

Planning Commission Staff Report

June 11, 2008
Item 6.a.

- SUBJECT:** PUD-85-09
- PROPERTY OWNER/
APPLICANT:** Sunrise Senior Living
- PURPOSE:** Review of the Planning and Community Development Director's determination on substantial conformance of the Sunrise Senior Living facility with the approved PUD-85-09 located at 5700 Pleasant Hill Road. Zoning for the property is PUD-C-O (Planned Unit Development – Commercial-Office) District.
- GENERAL PLAN:** Retail/Highway/Service Commercial, Business and Professional Offices
- ZONING:** Planned Unit Development-Commercial-Office (PUD-C-O) District
- LOCATION:** 5700 Pleasant Hill Road
- ATTACHMENTS:**
1. Exhibit A, Site Plans, Floor Plans, Elevation Drawings, and Written Narrative and Related Written Information, dated "June 4, 2008," "June 3, 2008," "April 29, 2008," "April 16, 2008," "March 11, 2008," and "February 27, 2008" and Tree Report, dated "June 12, 2006"
 2. Exhibit B, Conditions of Approval and Negative Declaration for Case PUD-85-09 from 1985
 3. Exhibit C, City Council and Planning Commission Staff Reports for Case PUD-85-09 from 1985
 4. Exhibit D, Table Comparing the Proposed Project to the Approved 2000 Plan Submittal and the Approved 1985 Plan Submittal
 5. Exhibit E, Memo to City Council, dated "April 25, 2000"
 6. Exhibit F, Neighborhood Meeting Notes, dated "May 7, 2007"
 7. Exhibit G, Public Comments
 8. Exhibit H, Public Notice Map
 9. Exhibit I, Statute of Limitations for Challenging PUD-85-9, Memorandum from City Attorney's Office, dated "June 3, 2008"

STAFF RECOMMENDATION

Staff recommends that the Planning Commission confirm the Zoning Administrator's determination that the project is in substantial conformance with PUD 85-09.

BACKGROUND

In 1985, following the adoption of a Negative Declaration, the City Council approved PUD-85-09 for a two, three, and four story, 132 unit, senior retirement facility on the project site. The approval of this PUD, however, did not include an expiration date and for such reason, the PUD is still valid. Accordingly, plans in substantial conformance with the 1985 approval would require no additional discretionary review prior to issuing a building permit.

In 2000 Willow Partners submitted plans to construct the approved senior retirement facility. The Planning and Community Development Director at the time determined that those plans were in substantial conformance with the 1985 approval and, therefore, no additional discretionary approvals from the City were required for the project to proceed. Staff mailed courtesy notices to the surrounding residents advising them that construction of the facility would begin in the summer of 2000. In addition, an informational memo about the project was distributed to the Planning Commission and City Council (see Exhibit E). Willow Partners, however, abandoned the project, prior to the issuance of a building permit.

In 2007 Sunrise Senior Living (Sunrise) purchased the property and proposed to construct a senior retirement facility with a new design (case PUD-85-09-1M). The plans were for a three-story facility with underground parking. Sunrise held a neighborhood meeting on May 7, 2007 and received feedback. Concerns were expressed about several aspects of the proposed project including the following:

- Height is too tall
- Roof is too tall
- Building is too big
- Blocks view of Pleasanton Ridge
- Removing too many trees
- Not enough parking proposed
- Traffic concerns
- Air quality concerns (e.g. vehicle emissions)
- Building colors are not neutral
- Project will be noisy—truck deliveries, kitchen exhaust, back up generator noise, etc.

Meeting notes, including a detailed list of concerns, are attached (see Exhibit F). Shortly after the neighborhood meeting, Sunrise withdrew its application for a new project design.

In 2008, Sunrise submitted revised plans which it believes are in substantial conformance to the 1985 approval for the site. As in 2000, planning staff has reviewed those plans. As provided in the Municipal Code, the Director of Planning and Community Development, as the Zoning Administrator, has determined that the plans are in substantial conformance with the 1985 approval.

