



Staff Report

Date: September 27, 2016

To: City Council

From: Valerie J. Barone, City Manager

Reviewed by: Victoria Walker, Director of Community and Economic Development

Prepared by: Laura Simpson, Planning Manager
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Subject: **Considering a motion of the City Council to initiate an application to rezone six properties west of Port Chicago Highway and north of Bates Avenue from Office Business Park (OBP) to Industrial Business Park (IBP.)**

A motion to initiate a Rezoning Application does not constitute a “project” pursuant to the California Environmental Quality Act (CEQA) Sections 15352 and 15378, and Public Resources Code Section 21080(a).

Report in Brief

Five of the owners of six adjacent properties located west of Port Chicago Highway and north of Bates Avenue have approached the City to potentially modify the existing zoning of their parcels from Office Business Park (OBP) to Industrial Business Park (IBP); one owner, Dennis E. Baca, who owns the property located at 5135 Port Chicago Highway has not submitted a signed application (Attachment 1). In order to proceed with a Rezoning application that applies to properties not owned by all the applicants, Concord Development Code Section §18.455.020 requires either a petition of 50 residents or a motion from the City Council or Planning Commission. As discussed further below, Conco Commercial (on behalf of five of six property owners) requests the City Council grant a motion to permit all six properties to proceed with the proposed rezoning application. The application would be analyzed and brought forward for Planning Commission and City Council consideration at a future date.

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Recommended Action

Staff recommends that the City Council pass a motion to initiate the rezoning of six adjacent properties from OBP to IBP. These properties are: 5147/5151 Port Chicago Highway) (Gonsalves & Santucci, Inc. aka: Conco Commercial), 5143 Port Chicago Highway (Norseman 5143 LLC), 5135 PCH (Dennis E. Baca), 5121 Port Chicago Highway (Hnc Investment Partners, LLC), 5111 PCH (Majestic Floors, Inc.), and 5101 Port Chicago Highway (Richard N Reese Family LLC).

Background

The *Concord 2030 General Plan* was adopted in 2007, followed by a comprehensive update of the City's Development Code, including zoning designations, adopted in August, 2012. Due to the size and scale of both projects, it was expected that amendments would be needed from time to time following implementation. City staff has undertaken a number of "clean-up" amendments over the past few years in order to be responsive to the needs and interests of the community and to resolve any potential issues. These amendments are reviewed for recommendation by the Planning Commission and ultimately considered for adoption by the City Council.

As part of the City-wide changes to the Development Code and zoning map in 2012, the six properties in question were rezoned, along with other industrial properties in this area, from Planned District (PD) to Office Business Park (OBP). The PD District allowed outdoor storage and the new OBP zoning does not allow outdoor storage. Six of the parcels affected by that 2012 rezone are the subject of the current rezone request and all are on Port Chicago Highway , north of Bates Avenue, as follows: 5147/5151 Port Chicago Highway (Gonsalves & Santucci, Inc. aka: Conco Commercial), 5143 Port Chicago Highway (Norseman 5143 LLC), 5135 Port Chicago Highway (Dennis E. Baca), 5121 Port Chicago Highway (Hnc Investment Partners, LLC), 5111 Port Chicago Highway (Majestic Floors, Inc.), and 5101 Port Chicago Highway (Richard N Reese Family LLC). (See Attachment 1)

Conco Commercial, who submitted the rezone application and took the lead on securing signed applications from the property owners to the south of their property, also owns 5141 Commercial Circle and the property behind it at 5161 Port Chicago Highway. Conco's offices are at 5141 Commercial Circle and they currently use the 5161 Port Chicago Highway site for outdoor storage. Even though 5161 Port Chicago Highway is zoned OBP, outdoor storage can continue to occur on this property since it is considered to be a prior or "grandfathered" use. Properties are required to terminate non-conforming uses if discontinued for a continuous period 365 calendar days in accordance with Concord Development Code Section §18.530.040, Loss of Nonconforming Status.

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Conco's property at 5147/5151 Port Chicago Highway had most recently been leased by American Medical Response (AMR) for vehicle parking of ambulances, and that use vacated the property in May 2016. Fleet vehicle parking was only permitted in association with previous the emergency vehicle use. Outdoor storage is not allowed in the OBP District. Conco is interested in a prospective new tenant to lease the properties at 5161 and 5147/5151 Port Chicago Highway. The prospective new lease hold company is a commercial use that would require outdoor storage of construction equipment and possibly some construction materials. The new tenant plans to utilize the office space at 5147/5151 Port Chicago Highway and would store their equipment on both parcels.

