

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: November 29, 2010

COUNCIL DISTRICT: 4
SNI AREA: N/A

SUBJECT: FILE NO. PDC07-010, A PLANNED DEVELOPMENT REZONING FROM IP INDUSTRIAL PARK AND HI HEAVY INDUSTRIAL ZONING DISTRICTS TO THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW FOR A MIXED-USE DEVELOPMENT OF UP TO 650 MULTI-FAMILY RESIDENTIAL UNITS, UP TO 150,000 SQUARE FEET OF COMMERCIAL USES, AND/OR UP TO 300,000 SQUARE FEET OF OFFICE/R&D USES ON A 29.85 GROSS ACRE SITE.

RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend to the City Council approval of the proposed Planned Development Rezoning as recommended by staff.

OUTCOME

Should the City Council approve the Planned Development Rezoning as recommended by the Planning Commission and staff, the applicant would be able to move forward with a Planned Development Permit and subsequent building permits to allow for the construction of a mixed-use project of up to 650 multi-family residential units, up to 150,000 square feet of commercial uses, and/or up to 300,000 square feet of office/R&D, with no allowance for single-family detached residences.

BACKGROUND

On November 17, 2010, the Planning Commission opened a public hearing to consider the proposed Planned Development Rezoning. The Director of Planning, Building and Code Enforcement recommended approval of the proposed Planned Development Rezoning with the exception of not allowing single-family detached as a permitted use.

Staff provided introductory comments, and made a clarification to the staff report in regards to the projects conformance with the San Jose 2020 General Plan by stating that the vertical mixed-use development on the General Commercial portion of the site is found in conformance through use of the Discretionary Alternate Use Policy for Residential Uses on Commercially Designated Parcels.

This Policy allows for mixed use commercial/residential development to occur under a Planned Development zoning if such development is:

- a. designed to facilitate transit ridership and pedestrian activity;
- b. is compatible, well integrated, and part of an appropriate residential or mixed use environment; and
- c. the site and architectural design is of exceptional quality and exceeds the City's minimum design standards.

The project meets these standards as discussed in the staff report, in that the project is a well connected mixed-use project that includes a retail shopping center, residential townhome development, podium residential development, vertical mixed-use development, and a public park.

Sean Morley, representing the property owner, spoke on behalf of the project. He cited one substantive primary concern with the staff recommendation which was not allowing single-family detached residential units as a permitted use in the residential area and various other changes to the Development Standards as shown on the attached submittal labeled, "Applicant's Requested Development Standard Changes". Mr. Morley stated that a range of residential uses, including single-family detached, are consistent with the development pattern of the area and that there is no compelling policy reason to limit the type of home options to only multi-family.

One member of the public spoke on the item. The speaker was representing the Sheet Metal Workers Union Local 104, and stated that the project should use local workers for construction and that by using local hire it will help the local economy.

The Commission then closed the public hearing. Staff responded to Mr. Morley's requested changes to the development standards and accepted all of the requested changes with the exception of the allowance for single-family detached and the request that for the existing industrial buildings no conditional uses will require a mixed use overlay. Staff has included the changes as shown on the attached submittal labeled, "Staff's Recommended Development Standard Changes".

Commissioner Kline then made a motion to recommend approval of the proposed rezoning with staff's accepted changes as discussed above. The Planning Commission then voted 7-0-0 to recommend to the City Council approval of the proposed Planned Development Rezoning as recommended by staff.

ANALYSIS

A complete analysis of the issues regarding this project, including General Plan conformance, is contained in the staff report to the Planning Commission. This report was provided to the City Council under separate cover.

EVALUATION AND FOLLOW-UP

If the zoning is approved, the applicant would be required to file subsequent development permits with the Planning Division in order to implement the project on the subject site.

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)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30; Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

On August 31, 2010, a community meeting was held at the Orchard Elementary School located on Fox Lane, at which six community members were in attendance. Those in attendance generally were supportive of the project, but really wanted to see single-family detached units on the site as that housing product type is in short supply in the area. Additional outreach information is contained in the "Public Outreach /Interest" section of this report.

COORDINATION

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

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan policies and City Council approved design guidelines.

CEQA

The environmental impacts of this project were addressed by an Addendum to the Fox Property General Plan Amendment Environmental Impact Report (EIR) was prepared. This EIR was certified by the City Council on December 13, 2006 under File No. GP06-04-02, which also covers the

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subject Planned Development Rezoning and subsequent development permits. The Addendum states that no significant impacts will result from the subject project.

/s/

JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Mike Enderby, at 408-535-7843

Attachments:

- Applicant's Requested Development Standard Changes
- Staff's Recommended Development Standard Changes

Applicant's Requested Development Standards

1) **Mixed Use Development** – As currently presented, mixed use development would be limited to what is shown on the conceptual plan. Mixed uses should be allowed to occur up to the maximum limits for the commercial area so as not to foreclose the opportunity for true vertical mixed use in the site, consistent with the guiding principles of the 2040 General Plan.

2) **Office Buildings**

a) **Existing Office Building Use** – Re-use of the existing office buildings should not exclude commercial support uses which are allowed by right today in the IP district. This severely limits the interim job producing potential for the site and is counter to the City's stated economic development objectives. Medical office uses should be allowed without restriction.

b) **New Commercial Development** – As currently presented, new commercial development with the existing office buildings would be limited to what is shown on the conceptual plan. Future development with the existing office buildings should be allowed to occur up to the maximum use limits allowed to promote economic development flexibility the City desires.

3) **Allowed Residential Uses**

a) A range of residential uses, including single family detached, should be allowed in the residential area consistent with the R-M district. The site warrants some limited single family detached along with townhome and cluster/podium opportunities consistent with the residential housing development pattern of the surrounding neighborhood. There is no compelling policy reason to limit home type options to only multi-family. The community feedback was for a single family detached option as well.

b) Private sector builders require options in this new and highly volatile economic environment. Allowing a range of unit types in the R-M district facilitates this; limiting them will hinder development of the site in the short term. The applicant is volunteering a cap on single family detached of only 75 units. This approach will result in housing that can actually be built in 2011 which has not occurred in the balance of North San Jose during the economic crisis.

4) **Consistency Changes** – Conforming changes that make the project consistent with the design guidelines and more understandable.

FILE NO. PDC07-010
DEVELOPMENT STANDARDS
REVISED 11/9/10

In any cases where the graphic plans and text may differ, this text takes precedence.

ALLOWED USES

COMMERCIAL/MIXED-USE AREA:

- 1 ▪ The permitted, special, and conditional uses of the CG Commercial General Zoning District, as amended and Office/R&D. Conditional and special uses shall require the approval of a Planned Development Permit.
- This Area is subject to certain use restrictions in accordance with the Department of Toxic Substance Control requirements upon completion of the on-site remediation. These restrictions may prohibit residential uses at ground level and limit open space in certain areas.
- Mixed-use development, consistent with the commercial limitations noted below, including no more than 85 multi-family units, may be permitted in this area, on the west side of street "A".

Existing Industrial/Office Building

- 2a ▪ The uses of the two (2) existing industrial office buildings shall be those permitted, special, and conditional uses of the IP Industrial Park Zoning District, excluding commercial support uses and warehouse retail, as amended. Medical clinic/out-patient facility and Office, medical uses shall be permitted uses without restriction as a commercial support use. Conditional and special uses shall require the approval of a Planned Development Permit. No conditional uses will require a mixed use overlay.
- The two (2) existing industrial office buildings shall not be used for retail commercial uses, except as provided for above.
- 2b ▪ Up to 40,000 square feet of commercial uses are permitted on the west side of street "A" in conjunction with the use of the two industrial buildings as described above. Said commercial uses shall include the permitted, special, and conditional uses of the CG Commercial General Zoning District, as amended. Conditional and special uses shall require the approval of a Planned Development Permit.

RESIDENTIAL AREA:

- 3a ▪ Multi-family residential. The permitted, special, and conditional uses of the R-M Multiple Residence Zoning District, as amended. Conditional and special uses shall require the approval of a Planned Development Permit.

DEVELOPMENT STANDARDS

COMMERCIAL/MIXED USE AREA

MAXIMUM SQUARE FOOTAGE:

- Commercial: up to 150,000 square feet
- Office/R&D: up to 300,000 square feet

SETBACKS:

Perimeter:

- | | |
|---|---------|
| ▪ Building to north property line (Brokaw Road): | 10 feet |
| ▪ Building to west property line (Railroad R-O-W): | 0 feet |
| ▪ Building to east property line (Old Oakland Road): | 10 feet |
| ▪ Building to south property line (adj. to Street "B" if proposed): | 20 feet |
| ▪ Building to south property line (if no Street "B" proposed): | 35 feet |
| ▪ Loading area sound wall (adj. to Street "B" if proposed): | 20 feet |
| ▪ Loading area driveway to sound wall (if no Street B) | 10 feet |

From New Street:

- Building to property line 15 feet

MAXIMUM BUILDING HEIGHT:

- Single-Story Building: 55 feet
- Multi-Story Building: 75 feet

DRIVE THROUGH USES RESTRICTIONS:

- Any drive through use shall not place the drive through lane between the street and the building. Drive through uses shall be designed in conformance with the City Council Policy 6-10: Criteria for the Review of Drive-Through Uses.

PARKING REQUIREMENTS:

- Parking shall be provided per Title 20, Table 20-190, as amended.
- A reciprocal parking arrangement for the commercial development shall be provided and shall include the development on both sides of the Street "A".

BICYCLE PARKING REQUIREMENTS:

- 1 space per 20 required auto spaces

MOTORCYCLE PARKING REQUIREMENTS:

- 1 space per 20 required auto spaces

LOADING AREA RESTRICTIONS:

- If Street "B" is not built, a continuous sound wall shall be provided between the loading area between the commercial development and the residential development. Limited small breaks in the sound wall may be permitted for pedestrian access only to and from the commercial development. 10 feet of landscaping shall be provided between the driveway and the sound wall. The driveway behind the retail building/loading spaces shall be designed to discourage or reduce cut-through traffic for non-loading activities. The loading area operating hours may be restricted at the PD Permit stage to the satisfaction of the Director of Planning. This may include, but not be limited to the gating off of the loading area after normal business hours.

RESIDENTIAL AREA

NUMBER OF UNITS

- Minimum 165 units
- Maximum 650 units

A portion of the residential units may be placed within the commercial/mixed use area. The maximum number of units on the residential area of the land use plan shall not exceed 25 DU/AC. The maximum number of single family detached units in the Residential Area shall not exceed 75 such units.

