

PLANNING COMMISSION MINUTES OF FEBRUARY 11, 2008

2007-0462 – Essex Property Trust [Applicant] DI Tasman LP [Owner]: Application for related proposals on a 6.5-acre site located at **615 Tasman Drive** (near N. Fair Oaks Ave.) in a C-2/PD (Highway Business/Planned Development) Zoning District. (Negative Declaration) (APN: 110-29-038) JM; **(Continued from January 28, 2008)**

- **Special Development Permit** to allow residential mixed use development with 290 condominium apartment units and 51,308 square feet of commercial use, and
- **Parcel Map** to subdivide one lot into 290 condominium units and six commercial condominium units on a common lot.

Steve Lynch, Senior Planner, presented the staff report. He said staff is recommending the Planning Commission approve the project with conditions of approval. Mr. Lynch provided a correction to a number in Condition of Approval (COA) 12.B and said the Sense of Place fees estimate should be \$290,000, which is \$1000 per unit fee, not \$209,000.

Comm. Simons said there is presently 100,000 square feet of commercial and with this proposal the retail would be reduced to 50,000 square feet. He asked if the amount of retail was a concern to staff. Mr. Lynch said yes and added that the retail could come and go in this area. Comm. Simons said this area may become another PD (Planned Development) and said the retail could become some other form of retail or commercial rather than a grocery store. **Trudi Ryan**, Planning Officer, said that staff has recommended in the conditions that this development “shall include a grocery store”. She said if at some point in the future something other than a grocery store was desired, that an application with a public hearing would need to be made to amend the Special Development Permit to remove the grocery store. Comm. Simons asked about the parking square footage and whether housing or retail would require a higher percentage of parking. Mr. Lynch said that generally housing generates a higher percentage of parking. Mr. Lynch discussed different types of uses and how parking is affected. Comm. Simons commented that he had received a phone call from a member of the public who had asked the questions he just asked.

Ms. Ryan explained that the 100,000 square feet of building in this area was built when this site was zoned industrial and was not designed with retail in mind. She further discussed the zoning of this area over time.

Comm. Klein asked about the bus stop on the site and if the location of the bus stop is a problem with it being so close to the driveway. Ms. Ryan said that a number of circulation issues have been discussed with Sunnyvale traffic staff in terms of the placement of driveways. She said that the Valley Transportation Agency (VTA) has reviewed the plans and were comfortable with this design. She said she does not know if the VTA considered placement of the bus stop elsewhere. Comm. Klein asked if the

bus stop could be aesthetically improved. Ms. Ryan said it could possibly be upgraded with part of the Sense of Place funds. Comm. Klein referred to Attachment B, page 17, condition 26.A.6 and asked if that means there is only one entrance to the garage on the eastern driveway into the residential garage. Ms. Ryan said there are two entrances to the garages. Comm. Simons referred to Attachment B, page 18, condition 27.F confirming with staff that the condition says that 70% of the hot water needs for pools and spas for the summer months would be provided for with solar-assisted hot water. Comm. Klein commented that generally residents are required to park in their assigned parking spaces as required in the CC&Rs (Conditions, Covenants and Restrictions) by a Homeowners Association and asked since these are apartments for rent do the CC&Rs not apply unless they become condominiums. Mr. Lynch said that is true and referred to Attachment B, page 14, condition 18.I.5 asking the applicant to develop and bring back to staff a residential parking plan. Ms. Ryan added that the condition would apply to either the Homeowners Association for (homeowners) or the Property Manager if the units are rentals.

