

800 Magnolia Avenue  
PC Meeting: 10/27/09  
Agenda Item No.: 1

**PLANNING COMMISSION  
STAFF REPORT**

**DATE:** October 27, 2009

**RE:** GPA/RZ/TEXT/DR/CAP/V/EXC/HTR/CUP 07-66: Pacific Design Group, applicants; Dennis Gilardi, property owner; 800 Magnolia Avenue; AP#: 20-121-15; A-P Administrative-Professional Zoning District.

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**September 22, 2009 Planning Commission Meeting**

Following a September 22, 2009 public hearing on this application, the hearing was continued to October 27, 2009 to: (1) allow time for the applicant to provide additional information related to landscaping, screening, and side elevations; and (2) have staff draft findings and conditions of approval of the CEQA analysis of Alternative 3, (Revisions to Conditional Uses in A-P Zoning District).

**REQUEST**

The applicant is requesting that the Larkspur General Plan be amended to re-designate the above referenced site from Administrative & Professional Offices to Restricted Commercial and that it be rezoned from Administrative Professional (A-P) to Restricted Commercial (C-1) to permit conversion of an existing office building to a retail store use. The proposed project includes a request for a 490 square-foot addition to the existing building, resulting in a total of 6,802 square feet of floor area to accommodate a proposed hardware store. Other proposed alterations to the site and structure include a new rooftop mechanical equipment and enclosure, elimination of the drive-thru facility, reconfiguration of planter areas and walkways, striping of five (5) new parking spaces, ADA access improvements, creation of a two loading access areas, and two accessory outdoor storage/utility yards. One heritage-size redwood tree would remain and one heritage-size pine tree would be removed. The applicants are proposing that all truck traffic will enter the site off Bon Air Road and unload on the Bon Air Road side of the building.

The project, as proposed, includes the following permit requests:

- **General Plan Amendment (GPA)** to amend the General Plan Land Use map to re-designate the site from Administrative & Professional Offices to Restricted Commercial.
- **Rezoning (RZ)** to rezone the site from the A-P to the C-1 Zoning District.
- **Design Review (DR)** for alterations/additions to a commercial structure and related site improvements.
- **Circulation Assessment Permit (CAP)** to increase trip generation by more than 10 P.M. peak hour trips.

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- **Variance (V)** to LMC Section 18.56 to provide only 33 parking spaces where 38 parking spaces are required for the proposed hardware store use.
- **Exception Permit (EXC)** to modify and enclose a non-conforming carport structure located approximately 18 inches within in a 20-foot rear setback from the A-P Zone.
- **Heritage Tree Removal Permit** to remove one heritage-size pine tree.

At the September 22, 2009 public hearing, the applicant's expressed an interest in requesting Alternative 3 from the CEQA analysis, which would not require a General Plan amendment or rezoning but would require a text change, by ordinance, to the A-P District to allow neighborhood serving uses within the A-P District with approval of a conditional use permit. The Planning Commission directed staff to draft findings for a text change consistent with Alternative 3. Therefore, in addition to the request for design review, circulation assessment permit, variance, exception permit, and heritage tree removal, the applicant has applied for the additional following permit.

- **Conditional Use Permit** to allow a hardware store within the A-P District consistent with and conditioned upon a change to A-P District allowing limited retail or service businesses within the District.

## CEQA FINDINGS

For a complete discussion of the project background and environmental analysis please refer to the September 22, 2009 staff report. In summary, the EIR identifies those adverse environmental impacts of the project that are expected to be "significant." Mitigation measures have been prepared for potential significant impacts identified related to land use, traffic and parking, noise, aesthetics, cultural resources, and air quality. With mitigation, most of these impacts have been determined to result in a less-than-significant impact. Potential land use and traffic impacts (related to truck loading & circulation) remain "unavoidable" significant impacts and require a statement of overriding considerations for project approval. For reference, a Summary of Impacts and Mitigation Measures and a Mitigation Monitoring and Reporting Program are attached to this Report at Exhibits 1-1 and 1-2 to Attachment 1, Sections I, II, and III. The potential impacts identified in the EIR, mitigations measures, and significant unavoidable impacts are further referenced in the findings provided within Attachment 1.