3b

SETBACKS:

Riparian: 100 feet between the drip line of riparian vegetation and any portion of the new development including roads and buildings. Recreational uses are permitted within the setback area.

Perimeter:

- Building and patio to north property line (if Street B is not proposed) 20 feet
- Building and patio to north property line (if Street B is proposed): 10 feet
- Building to west property line (railroad right-of-way): 20 feet
(patio to west property line-railroad right-of-way): 50 feet
- Building and patio to east property line (Old Oakland Road): 20 feet
- Building and patio to south property line (Riparian setback line): 10 feet

From New Internal Street (Street "A"):

- Building to street: 15 feet
- Patio to street: 15 feet*

*The Director of Planning, Building, and Code Enforcement may grant an exception to the minimum front setback if he finds that a smaller setback is needed to accommodate a new street and/or building design elements.

Internal Separation**:

- Front to Front*: 25 feet **
- Side to Side: 10 feet
- Rear to Side: 20 feet

- 4a
- Rear to Rear: 20 feet
 - * Measured from edge of private open space to edge of private open space.
 - ** The Director of Planning, Building, and Code Enforcement may grant an exception to the minimum ~~front-to-front~~ internal separations if he finds that a smaller setback is need to accommodate building design elements in limited instances. This may be considered at the Planned Development Permit stage.

MAXIMUM BUILDING HEIGHT:

- 4b
- ~~Single-family attached~~ Residential Area (excluding Podium) 50 feet
 - Podium and Mixed Use Area 75 feet

PARKING REQUIREMENTS:

Development with All Open Parking:

- Studio 1.4
- 1 Bedroom 1.5
- 2 bedroom 1.8
- 3 Bedroom 2.0
- Over 3 Bedroom 0.15 (per additional bedroom over 3)

Development with Private 2-Car Garage Parking:

- Studio 2.2
- 1 Bedroom 2.3
- 2 bedroom 2.5
- 3 Bedroom 2.6
- Over 3 Bedroom 0.15 (per additional bedroom over 3)

PODIUM OPEN SPACE REQUIREMENTS:

- A minimum of 60 square feet of private open space per unit for at least 50% of the units.
- A minimum of 100 square feet of useable common open space per unit.

TOWNHOME OPEN SPACE REQUIREMENTS:

- A minimum of 120 square feet of private open space per unit. At least one dimension of the open space shall have a minimum dimension of 10 feet.
- A minimum of 200 square feet of useable common open space per unit.

MINOR ARCHITECTURAL PROJECTIONS:

- Minor architectural projections such as fireplaces, bay windows, patios and porches may project into any setback or building separation by up to 2 feet for a length not to exceed 10 feet or 20% of the building elevation length.

ARCHITECTURAL DESIGN:

- The architectural design of the residential development shall conform to the standards of the Residential Design Guidelines.

Staff's Recommended Development Standards

FILE NO. PDC07-010
DEVELOPMENT STANDARDS
REVISED 11/9/10

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ALLOWED USES

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- The two (2) existing industrial office buildings shall not be used for retail commercial uses, except as provided for above.
- ~~Up to 40,000 square feet of eCommercial~~ uses are permitted ~~on the west side of street "A"~~ in conjunction with the use of the two industrial buildings as described above. Said commercial uses shall include the permitted, special, and conditional uses of the CG Commercial General Zoning District, as amended. Conditional and special uses shall require the approval of a Planned Development Permit.

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DEVELOPMENT STANDARDS

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- Rear to Side: 20 feet
- Rear to Rear: 20 feet

* Measured from edge of private open space to edge of private open space.

- ** The Director of Planning, Building, and Code Enforcement may grant an exception to the minimum front to front separation if he finds that a smaller setback is need to accommodate building design elements in limited instances. This may be considered at the Planned Development Permit stage.

MAXIMUM BUILDING HEIGHT:

- ~~Single family attached Residential Area~~ 50 feet
- Podium Buildings and Mixed Use Area 75 feet

PARKING REQUIREMENTS:

Development with All Open Parking:

- Studio 1.4
- 1 Bedroom 1.5
- 2 bedroom 1.8
- 3 Bedroom 2.0
- Over 3 Bedroom 0.15 (per additional bedroom over 3)

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MINOR ARCHITECTURAL PROJECTIONS:

- Minor architectural projections such as fireplaces, bay windows, patios and porches may project into any setback or building separation by up to 2 feet for a length not to exceed 10 feet or 20% of the building elevation length.

ARCHITECTURAL DESIGN:

- The architectural design of the residential development shall conform to the standards of the Residential Design Guidelines.

PROJECT PHASING

- This mixed-use development may be developed in phases with the approval of a master Planned Development Permit that would detail out the phasing of the overall development, but will not require the residential area or commercial/mixed use area be jointly, simultaneously, or sequentially developed.

PARKLAND

- The project is subject to the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code). Should parkland be provided on site, it shall be located adjacent to the open space/riparian area, outside of the 100 foot riparian setback.

STREETS

- A new street, shown as Street "A" on the conceptual site plan, shall be provided for access to the interior of the site and shall be situated in such a manner so that it provides a connection between Brokaw Road and old Oakland Road and serves as a frontage road between the development and the riparian corridor for at least a portion of the riparian area.
- The location of streets may be adjusted at the Planned Development Permit stage of the development process to the satisfaction of the Director of Planning, Building, and Code Enforcement.
- New Street "B" (optional) may be provided between the commercial and residential components of the project to connect Oakland Road to Street "A" and must conform to the following standards:
 - No vehicular connection to this street shall be permitted from the garage alleys of the residential component. A curb cut may be considered for an entry drive, as defined by the Residential Design Guidelines. EVA may be permitted.
 - The curb cuts for the commercial/retail loading area shall be minimized to that the loading area sound wall has minimal openings.
 - Any curb cuts must meet operational standards to the satisfaction of the Director of Public Works, as far as, distance requirements between the curb cut/drive isle and the proposed signalized intersection.
 - If such a street is proposed, it shall have a 52 foot right-of-way cross section per the Residential Design Guidelines that includes curb, gutter, park strip and sidewalks on both sides.
- A new traffic signal may be provided at Old Oakland Road subject to Public Works requirements and the satisfaction of the Director of Public Works.

PUBLIC WORKS

1. **Transportation:**
 - a) Consistent with North San Jose EIR, this project is required to pay a traffic impact fee. The 2011 fee is \$11,332 per PM Peak Hour trip or \$6,800 per multi-family unit and subject to an annual escalation of 3.3% on July 1st. This fee must be paid prior to issuance of Public Works Clearance. Credits for existing structures on site will be applied to the residential traffic impact fee consistent with the policy and will be prorated with each building permits issued.
 - b) At PD Permit stage, provide an operational analysis to include the following:
 - i) Warrant study for the proposed traffic signal along Oakland Road.
 - ii) Left-turn storage at Oakland Road and proposed signalized intersection.
 - iii) Left-turn storage at proposed left-turn (inbound to site only at new streets) locations along Oakland Road and Brokaw Road.
 - iv) On-site queuing and impacts to existing and future public streets.
2. **Sanitary:** At PD Permit stage, provide the following:
 - a) Estimated project flow rate for the proposed residential and commercial development.
 - b) All existing lateral connections and amount of flow to the 6' main in Oakland Road to determine available pipe capacity.
3. **Grading/Geology:**
 - a) A grading permit is required prior to the issuance of a Public Works Clearance.
 - b) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - c) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - d) The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
4. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant

discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29 -or- the project shall provide an Alternative Measure, where installation of post-construction treatment control measures are impracticable, subject to the approval of the Director of Planning, Building & Code Enforcement.

- a) The project's preliminary Stormwater Control Plan and numeric sizing calculations have been reviewed. At PD stage, submit the final Stormwater Control Plan and numeric sizing calculations.
- b) The proposed Filtera units within the public right-of-way shall be subject to maintenance fee payment to the City. The fees will be determined at PD Permit stage.
- c) Final inspection and maintenance information on the post-construction treatment control measures must be included on the final Stormwater Control Plan.
- d) A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.

5. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

6. **Flood: Zone D** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D.

7. **Assessments:** A portion of this project is located within the boundaries of Maintenance District 11 which maintains the enhanced street island landscaping along a portion of Brokaw Road and Old Oakland Road. The benefiting properties within the district pay for the maintenance through annual assessments placed on the property tax bills which are adjusted annually by the Consumer Price Index. The 2006-07 assessment on assessor's parcels 237-03-061 and 237-03-069 is calculated at approximately \$327 per acre. A change in zoning to allow residential on the vacant land creates a corresponding change in benefit, since the project matches other land uses within the district and fronts the enhanced street islands on Brokaw Road and Old Oakland Road. This property may be required to annex into the district because of the benefit received by the special district amenities. For consideration, the current assessment for single family homes is \$49 per unit.

8. **Transportation Improvements:**

- a) Construct improvements on Brokaw Road at the proposed north/south street to restrict northbound left turn outbound from the site.
- b) Remove up to 10' of existing median island nose on Brokaw Road at Brokaw / Oakland Road intersection.

- c) Install signal interconnect conduit and communications cable per City standard to interconnect the signal at Brokaw/Oakland and the new signal at Oakland/proposed east/west street.
- d) Install signal interconnect conduit and pull boxes per City standard along Oakland Road project frontage.
- e) Additional operational improvements may be required based on the final Traffic Operational Analysis.

9. **Street Improvements:**

- a) At PD Permit stage, the following should be included on plan:
 - i) Align the proposed signal at Oakland Road with the existing driveway across from project site at centerline.
 - ii) Indicate a 12' wide attached sidewalk within the 130' right-of-way along Brokaw Road project frontage.
 - iii) Indicate a 14' wide landscape median and 12' wide attached sidewalk within the 130' right-of-way along Oakland project frontage.
 - iv) All improvements within proposed public street shall meet City standards and non-standard features such as decorative pavement will not be allowed. Alternatively, the project may consider portion of these streets to be private.
 - v) Minimize the number of access connection from site to the new east/west street and relocate driveways further away from the proposed signalized intersection.
 - vi) Align all driveways across new public streets at centerline.
- b) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- c) Dedicate and construct all public streets to the satisfaction of Director of Public Works.
- d) Remove and replace broken or uplifted curb, gutter, and construct a 12' wide attached sidewalk along Brokaw Road project frontage.
- e) Remove and replace broken or uplifted curb, gutter, and construct a 12' wide attached sidewalk along Oakland Road project frontage.
- f) Close unused driveway cut(s).
- g) Install City standard handicap ramps with truncated domes at all four corners of Brokaw/Oakland Road intersection.
- h) All proposed public improvements shall conform to City standards. Decorative pavement shall not be allowed.
- i) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

10. **Median Island Improvements:** Developer is required to construct Type 1 landscaped median on Old Oakland Road along project frontage per City standards; refer to the current "Guidelines for the Planning, Design and Construction of City Streetscape Projects". Upon successful completion of the median island, the City will reimburse the

developer for the cost of the construction pursuant to the Residential Construction Tax Contribution Fund Program, in accordance with section 4.64.100 of the Municipal Code.

11. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
12. **Street Trees:**
 - a) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
 - b) Contact the City Arborist at (408) 277-2756 for the designated street tree.
 - c) Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings.
13. **Private Streets:** Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: November 16, 2010

COUNCIL DISTRICT: 4
SNI: N/A

T R A N S M I T T A L M E M O

File No. **PDC07-010**. A Planned Development Rezoning from the IP Industrial Park and HI Heavy Industrial Zoning Districts to the A(PD) Planned Development Zoning District to allow for the development of up to 650 multi-family residential units and up to 150,000 square feet of commercial uses or up to 300,000 square feet of office/R&D uses on a 29.9 gross acre site, located at the southwest corner of East Brokaw Road and Old Oakland Road (Fox Properties/Markovits & Fox, Inc., Owner).

The Planning Commission will hear this project on November 17, 2010. The memorandum with Planning Commission recommendations will be submitted under different cover. We hope the submittal of this staff report is of assistance in your review of this project.

/s/
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Lesley Xavier at (408) 535-7852.

STAFF REPORT
PLANNING COMMISSION

FILE NO.: PDC07-010

Submitted: January 25, 2007
Reactivated: January 6, 2010

PROJECT DESCRIPTION:

A Planned Development Rezoning from the IP Industrial Park and HI Heavy Industrial Zoning Districts to the A(PD) Planned Development Zoning District to allow for a mixed use development of up to 650 multi-family residential units, up to 150,000 square feet of commercial uses, and/or up to 300,000 square feet of office/R&D uses on a 29.85 gross acre site.

LOCATION:

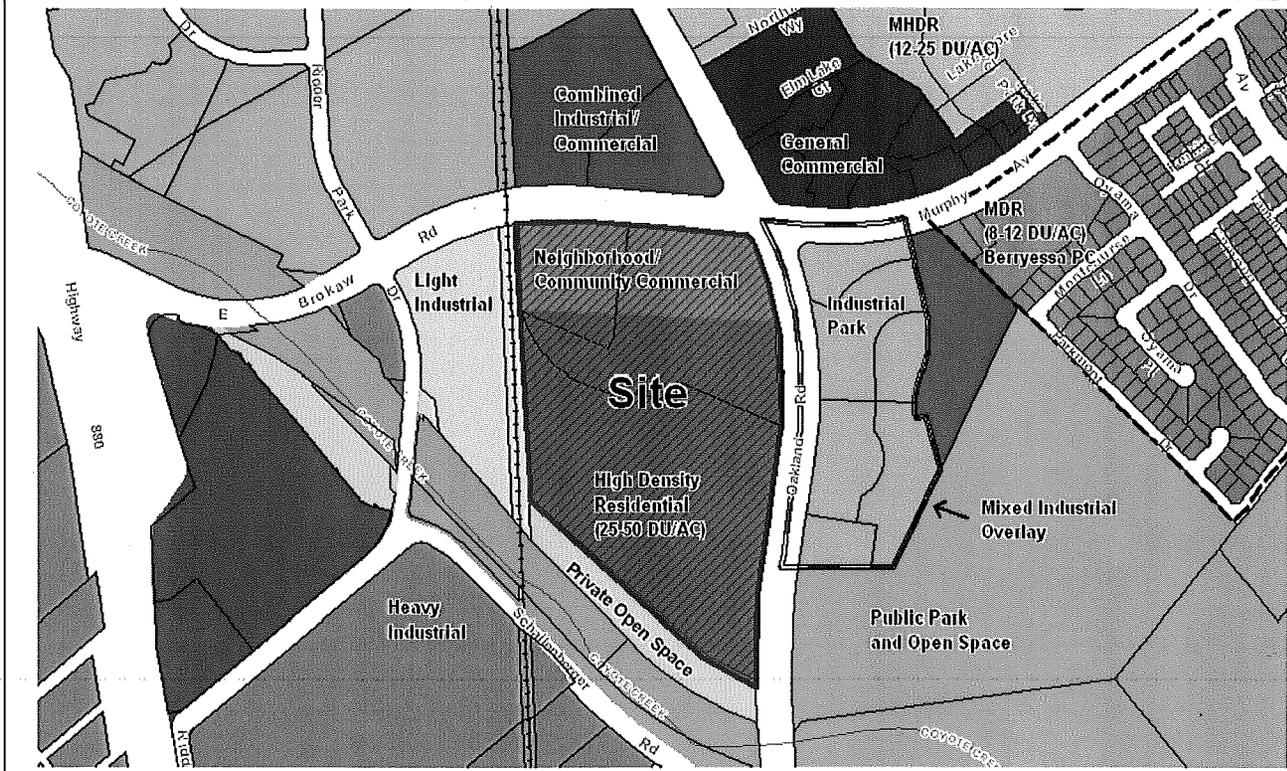
Southwest corner of East Brokaw Road and Old Oakland Road. (1060 & 1080 E. Brokaw Road)

| | |
|-------------------------|---|
| Existing Zoning | IP Industrial Park HI Heavy Industrial |
| Proposed Zoning | A(PD) Planned Development |
| General Plan | Neighborhood/Community Commercial; High Density Residential (25-50 DU/AC)-Pending |
| Council District | 4 |
| Annexation Date | February 26, 1960 (Orchard No. 24-A) |
| Historic Resource | NA |
| SNI | NA |
| Redevelopment Area | Rincon de Los Esteros |
| Development Policy Area | North San Jose |
| Specific Plan | NA |

Aerial Map



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends that the Planning Commission recommend to the City Council approval of the proposed Planned Development Rezoning on the subject site for the following reasons:

1. The proposed Planned Development is consistent with the goals and policies of the San Jose 2020 General Plan, specifically:
 - a. The zoning will comply with the proposed Land Use Transportation Diagram land use designations of General Commercial and Medium High Density Residential 12-25 dwelling units per net acre (DU/AC).
 - b. Urban Design Policy #3, as the development will include new streets with a sidewalk and park strip.
 - c. Urban Design Policy #4 and #16, as the development will provide access to the planned creek trail, public parkland adjacent to the trail and the new Street "A" will provide circulation through the project and will also serve as a frontage to Coyote Creek.
2. The project is fully compliant with the Riparian Corridor Study, riparian setback development standard of 100 feet.
3. The project is consistent with the Residential Design Guidelines appropriate for mixed-use, townhome, and podium development.
4. The project is consistent with the Commercial Design Guidelines appropriate for neighborhood centers.

BACKGROUND & DESCRIPTION

On January 6, 2010, Sean Morley of Morley Bros., LLC, representing the property owner, Fox Properties/Markovits & Fox, Inc., reactivated a Planned Development Rezoning that was originally filed on January 25, 2007, to change the zoning on the subject site from the IP Industrial Park and HI Heavy Industrial Zoning Districts to the A(PD) Planned Development Zoning District to allow for a mixed use development of up to 650 multi-family residential units, up to 150,000 square feet of commercial uses, and/or up to 300,000 square feet of office/R&D uses on a 29.85 gross acre site.

Site and Surrounding Uses

The subject site is developed with two (2) research and development (R&D)/office buildings (Fairway Business Park) that are situated at the southwest corner of Old Oakland and E. Brokaw Roads. The site is bordered by E. Brokaw Road on the north, Old Oakland Road on the east, Coyote Creek to the south, and the Union Pacific rail line to the west. The land uses surrounding the site include industrial park/office uses to the west, north and south across E. Brokaw Road, the rail line and the creek, a commercial shopping center (North Park Plaza) to the northeast across E. Brokaw Road, and office/R&D and the San Jose Municipal Golf Course to the east across Old Oakland Road. On October 22, 2008, the Planning Commission approved a Conditional Use Permit, File No. CP08-057, for an approximately 102,000 square foot shopping center located to the north of the subject site across E. Brokaw Road. This approved shopping center has not yet received a building permit.

The northern portion of the site was previously developed with three (3) office/R&D buildings. One of the buildings was demolished in the spring of 2008 as part of ongoing hazardous materials remediation work on the site. The two existing buildings on the site were constructed in 1998. The southern portion of the site is primarily vacant land that was previously used as a metals recycling facility. This portion of the site is currently undergoing remediation work to address hazardous materials contamination.

Project Description

The conceptual site plan depicts a mixed-use development that is comprised of a 137,600 square foot commercial shopping center contained in seven (7) buildings, a vertical mixed-use building with commercial on the ground floor and approximately 84 residential units above, a residential podium development with approximately 158 units, a townhome development with approximately 191 units and a public park adjacent to the 100 foot wide riparian area located along the entire length of southern boundary of the site. This development will be served by a new street, Street "A", that traverses the site between Brokaw and Old Oakland Roads and provides as a frontage Road along Coyote Creek. The development standards also include an optional Street "B" that would be located between the rear of the shopping center and the townhome development. This area is currently designed as a driveway that only serves the loading area of the shopping center, but should the site design change this would be a natural location for another street as it terminates into Old Oakland Road at a new traffic signal.

Included in the plan set, and allowed by the development standards, is an alternative conceptual site plan, which shows how the site would develop should the two (2) existing Office/Research & Development (R&D) buildings remain on the site. The street network, riparian area, townhome, vertical mixed use, and podium developments would be the same as noted above.

Previous and Pending Land Use Approvals

In 2006, a General Plan Amendment (File No. GP06-04-02) was approved for the site, which changed the General Plan Land Use/Transportation Diagram land use designation from Heavy Industrial and Industrial Park with Mixed Industrial Overlay to Neighborhood/Community Commercial on six (6) acres and High Density Residential (25-50 DU/AC) on 21.4 acres. The 2.5 acres of the site designated as Private Open Space was left unchanged.

