

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, California 95113

Hearing Date/Agenda Number

CC 12/04/07

11.1 (c)

File Number

PDC07-091

Application Type

Director Initiated Conforming Planned
Development Rezoning

Council District

4

Planning Area

North San Jose

Assessor's Parcel Numbers: 101-02-010

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Richard Buikema

Location: Northwest Corner of Orchard Parkway and Atmel Way

Gross Acreage: 16.35

Net Acreage: 16.35

Net Density: 16.35

Existing Zoning: IP(PD)

Existing Use: Vacant

Proposed Zoning IP(PD)

Proposed Use: Industrial Park/Office/R&D

GENERAL PLAN

Land Use/Transportation Diagram Designation
Industrial Park

Project Conformance:

Yes No

See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

North: Vacant, Industrial

IP(PD) Planned Development

East: Vacant

IP(PD) Planned Development

West: Guadalupe River, Industrial

HI Heavy Industrial

South: Industrial Park

IP Industrial Park

ENVIRONMENTAL STATUS

Environmental Impact Report found complete (North San José Policy Update EIR certified June 21, 2005 per City Council Resolution No 72768 – State Clearinghouse #2004102067)

Pending

Negative Declaration circulated on

Environmental Review Incomplete

Negative Declaration adopted on

FILE HISTORY

Annexation Title: Orchard No. 69

Date: April 26, 1977

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval

Date: 11-14-07

Approved by: Andrew Crabtree

Approval with Conditions

Action

Denial

Recommendation

Uphold Director's Decision

OWNER

Legacy Partners Commercial
Steve Dunn
4000 E. Third Ave. Suite 600
Foster City, CA 94404

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Richard Bulkema

Department of Public Works

No comments.

Fire

No comments.

OTHER CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS**BACKGROUND**

This is a Director Initiated Conforming Rezoning for the purposes of making revisions to the height and setback regulations of the current planned development zoning district to facilitate development of the 16.35 acre project site more consistent with the goals and vision of the North San Jose Area Development Policy, including design measures intended to foster a pedestrian-oriented environment and promote transit use. Section 20.120.100 of the Zoning Ordinance allows for a rezoning that is initiated by the Director and which conforms to the General Plan to go to the City Council without a first going to the Planning Commission.

The site is currently zoned for industrial uses through an existing Planned Development Zoning (File No. PDC93-017) which was approved in March 1994 and covered a larger area of approximately 134 acres. The existing Zoning allows for the development of up to 3,220,900 square feet of industrial park office uses on a larger 133.96 acre site, of which the subject site is a portion. The current zoning does not specify the amount of development allowed on the subject site, but set an overall maximum Floor Area Ratio (FAR) of 0.70 that would equate to approximately 498,535 square feet of industrial park office development on the subject property.

The proposed rezoning will preserve the existing level of entitlement for the site but also allow the option of further intensification as provided for under the North San Jose Area Development Policy. Up to 498,535 square feet of development may be developed on the site under the provisions of the previous North San Jose Area Development Policy and subject to the Deficiency Fee per the previous policy. Any square footage developed on the site above the previously entitled amount (498,535) will need to be drawn from the capacity provided through the North San Jose Area Development Policy and will be subject to the associated Traffic Impact Fee.

The current zoning includes development standards consistent with the low intensity development pattern typical for North San Jose in the 1980s and early 1990s. The proposed rezoning would modify the allowable setback and height standards to be more permissive, consistent with the requirements of the IP – Industrial Park Zoning district as amended. No other changes are proposed to the allowed uses or other development standards of the current Planned Development zoning, which will be incorporated by reference into the proposed Planned Development Zoning.

The Planning Director is recommending the modification of the following two Development Standards as a part of the subject Planned Development Rezoning:

Existing PD Zoning	Proposed PD Zoning
40 Foot Minimum Front Setback abutting public streets	Minimum Setbacks in accordance with the IP Industrial Park zoning district as amended. <ul style="list-style-type: none"> • Front (From Orchard Parkway and Atmel Way) 15 feet for buildings, 25 feet for Parking • Side and Rear 0 feet
Maximum height for buildings and structures shall be forty five (45) feet plus one foot of height for every four feet of minimum boundary clearance from a public street in excess of the minimum setback distance from such street, but in no event to exceed ninety (90) feet.	Maximum building height shall be in accordance with the requirements of the IP-Industrial Park Zoning District: 45 feet or subject to General Plan Height policies. Per the current General Plan, the maximum building height is 150 feet for properties within reasonable walking distance of the light rail stations located within the boundaries of the North San José Area Development Policy.