Properties south of Conco are accessed from Port Chicago Highway and have parking and storage capabilities behind the buildings, and in one case (5101 Port Chicago Highway), on the side of the existing industrial building. The property at 5143 Port Chicago Highway is being leased to a construction company that stores some equipment and materials behind the building; 5135 Port Chicago Highway is currently vacant; 5121 Port Chicago Highway is partly vacant and occupied by a printing company, which has some materials stored behind the building; 5111 Port Chicago Highway is occupied and owned by Majestic Floors Inc. who uses a small area of the building for storage; and 5101 Port Chicago Highway is occupied by Standard Plumbing Supply that utilizes a fenced area for outdoor storage of materials, also currently a "grandfathered" use.

Conco made a good faith effort to contact the five adjacent property owners to the south suggesting they serve as co-applicants and received signed applications from all owners with the exception of 5135 PCH owned by Dennis E. Baca. Mr. Baca's parcel is located in the center of the adjacent parcel, and excluding it from the application would not make sense from a land use perspective, as it is similar in development, condition and access as the other five parcels. Further, there is no indication that Mr. Baca would be averse to the rezoning, although he does not wish to serve as a co-applicant.

Conco proceeded to submit applications in July 2016 requesting a zone change from OBP to IBP for five of the six parcels, however as per Concord Development Code Section §18.455.020, they are unable to initiate their application to include Baca parcel without a motion from the City Council.

Analysis

A City Council motion to initiate the proposed rezone request from Conco, Norseman, Hnc Investment Partners LLC, Majestic Floors Inc., and Richard N. Reese Family LLC (Dennis E. Baca – no signature) enables the rezoning request to be initiated for all six properties. It is not an approval of the rezoning.

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Conco had originally proposed to only submit a rezoning application for their 5147/5151 Port Chicago Highway property to allow outdoor storage. City staff noted that a rezoning for this one property which is surrounded by OBP zoned properties, would result in “spot zoning” in this area, which is not allowed. However, staff investigated the area and noted that the six adjacent properties proposed for rezoning share a number of similarities that make this area appropriate for the Industrial Business Park zoning.

These parcels are all located north of Bates Avenue and are accessed from the farther end of Port Chicago Highway. The parcels are all smaller sized, and are located at the perimeter of the OPB district. They are developed with similar lower density, smaller lot building types that support a less intensive industrial business park use. The six parcels proposed to be rezoned are also adjacent to the Mt. Diablo Creek area, where development is limited due to environmental requirements and setbacks.

No residential properties are located within the boundaries or vicinity of the proposed applications and all existing businesses are industrial in nature. Once the applications are made, planning staff will notify all of the affected and surrounding property owners and conduct a thorough analysis of the overall proposal. This application will be considered for recommendation by the Planning Commission and by the City Council for consideration of adoption at a publically noticed meeting held at a future date.

Financial Impact

A motion to allow the rezoning application to proceed will have a negligible fiscal impact on the City. Any required fees necessary to process and review the proposed projects will be paid by the respective applicants.

Environmental Determination

All future project applications resulting from the City Council’s motion will be evaluated in accordance with CEQA. A motion to initiate an application not a “project” under CEQA as it does not commit the City to a definite course of action or constitute a discretionary approval to rezone the subject parcels, pursuant to CEQA Guidelines Sections 15352 and 15378, and Public Resources Code Section 21080(a) .

Public Contact

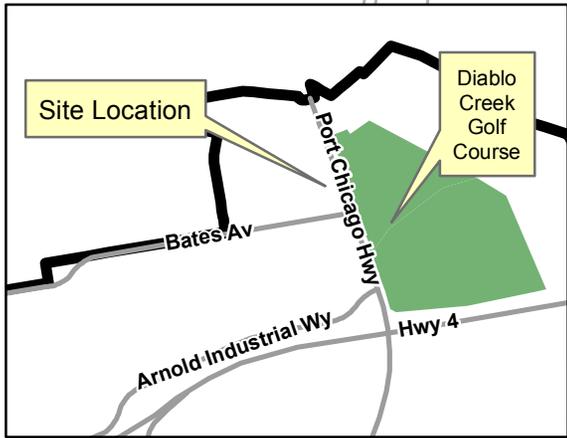
All appropriate public notices of this agenda item have been posted. Should the City Council approve this motion and the rezoning applications proceed as planned, as per the requirements of the Municipal Code, the City will post an advertisement in the local newspaper and all businesses, residents, and property owners in and around the areas proposed for amendment will be notified by mail prior to all neighborhood meetings and public hearings.

