
PUBLIC AGENCY COMMENTS RECEIVED

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Synopsis of the April 6th HLC Meeting

Other Departments and Agencies

None

GENERAL CORRESPONDENCE

None

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Daryl Fazekas, has filed a Conventional Rezoning to change the Zoning on the subject property from CG Commercial General to DC Downtown Primary Commercial. The subject 0.09 gross acre site, located at the northwest corner of N. 2nd St. and Devine St., is currently paved and fenced off but had been previously used as a parking lot. It is relatively flat and rectangular in shape with approximately 29 feet of frontage on N. 2nd St. and 138 feet of frontage along Devine St. The site is surrounded by commercial uses to the north, east, and west, and a City of San Jose surface parking lot occupies the property across Devine St. to the south. A City Landmark, the Conservatory of Music, commonly known as Germania Hall (HL86-38) at 259-261 N. 2nd Street, is located directly to the north of the subject site.

The applicant has filed an associated Site Development Permit, file no. H04-037, that proposes to construct two single-family detached residences on the subject site. The General Plan designation for the property is Residential Support for the Core (25+ dwelling units per acre). The Site Development Permit would be considered at a separate public hearing, and would be subject to the discretion of the Director of Planning, Building, and Code Enforcement or Planning Commission on appeal.

ENVIRONMENTAL REVIEW

The environmental impacts of this project were addressed by use of a Final EIR entitled, "San Jose 2020 General Plan," and findings were adopted by City Council Resolution No. 65459 on August 16, 1994.

GENERAL PLAN CONFORMANCE

The site has a General Plan Land Use/Transportation Diagram designation of Residential Support for the Core (25+ du/ac). This land use designation is intended for high density residential use (25+ Dwelling Units Per Acre) in and near the Downtown Core Area. The land use designation Residential Support for the Core supports development with commercial uses on the first two floors, with residential use on upper floors, as well as wholly residential projects. Development within this category is intended to expand the potential for residential development in close proximity to central area jobs, and to create new consumer markets in the Downtown area.

The current zoning designation, CG Commercial General, does not conform to the site's General Plan designation of Residential Support for the Core (25+ du/ac) because stand-alone commercial uses are not permitted under the Residential Support for the Core land use designation. The proposed rezoning conforms to the General Plan land use designation in that the DC Downtown Primary Commercial Zoning District permits wholly residential projects that can achieve a density of 25 dwelling units per acre, as well as mixed use ground floor commercial and residential projects.

ANALYSIS

The proposed rezoning to DC Downtown Primary Commercial Zoning District would (1) remove the existing General Commercial Zoning designation, (2) bring the site's Zoning designation into conformance with the General Plan Land Use/Transportation Diagram designation of Residential Support for the Core, and (3) facilitate development of the site that is consistent with the General Plan designation. With the current General Plan Land Use/Transportation Diagram designation of Residential Support for the Core, a commercial building could not be constructed at the site because stand-alone commercial uses are not permitted under the Residential Support for the Core land use category. A wholly residential project could be constructed under the proposed DC Downtown Primary Commercial Zoning District. Therefore, the proposed rezoning could facilitate the Site Development Permit proposal currently on file. The current Site Development Permit plans are attached.

Concerns have been raised regarding the compatibility of the residential use to the surrounding uses, particularly the music hall use to the north. The existing Germania Hall use was in place long before current performance standards related to noise were incorporated into the Zoning Code, and as such is not subject to said standards. Various construction techniques would be incorporated into the residential construction to reduce the interior noise levels to acceptable levels. Based on this, staff believes that the residential use can be compatible with the adjacent music hall. Other than the adjacent music hall, no other incompatible interfaces are anticipated with other nearby uses.

Ramifications of the Proposed Rezoning

Should the City Council choose to approve the proposed rezoning, the proposed Site Development Permit to allow two single-family residential units on the site would be reviewed at a separate public hearing, and would be subject to the discretion of the Director of Planning, Building, and Code Enforcement or Planning Commission on appeal. The Site Development Permit would be reviewed for conformance with the General Plan, DC Downtown Primary Commercial development standards (for setbacks, parking, height, etc.), Residential Design Guidelines (for open space, unit orientation, internal separations, etc.), and Historic Preservation Policies (for compatibility with the adjacent City Landmark).

If the City Council denies the proposed rezoning, the proposed Site Development Permit could not be approved because it would be inconsistent with the CG Commercial General Zoning District. The site would remain a surface parking lot.

Conclusion

The proposed conventional rezoning absent any development proposal is in conformance with the General Plan Land Use/Transportation Diagram designation of Residential Support for the Core (25+du/ac). Any subsequent development proposal would be reviewed relative to conformance with the General Plan and other relevant regulations and policies. With respect to the Site Development Permit currently under review, the proposed

density has been reduced through redesign to just below the 25 du/ac threshold of Residential Support for the Core in order to address issues of compatibility with the adjacent City Historic Landmark and the need to accommodate parking on site. Staff is supportive of the use of the Discretionary Alternate Use Policy for General Plan conformance to support the proposed two-unit development given its exceptional site and architectural design.

COMMUNITY OUTREACH

The proposed project was presented to the Historic Landmarks Commission Design Review Committee (DRC) on December 15, 2004. The project was also presented to the entire Historic Landmarks Commission on February 2, 2005 and again on April 6, 2005. The proposal has also been discussed with the owners and potential future tenants of the adjacent Germania Club, who also participated in the Design Review Committee and Historic Landmarks Commission meetings.

As noted in the attached synopsis of the April 6, 2005 Historic Landmarks Commission meeting, the Historic Landmarks Commissioners were opposed to a residential use in such close proximity to the existing City Landmark. Their main concern centered around the limitations that a residential use would place on the use of the Germania Hall as an entertainment establishment. Staff does not agree with the concerns of the Historic Landmarks Commission regarding incompatibility of uses. The current proposal has limited openings on the northern elevations, and special construction techniques should be adequate to reduce interior noise within the residential units to an acceptable level. Representatives of the Germania Hall were also opposed to the proposal.

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Planning Staff has been available to discuss the proposal with members of the public. Additionally, prior to the Planning Commission public hearing, an electronic version of the staff report was made available online, accessible from the Planning Commission agenda, on the Planning Divisions' website.

RECOMMENDATION

Planning staff recommends approval of the proposed zoning for the following reasons:

1. The proposed rezoning is conforms with the General Plan Land Use/Transportation Diagram designation of Residential Support for the Core (25+ du/ac).
2. The proposed rezoning will facilitate development of this site that is compatible with the surrounding uses and that is consistent with the General Plan Land Use/Transportation Diagram designation of Residential Support for the Core.

Attachments