Comm. Hungerford asked about the Below Market Rate (BMR) units, and how long they would remain BMR units. Ms. Ryan said there is a 55-year deed restriction for apartments and a 30-year deed restriction for purchase units. She said the applicant will need to determine the process in advance if the property were to convert to condominiums regarding the BMR and the deed restriction would be changed. Ms. Ryan said there would be a new requirement for the BMR units if they were for sale. Comm. Hungerford asked about the difference between a final map and a condominium map. Ms. Ryan said a final map for condominium purposes can be filed anytime before the tentative map expires, which would be anytime before five years. She said the condominium map can be filed anytime after that and there is no restriction other than the restriction to convert the units that the applicant would need to go through the process to make the change. Comm. Hungerford referred to page 16 of the staff report that suggests that 10 trees be required to be preserved along the northern boundary unless an on-site arborist verifies that they cannot be saved and asked if this should be made a condition. Mr. Lynch said yes. Comm. Hungerford discussed with staff the development across the street from the proposed site and the height of the two developments as they have different grades.

Vice Chair Rowe referred to page 12 of the report regarding green building features and asked about the different LEED (Leadership in Energy and Environmental Design) points as they are confusing. Mr. Lynch explained the points system for the different types of construction explaining that there are different point minimums for different types of developments with residential buildings requiring more points to be LEED certified than office or retail. Ms. Ryan clarified that staff is not recommending a requirement for LEED certification for this development. Vice Chair Rowe referred to page 13 regarding Art in Private Development and discussed with staff some possible changes. Staff said that the Planning Commission cannot direct where art is placed and can put a recommendation for staff and the applicant along with the artist to explore certain possibilities.

Chair Sulser confirmed with staff that the Light Rail station is right across the street from the parking lot on Tasman.

Chair Sulser opened the public hearing.

Andrew Baker, Project Manager with Essex Property Trust introduced **John Eudy**, Senior Partner with Essex Property Trust and **Rocky Shen** with KTG Y Group, architect. Mr. Shen presented the project referring to site plans on display. He discussed retail uses and parking, residential areas, elevations, architectural styles and features, including colors, materials and other elements. He commented on earlier questions about sustainability and green practices and said they are investigating further opportunities for sustainability. He said the courtyards and sidewalks are pedestrian friendly and encourage the community to gather. He commented that the development is in close proximity to the bus line, that there would be ample parking for retail and encouraging of pedestrian traffic. Mr. Shen commented on the landscaping plans and color exhibits displayed.

Chair Sulser said there was a recommendation from staff to round out the corner of the market building and asked how this would impact the architectural elevations. Mr. Shen said rounding out the corner would probably strengthen the appearance of the elevation on the corner. He said he has no opposition to this, but the client would have to work this change out with the tenant. Chair Sulser asked Mr. Shen to explain how people would access the proposed site when they are exiting the light rail station. Mr. Shen explained the path a pedestrian could take to enter the site.

Comm. Klein asked staff to comment on how light rail users will be kept from crossing Tasman to get to the retail uses and asked if this were discussed with VTA. Ms. Ryan said, in general, the VTA staff was not concerned about a tendency to cross before going to the end of the ramp. Ms. Ryan commented that she was incorrect earlier this evening regarding the driveways into and out of the garage. She said the gate on the east side would be enter only. She said the only exit would be on the west side of the garage. Comm. Klein asked if staff sees an issue with all of the residential and some of the retail being allowed to exit only out of one garage exit. Comm. Klein asked if the fire lane is permanently closed to access except for emergencies. Ms. Ryan said the fire lane would not be closed and that the plan is to use turf block, which would fill in with grass, and provide an appearance of an area that is not a driving lane. Comm. Klein asked if any thought was given to providing a second egress on the north side from the parking area. Mr. Shen said if the grading was manageable between the parking structure and proposed fire lane, a driveway could be a relief for egress from the parking garage.

Comm. Simons asked the applicant to comment about the trees and shading requirements. Mr. Baker said that in the last meeting with the Commission, the comments included that there were too many palm trees proposed. Mr. Baker said they reduced the number of palm trees and left about 10 palm trees near the pool deck area and a few accent palm trees in the turnaround. Mr. Baker said that the remainder of the

trees planted should be native species trees. Comm. Simons asked staff what the intent of COA 13.K is. Ms. Ryan said that one of the goals of COA 13.K is to comply with the Guidelines and Standards for Land Use Near Streams which is a requirement in the City's guidelines to comply with the Santa Clara County Water District Collaborative agreement. She said there is list of non-evasive species that are primarily native and staff would like the entire landscape palette selected from those appropriate species. She said, regarding the trees that staff would take any modifications that the Commission is interested in, commenting that the trees in the parking lot should crown wide to provide shading.

