

ORDINANCE NO. 524

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERCULES APPROVING RE-ZONE #RZ 17-02 (previously called Zone Amendment #ZA 17-02) FOR THE 12.88-ACRE PROJECT SITE KNOWN AS SYCAMORE CROSSING, LOCATED ALONG THE SOUTH SIDE OF SYCAMORE AVENUE AND THE NORTHWEST SIDE OF SAN PABLO AVENUE, EAST OF TSUSHIMA WAY (APNs 404-020-094-3 AND 404-020-095-0), TO REZONE THE WESTERLY PORTION OF THE PROJECT SITE FROM GENERAL COMMERCIAL (CG) TO PLANNED COMMERCIAL-RESIDENTIAL (PC-R) AND TO REZONE THE CENTRAL PORTION OF THE PROJECT SITE FROM GENERAL COMMERCIAL (CG) TO PUBLIC/QUASI-PUBLIC OPEN SPACE (P/QP-O).

WHEREAS, an application was received from Sycamore Crossing Land Developers, LLC for a Re-Zone #RZ 17-02 (previously called Zoning Amendment #ZA 17-02) requesting a change in the Zoning designation of a portion of the 12.88 acre project site known as “Sycamore Crossing” located along the south side of Sycamore Avenue and northwest side of San Pablo Avenue east of Tsushima Street;

WHEREAS, the RZ would affect approximately 8.88 acres of the site with 6.86 acres of the westerly portion changing from General Commercial (CG) to Planned Commercial-Residential (PC-R) and 2.02 acres of the center portion, over the Ohlone Creek, changing from General Commercial (CG) to the Public/Quasi-Public-Open Space (P/QP-O) designation; and

WHEREAS, Section 13-52 (Zoning Amendments) section of the Hercules Municipal Code Zoning section identifies the process for amending the Zoning Ordinance which requires properly noticed public hearings before the Planning Commission and the City Council prior to adoption, and

WHEREAS, the proposed Sycamore Crossing Project is located within the Central Quarter of the Plan for Central Hercules (considered the Penterra/Poe property) and classified as a Phase II/Permissive category (meaning that the applicant has the discretion to adhere to the uses and design standards of development allowed under the *Central Hercules Plan Regulation Code* rather than the standard City Zoning Code) but the Applicant has opted not to pursue development according to the *CHP Regulation Code*; and

WHEREAS, the Project Site is not subject to Chapter 29 of the Zoning Ordinance entitled “Zoning Regulations and Development Standards for Sycamore Crossing” adopted by Ordinance #459, which anticipated mixed-use development in accordance with the existing PC-R land use designation, because it was rescinded from the Zoning Ordinance by City Council through Ordinance No. 482 adopted January 27, 2015; and

WHEREAS, the Project Site in its current state generally is vacant/undeveloped, although it also contains remnant foundations, building pads, and retaining walls from past

industrial uses, as well as utility improvements associated with a utility right-of-way along the site's southern boundary; and

WHEREAS, the Project Site is comprised of two separate Assessor parcel numbers which along with a combination of right-of-way dedications and vacations will result in Project Site of approximately 12.88 acres; and

WHEREAS, the overall Sycamore Crossing Project includes up to 120 multi-family condominiums residences, a four-story hotel and up to 29,511 square feet of retail uses, including a CVS drug store and pharmacy, along with parking and open spaces and a permanent open space corridor on 12.88 acres of land; and

WHEREAS, in addition to the Re-Zone application referenced above, the following applications for development entitlements related to the Sycamore Crossing project also have been filed concurrently and collectively define the "Project":

