

TENTATIVE SUBDIVISION MAP

FILE NO. PT12-005

LOCATION OF PROPERTY West side of Old Oakland Road,
approximately 700 feet southerly of
Brokaw Road.

ZONING DISTRICT A(PD) Planned Development

PURPOSE OF MAP A Tentative Map Permit to allow for
the subdivision of the subject site into 6
lots on a 15.94 gross acre site.

TITLE OF MAP Brokaw Road and Old Oakland Road
Redevelopment
Tentative Map
Santa Clara County

DRAWN BY BKF Engineers

DATE OF MAP April 3, 2012

ENVIRONMENTAL STATUS Use of the Addendum to the Fox
Property General Plan Amendment
Environmental Impact Report (EIR),
File Nos. GP06-04-02 & PDC07-010.

OWNER/ADDRESS Markovits & Fox
c/o Fox Properties
14125 Capri Drive #43
Los Gatos, CA 95032

FACTS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. This subject site has a designation of Medium High Density Residential (12-25 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The site is zoned A(PD) Planned Development. The Planned Development Zoning (File No. PDC07-010) was reviewed by the City Council and approved with Ordinance No. 28876 adopted January 11, 2011.
3. The project site is located within the North San José Area Development Policy area.
4. The subject site is currently undeveloped, relatively flat land.
5. The subject lot contains approximately 15.94 gross acres and 10.85 net acres.

6. This requested Tentative Map proposes to subdivide the site into six (6) lots to allow for the development of 261 single-family attached residences.
7. An associated Planned Development Permit, File No. PD11-007, has been filed to facilitate this project.
8. An Initial Study completed for the proposed Planned Development Rezoning determined that the project will not have a significant effect on the environment and an Addendum to the Fox Property General Plan Amendment Environmental Impact Report (EIR) was prepared for the Planned Development Zoning, File No. PDC07-010. The Fox Property General Plan Amendment EIR was certified by the City Council on December 13, 2006 under File No. GP06-04-02, which covered subsequent development permits.

FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that:

1. The Director of Planning of the City of San José finds that the proposed 16 lot subdivision shown on the Tentative Map, subject to the conditions listed below and the requirements for project design and improvements is consistent with applicable General and Specific Plans of the City of San José.
2. The Director of Planning of the City of San José has considered the proposed subdivision shown on the Tentative Map, with the imposed conditions, to determine whether to make any of the findings set forth in subsections (a) through (g) of Section 66474 of the Government Code of the State of California. Based on that review, the Director of Planning of the City of San José does not make any such findings for the subject subdivision.
3. The environmental impacts of the project including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor, which, even if insignificant for the purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties. Any potential negative effects on adjacent property or properties have been addressed in that:
 - a. An Initial Study completed for the proposed Planned Development Rezoning (File No. PDC07-010) 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.
 - b. The project will not result in any reasonably foreseeable environmental impacts.
 - c. 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.
 - d. Mitigation measures were made a condition of the approval of the project.
 - e. A Mitigation Monitoring and Reporting Program was adopted for this project.

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. **Expiration of Permit.** This Tentative Map shall automatically expire 30 months from and after the date of issuance hereof by the Director of Planning of the city of San Jose. The date of issuance is the date this Permit is approved by the Director of Planning.
3. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
4. **Improvement Contract.** In the event subdivider has not completed the improvements required for his proposed subdivision at the time the final map is presented for approval, subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and provide the bonds and insurance mentioned therein.
5. **Public Use Easements.** Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Tentative Map for the subdivision to be devoted to such purposes.
6. **Conveyance of Easements.** Subdivider shall convey or cause to be conveyed to the City of San José, easements in and upon all areas as shown on the Tentative Map outside the boundaries of, but appurtenant to, the subdivision. Should a separate instrument be required for the conveyance of the easement(s), it shall be recorded prior to the recordation of the Parcel or Final Map. Such easements so conveyed shall be shown on the Parcel Map, together with reference to the Book and Page in the Official Recorder of Santa Clara County, where each instrument conveying such easements is recorded.
7. **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 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.

