



COUNCIL AGENDA: 12-16-08
ITEM: 2.8

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Albert Balagso

SUBJECT: SEE BELOW

DATE: 11-24-08

Approved

Date

11/30/08

COUNCIL DISTRICT: 2
SNI AREA: N/A

SUBJECT: APPROVAL OF THE FIRST AMENDMENT TO THE PARK MAINTENANCE AGREEMENT WITH HITACHI GLOBAL STORAGE TECHNOLOGIES, INC.

RECOMMENDATION

Approval of the first amendment to the Park Maintenance Agreement with Hitachi Global Storage Technologies, Inc. ("Hitachi") to extend the term of the maintenance agreement beyond March 31, 2010 in the event that a Community Facilities District ("CFD") is not created to take over maintenance responsibilities for the three (3) areas designated as storm water detention facilities located within the future public parks associated with Planned Development Zoning No. PDC04-031, Master Planned Development Permit PD05-087 and Tentative Map No. PT05-108.

OUTCOME

Approval of the recommendation in this memorandum will ensure that (1) Hitachi continues to fund and maintain the storm water detention facilities located within the park sites beyond March 31, 2010 in the event a CFD is not created to take over maintenance responsibilities by March 31, 2010; and (2) the City is allowed to accept the three (3) park sites in December 2008 and prior to the creation of a CFD that is anticipated to be formed at a later date.

BACKGROUND

Hitachi was formed in January 2003 when Hitachi Ltd. combined its hard drive disk operation with the newly acquired IBM hard disk drive business. Hitachi plans to continue all current local operations in San José, including its corporate headquarters, research, development, and manufacturing functions. A workplace strategy was developed shortly thereafter to more effectively support these operations in the most economically feasible manner. This strategy included two major elements: 1) a relocation of the Hitachi research and development, and corporate headquarters to a new location in east Evergreen as a leased facility with an option to purchase, and 2) a major repositioning of facilities at the Cottle Road site in South San José (also known as the old IBM Campus on Cottle Road).

In February 2004, Hitachi submitted an application to the City for an amendment to the General Plan (GPA), specific to the Cottle Road property located at 5600 Cottle Road ("Hitachi Property"). This application was the beginning of the master planning process for the Hitachi Property which consists of approximately 332 acres and proposed changes in the zoning of the property from strictly industrial uses to a mix of industrial, residential, and commercial uses.

In April 2004, Hitachi submitted an application for a planned development zoning (PDC04-031). The zoning application proposed that the Hitachi Property be rezoned from 332 acres of industrial property (including internal street system and a PG&E substation) to approximately 149 acres of industrial (retaining current uses), 145 acres of new residential and commercial uses ("Development Property"), and 38 acres of streets and PG&E substation.

The City Council unanimously approved both the GPA and rezoning on June 21, 2005, allowing the redevelopment of the Hitachi Property and development of a new mixed-use "transit village." Under the current zoning approved for the development (PDC04-031), the property is zoned for up to 2,930 multi-family, single family attached and single family detached residential units, including an estimated 168 low- and very low-income residential units.

As part of the approval of the Development Property, the City authorized Hitachi to construct the storm water detention facilities within the park sites for off-site run off from Hitachi's project to meet its requirements under City's revised National Pollutant Discharge Elimination System Permit from the Regional Water Quality Control Board and other local, state and federal regulations.

On June 3, 2008, the City Council approved the turnkey, environmental and maintenance agreements with Hitachi for the construction of the three park sites. These sites are under construction and are anticipated to be accepted by the City in December 2008.

ANALYSIS

There are three park sites to be constructed and specific amenities to be developed in each of the park sites are shown in graphic format on the attached conceptual plans (Exhibits A, B and C) and described below:

- The 10.6-acre community park, located towards the northwesterly portion of the transit village, will include a lighted ballfield, lighted soccer field, children's play lots, tennis court, half-basketball court, parking lot, picnic area, water detention basin within the ballfield, and other landscape amenities.
- The 5.37-acre neighborhood park (also known as "Linear Green") will include sports courts (volleyball, tennis and two basketball courts), a dog park, fitness path and exercise stations, and water detention basins.
- The 1-acre neighborhood park facility (also known as "Charlotte Commons") will provide two bocce ball courts, seating areas, and open turf areas.

Each of the park sites will be dedicated to the City as public parks. Even though the storm water detention facilities are located within the 10-acre and 5.37-acre park sites, the storm water detention facilities will be dedicated to the City for storm water detention purposes with possible secondary recreational/open space use.