The Zoning Administrator made that determination based on the physical appearance of the proposed project as well as its operational features and impacts. For example, the number of units is the same, the building square footage is within the range previously approved, the site square footage is the same, and the number of stories and the height of the structure are the

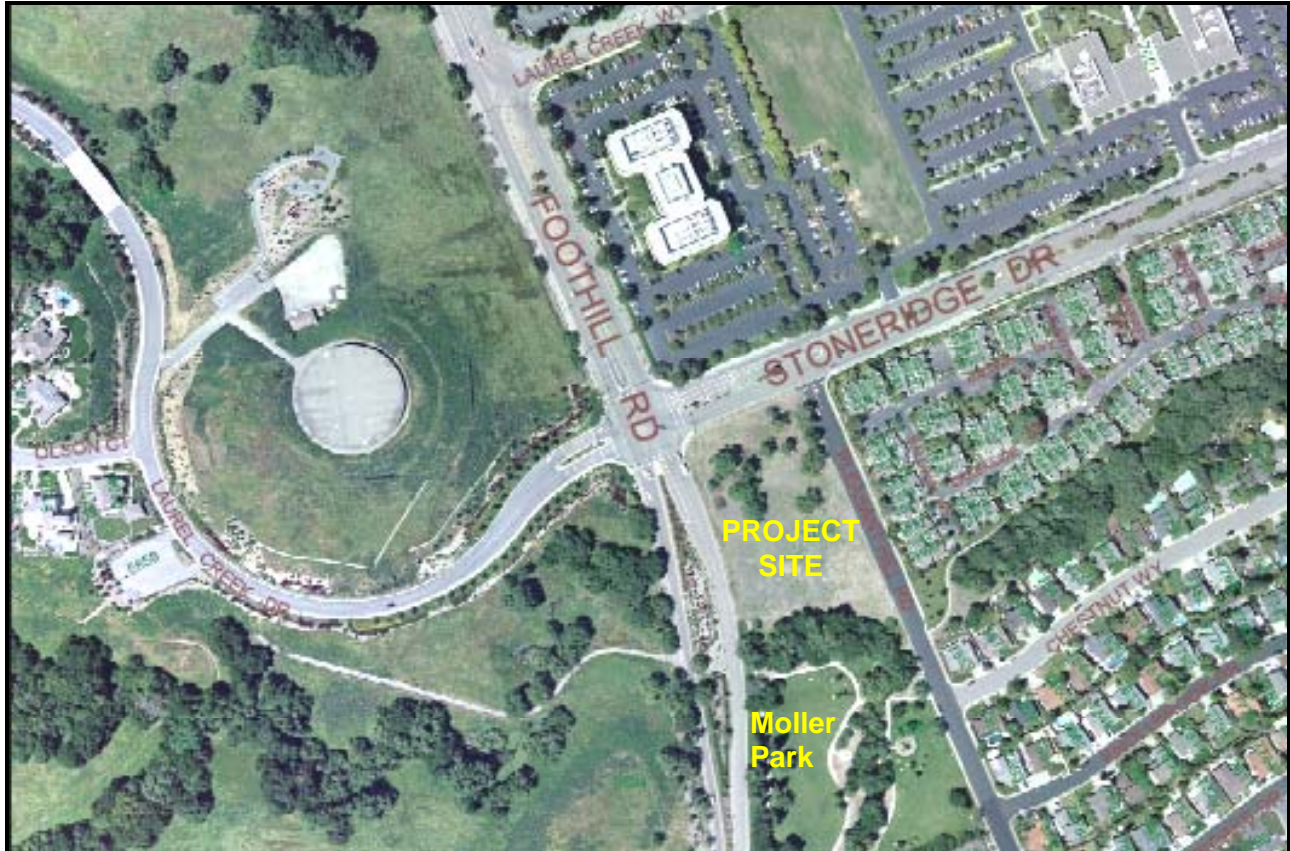
same. On the operational level, meal plans, organized arts and crafts activities, on site beauty shop, on site gift shop, on site fireside lounge/library, on site facilities for physicians, and age requirements are the same. (For a complete list of items that the Zoning Administrator compared to reach a determination that the proposed project was in substantial conformance to the 1985 approval, see the attached Exhibit D.)

