

**Council Meeting: September 11, 2007**

SUBJECT: 2006-0271 Rezoning Study for Existing Places of Assembly Sites on Residentially Zoned Properties to the Public Facility Zoning District (Study Issue)

REPORT IN BRIEF

The study is an outgrowth of the City Council adoption of the Places of Assembly in Industrial and Commercial Zoning Districts approved in March 2006. The 2006 Study (RTC 06-074) determined that existing Places of Assembly in Residential Zoning district should be protected and preserved through the rezoning of those properties to the Public Facility (PF) Zoning District. The 2006 study noted the possible loss of places of assembly uses in residential neighborhoods through conversion to residential development. The 2006 study also created new zoning requirements for these uses attempting to locate within the City's Industrial Zoning Districts. This study aims to preserve property currently occupied by Places of Assembly uses through rezoning to the Public Facility zoning district based on certain appropriate criteria discussed in this report.

Staff has researched the issue and recommends properties be rezoned to PF based on size, location and noted site specific considerations. Prior to Planning Commission review, staff recommended the rezoning of 6 properties that were over 2.2 acres in size (excluding the ITR Zoned property at 42-460 Persian Drive).

On August 27, 2007, the Planning Commission reviewed the study and voted unanimously to reduce the minimum area for rezoning to 1.5 acres. A total of 11 sites would be included in this rezoning. The ITR zoned site at 420-460 Persian Drive was excluded as originally recommended by staff. Staff has modified their recommendation to include these 11 properties (as identified in Attachment D).

BACKGROUND

On March 22, 2006, the City Council (RTC 06-074) adopted modifications to the Sunnyvale Municipal Code that included revised definitions and use tables, as well as specific policies for locating assembly and recreation related uses. On October 24, 2006, the City Council (RTC 06-333) initiated the rezoning of specific *industrial* properties to a new Places of Assembly (POA) Combining

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District (Attachment #F). This follow-up study, examines the possible rezoning of existing “community serving” places of assembly in *residential* areas to the Public Facility (PF) Zoning District.

In 2003, a 3.01-acre site at Iowa Ave and Mary Avenue was redeveloped from a religious place of assembly to 34 housing units. Currently pending is an application for a 4.4-acre site (occupied by a religious place of assembly) at W. Fremont Avenue and Pome Avenue for approximately 43 housing units.

The property located at 805-822 W. Fremont Avenue (corner of Fremont Ave and Pome Avenue) was removed from consideration from this study upon direction by City Council at the meeting of March 22, 2006. (Attachment H includes City Council Minutes).

As noted in the previous study, changing the zoning on properties currently used as places of assembly would help protect those uses as they would be less likely to be converted to residential uses. This report completes the rezoning study requested by Council in 2006.

EXISTING POLICY**General Plan****Land Use and Transportation Element**

GOAL N1 Preserve and enhance the quality character of Sunnyvale’s industrial, commercial and residential neighborhoods by promoting land use patterns and related transportation opportunities that are supportive of the neighborhood concept.

Policy N1.1 Protect the integrity of the City’s neighborhoods; whether residential, industrial or commercial.

Action Statement N1.1.1 Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.

Policy N1.14 Support the provision of a full spectrum of public and quasi-public services (e.g., parks, day care, group living, recreation centers, religious institutions) that are appropriately located in residential, commercial, and industrial neighborhoods and ensure that they have beneficial effects on the surrounding area.

Action Statement N1.14.3 Encourage multiple uses of some facilities (e.g. religious institutions, schools, social organizations, day care) within the capacity of the land and the roadway system.

Action Statement N1.14.5 Maintain and promote convenient community centers and services that enhance neighborhood

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cohesiveness and provide social and recreational opportunities.

Legislative Management Element

Policy 7.3B.3 Prepare and update ordinances to reflect current community issues and concerns in compliance with State and Federal laws.

Action Statement 7.3B.3b Consider changes to ordinances to reflect changes in community standards and State and Federal laws.

Zoning Code

Title 19 of the City of Sunnyvale's Municipal Code includes the Residential Zoning and Public Facility development standards (see Attachment B for the existing Zoning Code use tables).

