



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: May 22, 2019

COUNCIL DISTRICT: 1

SUBJECT: PDC17-056, PD17-027, PT18-049. SIGNATURE PROJECT FOR A PLANNED DEVELOPMENT REZONING FROM THE R-M MULTIPLE RESIDENCE AND RM(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO THE RM(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO FACILITATE A MIXED USE DEVELOPMENT WITH UP TO 307 NEW UNITS ON-SITE AND 17,800 SQUARE FEET OF RETAIL/COMMERCIAL USES, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF EXISTING PARKING GARAGES, SPORTS COURTS, POOL, AND AMENITY BUILDING, REMOVAL OF UP TO 133 ORDINANCE SIZE TREE, AND ALLOW THE CONSTRUCTION OF A MIXED-USED DEVELOPMENT INCLUDING 302 RESIDENTIAL UNITS AND 17,800 SQUARE FEET OF RETAIL/COMMERCIAL SPACE AND EXTENDED CONSTRUCTION HOURS, AND A VESTING TENTATIVE MAP TO MERGE SIX PARCELS AND TO SUBDIVIDE THE MERGED PARCEL INTO 2 PARCELS ON AN APPROXIMATELY 20.08-GROSS ACRE SITE.

RECOMMENDATION

The Planning Commission voted 5-0-1 (Ballard absent) to recommend that the City Council take all of the following actions:

1. Adopt a resolution certifying the Avalon West Valley Expansion Project Environmental Impact Report (EIR) and the associated Mitigation Monitoring and Reporting Plan that have been prepared in accordance with the California Environmental Quality Act;
2. Approve an ordinance rezoning the 20.08 gross acre site from the RM Multiple Residence and RM(PD) Planned Development Zoning District to the RM(PD) Planned Development Zoning District.
3. Adopt a resolution approving, subject to conditions, the Vesting Tentative Map to merge seven parcels into one, and to re-subdivide the merged parcel into no more two parcels, with a correction to Finding No. 1 on page 15 of the resolution to correct the name of the relevant urban village to "Saratoga Avenue Urban Village."
4. Adopt a resolution approving, subject to conditions, a Planned Development Permit to effectuate the Planned Development Zoning District and allow the demolition of existing parking garages, sports courts, pool, and amenity building, the removal of up to 133 ordinance-

sized trees, and the construction of a mixed-use development including 302 residential units and 17,800 square feet of retail/commercial space, and extended construction hours on the site.

5. Correct the associated Planned Development Permit plan set for this project to remove the word “conceptual” on the sheet’s title bar and to correct the square footage of the open space to 12,060 square feet wherever it is specified.

OUTCOME

If the City Council approves all the actions listed above, the applicant will be able to merge and resubdivide the six existing parcels into two parcels, demolish the two existing parking garages, sports courts, pool and amenity building, remove 133 ordinance-sized trees, and construct a mixed-use project including 302 new residential units (for a total of 1,175 residential units on-site), and 17,800 square feet of retail/commercial space.

BACKGROUND

On May 22, 2019, the Planning Commission held a Public Hearing to consider the adequacy of the EIR, the proposed Planned Development Rezoning, Development Standards, Vesting Tentative Map, and Planned Development Permit. The Planning Commission recommended that City Council adopt the EIR and approve the project with correction to the Vesting Tentative Map Resolution on page 15, to identify the project site’s growth area as the Saratoga Avenue Urban Village growth area rather than the Santana Row Valley Fair Urban Village, and that the associated plan sets for this project to remove the word “conceptual” wherever it appears on the Planned Development Permit set and to correct the square footage of the open space to 12,060 square feet wherever it is specified. The associated Planned Development Permit plan set has been updated pursuant to the Planning Commission’s requested corrections.

Staff Presentation

Staff provided an overview of the proposed project and its conformance with the “Signature Project” General Plan Policy IP-5.10. The project site is within the boundaries of the Saratoga Avenue Urban Village growth area, a Horizon 3 urban village without an adopted urban village plan. The project’s Mixed Use Neighborhood General Plan Land Use Designation permits residential densities of 30 dwelling units per acre and up to six stories in height. The proposed project would have a density of 60.64 dwelling units per acre and a height of up to seven stories on the proposed mixed use building. Staff noted that the Signature Project is required to allow the proposed mixed-use development to exceed the density and height limitations of the Mixed Use Neighborhood General Plan Land Use designation.

