



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** March 28, 2011

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**COUNCIL DISTRICT:** 7

**SNI AREA:** West Evergreen

**SUBJECT: PDC10-020. PLANNED DEVELOPMENT REZONING FROM CP COMMERCIAL PEDESTRIAN ZONING DISTRICT TO CP(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW THE DEMOLITION AND RECONSTRUCTION OF AN EXISTING GAS STATION INCLUDING THE RELOCATION OF THE FUEL PUMPS, CANOPY AND THE CONSTRUCTION OF A NEW CONVENIENCE STORE AND AUTOMATIC CARWASH ON A 0.5 GROSS ACRE SITE LOCATED ON THE SOUTHWEST CORNER OF TULLY ROAD AND S. KING ROAD (1698 TULLY ROAD).**

## **RECOMMENDATION**

The Planning Commission voted 4-0-3 (Commissioners Abelite, Bit-Badal and Jensen absent) to recommend that the City Council approve the proposed Planned Development Rezoning from CP Commercial Pedestrian Zoning District to the CP(PD) Planned Development Zoning District to allow the demolition and reconstruction of an existing gas station including the relocation of the fuel pumps, canopy and the construction of a new convenience store and automatic carwash on a 0.5 gross acre site located on the southwest corner of Tully Road and S. King Road (1698 Tully Road).

## **OUTCOME**

Should the City Council approve the Planned Development Rezoning, upon approval of a Planned Development Permit, the applicant would be allowed to develop the site as described above.

## **BACKGROUND**

On March 9, 2011, 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. Staff gave a brief overview of the proposal, including an explanation of proposed revisions to the General Development Plan Standards to identify carwash and detailing facilities as "conditional uses". In addition, staff explained that

the project would be heard by the Airport Land Use Commission (ALUC) on March 23, 2011 since the project site is within the Airport Influence Area (AIA) of Reid Hillview Airport. The applicant was present to respond to any questions from the Commission. There was no one from the public to speak on the project. The Planning Commission closed the public hearing and voted 4-0-3 (Commissioners Abelite, Bit-Badal and Jensen absent) to recommend approval of the project as recommended by staff.

Subsequent to the Planning Commission hearing, at the March 23, 2011 ALUC meeting, the subject rezoning referral was found to be consistent with the policies contained within the Reid Hillview Comprehensive Land Use Plan. The ALUC made its determination of consistency with the following recommended condition of the project, which Planning Staff is recommending for inclusion as part of the development standards:

“An Avigation Easement shall be dedicated by the Owner of the property to the County of Santa Clara on behalf of Reid Hillview Airport for Parcel 670 -02 -007. Contact the County Airports Division at: 2500 Cunningham Avenue San Jose, CA 95148 Telephone: (408) 929-1060 FAX: (408) 929-8617 for dedication information.”

### 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

A Planned Development Permit will be required to be filed to implement the proposed 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)**
- 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 sign has been posted on the project site. A notice of the public

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hearing was distributed to the owners and tenants of all properties located within 500 feet of the property. The hearing notice, and staff report have been posted on the City website. The rezoning was also published in a local newspaper, the Post Record.

### **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, Specific Plan, Area Development policies as further discussed in attached staff report.

### **COST SUMMARY/IMPLICATIONS**

Not applicable.

### **BUDGET REFERENCE**

Not applicable.

### **CEQA**

Exempt.

/s/

JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact Lori Moniz at 408-535-7841.

Attachments: Planning Commission Staff Report  
Draft Development Standards

# ***GENERAL DEVELOPMENT PLAN NOTES***

## ***PDC10-020***

The following notes are to be incorporated on the Final General Development Plan upon City Council approval. The notes forwarded to the City Council reflect any modifications recommended by the Planning Commission and shall replace all other notes currently identified on said plans.

***In any cases where the graphic plans and text may differ, the text below takes precedence.***

### **Development Standards**

- Allowed Uses:** All permitted uses as allowed in the CP – Commercial Pedestrian Zoning District per Title 20 of the San Jose Municipal Code, as amended.
- Conditional Use and Special Uses of the CP – Commercial Pedestrian Zoning District may be considered through the Planned Development Permit process, as stated in Chapter 20.100 of the Zoning Code, as amended.
- Additional Conditional Uses: Carwash and detailing facilities.
- Parking Requirements:** All land uses shall provide on-site parking in conformance with Chapter 20.90 (Parking and Loading) of the City of San Jose, Municipal Code, as amended.
- Building/Parking Circulation Setbacks:**
- Tully Road: Minimum ten (10') feet
  - Except for gas station canopy – Minimum five (5') feet
  - S. King Road: Minimum ten (10') feet
  - Side / Rear: Zero feet (0')
- Maximum Building Height/Stories:** The maximum building height shall not exceed thirty-five feet (35') or two (2) stories.
- Design Guidelines:** The proposed development shall conform to the Commercial Design Guidelines, unless otherwise indicated.
- Signs:** All signs shall conform to current City of San Jose sign regulations (Title 23) and shall be approved under a separate Planned Development Adjustment permit to the satisfaction of the Director of Planning.
- Late Night Use and Activity:** No establishment on the site shall be open between the hours of 12:00 Midnight and 6:00 a.m. except pursuant to and in compliance with a Planned Development Permit/Amendment.
- Cross Access:** If the site is ever redeveloped with a use other than a gas or charge station, the developer shall make an irrevocable offer for cross access easement to the adjacent commercial properties to the satisfaction of the Director of Planning.

# **GENERAL DEVELOPMENT PLAN NOTES**

## **PDC10-020**

**Water Quality:** 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, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29.

**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.

**Avigation Easement:** An Avigation Easement shall be dedicated by the Owner of the property to the County of Santa Clara on behalf of Reid Hillview Airport for Parcel 670 -02 -007. Contact the County Airports Division at: 2500 Cunningham Avenue San Jose, CA 95148 Telephone: (408) 929-1060 FAX: (408) 929-8617 for dedication information.”