



CITY OF  
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ALTO**

## **CITY COUNCIL STAFF REPORT**

**From: City Manager**

**Report Type: STUDY SESSION**

**Lead Department: Planning and Development Services**

**Meeting Date: March 13, 2023**

Report #: 2302-0952

### **TITLE**

Prescreening Study Session Regarding a Rezone Request to Amend Planned Community 2343 (PC 2343) for the Property Located at 2901-2905 Middlefield Rd and Rezone 702 Ellsworth Place to R1 Zone for Development of a One-Story Single-Family Residence

### **RECOMMENDATION**

Staff recommends that Council conduct a study session regarding the applicant's request to modify PC 2343 and rezone a portion of the site to residential single family zoning (R1).

### **EXECUTIVE SUMMARY**

The subject property located at 2901-2905 Middlefield Road is zoned planned community (PC) and is developed with a 12-unit apartment building. PC zoning is site specific zoning that applies to a particular development and does not necessarily conform to other City zoning standards. The PC also contains an easement for a private street and another parcel addressed as 702 Ellsworth Place. The Ellsworth Place portion was developed as a surface parking lot providing guest parking for the apartment building.

The PC zoning for this site occurred in the late 1960s. Before the PC zoning was established, the Ellsworth Place portion of the site was zoned single family (R1). The balance of the property had been developed for commercial use. Council approval of PC 2343 changed the underlying zoning and enabled multi-family housing, which was built as it generally exists today. However, the administrative task of updating the City's zoning map to reflect the new PC designation did not occur.

In 2017 the subject property was sold to a new owner. In 2022, 702 Ellsworth Place was sold to a separate owner who purchased the property with the intent to redevelop it as a single-family home. Area residents familiar with the site history raised concerns when they learned 702 Ellsworth Place had been sold to a separate owner seemingly in conflict with the development plan authorized in conjunction with the 1960s era PC zoning. The subject application is a request by the property owner of 2901-2905 Middlefield to amend the PC zoning district development

plan and to allow 702 Ellsworth Place to be rezoned and developed independently as a single family residence. The applicant's request letter is attached to this report (Attachment A).

## **BACKGROUND**

In 1967 a PC zoning ordinance was approved for the subject property to allow a 12-unit apartment building.<sup>1</sup> The development site consists of four parcels adjacent to the northeast side of Middlefield Road and extends from Sutter Avenue to Matadero Canal (Attachment B). The apartment building is located nearest Sutter Avenue. Access to the apartment is provided via an easement across one of the development site's parcels referred to as 702 Ellsworth Place, which also has four parking spaces that serve the apartment building. The easement also provides access to Ellsworth Place, a private street with 13 residential properties; these properties are not associated with the PC development.<sup>2</sup> The PC ordinance is Attachment C to this report.

In 2017, the development site was sold to a new owner who also owns several apartment buildings in the area. In 2022, one of the four parcels that comprise the development site, 702 Ellsworth Place, was sold to another separate entity. This more recent purchase was reportedly based, at least in part, on information provided by the City indicating that 702 Ellsworth Place could be developed with a single family home. This guidance, however, is not consistent with the administrative record and occurred because the zoning map from 1960s was never updated to reflect the approved PC zoning designation. For decades the City's records regarding these parcels appeared to show the incorrect zoning. Similarly, when the City implemented its online property parcel records, the subject property (2901-2905 Middlefield Road and 702 Ellsworth Place) did not include information about the applicable PC zoning designation. Real estate professionals, developers and property owners rely in part on this online information to make decisions about property acquisition and development; staff too consults these records when providing information to the public.

It was not until residents filed a code enforcement complaint concerning new fencing around 702 Ellsworth Place in anticipation of a future development that research began and uncovered this mapping error. Since then staff has been engaged with area residents and the two owners of the PC development site. In addition to being concerned about redevelopment of 702 Ellsworth Place, area residents have also expressed a desire for the City to take ownership of the private street to improve its condition, address drainage problems and maintain the street. Ellsworth Place is neither owned nor maintained by the City. Moreover, it does not appear the adjacent property owners own the private street either. Similar conditions exist at other locations in the City, dating from development that occurred on formerly-unincorporated land before annexation

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<sup>1</sup> PC 2343 is included with this report as Attachment B.

<sup>2</sup> It was not uncommon in the 1960s and the decades that followed for the City to approve PC zoning requests for housing developments. A PC zoning is a legislative action that allows the Council to adopt by ordinance site-specific development standards for a particular project often in ways that allow more permissive development than could be achieved with the underlying base district standards.

to the City. The issue concerning drainage and maintenance of Ellsworth Place may require further discussion but would not likely be resolved with any resolution associated with the PC development site, which does not own, use or rely upon Ellsworth Place. However, another issue could be remedied to formalize an agreement to use the easement on 702 Ellsworth Place to access the 13 properties located on the private street. The City too has an interest in obtaining access to ensure proper maintenance of a City-owned sewer line that lies underneath the street.