Staff stated the need to correct the findings on page 14 of the Staff Report and page 15 of the Vesting Tentative Map Resolution to identify the site’s growth area as the Saratoga Avenue Urban Village.

Public Hearing

The applicant, Joe Kirchofer representing AvalonBay Communities, Inc., shared the owner’s long term commitment to the operation of the site and efforts to develop a project which would not displace any existing residential units. He highlighted the building’s “Signature Project” design and

public plazas proposed at the corner of Blackford Avenue and Saratoga Avenue. The applicant stated the efforts made to design the building along Manzanita Avenue within the character of the surrounding neighborhood.

Bryan Flynn, a lawyer with Lozeau Drury representing Laborers International Union of North America, Local Union No. 270, spoke in opposition to the project. Mr. Flynn referenced a letter submitted by his firm during the circulation of the EIR and reiterated its concerns regarding the project's impacts on indoor air quality, outdoor air quality, and bird strikes. The speaker disagreed with the City's Response to Comments in the Final EIR stating concerns of possible health risks from indoor air quality due to the possible use of formaldehyde wood products within the building.

The applicant's representative, Erik Schoennauer, concluded the applicant team's comments reemphasizing the project's efforts to building new residential units and commercial/retail space on the project site without displacing any residential units.

Planning Commission Discussion and Staff Response

In addressing the public comments, Planning Staff reemphasized the response to the commenter's letter in the Response to Draft EIR Comments of the First Amendment to the EIR. Staff explained that the Bay Area Air Quality District (BAAQMD) do not have thresholds for indoor formaldehyde exposures for indoor fittings and the BAAQMD CEQA guidelines do not define specific thresholds for indoor air quality. Staff noted that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of the existing conditions on a project's future users or residents unless the project risks exacerbate the environmental hazards or risks that already exist. Furthermore, staff noted that it would be speculative to assume the project's indoor fittings and to analyze the proposed project impact on itself (i.e. new building materials effects on future residents). Chair Allen asked when the materials would be known and staff noted this would occur at the Building Permit stage. Staff noted indoor building permits would be required to comply with California Air Resources Board's (CARBS) Toxic Control Measures and other state and local regulations.

Commissioner Oliverio commended the applicant on the proposed project. He then asked the applicant why the number of residential units in the building along Manzanita Drive was limited to 55 residential units and when the construction would be anticipated to begin. The applicant team responded that the goal of the project's design along Manzanita Drive was to maintain compatibility with existing neighborhood. The building along Manzanita Drive would be up to 45 feet in height on the western side of the building, near the project site's other residential apartment buildings and would be a single-story along the eastern portion of the building, near the adjacent single-family residences. The applicant stated that the goal would be to begin construction as soon as possible, likely in the summer of 2020.

Commissioner Yesney noted the project would be an improvement of the Blackford Avenue and Saratoga Avenue corner. She requested clarification on the changes to private and common residential open space. The applicant responded that the Planned Development Permit would provide an average of approximately 160 square feet of common and private residential open space, consistent with the City's Residential Design Guidelines.

The applicant indicated the open space to be demolished was underutilized and the proposed common open space would address the desires expressed by the residential market, including a residential dog park. Staff clarified the existing and proposed open space calculations with the following table:

	Existing Site (873 units)	Proposed Project (Total 1,175 units)
Residential Common Open Space (Square footage)	144,462 square feet (this includes the 20,040 SF amenity building which has the leasing office/management offices, the leasing office/management offices is not included in the proposed project's total)	109,487 total square feet
Residential Common Open Space (Average)	142.52 square feet per unit	93.18 square feet per unit
Residential Private Open Space (Square footage)	54,933 square feet	79,144 square feet
Residential Private Open Space (Average)	69.88 square feet per unit	67.37 square feet per unit

Commissioner Leyba requested clarification of the use of the “Recreational Greenway” residential common open space proposed for the project and whether any ride-share spaces were envisioned. The applicant indicated that the space would be designed and landscaped as an outdoor amenity space which could accommodate the needs of an emergency vehicle access lane, if needed. The applicant anticipated families and children in the complex could use this space as a location to scooter or bike around. The applicant stated that it is anticipated that ride-share pick-ups would occur near the proposed internal driveway at the corner of Blackford Avenue and Saratoga Avenue or along the corner of Manzanita Drive and Saratoga Avenue.