Determinations of the Zoning Administrator as to substantial conformance are subject to appeal to the Planning Commission. Due to the level of neighborhood interest in and concerns about the project, and in recognition of the certainty that Zoning Administrator's decision would have been appealed to the Planning Commission, staff has placed this matter on the Planning Commission's agenda as if the Zoning Administrator's determination had been appealed.

The plans are now before the Planning Commission for its review that the proposed plans are in substantial conformance to the valid 1985 approval. Staff recommends that the Planning Commission confirm the Zoning Administrator's determination in that only a few project details are different due to new Building Code construction rules, the changing nature of assisted living, and the health of existing trees which have not been consistently maintained in last 20+ years. The Zoning Administrator does not believe the proposed changes are significant.

A location map is shown in Figure 1, below.

Figure 1
Location Map



PROJECT DESCRIPTION

The site is approximately 2.54 acres in size. The building is proposed to be stucco with stone treatments and would be approximately 102,000 square feet in size. Faux window shutters and narrow recessed decks would be provided on some of the units. The roof material would be asphalt shingles. Building colors have not yet been submitted. According to the 1985 approval, the proposed colors can be submitted later, with the building permit plans, and are subject to the review and approval of the Director of Planning and Community Development. The four story component of the building would be approximately 47 feet tall. The building would be a square shape with a central courtyard. The building would have stepped building elevations with lower two and three story portions located adjacent to Pleasant Hill Road. Access to the site would be entirely from Pleasant Hill Road. The site would have 81 surface parking spaces. The project would include the following amenities:

- Meal plan
- Daily van transport for tenant errands
- Activities/Arts and crafts room
- Media room (television/computers)
- Exercise room
- Jacuzzi
- Fireside lounge/library
- Beauty shop
- Gift shop
- Outdoor tables and benches

Small refrigerators and a microwave/hotplate would be in the units. Full kitchens are not proposed.

Noted below are differences between the approved PUD and the current proposal. Staff believes the differences are minor.

Assisted Living

The proposed facility would include living units and care for memory impaired persons (approximately 20 residents). The proposed facility would offer more care services than the 1985 proposal and would, consequently, employ more personnel (a total of approximately 24 employees during the maximum shift, compared to 11 in the 1985 approval). Although there would be more employees driving to/from the site, it is anticipated that the memory impaired residents, and other residents requiring more care, would not drive to/from the site.

Unit Count vs. Mix

In 1985, 132 units, a combination of one and two bedroom units, were approved. In comparison, 132 units, a combination of studio, one bedroom, and two bedroom units, are currently proposed. The applicant's architect has indicated that converting the proposed studio units into one bedroom units would not be feasible if the unit count, the building square footage, and the interior amenities were to remain the same, and the units were to meet the new Building Code requirements, including requirements for disabled access.

To achieve substantial conformance, the applicant felt that it needed to provide exactly 132 units, since 132 units were approved in 1985. If the project is deemed to be in substantial conformance, the applicant is willing to decrease the total number of units and provide more one bedroom units, if so desired by the Planning Commission.

Trees

There are 29 trees on site, several of which are heritage trees. In the 1985 approval, nine trees (and possibly four more if determined feasible during the plan check/construction phase) were required to be preserved on site.

The applicant has stated that it is willing to preserve all of the trees required to be preserved in the 1985 approval, if deemed appropriate by the City.

In 2006, an arborist on the City's list of consulting arborists recommended that only one on-site tree be preserved, since all but one are in poor or very poor condition and, in his opinion, hazardous given their condition and the type of facility proposed (see Exhibit A). The one tree recommended by the arborist for preservation is located where the building is proposed, and is not proposed to be preserved for this reason.

