COUNCIL AGENDA: 06-27-06
ITEM: 4.7

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: June 15, 2006

COUNCIL DISTRICT: 2

SUBJECT: T 05-094. APPEAL OF THE DIRECTOR'S DECISION TO APPROVE A TENTATIVE MAP PERMIT TO RECONFIGURE THREE PARCELS INTO ONE CONDOMINIUM LOT WITH UP TO 34 CONDOMINIUM UNITS WITH A MINIMUM UNIT SIZE OF 1,450 SQUARE FEET FOR INDUSTRIAL PARK USES, LOCATED AT THE SOUTHEAST CORNER OF PIERCY ROAD AND HELLYER AVENUE ON A 9.9 GROSS-ACRE SITE.

RECOMMENDATION

Planning Staff recommends that the City Council adopt a resolution to uphold the Director of Planning's decision to approve a Tentative Map to reconfigure three parcels into one condominium lot for up to 34 condominium units with a minimum unit size of 1,450 square feet for industrial park uses.

OUTCOME

Should the City Council uphold the Director's Decision to approve the Tentative Map with a maximum of 34 condominium units across 98,000 square feet, the average unit size would be approximately 2,880 square feet, with units likely ranging in size between 1,500 and 6,000 square feet, providing better space options for a wider mix of industrial park uses. Should the City Council support the appeal and approve the applicant's request for up to 64 units, if 64 condominium units are created, the average unit size would be approximately 1,500 square feet, and which would likely result in a small business office project without other technology users.

EXECUTIVE SUMMARY

On April 18, 2006, the City Council adopted an Ordinance (effective June 30, 2006) which established a minimum industrial condominium unit size of 10,000 square feet, in buildings of at least 20,000 square feet, in the prime industrial park land of the New Edenvale Redevelopment Area, and set a minimum size for industrial/commercial condominium units in other areas of the city of 750 square feet. This Ordinance, developed with participation of a Counter-to-Council

working group of City staff and industrial developers, also provides that all types of offices, including those more traditionally found in commercial areas such as realtors and mortgage brokers, are allowed uses in the IP Industrial Park Zoning district, the primary zoning district in New Edenvale. This represents a significant change from San Jose's historic segregation of these types of offices into commercial zoning districts and was strongly promoted by industrial developers and brokers. The requirement that "for-sale" industrial spaces in New Edenvale be at least 10,000 square feet in size is key to preservation of long term options for the bioscience and emerging technology users the City hopes to attract to this area, which have larger space requirements than small offices. Typically, once small "for-sale" condominium units are sold to individual buyers, it is extremely difficult to reestablish larger "for-sale" spaces, in much the same way as it can be difficult to assemble multiple land parcels into one larger development site. Under the new Ordinance, smaller "for lease" spaces of any size may be created for shorter-term tenants.

This report provides staff analysis and recommendation for City Council action on the Appeal of a Tentative Map (File No. T05-094) approved by the Director of Planning on May 5, 2006, for up to 34 industrial condominium units on an approximately 9.9 gross acre site developed with 16 newly-constructed industrial shell buildings at the corner of Piercy Road and Hellyer Avenue in New Edenvale. The buildings were approved in November 2004, under a Special Use Permit (File No. SP04-064) which also provided for an alternating parking arrangement between the industrial complex and the future location of the Family Community Church on the adjoining parcel to the east, but did not approve a condominium subdivision.

Under the Code, appeals of Tentative Maps acted on by the Director of Planning are heard by the the City Council, and are not reviewed by the Planning Commission. The applicant/appellant, Ron Buchholz, originally applied for a Tentative Map to allow up to 64 condominium units with a minimum size of 1,450 square feet. The Director-approved Tentative Map allows the requested minimum unit size of 1,450 square feet, but reduces the overall number of units from the applicant's request, to 34, to ensure the future availability of larger "for sale" units on this visible site for uses other than offices, such as the emerging technology users the City is courting for this area. The approved Tentative Map would result in an average unit size of approximately 2,880 square feet, with a resulting mix of units of 4,000-6,000 square feet or larger in combination with the units created at 1,450 square feet in size. The applicant's proposed 64-unit Tentative Map would result in an average unit size of just over 1,500 square feet without any significantly larger units, if all 64 units were created. Staff is very concerned that approval of 64 units would limit the potential users on the site to small offices, which are not the focus of the City's economic development strategy for Edenvale, and which can be readily accommodated elsewhere throughout the city.

BACKGROUND

Project History

The approximately 9.9 acre subject site is located at the southeast corner of Piercy Road and Hellyer Avenue, within the New Edenvale Redevelopment Area (see attached map). The site has a General

Plan Land Use designation of Industrial Park, and is zoned IP Industrial Park. In 2004, the City Council approved a General Plan amendment (File No. GP03-02-04) to add the Mixed Industrial overlay on the property immediately to the east to provide flexibility for the reuse of an existing industrial building. In November 2004, the Planning Commission approved a Conditional Use Permit for the Family Community Church to be located on the adjacent site (File No. CP04-079) and a Special Use Permit for the subject 16-building industrial park development which was included as part of the off-site, alternating parking arrangement with the church (File No. SP04-064). The Special Use Permit also served as the Site Development Permit for construction of approximately 98,000 square feet of industrial park buildings and associated site improvements. Construction of the shell buildings is scheduled for completion in July 2006.