The property owner has indicated an intention of developing the site in two phases. A Planned Development (PD) Permit (File No. PD07-081) was filed on October 11, 2007 to allow for approximately 400,000 square feet of new office/R&D development in two multi-story buildings (90-foot in height). Parking for these two buildings is provided in surface parking lots that cover approximately 70% of the total site area. The project includes landscaped setback areas and other landscaping throughout the project site that along with building areas and new driveway circulation cover the remaining 30% of the total site area. A third building and a parking structure are planned for a future second phase of development, and would replace some of the surface parking area.

ENVIRONMENTAL REVIEW

The project site is located within the boundaries of the *North San José Area Development Policy*. The Final Environmental Impact Report (EIR) for the North San José Area Development Policies Update was certified and the project approved by the City Council in June 2005. Santa Clara County and the Cities of Milpitas and Santa Clara subsequently legally challenged the EIR. In December 2006, the Santa Clara County Superior Court approved a settlement over all legal challenges and deemed the EIR adequate.

An Initial Study was prepared for the PD Zoning and PD Permit applications for industrial development of the project sit in accordance with an addendum to the Final EIR. The amount of development allowed on the site under the existing zoning was included in the background of the North San Jose Area Development Policies Update Final EIR. Additional development potential for the site beyond the previous entitlements is also addressed in this EIR. The Initial Study analyzed potential impacts of both proposed phases of development, since conceptual plans are available for the second phase.

For the project as a whole, the Initial Study evaluated impacts related to air quality, biotics, cultural resources, geology, hydrology and hazardous materials. Based on the analysis in the Initial Study, it has been concluded that the North San José Area Development Policies Update Final EIR adequately addresses the environmental effects of the proposed project, and project would not result in significant environmental effects that are not already identified in the Final EIR. The project as a whole, therefore,

meets the eligibility requirements for preparation of an addendum and does not require a supplemental EIR or Negative Declaration.

GENERAL PLAN CONFORMANCE

The site is designated Industrial Park on the San Jose 2020 General Plan Land Use/Transportation Diagram. The proposed rezoning to facilitate industrial development of the site includes allowed uses and revised development standards to promote the General Plan goals and policies which encourage walking, bicycling and public transportation as preferred modes of transportation. In addition, the proposed zoning will encourage development as envisioned by the North San José Area Development Policy which is critical to the City's long term economic development.

ANALYSIS

The proposed rezoning and revised development standards will facilitate development of the site in a manner that is consistent with the North San José Area Development Policy that includes the following Design Criteria:

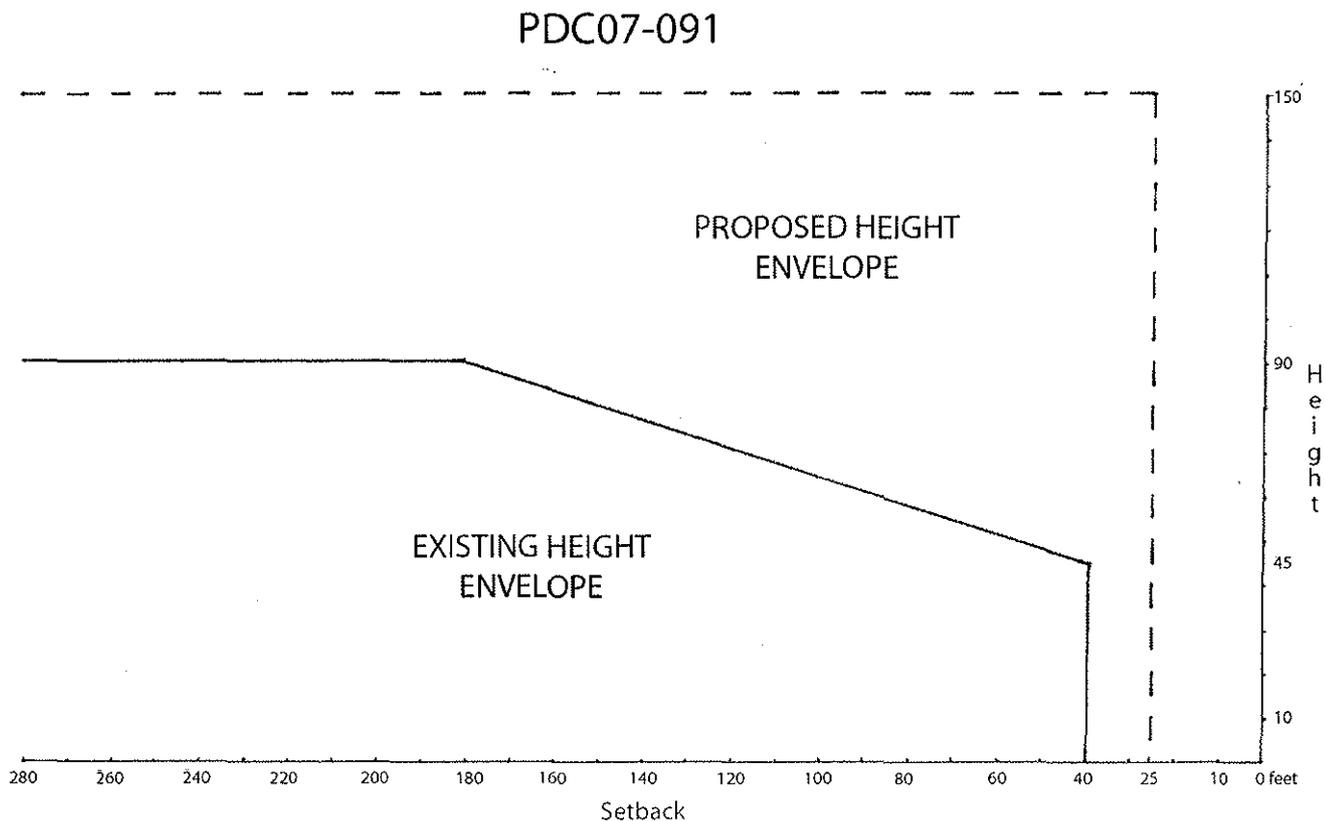
The North San José Area Development Policy provides for continued development in North San José through the construction of new roadway improvements and the ongoing utilization of mass transit and other alternative transportation modes. New development within the Policy area should to the maximum extent feasible be designed and constructed in a manner so as to promote the use of transit, pedestrian and bicycle activity by incorporating elements such as the following:

- *New buildings should be located and oriented on the site to promote access to transit facilities. Active use areas and building entrances should be oriented toward the nearest primary street.*
- *Establishing pedestrian connections to the nearest transit station should be given priority in the site design.*
- *Projects should incorporate new or additional improvements for pedestrian accessibility (e.g. new street-side entrances, pedestrian sidewalk connection oriented toward the nearest transit facility).*
- *All new development within the vicinity of light rail stations (e.g. within 2,000 feet) should in particular provide vibrant, well designed, pedestrian and bicycle friendly areas onsite.*
- *Projects should include clear, safe and comfortable connections to transit and services from the site and building entries. These include pedestrian pathways, landscaping, canopy trees and pedestrian scale lighting.*
- *Projects should include adequately sized bicycle facilities.*
- *Projects should incorporate commercial services onsite or in close proximity or include space suitable for future conversion for commercial use.*

The setback requirements of the present zoning, which restrict allowable height based upon setback distance, result in a very large setback (approximately 200 feet) for taller buildings as proposed by the developer. Setting buildings back this distance from the street discourages pedestrian activity and transit use by increasing walking distances and creating a visual environment that emphasizes automobile circulation. The developer has submitted a PD Permit application for a project consistent with the current development standards. The proposed site plan, however, is inconsistent with the above stated Policy goals because it places new development a significant distance from both transit and pedestrian facilities, and thereby discourages pedestrian activity. The proposed development also includes a vast amount of surface parking in excess of City requirements (covering approximately 69% of the site area), resulting in a visual environment that gives strong emphasis to automobiles and further discourages pedestrian activity. While it would be possible under the current zoning to move the buildings closer to the street by reducing their height, the proposed buildings would need to be reconfigured to include

lower portions (45 feet at the 40 foot setback line) with gradually increasing height further from the street. The developer is not interested in reducing the height of the proposed buildings and rezoning of the site to be more consistent with the North San Jose Area Development Policy is preferable to requiring such a reduction in height.

The proposed rezoning would reduce the required front setback distance, discourage the placement of large parking or vehicle circulation areas at the front of the site and promote the use of enhanced pedestrian facilities. The setback and height standards of the proposed rezoning will allow for the buildings (at the heights currently proposed) to be shifted closer to the street to “activate” the street and create a much more pedestrian oriented project. The proposed PD Zoning will encourage a more pedestrian oriented site plan with buildings located close to Orchard Parkway and to the Component Drive light rail station, which is within walking-distance of the site. The graphic below compares the setbacks of the existing and proposed Planned Development Zonings.



