

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

## STAFF REPORT

Hearing Date/Agenda Number

P.C. 2/7/05 Item:

C.C. 3/1/05

File Number

PDC 04-028

Application Type

Planned Development Rezoning

Council District

6

Planning Area

Willow Glen

Assessor's Parcel Number(s)

439-26-059, 439-26-060

### PROJECT DESCRIPTION

Completed by: Ed Schreiner

Location: South side of Malone Road approximately 240 feet northeasterly of Johnston Avenue

Gross Acreage: 1.17

Net Acreage: 0.69

Net Density: 13.04 DU/AC

Existing Zoning: R-1-8 Residence

Existing Use: Single-Family Detached Residential

Proposed Zoning: A(PD) Planned Development

Proposed Use: Single-Family Detached Residential

### GENERAL PLAN

Completed by: ES

Land Use/Transportation Diagram Designation

Medium-Low Density Residential (8 DU/AC)

Project Conformance:

Yes  No

See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: ES

North: Multi-family Attached Residential

CP Commercial Pedestrian

East: Single-family Attached Residential

A(PD) Planned Development

South: Single-family Detached Residential

R-1-8 Single-family Residence

West: Retail/Single-family Detached Residential

CP Commercial Pedestrian/R-1-8 Single-family Residence

### ENVIRONMENTAL STATUS

Completed by: ES

Environmental Impact

Negative Declaration circulated on January 19, 2005

Negative Declaration adopted on

Exempt

Environmental Review Incomplete

### FILE HISTORY

Completed by: ES

Annexation Title: Willow Glen No. 11

Date: October 1, 1936

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval

Approval with Conditions

Denial

Date: \_\_\_\_\_

Approved by: \_\_\_\_\_

Action

Recommendation

### APPLICANT/DEVELOPER/OWNER

Chris Neale, CORE Development

470 Market St, Unit C

San Jose, CA 95113

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**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: ES

**Department of Public Works**

See attached memorandum

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**Other Departments and Agencies**

See attached memoranda from the Environmental Services and Fire Departments and letter from the Santa Clara Valley Water District

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**GENERAL CORRESPONDENCE**

None received.

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**ANALYSIS AND RECOMMENDATIONS****BACKGROUND**

The applicant is requesting a Planned Development Rezoning from R-1-8 Single-Family Residence District A(PD) Planned Development District to allow the construction of nine single-family detached units on a 1.17 gross acre site. A Planned Development Zoning is required because the proposed residential development does not conform to the lot size, setback and other standards of the R-1-8 District.

**Site Conditions and Context**

The site, made up of two existing lots, is rectangular in shape with a 150-foot frontage on Malone Road from which it takes access. The Guadalupe River traverses the southerly end of the property. The site is relatively flat up to the heavily-wooded edge of the riparian corridor, where it slopes steeply down to the River. The property is currently developed with two single-family residences (circa 1925 and 1933) a cottage and various accessory structures. Vegetation on the site includes native and non-natives trees within the riparian corridor and orchard and landscape trees associated with the existing residences. A total of 24 trees exist on the site, including 12 ordinance-size trees, three of which are designated as *Heritage Trees* on the City of San Jose Heritage Tree List. A Heritage Tree is a tree that the City Council has found to be of special significance to the community due to its "... history, girth, height, species or quality". The subject heritage trees, deodar cedars, are located at the northerly end of the site, adjacent to Malone Road.

**Surrounding Uses**

Multi-family residential uses are located to the north of the subject site. Townhouses are adjacent to the site to the east. The Guadalupe River lies to the south with single-family residences beyond. A small commercial shopping center is located to the west.

**Proposed Project**

The proposed project consists of nine single-family detached units on a private street that extends from Malone Road to the center of the site where it ends in a hammerhead fire truck turnaround. The four-bedroom units are two stories and approximately 28 feet in height. They include tandem and conventional two-car

garages. Ten guest parking spaces are provided, five spaces on the private street and five spaces on the public street along the project frontage. The General Development Plan for the project shows a riparian setback with a minimum width of 30 feet and includes preservation of the three heritage trees. All of the existing structures on the site are proposed for removal. Nineteen existing trees are proposed to be removed, including seven ordinance-size trees.