On October 18, 2005, the applicant, Hellyer Commons, LLC, filed a Tentative Map application requesting to reconfigure three parcels into one lot for up to 64 condominium units for industrial park uses. The applicant proposes to subdivide the industrial park development of 16 buildings into condominium units for industrial park uses, primarily offices, at generally 4 units per building. The buildings range in size from 3,000 square feet to one 12,000 square foot building.

On May 5, 2006, the Director of Planning approved the subject Tentative Map (see attached permit) to reconfigure the three existing lots into one condominium lot, with a minimum condominium unit size of 1,450 square feet, as requested by the applicant, but limiting the maximum number of units to 34, or generally 2 units per building, with four in the largest 12,000 square foot building. A Final Map or Parcel Map is still required subsequent to an approval of the Tentative Map in order to implement the condominium subdivision.

The Appeal

On May 10, 2006, following the Director's approval of the Tentative Map for 34 condominium units, the applicant, Ron Buchholz of Hellyer Commons, LLC, submitted a timely Notice of Permit Appeal (attached). The reason stated for the appeal is that the "applicant was denied the 64 units that they have a right to."

The recently-approved Code Revision providing minimum size requirements for non-residential condominium units, discussed below, will become effective on June 30, 2006. This Tentative Map appeal has been brought before the City Council under the existing Code to allow the City Council the full range of options in its review and decision on the appeal.

Industrial Condominium Code Revision

During 2005, staff became increasingly concerned about a growing trend in applications for commercial office condominiums in industrial areas, including air subdivision of existing buildings. Unlike residential dwelling units which have long required a discretionary permit through Planning for condominium conversion (Conditional Use Permit), subdividing industrial buildings for condominiums did not have prescribed regulations requiring any discretionary review and could be

approved ministerially through a parcel map process, with no public hearing and without comprehensive review by Planning staff. Condominium projects were being proposed in industrial areas with unit sizes smaller than 450 square feet, which was of concern because such small-scale condominium units can be inappropriate in industrial areas as they can lead to incompatibility issues with existing uses, and tend to promote conversions to non-industrial use, as many industrial uses cannot be operated in 450 square feet.

In fall of 2005, staff instituted a stop-gap measure to insure adequate planning review by requiring that all proposed industrial and other non-residential condominium projects be reviewed through the tentative and final map process, including those projects involving less than five parcels, or condominium units that would generally require only parcel map review by the Department of Public Works. The Director of Public Works determined that all industrial and commercial condominium maps should first be reviewed through the tentative map process for General Plan conformance and appropriateness of proposed size in the Zoning district, and to allow for possible conditions of approval to be added to the project. This requirement was an interim measure, already an option under the Code on a case-by-case basis at the discretion of the Public Works Director, as staff worked toward bringing forward a Zoning Code amendment to include a Special Use Permit requirement for non-residential condominiums. That Code amendment was approved by the City Council on December 7, 2005. As stated above, the appellant filed the subject Tentative Map on October 18, 2006, which application was subject to Planning staff review of the proposal for 64, 1450-square foot, condominium units in the prime industrial park area of New Edenvale.

Concurrent with the processing of the applicant's Tentative Map, and at the direction of the City Council on December 7, 2005 through the Counter-to-Council process, city staff worked with representatives from the industrial development community over several months to revise the City's regulations to ultimately allow the full range of general office uses in the IP Industrial Park zoning district. In addition, this process resulted in an Ordinance to set a minimum condominium unit size of 750 square feet citywide, but specifying a minimum of 10,000 square feet for condominium units in the industrial park lands in New Edenvale, in buildings of at least 20,000 square feet. The applicant and others representing prospective buyers of the future condominium units on the subject site were active participants in the Code revision effort, and were instrumental in the significant change to allow all types of offices in IP Industrial Park zoning district, as a permitted use when minimum zoning requirements are met, through Ordinance No. 27701, approved by Council on April 18, 2006.

ANALYSIS

The main issues in staff's analysis of the proposed Tentative Map for up to 64 condominium units were conformance with the City's General Plan policies and goals and Economic Development Strategy, consistency with the goals of the New Edenvale Redevelopment Area Plan, and conformance with the Zoning Code.

