



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: August 6, 2019

Subject: Rezoning from R-6 to O-1 for a parcel of land within the unincorporated Pacheco area

RECOMMENDATION(S):

1. OPEN the public hearing on the 101 Aspen Drive Rezoning Project, RECEIVE public testimony, and CLOSE the hearing.
2. FIND that the initial study and negative declaration prepared for the Project adequately analyzes the Project's environmental impacts, that there is no substantial evidence that the Project will have a significant impact on the environment, and that the negative declaration reflects the County's independent judgment and analysis.
3. ADOPT the negative declaration prepared for the Project.
4. DIRECT the Department of Conservation and Development to file a CEQA Notice of Determination with the County Clerk.
5. SPECIFY that the Department of Conservation and Development, located at 30 Muir Road, Martinez, California, is the custodian of the documents and other material that constitutes the record of proceedings upon which the decision of the Board of Supervisors is based.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY

☐ RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **08/06/2019** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor

Candace Andersen, District II
Supervisor

Diane Burgis, District III
Supervisor

Karen Mitchoff, District IV
Supervisor

Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: August 6, 2019

David Twa, County Administrator and Clerk of the Board of Supervisors

By: Jami Napier, Deputy

Contact: (925) 674-7798

cc:

RECOMMENDATION(S): (CONT'D)

6. ADOPT Ordinance No. 2019-20, rezoning the subject property from a Single-Family Residential (R-6) zoning district to a Limited Office (O-1) zoning district.

7. APPROVE variances from setback, side yard, and minimum lot size requirements of the Limited Office (O-1) district, to allow an existing building with a 15-foot setback and a 3 foot side yard to be located on a 6,272 square-foot lot.

8. APPROVE the findings in support of the Project.

FISCAL IMPACT:

None. The applicant has paid the initial deposit, and is obligated to pay supplemental fees to cover any and all additional costs associated with the application processing.

BACKGROUND:

Proposed Project

The applicant is seeking to rezone the subject property located at 101 Aspen Drive, from a Single-Family Residential (R-6) to a Limited Office (O-1) zoning district. The subject property includes an existing building. No grading or construction activities are proposed as part of this application. Due to the development standards for the proposed O-1 district, the project also includes a request for approval of variances to allow the existing building with a setback of 15 feet (where 20 feet is required) and a minimum side yard of 3 feet (where 15 feet is required when abutting a residential district) to be located on the subject 6,272-square-foot lot (where 15,000 square feet is required).

General Information

- General Plan: The subject property is located within an Office (OF) General Plan land use designation.
- Zoning: The subject property is located within an R-6 Single-Family Residential District (R-6).
- Environmental Review: An Initial Study and Negative Declaration (ND) were prepared for the project. The Initial Study did not identify any potentially significant environmental impacts associated with the project.

Site/Area Description

The subject property is identified as assessor parcel number 125-120-105, a 6,272 square-foot site located at the northwestern corner of the Aspen Drive/Center Avenue intersection. Pacheco Boulevard, a major thoroughfare serving the area, is located approximately 400 feet east of the project site. Adjacent parcels are zoned for

Single-Family Residential use to the north, west and south, while eastern adjacent parcels are zoned Retail Business (R-B). Adjacent General Plan land use designations include Office (OF) to the west, Public and Semi-Public (PS) to the north/south, and Open Space (OS) to the east. The subject property abuts a vacant lot to the west, for which the County recently approved a residential development. Surrounding land uses include a church to the north and a fire station to the south. Additionally, a Contra Costa Water District canal is located to the east, opposite Aspen Drive.

Existing Site Condition

The subject site is a relatively flat lot that has been previously developed with a two-story office building and associated off-street parking. A six-foot fence exists between the subject property and the western abutting property.

Background

On October 9, 1959, the County approved minor subdivision #MD212-59, which created the subject parcel. The parcels resulting from MD212-59 were owned by the Pentecostal Church of God, with the subject parcel serving primarily as access to the larger northern adjacent parcels. On February 5, 1980, the County approved a Land Use Permit, County File #2050-79, which modified access to the northern abutting church parcels such that church access from Aspen drive over the subject parcel would be eliminated. This approved change in access, and removal of easements, expanded the development options for the subject parcel.