In 2007, the City's landscape architect assessed the trees and concurred with the arborist regarding the existing health of the trees, but believed that five trees can be preserved since they would not be located in a high hazard area. The City's landscape architect also believes that the health of these five trees may improve with development since they would be regularly watered and pruned if the site were developed. Sunrise proposes to retain these five trees (four walnut trees and one locust tree) by the proposed parking lot. Four of these trees are heritage size and in poor to very poor condition. The fifth tree is in very poor condition. Based on the City's landscape architect's recommendation, Sunrise is showing the preservation of five trees on their plans.

Consistent with the 1985 approval, the applicant would install approximately 80-90 replacement trees, a combination of 15 gallon and 24 inch box in size each.

Setbacks

As shown in Exhibit D, the proposed minimum building setbacks are approximately five to twelve feet greater than the minimum building setbacks approved in 1985.

Amenities and Visual Features

Some features in 1985 approval are not proposed, such as an entry fountain and shuffle board court; however, other similar features are proposed such as a fountain in the central courtyard, bird baths, raised vegetable planters, a gazebo, and benches.

The building design is similar to the 1985 approval; however, there are a few differences. The catwalk on the front elevation in the 1985 approval has been removed and replaced with dwelling units. The building elevation recesses on the south elevation (by the creek) is somewhat different.

DISCUSSION

Review Process

According to the Pleasanton Municipal Code (PMC), the Zoning Administrator is the decision making body which determines if a development plan and approved use is in substantial conformance to approved exhibits. Section 18.144.050 of the PMC states that an appeal may be made to the Planning Commission by any interested party of any administrative determination or interpretation made by the Zoning Administrator. Section 18.12.070 of the PMC provides no building permit shall be issued until the Zoning Administrator issues a zoning certificate for the structure which is the subject of the building permit. PMC Section 18.12.050 states that the zoning certificate is to ensure that the structure complies with all applicable provisions of the title which, by extension, includes an approved development plan and conditions. Although the City no longer issues an actual zoning certificate for structures, the determination of substantial compliance by the Zoning Administrator is done through plan check review and sign-off and that determination is subject to appeal. In this case, due to the level of neighborhood interest in and concerns about the project, the Zoning Administrator's determination is being forwarded to the Planning Commission for a confirmation of substantial conformance as if the determination had been appealed.

Applicable City and State Requirements

If the project is deemed to be in substantial conformance, it would not be required to comply with the City's Green Building Ordinance and the City's rules regarding housing affordability since these requirements were not in effect when the project was approved in 1985. However, the applicant is willing to comply with the City's Green Building Ordinance. The project would be required to comply with all applicable State requirements, such as the recently adopted storm water treatment and retention requirements.

Moller Park

Moller Park is south of the site. A few neighbors have expressed to staff that the City had/has a plan for the project site to be an extension of the adjacent Moller Park. The Parks and Recreation Department, however, has confirmed that the project site has never been planned or approved as an extension of Moller Park.

Alternatives Considered by Staff

While considering the issue of substantial conformance of the submittal, staff discussed alternative courses of action.

One such course was that the City could rescind its original 1985 approval of the project. This option was discussed with the City Council during discussion of the property during the General Plan update process. Staff is not recommending this course of action as City Council did not provide such direction during the General Plan discussions.

A second course of action would have been to work with the applicant to develop a smaller project that could be more acceptable to the neighborhood but still determined to be in substantial conformance with the original approval. Staff did not pursue this option because the project owners did not feel confident that the neighbors could be satisfied; the project owners have requested only a determination on the project as proposed.