Commissioner Leyba recognized the public comments included in the Planning Commission Staff Report regarding concerns with the proposed project. He requested clarification from the applicant on efforts to address nearby residents’ concerns and how the applicant anticipates addressing parking during construction. The applicant team noted the following efforts made by the property owner:

- **Neighborhood Meetings:** Meetings with the nearby residents, during the review of the project and before, to understand and address the neighborhood’s concerns.
- **Trash Enclosure:** Relocation of the trash enclosure from Manzanita Drive to the on-site parking lot along Blackford Avenue.
- **Traffic Speed:** To address concerns of unsafe traffic, the applicant added five stop signs on their property and speed bumps on the parking garages.
- **Parking:** The applicant reviewed their existing on-site parking and noticed high parking space vacancies in their existing parking garages. To encourage residents to park on site, the apartment reduced the costs for parking spaces located furthest from residential apartment buildings.
- **Dog Waste:** Property Management added dog bag dispensers on-site and handed out personal leash dog bag dispensers. Additionally, the new project would propose a residential dog park along Saratoga Avenue.

- **Construction Parking:** During construction, the applicant is planning to phase the construction to first build the new parking garage and is coordinating with a valet service to provide valet parking services to tenants on-site or off-site, as needed.

Chair Allen asked for clarification on the proposed public art, extended construction hours, and new parking garage design. The applicant team indicated they would be open to all options for the public plaza art piece, including coordinating with the Office of Cultural Affairs. The proposed ten days of 24-hour construction are requested to accommodate concrete pours and would likely occur on weekdays. The parking garage was designed primarily to accommodate parking, however, in the future should parking not be necessary, the top level could be repurposed to accommodate open space.

Chair Allen asked if any of the existing units on-site were rent-controlled. The applicant indicated that 789 of the existing 873 residential units were constructed in 1970 and subject to rent control. None of the units are proposed for demolition in the proposed project and no residents will be displaced. Chair Allen asked if all the buildings on-site would comply with the American with Disabilities Act (ADA). Staff noted, the new project would be required to meet all ADA requirements.

Chair Allen noted community concerns regarding the condition of the residential roadways, Manzanita Drive and Blackford Avenue. Public Works clarified that at the time of construction, the roads would be assessed and any damage made as a result of construction would be required to be repaired. Additionally, the project would be conditioned to repave the half street of the Manzanita Drive frontage per Condition 44 of the Planned Development Permit.

Commissioner Oliverio made a motion to recommend to the City Council the certification of the EIR for the “Avalon West Valley Expansion” project, the adoption of the ordinance for the proposed Planned Development Rezoning and Development Standards, and the adoption of resolutions for the Vesting Tentative Tract Map, and Planned Development Permit, as described in the attached staff report and as recommended by staff with the correction to the findings within the Staff Report and Vesting Tentative Map Resolution. Commissioner Yesney seconded the motion.

Letter from City of Santa Clara after Planning Commission Hearing

On May 23, 2019, one day after the Planning Commission hearing, the City of Santa Clara submitted a letter on the First Amendment to the EIR. Santa Clara stated that the DEIR and First Amendment did not fully address comments made in the City of Santa Clara’s letter dated May 16, 2018, in response to the Notice of Preparation, requesting an analysis of cut-through traffic in Santa Clara neighborhoods, north of the project site. The City of Santa Clara requested a condition of approval requiring monitoring of cut-through traffic north of the project site.

The Draft EIR was circulated from December 21, 2018 to February 11, 2019 and City of Santa Clara did not submit written comments to the Draft EIR. The DEIR and supporting Transportation Impact Analysis (TIA) by Hexagon Transportation Consultants dated October 15, 2018 evaluated project impacts on the transportation network, including traffic operations on neighborhood streets surrounding the project. As stated in the DEIR and TIA, the project would result in an increase of up to 307 additional units, resulting in approximately 1,858 net new trips. Based on the Trip Distribution pattern, the TIA studied eight intersections, including one in the City of Santa Clara (Saratoga Avenue and San Tomas Expressway) and one on the border of Santa Clara and San José (Stevens Creek Boulevard and Saratoga Avenue). The TIA did not identify a significant impact at either of these intersections. Outside of these study intersections, the Trip Distribution pattern did not

show substantial trips (10 trips or more) to other City of Santa Clara intersections to be considered necessary to include in the TIA. The TIA also determined that approximately 20% of residential trips generated by the project would traverse the City of Santa Clara, mostly along Lawrence Expressway and San Tomas Expressway. Due to the location of the project more than 2/3 of a mile south of the Santa Clara city limit and easy access to I-280 and the County Expressway network, few project trips are anticipated to occur on local-serving neighborhood streets in Santa Clara. Therefore, no nexus exists to require monitoring of project cut-through traffic in Santa Clara neighborhoods.