On December 3, 1982, the County approved a Land Use Permit, County File #2090-82, to allow for the establishment of a medical and dental office building on the subject property, with off-street parking provided on the adjacent church property. A two-story office building has since been constructed on the project site. The purpose for the proposed rezone is to expand the types of office uses that could be established on the subject property.

Public Comments on Environmental Review

The public review and comment period for the Initial Study and Negative Declaration extended from May 7, 2019, to May 28, 2019. On May 28, 2019, Michael and Andy Akay of 214 Center Avenue submitted written comments challenging the findings of the Initial Study and Negative Declaration. They challenged the County's findings pertaining to the effects of an existing office building on traffic, noise, and privacy enjoyed on neighboring properties. The existing office building on the subject property was previously approved and is not currently under review as part of this application. As such, no potential environmental impacts relating to the existing development were considered within the scope of the Negative Declaration. There is no evidence in the record that suggests the rezone would negatively affect traffic or noise conditions in the area. Therefore, staff is recommending that the Board adopt the negative declaration

prepared for this project.

County Planning Commission Recommendation

The project proposal was considered by the County Planning Commission (CPC) at a hearing held on June 26, 2019. After considering the project proposal and all public comments, the CPC voted unanimously to recommend that the Board of Supervisor's adopt the CEQA Negative Declaration prepared for the project, and to approve the proposed rezone and the requested variances, as recommended by staff.

Staff Analysis

Existing Zoning Conditions

The project site has been within its present R-6 zoning district since at least June 15, 1962. Historically, the subject property has been located along zoning district boundaries within the Pacheco area. Properties located east of the subject parcel have historically been commercial in nature while westerly properties have typically been residential. The subject property has never been developed for residential use, despite its historical zoning. Prior to the 1959 subdivision that created the subject parcel, the northern and southern abutting parcels were developed for uses such as a church and fire station. According to General Plan *Table 3-5 (Consistency Between the General Plan and the Zoning Ordinance)*, the present R-6 zoning is inconsistent with the parcel's Office (OF) General Plan land use designation.

Comparison of Existing and Proposed Zoning Designations

The proposed O-1 district would increase the number of permitted (by right) commercial uses for which the subject parcel could be utilized. Newly permitted (by right) commercial uses would include medical/dental, professional, and business offices. Single-family dwellings and uses normally auxiliary to them, accessory dwelling units, parks/playgrounds, residential care facilities, and home day cares are currently permitted uses that would no longer be allowed on the property due to the proposed O-1 district.

Most uses allowed within the proposed O-1 district upon approval of a land use permit are also allowed within the R-6 district upon the approval of a land use permit. Newly allowed uses on the property after approval of a land use permit would include:

1. *Broadcasting studios or business offices, home cablevision facilities, including repair shops, storage areas, and equipment parking space necessary for operation and maintenance of the system;*

2. *Drug and prescription sales accessory to a medical office or clinic providing such use is definitely incidental to the primary use and is not visible from the street; and*
3. *Animal hospitals.*

The subject property is presently entitled and developed for a medical office use that is substantially similar to those allowed in O-1. Although the proposed O-1 district allows uses that tend to be more intense than typical single-family residential uses, the proposed rezone would not intensify the use of the subject parcel relative to its present medical/dental office entitlement. Additionally, any proposed development in an O-1 district requires prior approval of a development plan. Consequently, the immediately foreseeable result of the project would be the allowance for the existing building (presently limited to medical/dental offices only) to be used for a wider range of administrative office types.

Off-Street Parking

The Limited Office (O-1) district requires one off-street parking space be provided on the same lot for each 200 square feet of building floor area, except that medical and dental offices must provide a minimum of 5 parking spaces on the same lot for each full-time doctor.

The subject property is subject to and benefits from a joint parking easement with the adjacent church property to the north. The joint parking easement is recorded on the title for each of the respective parcels. A Title Report for the subject property, dated February 12, 2018, that includes the easement is attached. More than 30 off-street parking spaces are available on the subject property and adjacent property under the joint parking easement. The current land use permit (LP2090-82) that authorizes the establishment of medical/dental offices on the subject property recognized the joint parking easement as satisfying the off-street parking requirement. Future use of the subject property as medical or dental offices meet the off-street parking requirements as permitted under LP2090-82, provided that the joint parking easement is not substantially modified, voided, or otherwise terminated.