## **ENVIRONMENTAL REVIEW**

A Draft Negative Declaration was circulated for this project based on an Initial Study, which concluded that the project would not result in a significant environmental impact. An historic analysis prepared for the site by Bonnie Bamburg, dated June 30, 2004, concludes that the existing residential structures on the site are not architecturally significant and are not associated with persons or events significant in San Jose history. The City's Historic Preservation Officer has reviewed the report and concurs that the buildings are not of historic significance. Based on an archaeology report prepared for the site, monitoring of subsurface work by a qualified archaeologist will be implemented at the construction stage to ensure that the project does not impact subsurface resources from the historic period. Standard mitigation has also been included in the project to ensure that construction does not result in impacts relative to noise, water and air quality. An underground heating oil tank on the site will be removed and any residual contamination will be cleaned up in conformance with all applicable standards. The Initial Study, based on a report prepared by H.T. Harvey and Associates, concludes that the proposed project will not result in a significant biological impact on the riparian corridor. Trees proposed for removal will be replaced in conformance with the City's standard tree replacement ratios. Reports prepared by Barrie Coate dated September 18, 2004 and December 3, 2004, recommend mitigation to reduce construction impacts on the Heritage Trees to a less than significant level. See analysis below for further discussion of the riparian setback and heritage tree mitigation.

## **COMMUNITY OUTREACH**

A community meeting was held for this project at the Galarza Elementary School on January 5, 2005. Community members generally indicated support for the proposal, but expressed concern that the project would exacerbate the existing parking shortage in the area and concern that the proposal does not conform to the Riparian Corridor Policy. Notices of the community meeting, the Mitigated Negative Declaration and the public hearings were mailed to all property owners and tenants within 500 feet of the subject site. This staff report has been available for review on the City's web site.

## **GENERAL PLAN CONFORMANCE**

The subject site is designated *Medium-Low Density Residential (8 DU/AC)* on the General Plan Land Use/Transportation Diagram. The applicant's proposal includes a density of approximately 12.6 units per acre, which is above the maximum density allowed under the existing General Plan designation. See discussion of General Plan Conformance in the Analysis section below.

## **ANALYSIS**

The primary issues associated with this project are conformance with the Riparian Corridor Policy, preservation of the Heritage Trees, and the appropriate development standards for the site. These issues are discussed below:

### *Conformance with the Riparian Corridor Policy*

The proposed General Development Plan for this site shows a minimum riparian setback of 30 feet. In response to concern regarding the setback expressed at the community meeting, the applicant has indicated an intent to increase the distance to a minimum of 40 feet (a proposal that has not yet been reflected in the project plan set, but has been reflected in the Draft Development Standards). This setback is less than the 100 feet recommended by the Riparian Corridor Policy. The Policy provides for exceptions to the 100-foot setback where a parcel has an unusually long riparian interface or is less than an acre in size. While neither of these exceptions apply to the current situation, staff acknowledges that the environmental constraints of this site are significant (a riparian interface and multiple Heritage Trees) and that these constraints may warrant a reduced setback, provided the reduction is coupled with a design that ensures preservation of the Heritage Trees. The proposed riparian setback, which will be dedicated to the Santa Clara Valley Water District, provides adequate room and access for future construction of flood control improvements planned along this stretch of the Guadalupe River and represents some improvement over the setback of the adjacent townhouse project which was approved prior to adoption of the Riparian Corridor Policy. No grading will be allowed in the setback area in conformance with the Policy.

