



STUDY SESSION

Agenda Item # 1

**PLANNING COMMISSION
AGENDA REPORT**

Meeting Date: March 17, 2022

Subject: 996 Loraine Avenue - Planning Commission Study Session

Prepared by: Sean K. Gallegos, Senior Planner

Reviewed by: Steve Golden, Interim Planning Services Manager
Jolie Houston, City Attorney

Attachment(s):

- A. Commercial Neighborhood (CN) Zoning Standards
- B. Loyola Corners Specific Plan
https://www.losaltosca.gov/sites/default/files/fileattachments/community_development/page/39021/loyola_corners_specific_plan.pdf
- C. 2017 Loyola Corners Specific Plan Amendments
https://www.losaltosca.gov/sites/default/files/fileattachments/community_development/page/39021/resolution_no._2017-41.pdf
- D. Preliminary Application
- E. 996 Loraine Avenue Pre-Application Letter
- F. Preliminary Design Plans and Renderings

Initiated by:

DeNardi Wang Homes
Greg and Adela Rivera, Property Owners

Environmental Review:

The study session is not a “project” within the meaning of Section 15378 of the CEQA Guidelines in that the purpose of the study session is merely to provide feedback to the applicant before the applicant submits a formal development application, and the City is not approving a development application at this time or otherwise committing itself to an action that will have a significant effect on the physical environment. Additionally, a study session comes within the exception to review under the California Environmental Quality (CEQA) Guidelines per Section 15306 (Information Collection) since the purpose of the study session is to obtain public input and to provide feedback to the applicant, and none of the circumstances in CEQA Guidelines Section 15300.2 applies. Further environmental review under CEQA will occur after a formal development application is submitted.



Subject: 996 Loraine Avenue - SB 330 Project – Mixed-Use Development

Summary:

The applicant is proposing a 14,589 square-foot, three-story commercial and residential mixed-use project at 996 Loraine Avenue. The first story includes a commercial use and 16 at-grade parking spaces, and the second and third floor are for residential uses. The project complies with the City’s Affordable Housing Ordinance by proposing two moderate-income below market rate unit, which is 15 percent of the base density for the project. The project is potentially eligible to receive benefits under the Density Bonus Ordinance and pursuant to the State Density Bonus Law. Therefore, the applicant anticipates the project will be eligible for one density bonus incentive, and it will be eligible for waivers from the development standards.

Staff Recommendation:

The Planning Commission review the submitted material for the pre-application submittal and provide preliminary feedback for the mixed-use application.

Purpose

The purpose of the meeting is to obtain initial preliminary application comments from the Planning Commission about the pre-application project.

Background

Pre-Application Phase

California Senate Bill 330, “The Housing Crisis Act of 2019,” was signed into law by Governor Newsom on October 9, 2019 and became effective January 1, 2020. The Housing Crisis Act allows for an applicant to submit a preliminary application for a housing development project. SB 330 has two key phases: a pre application phase and a formal submittal phase. The purpose of the pre-application phase is to collect specific site and project information to determine the zoning, design, subdivision, and fee requirements that will apply to the housing development project throughout the review and entitlement process. The day the pre-application is filed with the City, the City is required to freeze all site development and design standards plus other land use related regulations that can be imposed on the project. The City is prohibited from applying new ordinances, policies, standards and/or fee increases to the development.

Under the provisions of Senate Bill 330, there is no requirement that a city review the preliminary application to make a determination regarding its completeness in order for an applicant’s statutory rights to vest. The City can ask for only certain information during the pre-application phase. This provides some guarantees to the applicant that the “rules of the road” will not be changed mid-stream. During the pre-application phase the City can undertake its normal community outreach by having study sessions, and community meetings. The City may request compliance with design requirements during the formal submittal process.



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Formal Submittal Phase of SB330

The applicant shall submit a formal application for a development project within 180 calendar days of submitting a complete preliminary application. If the City determines that the application for the development project is not complete, the applicant shall submit the specific information needed to complete the application within 90 days of receiving the agency’s written identification of the necessary information. If the development proponent does not submit this information within the 90- day period, then the preliminary application shall expire and have no further force or effect.

During the “formal submittal” phase, the City may hold no more than five public meetings or hearings in connection with the project’s approval. Senate Bill 330 was written very broadly to include community meetings, and study sessions in this definition. The City must account for any potential appeals, which count toward the five public meeting or hearing maximum. As such, it is important that the Planning Commission and community provide feedback during the study session to permit the applicant to respond to comments made by the community in the formal application submittal.

