



WS #2

DATE: November 18, 2008
TO: Mayor and City Council
FROM: Director of Development Review Services
SUBJECT: South Hayward BART Station Development Proposal – Wittek LLC and Montana Properties, Inc., and BART, with Eden Housing and Safeway

RECOMMENDATION

That the City Council reviews and comments on this report.

SUMMARY

Wittek Development, LLC, and Montana Properties, Inc. (Wittek & Montana), in cooperation with BART via an exclusive negotiation agreement, are proposing to develop the South Hayward BART station parking lots and former Perry and Key site, along Mission Boulevard, into a mixed-use retail and housing development that includes 772 units of housing, and a Safeway lifestyle store. The proposal includes 125 units of affordable housing to be developed by Eden Housing. Included in the development will be a 910-space replacement parking garage for BART parking, walkable pedestrian corridors, and landscaping amenities to support the housing and commercial uses. The site will also integrate circulation features required for multi-modal transit stations, including bus transfer stops and bicycle storage.

Generally, the proposed concept would comply with the South Hayward BART/Mission Boulevard Concept Design Plan. However, due to the Safeway store that was not contemplated in the Plan, residential densities on the northern portion of the BART properties would not meet the minimum density threshold of 75 units per net acre, although the entire development would do so. Also, a proposed BART replacement parking structure and another structure that would contain residential units over parking levels are shown to exceed the normal height limit of 60 feet for the zoning district. Given the benefits the Safeway store would provide, staff is supportive of the conceptual plan from a density standpoint, and recommends that all structures be reduced in height so as not to exceed 60 feet, or additional amenities/features be incorporated into the project to help offset the visual impacts associated with such heights.

The project proponents have requested input from Council members on the proposal prior to deciding to move forward with development of full plans and submittal of applications.

BACKGROUND

Wittek & Montana are the owners of the Perry and Key site, which fronts on Mission Boulevard and is located directly adjacent to BART's satellite parking lot on Dixon Street. BART has entered into an exclusive right to negotiate an agreement with Wittek & Montana to acquire the Dixon Street satellite lot and either ground lease or acquire the parking lot directly adjacent to the BART station.

The development plan is generally consistent with Hayward's Station Area Residential (SAR) District zoning and the City's planning efforts for the area. However, densities on the north portion of the property by the BART station are shown to be less than the minimum 75 units per net acre (see Parcels 1 and 2 of Sheet A1 of Exhibit A, and Exhibit B) Also, the South Hayward BART/Mission Boulevard Concept Plan did not contemplate a full-service grocery store at this location, which impacts the ability to provide higher residential densities. The Plan indicated a grocery store at Mission Boulevard and Valle Vista Avenue, slightly more than ¼-mile away. A full-service grocery store is something that is desired for the neighborhood and would provide an amenity not just for the new residents at the BART site, but for the neighborhood at large. Finally, a seven-level, 910-space BART parking garage is proposed along the BART tracks south of the station. Such structure is currently proposed to exceed the 60-foot height limit (see attached Site Section A cross-section drawing, sheet A3 of Exhibit A). Also, due to the Safeway store, parking for the apartments proposed above it would be accommodated in a separate structure to the west, along the BART tracks. Such structure would also entail 65 market rate apartments in three stories over three levels of parking (see Site Section C cross-section drawing, sheet A3 of Exhibit A). However, with additional findings, the Council could approve structures with heights that exceed 60 feet, but are less than 80 feet.

Current market conditions and the need to assure adequate BART parking necessitate that the project be developed in phases. The long-term economics of the project are also contingent upon the ability to fund the major infrastructure costs associated with reuse of the station parking lots including creation of replacement parking and bus transfer facilities. In recognition of this, the developers are working to make the project competitive for infrastructure funding available from the State of California under its Proposition 1C program. This is a significant funding source that may only be available in 2009 and, if a successful application is made for the funds, could generate up to approximately \$30 million for the infrastructure components of the project.