PUBLIC COMMENTS

To date, staff has received 26 e-mails/letters/phone messages in opposition to the project and three in support. Public comments are in Exhibit G. The comments in opposition are similar to those expressed at the neighborhood meeting on May 7, 2007 (see Exhibit F). On June 3, 2008, staff received a petition with 316 signatures in opposition of the project. The petition is in Exhibit G. The petition states the following:

Sunrise Senior Living, Inc. is proposing to build a 141-bed senior living facility at the corner of Stoneridge Drive and Foothill Boulevard, fronting on Pleasant Hill Road. While senior living facilities are generally desirable, we are concerned that:

- 1) The proposed facility, at 4 stories, is too tall for the site.*
- 2) The facility will generate excessive traffic, noise and odor pollution and will have adverse environmental effects on Moller Park and Gold Creek.*
- 3) The proposed plans propose removal of nearly all heritage trees on the lot.*
- 4) The 81 proposed parking spaces (only 62 being paved) will provide inadequate parking for residents, employees and guests and will result in excessive parking on Pleasant Hill Road at/or near the park.*
- 5) The facility, as designed, is too large, and is out of proportion with the residential neighborhood.*

We urge the City of Pleasanton not to approve the proposal as submitted, and to direct Sunrise Senior Living, Inc. to redraw their plans for the proposed facility. We also urge the city to require new studies to accurately assess the parking, traffic, and environmental impacts.

Most of these issues are development plan or design related issues; those issues would be relevant to the Commission's decision making process if the Commission were considering a PUD plan or design review application. The issue before the Commission, however, is whether the proposal substantially conforms to the prior approval. As such, the Commission's review is limited to that inquiry.

Many of the concerned neighbors live in the townhouses east of the site. A few of the townhouse residents commented that they never received a public notice regarding the original senior housing proposal. A few also commented that the public hearing notice and Negative Declaration from 1985 state that the building will be two and three stories tall, not two, three, and four stories tall as approved and proposed. The townhouses to the east were approved by the City in 1987, two years after the 1985 approval at issue here. For the Commission's information, attached is a memo from the City Attorney's Office about the legal adequacy of the public notice provided in 1985 as well as the statute of limitations for challenging the project on grounds that public notice in 1985 was inadequate (see Exhibit I).

The Livermore Amador Valley Transit Authority, which provides Wheels bus service, commented that it would like a bus stop at the site (see Exhibit G).

A copy of the public noticing map for the June 11, 2008 Planning Commission hearing for this item is attached in Exhibit H. As shown on the map, the noticing area is greater than the typical 1,000 foot noticing distance from the project site.

ENVIRONMENTAL ASSESSMENT

Pursuant to the California Environmental Quality Act (CEQA), the 1985 project approval is covered by a Negative Declaration dated July 19, 1985 (see Exhibit B) which was approved by the then City Council. The time to challenge the adequacy of the Negative Declaration has long since expired. This Negative Declaration has no expiration date and is still applicable if the project is deemed to be in substantial conformance to the 1985 approval. If the project is deemed to be in substantial conformance, no additional CEQA review is required.

A few neighbors questioned whether or not a new CEQA analysis should be required since there has been a substantial amount of new development in Pleasanton since 1985. The construction of this project would have been assumed in all proposed project analyses, such as traffic modeling, which occurred after 1985.

CONCLUSION

Staff recommends that the Planning Commission confirm staff's determination that the project is in substantial conformance with the 1985 approval.

In considering substantial conformance, the Zoning Administrator evaluated whether or not the project will physically appear substantially the same as the originally approved project, and will operate in such a way that the project will have the same impact on the neighborhood. The Zoning Administrator determined that the project easily meets the first test relative to the project appearance. The Zoning Administrator recognizes that the operation of the facility is marginally different in that it would include a greater range of care options, including approximately 20 units for care of dementia patients. These additional services would require up to 24 employees during some shifts rather than 11 employees. Despite the increase in employees, the relative increase in trips to the site would be inconsequential to the operation of the local traffic system. In addition, the number of trips generated by residents is likely to decrease based on a reduced level of independence of residents needing more care. For these reasons, the Zoning Administrator determined that the operation is also in substantial conformance with the approved 1985 project.

If the Planning Commission confirms the Zoning Administrator's determination of substantial conformance with the 1985 approval, and the Commission's decision is not appealed, the applicant could then apply for a building permit; no additional discretionary review is required.

{End}

Staff Contact

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