- Initial Study – #IS 17-02 dated June 2019 pursuant to Sections 15063 and 15168 of the California Environmental Quality Act (CEQA) Guidelines;
- General Plan Amendment #GPA17-02 to change the land use designation of 6.86 acres of the westerly portion of the site and 2.02 acres of the central portion of the Project Site from General Commercial (GC) to a combination of Planned Commercial-Residential (PC-R) and Public/Semi-Public Open Space (P/SP-O) respectively; and
- Vesting Tentative Map #VTM 9477 to subdivide approximately 12.88 acres into seven (7) smaller lots and incorporating the abandonment of small portions of existing roadways, dedication of additional roadways, and removal of existing on-site easements (including the preservation of Ohlone Creek, a natural drainage way), with conditions of approval; and
- Initial/Final Planned Development Plan #FPDP 17-02 for 120 multi-family dwelling units, a 105-room hotel, surface parking, and 29,511 square feet of total commercial space, to include a pharmacy, and retail and service uses, including a neighborhood restaurant with a drive-through, in four (4) buildings ranging from 4,400 square feet to approximately 6,000 square feet. The Project Site will include water quality features, utility extensions, and common areas for parking, landscaping, and pedestrian use;
- Design Review Permit #DRP 17-04 with a Master Sign Program (MSP), in accordance with Section 13-34.400(R) of the Hercules Municipal Code Zoning section, for the above listed project.
- Conditional Use Permit #CUP17-04 to allow: a) retail stores greater than 2,000 square feet; b) drive-through facilities for the pharmacy and for a food service pad building; c) seasonal outdoor sales; d) a hotel; e) a shopping center; f) beer & wine and potential alcohol sales, and g) potential 24-hour pharmacy store; and
- Minor Exception (ME) #19-01 to reduce the amount of required parking for the hotel use; and

WHEREAS, the Project Site was the subject of the 2009 Updated Redevelopment Plan EIR (the 2009 EIR) (SCH #200112049) certified by the City Council on April 20, 2009, which, among other things, identified and analyzed the potential environmental effects from development of approximately 58 acres, including the Project Site; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) and its implementing regulations (the CEQA Guidelines), an Initial Study (IS #17-02, dated June 2019) was prepared to analyze the potential impacts of the proposed project; and

WHEREAS, on August 5, 2019, the Planning Commission adopted Resolution #17-06 setting forth its determination, based on its review of IS #17-02, that the proposed Sycamore Crossing Project is within the scope of the development program evaluated in the 2009 EIR and would result in no new or more severe significant impacts than previously analyzed, and recommended that the City Council approve Zone Amendment #ZA 17-02 (aka Re-Zone #RZ 17-02) based on the information provided during the seven workshops and two public hearings of the projects as stated in their Resolution; and

WHEREAS, on September 10, 2019, the City Council held a properly noticed public hearing on the Project at which time all interested parties had the opportunity to be heard; and

WHEREAS, a Staff Report for the City Council, dated September 10, 2019 (which includes July 15th and August 5th Planning Commission staff reports), and incorporated herein by reference, described and analyzed the application for Re-Zone #RZ17-02, and the related applications listed above and recommended that the City Council approve the application and related Project applications; and

WHEREAS, on September 10, 2019, the City Council adopted a Resolution approving General Plan Amendment #GPA17-02 setting forth its determination, based on Planning Commission Resolution #17-05 and its independent review of #IS 17-02, that the proposed Sycamore Crossing Project is within the scope of the development program evaluated in the 2009 EIR, and changing the land use designation for two portions of the Project Site from General Commercial (GC) to Planned Commercial-Residential (PC-R) and Public/Quasi-Public Open Space (P/QP-O), respectively; and

WHEREAS, the City Council has received oral and written comments from the general public, property owners, and interested parties, and has thoroughly considered all above referenced information, reports, recommendations, and testimony before taking any action on the Project; and

WHEREAS, approval of the Project would amend corresponding maps, text, tables, and figures related to the Re-Zone #RZ 17-02; and

WHEREAS, the City Council heard and used its independent judgment and considered all such information, reports, recommendations, and testimony described herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HERCULES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council hereby finds, after due study, deliberation, and public hearing for the proposed Re-Zone #RZ 17-02, that:

- a. The foregoing recitals are true and correct and made a part of this Resolution by this reference.
- b. The Proposed Project i) Falls within the scope of the development program evaluated previously in the 2009 Certified EIR and subsequent analysis provided in the June 2019 CEQA Initial Study checklist, ii) Will not result in any new, significant impacts that were not examined and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists or needs to be filed for the proposed project, iii) Should still be subject to the Mitigation Monitoring and Reporting Program of the 2009 EIR as part of the entitlement approvals, and iv) Does not require further environmental review, Pursuant to Sections 15168(c)(2) of the CEQA Guidelines.
- c. Zone Amendment #RZ 17-02 is consistent with the Planned Commercial-Residential (PC-R) and Public/Quasi-Public–Open Space (P/QP-OS) land use designations contingent upon its adoption;
- d. Potential uses for the Project Site allowed by the proposed Re-Zone #RZ 17-02 are compatible with the objectives, policies, general land uses, and programs specified and allowed by the Planned Commercial-Residential (PC-R) and Public/Quasi-Public – Open Space (P/QP-O) land use designations;
- e. Re-Zone #RZ 17-02, as proposed, would not be detrimental to the health, safety, welfare, and public interest of the City;
- f. Re-Zone #RZ 17-02, as proposed, is internally consistent and does not conflict with the purposes, regulations, and required findings of the Zoning Ordinance; and
- g. All elements, requirements, and conditions of Re-Zone #RZ 17-02 are a reasonable and appropriate manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit, or live in this development in particular; and

SECTION 2. Amendment : The City Council hereby approves and adopts Re-Zone #RZ 17-02 changing the zoning district for approximately 8.88 acres of the 12.88-acre total project site known as Sycamore Crossing from General Commercial (CG) to a combination of Planned Commercial-Residential (PC-R) and Public/Quasi-Public – Open Space (P/QP-O) is hereby approved based on the attached Findings with Facts and various exhibits, contingent upon the adoption of the aforementioned CEQA Initial Study and Determination #IS 17-02), General Plan Amendment #GPA 17-02), and related project applications, including Vesting Tentative Map #VTM 9477, Design Review Permit #DRP 17-02, and Initial/Final Planned Development Plan #FPDP 17-07), Conditional Use Permit #CUP 17-04, Minor Exception #ME 19-01, and Master Sign Program.

Exhibit A attached hereto, maps the existing and proposed zoning designations for the Sycamore Crossing Property as amended by Re-Zone #RZ 17-02 (which will cause the City's Land Use and Zoning Map to be updated after the effective date of this ordinance), and Exhibit B attached hereto, sets forth additional findings with supporting facts; and

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be deleted.

SECTION 4. Effective Date and Publication.

A. This Ordinance shall be published in accordance with applicable law, by one or more of the following methods:

1. Posting the entire Ordinance in at least three (3) public places in the City of Hercules, within fifteen (15) days after its passage and adoption; or
2. Publishing the entire Ordinance at least once in the West County Times, a newspaper of general circulation published in the County of Contra Costa and circulated in the City of Hercules, within fifteen (15) days after its passage and adoption; or
3. Publishing a summary of the Ordinance prepared by the City Attorney in the West County Times and posting a certified copy of the entire Ordinance in the office of the City Clerk at least five (5) days prior to the passage and adoption, and a second time within fifteen (15) days after its passage and adoption, along with the names of those City Councilmembers voting for and against the Ordinance.