Conformance with the General Plan

The General Plan Industrial Park land use designation is "an exclusive industrial designation intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing and offices." The project includes 16 buildings ranging in size from 3,000 square feet to 12,000 square feet. The proposed condominium subdivision of these buildings into 64 individual units would result in units that could not be much larger than 1,500 square feet in size if all 64 were created. While uses such as offices can be accommodated in units of this size and are consistent with the General Plan, staff remains concerned that it would be virtually impossible for any of the wider range of high technology, manufacturing or other industrial park users to locate at this site in the future as those operations generally require more space. Because condominium units are sold to individual owners, it could be extremely difficult to aggregate several small units into larger spaces in the future, unlike the much more common occurrence of aggregating and rearranging tenant spaces as a mix of tenants on-site changes over time.

Consistency with the New Edenvale Redevelopment Area Plan

A focus of the industry and staff workgroup discussions regarding future office uses in areas zoned Industrial Park, and the trends in industrial and commercial condominiums, was the City's keen interest in preserving the prime industrial park land in New Edenvale and North San Jose for larger-scale technology users and smaller high potential firms in driving industry sectors. In New Edenvale, only 200 prime acres of industrially-zoned land remains for driving industry technology uses. Recent real estate market trends speak to a positive net absorption of R&D space, lower vacancy rates, and an upward pressure on rents that have, for the most part, been stagnant since 2001. Campuses that have been vacant or underutilized for four years are now either occupied or to be occupied by a corporate tenant in the near future. North San Jose and New Edenvale offer the climate and environment that technology companies desire.

Large-scale technology users and the driving industry sector which the city looks to attract to the Edenvale Redevelopment Area typically have space requirements of 4,000 to 20,000 square feet, or greater, whereas office uses are the likely tenants for 1,450 square foot spaces. Based on the desire to preserve options for biotechnology and other driving industry users in Edenvale, the recently approved Ordinance, effective on June 30, 2006, specifies that condominium units in Edenvale must have a minimum size of 10,000 square feet, and must be in buildings of a minimum of 20,000 square feet.

The applicant has indicated that the marketing of these condominium units will be as commercial office condominiums. Staff's review of the proposal for 64 units of an average size of approximately 1,500 square feet would likely result in the majority of the site used for offices and would not retain opportunities for the focus industries of the Edenvale Redevelopment Area, the large-scale technology companies and the driving industry sector, and therefore would not be consistent with the economic development goals of the New Edenvale Redevelopment Area.

However, given the "pipeline nature" of the project, staff worked to provide some flexibility for the pending project which could not, under the soon to be effective Code, be approved for any condominium units to be created, since none of the buildings on site are 20,000 square feet or larger, and the units are not proposed to be 10,000 square feet or greater.

Staff identified that approval of 34 condominium units with the applicant's requested minimum size of 1,450 square feet on the subject site would provide for each of the sixteen (16) buildings to be divided into two parts, and the largest into four (4) parts, or some other combination not to exceed 34 units, and would generally respond to some of the stated goals indicated by the applicant and other interested parties as a "minimum" for project marketing success. Staff further analyzed that with the on-site building space of approximately 98,000 square feet, condominium unit sizes in a 34-unit subdivision would average approximately 2,880 square feet across all 98,000 square feet of building area on site. If all 34 units were created, and some were the minimum size of 1,450 square feet, then other units would necessarily result which are 3,000 square feet in size or greater. To the extent the site retains spaces of 3,000 to 4,000 square feet, and possibly larger, depending on the number of minimum-sized units, the project retains a greater ability to house other high tech and industrial uses, in addition to the offices that will likely occupy the smaller units. Staff has determined that a 34-unit condominium subdivision is generally consistent with the goals of the Redevelopment Area.

Conformance with the Zoning Code

At the time the Tentative Map was filed in October 2005, staff was particularly concerned that the proposed condominium map which would allow up to 64 small units, would have a majority of spaces likely sold as general business office space, which is not an allowed use in the IP Industrial Park zoning district under the current Zoning Code. Through the recent Counter-to-Council initiated process of the workgroup review of the array of uses allowed in the IP zoning district, and consideration of broadening the range of office types which could be permitted, this section of the Code has been revised, effective June 30, 2006, to allow all types of offices in the IP Industrial Park zoning district, by right. Therefore, staff's initial concern about future un-permitted office operation in these proposed condominium units is no longer an issue.

Staff's review of the project site plan indicates that the project includes 295 parking spaces, which provides a ratio of approximately one space to 282 square feet of building area. Per the Zoning Code parking requirements, an "all-office" building would require 334 parking spaces, at a ratio of one space per 250 square feet of floor area. Staff's analysis indicates that subdivision into 64 units of an average size of approximately 1,500 square feet, would result in the majority, or all, of the units used for office use, especially given the change in the IP Industrial Park zoning district to allow offices as a permitted use if all minimum zoning requirements are met. Staff believes that the available on-site parking does not meet the requirements for a likely "all-office" project, and that by limiting the number of individual condominium units to 34, which increases the sizes of a number of the units, a greater range of uses in addition to office would be possible. Because most other industrial uses have a lower Code-required parking ratio than the one space per 250 square feet of

floor area of office, staff believes that the on-site parking is adequate for the Director-approved 34-condominium unit project, but would not be for the appellant's desired 64 units.