Proposition 1C, the Housing and Emergency Shelter Trust Fund Act of 2006, was an initiative bond act that authorized the state to sell \$2.85 billion in general obligation bonds to fund new and existing housing and development programs, including an Infill Infrastructure program, which are the funds for which this project would apply. The program will provide grants for infrastructure improvements that are necessary to promote infill housing development. Such improvements would include parks, utilities, streets, parking structures, and transit improvements. The deadline to submit applications for these programs is anticipated in February, necessitating public hearings for the project by no later than January.

Second, Homeownership Programs will be allocated \$625 million of the fund, which will be used to encourage homeownership among low- and moderate-income first time homebuyers. Third, \$590 million of the trust will be issued to Multifamily Housing Programs aimed at construction and renovation of rental housing projects. Finally, \$285 million of the Trust Fund Act will be used to provide loans and grants to developers of homeless shelters and housing for farmers. Portions of this measure will also be used to pilot projects aimed at reducing the costs of affordable housing.

DISCUSSION (Please refer to Exhibit A, which includes a conceptual site plan, cross-sections, and circulation plan, and to Exhibit B, project tabulations.)

Phase I: Mixed-Use Housing/Commercial Development and BART Parking Structure:

The first phase of the project would be the development of Parcels 1 and 2, as shown on the attached site plan (sheet A2 of Exhibit A), to include a 58,500-square-foot Safeway grocery store that will be done in their lifestyle format (Parcel 1). It will include other local serving retail uses (e.g., Jamba Juice and Starbucks).

Directly above the Safeway will be 125 units of affordable apartments to be designed, constructed, and managed by Eden Housing. Eden will develop a combination of one-, two-, and three-bedroom units affordable to households earning between 30 and 60 percent of Alameda County Area Median Income, as adjusted for family size. Rents at the Eden property will range from approximately \$485 to \$1,350. The Eden site will enable the entire project to meet the City's inclusionary requirement as the 125 units constitute at least 15% of the overall unit count.

For 2008, a four-person household would be considered:

- an extremely low income household if it made less than 30% of the area median income (\$25,830), with an affordable rent amount of \$646 per month {30% of income};
- very low income if it made less than 50% of the area median income (\$43,050), with an affordable rent amount of \$1,076 per month; and
- low income if it made less than 60% of the median (\$51,660), with an affordable rent amount of \$1,292 per month.

Eden's presence in this project also enhances the competitiveness of the Proposition 1C applications, which have threshold affordability requirements that could only be met through the construction of affordable rental housing. Projects funded in the first round of 1C funding had similarly structured affordable components to what is being proposed for the South Hayward BART project.

The affordable apartments will include amenities common to Eden's high quality projects – a community room, a computer learning center, and outdoor recreational space located on the podium above the Safeway. Eden will also have its service coordination staff provide programming that helps build community and support the residents, including after school, summer, and technology programs for youth and financial management; and homebuyer training for adults.

Proposed on Parcel 2 are 65 market rate apartments over a parking structure along the BART tracks. The parking garage would provide parking for the apartment dwellers, including the Eden Housing residents. As indicated above, the density level of these two parcels (58 units per net acre) is below that called out in the Station Area Residential zoning district and the South Hayward BART/Mission Boulevard Concept Design Plan (75 units per net acre). This reduced density is due to the Safeway store and associated parking for it. Overall, the entire development site, including the properties to the east of Dixon Street, is shown at a density of 76 units per net acre. Given the benefits a Safeway store adjacent to the BART station would provide, including convenient shopping opportunities for BART riders and nearby residents, and the activity level and synergy for other development such a supermarket would provide in the area, and because the overall site density associated with master plan development would meet the minimum density required in the South Hayward BART Plan, staff is supportive of the proposed concept, related to the density issue.