Special District Formation for Maintenance of Public Improvements

It is anticipated that a CFD will be formed to maintain certain public improvements located within or adjacent to the development, including the storm water detention facilities located within the 5.37-acre neighborhood park and the 10.6-acre community park. These areas are identified as "detention basins" in the conceptual plans attached to this Memorandum as Exhibits A and B. In addition, at the request of the developer, staff is examining the potential inclusion of complete maintenance for these three parks in the proposed CFD, potentially minimizing their impact on the general fund. On May 6, 2008, council approved a feasibility study to begin the process of the CFD analysis.

Maintenance Agreement

On June 3, 2008, the City Council approved a maintenance agreement with Hitachi that provided for Hitachi's temporary maintenance of the parks and storm water detention facilities until March 31, 2010. The agreement would terminate before March 31, 2010 if a CFD was created to take over the maintenance responsibilities of the park sites, including the storm water detention facilities.

Hitachi would like the City to accept the three parks and the detention facilities located within the 10.6-acre and 5.37-acre parks in December 2008. The acceptance of the parks, including the storm water detention facilities, would be well in advance of the creation of the CFD to take over

maintenance responsibilities for the storm water detention facilities. Therefore, Hitachi previously agreed to enter into a maintenance agreement to provide temporary maintenance of the parks and storm water detention facilities until March 31, 2010. However, in the unlikely event that a CFD is not created to take over maintenance responsibilities of the storm water detention facilities on or before March 31, 2010, the turnkey parkland agreement required the following:

“In the event that prior to the acceptance of the Park Sites, (i) a CFD is not created, or (ii) a CFD is created but either (a) will not maintain or service the Storm Water Detention Facilities, or (b) do not have sufficient funding to take responsibility for maintenance of the Storm Water Detention Facilities, City will not accept the Storm Water Detention Facilities, unless and until Developer prepares a management and maintenance plan . . . and there is a non-City funding mechanism in place that will provide sufficient funding for the long-term maintenance of the Storm Water Detention Facilities . . .”

Given that the City is likely to accept the park sites in the near future and it will take some additional time to create the CFD, City and Hitachi would like to amend the maintenance agreement to (1) extend the term of the maintenance agreement specifically relating to the storm water detention facilities beyond March 31, 2010 (in the event the CFD is not created as discussed above), and (2) provide specific maintenance specifications relating to the storm water detention facilities. This will allow the City to accept the park and detention facilities in December 2008 without significant risk of having to take over the maintenance responsibilities of the storm water detention facilities if the CFD is not created to maintain them by March 31, 2010.

If the first amendment to the Park Maintenance Agreement is approved by Council, Hitachi will provide temporary maintenance of the three (3) park sites, including the storm water detention facilities, until March 31, 2010. In the event the CFD is not created, or the CFD is created but either (i) will not maintain or service the storm water detention facilities, or (ii) does not have sufficient funding to take responsibility for maintenance of the storm water detention facilities, Hitachi will be obligated to continue to maintain the storm water detention facilities until the storm water detention facilities cease to function or operate as a off-site drainage for its project. Additionally, the First Amendment provides a legal description and plat maps of the storm water detention facilities and specific maintenance obligation relating to them.

The three (3) parks would likely be opened to the public in January 2009.

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EVALUATION AND FOLLOW-UP

Action taken by City Council on this item will allow staff to continue to work with Hitachi to accept and open three park parcels. Staff will be reporting back to Council in 2009 regarding the formation of the CFD.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memorandum will be posted on the City's website for the December 16, 2008 City Council agenda.

A number of community meetings have been held with local residents and other interested parties to discuss the design/development of the Hitachi Transit Village concept. On April 15, 2006, a community meeting introducing the project zoning and planned development proposals was held at City Hall. A follow-up meeting in May 2006 further discussed the project proposal and solicited additional comment from the community.

On August 15, 2006, Hitachi, in conjunction with City staff, conducted a community meeting to specifically discuss proposed public recreation facilities associated with the Hitachi Transit Village proposal. This meeting was noticed to the community within 1,000 feet of the proposed development and noticed as a display ad in the San Jose Mercury News. Additionally, the Parks and Recreation Commission held two study sessions on February 21 and March 7, 2007, to discuss the proposed parks and recreation proposals for the Hitachi property. A mailer was sent to approximately 7,000 residents near the project site to advertise these meetings. The Commission conducted a final public hearing on the proposed Hitachi park sites on March 7, 2007, at which time the Commission recommended approval of three conceptual parks sites as presented at the meeting.