In order to approve the proposed text change and project, the Planning Commission is required to certify that they have reviewed and considered the Final EIR prior to making a decision on the project. The Planning Commission should also make a recommendation to the City Council regarding the adequacy of the Final EIR relative to having been completed and adopted in compliance with CEQA. All of the reports and studies, which support the conclusions of the EIR, are available in the Planning Department at the City of Larkspur City Hall. As noted above, and pursuant to Section 15091 of the CEQA Guidelines and the Commission's September 22 direction, recommended CEQA findings supporting approval of Alternative 3, Alternative with Revisions to Conditional Uses Allowed in A-P Zoning, are provided in Sections

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I, II, and III of Attachment 1 to this report, along with the project applications related to a hardware store use.

### **DISCUSSION ON TEXT AMENDMENT**

With the selection of Alternative 3, a Zoning District text change, a General Plan Amendment is not required. The finding for General Plan conformity for the proposed Zoning text change to the A-P Zoning District is included in Section IV of Attachment 1. Further, as Alternative 3 only amends the regulation text of the A-P District, it does not require a rezoning of the site. The project site would remain under its current A-P Zoning District. The recommended text amendment would amend subsection 18.40.025 of the Larkspur Municipal Code shall be amended to add subsection (G) to the end of the listing of conditionally permitted uses to read as follows:

*"G. Retail or service businesses, excluding restaurants, retail food service, and groceries or supermarkets, that are primarily neighborhood serving (i.e., generally accessed by bicycle or on foot or by vehicle trips of less than two miles) and determined to be compatible with administrative and professional uses. The property on which the business is located shall not abut residentially zoned or developed property and where the property is located within 50' of a residentially zoned or developed property, open hours of operation shall not begin before 8:00 a.m. or end after 6:00 p.m."*

A draft ordinance for the proposed text amendment is provided as Attachment 3.

The proposed language would affect only limited portions of the city zoned A-P where the A-P zoned property did not abut residential uses. These areas include a limited portion of South Eliseo Drive (which connects with Bon Air Road) and some of the Planned Development districts (e.g., portion of Larkspur Landing Circle area) where A-P uses are allowed. Although very restrictive in its application, this alternative would introduce certain types of uses into the A-P district that have not been typically considered part of the professional and administrative office district. Being conditionally permitted, however, all such uses would be evaluated for their relationship to surrounding uses and subject to public hearing review.

### **DISCUSSION OF PERMIT APPLICATIONS FOR HARDWARE STORE**

#### Revised Plans

Subsequent to the September 22, 2009 public hearing, the applicants submitted a revised plan addressing several site improvement, building design, and landscaping issues raised by staff, neighbors, and the Planning Commission. In response to specific issues raised and/or identified in the mitigation measures, the applicants have included the following revisions and details:

