



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: December 14, 2009

COUNCIL DISTRICT: 8
SNI AREA: N/A

SUBJECT: FILE NO. PDC09-010, A PLANNED DEVELOPMENT REZONING FROM A(PD) PLANNED DEVELOPMENT AND R-1-5 SINGLE-FAMILY RESIDENCE ZONING DISTRICTS TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO 41 SINGLE-FAMILY DETACHED RESIDENTIAL UNITS ON A 18.49 GROSS ACRE SITE.

RECOMMENDATION

The Planning Commission voted 5-2-0 (Commissioners Zito and Cahan opposed) to recommend that the City Council approve the proposed Planned Development Rezoning as originally recommended by staff in their staff report, and that the revised staff recommendation be direction for the staff and applicant to strive to achieve at the Planned Development Permit stage of the process and not a mandate or development standard in the zoning.

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 38 new single-family detached residential units on the subject site, as three units are existing and will remain.

BACKGROUND

On December 9, 2009, the Planning Commission opened 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 revisions as noted below.

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Planning staff gave a report and stated that additional comment letters and a petition were recently received; and that per the supplemental memorandum to the Planning Commission, planning staff is revising their recommendation as a result of the City Council's discussion at their meeting on December 1, 2009 on the General Plan Amendment on the subject site. (See attached correspondence and supplemental memorandum. Attached to the memorandum are the revised development standards, as recommended by staff. The recommended revisions are highlighted.)

Planning staff added a development standard that states that the minimum lot frontage for lots along the southerly project property line (adjacent to APN 676-89-006) be a minimum of 110 feet as this will improve the interface along the project's southerly boundary in order to be more compatible with adjacent development and address issues with the topography. (See attached Revised Development Standard Illustration)

In addition, to further minimize grading and provide more clear direction on pad locations, staff is recommending an additional development standard for side setbacks to minimize the creation of tall retaining walls. Staff is also proposing that larger setbacks be provided for the lots directly adjacent to Neiman Boulevard. (See attached Revised Development Standard Illustration)

The applicant, Mark Lazzarini of ASC Properties, then spoke on the item and stated that with out the benefit of being able to rework the site plan, he was conceptually in favor with staff's revised recommendation. He then went on to state that the proposed project is consistent with the various densities in the surrounding neighborhood. He added that in response to the neighborhood concerns and the City Council comments, the project had been revised to have minimum lot sizes of 10,000 square feet, vehicle access from Nieman Boulevard only (no through street to Cadwallader Avenue), and that one lot located along the southern project property line was relocated to reduce the number of units that backed up to one property. (APN: 676-89-006)

There were 12 speakers from the public on the proposed project, four of which were in favor of the project and eight who were against the project. Those against the project thought that the number of units proposed was too high and several stated that there should be no more than 35 units on the site total, including existing residences. In addition, some requested lower maximum heights, wider setbacks, and larger minimum lot sizes.

The Planning Commission then closed the public hearing to discuss the item.

Commissioners Jensen and Do were concerned about adding yet another new cul-de-sac neighborhood in San Jose given that good planning practices discourage cul-de-sacs and encourage connectivity. Commissioner Zito read the key outcomes associated with preserving view sheds and other design considerations contained in the Evergreen-East Hills Development Policy, as adopted in Dec. 2008, and wants to ensure that there will not be a "wall" of homes.

Commissioner Zito made a motion to approve the zoning with staff's proposed updated development standards and the following modifications to the development standards: (1) no

more than three new lots on any perimeter side shall abut one existing adjacent lot; (2) all lots shall have a minimum side setbacks of 12.5 feet, including the slope; and (3) a recommendation to preserve as many of the 18 ordinance size trees as possible. The goal of the motion is to spread the units out and not necessarily reduce the total number of units but to be more accurate in terms of an overall density of 2.5 DU/AC.

Commissioner Campos was opposed to this motion due to its overly specific development standards and how they might thwart the property owners' development expectations. When Commissioner Jensen asked for the implications of the motion, staff responded that this might reduce the total number of lots by approximately six or seven units unless the width of the homes are reduced. Due to the potential reduction of units, Jensen was opposed to the motion. Commissioner Do was opposed to the motion's detailed development standards because staff has no ability to assess fully the implications of the motion and the Planning Commission does not have the benefit of that analysis. The motion failed 3-4-0 (Commissioners Do, Campos, Platten, and Jensen opposed).

A second motion was made to approve the original staff recommendation and development standards as contained in the staff report, with direction to staff to continue to work with applicant at the Planned Development Permit stage of the process to try and achieve the new development standards brought forward in the supplemental memorandum dated 12-9-09. The motion was approved 5-2-0 (Commissioners Cahan and Zito opposed).

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



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

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- 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 notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The General Plan Amendment 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 April 27, 2009, a community meeting was held at the Cadwallader Elementary School on Cadwallader Avenue, at which approximately 74 area neighbors were present. The recently approved General Plan Amendment and the proposed Planned Development Rezoning were presented and discussed at this meeting. Generally, most of those in attendance were not in favor of an increase in density on the site as it would not increase the livability or the quality of life for the existing residents and would have impacts to traffic and schools.

A second community meeting was held on October 29, 2009, at the Cadwallader Elementary School on Cadwallader Avenue, at which approximately 32 area neighbors were present. The recently approved General Plan Amendment and the proposed Planned Development Rezoning were presented again and discussed at this meeting. The project's site design was modified since the first meeting to eliminate the through vehicular connection between Cadwallader Avenue and Neiman Boulevard. Again, most of those in attendance were still not in favor of an increase in density on the site as it would not increase the livability or the quality of life for the existing residents and would have impacts to traffic and schools.

A third community meeting, sponsored by Councilmember Herrera, was held on November 12, 2009 at the Cadwallader Elementary School on Cadwallader Avenue. There were about 15 attendees. This meeting was held specifically to inform and discuss the traffic and schools issues. Specifically how the schools determine student generation rates and how the Evergreen-East Hills Development policy controls traffic associated with new development. Representatives from the School District and the City including Planning, Public Works and the Department of Transportation were present at the meeting to answer questions.

COORDINATION

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

The environmental impacts of this project were addressed by a Mitigated Negative Declaration adopted for File Nos. GP08-08-04 and PDC09-010 on May 27, 2009. The Mitigated Negative Declaration states that no significant impacts will result from the subject project.


FOR JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Lesley Xavier, Project Manager at 408-535-7852.

Attachments:

Revised Development Standard Illustration
Planning Commission Supplemental Memorandum
Planned Development Rezoning Staff Report
Letter from the applicant with attachments
Additional Neighbor Correspondence