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COORDINATION

This item has been coordinated with the City Attorney's Office, the Department of Environmental Services, the City Manager's Budget Office and the Department of Public Works.

COST SUMMARY/IMPLICATIONS

Annual maintenance costs for this project are in the process of being developed through the CFD process and are not available at this time. It is anticipated that these costs would be covered by the creation of a CFD so there would be no net impact to the General Fund. However, if the CFD is not formed the City will have to include maintenance costs associated with the three built parks. These costs would begin in April 2010, at the expiration of Hitachi's maintenance commitment under the maintenance agreement.

CEQA

CEQA: Resolution No. 72772 adopted.



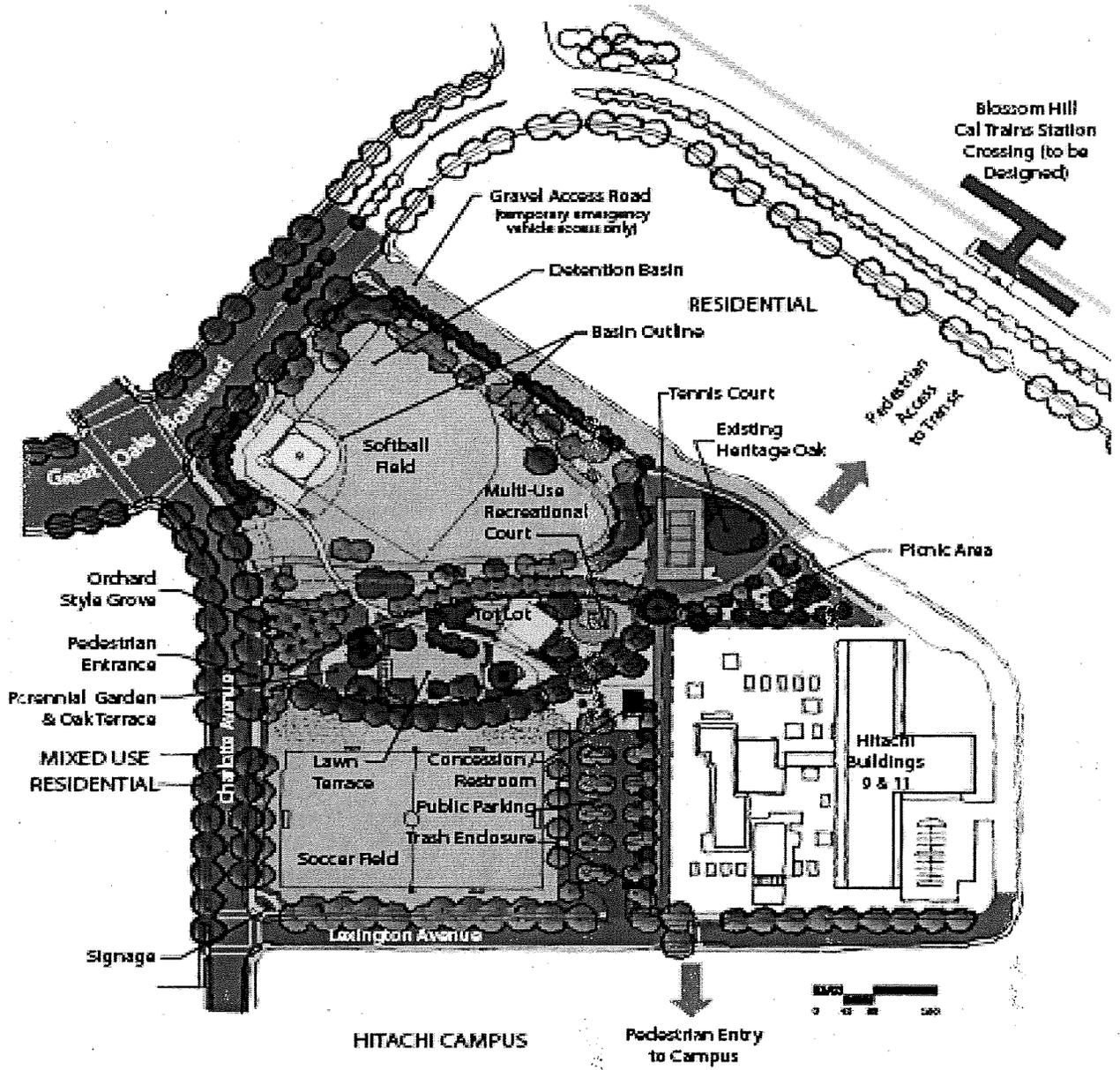
ALBERT BALAGSO
Director of Parks, Recreation
and Neighborhood Services

Attachments: Map Exhibits A, B and C.