Another issue related to the structure on Parcel 2 is the fact it is shown to exceed the standard 60-foot height limit of the district. One way to reduce the height of such structure would be to have one level of parking below grade, as is shown for the Safeway store parking. Although more costly, such change would reduce the massing of the building and allow it to be more in scale with the building on Parcel 1, and would likely eliminate the need for the Council to make findings to approve such height, which are:

- (a) The additional height makes a positive contribution to the overall character of the area and will be compatible with its surroundings in terms of site planning, scale, building design, color, exterior materials, roof styles, lighting, landscaping and signage.
- (b) The additional height will not result in unreasonable restrictions of light and air to adjacent properties or the public right-of-way, or otherwise be detrimental to the public health, safety and welfare.
- (c) The additional height will support other policies and standards of the South Hayward BART/Mission Boulevard Concept Design Plan and will result in a better overall project.

Also, because the residents of the Eden Housing apartments would park in this structure, they would need to walk across the roadway separating their apartment building from their parking spaces. The project will need to be designed to ensure conflicts with such pedestrian movement and vehicular traffic do not exist that would create an unsafe or undesirable pedestrian environment.

Finally, as part of Phase I, a seven-level BART parking garage is proposed, which is more fully described later in this report.

Phases II & III: Housing Development:

Beyond the affordable housing, the developers are proposing to develop several types of housing in configurations that are consistent with the Station Area Residential (SAR) District. They are proposing standard market-rate apartment developments in subsequent phases:

- Phase II: Flats and Lofts: Between Dixon Street and Mission Boulevard, the Perry & Key/BART satellite parking lot will be developed as 341 units of ownership housing over a

podium and subterranean parking. These units will be developed in four phases of approximately 85 units per phase.

- Phase III: Apartment Housing (parcels 3N and 3S on attached site plan): On the parking lot directly adjacent to the station, the developers are proposing to build 241 units of apartment housing in two buildings. These will be market-rate units with associated amenities such as a health club and a business center. These units will be mapped as condominiums, should the market make it viable to convert them to ownership units at a future date.

Open Space Amenities:

The developers are proposing to incorporate on-site open space. Eden will be incorporating group outdoor recreational areas on its podium on top of the Safeway store. Staff is also recommending that private open space be provided via balconies for at least 40 percent of the apartments, in accordance with the zoning district standards. The Perry & Key site east of Dixon Street will provide group open space, landscaping amenities, and courtyards for its residents atop the podium, and will provide private open space in balconies for some of the units.

Parking:

The development will provide a total of 2,038 parking spaces, which is consistent with the SAR District standards (1.0 space maximum for each studio and 1-bedroom unit; 1.3 spaces maximum for each unit with 2 or more bedrooms; 1 space minimum for each 315 gross square feet of commercial space) and BART policy, as follows:

BART Parking (part of Phase I): This includes a 7-level parking garage in the southwest corner of the site adjacent to the BART tracks (Parcel 4) that will house 910 replacement parking spaces for BART users, which is equal to approximately 75 percent of the total number of existing surface parking lot spaces on both sides of Dixon Street. As mentioned previously, the proposed garage would exceed the 60-foot height limit of the zoning district. Staff recommends that the height of the structure be reduced by having the lowest level be subterranean, which would allow the structure to approximate the 60-foot limit.

Residential/Commercial Parking Phase I: There will be a total of approximately 431 parking spaces in two garages and surface parking areas constructed for Phase I. One hundred seventy parking spaces will be located in one subterranean floor beneath the Safeway store on Parcel 1, 20 surface parking spaces are shown in front of the store, and 241 spaces will be located in a separate parking garage located adjacent to the BART tracks and the Eden Housing/Safeway building on Parcel 2.

Housing Phases II & III: The housing phases will meet the residential parking ratios required by the Station Area Residential Zoning District. All spaces will be housed in parking garages in the first level beneath the proposed housing units. The 341-unit townhome development on the Perry & Key site (Phase II) will include 420 parking spaces for a mix of one-, two-, and three-bedroom units. The 241 market-rate apartment development on Parcels 3N and 3S (Phase III) will include approximately 277 spaces for a similar unit mix.