Conclusion

The New Edenvale Redevelopment Area is a prime future hub for high technology driving industry users and bioscience and emerging technology users. With its significant investments in New Edenvale since 1977, in the range of $100 million in infrastructure and redevelopment programs and projects, the City has strived to promote an industrial park environment which will attract these high technology companies and create a climate for new business formation and job growth. Staff's analysis indicates that allowing condominium subdivision of the subject project into 64 units of 1,450 square feet, as requested by the applicant/appellant in this appeal, is very likely to result in an all-office project with no flexibility for future industrial or industrial-support users, little possibility of the possible aggregation of small spaces into larger ones in the future, and inadequate on-site parking. There are many other opportunities citywide for these small-scale, office condominium units, but the City should protect Edenvale as a priority resource. The Tentative Map, as approved by the Director of Planning, to allow a maximum of 34 condominium units with a minimum unit size of 1,450 square feet, provides space options appropriate for small offices, as desired by the applicant, but also would result in larger space options being available on-site, consistent with the goals of the General Plan, its Economic Development Strategy and the Edenvale Redevelopment Plan.

ALTERNATIVES

The City Council in its decision regarding the Tentative Map appeal may take the following actions based upon adoption of appropriate findings in support thereof:

1. Adopt a resolution upholding the Planning Director's decision to approve a Tentative Map to reconfigure three parcels into one condominium lot to allow up to 34 condominium units with a minimum unit size of 1,450 square feet; or

2. Adopt a resolution upholding the appeal and approve a Tentative Map to reconfigure three parcels into one condominium lot to allow up to 64 condominium units with a minimum unit size of 1,450 square feet; or

3. Adopt a resolution approving a Tentative Map to reconfigure three parcels into one condominium lot to allow any number of condominium units 64 or fewer, with any minimum unit size.

COORDINATION

This memorandum was coordinated with the Office of Economic Development, the Redevelopment Agency, and the City Attorney's Office.

PUBLIC OUTREACH

Notices of the public hearing were distributed to the owners and occupants of all properties located within 500 feet of the project site. Staff has been available to discuss the project with interested members of the public