The proposed rezoning also allows more flexibility for the amount of development on the site while preserving existing development rights. The existing zoning, which originally covered a much large area including the adjacent BEA/Tishman Speyer site, anticipated development at an FAR of 0.70 on the site, equivalent to 498,535 square feet. The proposed rezoning removes the 0.70 FAR cap to allow additional development capacity. The previously allowed 498,535 square feet is considered to be ‘grandfathered’ in under former policy requirements and to be largely covered by previous traffic mitigation efforts. It is possible to remove the FAR cap for the site because of the new North San Jose Area Development Policy which provides additional industrial development capacity. The developer of the site may thus go above the 0.70 FAR through a future PD Permit process, should they desire to do so.

While development of the site under the current zoning would result in valuable job growth, it would also produce a physical contrary to the intent of the North San José Policy that includes design criteria that are aimed at promoting pedestrian activity and minimizing the amount and visual impact of surface parking lots. Excessive building setbacks and an over supply of parking in large surface parking lots, impede pedestrian access to the site and do not promote the use of transit, contrary to some of the central goals of the North San José Area Development Policy. Promoting transit use and pedestrian economic are critical tools for addressing traffic constraints as part of the City's long term goals for the development of North San Jose as a job center. Locating taller buildings closer to the street will also visually emphasize the use of the site for industrial purposes and provide a treatment consistent with the proposed development on the opposite side of Orchard Parkway. The proposed rezoning will facilitate job growth while also allowing a development form consistent with the North San Jose Area Development Policy.

PUBLIC OUTREACH

A notice of the public hearing was published, posted on the City's web site and distributed to the owners and tenants of all properties located within 1000 feet of the project site. Staff has also been available to discuss the proposal with members of the public.

