



# ADMINISTRATIVE REPORT

SWS  
AGENDA ITEM = 1

MTG. DATE 12/8/97

TO: Planning Commission

APPROVED BY: [Signature]

DATE: December 5, 1997

SUBMITTED BY: [Signature]  
Stephen W. Scott, Associate Planner

Gaye Quinn, Chief of Plng.

SUBJECT: PA97-072 BRIDGEPOINTE RETAIL MODIFICATION, 2200 Bridgepointe Parkway,  
(APN 035-451-160).

## RECOMMENDATION

That the Planning Commission recommend to the City Council denial of the application by making the following motion:

- A. Deny the **Bridgepointe Master Plan Modification** replacing the ice rink building with three retail uses based upon the Findings for Denial contained in Exhibit A.

## ALTERNATIVE COMMISSION ACTION

The Planning Commission may alternatively recommend to the Council approval of the modification by making the following motions:

- B. Approve the **EIR Addendum** as adequate to describe the Bridgepointe Master Plan modification and the determination that no additional or unanticipated environmental impacts exist as a result of the modification.
- C. Approve a **Bridgepointe Master Plan Modification** to permit either an ice rink or retail uses, with the condition that, if retail uses are built, the applicant must either 1) pay a \$450,000 mitigation fee for loss of the recreational amenity, or 2) provide an alternative site for an ice rink, and the **Site Plan and Architectural Review** for the design details for the revised building and site plan, should a retail use be selected, based upon the Findings for Approval and the Conditions of Approval contained as Exhibits A and B.

*or other suit  
rec. use*

## BACKGROUND

The application is a proposed modification of the Bridgepointe Master Plan (PA95-022) and the Site Plan and Architectural Review (PA97-046) for the ice rink building. The approved plan for the ice rink building includes approximately 25,000 sq. ft. for an ice rink operation and approximately 19,000 sq. ft. for a proposed restaurant space. The proposed modification would replace the ice rink building with three retail spaces and

includes site plan, architectural, signage, and landscaping changes necessary to accommodate the retail uses.

The developer is seeking this modification because the project involves substantially more expense than originally anticipated to renovate the ice rink (see attached letter from Michael Anderson). The business arrangement between the developer and his current tenant and operator (Recreation World) provided that the developer would rebuild the building, and Recreation World would provide the tenant improvements.

The developer obtained the necessary planning approvals for the building and ordered construction materials in anticipation of construction. However, the developer states that Recreation World subsequently informed him that their tenant improvement costs were substantially more than initially estimated (\$1.2 M rather than \$300,000) and that it was no longer economically feasible to continue operations at this site.

The developer has indicated that efforts to identify an alternative operator for the site under the existing lease terms have been unsuccessful. Based upon the infeasibility of the ice rink, the developer is requesting a modification of the Bridgepointe Master Plan to change the use of the ice rink building to restaurant and retail uses.

#### Commission Review

On October 27, 1997, the Planning Commission held a public hearing on the project. The hearing was continued to December 8, 1997 to provide staff an opportunity to develop more detailed information regarding the feasibility of maintaining an ice rink at Bridgepointe, and, if not, to develop an appropriate exaction for loss of the private recreational amenity. The Commission specifically requested additional information regarding the loss of recreational facility, the construction and operating costs and the revenues for an ice rink, and the feasibility of subsidizing a tenant in the ice rink facility. The City has retained Roy Schneiderman of the Sedway Group to assist with the economic analysis, and the staff has otherwise responded to these issues, which are discussed below.

#### **PROJECT DESCRIPTION**

The structure proposed by the applicant totals 46,100 sq. ft., which is unchanged from the size of the approved ice rink building. The structure is divided into three tenant spaces: 17,143 sq. ft. for a proposed restaurant and two retail spaces of 10,238 sq. ft. and 15,874 sq. ft. (see attached Major 10 Floor Plan).

The building form and architectural details are very similar to the approved ice rink building, with the principal changes occurring along the south elevation where a new building entrance for one of the tenant spaces is located. The new uses also require loading facilities and trash and recycling collection areas, which are located at the corner of the building adjacent to the Chess Drive driveway. In addition, new signage is

proposed over the new building entrance, as well as a third sign on each tower feature, rather than the two per tower that were previously approved. A more detailed description of the changes was contained in the October 27<sup>th</sup> administrative report, which is attached.