Currently there is a pending General Plan Amendment (File No. GP10-04-01) that requests to change the San José 2020 General Plan Land Use/Transportation Diagram land use designation on the subject site from Neighborhood/Community Commercial on six (6) acres and High Density Residential (25-50 DU/AC) on 21.4 acres to General Commercial on 13.7 acres and Medium High Density Residential (12-25 DU/AC) on 13.7 acres on the subject site. Again, the 2.5 acres of the site designated as Private Open Space is not proposed to be changed. On November 3, 2010, the Planning Commission voted unanimously to recommend to the City Council approval of the proposed land use changes. The City Council is scheduled to hear the General Plan Amendment request at their December 7, 2010 hearing.

Community Engagement

On August 31, 2010, a community meeting was held at the Orchard Elementary School located on Fox Lane, at which six community members were in attendance. Those in attendance generally were supportive of the project, but really wanted to see single-family detached units on the site as that housing product type is in short supply in the area. Additional outreach information is contained in the "Public Outreach /Interest" section of this report.

ANALYSIS

The proposed Planned Development Rezoning was analyzed with respect to conformance with the following: 1) the San Jose 2020 General Plan, 2) the Riparian Corridor Policy Study, 3) the North San Jose area Development Policy, 4) the Framework for the Preservation of Employment Lands, 5) the Residential Design Guidelines, 6) the Commercial Design Guidelines, and 7) aspects of sustainability, and 8) conformance with the California Environmental Quality Act (CEQA).

General Plan Conformance

The subject 29.85 gross acre site currently has a San Jose 2020 General Plan land use designation of Neighborhood/Community Commercial and High Density Residential (25-50 DU/AC). As mentioned above, there is a General Plan Amendment request to change the land use designations on the site to General Commercial and Medium High Density Residential (12-25 DU/AC).

The proposed General Commercial land use designation is a non-specialized commercial designation intended to permit a full range of commercial uses. It includes both strip commercial areas along major thoroughfares as well as freestanding commercial establishments. Business and professional office uses are also allowed within this category as well. The proposed Medium High Density Residential (12-25 DU/AC) land use designation is typified by two- and three-story apartments and condominiums with surface parking, although structures of greater height with compensating amounts of open space is possible. This density is planned primarily for locations on major streets and near major activity centers.

The proposed mixed-use project, which includes a retail shopping center, residential townhome development, podium residential development, and vertical mixed-use development, would be in conformance with the proposed General Plan land use designations. The designated residential area on the land use plan shows a maximum of 25 DU/AC in conformance with the density range of the Medium High Density Residential land use designation and the commercial shopping center and vertical mixed use are consistent with the General Commercial land use designation.

In addition, the proposed project on the subject site is consistent with the General Plan's Goals and Policies as discussed in the following:

1. Urban Design Policy #3: Residential subdivisions should be designed to provide for internal circulation within neighborhoods, prevent through vehicular traffic from traversing neighborhoods, and encourage pedestrian and bicycle connections between neighborhoods and to adjacent commercial uses and transit facilities.

As shown on the conceptual site plan and reflected in the development standards, the site will be accessed by at least one new street that will traverse through the site between Brokaw and Old Oakland Roads. This street will also serve as a frontage road along Coyote Creek. The new street within the development will have the typical street design with a sidewalk and park strip to provide a safe pedestrian connection throughout the project, as well as, it will provide "eyes" and access to Coyote Creek and the planned creek trail. All of the new residential and commercial buildings will front onto this new street.

2. Urban Design Policy #4: Residential developments which are adjacent to parks or open spaces should be encouraged to provide direct access to, and common open space contiguous to, such areas; and Urban Design Policy #16: When development is proposed adjacent to existing or planned parks or park chains, that development should include public park-frontage roads, wherever feasible, in order to maximize access to park lands, to provide a reasonable separation between urban land uses and park lands without the use of "back-up" design, and to maximize exposure of park lands for scenic and security purposes.

Consistent with both of these policies, the proposed project provides access to the planned creek trail, as well as locates the proposed public parkland adjacent to the trail and Coyote Creek. The new Street "A" will provide circulation through the project and will also serve as a frontage road to provide great public access to the Coyote Creek and the new public park. The proposed residential development will front onto the riparian area and the park.

- Urban Design Policy #10:** The maximum building heights set forth are intended to address urban design considerations only. Other factors, such as compatibility with nearby land uses, may result in more restrictive height limitations. In the North San José/Rincon de Los Esteros Redevelopment Area, the maximum building height is 120 feet.

The subject site is located within the North San José/Rincon de Los Esteros Redevelopment Area. Consistent with this policy, the proposed project provides a maximum building height of 75 feet for the mixed-use building, 55 feet for the commercial shopping center, and 50 feet for the townhome residential development. These proposed heights are compatible with the existing development surrounding the site.

Riparian Corridor Policy Study

The Riparian Corridor Policy provides development guidelines to help protect riparian habitat and minimize impacts to riparian resources. The subject site is bordered by the Coyote Creek along the southern property line. The actual creek channel is not located on the subject site. Riparian vegetation is present along the banks of the creek and a number of species utilize the creek for breeding and movement.

The Policy includes a setback guideline that requires a 100 foot riparian setback for the purpose of preserving the continuity of the City's riparian environments and establishing a set predominate minimum setback to be utilized for new development. Consistent with the Policy, a 100 foot building and road setback from the edge of riparian vegetation is included as a development standard for the project.

It is also important to note that the site plan is appropriately oriented to the creek. The orientation guideline in the Policy states that development should be oriented towards the creek to provide views of the corridor for visibility, habitat protection, and public safety. Frontage roads are a preferred interface and buildings should not back up to the riparian corridor. The proposed site design does provide a frontage road along the creek and the residential buildings face towards it consistent with the guideline.

North San Jose Area Development Policy

The subject site is located within the North San José Area Development Policy. This Policy establishes a framework to guide the ongoing development within the North San José area. The updated Policy allows for the development of 26.7 million square feet of new industrial/office/R&D building space, 1.7 million square feet of new neighborhood serving commercial uses, one million square feet of new regional commercial, 1,000 new hotel rooms, and 32,000 new dwelling units in the Rincon area. Consistent with the Policy, the increase in the amount of commercial uses on the site would support the planned job growth in the area not only by providing additional jobs, but by also providing commercial services for the job sites in the area.

This Policy includes phased job generation triggers before residential can be developed. Allocation is reserved with the approval of a Planned Development Permit. At this time all of the Phase I allocation for residential units have been approved. Residential development may only occur on the portion of the site designated for such as a part of Phase II of the Policy or if approved Planned Development Permits for residential units in Phase I expire.

Framework for the Preservation of Employments Lands

The proposal does not include the conversion of industrial or commercial lands to residential, but rather a reduction in the amount of land dedicated for residential uses and the increase in land dedicated for commercial uses. This proposal is consistent with the Framework and the goal of increasing lands for job and tax generating uses.

Residential Design Guidelines

This zoning application proposes a maximum of 650 residential units in three different product types including garden townhouses, podium cluster, and vertical mixed-use. Each product type is designed consistent with the intent of the Guidelines. The garden townhome units front onto a paseo or street with each unit having a private garage accessed via an alley. The mixed use and residential podium cluster units are stacked with a parking garage on the first floor and large central common open space areas and small decks or patios.

Conceptual elevations and landscaping are not provided at this time. The project design details and final site design will be refined and effectuated through the subsequent Planned Development Permit process.

Setbacks

Under the Guidelines, the recommended internal setbacks for garden townhouses and podium product types from streets or other proposed development components are similar; therefore one set of standards will cover both types of development. Consistent with the Guidelines the project proposes internal building separations of 25 feet front to front, 10 feet side to side, 20 feet rear to side, and 20 feet rear to rear.

The Guidelines also recommend perimeter setbacks from adjacent uses. The perimeter uses of the subject site are Brokaw and Oakland Roads, the Southern Pacific Railroad tracks, and Coyote Creek. A 20 foot building and patio setback is proposed at Oakland Road and at the railroad tracks consistent with the Guidelines. At the Coyote Creek riparian setback interface, a 10 foot building and patio setback is proposed, which exceeds the recommend setback of five (5) feet to common open space.

Building setbacks to the new internal Street "A" are proposed to be 15 feet to provide a more urban pedestrian scale to the new street, which is consistent with the perimeter setback for residential buildings on a minor residential street.

Height

Consistent with the General Plan's Urban Design Policy No. 10 that allows a maximum building height of 120 feet, the project proposes a maximum height of 50 feet for the townhomes and 75 for the podium and mixed use products.

Parking

The Residential Design Guidelines indicate various parking ratios based on the number of bedrooms in each unit. These standards address variations in product types that include private garages. The project proposes parking ratios in conformance with these adopted standards.

Open Space

The Guidelines recommend a minimum of 150 square feet of common useable open space per unit for townhome units and 100 square feet for podium units. As proposed, the project meets this guideline for the podium units and exceeds it for the townhome units.

The Guidelines recommend a minimum of 300 square feet of private open space per garden townhouse unit and 60 square feet (for at least 50% of the units) per podium unit. The project provides a minimum of 120 square feet of private open space for each garden townhouse unit and 60 square feet (for at least 50%

of the units) per podium unit. The amount of open space provided for the podium units is consistent with the Guidelines and while the garden townhome units fall short of the recommended minimum; however, it is consistent with past practice for projects with a more urban design. There is substantially more common open space provided within the development which exceeds the recommended amount, and in addition, the site provides a common open space area along the riparian area and a proposed park, which compensates for the smaller private open space.

Commercial Design Guidelines

This zoning application proposes a commercial shopping center located on the north side of the site. The Commercial Design Guidelines provide direction for the design of such neighborhood centers. The Guidelines recommend that the free standing smaller buildings and or portions of the larger buildings be located at the street setback lines and that if there are multiple buildings in the same center that they vary in size and mass. Consistent with this, the project provides various sized buildings that are at the setback line along Brokaw and Old Oakland Roads and the new street "A" to establish a good building presence.

The Guidelines recommend a street to building setback of 25 feet. A building setback of 20 feet from Brokaw and Old Oakland and 15 feet from the new Street "A" is proposed. The 20 foot setback is consistent with the proposed shopping center across E. Brokaw Road and the intent of the Guidelines. It will also provide adequate space for perimeter landscaping. The smaller 15 foot setback on Street "A" is proposed to provide a more pedestrian friendly design and scale as it is envisioned that the retail shops will face each other on either side of the new street and be a pedestrian friendly, walkable area. At least one of the buildings fronting on the new street will be a vertical mixed use building with residential above the commercial uses. The requested 15 foot setback is consistent with what the Residential Design Guidelines specify for such a mixed-use building.