Green Building Commitment:

The developers are committed to green building principles. For the first phase of the development, Eden Housing is proposing to meet the standards of Build it Green's "GreenPoint Rating" system and will design the project to score at least 90 points. It is anticipated that such project, and subsequent ones, would be required to be GreenPoint Rated, in accordance with a Private Development Green Building Ordinance the City is developing. Also, commercial projects are anticipated to be required to have green building measures incorporated into design and construction.

FISCAL IMPACT AND ECONOMIC ANALYSIS

Such project would be anticipated to generate increased tax increment funds to the Redevelopment Agency, including for affordable housing development, in that the project is located in the Redevelopment Project Area. Also, sales tax revenues would be generated associated with the new Safeway store, as would park dedication in-lieu fees and school impact fees. As with any new major development, there also would be associated costs for such development. To address costs associated with public services, including police services, staff would assess impacts and require as a condition of project approval that a community facilities district (CFD) be formed to allow the project to pay for its proportional share of such services, as Council has previously encouraged in relation to the South Hayward BART planning area. Actual assessment amounts will need to be determined when the entitlement process is pursued.

In order for the project to be competitive for State infill grant funding, the City must approve \$3.6 million in matching funding for infrastructure improvements, to include funding primarily for the BART replacement parking garage, which is anticipated to come from City/Redevelopment Agency funds.

Also, since many of the applications at the State level will be targeted towards projects that are part of a comprehensive area development, the developers are requesting City support from the Redevelopment Low/Moderate-Income Housing set-aside fund; specifically, for the construction of the Eden Housing portion of the project. Staff will need to further evaluate this request in terms of the level of financial participation, but is in general support of the request.

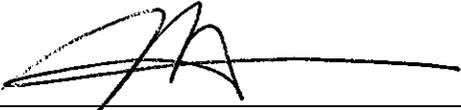
NEXT STEPS

In order to move this project forward to the very competitive funding rounds for Proposition 1C funds, the following actions would need to be taken by not later than February of 2009:

1. Discretionary Land Use Approvals: The developers will be requesting approval of:
 - a. Site Plan Review applications for development on Parcels 1, 2 and 4, and on the Perry and Key/BART overflow parking lot site;
 - b. Zoning Text Change to the Station Area Residential Zoning District to allow a supermarket as a primary use, to accommodate the Safeway lifestyle store;

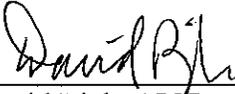
- c. A Development Agreement that would address proposed development and phasing for the entire site;
 - d. Amendments to the South Hayward BART/Mission Boulevard Concept Design Plan to address a revised circulation system and the BART parking structure; and
 - e. CEQA clearance for those approvals.
2. Proposition 1C Application Submittal: The City must act as the applicant for the infrastructure improvement funding from the State. The developers are suggesting that the funds be dedicated towards the construction of the replacement parking garage. The total cost of this is estimated at \$30 million and Proposition 1C funds can provide \$30 million. The developers and Eden will work with City staff to prepare the applications for the City's review, approval and submittal. The application is anticipated to be due by February of 2009.

Prepared by:



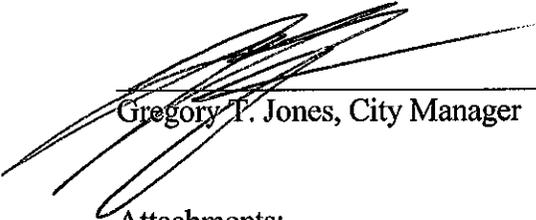
Richard E. Patenaude, AICP
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Recommended by:



David Rizk, AICP
Director of Development Services Department

Approved by:



Gregory T. Jones, City Manager

Attachments:

- Exhibit A: Parking Level Plan, Site Plan, Podium-Level Plan, Site Cross-Sections, and Circulation Plan (5-page plan set)
- Exhibit B: Project Tabulations