CEQA

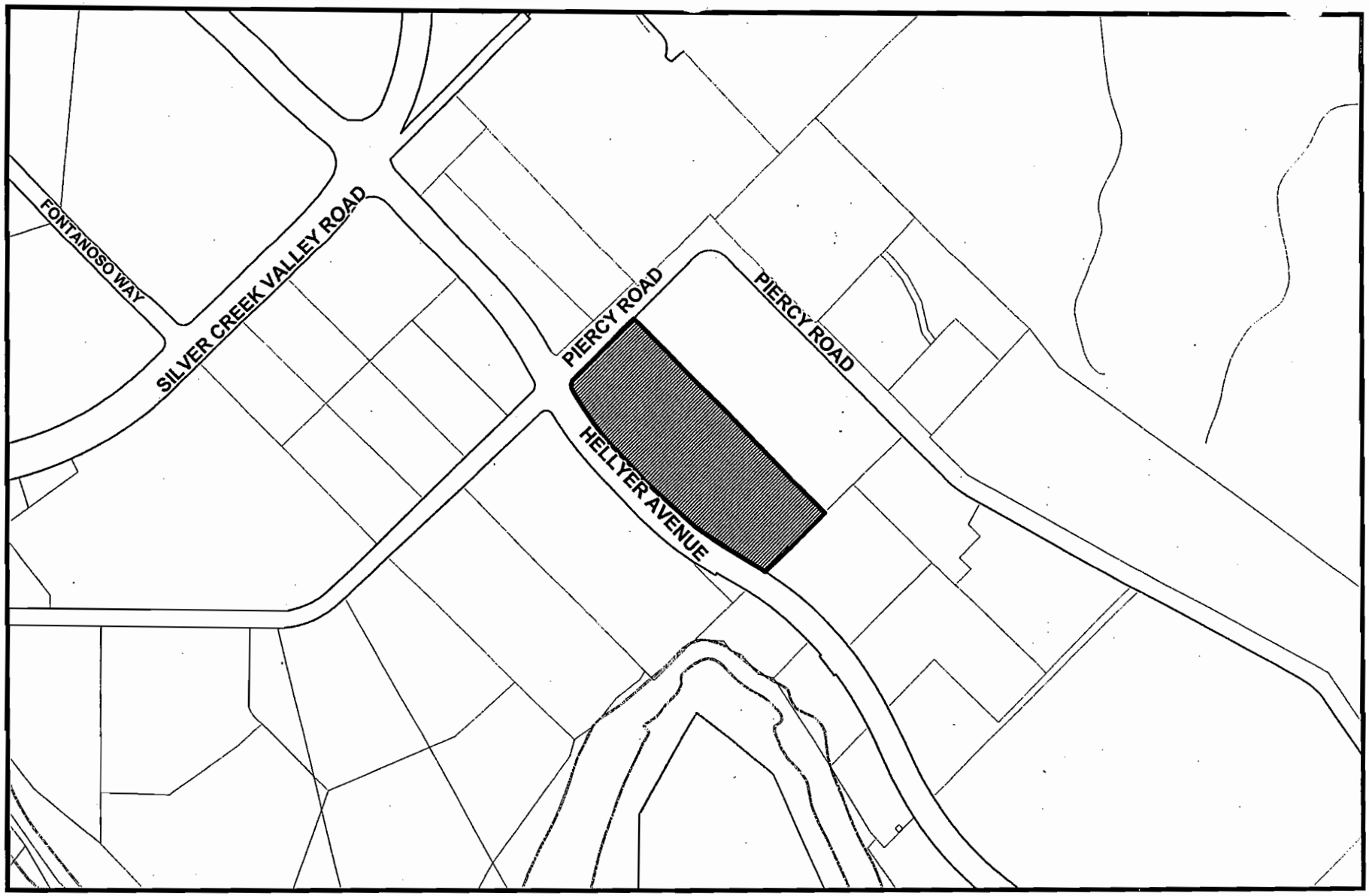
Exempt

Susan Walton

for Joseph Horwedel, Acting Director
Planning, Building & Code Enforcement

Attachments: Location Map
Tentative Map Permit
Notice of Appeal Form

cc: Hellyer Commons, LLC, 20 Great Oaks Boulevard, #230, San Jose, CA 95119
RDB Development, Attn: Jim Coates, 20 Great Oaks Boulevard, Suite 230, San Jose, CA 95119
Jimmy Vigil/ Ryan Amaya, Kier & Wright, 3350 Scott Boulevard, Building 22, Santa Clara, CA 95054



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Scale: 1"=500'

Map Created On: 10/18/2005

File No: T05-094

District: 2

Quad No: 130

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement
JOSEPH HORWEDEL, ACTING DIRECTOR

May 5, 2006

Jimmy Vigil/ Ryan Amaya
Kier & Wright Civil Engineers and Surveyors, Inc.
3350 Scott Boulevard, Building 22
Santa Clara, CA 95054

Dear Jimmy Vigil/Ryan Amaya:

RE: TENTATIVE MAP PERMIT, FILE NO. T05-094, LOCATED AT/ON THE SOUTHEAST CORNER OF PIERCY ROAD AND HELLYER AVENUE

The enclosed document is your copy of the Planning Director's action on the application for a Tentative Map Permit.

The Planning Director's action taken on this permit or any of the conditions of this permit may be appealed to the City Council by filing a Notice of Appeal and a $1,925.00 fee. The appeal must be submitted in person and presented on the Notice of Appeal form available from the Department of Planning, Building and Code Enforcement on or before 5:00 p.m., **May 15, 2006.** A Parcel Map or Final Map may be filed with the Director of Public Works after this appeal period has ended.

If you have any questions, please contact your Project Manager, Jeff Roche, at (408) 535-7800 or by e-mail at jeff.roche@sanjoseca.gov.

Sincerely,

Susan Walton

Deputy

cc: Hellyer Commons, LLC, 20 Great Oaks Boulevard, #230, San Jose, CA 95119
RDB Development, Attn: Jim Coates, 20 Great Oaks Boulevard, Suite 230, San Jose, CA 95119
Ru Weerakoon, Redevelopment Agency, 200 East Santa Clara St., Tower 14, San Jose, CA 95113
City Council District 2, Attn: Anthony Drummond, 200 East Santa Clara St., Tower 18, San Jose, CA 95113

Enclosures
JR/ln

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement
JOSEPH HORWEDEL, ACTING DIRECTOR

TENTATIVE CONDOMINIUM MAP

FILE NO.	T05-094
LOCATION OF PROPERTY	Southeast corner of Piercy Road and Hellyer Avenue
TITLE OF MAP	Tentative Map for Condominium Purposes Piercy and Hellyer
DRAWN BY	Kier and Wright Civil Engineers and Surveyors, Inc.
DATE OF MAP	September 2005, last revised in conformance with Condition No. 4 of this Tentative Map Permit.
OWNER	Hellyer Commons, LLC
ADDRESS	20 Great Oaks Boulevard, #230 San Jose, CA 95119

FACTS

1. The project site is located on the southeasterly corner of Piercy Road and Hellyer Avenue.

2. The site has a designation of Industrial Park on the adopted San José 2020 General Plan Land Use/Transportation Diagram.

3. The project site is located in the IP Industrial Park Zoning District.

4. The project site is located in the New Edenvale Redevelopment Area, east of U.S. Highway 101, for which the City of San Jose has invested significant resources to create a prime industrial park center for larger-scale technology users and the driving industry sector.

5. Pursuant to CEQA Guidelines, the City of San José this project was found to be exempt.

6. The subject site is surrounded by rural residential and vacant industrial land to the north, rural residential and church/ religious assembly uses to the east, and vacant industrial land to the south and west.