The Guidelines also provide direction as to the location of loading areas or service facilities. And while they discourage their location adjacent to residential uses, in the specific case of this proposed development, it is infeasible to do so as the commercial itself needs to front on to the main public streets for access and visibility and the project should not turn its back on the creek as this is an amenity. As stated in the proposed development standards, to help mitigate this interface between loading and residential uses, a sound wall will be provided with 10 feet of landscaping on either side as a buffer between the two uses and the adjacent townhomes are proposed to be side on in this location.

Sustainability

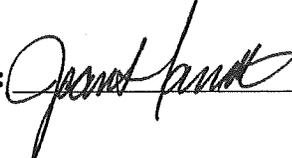
The new development is subject to the City of San Jose Green Building Ordinance for New Construction Private Development, currently requiring the minimum green building certification of LEED Silver for the commercial development and Green Point Rated or LEED Certified for the residential development. At this time it is not known what green building measures will be incorporated into the project.

California Environmental Quality Act (CEQA)

An Initial Study completed for the proposed Planned Development Rezoning determined that the project will not have a significant effect on the environment and therefore an Addendum to the Fox Property General Plan Amendment Environmental Impact Report (EIR) was prepared. This EIR was certified by the City Council on December 13, 2006 under File No. GP06-04-02, which also covers the subject Planned Development Rezoning and subsequent development permits. The Initial Study supporting the Addendum is available for review on the Planning web site at: www.sanjoseca.gov/planning/eir/MND.asp

PUBLIC OUTREACH/INTEREST

In addition to the community meeting held on August, 21, 2010, the property owners and occupants within a 1,000-foot radius were sent public hearing notices for the Planning Commission and City Council hearings. This staff report has been posted on the City's web site. Signage has been posted at the site to inform the public about the proposed change. Staff has been available to discuss the proposal with interested members of the public.

Project Manager: Lesley Xavier **Approved by:**  **Date:** 11/2/10

| | |
|---|--|
| <u>Owner/Applicant:</u> | <u>Attachments:</u> |
| <p><u>Owner:</u> Fox Properties/Markovits & Fox, Inc. 14125 Capri Drive, #4 Los Gatos, CA 95032</p> <p><u>Applicant:</u> The Morley Bros. Sean Morley 506 N. Santa Cruz Avenue Los Gatos, CA 95030</p> | <p>Development Standards Plan Set</p> |

FILE NO. PDC07-010
DEVELOPMENT STANDARDS
REVISED 11/9/10

In any cases where the graphic plans and text may differ, this text takes precedence.

ALLOWED USES

COMMERCIAL/MIXED-USE AREA:

- The permitted, special, and conditional uses of the CG Commercial General Zoning District, as amended and Office/R&D. Conditional and special uses shall require the approval of a Planned Development Permit.
- This Area is subject to certain use restrictions in accordance with the Department of Toxic Substance Control requirements upon completion of the on-site remediation. These restrictions may prohibit residential uses at ground level and limit open space in certain areas.
- Mixed-use development, consistent with the commercial limitations noted below, including no more than 85 multi-family units, may be permitted on the west side of street "A".

Existing Industrial/Office Building

- The uses of the two (2) existing industrial office buildings shall be those permitted, special, and conditional uses of the IP Industrial Park Zoning District, excluding commercial support uses and warehouse retail, as amended. Conditional and special uses shall require the approval of a Planned Development Permit.
- The two (2) existing industrial office buildings shall not be used for retail commercial uses, except as provided for above.
- Up to 40,000 square feet of commercial uses are permitted on the west side of street "A" in conjunction with the use of the two industrial buildings as described above. Said commercial uses shall include the permitted, special, and conditional uses of the CG Commercial General Zoning District, as amended. Conditional and special uses shall require the approval of a Planned Development Permit.

RESIDENTIAL AREA:

- Multi-family residential.

DEVELOPMENT STANDARDS

COMMERCIAL/MIXED USE AREA

MAXIMUM SQUARE FOOTAGE:

- Commercial: up to 150,000 square feet
- Office/R&D: up to 300,000 square feet

SETBACKS:

Perimeter:

- Building to north property line (Brokaw Road): 10 feet
- Building to west property line (Railroad R-O-W): 0 feet
- Building to east property line (Old Oakland Road): 10 feet
- Building to south property line (adj. to Street "B" if proposed): 20 feet
- Building to south property line (if no Street "B" proposed): 35 feet
- Loading area sound wall (adj. to Street "B" if proposed): 20 feet
- Loading area driveway to sound wall (if no Street B) 10 feet

From New Street:

- Building to property line 15 feet

MAXIMUM BUILDING HEIGHT:

- Single-Story Building: 55 feet
- Multi-Story Building: 75 feet

DRIVE THROUGH USES RESTRICTIONS:

- Any drive through use shall not place the drive through lane between the street and the building. Drive through uses shall be designed in conformance with the City Council Policy 6-10: Criteria for the Review of Drive-Through Uses.

PARKING REQUIREMENTS:

- Parking shall be provided per Title 20, Table 20-190, as amended.
- A reciprocal parking arrangement for the commercial development shall be provided and shall include the development on both sides of the Street "A".

BICYCLE PARKING REQUIREMENTS:

- 1 space per 20 required auto spaces

MOTORCYCLE PARKING REQUIREMENTS:

- 1 space per 20 required auto spaces

LOADING AREA RESTRICTIONS:

- If Street "B" is not built, a continuous sound wall shall be provided between the loading area between the commercial development and the residential development. Limited small breaks in the sound wall may be permitted for pedestrian access only to and from the commercial development. 10 feet of landscaping shall be provided between the

driveway and the sound wall. The driveway behind the retail building/loading spaces shall be designed to discourage or reduce cut-through traffic for non-loading activities. The loading area operating hours may be restricted at the PD Permit stage to the satisfaction of the Director of Planning. This may include, but not be limited to the gating off of the loading area after normal business hours.

RESIDENTIAL AREA

NUMBER OF UNITS

- Minimum 165 units
- Maximum 650 units

A portion of the residential units may be placed within the commercial/mixed use area. The maximum number of units on the residential area of the land use plan shall not exceed 25 DU/AC.

SETBACKS:

Riparian: 100 feet between the drip line of riparian vegetation and any portion of the new development including roads and buildings. Recreational uses are permitted within the setback area.

Perimeter:

- Building and patio to north property line (if Street B is not proposed) 20 feet
- Building and patio to north property line (if Street B is proposed): 10 feet
- Building to west property line (railroad right-of-way): 20 feet
- (patio to west property line-railroad right-of-way): 50 feet
- Building and patio to east property line (Old Oakland Road): 20 feet
- Building and patio to south property line (Riparian setback line): 10 feet

From New Internal Street (Street "A"):

- Building to street: 15 feet
- Patio to street: 15 feet*

*The Director of Planning, Building, and Code Enforcement may grant an exception to the minimum front setback if he finds that a smaller setback is needed to accommodate a new street and/or building design elements.

Internal Separation:

- Front to Front*: 25 feet **
- Side to Side: 10 feet
- Rear to Side: 20 feet
- Rear to Rear: 20 feet

* Measured from edge of private open space to edge of private open space.

** The Director of Planning, Building, and Code Enforcement may grant an exception to the minimum front to front separation if he finds that a smaller setback is need to

accommodate building design elements in limited instances. This may be considered at the Planned Development Permit stage.

MAXIMUM BUILDING HEIGHT:

- Single-family attached 50 feet
- Podium and Mixed Use Area 75 feet

PARKING REQUIREMENTS:

Development with All Open Parking:

- Studio 1.4
- 1 Bedroom 1.5
- 2 bedroom 1.8
- 3 Bedroom 2.0
- Over 3 Bedroom 0.15 (per additional bedroom over 3)

Development with Private 2-Car Garage Parking:

- Studio 2.2
- 1 Bedroom 2.3
- 2 bedroom 2.5
- 3 Bedroom 2.6
- Over 3 Bedroom 0.15 (per additional bedroom over 3)

PODIUM OPEN SPACE REQUIREMENTS:

- A minimum of 60 square feet of private open space per unit for at least 50% of the units.
- A minimum of 100 square feet of useable common open space per unit.

TOWNHOME OPEN SPACE REQUIREMENTS:

- A minimum of 120 square feet of private open space per unit. At least one dimension of the open space shall have a minimum dimension of 10 feet.
- A minimum of 200 square feet of useable common open space per unit.

MINOR ARCHITECTURAL PROJECTIONS:

- Minor architectural projections such as fireplaces, bay windows, patios and porches may project into any setback or building separation by up to 2 feet for a length not to exceed 10 feet or 20% of the building elevation length.

ARCHITECTURAL DESIGN:

- The architectural design of the residential development shall conform to the standards of the Residential Design Guidelines.

PROJECT PHASING

- This mixed-use development may be developed in phases with the approval of a master Planned Development Permit that would detail out the phasing of the overall development, but will not require the residential area or commercial/mixed use area be jointly, simultaneously, or sequentially developed.

PARK LAND

- The project is subject to the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code). Should parkland be provided on site, it shall be located adjacent to the open space/riparian area, outside of the 100 foot riparian setback.

STREETS

- A new street, shown as Street "A" on the conceptual site plan, shall be provided for access to the interior of the site and shall be situated in such a manner so that it provides a connection between Brokaw Road and old Oakland Road and serves as a frontage road between the development and the riparian corridor for at least a portion of the riparian area.
- The location of streets may be adjusted at the Planned Development Permit stage of the development process to the satisfaction of the Director of Planning, Building, and Code Enforcement.
- New Street "B" (optional) may be provided between the commercial and residential components of the project to connect Oakland Road to Street "A" and must conform to the following standards:
 - No vehicular connection to this street shall be permitted from the garage alleys of the residential component. A curb cut may be considered for an entry drive, as defined by the Residential Design Guidelines. EVA may be permitted.
 - The curb cuts for the commercial/retail loading area shall be minimized to that the loading area sound wall has minimal openings.
 - Any curb cuts must meet operational standards to the satisfaction of the Director of Public Works, as far as, distance requirements between the curb cut/drive isle and the proposed signalized intersection.
 - If such a street is proposed, it shall have a 52 foot right-of-way cross section per the Residential Design Guidelines that includes curb, gutter, park strip and sidewalks on both sides.
- A new traffic signal may be provided at Old Oakland Road subject to Public Works requirements and the satisfaction of the Director of Public Works.

