



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: January 11, 2018

COUNCIL DISTRICT: 4

SUBJECT: PDC15-058 AND PD15-053: PLANNED DEVELOPMENT REZONING TO REZONE FROM THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW AN ADDITIONAL 190,000 SQUARE FEET OF COMMERCIAL AND OFFICE/R&D SPACE ON-SITE AND A PLANNED DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF AN APPROXIMATELY 192,350 SQUARE FOOT, SIX-STORY OFFICE BUILDING, ASSOCIATED AMENITY SPACE, EXPANSION OF THE EXISTING PARKING GARAGE, AND REMOVAL OF 87 TREES LOCATED ON THE EXISTING PARKING LOT ON A 70.5 GROSS ACRE SITE.

RECOMMENDATION

The Planning Commission voted 5-0-1-1 (Bit-Badal absent, Vora abstained) to recommend that the City Council (i) adopt a resolution certifying the Subsequent Environmental Impact Report to the Legacy Terrace Development Planned Development Rezoning and Prezoning Final EIR (Resolution No. 69392) and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a Statement of Overriding Consideration and Mitigation, Monitoring and Reporting Program, all in accordance to the California Environmental Quality Act (CEQA), as amended; (ii) adopt an ordinance of the City of San José rezoning an approximately 70.5 gross acres located at the terminus of America Center Drive from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow an additional 190,000 square feet of commercial and Office/Research & Development (R&D) and to remove 6.7 acres from the zoning district current boundary (File No. PDC15-058); and (iii) adopt a resolution approving a Planned Development Permit, subject to conditions, to allow the construction of an approximately 192,350 square foot, six-story office building (Building 5), associated amenity space, expansion of the existing parking garage approved on the eastern portion of the site, and removal of 87 non-ordinance sized trees.

OUTCOME

Should the City Council approve the recommended actions, the subject site will be rezoned from the A(PD) to the A(PD) Planned Development Zoning District allowing an increase in commercial office/research and development square footage by 190,000 square feet, and the Planned Development Permit would allow the construction of an approximately 192,350 square foot six-story office building (Building 5), associated amenity space, expansion of the existing parking garage approved on the eastern portion of the site, and removal of 87 non-ordinance sized trees consistent with the General Plan Land Use/Transportation Diagram designation of Combined Industrial/Commercial and proposed development standards.

BACKGROUND

On January 10, 2018, the Planning Commission held a public hearing to consider the Planned Development Zoning District, Planned Development Permit and Subsequent Environmental Impact Report. The item was on the public hearing calendar and one member of the public spoke in opposition to the proposed project, citing concerns regarding economic impacts to the community of Alviso, traffic, and air quality. Staff provided an oral presentation and provided a clarification to the Development Standards, correcting the total available commercial office/research and development space to 1,090,000 square feet. Additionally, staff provided one additional email from Mr. Mark Espinoza regarding toxic air contaminants and greenhouse gases, which had been submitted during the circulation of the Draft Subsequent Environmental Impact Report (SEIR); these comments were addressed on pages 22-29 of the SEIR and Appendix F of the SEIR.

The Planning Commission inquired about the following:

- Monitoring of the former landfill site since its closure and whether on-site utilities have been impacted. Staff noted that utilities have functioned within expected parameters. There has been some settling, which has been managed.
- Clarification regarding the Gold Street connector. Staff clarified that there is a dedicated bike lane, which functions well. Future improvements to the intersection will include a signal and better alignment of pedestrian and bike lanes through the intersection.
- Clarification where the 10% greenhouse gas reduction came from. Staff noted that the 10% reduction is a standard practice with our Transportation Demand Management Programs (TDM).
- Inquired whether the City has considered Trip Caps, similar to Mountain View, CA. Staff clarified that with the proposed change to Vehicle Miles Traveled, staff will be considering different options to manage and monitor trips and parking. It is slightly challenging due to the size of the city. Options will be vetted out in the near future.
- Clarification that the use of Trip Caps can be challenging depending on the use and access and it would be unfair to impose this on one developer when it has not been fully evaluated.

- Clarification if there was any more development proposed for the site. The applicant clarified that this would be the last building on the site. Two have been constructed, two are under construction, and this would be the fifth building.
- Clarification on what projects are included in the traffic analysis since there is a variety of large projects in the area. Staff clarified that we keep track of projects and coordinate with other neighboring cities. Depending where the project is in the entitlement process, it will either be considered in the cumulative or background traffic counts. Additionally, the projects considered in an EIR are those that are approved or on-file by the close of the Notice of Preparation period.