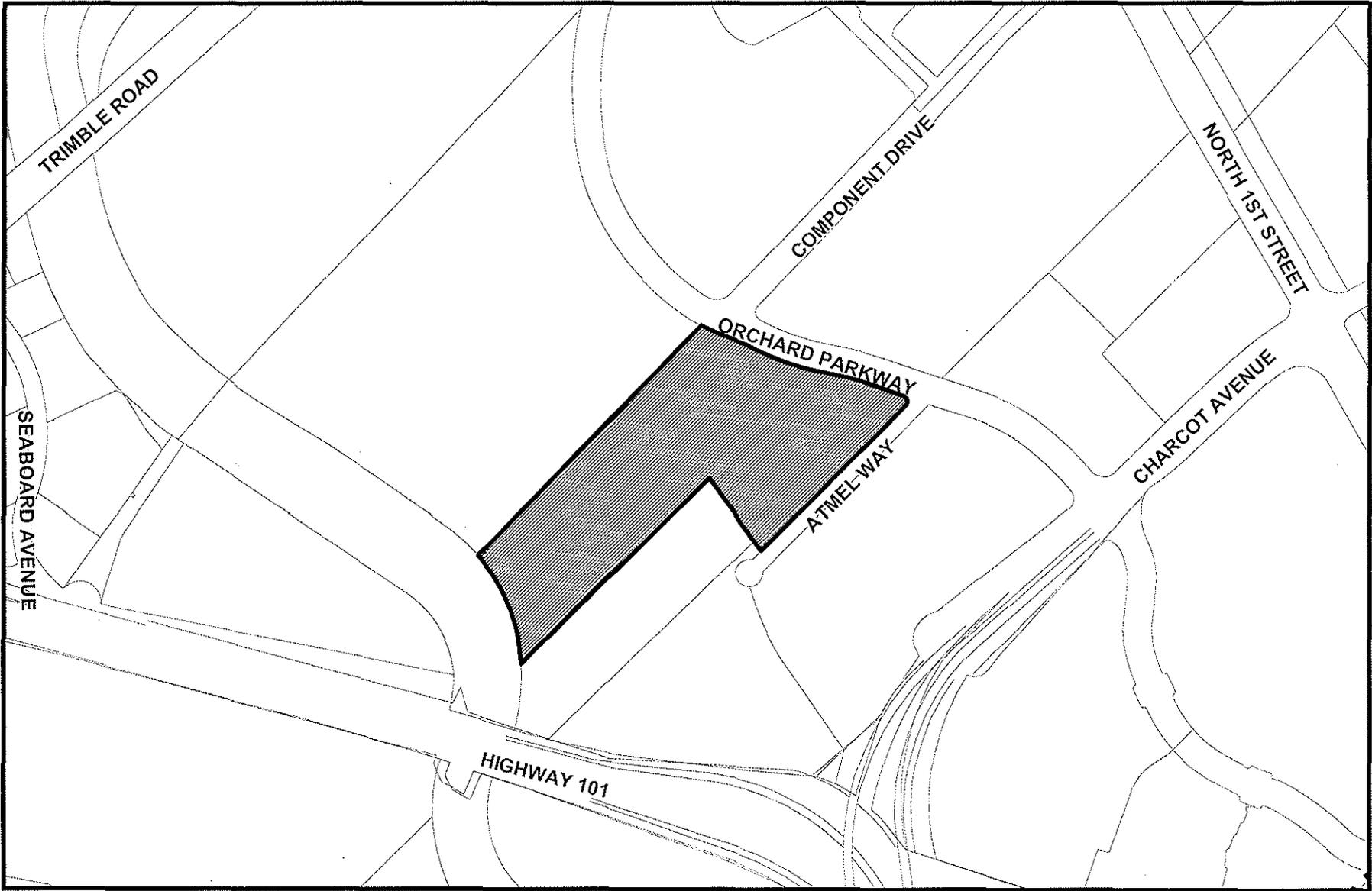
COORDINATION

This project was coordinated with the Department of Public Works, Fire Department, Building Division, Environmental Services Department and the City Attorney.

RECOMMENDATION

Planning staff recommends approval of the proposed zoning for the following reasons:

1. The proposed rezoning is in conformance with the San José 2020 General Plan Goals and Policies and Land Use Diagram designation.
2. The proposed rezoning will facilitate the development of this site in a manner that contributes toward the achievement of the North San José Area Development Policy.



Scale: 1"= 500'

Map Created On: 11/05/2007

Noticing Radius: 500 feet

File No: PDC07-091

District: 4

Quad No: 50

Planned Development Rezoning for Orchard Parkway

Table of Contents

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- 2 Land Use Plan
- 2a Development Standards

Owner

Legacy Partners, Inc.
 4000 East 3rd Avenue, Ste. 600
 Foster City, CA 94404
 (650) 571-2200

