

## PLANNED DEVELOPMENT PERMIT AMENDMENT

<b>FILE NO.</b>	PDA07-006-04
<b>LOCATION OF PROPERTY</b>	Southeast Corner of Zanker Road and River Oaks Pkwy
<b>ZONING DISTRICT</b>	A(PD) Planned Development
<b>GENERAL PLAN DESIGNATION</b>	Industrial Park with Transit Employment Residential Overlay (55+ DU/AC)
<b>PROPOSED AMENDMENT</b>	Planned Development Permit Amendment to modify the Phasing Plan for the approved 1750 residential unit project on a 38.7 gross acre site originally approved with Planned Development Permit File No. PD07-006
<b>ENVIRONMENTAL STATUS</b>	Environmental Impact Report found complete (North San José Policy Update EIR certified June 21, 2005 per City Council Resolution No 72768 – State Clearinghouse #2004102067), and Addenda thereto.
<b>OWNER</b>	Irvine Company LLC
<b>ADDRESS</b>	110 Innovation Drive Irvine, CA 92617

This Amendment does not negate any of the findings required under Section 20.100.630 of the Zoning Ordinance, which were made part of the original Site Development Permit, since it does not alter the general character, use or intensity of the project approved under that permit.

### 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. PDC06-038) was reviewed by the City Council and approved with Ordinance No. 28108 adopted September 11, 2007.

4. The Master Planned Development Permit (File No. PD07-006) for the demolition of existing industrial buildings, removal of existing trees, and grading for up to 1,900 residential units, up to 15,000 square feet of commercial space, a 5-acre park, and associated improvements, was approved on December 7, 2007.
5. A Planned Development Permit Amendment (File No. PDA07-006-03) to reduce the maximum permitted number of residential units from 1,900 units to 1,750 units was approved on January 15, 2009.
6. This Planned Development Permit Amendment amends the Master Planned Development Permit related to the phasing of the overall development.
7. This Planned Development Permit Amendment does not provide for any specific phase of the project showing detailed project information including, but not limited to, a fully developed site plan, elevations, landscape plans, and information regarding unit count/type, required parking, site lighting, mechanical equipment screening, and green building measures. Planned Development Permit Amendments are required for each phase of the development to include the aforementioned details.

## FINDINGS

With respect to the Planned Development Permit Amendment finding requirements (Section 20.100.950 of the San José Municipal Code), the Director of Planning finds that:

1. The Planned Development Permit Amendment, as issued, does not negate any findings as required by Section of 20.100.940 with respect to the original approval for Planned Development Permit PD07-006.

Based upon the above-stated finding 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, a Planned Development Permit Amendment to modify the Development Phasing for the subject development.

## APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit Amendment.** 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 Amendment 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 amendment or other approval and the provisions of Title 20 applicable to such Permit Amendment.
2. **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 José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
4. **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.
5. **Permit Expiration.** This PD Permit Amendment, and corresponding reservation of North San Jose Development Capacity shall expire in the event Planned Development Permit Amendments are not submitted in accordance with Condition #6 of this Planned Development Permit Amendment
6. **Development Phasing.** To preserve the development capacity allocated for this development (1,750 units), Planned Development Permit Amendments must be submitted for each phase of development according to the following schedule:

<b>Development Phase</b>	<b>Planned Development Permit Amendment to be filed by:</b>	<b>Building Permit Application to be submitted by:</b>
Phase 1 (building 1)	April 2010	November 2010
Phase 2 (building 2)	May 2011	December 2011
Phase 3 (building 3)	August 2012	March 2013
Phase 4 (building 4)	November 2013	June 2014
Phase 5 (building 5)	February 2015	September 2015

Should any of the above required submittal dates for a Planned Development Permit Amendment not occur, the Director of Planning has the discretion to return the capacity allocated for the respective Phase to the pool for residential development in North San Jose. Additionally, should the submittal date for each respective Building Permit not occur, the Planned Development Permit Amendment associated with said phase will expire and the development capacity for such amendment will revert back to the pool.