## ISSUES

### Need for an Amendment to the Master Plan

The City considers the ice rink to be a substantial recreational amenity. It is clear from the project record that the staff, Planning Commission, and City Council understood that retention of the rink facility was integral to the approval of the Master Plan. The site and street layout were dictated by the developer's need to retain the ice rink in the existing location, and the rink was one of the land uses leading the decision bodies to accept the proposed mix of uses for the Master Plan.

During all neighborhood meetings, study sessions, and public hearings conducted on the project, the City and public were told that the ice rink would be retained. By retaining the ice rink within the project, public discussion regarding the potential loss of the facility was never raised. The environmental analysis likewise assumed a recreational use on the site, and this fact was included as partial justification for making the Findings of Overriding Considerations required for three unmitigable project impacts. (See the attached tabulation of ice rink references in the record).

Since news of the elimination of the ice rink surfaced in the local press, the City has received a number of letters from members of the skating community supporting retention of the ice rink (see attached letters from the public). Staff believes that if there had ever been a question that the ice rink might be eliminated, public interest and support for retaining the rink would have been evident throughout the Master Plan public hearing process.

The applicant continues to believe that the retention of the ice rink was not required by the Master Plan, and his attorney has submitted letters to that effect. However, the attached December 2, 1997 memorandum from the Assistant City Attorney concludes that, "a review of the EIR, the Administrative reports, the plans and other documents inescapably shows that an upgraded ice rink was anticipated and that a change must be reviewed and approved by the City."

### Impact of Loss of Recreational Facility

The Park and Recreation Department has developed additional information regarding the recreational value of the ice rink. The attached memorandum from Sheila Canzian, Director of Parks and Recreation describes the severe shortage of recreational amenities in the City. As examples, the current ratio of park acreage to population is

2.64 acres/1,000 population while the City's adopted standard is 6 acres /1,000. Projected 2010 facility needs compared with the City's existing inventory of all facilities likewise shows a severe shortage, except for lighted ball diamonds. Although there is no national standard for ice rinks, they serve a large constituency and constitute an efficient facility in terms of people served. Ice Chalet reports that there were approximately 40,000 drop-in users in 1996, and this does not include the other organized activities and patrons of the ice rink, such as leagues and skating lessons.

The Planning Commission also requested additional information on the cost of alternative recreational facilities that could potentially provide a replacement recreation facility elsewhere in the City if the ice rink was eliminated. The Park and Recreation staff developed cost data for construction (not including land cost) of a skateboard and/or roller-plex facility, as those seemed to serve roughly the same population as an ice rink. However, the attendance at such a facilities is not likely to approach the kind of attendance or serve the breadth of the population as ice rinks. The cost for such facilities varies from \$216,000 for construction of a single skateboard facility in an existing park site to \$1.07 million for a combined skateboard/in-line hockey rink on a City-owned but unimproved site.

The memorandum concludes that loss of the rink would constitute a major impact to the provision of recreational amenities for San Mateo residents.

#### Feasibility of Retaining an Ice Rink at Bridgepointe

Roy Schneiderman of the Sedway Group has prepared an economic analysis assessing the feasibility of maintaining an ice rink at Bridgepointe under the current lease structure. In completing his research, he reviewed the existing lease terms with the applicant and also talked with other operators of ice rinks.

The attached report indicates that the current lease terms would not attract an ice rink operator to the site. A revised lease structure that could attract an operator (as postulated by Mr. Scheiderman) would effectively reduce rents by approximately \$50,000 to \$75,000 per year. Alternatively, retaining the existing lease structure would require a one time capital contribution in the range of \$500,000. A possible additional cost would be the need to buy out the lease of the current ice rink operator (Recreation World), depending on the outcome of a current legal dispute between the developer and operator.

The Sedway Report also indicates that, even with a revised lease structure for the ice rink, the ice rink building, including a restaurant, would have a 'net present value' of approximately \$1 million. While it is likely that most of this value is derived from the restaurant, the ice rink building could be occupied in its present configuration and create value for the developer.

### Possible Mitigation for Loss of the Ice Rink

A recent California Supreme Court decision (Ehrlich v. City of Culver City) found that mitigation fees could be imposed for the loss of a recreational amenity. However, such mitigation requires both a relationship between the exaction and the public impact (essential nexus) and a relationship between the magnitude of the exaction and the effects of the proposed development (rough proportionality). (See the attached memorandum from the City Attorney's Office.)

