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**Title:** Staff Report for PLN2009-00006; Planned Development and a Condominium [Vesting Tentative Tract] Map; General Plan Map Amendment from Office to High Density Residential; Rezone from P(AU)-Professional with Assembly Use Overlay to RM-1800(PD)-Residential Multi-Family with Planned Development Overlay; Development Agreement (DA); and an Initial Study, a Mitigated Negative Declaration and a Mitigation Monitoring Reporting Program; to build a new residential development consisting of 66 rental apartment units: 17 one-bedroom apartments, 48 two-bedroom apartments and one manager’s unit in a Recreation building with other site amenities. 2450 Washington Avenue (Assessor's Parcel Numbers 77D-1410-25 and 77-556-104; Wm. Matthews, Inc. (Applicant and Property Owner); P-Professional Zoning District.)

**Sponsors:** Luke Sims

**Indexes:**

**Code sections:**

**Attachments:** 1. Vicinity Map, 2. Excerpt of the Draft Minutes of the October 20, 2011 Planning Commission Meeting, 3. Planning Commission Staff Report dated October 20, 2011 without attachments, 4. Planning Commission Memorandum dated October 20, 2011, 5. Applicant Statement, 6. Recommended Findings of Fact for Approval of PLN2009-00006, 7. Project Plans (Exhibits A through Z), 8. Alameda County Public Works Agency letter dated October 27, 2011

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Staff Report for **PLN2009-00006**; Planned Development and a Condominium [Vesting Tentative Tract] Map; General Plan Map Amendment from Office to High Density Residential; Rezone from P (AU)-Professional with Assembly Use Overlay to RM-1800(PD)-Residential Multi-Family with Planned Development Overlay; Development Agreement (DA); and an Initial Study, a Mitigated Negative Declaration and a Mitigation Monitoring Reporting Program; to build a new residential development consisting of 66 rental apartment units: 17 one-bedroom apartments, 48 two-bedroom apartments and one manager’s unit in a Recreation building with other site amenities. 2450 Washington Avenue (Assessor's Parcel Numbers 77D-1410-25 and 77-556-104; Wm. Matthews, Inc. (Applicant and Property Owner); P-Professional Zoning District.)

**RECOMMENDATIONS**

At its October 20, 2011 meeting, the Planning Commission adopted a Resolution recommending that the City Council approve the proposed 66-unit apartment project at 2450 Washington Avenue project, PLN2009-00006, subject to the Recommended Conditions of Approval.

Staff recommends that the City Council take public testimony on the environmental documents and the overall merits of the project and consider the Planning Commission’s recommendation that the City Council:

- A. Adopt the Mitigated Negative Declaration;
- B. Approve a General Plan Land Use Map Amendment for the subject site from Office to High Density Residential;
- C. Approve a Rezone of the subject site from P(AU) Professional District with Assembly Use Overlay to RM-1800 (PD) Residential Multi-Family (Planned Development Overlay District);
- D. Approve a Planned Development to develop a 66-unit apartment complex, subject to the Recommended Conditions of Approval;
- E. Approve a Vesting Tentative Map, Tract 8003, to allow the two lots to be merged into a larger lot totaling approximately 2.85 acres and to create a condominium lot with 12 different ownership units (whole apartment building) and common space (driveway, open space areas, landscaping, Recreation building, pool and other site amenities), subject to the Recommended Conditions of Approval; and
- F. Approve a Development Agreement for the project.

## **BACKGROUND**

The subject site comprises two separate parcels that together encompass 124,469 square feet (2.85 acres). It is located on the east side of Washington Avenue at the north corner of San Leandro Boulevard. Commercial and residential sites on Washington Avenue are developed with residential uses including a mobile home park to the south and east (Trailer Haven and San Leandro Court), single-family residential to the north (Sandpiper Condominiums), and auto oriented commercial/industrial businesses to the west across Washington Avenue. The site was formerly part of the Singer-Friden business machine, calculator, circuit board, cash register and sewing machine manufacturing plant from approximately 1968 to 1976.

The applicant and property owner propose to redevelop the subject site with a new 66-unit for-rent residential project, that includes 17 one-bedroom units, 48 two-bedroom units and one guest unit within a Recreation building at the Washington Avenue frontage. The subject property is on the Washington Avenue commercial corridor, near the intersection with San Leandro Boulevard and is currently developed with a 43,200 square foot medical and professional office building.

## **Analysis**

### **General Plan Land Use Map Amendment**

The General Plan's Land Use Diagram designates the site as Office. In order to allow for this multi-family residential project, proposed with a density of 23 dwelling units per acre, the General Plan Land Use map is proposed to be amended to a residential designation that would support this residential density. Given that the Washington Avenue vicinity oriented to the north, south and east of the site is high density residential, a modification to the General Plan Land Use Map to a Residential designation is an appropriate action.