Any use of the subject property other than medical or dental offices, as allowed in the Limited Office (O-1) zoning district, is subject to the zoning district's off-street parking requirement. The existing building includes 3,200 square feet of floor area. Accordingly, 17 off-street parking spaces would be required. Prior to the establishment of any use, the Department will conduct a compliance check to confirm compliance with all applicable regulations, including off-street parking requirements. The joint parking easement may be utilized to satisfy the off-street parking requirement.

Variances

If approved, the existing improvements located upon the subject property would be at

variance with certain development standards within the O-1 district. The following table identifies variances that would result from this application, and provides a comparison of development standards for the existing and proposed districts.

	R-6 (Existing)	O-1 (Proposed)	Existing Site Condition	Variance Required?
Parcel Area (min)	6,000 sf	15,000 sf	6,272 sf	x
Avg. Width (min)	60 feet	100 feet	101 feet	
Lot Coverage (max)	n/a	35%	26%	
Building Height (max)	35 feet / 2.5 stories	35 feet / 2.5 stories	25 feet / 2 stories	
Off-Street Parking	1 space / 250 sf + 1 space / doctor/dentist	1 space / 250 sf	30 spaces	
Primary/Secondary Setback (min)	20 feet / 15 feet	20 feet / 15 feet	15 feet / 15 feet	x
Side yards (min)	3 feet	15 feet	3 feet	x
Building Area (max)	n/a	15,000 sf	3,280 sf	
Open Area (min)	n/a	25%	44%	
Development Plan Required?	No	Yes	n/a	

As shown above, the development standards for the proposed O-1 district are more restrictive than the present zoning in most respects. These more restrictive development standards, combined with a mandatory public hearing for any proposed new construction, would ensure that the rezone could not result in an expansion of the existing office building without additional discretionary review and public notifications.

General Plan Consistency

The subject property is within an Office (OF) General Plan land use designation. The OF designation allows for facilities of an administrative character subject to certain limitations on building height, lot coverage, and employee density. According to General Plan Table 3.5, the present R-6 zoning district is not consistent with the OF designation; whereas the proposed O-1 district is consistent. If approved, the rezone would remedy

this existing inconsistency.

Conclusion:

Since the permitted uses within the proposed O-1 district are substantially similar to the established medical/dental offices on the subject property, the rezone is not expected to intensify the use of the subject property. Considering that the project is in an area where land uses transition between commercial and residential, the rezoning would be consistent with the development pattern in the immediate vicinity. Additionally, the rezone to O-1 would address an existing inconsistency between the parcel's present zoning and its underlying General Plan land use designation. Lastly, the rezone, as well as the requested variances, would not require any physical alteration of the subject property or its surroundings. Therefore, staff recommends approval of the proposed rezone, as well as the requested variances to minimum side yard, primary front setback, and minimum lot size.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board of Supervisors denies the rezone and requested variances, the subject property and existing improvements thereon, would remain within its' present single-family residential zoning district.

CHILDREN'S IMPACT STATEMENT:

The project is to rezone from R-6, a residential zoning district to O-1, Limited Office and will not impact children's programs within the County.

CLERK'S ADDENDUM

Opened the public hearing on the 101 Aspen Drive Rezoning Project, received public testimony, and closed the hearing. Found that the initial study and negative declaration prepared for the Project adequately analyzes the Project's environmental impacts, that there is no substantial evidence that the Project will have a significant impact on the environment, and that the negative declaration reflects the County's independent judgment and analysis. Adopted the negative declaration prepared for the Project. Directed the Department of Conservation and Development to file a CEQA Notice of Determination with the County Clerk. Specified that the Department of Conservation and Development, located at 30 Muir Road, Martinez, California, is the custodian of the documents and other material that constitutes the record of proceedings upon which the decision of the Board of Supervisors is based. Adopted Ordinance No. 2019-20, rezoning the subject property from a Single-Family Residential (R-6) zoning district to a Limited Office (O-1) zoning district. Approved variances from setback, side yard, and minimum lot size requirements of the Limited Office (O-1) district, to allow an existing building with a 15-foot setback and a 3 foot side yard to be located on a 6,272 square-foot lot. Approved the findings in support of the Project.

ATTACHMENTS

Ordinance 2019-20

Findings

Initial Study

Public Comments

Location Maps

Agency Comments

Title Report

Powerpoint