Ehrlich concludes that while mitigation fees may not be based simply upon the replacement cost for the ice rink, the mitigation may be established in part by calculating the additional costs of attracting or subsidizing a developer to provide the recreational opportunity that is being lost by approval of the modification. The Attorney's Office states in the attached memo that they feel "most comfortable in calculating the fee based on subsidy costs necessary for another private developer to provide an ice rink similar to the one at Bridgepointe".

The minimum land area required for an ice rink is 1.8 acres, given the size of the existing rink and associated facilities and parking requirements. The economic analysis prepared by the Sedway Group has concluded that, based upon current land values in San Mateo, the land cost for 1.8 acres ranges from \$1.2 to \$2.4 million. The economic analysis also estimates the development costs and operating revenues for an alternative ice rink facility and concludes that the total economic shortfall is \$1.4 to \$2.7 million.

This compares with an economic shortfall of approximately \$500,000 for the current site under the existing lease. The subsidy costs for a new ice rink located elsewhere would thus be \$900,000 to \$2.2 million more than on the existing site, and this range could be considered the maximum mitigation fee acceptable using the analysis suggested in the Ehrlich case.

A mitigation fee, however, should also bear some relation to the benefit provided by an approval. The Sedway report found that the 'net present value' of the proposed retail building would be approximately \$650,000 more than the value of the ice rink building with a revised ice rink lease. Moreover, the benefit provided by the approval that is being modified (the Master Plan) authorized the whole of the Bridgepointe Project. Thus, the benefit from the approval is substantially greater than the \$650,000 attributable to a change from the ice rink to retail.

The staff believes that the originally suggested mitigation fee of \$450,000 is reasonable in relation to the benefits to the developer. It would permit the City to construct a skateboard park or hockey-plex, but not both. It would not, however, fully mitigate the loss of recreational opportunities resulting from the loss of the ice rink. Neither a skateboard park nor a hockey-plex would accommodate the number or breadth of people that would utilize an ice rink.

### Design Issues

The proposed structure has the same floor area, height, massing, and location as the previously approved ice rink. The design details are in most respects similar or identical. However, the changes to the south elevation where the new building entrance is located are quite modest, and staff recommends the following changes, which are included as conditions of approval.

1. The entry feature lacks the same importance as the other two building entrances although it is the entry for the largest tenant space. This entry should be given a similar sense of importance through its form, height, and use of materials. This entry should be located further from the proposed loading dock or provided with an acceptable screening solution in order to separate potential visual and safety conflicts between pedestrians and the loading operations.

2. An arcade feature and columns should be provided on the south elevation that is consistent with the overall design of the ice rink building, is similar to what is provided on the west elevation, and proportioned to fit the space. This would connect the building entrances, provide for additional pedestrian amenity, and visually downplay the fact that a loading dock exists immediately adjacent to the new building entry.

As with the new entry feature, the south elevation lacks the sense of importance and pedestrian amenity found in the other three elevations. In plan view (Sheet 24), it is clear that the other three sides of the building have a curved element that extends out from the face of the structure. On the westerly (left) side of the building, this is actually a covered arcade feature connecting the other two building entries, and on the other two sides (top and right), these are locations for signage (see elevations on Sheet 25). In each of the cases, the columns that are typical of the Bridgepointe Center are also included.

At the October hearing, the applicant objected to this recommendation, but indicated that if required, the arcade treatment should reflect the style typical of the retail buildings it faces across the parking lot (Majors 7, 8, and 9). The staff recommendation does not dictate a design identical to the west elevation but would require it to be consistent with the ice rink building. If it can achieve that end and also be designed to reflect the arcade along Majors 7, 8 & 9, staff would have no objection.

### **RECOMMENDED COMMISSION ACTION**

The staff had originally recommended approval of the Master Plan and SPAR modifications with a condition requiring payment of a \$450,000.00 mitigation fee. We believed at the time that it would be infeasible to retain the ice rink at Bridgepointe. The reports from Sheila Canzian, Director of Parks and Recreation, and the Sedway Group,

however, have provided information that has caused staff to now recommend retention of the ice rink for the following reasons:

1. The memorandum from the Park and Recreation Director indicates that the ice rink draws substantially more people than would a facility that could be constructed with the mitigation fee. Thus, the loss of the ice rink will have a major recreational impact.
2. The Sedway Report – and discussions with the consultant – indicates that the ice rink can operate at or near breakeven. Staff had initially believed that the losses would be substantial, well into six figures annually.
3. The Sedway Report indicates that the ice rink building with an ice rink and revised lease structure has a present value \$650,000.00 less than the building with retail. City figures show that building permits for the Bridgepointe Master Plan development have totaled \$79,805,425.00 in building permit valuation and 1.5 million square feet. In the scope of the Master Plan, the burdens of retaining the ice rink do not appear substantial.

