

PLANNED DEVELOPMENT PERMIT AMENDMENT

FILE NO.	PDA07-090-02
LOCATION OF PROPERTY	West side of North First Street at River Oaks Place
ZONING DISTRICT	A(PD) Planned Development (PDC07-057)
GENERAL PLAN DESIGNATION	Industrial Park with Transit Employment Residential Overlay (55+ DU/AC)
PROPOSED USE	Planned Development Permit Amendment to to change the approved architecture and allow a reduction in the nubmer of units and associated improvements, on Parcel 4 of a six (6) Parcel mixed use development.
ENVIRONMENTAL STATUS	Environmental Impact Report found complete (North San José Policy Update EIR certified June 21, 2005 per City Council Resolution No 72768 – State Clearinghouse #2004102067)
OWNER	WTI, Inc. 3471 North First Street San José, CA 95134

FACTS

1. The project site has a designation of Industrial Park (IP) with Transit Employment Residential Overlay (55+ DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located within the North San José Area Development Policy area.
3. The project site is located in the A(PD) Planned Development Zoning District. The Planned Development Zoning (File No. PDC07-057) was reviewed by the City Council and approved with Ordinance No. 28256 adopted March 11, 2008.
4. A Planned Development Permit (File No. PD07-090) to allow for the construction of between 1,024 and 1,579 residential units, up to 45,000 square feet of commercial space, and a 5.1 acre public park was approved on April 4, 2008.
5. A Planned Development Permit Amendment (File No. PDA07-090-01) to revise the phasing for the project and allow for the demolition of existing industrial park office buildings, removal of existing trees, and grading for the project and associated improvements was approved on November 6, 2009.
6. The subject site is bounded by industrial park uses to the north (Pericom Semiconductor) and south across River Oaks Place (Valley Transportation Authority offices), North First Street to the east, and Guadalupe River to the west.

7. The project proposes to change the approved architecture and allow a reduction in the number of multi-family residential units from 297 to 271 and associated changes, on Parcel 4 of a six (6) Parcel mixed use development.
8. The project proposes the construction of 271 multi-family residential units on Parcel 4, which is a part of a six (6) Parcel development project.
9. In accordance with Section 20.100.900 of the San José Municipal Code, a Planned Development Permit Amendment is required.
10. The approval of this Planned Development Permit Amendment for 271 units reserves development capacity for those units as per the North San José Area Development Policy. Actual allocation of development capacity will be granted to the site upon issuance of Building Permits, at which time the Traffic Impact Fee is collected.

FINDINGS

With respect to the Planned Development Permit Amendment finding requirements (Section 20.100.940 of the San José Municipal Code), the Director of Planning finds that:

1. The Planned Development Permit Amendment, as issued, furthers the policies of the General Plan in that:
 - a. The zoning for the property is consistent with the General Plan Land Use Designation of Industrial Park (IP) with Transit Employment Residential Overlay (55+ DU/AC) and conforms to the North San José Area Development Policy criteria for prioritization of proposed residential conversions.
2. The Planned Development Permit Amendment, as issued, conforms in all respects to the Planned Development zoning of the property in that:
 - a. The building locations, setbacks, density, number of units, and parking spaces conform to the General Development Plan.
3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of the proposed building(s), structure(s) and other uses on-site are appropriate, compatible and aesthetically harmonious in that:
 - a. The architectural elements of the proposed structures are integrated into a harmonious whole.
 - b. The proposed project is architecturally compatible with existing and planned development in the area.
4. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water run off, and odor, which even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties in that:
 - a. An Initial Study was prepared in accordance with an addendum to the Final Environmental Impact Report (EIR) for the North San José Area Development Policies Update, which was certified and the project approved by the City Council in June 2005. The Initial Study evaluated impacts related to air quality, noise, cultural resources, geology, hydrology and hazardous materials. Based on the analysis in the Initial Study, it has been concluded that the North San José Area Development Policies Update Final EIR adequately addresses the environmental effects of the proposed project, and project would not result in significant environmental effects that are not already identified in the

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

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

Finally, based upon the above-stated findings and subject to the Conditions of Approval set forth below, the Director of Planning approves, pursuant to Part 8 of Chapter 20.100 (Planned Development Permits) of the San José Municipal Code, the revisions to the previously approved architecture and allow a reduction in the number of multi-family residential units from 297 to 271 on Parcel 4 and associated changes.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Planned Development Permit Amendment shall automatically expire 48 months from and after the date of issuance hereof by said Director, if within such 48 month period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provision of this Planned Development Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, The Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit. The reservation of development capacity allocated for this development as per the North San José Area Development Policy shall be cancelled upon the expiration of this Planned Development Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Previous Conditions.** All of the conditions of the previously approved Planned Development Permit, File PD07-090, and Planned Development Permit Amendment, File No. PDA07-090-01, shall remain unchanged and in full force and effect unless such conditions are specifically modified or deleted by this Amendment.
5. **Conformance with Previously Approved Zoning and Environmental Clearance.** All conditions of approval and required environmental mitigation measures from the previously approved Planned Development Zoning (file no. PDC07-057) remain in effect.
6. **Subsequent Planned Development Permit Amendment.** A Subsequent Planned Development Permit Amendment is required to add the 26 residential units that were removed from the