### *Heritage Trees*

The current plan set shows the three Heritage Trees located on proposed residential Lot No. 9, at the northwest corner of the site. The existing tree canopies overhang a large portion of the proposed lot, including a portion of the residence, the driveway apron, the front yard and the private patio/rear yard. Mitigation identified by the consulting arborist for the area covered by the tree canopy includes restrictions on subsurface excavation and a prohibition on sprinkler irrigation and landscape species that require irrigation more than twice monthly. Recognizing that it may be difficult to control irrigation practices in the private yard of a single-family residence, staff is concerned that locating the trees within a private yard will make it difficult to ensure their long-term survival. In order to address this issue, staff has included a condition in the Draft Development Standards requiring that the trees be located on a commonly-owned parcel maintained by a homeowners association. The condition specifies that the property line for this parcel be located no closer than 20 feet from the trunk of any Heritage Tree to ensure protection of a majority of the trees' root zone.

The new private driveway, proposed to be located immediately adjacent to Heritage Trees No. 3 and 4, will be construction on top of the existing grade (in the location of the existing driveway) with excavation allowed only in limited areas to a maximum depth of two inches. Underneath the drip line of the trees, the sidewalk is to be designed of decomposed granite or other porous material. Utilities are to be installed on the easterly half of the private driveway or by means of horizontal borings with equipment pits located outside the drip line of the trees. These measures and additional measures identified by the consulting arborist to protect the trees during the construction phase have been included in the Draft Development Standards for this project and will be incorporated onto into a detailed mitigation plan prior to issuance of a Planned Development Permit.

### *Development Standards – Maximum Number of Units*

The Draft Development Standards for this project have been designed to provide considerable flexibility in responding to the environmental constraints of the site. Tandem garages are permitted, single-story garage elements are allowed to extend to within 5 feet of the rear property line and other building elements are allowed to extend to within 10 feet of the rear property line. The minimum front setback has been reduced to 5 feet (from the property line/back of sidewalk) to ensure flexibility in achieving private open space in the

rear yards, and side setbacks have been reduce to 0 feet to allow either attached units and or zero lot line units. Based on the provision of usable common open space in the area of the Heritage Trees, staff is proposing to reduce the required minimum private open space from the 500 feet recommended by the Residential Design Guidelines to 400 square feet (with a minimum dimension of 15 feet).

Even with these flexible standards, it does not appear that nine detached units can be accommodated on this site while allowing for a 40-foot riparian corridor setback and preservation of the Heritage Trees in a manner that will ensure their long-term survival. The Draft Development Standards allow up to 9 units in the event that the applicant chooses to achieve more units by attaching them or otherwise achieving a more efficient design. Staff will continue to work with the applicant at the Planned Development Permit stage to refine the design of this project.

### **General Plan Conformance**

The density of the proposed zoning is compatible with that of surrounding development, which includes somewhat higher density to the east and north and slightly lower density to the south and east. The proposed Development Standards for this project do not conform entirely to the Riparian Corridor Policy or to the recommendations of the Residential Design Guidelines; however, they represent a reasonable compromise that allows the applicant to achieve an increased density on this infill site while protecting the sensitive environmental resources on the property and ensuring compatibility with adjacent uses. Staff believes, that if implemented in conformance with the recommended Development Standards, the project can be found in conformance with the General Plan based on the Discretionary Alternate Use Policy, Two-Acre Rule.

### **Conclusion**

Based on the above analysis, staff concludes that the proposed Planned Development Zoning, as conditioned, offers an opportunity for redevelopment of an underutilized site in an manner that protects the sensitive environmental resources on the site, is supportive of the infill housing goals of the General Plan and compatible with the surrounding neighborhood.

### **RECOMMENDATION**

Planning staff recommends the Planning Commission forward a recommendation of approval to the City Council for the following reasons:

1. Based on the Two-Acre Rule Discretionary Alternate Use Policy allowing for residential development at a density range compatible with surrounding uses, the proposed project is consistent with the San José 2020 General Plan.
2. The project furthers the goals and objectives of the City's infill housing strategies.
3. The proposed zoning is compatible with the existing environmental resources on the project site and with existing uses on surrounding properties.

Attachments