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1. Significantly reduced the volume of the mechanical screen structure proposed on the northwest portion of the roof. The air handling unit is proposed to be located within the attic utility space, with only the air condenser unit located within a mechanical 'well' space on the rooftop. This results in a much lower profile for the screenwall at the corner of the rooftop. Less mechanical equipment on the rooftop is likely to reduce the potential for noise impacts as addressed under Mitigation Measure NOISE-1b.
2. Replaced the wood slat / wire fence with a six-foot high solid wood fence, with two feet of lattice. The fence is to be composed of 1x6 vertical boards, to compliment the adjacent structures at 5 Bon Air Road.
3. Provided a detailed landscaping plan, which includes planting of 24 trees of various species, to mitigate removal of the heritage pine tree, replace damaged magnolia trees along the street frontages, and screen the loading area and north elevation as required under Mitigation Measures AESTHETICS-2. The applicants have recessed the fence line along the west elevations and included extensive new plantings along the street frontages and around the perimeter of the building and fences. A final landscape plan and site plan would be required to be submitted prior to issuance of a building permit, consistent with the submitted plans.
4. Provided a detailed lighting plan that calls for installation of recessed-bulb downlights around the perimeter of the structure and loading areas, for safety and security. No spot or flood-type light fixtures are proposed. The applicants have also indicated that they would install shields on the parking lot light adjacent to the residential areas, subject to approval of the property owner of 5 Bon Air Road (these lights are on the adjacent property). As proposed, the lighting plan appears consistent with the intent of Mitigation Measure AESTHETICS-1.
5. Provided a detail for the mountable curbs required to constrain the driveway entrances per Mitigation Measure TRANS-2.
6. Replaced the northeastern parking space with a curved planter at the northeast corner of the parking area, to avoid conflicts between parked cars and trucks backing into the loading area, consistent with Mitigation Measure TRANS-4. The landscaping proposed in that location also serves to provide additional screening to the loading area as seen from across Bon Air Road. In eliminating this parking space, the project will be providing only 32 parking spaces, where 33 were initially proposed. This alters the variance request, but is consistent with the amount of parking analyzed in the previous staff report and EIR.
7. Located the trash and recycling facilities within the fenced loading area at the northeast portion of the site, consistent with Mitigation measures TRANS-5 and NOISE-1c.
8. Identified four '*parking for 5 Bon Air Road patrons only*' signs to be located along the western parking area serving 5 Bon Air Road, consistent with the intent of Mitigation

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Measure NOISE-1d. The applicant has indicated that the adjacent property owner has been provided the plans but has not responded to the matter at this time.

In eliminating the heritage pine tree and shaving back the curb at the southeast corner of the building (at the driveway curve) to accommodate the large truck turn, the applicants have entirely modified the area to eliminate the masonry planter walls, stairs, and freestanding sign structure. New steps are proposed to an eastward direction, providing a re-aligned access to the east side parking spaces and a crosswalk to the Magnolia/Bon Air intersection. These improvements reduce the pedestrian access points across the drive aisle from two to one, reducing the potential vehicle/pedestrian conflicts. The remaining area will be replanted with two crepe myrtle trees and various shrubs and grasses. No new signage is proposed at this time.

Staff notes that the applicants have also added a sliding gate at the northwest corner of the building products yard, in front of a proposed parking space. From an operational standpoint, this gate would possibly compromise the use of the space for a regular parking function, as the parking in that space could eventually be restricted to accommodate loading and unloading at that location. Further, this could also create a potential delivery loading area, in conflict with the variance approval, mitigation measures, and conditions of approval. Staff recommends that a continuous fence be required around the northwest outdoor yard, and has provided a condition of approval to that effect.

Aside from the concern regarding the gate in the northwest parking area, staff recommends that the design is consistent with the findings for approval of design review, exception permit and heritage tree removal. Findings of approval for the permits for site alterations are provided in Attachment No. 1.

### **Conditional Use Permit**

In response to the previous direction of the Planning Commission, the applicants have revised their application to include a request for a conditional use permit for the hardware store use, based upon the guidelines of the text amendment to the AP Zoning District as discussed above:

*"G. Retail or service businesses, excluding restaurants, retail food service, and groceries or supermarkets, that are primarily neighborhood serving (i.e., generally accessed by bicycle or on foot or by vehicle trips of less than two miles) and determined to be compatible with administrative and professional uses. The property on which the business is located shall not abut residentially zoned or developed property and where the property is located within 50' of a residentially zoned or developed property, open hours of operation shall not begin before 8:00 a.m. or end after 6:00 p.m."*

In order to approve a conditional use, the Planning Commission must determine that the proposed use is consistent with the following findings of LMC Section 18.76.050:

- A. *The use would be consistent with the intent and purpose stated in the sections of this Title, which establish the applicable zoning classification.*

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- B. The use would be consistent with the general plan.*
- C. The use will not be detrimental to the health, safety, morals, comfort, convenience, or general welfare of persons residing or working in the neighborhood of such proposed use, nor be injurious to property or improvements in the neighborhood.*
- D. The use will not be detrimental to the general welfare.*

The applicants have provided findings for use permit approval and a description of the hardware store operations for consideration (attached). The project description identified hours of operation, open hours, number of employees, deliveries schedules, and a description of hazardous materials.