PUBLIC WORKS

1. **Transportation:**
 - a) Consistent with North San Jose EIR, this project is required to pay a traffic impact fee. The 2011 fee is \$11,332 per PM Peak Hour trip or \$6,800 per multi-family unit and subject to an annual escalation of 3.3% on July 1st. This fee must be paid prior to issuance of Public Works Clearance. Credits for existing structures on site will be applied to the residential traffic impact fee consistent with the policy and will be prorated with each building permits issued.
 - b) At PD Permit stage, provide an operational analysis to include the following:
 - i) Warrant study for the proposed traffic signal along Oakland Road.
 - ii) Left-turn storage at Oakland Road and proposed signalized intersection.
 - iii) Left-turn storage at proposed left-turn (inbound to site only at new streets) locations along Oakland Road and Brokaw Road.
 - iv) On-site queuing and impacts to existing and future public streets.
2. **Sanitary:** At PD Permit stage, provide the following:
 - a) Estimated project flow rate for the proposed residential and commercial development.
 - b) All existing lateral connections and amount of flow to the 6' main in Oakland Road to determine available pipe capacity.
3. **Grading/Geology:**
 - a) A grading permit is required prior to the issuance of a Public Works Clearance.
 - b) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - c) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - d) The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
4. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures,

source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29 -or- the project shall provide an Alternative Measure, where installation of post-construction treatment control measures are impracticable, subject to the approval of the Director of Planning, Building & Code Enforcement.

- a) The project's preliminary Stormwater Control Plan and numeric sizing calculations have been reviewed. At PD stage, submit the final Stormwater Control Plan and numeric sizing calculations.
- b) The proposed Filtera units within the public right-of-way shall be subject to maintenance fee payment to the City. The fees will be determined at PD Permit stage.
- c) Final inspection and maintenance information on the post-construction treatment control measures must be included on the final Stormwater Control Plan.
- d) A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.

5. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

6. **Flood: Zone D** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D.

7. **Assessments:** A portion of this project is located within the boundaries of Maintenance District 11 which maintains the enhanced street island landscaping along a portion of Brokaw Road and Old Oakland Road. The benefiting properties within the district pay for the maintenance through annual assessments placed on the property tax bills which are adjusted annually by the Consumer Price Index. The 2006-07 assessment on assessor's parcels 237-03-061 and 237-03-069 is calculated at approximately \$327 per acre. A change in zoning to allow residential on the vacant land creates a corresponding change in benefit, since the project matches other land uses within the district and fronts the enhanced street islands on Brokaw Road and Old Oakland Road. This property may be required to annex into the district because of the benefit received by the special district amenities. For consideration, the current assessment for single family homes is \$49 per unit.

8. **Transportation Improvements:**

- a) Construct improvements on Brokaw Road at the proposed north/south street to restrict northbound left turn outbound from the site.
- b) Remove up to 10' of existing median island nose on Brokaw Road at Brokaw / Oakland Road intersection.

- c) Install signal interconnect conduit and communications cable per City standard to interconnect the signal at Brokaw/Oakland and the new signal at Oakland/proposed east/west street.
- d) Install signal interconnect conduit and pull boxes per City standard along Oakland Road project frontage.
- e) Additional operational improvements may be required based on the final Traffic Operational Analysis.

9. **Street Improvements:**

- a) At PD Permit stage, the following should be included on plan:
 - i) Align the proposed signal at Oakland Road with the existing driveway across from project site at centerline.
 - ii) Indicate a 12' wide attached sidewalk within the 130' right-of-way along Brokaw Road project frontage.
 - iii) Indicate a 14' wide landscape median and 12' wide attached sidewalk within the 130' right-of-way along Oakland project frontage.
 - iv) All improvements within proposed public street shall meet City standards and non-standard features such as decorative pavement will not be allowed. Alternatively, the project may consider portion of these streets to be private.
 - v) Minimize the number of access connection from site to the new east/west street and relocate driveways further away from the proposed signalized intersection.
 - vi) Align all driveways across new public streets at centerline.
- b) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- c) Dedicate and construct all public streets to the satisfaction of Director of Public Works.
- d) Remove and replace broken or uplifted curb, gutter, and construct a 12' wide attached sidewalk along Brokaw Road project frontage.
- e) Remove and replace broken or uplifted curb, gutter, and construct a 12' wide attached sidewalk along Oakland Road project frontage.
- f) Close unused driveway cut(s).
- g) Install City standard handicap ramps with truncated domes at all four corners of Brokaw/Oakland Road intersection.
- h) All proposed public improvements shall conform to City standards. Decorative pavement shall not be allowed.
- i) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

10. **Median Island Improvements:** Developer is required to construct Type 1 landscaped median on Old Oakland Road along project frontage per City standards; refer to the current "Guidelines for the Planning, Design and Construction of City Streetscape Projects". Upon successful completion of the median island, the City will reimburse the

developer for the cost of the construction pursuant to the Residential Construction Tax Contribution Fund Program, in accordance with section 4.64.100 of the Municipal Code.

11. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
12. **Street Trees:**
 - a) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
 - b) Contact the City Arborist at (408) 277-2756 for the designated street tree.
 - c) Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings.
13. **Private Streets:** Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.

BROKAW & OLD OAKLAND REDEVELOPMENT

1633 OLD OAKLAND ROAD . 1040 EAST BROKAW ROAD
SAN JOSE, CALIFORNIA

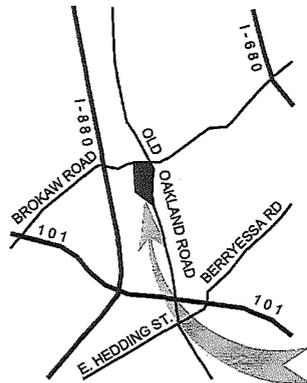
OCTOBER 20, 2010

PLANNED DEVELOPMENT ZONING

PDC07-010

APN 237-03-061, 069 & 070

VICINITY MAP



SITE

CONTACTS

CLIENT

FOX PROPERTIES
14125 Capri Drive, #4
Los Gatos, Ca 95032

Phone: 408.364.2265
Fax: 408.364.0765
Contact: Robert W. Fox
Marvin Fox
Linda Mighdoll-Fox

DEVELOPMENT CONSULTANT

THE MORLEY BROS.
506 N. Santa Cruz Avenue
Los Gatos, Ca 95030

Phone: 408.458.4400
Fax: 408.458.4299
Contact: Sean Morley

ARCHITECT

KENNETH RODRIGUES & PARTNERS, INC.
445 N. Whisman Road, Suite 200
Mountain View, Ca 94043

Phone: 650.965.0700
Fax: 650.960.0707
Contact: Kenneth Rodrigues

CIVIL ENGINEER

CHARLES W. DAVIDSON CO.
255 W. Julian Street, Suite 200
San Jose, Ca 95110

Phone: 408.295.9162
Fax: 408.287.6350
Contact: Michelle Fisk

SHEET INDEX

- A0 COVER SHEET
- A1 LAND USE PLAN - EXHIBIT C
- A2 DEVELOPMENT STANDARDS
- A3 CONCEPTUAL SITE PLAN
- A4 CONCEPTUAL SITE PLAN ALTERNATE (OFFICE / RETAIL / HOUSING)
- 4.1 CONCEPTUAL GRADING AND DRAINAGE PLAN
- 4.2 CONCEPTUAL GRADING AND DRAINAGE PLAN
- 4.3 CONCEPTUAL STORM WATER TREATMENT PLAN
- 4.4 CONCEPTUAL STORM WATER TREATMENT PLAN
- 4.5 CONCEPTUAL STORM WATER TREATMENT PLAN

DEVELOPMENT SCHEDULE

TIME OF COMMENCEMENT FALL 2011
TIME OF COMPLETION SPRING 2013

STATEMENTS

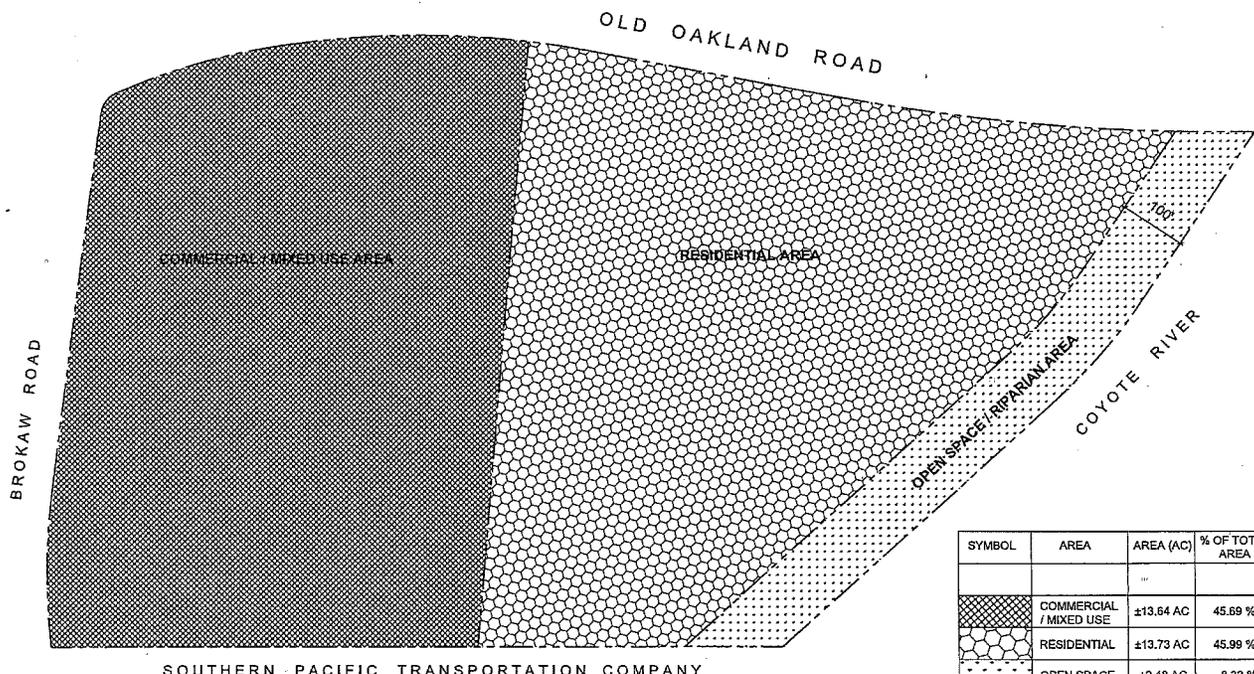
| | |
|---------------------------------------|----------------------|
| TOTAL GROSS ACRES OF SUBJECT PROPERTY | ± 29.85 AC |
| OPEN SPACE | ± 2.48 AC (8.32 %) |
| NET | ± 27.37 AC |
| UP TO 650 DWELLING UNITS | |
| UP TO 150,000 SF OF COMMERCIAL USES | |
| UP TO 300,000 SF OF OFFICE / R&D USES | |
| TOTAL OPEN SPACE | ± 2.48 AC (8.32 %) |
| TOTAL COMMERCIAL AREA | ± 13.64 AC (45.69 %) |
| TOTAL RESIDENTIAL AREA | ± 13.73 AC (45.99 %) |



