



DATE: September 17, 2019

CATEGORY: New Business

DEPT.: Community Development

TITLE: **Gatekeeper Application for 365 to 405 San Antonio Road and 2585 to 2595 California Street**

RECOMMENDATION

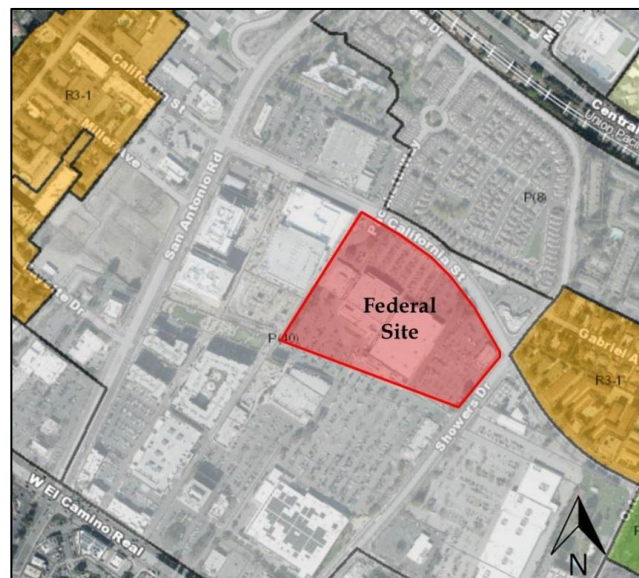
Authorize the assignment of staff resources for consideration of an application to develop an approximately 230,000 square foot office building with ground-floor retail-commercial space, including up to 150,000 square feet of transfer of development rights square footage through the Los Altos School District Transfer of Development Rights Program, located at 365 to 405 San Antonio Road and 2585 to 2595 California Street.

BACKGROUND

Los Altos School District Transfer of Development Rights Program

Over several years, including work on the San Antonio Precise Plan (SAPP), the City Council has considered opportunities to support development of a new public school in the SAPP area.

After an initial Study Session in late 2017, the City Council authorized the City Manager to execute a Memorandum of Understanding (MOU) between the City and the Los Altos School District (LASD) establishing the framework for the LASD Transfer of Development Rights (TDR) Program on January 16, 2018. Council also provided direction for Funding and joint-use agreements between the City and LASD for the shared open space on the planned school site (see Attachment 1).



The TDR Program was originally established based on a different LASD-proposed school site in the SAPP area; but, in June 2018, Council approved a change to the TDR “sending” site (shifting it to the Federal Realty property), from which LASD would sell developable square footage that was not needed to build a new school. No change was made to the Council authorization for up to 610,000 square feet in development rights, to be sold by LASD and transferred by TDR purchasers from the proposed school site to other development sites in the City.

The TDR Program will remain in effect for up to 10 years or until all authorized TDR square footage is transferred and developed, whichever occurs sooner, and includes a secondary market for the life of the TDR Program to allow subsequent Gatekeeper applications for developments proposing to use any TDR square footage not expended through the initial TDR Gatekeeper projects. Once authorized, a TDR Gatekeeper project must follow the typical City review process, which requires a development application to be submitted within one year of Gatekeeper authorization. A new Gatekeeper authorization is required if the development application is not submitted within one year of the original Gatekeeper authorization or if there is a substantial change from the Gatekeeper project originally authorized by Council.

LASD recently entered into a purchase and sale agreement with Federal Realty for the roughly 11.5-acre property at the southwest corner of California Street and Showers Drive, comprised of the LASD school site and shared open space, and a two-acre public park to be purchased by the City, and is scheduled to close escrow in October 2019.