The Planning Commission voted 5-0-1-1 (Bit-Badal absent, Vora abstained), to recommend approval as recommended by staff to the City Council.

ANALYSIS

A complete analysis of the issues regarding this project are contained in the attached Planning Commission Staff Report.

EVALUATION AND FOLLOW UP

If the Rezoning and Planned Development Permit are approved and the SEIR is adopted, the applicant will be able to move forward with a building permit application to construct the proposed project.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy. The property owners and occupants within a 1,000-foot radius and the Alviso Community were sent public hearing notices for the Community Meeting, Planning Commission and City Council hearing. Signage has been posted at the site to inform the public about the proposal. The Planning Commission agenda was posted on the City of San Jose website, which included a copy of the staff report, and staff has been available to discuss the project with members of the public.

COORDINATION

Preparation of this memorandum was coordinated with the City Attorney's Office.

CEQA

A Draft Subsequent Environmental Impact Report (DSEIR) for the America Center Phase III Project was prepared by the Director of Planning, Building and Code Enforcement in accordance to CEQA. The DSEIR analyzed project level environmental impacts and discussed alternatives to the proposed project.

The America Center Phase III Project DSEIR is a Subsequent EIR to the previously certified Final Environmental Impact Report for the Legacy Terrace Development Planned Development Rezoning and Prezoning (Legacy Terrace FEIR), SCH# 99082004. The Legacy Terrace FEIR was adopted by City Council Resolution No. 69392 on February 15, 2000. The proposed project is within the boundaries of the Legacy Terrace site (renamed America Center prior to completion of the first phase of the project). The DSEIR provides an updated evaluation of the existing environmental setting and identifies new significant environmental effects that were not previously identified in the Legacy Terrace FEIR.

Identified Significant and Unavoidable Impacts

The Legacy Terrace FEIR identified the following significant, unavoidable impacts that would be the same under the proposed project:

1. Aesthetics: views of the site from SR 237 and recreational trails in the vicinity;
2. Air Quality: vehicle-related operational emissions of NO_x;
3. Noise: short-term, construction noise at sensitive residential receptors; and
4. Transportation/Traffic: mixed-flow lane freeway segment traffic at SR 237 between Great America Parkway and North First Street (PM peak hour).

Implementation of the proposed project would also result in the following new or substantially more severe significant impacts, which are significant and unavoidable.

5. Transportation: impacts at the following locations:

Mixed-flow lane freeway segment impacts:

- Eastbound SR 237 between Great America Parkway and North First Street (PM Peak Hour);
- Eastbound SR 237 between North First Street and Zanker Road (PM peak hour);
- Westbound SR 237 between I-880 and McCarthy Boulevard (AM peak hour); and
- Westbound SR 237 between McCarthy Boulevard and Zanker Road (AM and PM peak hours);

High Occupancy Vehicle (HOV) lane freeway segment impacts:

- Westbound SR 237 between I-880 and McCarthy Boulevard (AM peak hour).

Less than Significant Impact with Mitigation

The proposed project impacts listed below would be reduced to a less than significant level with mitigation:

- Air Quality: construction-related dust;
- Biological Resources: impacts to nesting birds and burrowing owls;
- Geology and Soils: differential settlement and seismicity;
- Hazards and Hazardous Materials: soil contamination and landfill gas;
- Hydrology and Water Quality: contaminated stormwater runoff; and
- Transportation/Traffic: intersection impacts at Lafayette Street and the Gold Street Connector.

The proposed CEQA resolution, Mitigation Monitoring and Reporting Program (MMRP), and SEIR further explains in detail how these mitigations reduce each identified above to a less than significant level.

Alternatives

As required under CEQA, the DSEIR evaluated two no-project alternatives and one design alternative. These alternatives are as follows:

1. No Project – No Development Alternative: Under the No Project – No Development Alternative, the buildings and parking lots existing and under construction at the site would remain. Building 5 would not be constructed. The site would remain as zoned and approved for Buildings 1 through 4 and the parking garage.
2. No Project – Develop Under Current PD Zoning Alternative: The project site is currently designated Combined/Industrial Commercial in the City's General Plan and is located within a Planned Development (PD) zoning district. Under the current PD zoning (PDC99-044), 900,000 square feet of development is allowed for the Commercial Office/R&D portion of the project site. Of that total, 867,762 square feet have been constructed or is currently under construction and 32,238 square feet of entitlement remains.