KENNETH RODRIGUES & PARTNERS, INC.
445 NORTH WHISMAN RD., SUITE 200
MOUNTAIN VIEW, CA 94043

A0

10.20.10



SOUTHERN PACIFIC TRANSPORTATION COMPANY

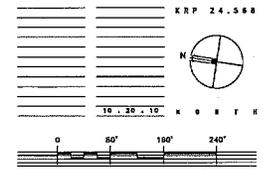
| SYMBOL | AREA | AREA (AC) | % OF TOTAL AREA | PRIMARY LAND USES | | | |
|--------|------------------------|------------------|-----------------|---------------------------|---------------------------|--------------------------|---------|
| | | | | COMMERCIAL (SF) | OFFICE / R&D (SF) | RESIDENTIAL (DU) | DU / AC |
| | COMMERCIAL / MIXED USE | ±13.64 AC | 45.69 % | UP TO 150,000 SF | UP TO 300,000 SF | (1) | (1) |
| | RESIDENTIAL | ±13.73 AC | 45.99 % | - | - | 165-650 (2) | 12-25 |
| | OPEN SPACE | ±2.48 AC | 8.32 % | - | - | | |
| | TOTAL | ±29.85 AC | 100 % | 150,000 SF MAXIMUM | 300,000 SF MAXIMUM | 650 UNITS MAXIMUM | |

NOTES:
 SEE EXHIBIT C, GENERAL DEVELOPMENT PLAN, DEVELOPMENT STANDARDS FOR ALL PERMITTED LAND USES, ADDITIONAL INFORMATION AND SPECIFIC MINIMUM AND MAXIMUM UNIT AND SQUARE FOOTAGE REQUIREMENTS.
 (1) COMMERCIAL / MIXED USE AREA MAY HAVE RESIDENTIAL UNITS, BUT MAY NOT EXCEED THE UNIT TOTAL OF 650 UNITS MAXIMUM FOR THE ENTIRE SITE.
 (2) A PORTION OF THE TOTAL 650 UNITS MAY BE PLACED WITHIN THE COMMERCIAL / MIXED USE AREA OF THE SITE



BROKAW and OLD OAKLAND RE-DEVELOPMENT
FOX PROPERTIES
 SAN JOSE, CALIFORNIA
LAND USE PLAN-EXHIBIT C

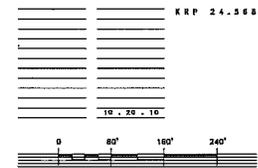
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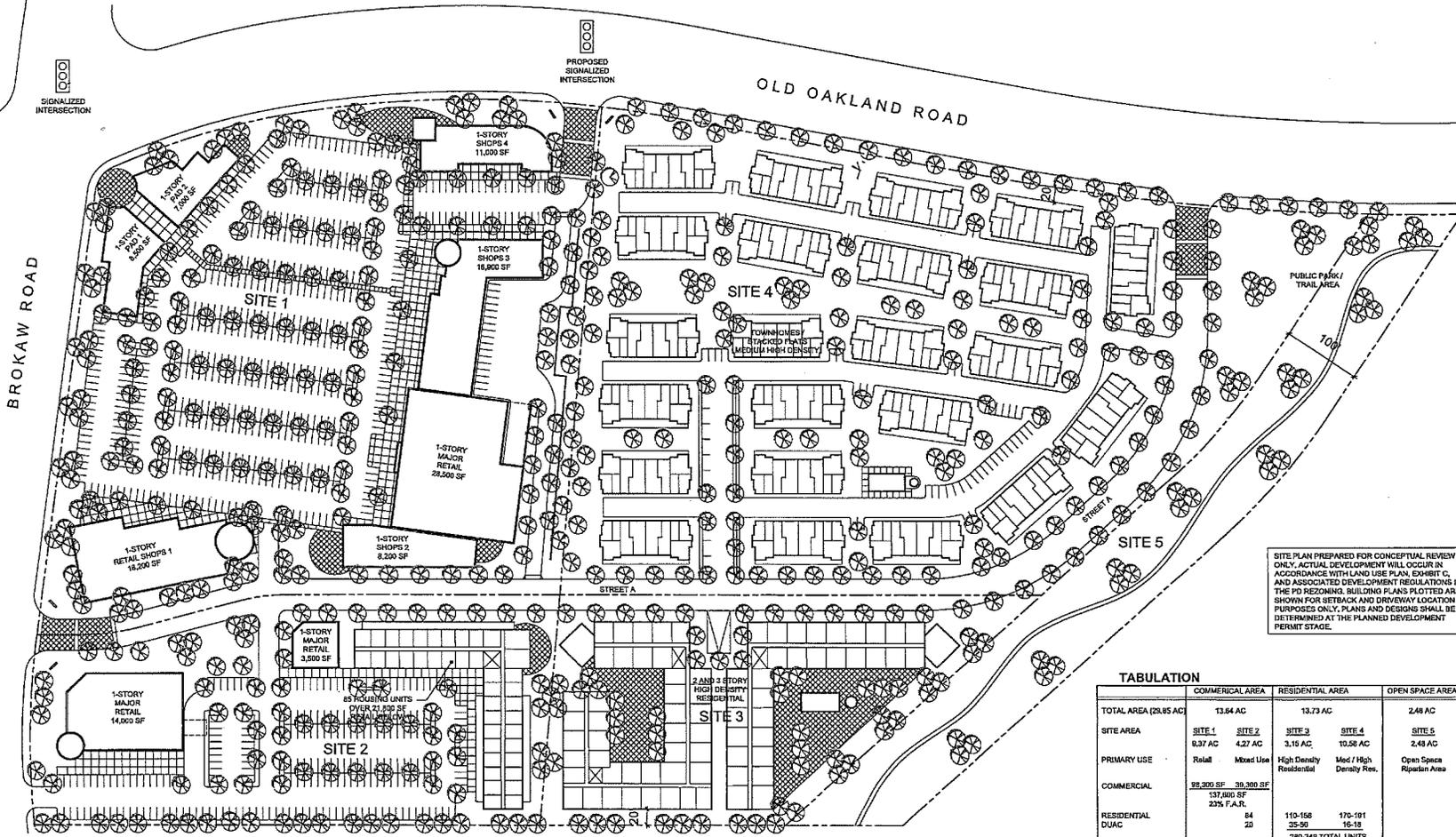




BROKAW and OLD OAKLAND RE-DEVELOPMENT
FOX PROPERTIES
SAN JOSE, CALIFORNIA
DEVELOPMENT STANDARDS

A2





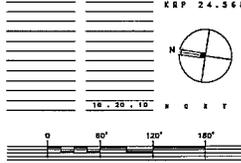
SITE PLAN PREPARED FOR CONCEPTUAL REVIEW ONLY. ACTUAL DEVELOPMENT WILL OCCUR IN ACCORDANCE WITH LAND USE PLAN, EXHIBIT C, AND ASSOCIATED DEVELOPMENT REGULATIONS IN THE PD ZONING. BUILDINGS PLANNED ARE SHOWN FOR SETBACK AND DRIVEWAY LOCATION PURPOSES ONLY. PLANS AND DESIGNS SHALL BE DETERMINED AT THE PLANNED DEVELOPMENT PERMIT STAGE.

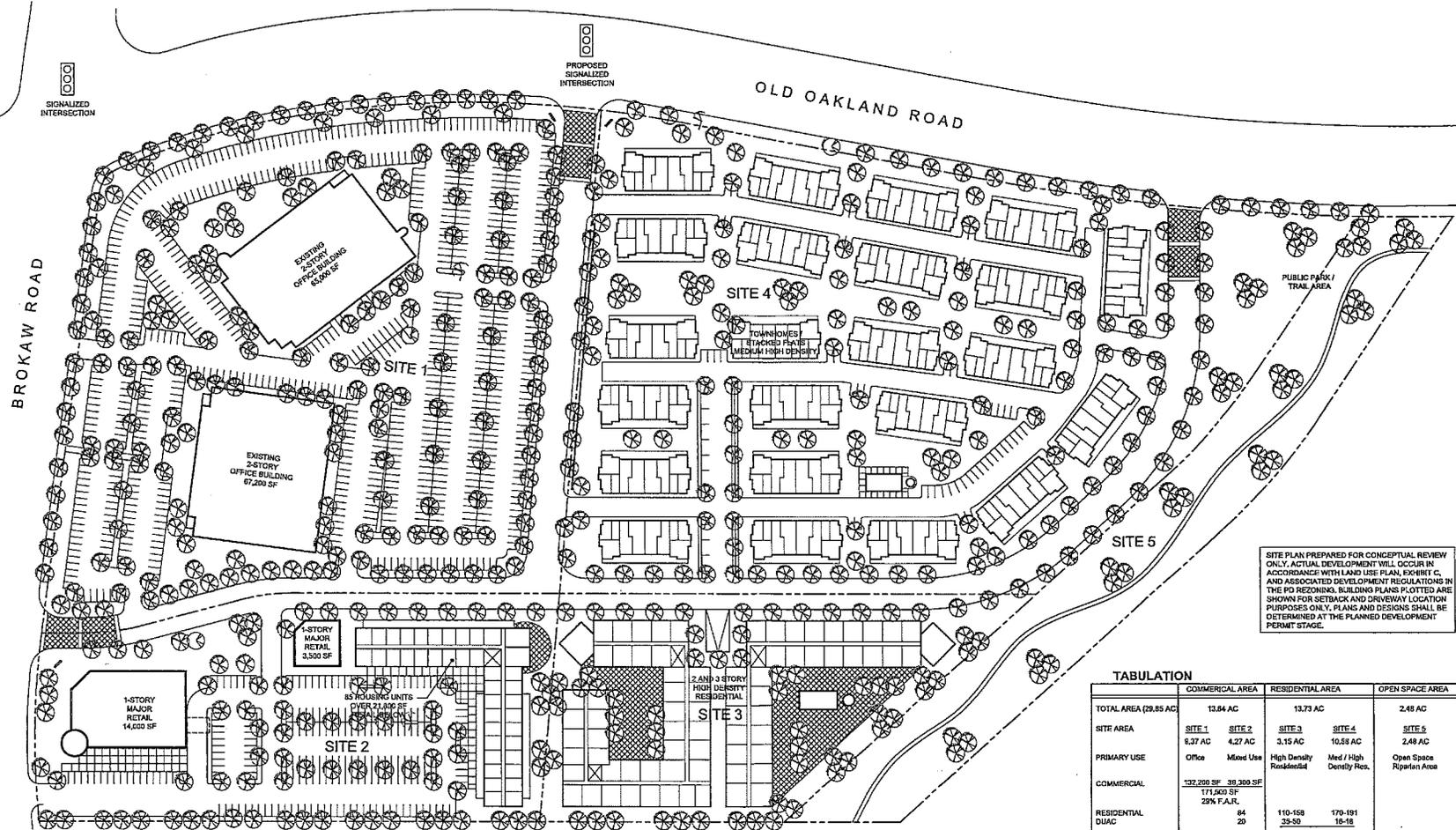
| TABULATION | | | | | |
|-----------------------|---|-------------------|--------------------------|-------------------------|--------------------------|
| | COMMERCIAL AREA | | RESIDENTIAL AREA | | OPEN SPACE AREA |
| TOTAL AREA (28.85 AC) | 13.84 AC | | 13.73 AC | | 2.48 AC |
| SITE AREA | SITE 1 9.37 AC | SITE 2 4.27 AC | SITE 3 3.15 AC | SITE 4 10.58 AC | SITE 5 2.48 AC |
| PRIMARY USE | Retail | Mixed Use | High Density Residential | Med / High Density Res. | Open Space Riparian Area |
| COMMERCIAL | 88,200 SF - 39,300 SF 137,000 SF 27% F.A.R. | | | | |
| RESIDENTIAL | | | 84 | 110-158 | |
| DUAC | | | 20 | 35-50 | |
| | | | 170-191 | | |
| | | | 16-18 | | |
| | | | 280-248 TOTAL UNITS | | |
| | | | 20-25 COMBINED DUAC | | |