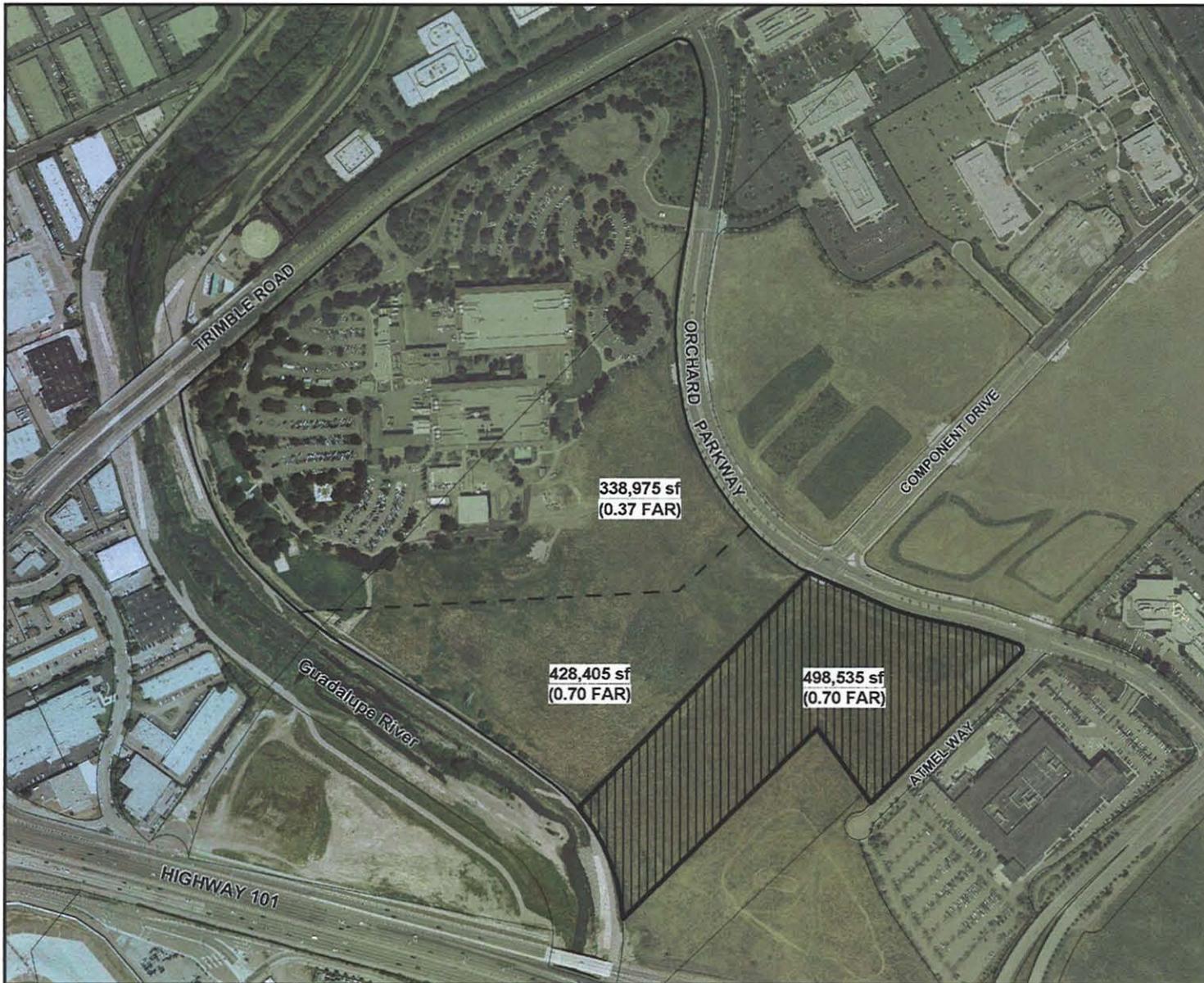
Project Information

Assessor's Parcel Number: 101-02-010 ptn.
 Proposed Use: R&D / Office
 General Plan Designation: Industrial Park
 Existing Zoning: IP(PD) Planned Development
 (File No. PDC93-017 Ord. No. 24572)
 Proposed Zoning: IP(PD) Planned Development
 (File No. PDC07-091 Ord. No. _____)
 Gross Site Area: 16.35 acres

Project Description

Planning Director Initiated Conforming Rezoning from the IP(PD) - Planned Development Zoning District to the IP(PD) - Planned Development Zoning District to allow office/research and development uses and minor modifications to the development standards of the current zoning to change the height and setbacks to conform to the IP - Industrial Park Zoning District.

General Development Plan
Exhibit C



Legend

 Boundary of Previous Zoning PDC93-017

 Boundary of Proposed Rezoning

() FAR Established by PDC93-017*

* Square footage in excess of the FAR approved under PDC93-017 is subject to the North San Jose Traffic Impact Fee

EXHIBIT C: LAND USE PLAN AND DEVELOPMENT STANDARDS SHEET 2a

PLANNED DEVELOPMENT ZONING PDC07-091

The following Development Standards are to be placed on the Land Use Plan for this Planned Development Zoning once the Zoning is approved by the City Council. Where these standards conflict with the information on the plan set, these development standards take precedence.

PERMITTED USES

Permitted uses of the IP – Industrial Park Zoning District, as amended

Conditional uses of the IP – Industrial Park Zoning District, as amended shall require a Planned Development Permit or Planned Development Permit Amendment

DEVELOPMENT STANDARDS

The development standards for this IP(PD) Planned Development Zoning District shall be the same as the development standards established for PDC93-017 (Ordinance No. 24572 adopted March 22, 1994) with the following modifications:

Building Height

- A. Maximum height shall be per the IP – Industrial Park Zoning District, as amended
(This modifies Building Height item B under PDC93-017 which stated, “Maximum height for buildings and structures in Land Use Area No. 2 & 3, excluding advertising devices, shall be forty-five (45) feet plus one foot of height for every four feet of minimum boundary clearance from a public street in excess of the minimum setback distance from such street, but in no event to exceed ninety (90) feet.”)

Building Setbacks

- A. Minimum setbacks shall be per the IP – Industrial Park Zoning District, as amended
(This modifies Building Setbacks item A under PDC93-017 which stated, “Minimum front setback (abutting public streets)...shall be in Land use area No. 2 & 3, minimum setback shall be 40’.”)
- B. The placement of large parking or vehicular circulation areas at the front of the site is discouraged. Enhanced pedestrian facilities that connect to existing pedestrian facilities are encouraged.

Transportation

- A. Up to 498,535 square feet of new development is subject to the North San José Deficiency Plan Fee, and is not subject to the North San José Traffic Impact Fee.
- B. Any development in excess of 498,535 square feet is subject to the North San José Traffic Impact Fee.