

CITY COUNCIL AGENDA REPORT

September 18, 2018
Community Development

TITLE: INTRODUCE ORDINANCE AND RESOLUTION RESCINDING ORDINANCES NOS. 2172 AND 2178 AND RESOLUTIONS 17-976 AND 17-977 RELATED TO THE JOHNSON DRIVE ECONOMIC DEVELOPMENT ZONE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT, GENERAL PLAN AMENDMENT, PLANNED UNIT DEVELOPMENT REZONING (PUD-105) AND TRANSPORTATION FEE, TO ALLOW FOR ADDITIONAL ENVIRONMENTAL REVIEW

SUMMARY

Staff is recommending that the City Council adopt the attached Ordinance and Resolution to rescind previous Johnson Drive Economic Development Zone (JDEDZ) approvals to allow for additional environmental review pursuant to the requirements of the California Environmental Quality Act (CEQA), specifically in the areas of Air Quality and Economic Impacts. Pending the outcome of the additional environmental review, the JDEDZ may be reconsidered for approval by the Planning Commission and City Council.

RECOMMENDATION

Adopt the attached Ordinance and Resolution to rescind previous JDEDZ approvals.

BACKGROUND

The JDEDZ is a proposal that began in April 2014 to encourage investment in roughly 40 acres of underutilized and vacant land fronting I-680 along Johnson Drive at Stoneridge Drive. A 'citizens' initiative to prohibit retail uses of 50,000 square feet or greater (thereby eliminating large retailers like Costco) qualified for the November 2016 ballot but was defeated (approximately 63 percent of voters rejected the measure). The City Council subsequently approved the JDEDZ in December 2017 which included certification of a Supplemental Environmental Impact Report (SEIR), a General Plan Amendment, and a Planned Unit Development (PUD) Rezoning that included permitted and conditionally permitted uses, as well as development standards and design guidelines for the project area. Additionally, in early 2018, the City Council also adopted the JDEDZ Transportation Fee.

Following the City's certification of the SEIR and approval of the JDEDZ, "an unincorporated association" of persons calling themselves Pleasanton Citizens for Responsible Growth (the "Petitioners") filed a lawsuit asking the court to rescind the City Council's JDEDZ approvals. Petitioners alleged that the SEIR had an incomplete air quality analysis related to the Stoneridge Apartment Community (located on the west

side of I-680 near Stoneridge Mall). Petitioners also wanted the Economic Impact Analysis that determined that the new hotels, general retail, club retail (a Costco) and offices will not negatively impact other similar uses that exist in the community to be recirculated.

As Petitioners did not seek an injunction, the City still accepted and processed applications for projects consistent with the JDEDZ approvals.

Accordingly, on December 17, 2017, Costco submitted a Design Review application for construction of an approximately 148,613 square-foot club retail store with a detached fueling station and related site improvements. This application is currently incomplete pending a resubmittal from Costco addressing staff's comments from June 2018.

Additionally, on May 4, 2018, the City received a Design Review application for two new hotels (Springhill Suites and Towne Place Suites) totaling 231 rooms, a drive-through coffee shop and related site improvements. At its hearing on June 27, 2018, the Planning Commission approved this application. That approval was contingent on the resolution of the Petitioners lawsuit and any subsequent actions.

In addition to submitting its application to the City for a club retail store in the JDEDZ, Costco also joined with the City as a defendant in the lawsuit. Given the inherent delay associated with litigation, as well as the policy of CEQA to be broadly construed to maximize information available, the City and Costco have stipulated with Petitioners to rescind the JDEDZ approvals so that the requested supplemental environmental review can occur regarding the Stoneridge Apartment Community. Once this supplemental environmental review is complete, the new air quality analysis and the original Economic Impact Analysis will both be circulated for public comment. Then, the Planning Commission and City Council may consider reapproving the JDEDZ project.

Meanwhile, the Costco Design Review application and the Planning Commission Design Review approval for the hotels will remain on hold and no further applications will be considered nor permits issued within the JDEDZ project area. If the JDEDZ project is reapproved, these and any other projects within the JDEDZ project area may then proceed.

DISCUSSION

Environmental review associated with projects in California is often challenged¹. In 2009, the City faced a similar lawsuit challenging the environmental review in conjunction with the Staples Ranch development. In that case, the City reconsidered and reapproved the project after completing the necessary supplemental environmental review.

¹ There has been an average of 195 CEQA lawsuits per year since 2002 according to Ethan Eklund, Director of the Climate Change and Business Program, Berkeley and UCLA Schools of Law.

Under the agreement with Petitioners, the City and Costco have stipulated to rescind the JDEDZ approvals so that the requested supplemental environmental review can occur regarding the Stoneridge Apartment Community. Accordingly, staff has attached for consideration an ordinance (Attachment 1) and a resolution (Attachment 2) rescinding JDEDZ approvals for consideration. Attachment 1 rescinds the PUD Rezoning and the JDEDZ Transportation Fee while Attachment 2 rescinds certification of the SEIR and the General Plan Amendment. Because the Planning Commission Design Review approval for the hotels was made contingent pursuant to the outcome of the Petitioners lawsuit, staff has determined it is not necessary to separately rescind the hotel approval. Should the requested supplemental environmental review require new mitigation for the hotel project, the conditions of approval already allow for any necessary modifications to ensure compliance.

