Transportation Development Policy; and (3) additional single-family detached dwellings in the North Village Neighborhood (N3a).

Commissioner Zito commented on the motion by stating that during these tough economic times there is an argument for more variability in product types, the proposal has no design flaws and the change in the number of units between an attached product and a detached product would be minimum.

Commissioner Cahan also commented on the motion and stated that she liked the variability and "air flow" between the units. Commissioner Kamkar added that he believed the single-family detached product would jump start construction of the site. Commissioner Jensen likes the urban character of the detached product and believes the applicant is committed to delivering a project with that urban character and that it would also still meet the minimum density requirements. Commissioner Do commented that he was opposed to the request for the allowance of single-family detached units because this site is a rare opportunity to have impact on Transit Oriented Development and he supports staff's insistence on the highest density possible.

The motion was approved 5 -1-1 (Commissioner Do opposed, Commissioner Platten absent).

ANALYSIS

A complete analysis of the issues regarding this project, including General Plan conformance, is contained in the attached staff report.

EVALUATION AND FOLLOW-UP

The applicant would be required to file subsequent development permits with the Planning Division in order to implement the project on the subject site.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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 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.

On July 7, 2009, a community meeting was held at the Flea Market on Berryessa Road, at which 49 area residents and Flea Market tenants were present. Those in attendance expressed concerns with

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the proposal of a gas station use on the site stating that there are already two gas stations at the intersection of Berryessa Road and Lundy Avenue.

COORDINATION

This project was coordinated with the Department of Public Works, Department of Transportation, 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.

CEQA

CEQA: Addendum to the Final Environmental Impact Report for the San Jose Flea Market General Plan Amendment and Planned Development Rezoning Project, Resolution No. 73956.


for JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Lesley Xavier, Project Manager, at 408-535-7800