B. This Ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Hercules City Council on the 10th day of September, 2019, and was passed and adopted at a regular meeting of the Hercules City Council on the 24th day of September, 2019, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

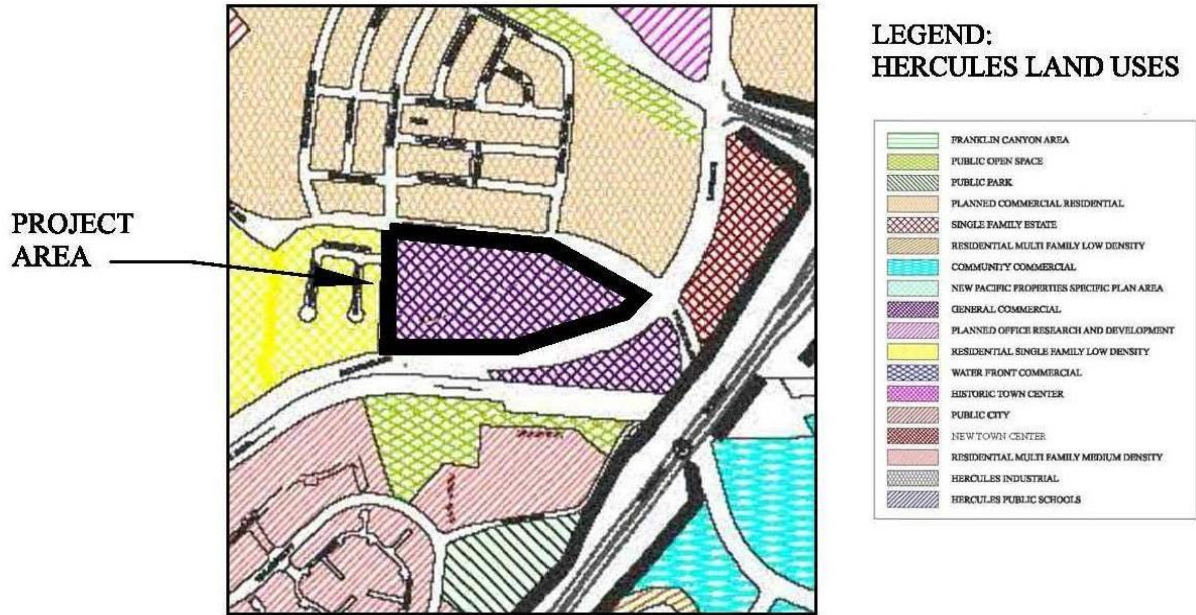
Dan Romero, Mayor

ATTEST:

Lori Martin
Administrative Services Director/City Clerk

Exhibit A – Existing and Proposed Zoning Designation Map for #ZA 17-02

SYCAMORE CROSSING - Existing Zoning Designation: General Commercial (GC) on entire site



SYCAMORE CROSSING - Proposed Zoning Designation: Changing the westerly half to Planned Commercial-Residential (PC-R) & Public / Quasi-Public Open Space (P/QP-O)