BROKAW and OLD OAKLAND RE-DEVELOPMENT
FOX PROPERTIES
 SAN JOSE, CALIFORNIA
CONCEPTUAL SITE PLAN

A3





SITE PLAN PREPARED FOR CONCEPTUAL REVIEW ONLY. ACTUAL DEVELOPMENT WILL OCCUR IN ACCORDANCE WITH LAND USE PLAN, EXHIBIT C, AND ASSOCIATED DEVELOPMENT REGULATIONS IN THE PD REZONING. BUILDING PLANS PLOTTED ARE SHOWN FOR SETBACK AND DRIVEWAY LOCATION PURPOSES ONLY. PLANS AND DESIGNS SHALL BE DETERMINED AT THE PLANNED DEVELOPMENT PERMIT STAGE.

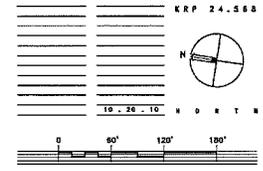
TABULATION

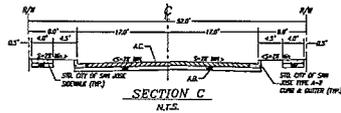
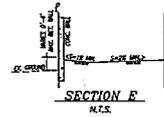
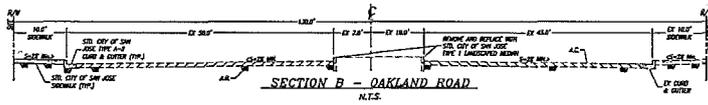
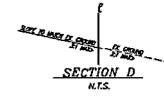
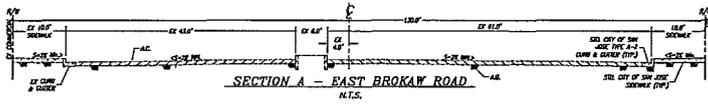
| | COMMERCIAL AREA | | RESIDENTIAL AREA | | OPEN SPACE AREA |
|-----------------------|--|-------------------|--------------------------|-------------------------|--|
| TOTAL AREA (29.85 AC) | 13.84 AC | | 13.73 AC | | 2.48 AC |
| SITE AREA | SITE 1 8.37 AC | SITE 2 4.27 AC | SITE 3 3.15 AC | SITE 4 10.58 AC | SITE 5 2.48 AC |
| PRIMARY USE | Office | Mixed Use | High Density Residential | Med / High Density Res. | Open Space Riparian Area |
| COMMERCIAL | 132,200 SF - 30,300 SF 171,200 SF 22K F.A.U. | | | | |
| RESIDENTIAL DUAC | 84 20 | | 110-158 35-50 | 170-191 18-18 | 280-348 TOTAL UNITS 20-25 COMBINED DUAC |



BROKAW and OLD OAKLAND RE-DEVELOPMENT
FOX PROPERTIES
 SAN JOSE, CALIFORNIA
CONCEPTUAL SITE PLAN ALTERNATE - OFFICE / RETAIL / HOUSING

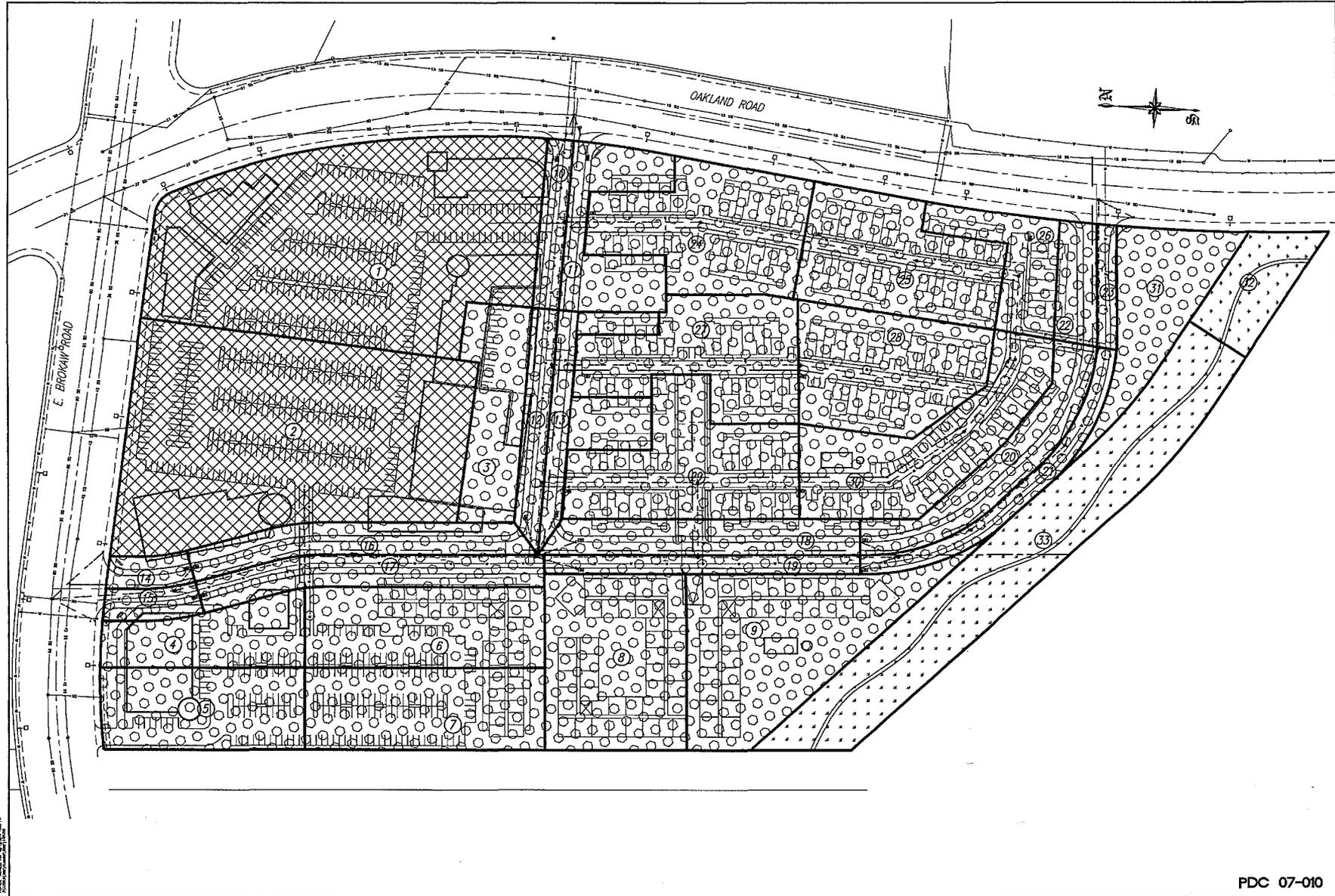
A4





| | | | |
|---|------------------|------------|--|
| DATE | October 11, 2010 | PROJECT | |
| DRAWN BY | | CHECKED BY | |
| DESIGNED BY | | DATE | |
| APPROVED BY | | | |
| SUPERVISED BY <i>Barbara M. Davidson, Esq.</i> A CALIFORNIA REGISTERED PROFESSIONAL ENGINEER No. 44387 210 N. MAIN STREET, SUITE 1111 SAN JOSE, CALIFORNIA 95131 | | | |
| CONCEPTUAL GRADING & DRAINAGE PLAN LANDS OF MARKOVITS & FOX INC. SAN JOSE, CALIFORNIA | | | |
| JOB NO. | 1785 | | |
| SHEET | 4.2 | | |

PDC 07-010



| | | | |
|--|------------------|------------|--|
| DATE | October 13, 2010 | REVISIONS | |
| SCALE | 1" = 50' | BY | |
| DESIGNED BY | | CHECKED BY | |
| Prepared by <i>George M. Davidson, Esq.</i> A CALIFORNIA CORPORATION 103 W. COURT ST. SUITE 200 SAN JOSE, CALIF. 95128 | | | |
| PROJECT NO. | 1011 | DATE | |
| CONCEPTUAL STORM WATER TREATMENT PLAN LANDS OF MARKOVITS & FOX INC. SAN JOSE, CALIFORNIA | | | |
| JOB NO. | 1709 | | |
| SHEET | 4.4 | | |

PDC 07-010