Under the current PD zoning, a 32,238-square-foot office building could be constructed. A potential project under the No Project – Develop Under Current PD Zoning Alternative would likely be one story and would occupy the footprint of the proposed Building 5. The building would likely not be visible from SR 237 and nearby recreational trails as it would be shielded on all sides by existing, much taller structures. Pile driving would still be required for a smaller Building 5 and parking garage extension.

3. Reduced Intensity Alternative: A Reduced Intensity Alternative would potentially allow for 55,000 additional feet of development resulting in an approximately 87,000-square foot, three-story Building 5 (assuming the same footprint as the proposed project and use of the remaining

32,238 square feet of yet unbuilt but entitled square footage at the site). The building would likely not be visible as it would be shielded on all sides by existing, much taller structures. It is unknown the extent of pile driving that might be necessary for a three-story structure.

Analysis: These alternatives were thoroughly discussed and evaluated in the DSEIR. Staff does not recommend adopting any of the alternatives because (i) the alternatives does not fully maximize the potential of the site; (ii) meet the economic goals and policies of the City; and (iii) Building 5 would be located within the existing development minimizing visibility and impacts to the adjacent area. Further, the parking garage addition will accommodate the additional parking needed for the development, reducing the amount of surface parking.

Circulation and Public Comments

The DSEIR was circulated for public review and comment for 45-days from June 12, 2017 to July 27, 2017. The City received a total of five written comment letters during the public circulation period. Comments received were from the California Department of Transportation (Caltrans); Santa Clara Valley Transportation Authority (VTA); Santa Clara Valley Audubon Society; MR Wolfe & Associates, P.C. on behalf of the Organizacion Comunidad de Alviso; and Steve Dunn, SteelWave. Issues raised in these comment letters include the following:

- Transportation analysis and impacts for project-generated traffic;
- Transportation improvements (Great America Parkway/State Route 237 and Lafayette Street/Gold Street Connector intersections);
- Traffic mitigation measures (MM TRA-1.1 and MM TRA(C)-1.2);
- Transportation Demand Management (TDM) program;
- Queuing analysis and queuing reductions;
- Traffic congestion impacts;
- Surrounding traffic improvements;
- Improvements to pedestrian and bicycle access;
- Bicycle parking and connectivity;
- Transit access and ridership;
- Impacts to potential sensitive archaeological sites and Native American consultation;
- Nitrogen deposition impacts;
- Air pollutant monitoring and toxic air contaminants; and
- Greenhouse gas emissions assessment.

A First Amendment to the DSEIR was prepared that provided responses to the comments submitted during the public circulation period and revisions to the text of the DSEIR. The First Amendment together with the DEIR constitute the Final Environmental Impact Report (FEIR) for the proposed project. The DEIR and First Amendment to the DEIR are available for review on the City's Active EIRs website at: <http://www.sanjoseca.gov/index.aspx?NID=5230>

DSEIR Recirculation Unnecessary

The comments received do not identify substantive inadequacies in the Draft SEIR or new previously unidentified significant impacts that require recirculation. The recirculation of an EIR is required when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review but before certification. "Information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (CEQA Guidelines Section 15088.5).

In accordance with CEQA Guidelines Section 15088, the First Amendment to the Draft SEIR for the project includes written responses to all comments received during the public review period for the Draft SEIR. As required by Section 15132 of the CEQA Guidelines, the responses in the First Amendment to the Draft SEIR address significant environmental points and comments on the content and adequacy of the DSEIR. The responses and comments provide clarification and refinement of information presented in the Draft SEIR and, in some cases, correct or update information in the Draft SEIR. No significant new information has been added to the SEIR since publication of the Draft SEIR; therefore, the SEIR does not need to be recirculated.

Recommended Action

As it relates to the SEIR, the Planning Commission recommended that the City Council adopt a resolution certifying the Final SEIR, including a Statement of Overriding Consideration for the identified significant and unavoidable impacts. The overriding benefits of the project include: i) increased employment within San José; ii) implementation of a Transportation Demand Management (TDM) program, iii) increased economic development, and iv) development that will support the Envision San José 2040 General Plan strategies, goals, and policies. The DSEIR, associated analysis and technical reports are available online at: <http://www.sanjoseca.gov/index.aspx?nid=2434>. The Legacy Terrace EIR and associated documents are available through <http://www.sjpermits.org/> under File Number PDC99-044.

/s/

ROSALYNN HUGHEY, SECRETARY
Planning Commission

For questions please contact Steve McHarris, Planning Official, at (408) 535-7819.

Attachments: Attach 1 Revised Development Standards
Attach 2 Email dated January 10, 2018 from Mark Espinoza
Attach 3 Planning Commission Staff Report with attachments