LEGAL ISSUES**Religious Institutions Land Use and Institutionalized Persons Act (RILUPA)**

The Federal Religious Land Use and Institutionalized Persons Act (RLUIPA), passed in 2000, prohibits zoning and landmarking laws that: *(1) treat churches or other religious assemblies or institutions on less than equal terms with nonreligious institutions; (2) discriminate against any assemblies or institutions on the basis of religion or religious denomination; (3) totally exclude religious assemblies from a jurisdiction; or (4) unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.*

The study does not examine modifications to the Code related to permitting requirements for Place of Assembly or changes specific to religious facilities. Currently, religious uses are considered "Places of Assembly – Community Serving" and are not treated differently than non-religious uses with similar impacts.

AB 2292 – Residential Densities

Assembly Bill 2292, adopted in 2002, prohibits a city or a county from reducing, requiring, or permitting the reduction of a parcel's residential density to a lower residential density that is below the density used to determine compliance with the housing element, unless the city or county makes written findings supported by substantial evidence that:

- The reduction is consistent with the general plan, including the housing element.
- The remaining sites identified in the housing element are adequate to accommodate the community's regional share of housing needs.

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The study considers reducing the development capability of certain residentially zoned properties by rezoning them to the Public Facilities Zoning District. The City's Housing and Community Revitalization Sub-Element sets goals and expected growth opportunities in the City of Sunnyvale. Existing properties that are occupied by assembly uses on residential property were not factored in as potential locations for housing growth. Therefore, staff finds that the proposed rezoning would not affect housing goals previously set forth in the Housing Element. However, locations within the City's ITR area were noted as potential locations for new housing. Two sites identified within this study contain this designation. If rezoned to the Public Facilities zoning district, the required Findings above would need to be made.

DISCUSSION

The intent of the study to rezone certain specified residential property to Public Facilities Zoning District was originally identified in the Places of Assembly (POA) study from 2005 (adopted in 2006). The strategy was identified as a way to preserve assembly uses at appropriate locations where they already had been established. Rezoning particular sites would preserve these assembly uses in appropriate areas while limiting the possibility for conversion to residential development. The rezoning would help ensure that these sites are available for place of assembly type uses in the future and discourage relocating to less compatible areas of the city.

The original POA study generally prevented places of assembly to be located within the City's industrial zoned property. A new zoning district designation was created and applied to certain industrially zoned property. Through this Place of Assembly (POA) combining district, places of assembly could be considered on a case by case basis in limited industrial areas. This rezoning study aims to preserve locational opportunities for places of assembly uses on sites that are more compatible with their neighborhood and reduce pressure to relocate in commercial and industrial areas.

Places of Assembly can include a variety of uses. The Municipal Code defines Places of Assembly as either "business serving" or "community serving." The intent of the original study was to also consider recreational and education uses which contain similar characteristics to assembly uses. The follow-up study, as directed by Council, was intended to examine "community serving – places of assembly" and the possibility for rezoning. Attachments C, D & E include all type of places of assembly in residential zoning districts, including recreational/educational uses. When identifying these uses in the residential neighborhoods, it was discovered that a majority of the uses were religious facilities, which are considered "community serving – places of assembly." To a lesser degree, recreational/educational uses and community organizations

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such as the Fairbrae Swim & Racquet Club and Salvation Army are also located on residential zoned property. In some cases, educational uses are found on these sites as a secondary use to a religious facility. In other situations, schools are the principal use of the site.

Each of these assembly uses provides a valuable resource to the community; however; this study was intended to only examine sites occupied by places of assembly that are community serving. A definition for this type of assembly from the City's Municipal Code has been provided below:

S.M.C. 19.12.170 *“Places of assembly—community serving” means permanent headquarters and meeting facilities for civic, social and fraternal organizations (not including lodging), political organizations and other membership organizations. This category includes religious uses and facilities operated for worship; promotion of religious activities, including houses of worship and education and training; and accessory uses on the same site, such as living quarters for ministers and staff, and child day care facilities where authorized by the same type of land use permit required for the primary use. Other establishments maintained by religious organizations, such as full-time educational institutions, hospitals and other related operations (such as recreational camps) are classified according to their respective activities.*

It should also be noted that some of these facilities principally defined as “community serving-places of assembly” may also include a combination of uses that are educational and recreational in nature.