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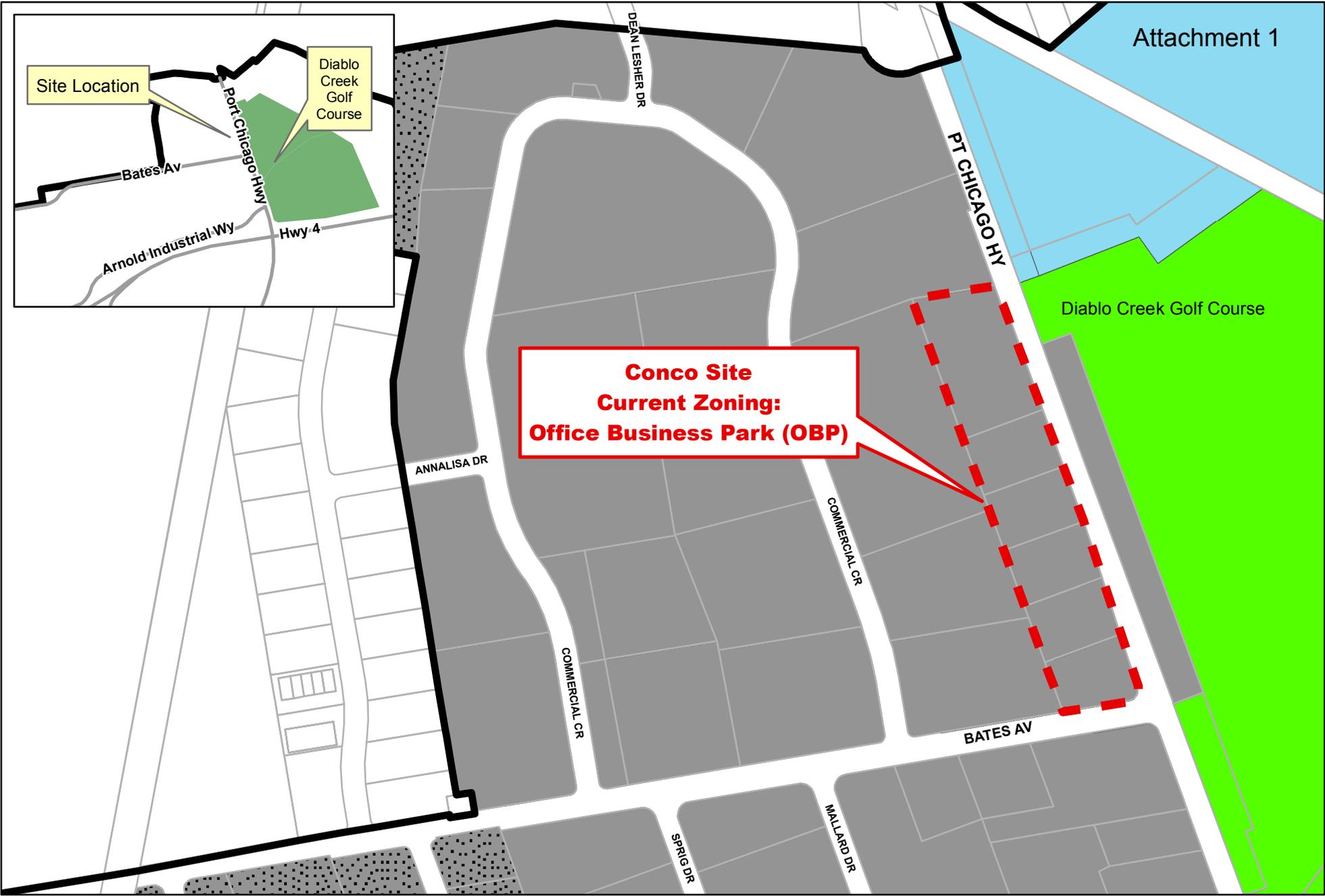
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Attachments