TDR Gatekeeper Authorization

On January 16, 2018, Council also authorized the assignment of staff resources to work on five Gatekeeper applications, requesting additional floor area through the TDR Program, and allowed a sixth developer to participate in the TDR Program, but submit a Gatekeeper application at a later date. A seventh TDR Gatekeeper application was authorized in May 2019 (see Attachment 2), which fully subscribed the 610,000 square feet available to be transferred from the proposed LASD school site (“sending site”) to the Gatekeeper “receiving sites” (see Attachment 3–TDR Gatekeeper Project List). These Council actions effectuated two key policy decisions for the TDR program:

- To allow residential floor area ratio (FAR) from the school site to be transferred and used for office square footage on the TDR receiving sites.
- To allow significant TDR square footage to be proposed for use on receiving sites located outside the SAPP area.

One of the Gatekeeper applications authorized in January 2018 was a proposal by Merlone Geier Partners IX, L.P. (MGP) to utilize 150,000 square feet of TDR to construct an eight-story office building in the SAPP area. The original MGP Gatekeeper proposal only included two of the four parcels located at the southeast corner of San Antonio Road and California Street, and also included a request to waive the SAPP requirement for active ground-floor commercial uses in the proposed project location. The MGP proposal received substantial discussion and mixed support by Council, but was authorized by a majority of Council without a waiver of the active ground-floor commercial requirement.

Since the original authorization, MGP has been actively engaged in negotiations to acquire the remaining two parcels at the corner of San Antonio Road and California Street (hereafter the Milk Pail and Pilling properties, respectively) and develop the eight-story office building on the larger site, but was unable to complete those transactions and submit a development application before the Gatekeeper authorization expired in January 2019.

Gatekeeper Timing and Staff Resources

In June 2019, Council provided direction to schedule the new MGP TDR Gatekeeper application for Council review in the fall, pursuant to the terms on the TDR Program MOU, which commits the City to working collaboratively with LASD to implement the TDR Program and processing TDR Gatekeeper applications in a timely manner.

Prior Project Status

The proposed Gatekeeper project is intended to integrate with MGP's existing Phase I and Phase II development at San Antonio Center, also known as The Village at San Antonio. After a lengthy construction process, the core Phase II project is now built and partially occupied. The majority of the Phase II project was completed by MGP in January 2018; the Hyatt hotel building and ground-floor commercial spaces by OTO Development (to be leased by MGP) were completed in July 2019. In addition, roughly five tenant spaces in the Phase I development (facing the Hetch Hetchy dog park) have been vacant during Phase II construction because they were reliant on parking spaces in Phase II.

Leasing activity has been slow since project completion. The only operating tenants in the Phase II development are Facebook (in the office buildings leased by WeWork), the Showplace Icon movie theater, First Republic Bank, and the Hyatt Centric hotel. While permit activity and inquiries are increasing, with three permits currently under review and a few more expected soon for restaurant/food and fitness tenants in Phase II and

the vacant Phase I tenant spaces, no retail tenants have signed leases to date. The majority of the existing Phase II tenant spaces are still vacant, including the plaza-facing ground floor of the office buildings, which is controlled by WeWork.

ANALYSIS

It should be noted that the Gatekeeper request being considered has only undergone a cursory review for the purpose of preparing this report. Detailed analysis, including compliance with General Plan goals, policies, form and character, SAPP compliance, and other City policies, regulations, and guidelines, will only begin in earnest if Council authorizes City resources to review the application. Authorization of a Gatekeeper request in no way presumes staff or Council support of the project.

Gatekeeper Request

Address: 365 and 405 San Antonio Road and 2585 and 2595 California Street

Applicant: MGP IX SAC II DCP, LLC

Lot Size: 0.99 acre (43,137 square feet)