Survey of Existing Conditions: Staff completed a more specific evaluation process as part of this rezoning study. The evaluation classified sites in terms of size, location, current zoning and potential for redevelopment.

A map of the places of assembly on residentially zoned property is located in Attachment C. The map demonstrates that these uses are located throughout residential neighborhoods within the City. Some are located on major arterials and others are centrally located along smaller collector streets.

The sizes of the properties designated in Attachment C vary considerably. A listing of the properties is included in Attachment D. The potential number of housing units that could be built on the sites differs for each site partly due to overall size of the property but also due to the current zoning. The designated zoning districts also vary from low density (R-0 or R-1) to high density (R-4). Based on the zoning district, the allowable densities for these sites can range from 1 unit per 8,000 square feet to 1 unit per 1,200 square feet. The last column in Attachment D indicates the maximum number of units that could be developed on each site, which vary from 1 unit to 114 units. In general, the

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larger properties have a higher development potential. A large site coupled with an R-4 zoning designation can be redeveloped with the most units. A Council policy requires that new development to be built to 75 percent of the maximum allowable density. Other site specific layout constraints and the need to meet Zoning standards for parking, landscaping, useable open space, etc. could further influence the development capability.

When evaluating the sites, the preservation value for an assembly use should be balanced with the potential contribution to the City's housing supply.

Effect of Rezone

Rezoning would preserve assembly uses and existing land use patterns. Rezoning to the Public Facilities zoning district would lessen opportunities for residential development.

The PF zoning district would allow additional places of assembly type uses (See Permitted Use table in Attachment B). Development standards for the PF zoning district such as lot coverage, floor area ratio, setbacks, and height require conformance to the most restrictive zoning district abutting the property. There is currently no minimum lot area requirement for the PF Zoning District; however, the smallest parcel zoned PF, not adjacent to another PF zoned property is approximately 1.2 acres. This site is occupied by a fire station. The smallest property currently zoned PF, occupied by a place of assembly (religious facility), is approximately 2.2 acres.

Sign Code

The Municipal Code (Section 19.44) contains specific requirements for the approval of new signs on properties. The sign ordinance acknowledges the differences between residential and non-residential neighborhoods through separate allowances and restrictions. To protect the integrity of residential neighborhoods, properties that are zoned residential are more restricted in terms of allowable signage. In summary, non-residential uses (such as places of assembly) in residential zoning districts are currently allowed half the allowable signage in terms of area, height and copy. As a result of rezoning to the Public Facilities Zoning District, the allowable sign area for these properties would increase and match similar assembly uses already currently zoned Public Facilities.

Site Characteristics & Rezone Options

There are a number of options or criteria when considering the rezoning of specific properties to Public Facilities Zoning District. Staff has provided various considerations when evaluating the inventory of sites. Attachment E includes a table with possible criteria to consider when evaluating the

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possibility of rezoning these properties. Based on those site characteristics, staff has provided the following options or criteria to consider for rezoning:

According to Size

Staff examined certain factors when determining a specific square footage threshold for evaluating the possibility of rezoning sites to Public Facilities. First, staff examined the sites that were utilized for these uses on residentially zoned property. Staff finds that smaller properties are less suitable for long term usage by places of assembly and could be better integrated within a neighborhood through residential conversion. Staff notes a natural break of assembly uses occurs at 30,000 square feet. An option for rezoning could be to target certain properties over 30,000 square feet. This would result in the rezoning of approximately 20 properties. Alternatively, the City could establish a 1-acre threshold which would result in the rezoning of 18 properties. A 2.2-acre minimum level could be established for rezoning which would affect 7 properties. This threshold could be considered appropriate as the smallest PF zoned existing property that contains a place of assembly is 2.2 acres in size. Many of these existing properties are combined with an adjacent parcel to create a larger site. Attachment H includes maps of the residentially zoned sites under consideration according to size and location.