7. The applicant's proposal included up to 64 condominium units, with a minimum size of 1450 square feet. Given the amount of on-site building space of 98,000 square feet, division into 64 condominium units would result in an average unit size of approximately 1530 square feet.

8. Large-scale technology users and the driving industry sector which the City looks to attract to the Edenvale Redevelopment Area typically have space requirements of 3,000 to 10,000 square feet, or greater, whereas office uses are the likely tenants for 1450 square foot spaces. The applicant has indicated the marketing of these condominium units will be as office condominiums.

9. A Tentative Map was required for this application, filed October 18, 2005, to provide for review of the proposed 64-lot condominium project in sixteen (16) buildings under construction on the site to assess conformance with the goals of the Industrial Park General Plan, the IP Zoning District, and the goals of the New Edenvale Redevelopment Area and the Edenvale Area Development Policy. Review of the proposal for 64 lots of an average size of 1530 square feet would likely result in the majority of the site used for offices and would not retain tenant space ownership potential for the focus industries of the Edenvale Redevelopment Area, the large-scale technology companies and the driving industry sector.

10. The applicant's proposal includes 295 parking spaces at a ratio of approximately one space to 282 square feet of building area. Per the Zoning Code parking requirements, an "all-office" building would require 334 parking spaces, at a ratio of one space per 250 square feet of floor area.

11. On December 13, 2005, the City Council approved Ordinance No. 27639 amending the Zoning Code to require a Special Use Permit for non-residential condominium projects to provide for more detailed review of conformance with the General Plan and other goals and policies.

12. Between November 2005 to April 2006, city staff, working together with representatives from the industrial and business communities, and with knowledge and participation of the applicant, developed a Zoning Code amendment to clarify office uses to be allowed in the IP Industrial Park Zoning district, and to specify the appropriate sizes for non-residential condominium units, citywide, and for industrial park condominiums in the core of North San Jose, and the New Edenvale Redevelopment Area.

13. On April 18, 2006, after 3 hearings before the Planning Commission, the City Council approved Ordinance No. 27639 to amend the Zoning Code to establish 10,000 square feet as the minimum non-residential condominium lot size in New Edenvale in a minimum 20,000 square foot building, which will become effective on June 30, 2006.

14. Given the "pipeline" nature of the project, staff identified that approval of 34 condominium units with a minimum size of 1,450 square feet on the subject site would provide for each of sixteen (16) buildings to be divided into two parts, and the largest into four (4) parts, or some other combination not to exceed 34 units.

15. Under the revised Zoning Code establishing minimum condominium sizes in New Edenvale, effective June 30, 2006, no condominium units would be permitted on the subject site, as none of the buildings on site are 20,000 square feet or larger.

FINDINGS

1. The proposed Tentative Map will reconfigure 3 parcels into 1 condominium lot with up to 34 condominium units for industrial park uses with a minimum unit size of 1,450 square feet, with an average unit size of approximately 2,880 square feet across all 98,000 square feet of building area on the site. To the extent that some condominium units are subdivided at the minimum 1450 square feet, other units will necessarily result which are 3000 square feet and greater.

2. The Director of Planning of the City of San José finds that the proposed subdivision shown on the Tentative Map, subject to the conditions listed below and the requirements for project design and improvements, is consistent with applicable General and Specific Plans of the City of San José, in that the tentative map will allow the reconfiguration of 3 parcels into 1 condominium lot with up to 34 condominium units for industrial park uses with a minimum unit size of 1,450 square feet on a 9.9 gross

acre site on the subject site, of which has a General Plan Land Use Transportation Diagram designation of Industrial Park which allows for industrial park uses. With the maximum number of lots limited to 34, the average unit size will be approximately 2,880, with some units considerably larger, which will provide for a range of industrial park users, larger-scale technology users and the driving industry sector, in addition to office uses. With a mix of uses, including some office, the available 295 on-site parking spaces at a ratio of approximately one space for 282 square feet of building area would be adequate.

3. The Director of Planning of the City of San José has considered the proposed subdivision shown on the Tentative Map, with the imposed conditions, to determine whether to make any of the findings set forth in subsections (a) through (g) of Section 66474 of the Government Code of the State of California. Based on that review, the Director of Planning of the City of San José does not make any such findings for the subject subdivision.

4. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that:

   a. Under the provisions of Section 15315 State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

   b. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.

2. **Improvement Contract.** In the event subdivider has not completed the improvements required for his proposed subdivision at the time the Final Map is presented for approval, subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and provide the bonds and insurance mentioned therein.

3. **Public Use Easements.** Subdivider shall dedicate on the Final Map for public use easements for public utilities, streets, pedestrian ways, alleys, street lighting, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Tentative Map for the subdivision to be devoted to such purposes.

4. **Revised Plans.** Within 60 days of issuance of this Tentative Map Permit or prior to recordation of a Final Map, the applicant shall submit revised plans that show up to 34 condominium units for industrial park uses with a minimum unit size of 1,450 square feet, to the satisfaction of the Director of Planning.

5. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall

accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

6. **Distribution Facilities.** Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.

7. **Storm Water Discharge.** The applicant shall conform to the Non-Point Source Control requirement for storm water discharge associated with construction activity as required by the State Water Resource Control Board. Contact the Regional Water Quality Control Board at (415) 286-0968 for further information.

8. **Street Trees.** Street trees as shown on approved plans shall be planted on the street frontage to the satisfaction of the Director of the Department of Streets and Parks. A permit for this is required from the Department of Streets and Parks.

9. **Management Association.** The developer/owner shall create and maintain a Management Association that will be responsible for the 5-year inspection on the sprinkler system, per Title 19 and access to the riser room if applicable (exterior risers excepted).

10. **Emergency Vehicle Access.** All exterior structures shall within 150 feet from an approved emergency vehicle access road without crossing property lines as per fire code. If crossing property lines recorded easement to be provided.

11. **Street Address.** If each space will have an independent street address, separate sprinkler systems are required. In order to have one sprinkler system per building, the spaces shall be addressed as suites.

12. **Parcel Map or Tract Map.** Prior to the approval of the tract or parcel map by the Director of Public Works, the applicant will be required to have satisfied all of the following Public Works conditions.

13. **Assessments.** This project is located within the boundaries of Improvement District 99-218SJ (Hellyer-Piercy), which sold bonds to fund the construction of the street improvements in the surrounding industrial development. The bonds are secured by the properties and assessments have been assigned to each parcel based on its current configuration. The creation of business condominiums triggers the need to submit and complete an amended assessment diagram to apportion the assessment to each condominium unit. An alternate solution prior to subdivision is to pre-pay the outstanding principal balance on the properties which are estimated to be approximately $440,804 for APN 678-08-038, $296,981 for APN 678-08-039, and $330,674 for APN 678-08-040.

14. **Multiple Final Maps.** Multiple Final Maps may be filed for this subdivision if each and all of the following conditions are met with each Final Map:

    a. All fees associated with development and a part of this approval shall be apportioned and paid for each portion of this subdivision for which a Final Map is being filed, including but not limited to Parkland Dedication, under-grounding of utilities, drainage, area and sewer treatment plan.

b. All public streets on which each Final Map has frontage are improved or bonded to be improved to the satisfaction of the Director of Public Works.

c. All grading, drainage and easements for drainage, adequate to protect each lot for which a Final Map is requested, and surrounding parcels which could be impacted by such design or lack of design, shall be guaranteed to the satisfaction of the Director of Public Works.

d. Any and all off-site improvements necessary for mitigation of impacts brought about by this project shall be apportioned to the degree possible to guarantee adequate mitigation for each area for which a Final Map is being filed, to the satisfaction of the Director of Public Works.

15. **Expiration of Permit.** This Tentative Map shall automatically expire 30 months from and after the date of issuance hereof by the Director of Planning of the City of San José. The date of issuance is the date this Permit is approved by the Director of Planning.

APPROVED and issued this 5th day of May, 2006.

Joseph Horwedel, Acting Director
Planning, Building and Code Enforcement

Susan Walton

Deputy

cc: RDB Development, Attn: Jim Coates, 20 Great Oaks Boulevard, Suite 230, San Jose, CA 95119
Jimmy Vigil/ Ryan Amaya, Kier & Wright, 3350 Scott Boulevard, Building 22, Santa Clara, CA 95054
Engineering Services
Ru Weerakoon, Redevelopment Agency
City Council District 2

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

RECEIVED MAY 1 4 2006 dpw

CITY OF SAN JOSE
Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, CA 95113-1905
tel (408) 535-3555 fax (408) 292-6055
Website: www.sanjoseca.gov/planning

NOTICE OF PERMIT APPEAL

TO BE COMPLETED BY PLANNING STAFF

FILE NUMBER T05-094.

PROJECT LOCATION SE corner of Piercy Road & Hellyer Ave.

RECEIPT #

AMOUNT 2406.25 (inc rep) + 145 = 2551.25

DATE 5/10/06

BY dpw

TO BE COMPLETED BY PERSON FILING APPEAL

PLEASE REFER TO PERMIT APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE.

THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE PROPERTY WHICH IS LOCATED AT:

REASON(S) FOR APPEAL (For additional comments, please attach a separate sheet.):
Applicant was denied the 64 units that they have the right to.

PERSON FILING APPEAL

NAME	DAYTIME TELEPHONE
Jim Coates	(408) 761-3011

ADDRESS	CITY	STATE	ZIP CODE
20 Great Oaks Blvd. Suite 230	San Jose	CA	95119

SIGNATURE	DATE
Jim D. Coates	5/4/06

RELATIONSHIP TO SUBJECT SITE: (e.g., adjacent property owner, property owner within one thousand (1,000) feet) owners Rep.