Housing Accountability Act

Under the Housing Accountability Act, the City must approve the project at the density proposed when a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete. If a local agency proposes to disapprove a project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

- The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density.
- There is no feasible means to mitigate or avoid the specific, adverse impact without disapproving the project or approving it at a lower density.

Project Background

The subject site is a .20-acre (8,898 square feet) lot at the corner of Loraine Avenue and Miramonte Avenue. The proposed project is a 14,589 square-foot, three-story commercial and residential mixed-use project at 996 Loraine Avenue. There is a 1,195 square-foot commercial unit and 16 at-grade parking spaces at the first story, six condominium units on the second story and six condominium units on the third floor. There are a total of 12 condominium units, with eight two-bedroom units and four one-bedroom units.



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During the formal phase of the project, the applicant will be seeking approval of a design review permit and tentative map for a new development at 996 Loraine Avenue. The applicant has submitted a preliminary architectural plans and renderings (Attachment F). The following tables summarizes some of the project’s technical details and indicates the project’s compliance with the development standards.

Table 1: General Development Standards

	Standard	Proposed	Complies
General Plan	Downtown Commercial	No change	Yes
Zoning	Neighborhood Commercial	No change	Yes
Density	0.5:1	74 dwelling units/per acre	Yes
Lot Size	7,100 sq. ft.	No change	Yes
Front Setback	40 ft. 50% landscaped	2 ft. 50% landscaped	<u>Yes- if bonus waiver is granted</u>
Rear Setback	20 ft.	30 ft.	Yes
Interior Setback	50 ft.	1.5 ft.	<u>Yes- if density bonus waiver is granted</u>
Exterior (Street) Side Setback	40 ft.	0 ft.	<u>Yes- if density bonus waiver is granted</u>
Enclosed Refuse collection	Yes	No	<u>No</u>
Bicycle Parking	1 Class I (Bike Locker) for every 3 units and 1 Class II (Bike Rack)	No	No
Height	30 feet	41 feet	<u>Yes- if density bonus incentive is granted</u>
Parking	16	<u>16</u>	Yes



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	Standard	Proposed	Complies
Delivery Loading at alley	Building deliveries, loading and refuse collection are collected or delivered from the alley	The building does not have a designated area for refuse collection	<u>No, the building does not provide refuse loading and collection along alley.</u> <u>No, the building does not permit deliveries from the alley.</u>

Loyola Corners Specific Plan

The proposed project is located within the Loyola Corners Specific Plan overlay area. The Loyola Corners Specific Plan is an additional layer of planning control, establishing stricter standards that go beyond what the underlying zoning would normally regulate. The project should comply with the intended goals of the specific plan that include:

1. Creating attractive and functional shopping and commercial use facilities in order to increase use and provide for long term viability.
2. Maintaining the existing small, pedestrian scale of the area consistent with neighborhood commercial activity.
3. Recognizing the need to preserve and protect adjacent residential neighborhoods from traffic, noise and visual impacts.
4. Providing a safe and effective circulation and parking system for motor vehicles, bicycles, and pedestrians, and
5. Providing for a mix of appropriate commercial uses which provide a range of desirable neighborhood-serving commercial uses.

2017 Loyola Corners Specific Plan Amendment

In conjunction with the existing Community Design and Beautification polices in the Loyola Corners Specific Plan, the following administrative design guidelines will be emphasized during the review process for projects:

1. Informal architecture—incorporating familiar architectural elements where possible.
2. Small scale building elements—using moderately small-scale building elements to emphasize the human scale.
3. Simple, sloping roof forms and materials—using simple, sloping roof forms with distinct ridges that visually tie structures together and materials that reflect the residential character of the area. Buildings with flat roofs are prohibited.
4. Rustic, natural materials—using rustic, natural materials such as wood and cement plaster siding conducive to maintain a small scale, warm, human quality.



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5. Integrate rooftop mechanical equipment into building architecture—locate rooftop mechanical equipment in roof wells below ridge lines and avoid locating rooftop mechanical equipment on flat roofs screened by parapets with the goal of concealing the height of such mechanical equipment without increasing the building height.
 6. Retain and provide covered arcade element along Fremont Avenue—use this as a principle, unifying architectural design element.
 7. Incorporate Streetscape elements—incorporate the streetscape design elements per the Loyola Corners Concept Plan where feasible and practical, but not as to produce a patchwork effect leaving the more unifying elements to the City to implement.