NEXT STEPS

The additional air quality analysis has already begun. Upon completion, the City will recirculate the revised air quality analysis and the Economic Impact Analysis for public comment. That public comment period would be 45 days. Subsequent to the public comment period, and assuming no new significant impacts are uncovered during the supplemental environmental review, staff intends to schedule the JDEDZ project for reconsideration by the Planning Commission and City Council in early 2019.

PUBLIC NOTICE AND COMMENTS

Notice of these applications were sent to surrounding property owners and tenants within a 1,000-foot radius of the site, all property owners and tenants within the Val Vista, Stoneridge, and North Muirwood neighborhoods, and to all interested parties that have contacted staff directly at the various JDEDZ community meetings/public hearings and/or by email/phone. Staff has provided the location and noticing maps as Attachment 3 for reference.

Submitted by:



Foaf Gerry Beaudin
Director of Community Development

Approved by:



Nelson Fialho
City Manager

Attachments:

1. Ordinance rescinding Ordinance Nos. 2172 and 2178
2. Resolution rescinding Resolution Nos. 17-976 and 17-977
3. Location and Notification Map

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLEASANTON RESCINDING ORDINANCES NO. 2172 RELATING TO THE PLANNED UNIT DEVELOPMENT (PUD) REZONING FOR THE JOHNSON DRIVE ECONOMIC DEVELOPMENT ZONE CASE PUD-105 AND ORDINANCE NO. 2178 RELATING TO THE JOHNSON DRIVE ECONOMIC DEVELOPMENT ZONE TRANSPORTATION FEE

WHEREAS, in April of 2014 the City established an Economic Development Zone Program to designate opportunity sites that could be redeveloped with uses that would add value to properties and promote long-term economic stability for the community. As part of this program, the City initiated a pilot economic development zone on an approximately 40-acre area near the intersection of Johnson Drive and Stoneridge which became the Johnson Drive Economic Development Zone (JDEDZ); and

WHEREAS, after numerous community meetings, as well as public hearings before the Economic Vitality Committee, Planning Commission and City Council from 2014 to 2017, on November 7, 2017, the City adopted Ordinance No. 2172 approving a Planned Unit Development (PUD) rezoning for the Johnson Drive Economic Development Zone Case PUD-105, and on May 15, 2018 the City establishing Ordinance No. 2178 Adopting the Johnson Drive Economic Development Zone Transportation Fee; and

WHEREAS, the Supplemental Environmental Impact Report (SEIR) was subsequently challenged as not being adequate in the matter of *Pleasanton Citizens for Responsible Growth v. City of Pleasanton et al*; and

WHEREAS, the City has stipulated to take no action in reliance on Ordinance Nos. 2172 and 2178, to set aside those ordinances, perform additional environmental review to supplement the existing SEIR analysis and to provide more information to the public and decision-makers.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLEASANTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Rescinds Ordinance No. 2172 approving a Planned Unit Development (PUD) Rezoning for the Johnson Drive Economic Development Zone Case PUD-105 and Ordinance No. 2178 establishing the Johnson Drive Economic Development Zone Transportation Fee.

Section 2. A summary of this ordinance shall be published once within fifteen (15) days after its adoption in "The Valley Times", a newspaper of general circulation published in the City of Pleasanton, and the complete ordinance shall be posted for fifteen (15) days in the City Clerk's office within fifteen (15) days after its adoption.

Section 4. This ordinance shall be effective thirty (30) days after its passage and adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Pleasanton on September 18, 2018 by the following vote.

Ayes:
Noes:
Absent:
Abstain:

Jerry Thorne, Mayor

ATTEST:

Karen Diaz, City Clerk

APPROVED AS TO FORM:

Daniel G. Sodergren, City Attorney

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLEASANTON RESCINDING RESOLUTION NOS. 17-976 AND 17-977 RELATING TO THE JOHNSON DRIVE ECONOMIC DEVELOPMENT ZONE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT AND GENERAL PLAN AMENDMENT

WHEREAS, in April of 2014 the City established an Economic Development Zone Program to designate opportunity sites that could be redeveloped with uses that would add value to properties and promote long-term economic stability for the community. As part of this program, the City initiated a pilot economic development zone on an approximately 40-acre area near the intersection of Johnson Drive and Stoneridge which became the Johnson Drive Economic Development Zone (JDEDZ); and

WHEREAS, after numerous community meetings, as well as public hearings before the Economic Vitality Committee, Planning Commission and City Council from 2014 to 2017, on November 7, 2017, the City Council adopted Resolution No. 17-976 certifying the Supplemental Environmental Impact Report for JDEDZ, and Resolution No. 17-977 adopting an amendment to the General Plan to Change Land Use Designation for the JDEDZ; and

WHEREAS, the Supplemental Environmental Impact Report (SEIR) was subsequently challenged as not being adequate in the matter of *Pleasanton Citizens for Responsible Growth v. City of Pleasanton et al*; and

WHEREAS, the City has stipulated to take no action in reliance on Resolution Nos. 17-976 or 17-977, to set aside those resolutions, perform additional environmental review to supplement the existing SEIR analysis, and to provide more information to the public and decision-makers.

