



CITY COUNCIL ACTION REQUEST

Department(s): Office of Economic Development and Cultural Affairs	CEQA: Not a Project, File No. PP17-008, General Procedure resulting in no changes to the physical environment.	Coordination: City Attorney's Office; City Manager's Budget Office; Parks, Recreation, and Neighborhood, Services; and Planning, Building, and Code Enforcement	Dept. Approval: /s/ Nanci Klein
Council District(s): 4			CMO Approval:  9/19/23

SUBJECT: TERMINATION OF DECLARATION OF CONDITIONS, COVENANTS, AND RESTRICTIONS FOR RIVER OAKS PARK

RECOMMENDATION:

Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Termination of Covenants, Conditions, and Restrictions applicable to River Oaks Park.

BASIS FOR RECOMMENDATION:

The City Manager was asked to sign a Termination of Covenants, Conditions, and Restrictions (CC&Rs) applicable to River Oaks Park by the developer, Valley Oak Partners LLC, to simplify the approval process for a residential development on a 9.7-acre site located at 211, 251, and 281 River Oaks Parkway; see **Attachment** - Map of Parcels within the 240-acre Boundary Area. Valley Oak Partners LLC filed a preliminary application to develop the site with 737 housing units, of which 132 units (18%) would be affordable. Valley Oaks Partners LLC would like to move forward and file a formal application. However, the private termination of the CC&Rs require that any property owner seeking to develop property within the River Oaks Park for residential purposes file both a formal Planned Development Zoning application and a Planned Development Permit application with the City. This process involves both Planning Commission and City Council review. Because the project lies within the City's Transit Employment Residential Overlay area, the City would not normally require the formal submittal of a rezoning application for this project, but would instead bring the project to a Planning Director's Hearing under a Site Development Permit application. This process involves substantially lower fees, a shorter/simpler process, and less entitlement risk.

The CC&Rs for River Oaks Park were written in 1990 to establish a planned industrial park which covers an area of approximately 240 acres. Most of the area is built out today with a mix of industrial and residential development. In the early 2000s, the City amended the General Plan and adopted the Transit Employment Residential Overlay land use designation which encourages residential use on a substantial portion of the properties that fall within the original 240-acre industrial park boundary, including the above-referenced sites on River Oaks Parkway that Valley Oaks Partners LLC seeks to develop.

To terminate the CC&Rs, 80% of the landowners must agree by signing the termination documents. The City of San José owns River Oaks Park, a 5.03-acre public property that fronts River Oaks Parkway directly across

the street from the two parcels that Valley Oak Partners LLC intends to develop. With inclusion of the City of San José, Valley Oak Partners LLC would be able to assemble enough consenting owners to formally terminate the CC&Rs.

In addition to the above-referenced zoning and permit requirements, the terms of the River Oaks Park CC&Rs prevent owners from developing or altering their properties unless they can obtain the approval of the declarant who established the CC&Rs in 1990. The declarant, Boston Properties, no longer owns property within the 240-acre boundary of River Oaks Park. In addition, the CC&Rs provide the declarant with the ability to review/disapprove the project over exterior design and appearance and to determine compatibility with other improvements. The CC&Rs were originally intended to provide the declarant with the ability to oversee the master development of 240 acres, giving them the design control to preserve land value through the sale and eventual development of all lands. Given the properties have now all been developed, the CC&Rs are considered obsolete. The various owners do not need the CC&Rs to regulate the use and operations of their property, nor their neighbor's property, as the City's zoning laws and other design standards fulfill this purpose.

Commission Recommendation/Input: No commission recommendation is associated with this action.

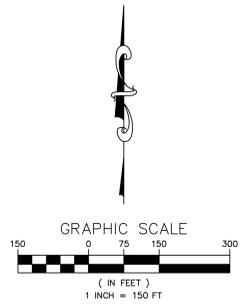
COST SUMMARY/IMPLICATIONS:

The proposed action would not result in any budget implications as residential use at the proposed density is currently allowed on this site.

FOR QUESTIONS CONTACT: Joe Sordi, Development Facilitation Officer, (408) 535-7903

Attachment: Map of Parcels within the 240-acre Boundary Area

Map of Parcels within the 240-acre Boundary Area



CURRENT PARCELS
BASED ON FATCO
DATATREE WEBSITE
AND APN MAPPING

PARCELS REMOVED
FROM ORIGINAL
CC&R'S BOUNDARY
BY AMENDMENTS

Civil Engineering Associates
Civil Engineers • Planners • Surveyors
28 Railway Avenue
Campbell, CA 95008
T: (408) 453-1066

**RIVER OAKS PARKWAY
CCR EXHIBIT - CURRENT PARCELS**
DATE: 6/12/2023 PROJECT NO: 23-123

SAN JOSE CALIFORNIA

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