The Loyola Corners Specific Plan Amendment required the following for developments within the Loyola Corners Specific are:

1. Limited building heights to 30 feet and two stories. For sloping roofs, building heights are measured to the highest ridge rather than the midpoint. Notwithstanding Municipal Code Sections 14.40.010 and 14.42.010, rooftop mechanical equipment shall conform to the 30-foot height limit for structures.
2. Retail and Other Uses—retail and personal service uses are only permitted at the ground level fronting on Fremont Avenue from Miramonte Avenue to Dolores Avenue; and all permitted uses in the CN District are allowed above the ground level.

The project should comply with the recommended design guidelines, building height limitations, and restrictions regarding the location of retail uses within Loyola Corners. As currently proposed, the project is proposing a retail use outside of the permitted area, as stated in the Loyola Corners Specific Plan Amendment

Design Review

To preserve and protect the City’s character, public safety and to enhance the aesthetic qualities and bicycle and pedestrian safety and functionality of the zoned district, Design Review Approval is required for all new development. The Planning Commission will provide a recommendation to the City Council regarding the following findings:

- The proposal meets the goals, policies and objectives of the general plan and any specific plan, design guidelines and ordinance design criteria adopted for the specific district or area.
- The proposal has architectural integrity and has an appropriate relationship with other structures in the immediate area in terms of height, bulk and design.
- Building mass is articulated to relate to the human scale, both horizontally and vertically. Building elevations have variation and depth and avoid large blank wall surfaces. Residential or mixed-use residential projects incorporate elements that signal habitation, such as identifiable entrances, stairs, porches, bays and balconies.



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- Exterior materials and finishes convey high quality, integrity, permanence and durability, and materials are used effectively to define building elements such as base, body, parapets, bays, arcades and structural elements. Materials, finishes, and colors have been used in a manner that serves to reduce the perceived appearance of height, bulk and mass, and are harmonious with other structures in the immediate area.
 - Landscaping is generous and inviting, and landscape and hardscape features are designed to complement the building and parking areas, and to be integrated with the building architecture and the surrounding streetscape. Landscaping includes substantial street tree canopy, either in the public right-of-way or within the project frontage.
 - Signage is designed to complement the building architecture in terms of style, materials, colors and proportions.
 - Mechanical equipment is screened from public view and the screening is designed to be consistent with the building architecture in form, material and detailing.
 - Service, trash and utility areas are screened from public view, or are enclosed in structures that are consistent with the building architecture in materials and detailing.

Zoning District Design Controls

The City recently adopted new Design Controls (Ordinance 2021-478; effective October 15, 2021), establishing objective standards for the CN zoning district (LAMC Section 14.40.150) for all new development to assist decision makers in determining whether a proposed development project meets the design review findings stated above. A copy of the design controls can be found in Attachment A.

Affordable Housing - Density Bonus and Development Incentives

Chapter 14.28 of the Municipal Code requires a minimum of 15 percent of the units be affordable, with a majority of the units designated as affordable at the moderate-income level and the remaining units designated as affordable at the low or very-low-income level. Since the base density for the project is 12 dwelling units, the project must provide 1.8 (rounded up to two) affordable units. The project is consistent with the City's affordable housing regulations by providing two affordable housing units, where two are required. The City is currently in the process of amending its Affordable Housing Ordinance. However, the preapplication for this project was submitted before the currently pending ordinance will go into effect, and therefore the amended ordinance will not apply to the project.

During the formal submittal process, the applicant will be required to submit a Density Bonus report providing reasons why incentives are necessary to provide for affordable housing. The applicant is requesting one density bonus incentive to increase the height from 30 feet to 41 feet. The height increase would be considered an "on menu" incentive request, which has already been determined not to cause an adverse impact.



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Housing Element program 4.3.2 requires that affordable housing units generally reflect the size and number of bedrooms of the market rate units. The project proposes 10 market rate units, with three one-bedroom units, seven two-bedroom units. The project includes one one-bedroom and one two-bedroom units at the moderate-income level, which is comparable to the market rate units. Due to the percentage of overall affordable units proposed, it appears that the proposed unit type of affordable housing units meets the intent of the program.