Change Area: San Antonio

Existing GP Designation: Mixed-Use Center

Existing Zoning District: P-40

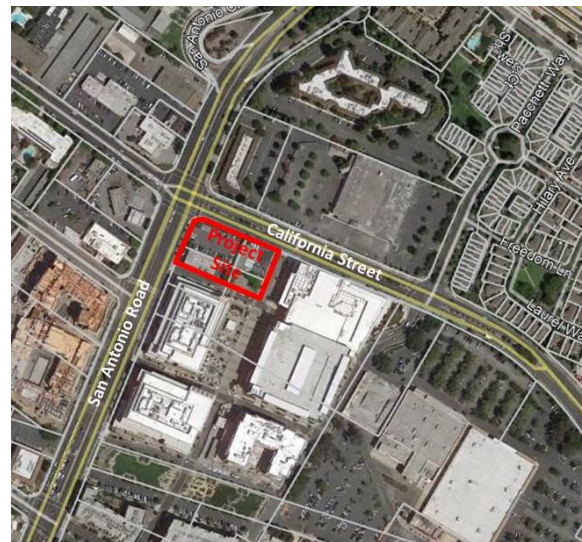
(San Antonio Precise Plan)

TDR: 150,000 square feet

Proposal

Merlone Geier (MGP) is requesting to purchase and use 150,000 square feet of TDRs on a 0.99-acre project site (see Attachment 4). The project site now includes all four parcels located on the southwest corner of San Antonio Road and California Street. It is located within the Mixed-Use Center Subarea of the P-40 (San Antonio) Precise Plan, which allows heights up to eight stories on a case-by-case basis and up to 2.35 FAR with a Tier 1 request, of which 0.75 FAR can be office/commercial uses.

The project site is also in a SAPP-required ground-floor active space location, where certain interior uses (e.g., ground-floor retail) and/or exterior improvements must be included in development projects. While the original TDR Gatekeeper application sought to waive the SAPP active space requirement, the current proposal does not include a waiver request and MGP intends to comply with this requirement.



The existing parcels consist of a surface parking lot, the former Milk Pail site, passive landscaping within the MGP Phase II development, and a one-story commercial building currently operating as an office use on the Pilling property. All of the existing buildings and site improvements would be removed to construct a new eight-story, approximately 230,000 square foot office building with ground-floor retail-commercial space. MGP proposes to construct three levels of underground parking, connected to and accessed through the existing three-level parking garage located under the adjacent office buildings in the Phase II development.

MGP requests to exceed the overall maximum 2.35 FAR allowed under the SAPP as well as the maximum 0.75 FAR that may be office/commercial space. Staff supported the original Gatekeeper request, in principle, if MGP was able to acquire the adjacent parcels. At the time, staff anticipated working with MGP to incorporate architectural features and transitions aimed at reducing the bulk and mass of an eight-story building and to ensure the development is compatible with the Phase II development.

MGP has since acquired the Milk Pail and Pilling parcels, creating a cohesive site at the corner of California Street and San Antonio Road. Areas of design focus remain the same as noted above, along with ensuring the project includes pedestrian-engaging design elements and circulation. More detailed review of MGP's proposed setback exceptions would occur through the development review process, if Council authorizes the Gatekeeper application.

Question 1: Does Council support authorization of the MGP TDR Gatekeeper request?

If Council supports this Gatekeeper request, staff requests Council input on an additional policy topic to help guide the development review, as discussed below.

Proposed Commercial FAR

The SAPP allows a maximum FAR of 2.35 on the proposed project site, of which up to 0.75 FAR may be commercial square footage. At the discretion of the Zoning Administrator and/or City Council, the SAPP also provides flexibility to allow FAR to be calculated across multiple, adjacent parcels that comprise a project site, as part of a major redevelopment or Master Plan application. For example, a project site could have a total of 0.75 FAR of commercial square footage spread across two parcels, where one parcel has more than 0.75 FAR of commercial square footage and the other parcel has less than 0.75 FAR of commercial square footage.

Like other TDR Gatekeeper projects, the current MGP Gatekeeper proposal exceeds allowed FAR under the SAPP with a project FAR of approximately 5.35. In addition to

exceeding the maximum allowed 2.35 FAR for the project site (equivalent to roughly 101,000 square feet of total building area on this site), the MGP proposal seeks to develop commercial square footage (office and retail area) in excess of the maximum allowed 0.75 FAR, through three means:

- Approximately 32,000 square feet, as allowed under the 0.75 FAR on the project site;
- Up to 150,000 square feet, through the LASD TDR Program; and
- Approximately 39,000 square feet, through the SAPP FAR flexibility provisions, by “transfer” of unutilized commercial FAR from Phases I and II.
- The project also includes roughly 10,000 square feet of building services area, which has not yet been included into the applicant’s commercial FAR calculations, for a gross building area of roughly 231,000 square feet.