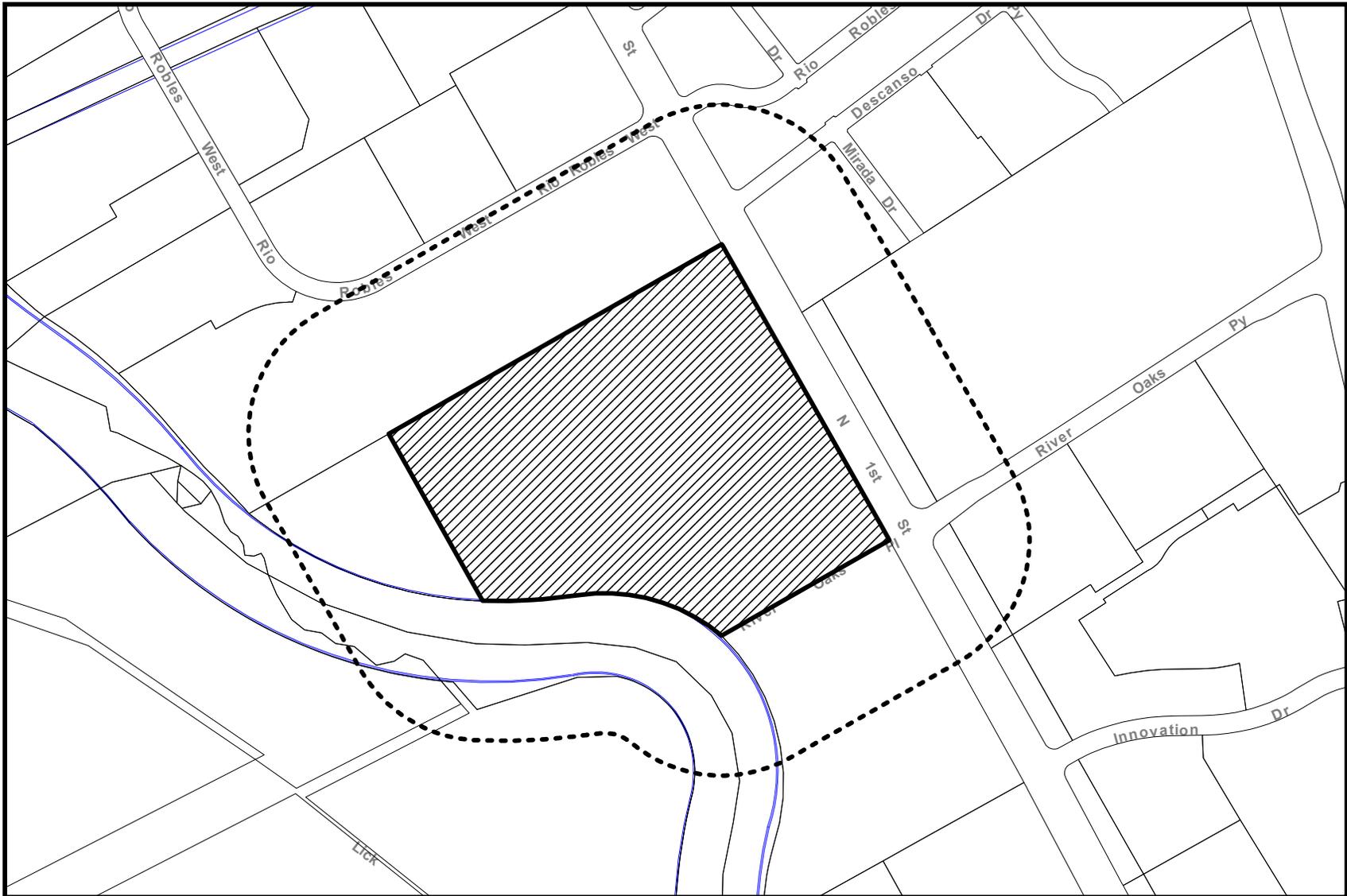
development on Parcel 4 to one of the other Parcels in the development in order to maintain the minimum number of units/density of the over all development.

7. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
8. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or conditions.
9. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Planned Development Permit Amendment in accordance with Chapter 20.100 of the San José Municipal Code.
10. **Conformance to Plans.** Development of the site shall conform to approved Planned Development plans entitled “Riverview Parcel 4, San Jose, California” dated and last revised on August 8, 2011, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
11. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set. Any changes in the materials or architectural elements shown shall require the approval of a Major Permit Adjustment.
12. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, PDA07-090-02, shall be printed on all construction plans submitted to the Building Division.
13. **Fire Department Requirements.** The project must conform to the requirements of the Fire Department at the plan review stage to the satisfaction of the Chief Building Official and the Fire Chief.

APPROVED and issued this 24th day of August, 2011.

Joseph Horwedel, AICP
Director, Planning, Building and Code Enforcement

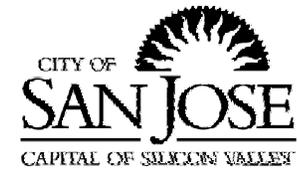
Deputy



File No: PDA07-090-02

District: 4

NOTICING RADIUS: 500 FEET



Prepared by the Department of Planning,
Building, and Code Enforcement
Date: 5/26/11