CONTACT PERSON
(IF DIFFERENT FROM PERSON FILING APPEAL)

NAME

ADDRESS	CITY	STATE	ZIP CODE

DAYTIME TELEPHONE	FAX NUMBER	E-MAIL ADDRESS
( )	( )	

PROPERTY OWNER

NAME	DATE
Ron Buchholz	5/4/06

ADDRESS	CITY	STATE	ZIP CODE
20 Great Oaks Blvd Suite 230	San Jose	Ca.	95119

PLEASE SUBMIT THIS APPLICATION IN PERSON TO THE DEVELOPMENT SERVICES CENTER, CITY HALL.

OFFICE OF COUNTY ASSESSOR — SANTA CLARA COUNTY, CALIFORNIA

BOOK	PAGE
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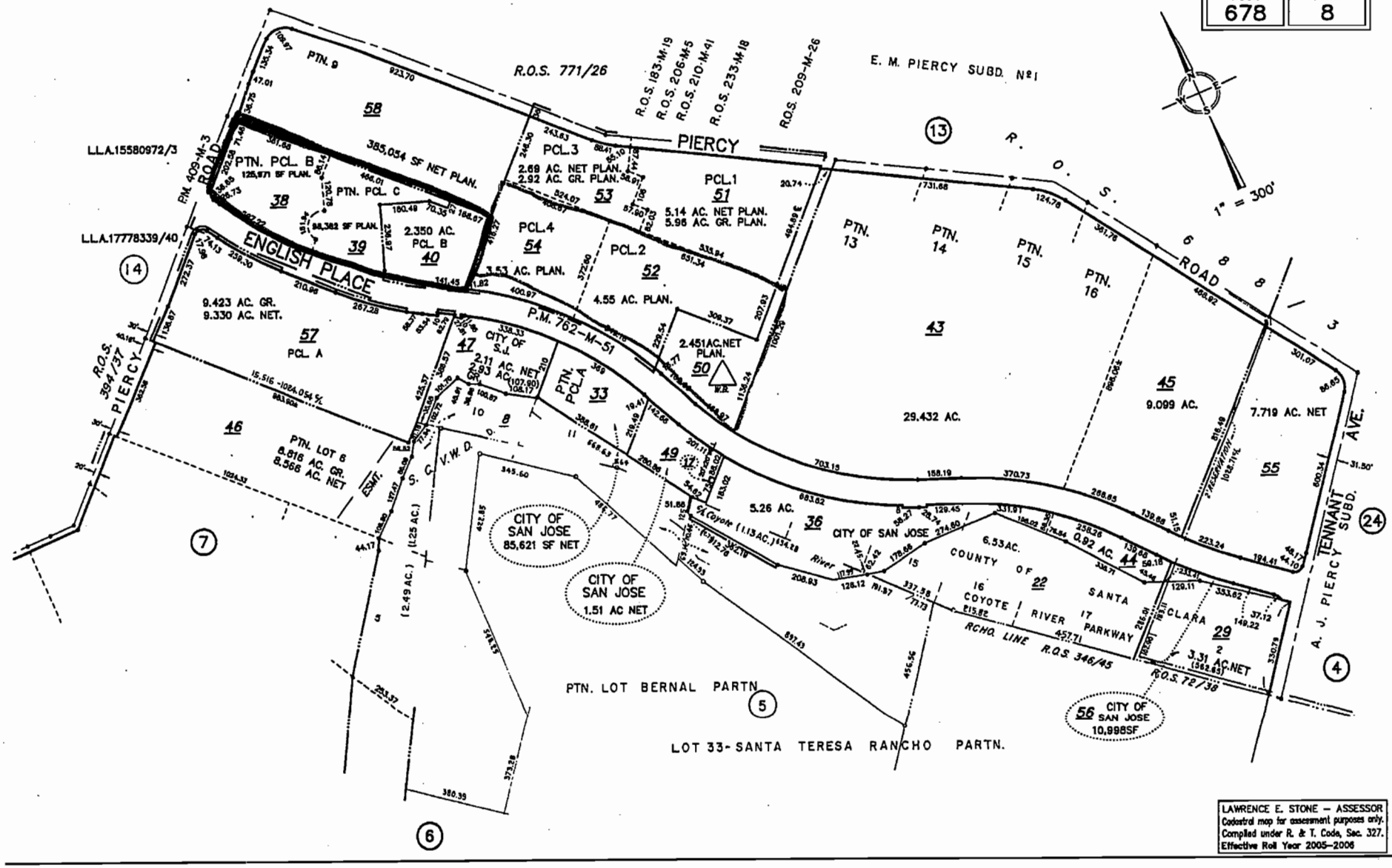

LAWRENCE E. STONE — ASSESSOR
Cadastral map for assessment purposes only.
Compiled under R. & T. Code, Sec. 327.
Effective Roll Year 2005–2006

Santa Clara, CA , 2005-2006 - 678-08-039, Sheet 1 of 1