Furthermore, due to the distance between the project site and the City of Santa Clara, it is impossible to accurately monitor individual trips from the project beyond the vicinity of the project site. Finally, the City of Santa Clara did not submit a comment letter on the DEIR to express concerns with the transportation analysis.

ANALYSIS

Analysis of the proposed CEQA clearance, Planned Development Rezoning, Vesting Tentative Subdivision Map, and Planned Development Permit, including conformance with the General Plan, General Plan "Signature Project, Policy IP-5.10, and City Council policies are contained in the attached staff report.

EVALUATION AND FOLLOW UP

Should the City Council certify the FEIR with associated MMRP, approve the Planned Development Rezoning, Vesting Tentative Subdivision Map, and Planned Development Permit, the project site would be approved to: 1) merge and re-subdivide the six existing parcels into two parcels, 2) allow the demolition of two existing parking garages, sports courts, pool and amenity building, 3) the removal of 133 ordinance-sized trees, 4) and the construction of a mixed-use project including 302 new residential units (for a total of 1,175 residential units on-site), and 17,800 square feet of retail/commercial space.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy, whereby, the project is considered a large development proposal. Following City Council Policy 6-30, the applicant posted the on-site sign to inform the neighborhood of the proposed project. Two community meeting were held to discuss the project on April 26, 2018 and February 6, 2019, at the West Valley Branch Library. Comments received during the community meeting and project review are further discussed in the attached Planning Commission Staff Report. Both community meetings were coordinated with Council District Office 1 and Council District staff attended both community meetings.

A project webpage was also created for the project where information related to the different plan set submittals and general project information has been available. Staff contact information have also been available on the community meeting notices and on the project webpage. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

COORDINATION

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

CEQA

The City of San José, as the lead agency for the project, prepared a Draft Environmental Impact Report (DEIR), which was circulated for a 52-day public review and comment period from December 21, 2018 to February 11, 2019. The City received six written comment letters during the public comment period. Comments were submitted by one individual and five agencies and organizations, as shown below:

- Igor Yevelev, Community Member
- Native American Heritage Commission
- Santa Clara Valley Water District
- The County of Santa Clara Roads and Airports Department
- Santa Clara Valley Transportation Authority,
- Lozeau Drury LLP (representing Laborers International Union of North America, Local Union No. 270)

Issues raised in these comment letters include the following:

- Minor correction to the timeframe of when a Most Likely Descendant should make a recommendation
- Traffic intersections to be studied
- ADA design
- Existing neighborhood disagreements, cleanliness, and unresponsiveness
- Biological resources and sensitive habitat
- Indoor air quality related to building materials

The City responded to all comments received on the DEIR and incorporated them into the First Amendment to the DEIR. The First Amendment, taken together with the Draft SEIR, constitutes the Final EIR. The DEIR and First Amendment to the DEIR are available for review on the project page on the City's Active EIRs website at: <http://sanjoseca.gov/index.aspx?NID=6069>.

The DEIR found that the project would not result in any significant unavoidable impacts. Therefore, a Statement of Overriding Considerations is not required. The DEIR identified impacts resulting from the project to air quality from construction activities, biological resources and hazardous materials. With implementation of the mitigation measures specified in the Mitigation Monitoring and Reporting Program prepared for the project, these impacts are reduced to less than significant levels.

The comments received do not identify substantive inadequacies in the DEIR 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 DEIR is not "significant" unless the DEIR 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).

HONORABLE MAYOR AND CITY COUNCIL

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

/s/

ROSALYNN HUGHEY, SECRETARY
Planning Commission

For questions, please contact Planning Official, Robert Manford, at (408) 535-7900.

Attachments: Planning Commission Staff Report

Letter from the City of Santa Clara, dated May 23, 2019

Letter from the City of Santa Clara on the Notice of Preparation, dated May 16, 2018.