NOW, THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF PLEASANTON DOES RESOLVE, DECLARE, DETERMINE AND ORDER THE FOLLOWING:

SECTION 1. Rescinds Resolution No. 17-976 certifying Supplemental Environmental Impact Report for Johnson Drive Economic Development Zone and Resolution No. 17-977 adopting an amendment to the General Plan to Change Land Use Designation for approximately 40 acres known as Johnson Drive Economic Development Zone.

SECTION 2. This resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Pleasanton at a regular meeting held on September 18, 2018.

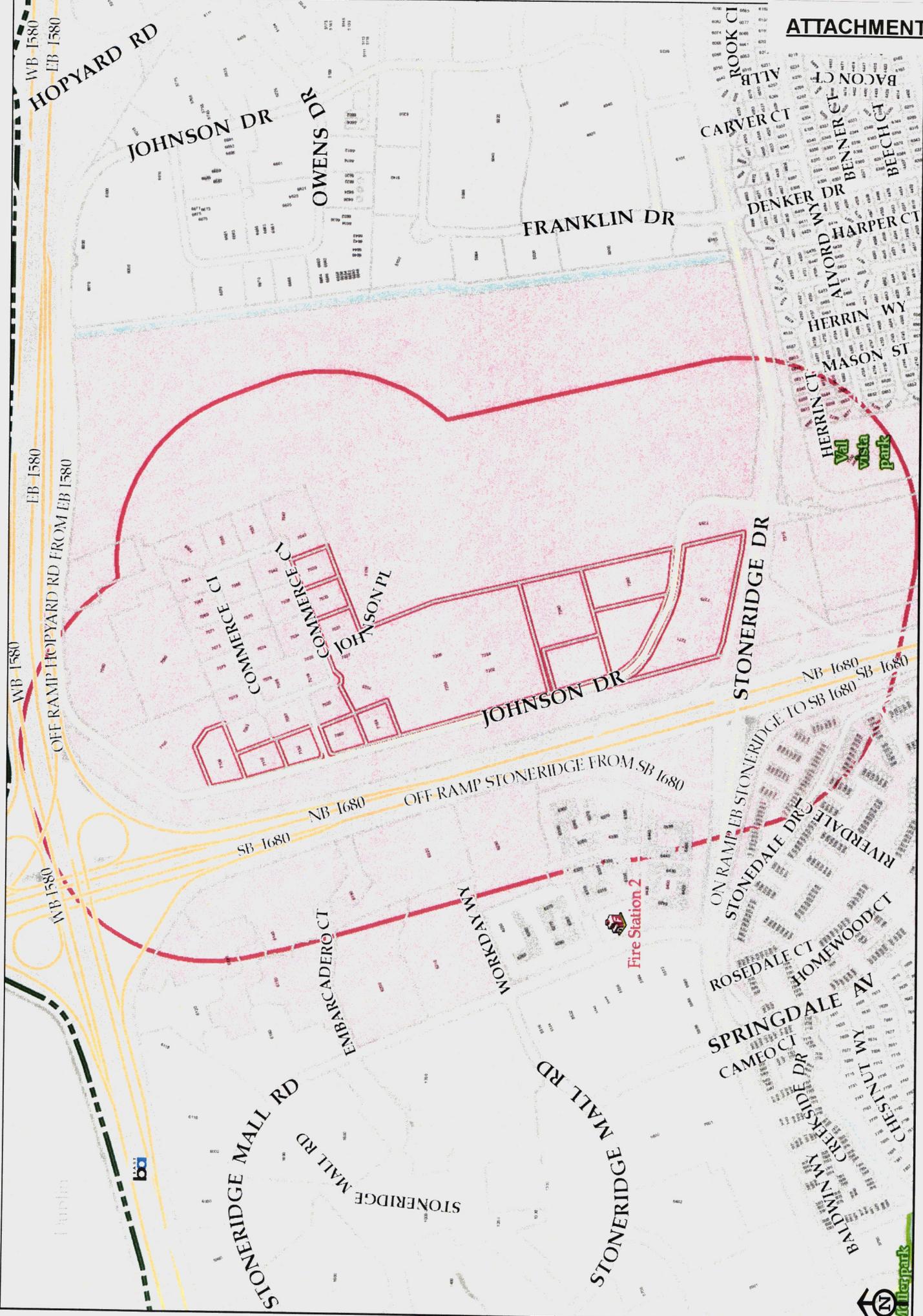
I, Karen Diaz, City Clerk of the City of Pleasanton, California, certify that the foregoing resolution was adopted by the City Council at a regular meeting held on September 18, 2018, by the following vote:

Ayes:
Noes:
Absent:
Abstain:

Karen Diaz, City Clerk

APPROVED AS TO FORM:

Daniel G. Sodergren, City Attorney



PUD-105/P14-0852, Johnson Drive EDZ