

FINDINGS FOR COUNTY FILE #RZ18-3247, SCOTT AND TIMOTHY GRIFFITH (APPLICANTS & OWNERS).

FINDINGS

A. Growth Management Performance Standards

1. Traffic: The site is accessed directly from Aspen Drive. Approval of the project would not immediately allow any new type of development without further discretionary review. Thus, there would be no impact to area streets or intersections and no traffic report is required.
2. Water: The subject site currently has water service. Rezoning the site does not change the fact that any proposal for future development must comply with all applicable ordinances and regulations pertaining to additional water services at the site.
3. Sewage: The subject site currently has sewer service. Rezoning the site does not change the fact that any proposal for future development must comply with all applicable ordinances and regulations pertaining to additional water services at the site.
4. Fire Protection: The subject site receives fire protection services from the Contra Costa County Fire Protection District. Simply rezoning the site would not impact fire protection services because adequate fire protection improvements and fees are typically required when physical development occurs.
5. Public Protection: The subject site receives public protection services from the Contra Costa County Sheriff. Simply rezoning the site would not impact public protection services because impacts to such services are mitigated at the time building permits are issued on lots created through a subdivision. This application does not trigger the need to mitigate such services.
6. Parks and Recreation: Approval of the proposed project would not increase the population in the Pacheco area and therefore would not increase the demand for neighborhood parks and recreation facilities.
7. Flood Control and Drainage: The site is not located in a Special Flood Hazard Area, however, there is a significant flood drainage channel located on the eastern portion of the property. Nevertheless, this rezoning application does not involve any new construction. Therefore, if drainage improvements were ever necessary, they would be required at the time such construction plans were proposed and approved.

B. Rezone Findings

Section 26-2.1806 of the County Ordinance Code requires specific findings to be made by the planning agency when a request for change in land use district is made; they are as follows:

1. Required Finding: The change proposed will substantially comply with the general plan.
Project Finding: The Office (OF) General Plan land use designation is consistent with the Limited Office (O-1) zoning district. Rezoning the subject site from Single-Family

Residential (R-6) to the O-1 District will address the current inconsistency between the parcels' present zoning and the underlying OF designation. Rezoning the subject property is appropriate for the site given the established use on the site and its' immediate surroundings. General Plan policies 3-103 and 3-104 pertain to the Center Avenue (Pacheco) area but are not applicable to this application. Additional policies 5-69 through 5-77 regulate properties within the Buchanan Field Airport Influence Area to ensure that neighboring land uses do not present a risk to aviation. Many of these policies relate to structural height, reflectivity of building materials, and lighting. Since the project does not involve new construction or new exterior lighting, such policies are not applicable to this project. General Plan policy 5-75 identifies incompatible uses within airport influence areas as those which may direct lighting or reflect sunlight towards aircraft, generate smoke or electrical interference, or involving inflammable or otherwise hazardous substances. Specific uses deemed incompatible are residential, shopping centers, restaurants, schools, hospitals, arenas and other places of public assembly. No element of this project is incompatible with the airport influence area, as determined by policy 5-75. Additionally, policy 5-76 outlines suggested uses within the Buchanan Field airport influence area including agriculture, open space, warehousing, light industry, parking of automobiles, and low occupant density public uses. Although offices are not specifically listed within this policy, this does not amount to a prohibition of administrative uses within the Airport Influence Area. Therefore, the rezone is substantially consistent with the general plan.

2. Required Finding: The use authorized or proposed in this land use district is compatible within the district and with uses authorized in adjacent districts.

Project Finding: The subject site is bordered on the east by land zoned for retail business use. The western adjacent parcel is vacant but was recently approved for residential development. Northern and southern abutting properties are within the present single-family residential R-6 district, but have been developed with a church and fire station respectively. The two-story office building existing on the subject property maintains the historical development pattern for the immediate area, where land uses transition from commercial to residential along the boundaries of their respective zoning districts. No alteration to the existing building would occur as a result of this rezone. Thus, the proposed O-1 zoning is generally consistent with existing development on the subject property as well as the established uses in the vicinity.