According to Location*Arterial or centrally located*

Another option for rezoning that should be examined is the appropriateness of the specific location. Currently, places of assembly are located throughout residential neighborhoods, including along arterials and collector streets in the middle of single family neighborhoods. When evaluating possibilities for rezoning according to location, it may be appropriate to consider certain long term land use constraints and impacts that are sometimes associated with places of assembly. Assembly uses can often have unique peak periods of operation and activity. When place of assembly uses are located centrally within a neighborhood, the impacts associated with spill-over parking and traffic and general on-site operations can disrupt a larger residential area. A strategy for rezoning could be to remove these centrally located sites from consideration and eventually convert them to residential development. The spillover impacts can be better absorbed along major streets. Assembly uses may be more appropriate along the edges of residential neighborhoods, similar to other transitional uses, where impacts to residential neighborhoods are lessened. Sites located on major arterials may be more appropriate to preserve through the Public Facility rezoning.

ITR Zoned Sites

It is also important to note other long term land-use objectives of the site that have already been established on a property and its surrounding area. For

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example, two of the sites are currently located within the ITR (Industrial to Residential) combining district. These properties have already been strategically planned for conversion to high density residential uses as approved in the Futures Study in the early 1990's. These sites have high development potential due to their relative size and R-4 Zoning designation. Certain surrounding industrial properties have been recently converted to medium and high density residential uses. Due to this existing objective for the site, it may be desirable to retain the site for possible future residential development. As noted in the "Legal Issues" section of this report, certain findings are required to be made by state law if these sites are included in the rezoning. The potential loss of these sites for future housing could affect the established housing objectives set forth in the City's Housing and Community Revitalization Sub-Element.

According to # of Potential Dwelling Units

A third option for preserving the sites for places of assembly would be to rezone those sites based on the potential number of housing units. As identified earlier in the report, the number of residential units varies based on the size and allowable density of the existing zoning district. Smaller sites with less development potential may be better suited for eventual integration into a neighborhood through residential redevelopment. If a threshold of 10 or more units is set for possible rezoning, a total of 16 properties would be considered. If the threshold is set for 20 or more units, the pool of properties to be rezoned is 9 properties.

ENVIRONMENTAL REVIEW

A Negative Declaration was prepared for the prior Study Issue efforts and remains in compliance with the California Environmental Quality Act provisions and City Guidelines. The initial study determined that the proposed project would not create any significant environmental impacts (see Attachment I, Initial Study).

FISCAL IMPACT

A number of uses may be considered and allowed within the Public Facilities Zoning District. If the use of a current property is exempt, the rezoning will not change the assessed value of the property. The rezoning will likely enable the site to remain tax exempt. Residential properties have a higher value per square foot and rezoning to a lower intensity zoning district could, in the long term, affect property values. There is no fiscal impact as a result of the study as the current use of the property is not affected.

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PUBLIC CONTACT

Public notices for this project and the environmental document were distributed to all properties affected by the rezoning. Noticing included posting of the Planning Commission agenda on the City's official notice bulletin board, posting of the agenda and report on the City's web site, advertising in the Sun newspaper and availability of the report in the Sunnyvale Library and the City Clerk's office. A courtesy notice was also sent to the Chamber of Commerce.

Planning Commission Study Session

A Planning Commission study session was held on Monday, July 9th. The Commission noted an interest in setting a size threshold of 30,000 square feet. Also noted was an interest in including the two ITR zoned properties with places of assembly in the proposed rezoning. The Commission noted that in addition to properties located on arterials, those sites visible from a freeway or major arterial could also be included for possible rezoning.

Planning Commission Public Hearing

The Planning Commission public hearing took place on August 27, 2007. No members of the public spoke at the hearing. The Commission voted to reduce the minimum lot size for rezoning from 2.2 acres to 1.5 acres. The Commission had some questions regarding the recommended 2.2 acre threshold and the omission of the site along Persian Drive. The recommended 1.5 acre threshold would expand the pool of sites to be rezoned from 6 to 11 properties. The draft minutes of the Planning Commission hearing have been included as Attachment J of this report.