The owner of the original development site 2901-2905 Middlefield Road and the new owner of 702 Ellsworth Place are seeking an amendment to the PC ordinance to remove 702 Ellsworth Place from the PC ordinance. The request includes rezoning 702 Ellsworth Place as R1 to allow the construction of a new single family residence and to formalize easement access to the 13 residential properties adjacent to Ellsworth Place.

The Municipal Code requires an applicant requesting a PC or an amendment thereto to submit a prescreening application, which requires a study session before the City Council. Importantly, no decision is made and no action can be taken during the study session. The City Council may ask questions and offer comments but should refrain from forming settled opinions for or against the project which may return to Council as a formal application. Comments or statements made by the Council and the applicant are non-binding.

## **DISCUSSION**

There are several components of the site history and future redevelopment that require further review from staff. At this initial stage, the applicant has begun the process to amend the PC to allow redevelopment of 702 Ellsworth Place. Ultimately, the City Council has broad discretion in legislative matters and the property owner has the responsibility of knowing what requirements apply to their particular property that may preclude future redevelopment. Nevertheless, the Council may want to also balance inaccurate information published on the City's zoning maps and online property parcel reports as potentially contributing factors to the current situation.

The property owner for 2901-2905 Middlefield has discussed with staff a possible parking solution to make up for the lost parking spaces at 702 Ellsworth Place. Staff will review this solution in detail when the formal application is filed and in the context of changing local and state regulations concerning parking requirements for residential properties, including local amendments to eliminate visitor parking requirements several years ago. This concept plan is provided in Attachment D.

Staff will evaluate the change in floor area ratios and housing density from the original PC, how these change with the proposed amendment, and to what extent, if any, that has any impact upon adjacent and surrounding properties. Staff will also be interested in discussing with the applicant and Planning and Transportation Commission setback requirements for 702 Ellsworth Place and how those align with the neighborhood context. Staff will continue to explore access

rights for the properties that rely on Ellsworth Place for ingress and egress to their properties from Middlefield Road and the need for a deed restriction or similar instrument to document City access to a City sewer line that extends under the private street.

Staff will evaluate the appropriateness of rezoning 702 Ellsworth Place to R1 or whether, based on a variety of interests, a separate PC zoning ordinance should apply to this property – if it is ultimately allowed to be separated from the PC referencing 2901-2905 Middlefield Road.

Based on the foregoing, there are many issues to resolve with this application and staff will engage with project proponents and neighbors to identify solutions and possible paths forward. The Planning and Transportation Commission will have a key role in this process and will forward a recommendation to the City Council. In the meantime, the subject study session provides an opportunity for the applicant and public to provide additional insight and for the Council to ask questions and offer any initial remarks in advance of the formal processing of an application.

A preliminary concept plan for the new single-family residence is also in Attachment D.

Attachments E and F are Council and Planning Commission meeting minutes from 1967 and a 1967 Commission Resolution regarding the PC.

#### **FISCAL/RESOURCE IMPACT**

The recommendation in this report has no significant fiscal or budgetary impacts.

#### **STAKEHOLDER ENGAGEMENT**

Staff received correspondence from Ellsworth Place neighbors and shared those comments with the applicant and the owner of 702 Ellsworth Place. Staff had email communication with three other owners of property along Ellsworth Place. This culminated in a letter to staff and Council (Attachment G). Staff met onsite with several Ellsworth Place neighbors on February 24, 2023, for several hours to hear concerns and discuss the conditions of the street. Discussion included potential issues and solutions related to delivery truck parking for Ellsworth Place, visibility at the intersection of Ellsworth Place and Middlefield Road, and the status of deeds, easements, and street ownership. Staff and Council more recently received correspondence from neighbors on Sutter Place (Attachment H).

#### **ENVIRONMENTAL REVIEW**

The recommendation in this report does not include any formal action or decision by the City Council and does not qualify as a project in accordance with the California Environmental Quality Act (CEQA). A formal application would be subject to CEQA and reviewed accordingly.

#### **ATTACHMENTS**

Attachment A: Applicant's Request Letters

Attachment B: Map

Attachment C: PC2343 Ordinance

Attachment D: Apartment Parking Concept, Prior Approved Development Plan (67-UP-4), and Proposed Home Design for 702 Ellsworth

Attachment E: Meeting minutes from 1967 Council and Commission

Attachment F: Commission Resolution

Attachment G: Ordinance 18.10

Attachment H: Letter from Ellsworth Place neighbors

Attachment I: Letter from Sutter Place residents

**APPROVED BY:**

Jonathan Lait, Planning and Development Services Director