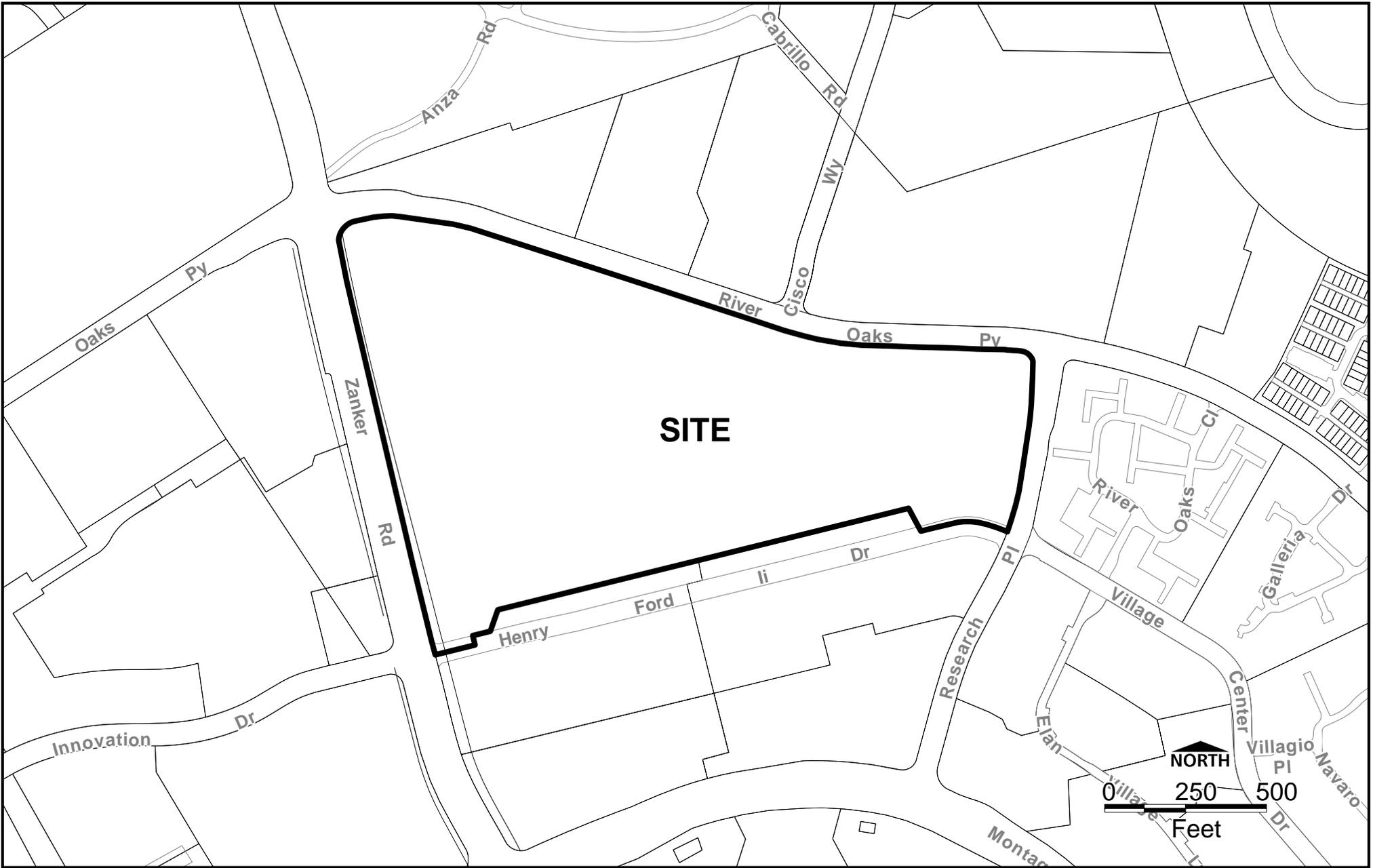
7. **Construction Commencement for Each Phase:** Construction for each Phase of development shall begin within 180 days of the issuance of the building permit for each respective phase in accordance with Section 24.02.340 of the San Jose Municipal Code. Should the building permit require an extension pursuant to Section 24.02.345 of the San Jose Municipal Code, construction must begin within the 180 days of the first extension of the building Permit or the Planned Development Permit Amendment associated with said phase will expire and the development capacity for such amendment will revert back to the pool.
8. **Traffic Impact Fee:** This condition supersedes Condition #15b.b of PD07-006. Consistent with North San José EIR, this project is required to pay a traffic impact fee. The 2007 fee is \$7,463.00 per single-family unit and \$5,971 per multi-family unit and subject to annual escalation of 3.3%. This fee must be paid prior to issuance building permits. Credits for existing structures on site will be applied to the traffic impact fee consistent with the North San Jose Area Development Policy and will be prorated with each building permits issued. No credits are allowed for residential units per the North San Jose Area Development Policy.
9. **Revocation.** This Planned Development Permit Amendment is subject to revocation for violation of any of its provisions or conditions.
10. **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.
11. **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. PDC06-038) remain in effect.
12. **Previous Conditions.** All of the conditions of the previously approved Planned Development Permit, File PD07-006, and Planned Development Permit Amendment, PDA07-006-03, shall remain unchanged and in full force and effect unless such conditions are specifically modified or deleted by this Amendment.

**APPROVED** and issued this **12th day of March, 2010.**

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

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Deputy



File No.: PDA07-006-04  
District: 4

### LOCATION MAP



Prepared by the Department of Planning,  
Building and Code Enforcement

11/03/2009