For questions please contact Matt Cano, PRNS Division Manager, at (408) 535-3580.

ATTACHMENT A

PARK SITE PLAN



10.6 Acre Park Conceptual Diagram

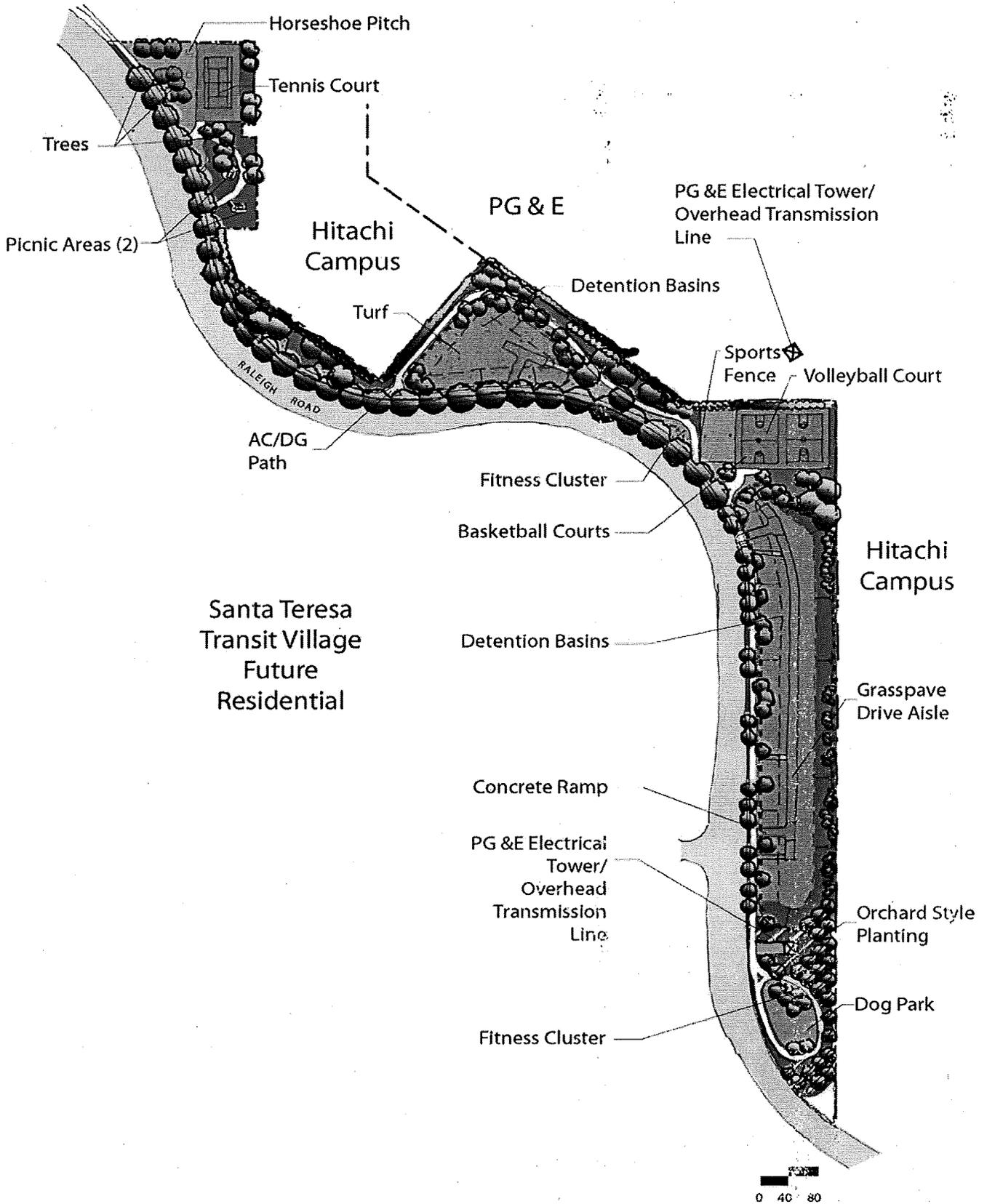
April 14, 2008

HITACHI CAMPUS / SANTA TERESA TRANSIT VILLAGE - SAN JOSE, CA
 HITACHI GLOBAL STORAGE TECHNOLOGIES, INC.