Additionally, even if the ice rink parcel is considered independently from the rest of the Master Plan (the developer has stated that it is a separate parcel), there is reasonable value for the parcel as shown by the Sedway analysis of the restaurant or other similar use and the ice rink with a revised lease structure.

Last, the ice rink was specifically identified by the City as a public benefit justifying the approval of a project that created significant environmental impacts. The Assistant City Attorney's memo concludes, "... a developer who takes the benefits from a governmental approval must also meet the burdens imposed by that approval. This is another way of stating that a developer cannot select those matters that he wishes to comply with and disregard other requirements that he does not wish to meet." For these reasons, the staff is now recommending that the application be denied and that the approved master plan, including the ice rink, not be changed.

### **ALTERNATIVE COMMISSION ACTION**

#### Approval of a Modified Master Plan with Mitigation for Loss of Ice Rink

Although an ice rink would serve more people than would alternative facilities, the Commission may believe that an alternative facility, skateboard park or roller hockey-plex, would be an acceptable mitigation for the loss of the ice rink. In addition, the applicant disagrees with the conclusions regarding the feasibility of an ice rink on the site.

Should the Commission believe that an ice rink facility is a substantial recreational amenity but that it is infeasible to operate at Bridgepointe, or that alternative recreational facilities would be acceptable or desirable, it may wish to approve a modification of the Master Plan to permit either an ice rink or retail uses at the site. If the developer chooses to build retail, he would then be required to mitigate the loss of recreational facilities by either:

- 1) paying a mitigation fee of \$450,000 for loss of the recreational amenity, or
- 2) providing an approximately 1.8 acre alternative site for a future replacement ice skating facility.

This option may be approved by making the following motions:

- B* *21* *Approve the **EIR Addendum** as adequate to describe the Bridgepointe Master Plan modification and the determination that no additional or unanticipated environmental impacts exist as a result of the modification.*
- C. Approve a **Bridgepointe Master Plan Modification** to permit either an ice rink or retail uses, with the condition that, if retail uses are built, the applicant must either 1) pay a \$450,000 mitigation fee for loss of the recreational amenity, or 2) provide an alternative site for an ice rink, and the **Site Plan and Architectural Review** for the design details for the revised building and site plan, should a retail use be selected, based upon the Findings for Approval and the Conditions of Approval contained as Exhibits A and B.*

Approval of the Modification as Proposed

Should the Commission believe that retention of the ice rink is not feasible, and that mitigation for the loss of the ice rink facility is not necessary, the following motions should be made:

- D. Approve the **EIR Addendum** as adequate to describe the Bridgepointe Master Plan modification and the determination that no additional or unanticipated impacts exist as a result of the modification.*
- E. Approve the **Bridgepointe Master Plan Modification** replacing the ice rink with three retail uses and the **Site Plan and Architectural Review** for the design details for the revised building and site plan based upon the Findings for Approval as modified relating to the mitigation fee, and all Conditions of Approval **except number 3, "Exaction for Recreational Facility"**, contained as Exhibits A and B.*

## ENVIRONMENTAL CLEARANCE

An Addendum to the previously certified Environmental Impact Report has been prepared and is attached.

## EXHIBITS

- A. Findings for Denial
- B. Findings for Approval
- C. Conditions of Approval

## ATTACHMENTS

- 1. Project Data and Plans
- 2. Report from Sedway Group
- 3. Memorandum from Sheila Canzian, Director of Parks and Recreation
- 4. Memoranda from the City Attorney's Office
- 5. Letters from the Public
- 6. Tabulation of Ice Rink References Contained in the Record
- 7. Addendum to previously Certified EIR
- 8. Administrative Report for Commission Hearing of October 27, 1997
- 9. Planning Commission Minutes from Hearing of October 27, 1997
- 10. Letter From Planning Commissioner Steve Brothers

cc: Roy Abrams, City Attorney  
Sheila Canzian, Director of Park and Recreation  
Peter Pau, Applicant  
Roy Scheiderman, Sedway Group  
Mailing List (10)