The project is generally consistent with that analyzed within the EIR and is also consistent with the performance criteria outlined in the proposed text amendment. The hours of operation and deliveries are consistent with the noise ordinance regulations and the restrictions outlined in the text amendment. The EIR outlines numerous mitigations to assure compatibility with surrounding commercial and residential uses, and protection of the general health, safety, and welfare.

In terms of the large truck delivery, staff has provided statement of overriding consideration concerning a potential significant impact if the large delivery truck should cross should be unable to navigate the entrance to the site without crossing from the outside lane, which is considered an unsafe condition. Other conflicts with the proposed truck circulation route may arise should the circulation path be obstructed by a parked car or cars (e.g. truck arrives late, cars are left overnight...etc). The applicants have indicated that flagmen will be provided as a contingency to control traffic should there be problems with the large truck entering or exiting the site. As staff has previously discussed, the use of flagmen is an unreliable condition and may result in deliveries at the west side property line, in violation of the mitigation measures and conditions of approval. To minimize the potential for such conflicts, staff recommends that the south and east parking lots, facing Magnolia Avenue and Bon Air Road, be signed to discourage parking during potential delivery hours, and that any late delivery be delayed until the next available morning to avoid potential traffic hazards and/or impacts to the residential neighborhood. Further, staff recommends that no deliveries be permitted on weekends, as specified in the project description, to minimize noise impacts to the adjacent residents during off-business hours.

Staff has provided draft findings for approval (Attachment 1) and conditions of approval (Attachment 2), as outlined above. With the adoption of these conditions, staff recommends approval of the conditional use permit, as well as the circulation assessment permit and parking variance, as previously discussed in the September 22, 2009 staff report.

**STAFF RECOMMENDATION**

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Per the previous direction of the Planning Commission, staff has provided findings for certification of the EIR, including a statement of overriding considerations regarding potential land use and traffic hazards. Also attached is a draft ordinance for approval of a text change to amend the language of the AP district to conditionally permit certain commercial retail uses under restricted circumstances. If the Planning Commission seeks to recommend certification of the EIR and adoption of the text Amendment as outlined in the attached findings and draft ordinance, staff recommends that the Planning Commission further recommend approval of the requested design review, exception permit, heritage tree permit, use permit, circulation assessment permit, and parking variance according to the attached findings and conditions of approval.

It is important to note that the Commission must act to recommend the EIR certification and text amendment prior to any action on the request use approvals. Although the Planning Commission and City Council may seek to approve the text amendment and use concurrently, the use cannot be take effect until after the text amendment is adopted and the use cannot be instituted until the ordinance becomes effective (30 days after second reading).

**ATTACHMENTS**

1. Findings Document for EIR Certification, Text Amendment, Site Improvement and Use Approvals, with Summary of Impacts, Revisions to DEIR, and Mitigation Monitoring Program (Exhibits 1-2, 1-2, and 1-3).
2. Conditions of Approval, including Mitigation Monitoring
3. Draft Ordinance for Amendment to AP Zoning District
4. Large Truck Circulation Plan (Plan Sheet A.2.3), September 15, 2009
5. Applicants Findings for Conditional Use Permit, and Revised Description of Hardware Store Operation, October 6, 2009
6. Letter of Support from Marin County Bicycle Coalition (MCBC), October 16, 2009
7. Minutes of September 22, 2009 Planning Commission Meeting

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