KENKAY ASSOCIATES
 3000 Park Road, Suite 100, San Jose, CA 95128
 www.kenkay.com

ATTACHMENT B

PARK SITE PLAN



5.37 Acre Linear Green Conceptual Diagram

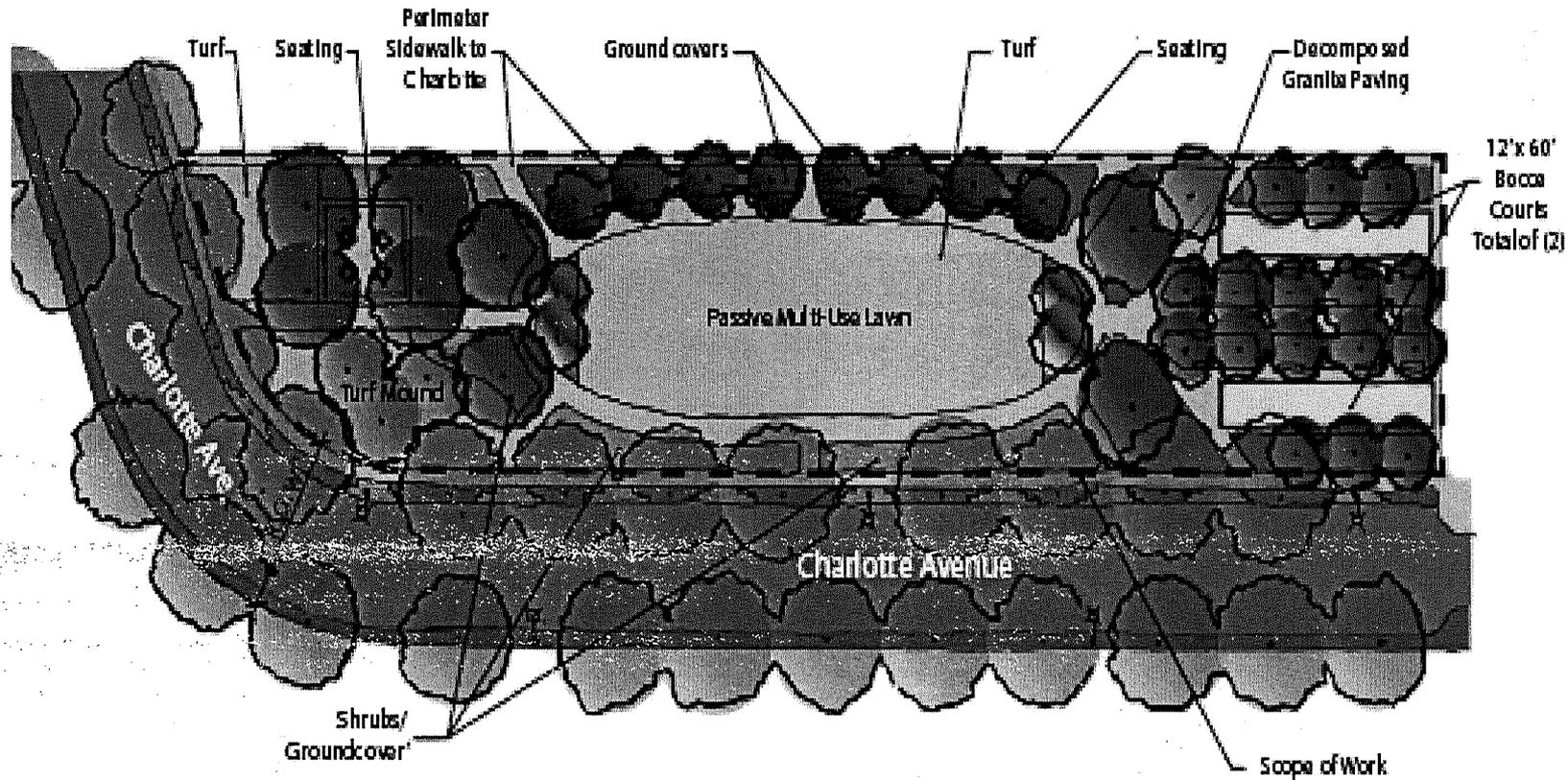
HITACHI CAMPUS / SANTA TERESA TRANSIT VILLAGE - SAN JOSE, CA
HITACHI GLOBAL STORAGE TECHNOLOGIES, INC.

January 25, 2008

KENICOFF ASSOCIATES
Master Planner & Landscape Architects



SOUTH VILLAGE RESIDENTIAL



SOUTH VILLAGE RESIDENTIAL

ATTACHMENT C
PARK SITE PLAN

1 Acre Park Conceptual Diagram

April 14, 2008

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