ALTERNATIVES*Rezoning:*

1. Introduce an ordinance to rezone properties based primarily on property size
 - a. greater than 1.5 acres, except for properties zoned ITR (total of 11 properties)
 - b. greater than 2.2 acres, except for properties zoned ITR (total of six properties)
 - c. greater than 1.5. acres (total of 12 properties)
 - d. greater than 2.2. acres (total of seven properties)
 - e. greater than 1 acre (total of 18 properties)
 - f. greater than 30,000 s.f. (total of 20 properties)
2. Introduce an ordinance to rezone properties based primarily on location
 - a. on a major street (total of eight properties)
 - b. on any street (total of up to 34 properties)

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3. Introduce an ordinance to rezone properties based primarily on residential redevelopment potential
 - a. 20 or more residential units (total of nine properties)
 - b. 11 or more residential units (total of 16 properties)
4. Introduce an ordinance to rezone properties as deemed appropriate.
5. Do not rezone any properties.

RECOMMENDATION

Staff recommends Council rezone the properties described in Alternative 1a in accordance with the Planning Commission recommendation. The original staff recommendation prior to Planning Commission consideration is included in Alternative 1b.

Staff is recommending rezoning all property greater than 1.5 acres in size with the exception of the ITR zoned property. The property located in the City's ITR area (420-460 Persian Drive) should remain under its current zoning. Staff has modified the original recommendation to reflect the Planning Commission action to add more properties in the PF zoning district. Given the general concern expressed by the community of providing an adequate number of sites for places of assembly, staff finds this to be a reasonable approach for long-term preservation of place of assembly sites.

A total of 11 properties would be rezoned under this recommendation. This recommendation would include 11 of the 12 largest properties noted in Attachment D. The property located on Persian Drive is not included in staff's recommendation for rezoning. Two of the five additional sites recommended by the Planning Commission were noted as being "along major streets and not mid-neighborhood," as noted In Attachment E. Although, not determined to meet this criteria, the three other locations are either located along major collector streets or are adjacent to PF Zoned land.

Staff finds that retaining the larger properties in the City's inventory of residentially zoned sites will preserve adequate locations for assembly uses. Staff has found that communities vary in terms of how much land is utilized by place of assembly uses, and no data has been found to determine what is considered an ideal allocation for such uses.

Originally, the Planning Commission expressed a desire to include more sites, as noted from the Planning Commission Study Session. Staff finds that these smaller properties should remain as potential opportunities for redevelopment. Staff also notes that these properties are not characteristic of the City's current inventory of PF Zoned parcels occupied by places of assembly. Through rezoning 11 properties to the Public Facilities Zoning District, staff finds that

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the goal of preserving locations for “Community Serving – Places of Assembly” is met. Existing residentially zoned property can continue to be used as places of assembly and new assembly uses can be considered; however, staff finds that an adequate supply for infill residential development should remain within these locations. Furthermore, staff finds that for the reasons stated in the report, ITR locations should remain as opportunities for new residential development and aide the City’s housing goals. The recommended parcels are located along or near major streets and are appropriate locations for current and future assembly uses.

Reviewed by:

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Prepared by: Ryan Kuchenig, Principal Planner

Approved by:

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City Manager

Attachments

- A. Negative Declaration
- B. Zoning District Use Tables (PF & Residential Zoning Districts)
- C. Map of Places of Assembly on Recreationally Zoned Property in Sunnyvale
- D. Data Table of Places of Assembly Uses on Residentially Zoned Property
- E. Matrix of Rezoning Criteria
- F. Map of (POA) Combining District Sites
- G. Ordinance (including maps of staff recommended sites for rezoning)
- H. Maps of Sites Based on Evaluated Criteria for Size and Location
- I. Minutes from March 22, 2006 City Council Meeting
- J. Draft Minutes from the August 27, 2007 Planning Commission Meeting