The LASD TDR Program provides policy direction to allow development applications for projects with TDR square footage to exceed the total FAR and commercial-office square footage typically permitted on a “receiving site” by up to the amount of TDR purchased. However, the TDR Program and Gatekeeper authorization do not commit the City Council to approve all of the requested TDR square footage in the project, nor does the TDR Program negate City discretion over any other FAR flexibility potentially allowed under the SAPP.

Council input is requested on the MGP proposal for FAR flexibility to develop additional commercial FAR on the Gatekeeper site, in the form of approximately 39,000 square feet of unutilized commercial FAR/floor area from the earlier Phase I and II developments. Staff does not believe this transfer is consistent with the original intent of the flexibility provision and, therefore, recommends against it. If Council supports considering of this transfer, staff will do more specific analysis through the development review process to determine the specific square footage available to be used.

Question 2: Does Council support staff's position to exclude the MGP proposal to transfer unutilized commercial FAR from Phases I and II?

Precise Plan Amendments

If Council authorizes the MGP Gatekeeper request, SAPP development standard exceptions and/or amendments may be needed to implement the TDR project, based on

staff experience reviewing other TDR Gatekeeper projects already in the development review process. The exact extent of any SAPP exceptions will depend on Council input on FAR flexibility, which impacts the overall size of the project, and on evolution of the project design through the development review process. At minimum, the SAPP office development cap will need to be amended.

The SAPP caps net new office development at 600,000 square feet, of which up to 400,000 square feet of net new office development may occur within the Northwest San Antonio (NWSAC) Master Plan Area where the project site is located. Council established the 600,000 square foot office development cap as a reasonable amount of office development for the entire SAPP area, in balance with anticipated residential development and to provide an opportunity for limited office development outside the NWSAC Master Plan Area, given that two office buildings encompassing nearly 400,000 square feet were already under review in the MGP Phase II development concurrent with the drafting of the SAPP.

Of the 400,000 square feet allowed in the NWSAC Master Plan Area, only around 22,000 square feet remain, due to the office buildings in the Phase II development. Currently, approximately 200,000 square feet remain available to develop elsewhere in the SAPP area since no other office projects have been proposed since SAPP adoption. This includes larger sites in the SAPP that could have been developed with office uses – such as the old Safeway site and 400 San Antonio Road – which were entitled and are under development with residential projects proposed by Greystar and Prometheus Real Estate Group, respectively.

Regardless of whether Council supports MGP's proposal to "transfer" unutilized commercial FAR from the Phase I and II developments (as discussed above), the current MGP Gatekeeper project would require a Precise Plan Amendment to remove the 400,000 square foot limitation on office area in the NWSAC Master Plan Area, and potentially to increase the overall 600,000 square feet office development cap for the entire SAPP area (depending on final office square footage calculations for the project).

If the MGP TDR Gatekeeper request is authorized and built, little to no additional office development would be feasible elsewhere in the SAPP area. Any future project seeking to develop net new office area elsewhere in the SAPP area would require a standalone Precise Plan Amendment and CEQA clearance to further increase the current office development cap of 600,000 square feet.

ALTERNATIVES

1. Defer consideration of the Gatekeeper to a future date.
2. Do not authorize the Gatekeeper.
3. Provide other direction.

PUBLIC NOTICING

The City Council's agenda is advertised on Channel 26, and the agenda and this report appear on the City's website. All property owners within a 750' radius and other interested stakeholders were notified of this meeting.

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- Attachments:
1. TDR Council Report, January 16, 2018
 2. TDR Gatekeeper Council Report, May 22, 2018
 3. TDR Gatekeeper Project List
 4. Merlone Geier Gatekeeper Request and LOI