8. **Distribution Facilities.** Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
9. **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.
10. **Public Works Approval of Tract Map:** Prior to the approval of the Tract or Parcel map (if applicable) by the Director of Public Works, or the issuance of Building Permits, whichever occurs first, the applicant will be required to comply with all of the following conditions to the Director of Public Works' satisfaction. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.
 - a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. **Transportation:**
 - i. An area wide traffic impact analysis was prepared as part of the North San Jose Area Development Policy, adopted June 2005. Traffic impacts were identified and resulted in an area wide traffic impact fees. This project is covered under the North San Jose EIR.
 - ii. 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.
 - c. **Grading/Geology:**
 - i. A grading permit is required prior to the issuance of a Public Works Clearance.
 - ii. 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.
 - iii. 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.
 - iv. 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.

- v. All on-site storm drainage conveyance facilities and earth retaining structures shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval.
- d. **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.
- e. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- f. **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 2010-11 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.
- g. **Transportation Improvements:**
 - i. Remove up to 10' of existing median island nose on Brokaw Road at Brokaw / Oakland Road intersection.
 - ii. Construct new traffic signal at Oakland Road and "Street B". "Street B" should align with the existing driveway across the street.
 - iii. Install signal interconnect conduit and communications cable per City standard to interconnect the signal at Brokaw/Oakland and the new traffic signal.
 - iv. Install signal interconnect conduit and pull boxes per City standard along Oakland Road project frontage.
 - v. No parking shall be allowed along Old Oakland Road.
- h. **Street Improvements:**
 - i. Extend and reconstruct existing 21" sanitary sewer pipe in Oakland Road from onsite lateral to existing manhole near Brokaw and Oakland Road.
 - ii. Extend storm system along Oakland Road from onsite lateral to Brokaw Road. Provide 10-year storm calculations at improvement plan stage.

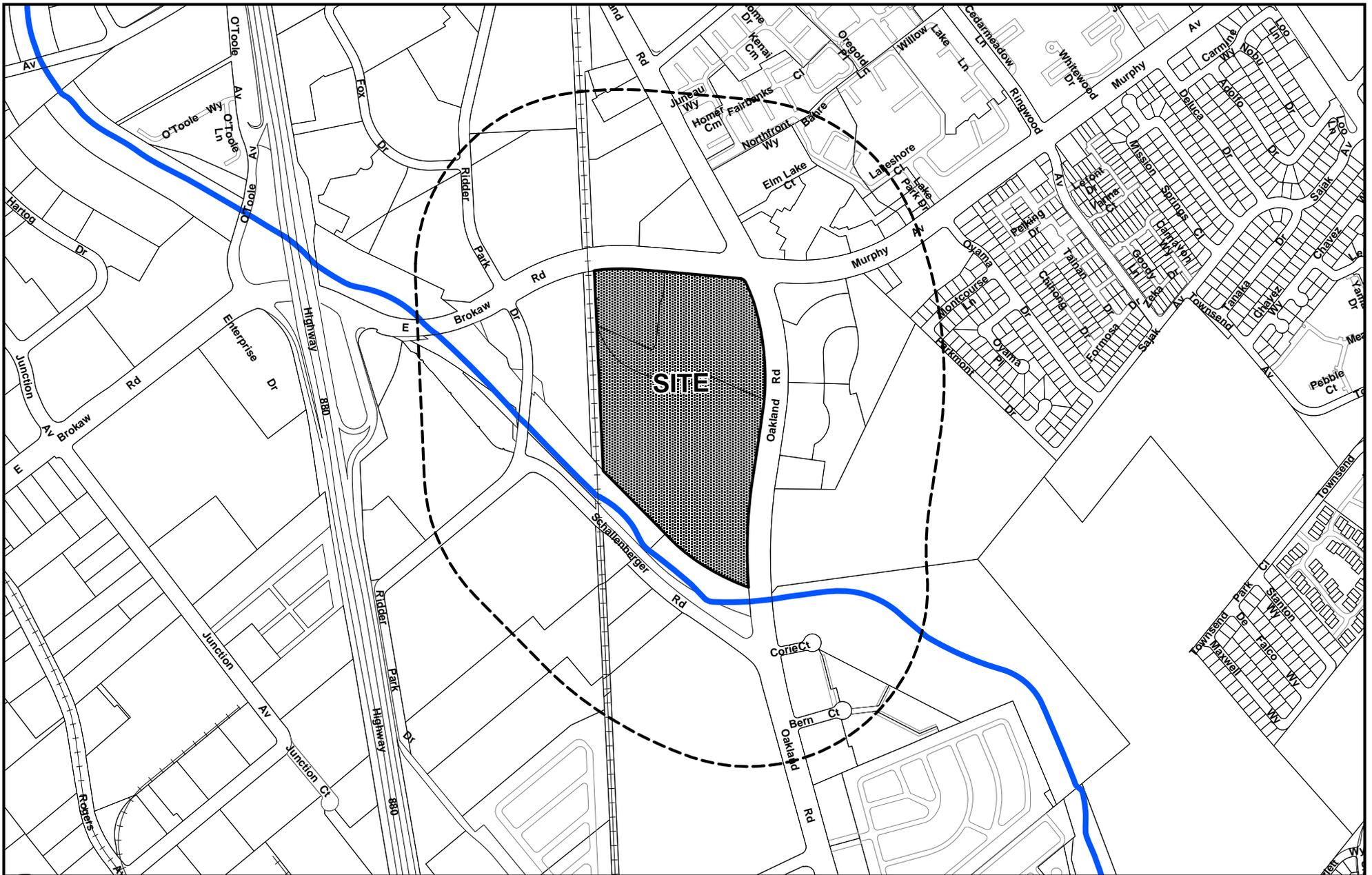
- iii. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - iv. Remove and replace broken or uplifted curb, gutter, and construct a 12' wide attached sidewalk along Oakland Road project frontage.
 - v. Close unused driveway cut(s).
 - vi. Install City standard handicap ramps with truncated domes at all four corners of Brokaw/Oakland Road intersection.
 - vii. All proposed public improvements shall conform to City standards.
 - viii. 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.
- i. **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.
 - j. **Private Streets:** Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
 - k. **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.
 - l. **Street Trees:**
 - i. The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
 - ii. Contact the City Arborist at (408) 277-2756 for the designated street tree.
 - iii. 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.
11. **Parks:** This residential project is subject to either 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) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within in the Subject Chapter and the Associated Fees and Credit Resolutions.
12. **Conformance with Other Permits.** The subject Tentative Map conforms to and complies in all respects with the Planned Development Zoning File Nos. PDC10-007 and the Planned Development Permit File No. PD11-007 on which such Planned Development Tentative Map is based. Approval of said Tentative Map shall automatically expire with respect to any portion of the lands covered by such Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Planned Development Permit for such lands automatically expires or for any reason ceases to be operative.

13. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. PD11-007 has expired and all appeals have been exhausted.
14. **Homeowner's Association and/or Maintenance District.** A Homeowner's Association or Maintenance District shall be established for maintenance of all common areas, including pedestrian walkways, easements, and landscaping, including private front yard landscaping, and landscaping in the public right-of-way that is not already in a maintenance district, etc. The applicant shall provide to the Homeowners Association a copy of the Tentative Map Permit, the accompanying Plan Set, any approved Amendments or Adjustments to the Development Permit, and a complete set of approved building and all improvement plans within 30 days of completion of each construction phase.
15. **Multiple Final Maps.** Multiple Final Maps may be filed for this subdivision if each and all of the following conditions are met with each Final Map:
 - a. All fees associated with development and a part of this approval shall be apportioned and paid for each portion of this subdivision for which a Final Map is being filed, including but not limited to Parkland Dedication, undergrounding of utilities, drainage, area and sewer treatment plan.
 - b. All public streets on which each Final Map has frontage are improved or bonded to be improved to the satisfaction of the Director of Public Works.
 - c. All grading, drainage and easements for drainage, adequate to protect each lot for which a Final Map is requested, and surrounding parcels, which could be impacted by such design or lack of design, shall be guaranteed to the satisfaction of the Director of Public Works.
 - d. Any and all off-site improvements necessary for mitigation of impacts brought about by this project shall be apportioned to the degree possible to guarantee adequate mitigation

APPROVED and issued on this **16th day of May, 2012.**

Joseph Horwedel, Director
Planning, Building, and Code Enforcement

Deputy



File No: PD11-007
District: 4

Noticing Radius: 1000 Feet



Prepared by the Department of Planning,
Building and Code Enforcement
02/24/2011