John Eudy, applicant, said they are a local owner/operator, and commented that over the past 18 months that this project has been a collaborative effort with staff and an effort to create a Transit Oriented Development (TOD) with the retail application that fits the neighborhood and will immediately supply the goods and services for the community. He said they look forward to hearing the decision of the Commission on this project.

Chair Sulser closed the public hearing.

Comm. Babcock moved for Alternative 1 to adopt the Mitigated Negative Declaration and approve the Special Development Permit and Tentative Map with attached conditions. Comm. Klein seconded the motion. Comm. Klein offered a Friendly Amendment to investigate with staff the addition of a northern egress from the retail parking onto the fire lane, noting that it may remove several retail parking spaces. The Friendly Amendment was acceptable to the maker of the motion.

Vice Chair Rowe discussed the proposed palm trees and her concerns about too many palms and problems with palms. Comm. Babcock said that she thought condition 13.K would cover Vice Chair Rowe's concerns. Ms. Ryan clarified that the original plans proposed 13 palm trees and said, in general, the trees should be native species. Ms. Ryan referred Vice Chair Rowe to Attachment D, page 23 for the landscape proposal. Vice Chair Rowe said she does not like the palm trees around the pool. Ms. Ryan said the Commission could provide direction to explore the provision of shading around the pool other than palms. Vice Chair Rowe offered a Friendly Amendment to explore shading around the pool. Comm. Babcock said that she thinks the Friendly Amendment would be redundant and did not accept the Friendly Amendment.

Comm. Simons offered a Friendly Amendment for the applicant to work with staff to minimize the number of palm trees on the site. The Friendly Amendment was acceptable to the maker and the seconder of the motion.

Comm. Hungerford offered a Friendly Amendment, referring to page 15 and 16 of the report that an additional 10 trees be required to be preserved along the northern boundary of the site unless an on-site arborist verifies that they cannot

be saved during the site grading. The Friendly Amendment was acceptable to the maker and the seconder of the motion.

Comm. Babcock said that she thinks this is an excellent project and wanted to know how soon it would be started. She said she thinks it is the right place and right development.

Comm. Klein said he agrees that this is a nice project, and bringing the retail market into northern Sunnyvale is long overdue. He said he likes the architecture and with some minor improvements there will be a better feel coming on to the site. He said this site is a critical location for public transportation.

Comm. Simons said he is pleased with the recommendation and commented that there is actually one native California palm tree. He said there are a lot of positives for this development. He said the retail is a big plus, with a reassurance that this space will not be turned into something else later on.

Comm. Chang said he agrees that the grocery store on the northern side is a must. He commented to staff that a pedestrian crossing would be important for this development. He said he would be supporting this motion.

Comm. Hungerford said the grocery store is a great idea and thanked the developer for working with them on the architecture.

Chair Sulser said he would be supporting the motion. He said he is excited about the architecture and that there will be some retail for the newer housing developments in this neighborhood. He said he is sad the Starlight Dance Club is being relocated out of this neighborhood and is glad they have a new location. He said this is a great project and will make a nice neighborhood.

ACTION: Comm. Babcock made a motion on 2007-0462 to adopt the Mitigated Negative Declaration and approve the Special Development Permit and Tentative Map with modified conditions: to investigate with staff the addition of a northern egress from the retail parking onto the fire lane, noting that the addition may remove several retail parking spaces; for the applicant to work with staff to minimize the number of palm trees on the site; and that an additional 10 trees be required to be preserved along the northern boundary of the site unless an on-site arborist verifies that they cannot be saved during the site grading. Comm. Klein seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than February 26, 2008.