Staff proposes a General Plan Amendment to High Density Residential (which allows from 19 to 25

units per acre) and a Rezone to RM-1800 Residential Multi-Family (where the allowed density is up to 24 units per acre.) In addition, minor exceptions are requested to the Zoning regulations for the RM District, including an exception to the minimum setbacks. To address these exceptions, the application will be processed as a Planned Development, which allows for leniency in development standards in return for higher-quality aesthetic and site development.

Based upon the recommended General Plan Map Amendment for the site from Office to High Density Residential, the proposal is consistent with City goals, objectives and policies related to housing and land uses outlined in the General Plan. The project increases the housing supply in a manner that will be compatible with the existing area. The development will result in an improvement in appearance to the property, which is currently underutilized. In addition to aesthetic quality, the new apartment buildings will be designed, constructed and equipped to provide an adequate level of safety and security for the residents. Furthermore, the site will be adequately served with public services, including utilities. Findings of Fact for Approval of the General Plan Land Use Map Amendment based on the General Plan Chapter 1, Section F: Implementing and Amending the Plan (pages 1-11) are attached to this report.

## **Rezone**

The Zoning Map designates the site P (AU) Professional with an Assembly Use Overlay District. The applicant has requested a rezone of the two parcels to RM-1800 (PD). This would be consistent with the High Density Residential which is proposed for the site. Following project approval, the applicant will complete a final map to create a single-lot condominium lot zoned RM-1800 (PD).

The Planning Commission recommends approval of the rezone to the PD overlay, based upon findings that the Planned Development concept plans are consistent with the adopted Land Use Element of the General Plan (as amended) and other applicable policies of the General Plan, and that the project is compatible with surrounding development, per the attached Findings of Fact for Approval of the Rezone, per Zoning Code Article 27 Amendments, Sections 5-2708 and 5-2712.

## **Planned Development**

Staff supports approval of the Planned Development for the construction of the 66-unit apartment development, subject to the Recommended Conditions of Approval as this project provides superior urban design in comparison with the typical development under the base Residential Multi-Family district. Site plan elements provide harmonious and orderly development that is compatible with the surroundings of the site. Buildings have adequate articulation, with appropriate window placement, use of detailing and changes in building planes to provide visual interest. The exterior materials, finishes, detailing, and colors are compatible with and/or superior to those of surrounding structures. Visually incompatible elements are fully screened from public view; and the landscaping complements the architectural design, with an appropriate balance of trees, shrubs and living ground covers, and provides adequate screening and shading of parking lots and driveways. With implementation of recommended Conditions of Approval and the mitigations contained in the environmental document, the project will not create impacts in terms of traffic and the project includes adequate provisions for utilities, services, and emergency vehicle access. Findings of Fact for Approval of the Planned Development, based on the Zoning Code Article 10 Planned Development, Sections 3-1018 and 3-1020, and Article 22 Permits, Sections 5-2212 and 5-2214, are attached to this report.

## Condominium [Vesting Tentative Tract] Map

Staff believes that the proposed Condominium [Vesting Tentative Tract] Map provides the most orderly form of property development by maintaining a single-lot subdivision that creates common areas of all roadways, open space and site amenities (Recreation Building and swimming pool) while providing opportunities for the applicant to divide the property between family members, with apartment buildings able to be sold or provided to family members for individual ownership.

The proposed map has been reviewed thoroughly by the City of San Leandro Engineering and Transportation Department staff as well as the Fire Marshal's office in the Alameda County Fire Department and their recommended actions for the map are incorporated into the Recommended Conditions of Approval. The Alameda County Public Works Agency (ACPWA) also reviewed the proposed Vesting Tentative Map and provided a series of suggestions related to stormwater regulations (see attached comment letter.) Over an exchange of emails between ACPWA and City staff, City staff noted that our Engineering Department had included similar standard conditions in their recommended conditions of approval. The City and the Agency agreed to add the suggestions numbered 2, 3, 4 and 8 into the final set of Recommended Conditions of Approval, to augment the Engineering standard conditions of approval. These are noted in italics in the Recommended Conditions of Approval attached to the Resolution associated with this staff report.

## Development Agreement

The proposed Development Agreement is a legally binding agreement between the City and the applicant, Wm. Mathews, Inc., which provides a greater degree of certainty to the applicant that they may proceed with development in accordance with policies, rules and regulations in effect at the time of project approval. It also provides a greater degree of certainty to the City that the development of the project will promote the orderly planning of public improvements and services, and builds in a cost escalation for the development impact fees according to published indices that would otherwise be frozen at the time of the entitlement approval of the Vesting Tentative Map.