Density Bonus Incentives

Consistent with the State’s Density bonus regulations (Section 65915 of the California Government Code) and the Multiple Family Affordable Housing Ordinance (Chapter 14.28), a minimum of two units or 15 percent of the units would need to be affordable at the moderate-income restricted level. The Applicant is proposed two low-income restricted units; therefore, pursuant to State Density Bonus law and Chapter 14.28, the project would be eligible to receive one development incentive based on the percentage of affordable units provided. In this case, the project is seeking a height incentive to allow the project to exceed the maximum height limit of 30 feet by 11 feet (on-menu).

Under Government Code Section 65915(d) and Multiple Family Affordable Housing Ordinance (Chapter 14.28), the City must grant the requested incentive unless it can make specific negative findings.

To help guide incentives requested by developers and ensure that the incentives do not result in any adverse impacts, the City adopted a list of “on-menu” incentives or concessions. The City has determined that “on-menu” incentives would not have a specific, adverse impact on public health and safety or the physical environment, which is one of three potential findings necessitating denial of the request, thus one of the following two findings would need to be made to deny the request in a future formal application:

- The incentive or concession does not result in identifiable and actual cost reductions, consistent with the definition of “concession” or “incentive,” to provide for affordable housing costs, as defined in Health & Safety Section 50052.5, or for rents for the targeted units to be set as specified in subsection (I).
- The incentive or concession would be contrary to state or federal law.

Density Bonus Waiver

In addition to requesting incentives, applicants may request the waiver of an unlimited number of development standards that would physically preclude the construction of a project with the density bonus and the incentives to which the development is entitled, per Government Code Section 65915(e)(1), which reads:



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In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit.

The applicant is requesting three waivers: (1) a density bonus waiver to reduce the front setback from 40 feet to 0 feet, (2) a density bonus to reduce the exterior side setback from 40 feet to 0 feet, and (3) a density bonus waiver to reduce the interior setback from 50 feet to 1.5 feet.

A Density Bonus Report that supports the density bonus, development incentives and waiver requests will need to be prepared by the Applicant and submitted with their formal application.

Density Bonus and Parking

Under the provisions of Density Bonus Law, the project is entitled to reduced parking ratios and is only required to provide 16 parking spaces and 16 have been provided. This is not considered a density bonus incentive or a waiver but is a stand-alone reduction written into Density Bonus Law.

Table 2-Density Bonus Parking Ratios

	Units	Density Bonus Parking Ratios	Total Parking
Bedroom Count			
Two Bedrooms	8	1.5	12
1 Bedrooms	4	1	4
	12		16

Transit Stop

The closest bus stop is located approximately 0.7 mile from the subject site at the corner of Grant Road and Fremont Avenue which is considered an acceptable walking distance. VTA route 51/51H provides service between DeAnza College in Cupertino and Moffett Field/Ames Center in Mountain View. The bus routes operate weekdays from 7:00 AM and ends at 6:01 PM.



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Bicycle and Pedestrian

As recommended by the VTA guidelines, the project will be required to provide a minimum of 1 Class I (bike locker) must be provided for every 3 units and a 1 Class II (bicycle rack) must be provided for every 15 units. The plans do not currently show the project complies with the VTA guidelines.

Community Meeting

On February 15, 2021, a virtual community meeting took place with property owners and tenants within 1,000 feet of the property. 34 community members attended, and their comments can be found via the following link: <https://www.losaltosca.gov/communitydevelopment/page/996-loraine-avenue>.

Planning Commission Feedback and Next Steps

This is a Pre-application Study Session for the Commission to provide early input to the Applicant and staff on the proposed Project. Since this is a preliminary review, the Commission should focus on the architecture and site design aspects of the project and provide feedback on how well the project complies with the General Plan, Zoning Code, Loyola Corners Specific Plan, Loyola Corners Specific Plan Amendment, and other aesthetic elements that could inform the design.

Staff will be providing some initial feedback to the Applicant regarding the proposed Project and conceptual plans, however, a comprehensive review including the Project's compliance with all of the Zoning Code and other development standards will be completed with the submission of the formal application(s).

The next steps for the Applicant include submittal of a formal development application, staff review for technical completeness and compliance with applicable codes and determination of any significant environmental impacts per CEQA. When the application comes back to the Planning Commission for formal review and consideration, it will include all requirements outlined in the City's submittal requirements, which includes but not limited to: detailed design plans, a density bonus report, 3D renderings, material sample board, and appropriate technical reports to assess potential environmental impacts. Story poles will also be installed on the project site pursuant to the Story Pole Policy prior to public hearings.