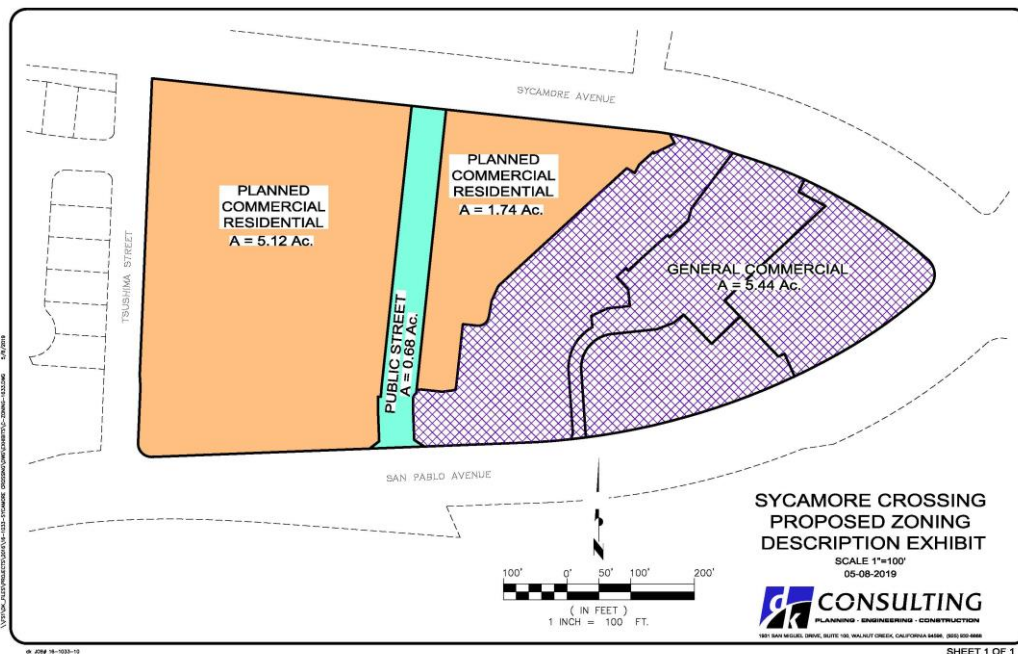


EXHIBIT B
FINDINGS WITH FACTS
SYCAMORE CROSSING
RE-ZONE AMENDMENT #RZ 17-02

Section 52.400 of the City of Hercules Zoning Ordinance requires all of the following findings to be made for granting an amendment to the Zoning Map or Zoning Ordinance:

FINDING NO. 1: The proposed amendment is consistent with the General Plan.

FACT: The proposed Planned Commercial-Residential (PC-R) and Public/Quasi-Public-Open Space (P/SP-OS) land use designations allow for the development of residential uses within mixed-use development projects, such as the Sycamore Crossing Project. The PC-R land use designation of the General Plan and the zoning designation allow for higher density housing that complements mixed-use developments, and—along Sycamore Avenue—allow for the taller hotel structure (up to 65 feet). The P/SP-O District would provide for a permanent open space designation for the Ohlone Creek Corridor through the Site.

The proposed Zone Amendment #ZA 17-02 to Planned Commercial-Residential (PC-R) and Public/Quasi-Public Open Space (P/QP-O) is consistent with the General Plan and includes a Planned Development Plan as required by Section 13-15-200 of the Municipal Code for all new and expanded development of Planned Commercial-Residential Mixed-Use districts.

FINDING NO 2: The proposed Zone Amendment #ZA 17-02 would not be detrimental to the health, safety, welfare, and public interest of the City.

FACT: Development of the Project will result in a public benefit, including the provision of a mixed-use shopping center and adjacent residences that will provide needed local commercial services, including a pharmacy, in addition to attracting clientele from the adjacent communities and/or those using Interstate 80 and Highway 4. In addition, the project includes a major hotel component to broaden the City's commercial base and supply transient-occupancy (hotel-oriented) taxes.

The project will preserve the Ohlone Creek channel, will contribute to the City's policies, goals, and vision for the center of town, and will provide a community base for increasing the City's sales and property tax revenues.

Surrounding circulation and other public improvements will be completed, and the buildings will be constructed to current building safety and fire codes, which promote development concepts of the General Plan.

FINDING NO. 3: The proposed Zone Amendment #ZA 17-02 is internally consistent and does not conflict with the purposes, regulations, and required findings of the Zoning Ordinance.

FACT: The proposed Zone Amendment #ZA 17-02 is consistent with General Plan Amendment #17-02 and would allow for the development of the proposed project as a locally-serving mixed-use center of approximately 29,500 square feet of commercial space, a four-story hotel, and up to 120 multi-family residences with common areas for parking, landscaping, and pedestrian access, and preservation of a natural drainage way.

The proposed Zone Amendment is internally consistent and does not conflict with the purposes, regulations, and required findings of the Zoning Ordinance for the Planned Commercial-Residential (PC-R) or the Public/Quasi-Public-Open Space zoning districts in that approvals are being considered under the Planned Development Plan. The accompanying Planned Development Plan pursuant to Chapter 48 of the Zoning Ordinance would establish the Development Regulations applicable to the proposed project.