The Development Agreement is a contract that has been negotiated and voluntarily entered into by the City and the Applicant containing conditions, terms and provisions including, but not limited to, the following areas:

- **Term of Agreement:** allows for the approvals to be extended over a period of ten (10) years, with an option to extend for another five (5)-year term upon review and approval by the Planning Commission;
- **Fees and Exactions:** freezes the categories of fees and exactions that the project is subject to, but the fee amounts will be adjusted periodically for inflation based on the amount in place at the time the fee is due;
- **Exemption to future moratoria:** the project will be exempt from any future development moratorium unless the moratorium is mandated by other agencies; and
- **Future condominium-processing:** the applicant agrees that it will not pursue a further subdivision of the apartment buildings into individual condominium units.

Staff supports the terms of the Development Agreement and believes that the agreement provides certainty that the development will provide orderly planning of public improvements and services and that costs are allocated to achieve maximum utilization of public and private resources in the development process. Findings for approval are included in the Ordinance associated with this staff report.

## **Housing and School Impacts**

Once the 66 new residential units are built, these units will be added to the City's accomplishments toward its Regional Housing Needs Assessment (RHNA) targets. The City of San Leandro would typically require that a developer set aside a number of units for below market rental rates under the City's Inclusionary Zoning Ordinance. However, recent case law, *Palmer/Sixth Street Properties LP v. City of Los Angeles*, found local inclusionary rental requirement to be in conflict with State rent control law and, therefore, residential rental projects are currently exempt from these affordability requirements.

The project description and vesting map plans for this project were sent to the San Leandro Unified School District for an estimate of the number of students that might be generated from the project, in October 2011. District officials responded with an approximate projection of a maximum student generation of 26 students from this project, with the caveat that the projected number could be lower because of the mix of unit types and size of the apartment units.

## **Committee Review and Actions**

- City Council Business and Housing Development Committee was provided a brief update on the project on October 13, 2011 under the Development Project Updates.

## **Applicable General Plan Policies**

- **Policy 2.05: Alterations, Additions and Infill** Ensure that alterations, additions and infill development are compatible with existing homes and maintain aesthetically pleasing neighborhoods.
- **Policy 3.01: Mix of Unit Types** Encourage a mix of residential development types in the City, including single-family homes on a variety of lot sizes, as well as townhomes, row houses, live-work units, planned unit developments and multi-family housing.
- **Policy 3.04: Promotion of Infill** Encourage infill development on vacant or underused sites within residential areas.
- **Policy 13.04: Transit-Oriented Development** Ensure that properties adjacent to City's BART stations and along heavily used public transit routes are developed in a way that maximizes the potential for transit use. Such development should be of particularly high quality, include open space and other amenities, and respect the scale and character of nearby neighborhoods.

## **Permits and/or Variances Granted**

As proposed, the project does not meet all of the underlying development standards for the RM district. The City of San Leandro Zoning Code (Article 10) provides a mechanism through the Planned Development (PD) zoning overlay to allow for minor variations to the underlying development standards. This ensures that such land uses that are compatible with the surrounding context are developed in an orderly manner and with high quality urban design.

The minor exceptions requested in the Planned Development are within the area of parking and front setbacks. Covered spaces are provided in the 85 single- or two-car garages; the uncovered spaces are provided with 50 open parking stalls for a total of 135 spaces, which meets the parking requirement in number perfectly, but with a slight change in the mix of covered versus uncovered

stalls supplied. The recreation building is setback from the front property line at its northeastern corner by 7 feet, where 15 feet is required in the RM-1800 Zoning District.

Staff believes that the above minor exceptions to the underlying development regulations are warranted due to the shape of the property and its location on Washington Avenue close to transit. Due to the relatively narrow shape of the site, the reduction of the covered parking in carports for the surface spaces will enhance the openness of the site. The angled frontage of the site makes conformance of the Recreation Building to the front setback difficult for the north corner of the building, while the south corner exceeds the required setback. Staff notes that the applicant is providing high quality building design and over twice the amount of required open space, which is the type of project enhancement that is expected for consideration of a Planned Development.

### **Environmental Review**

Pursuant to the California Environmental Quality Act (CEQA), an Initial Study/Mitigated Negative Declaration was prepared for the project by the City of San Leandro and released for public review on October 14, 2011. Environmental topics for which mitigation was indicated in order to bring potentially significant impacts to a level of insignificance include: aesthetics, air quality, cultural resources, geology/soils, hydrology/water quality, noise, population and housing, public services, recreation, and utilities.