Presently the subject property is entitled for medical/dental office use, with an existing 2-story office building located on site. The rezone would allow an increased number of administrative uses that are substantially similar to that for which the property is presently entitled. The immediate effect of the rezone would be for a wider variety of office uses within the existing building. Most conditionally allowed uses within the new O-1 district are also conditionally allowed in the R-6 zoning district. No further development or substantially different use could occur without additional discretionary review by the County. Additionally, approval of this rezone will not result in any existing business currently located at this site to become a non-conforming use. Thus,

the uses allowed in the O-1 district are found to be compatible with uses previously authorized for the site and currently established in adjacent districts.

3. Required Finding: Community need has been demonstrated for the use proposed, but this does not require demonstration of future financial success.

Project Finding: Approval of County File #2090-82 authorized the establishment of medical/dental offices on the subject property. The entitled use is a permitted use within the O-1 district, however, the configuration of existing improvements and the property's proximity to the Pacheco Boulevard retail-business corridor, public transit and Interstate 680 all contribute to make this location desirable to administrative office tenants. The subject property is currently listed for sale. Based on feedback from prospective buyers, the applicant indicates that there is a greater demand for business and professional offices in the area than for medical or dental office space. The property is bordered on three sides by non-residential development and on one side by a future residential development, for which the site could potentially provide services. Rezoning the site to O-1 is therefore justified.

C. Variance Findings

1. Required Finding: That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations of other properties in the vicinity and the respective land use district.

Project Finding: The project site is presently entitled for medical/dental offices in a single-family residential (R-6) zone. This entitlement has been previously exercised with the development of a two-story office building that is substantially conforming to development standards for the former R-6 district. The County had previously granted primary setback relief along the parcels' Aspen Drive frontage in consideration of the unusual parcel shape and dual frontage condition. The approval of primary setback relief in the new O-1 district would formally recognize this prior County approval in the new zoning district.

The project does not involve any new development whatsoever. The variance for lot size and side yard abutting a residential district arise from existing conditions on the subject property that do not conform to the new zoning district. Since approval of the variances would not result in any physical change in the site or its surroundings, and would not authorize any additional non-conforming development, it would not constitute a grant of special privilege.

2. Required Finding: That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.

Project Finding: The subject property's location along a transitional area between commercial and residential zoning districts has resulted in the establishment of a variety of land use types in this area of Pacheco. The parcel's prior entitlement allowed the establishment of a use that is substantially similar to those allowed within the O-1 district, but was developed to standards pertaining to the former R-6 district. Rezoning to O-1 would allow a wider variety of commercial uses to be established on the property, but would also change the development standards applicable to the existing permitted improvements at this location. The strict application of zoning regulations would prevent the property from being rezoned to the O-1 district, but would have no impact on the location of existing improvements on the subject property. Notwithstanding the fact that the variances stem from existing conditions and are unrelated to any specific permitted use within the O-1 district, denial of the variances would have the effect of preventing an expansion of allowed uses on the subject property that are conducive to existing improvements thereon.

Additionally, the rezone of the property remedies an inconsistency between the underlying OF general plan land use designation and the former R-6 district. Rezoning the parcel to a district consistent with the OF designation would not be possible without the requested variances. Therefore, due to special circumstances, the strict application of zoning regulations would deprive the subject property of rights enjoyed by other properties in the vicinity, and within the O-1 land use district and OF land use designation.

3. Required Finding: That any variance authorized substantially meets the intent and purpose of the respective land use district in which the subject property is located.

Project Finding: Generally speaking, the intent and purpose of the Limited Office (O-1) district is to ensure orderly development for commercial and/or administrative activities that do not involve merchandise being stored, handled, displayed or sold. The approved variances arise out of existing conditions and the physical dimensions of the subject property. No physical change would occur as a result of this approval. Therefore, increasing the types of potential uses for a parcel that is already developed to accommodate such uses substantially meets the intent and purpose of the O-1 district.