The state mandated 30-day public review period is from October 14 to November 14, 2011. To date, comments have been received from the State of California Department of Toxic Substance Control (DTSC), from the San Leandro Unified School District (SLUSD) and from the East Bay Municipal Utilities District (EBMUD.) The DTSC stated that the “Project Site did not appear to pose a threat to human health or the environment.” However, the letter included language saying that if “previously unidentified hazardous substances” were to be disturbed during future site work that the DTSC be notified. To address this issue, staff has included language from their letter into the Recommended Conditions of Approval under item XIV.A (in italics.) SLUSD inquired whether the project would generate more traffic and, if so, whether the City of San Leandro would require new traffic signals. In response, City staff provided the traffic study included in the Planning Commission memorandum dated October 20, 2011, which indicates that traffic is projected to decrease with the proposed project in comparison with the existing medical office building. The EBMUD comment letter outlined its rules for new service for the proposed project and recommended the inclusion of a condition of approval that the project adhere to the State Model Water Efficient Landscape Ordinance. Staff responded that the rules for new service were communicated to the applicant and that City staff had previously included a Recommended Condition of Approval related to water efficient landscaping (Condition III-C.) Comment letters and the staff responses to DTSC, SLUSD and EBMUD are included as attachments to the Mitigated Negative Declaration found in the Resolution.

### **Board/Commission Review and Actions**

Preliminary plans were presented to the Planning Commission to review at work sessions on January 14 and May 20, 2010 and at a public hearing on October 20, 2011, where the motion to forward the item to Council with a recommendation of approval was passed with a vote of 7-0. The Planning Commission made the attached findings for approval and modified the attached Recommended Conditions of Approval with the addition of one condition (in bold italics) to require noise attenuation to the interior noise standard of 45 decibels in the attached garages.

## **Summary of Public Outreach Efforts**

- Notification of the November 21, 2011 City Council public hearing was sent to property owners and businesses within a 300-foot radius of the site and posted at the property and its vicinity. A legal ad was also published in the local newspaper, the Daily Review, ten days prior to the Council meeting.
- Staff attended a meeting of the Dundee Homeowners Association, the association of property owners of the Sandpiper Condominiums, on November 15, 2011. Comments from that meeting were not available at the time of writing this report but will be communicated verbally to the City Council on the evening of the November 21, 2011 public hearing.
- Emails received prior to the Planning Commission meeting indicated concern over the potential traffic increase with the project and affordable housing. A memorandum to the Planning Commission was prepared to address both of these issues and presented on the evening of the October 20, 2011 hearing, and is attached to this report. The memo explains that traffic is projected to decrease with the proposal in comparison with the existing commercial office building and that inclusionary housing is not required for this rental project due to current case law. The president of the Dundee Homeowners Association made public comment at the hearing that he believed the project would be beneficial. His comments are included in the attached Excerpt of the Draft Minutes to that meeting.
- Notices for the October 20, 2011 Planning Commission hearing as well as the January 14 and May 20, 2010 work sessions were also sent to property owners and businesses within a 300-foot radius of the site and posted at the property and its vicinity. The hearing notice for October 20, 2011 was sent to various public agencies and published in the Daily Review ten days prior to the hearing.

## **Legal Analysis**

The proposed Development Agreement was analyzed by the City Attorney's office. The legal discussion can be found in the narrative above under the section Analysis/ Development Agreement.

## **ATTACHMENTS**

- Vicinity Map
- Excerpt of the Draft Minutes of the October 20, 2011 Planning Commission Meeting
- Planning Commission Staff Report dated October 20, 2011, without attachments
- Planning Commission Memorandum dated October 20, 2011
- Applicant Statement
- Recommended Findings of Fact for Approval of PLN2009-00006
- Project Plans (Exhibits A through Z)
  - Exhibit A - Illustrative Development Plan/Vicinity Map (1)
  - Exhibit B - Building Elevations (A1)
  - Exhibit C - Standard Elevations (A2)
  - Exhibit D - Gatehouse Elevations (A3)

- Exhibit E - Main Floor Plan (A4)
- Exhibit F - Upper Floor Plan (A5)
- Exhibit G - Roof Plan (A6)
- Exhibit H - Site Section (A7)
- Exhibit I - Shadow Studies (A8)
- Exhibit J - Elevations, Recreation Building (A9)
- Exhibit K - Elevations, Recreation Building (A10)
- Exhibit L - Recreation Building Floor and Roof Plan (A11)
- Exhibit M - Utility Structures (A12)
- Exhibit N - Details (A13)
- Exhibit O - Code and Accessibility Analysis (A14)
- Exhibit P - Code and Accessibility Analysis (A14.2)
- Exhibit Q - Dimensioned Site Plan (E1)
- Exhibit R - Landscape Plan (L-1)
- Exhibit S - Plant List
- Exhibit T - Washington Avenue Streetscape
- Exhibit U - Vesting Tentative Map, Tract 8003, for Condominium Purposes
- Exhibit V - Boundary and Topographic Map
- Exhibit W - Dimensional Site Plan
- Exhibit X - Preliminary Grading and Utility Plan
- Exhibit Y - Typical Sections
- Exhibit Z - Truck Turning Exhibit
- Alameda County Public Works Agency letter dated October 27, 2011

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