1. Map Exhibit: Current Zoning of Proposed Area for Amendment
2. Map Exhibit: Proposed Zoning of Proposed Area for Amendment



Conco Site
Current Zoning:
Office Business Park (OBP)



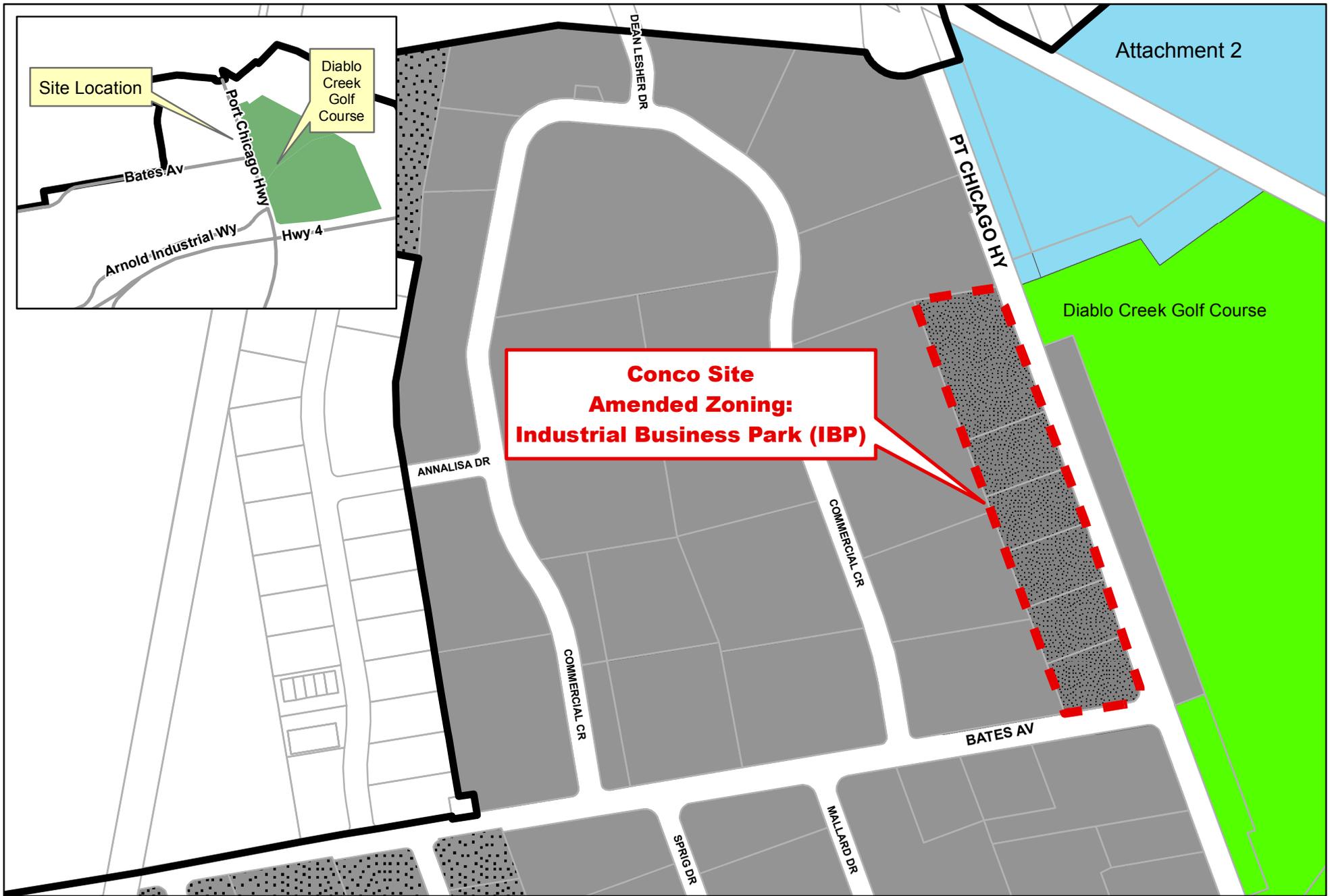
Legend



City Limit

Planning Land Use Zones

- | | | | | |
|----------------------------------|----------------------------|--------------------------|---------------------------|--------------------------------|
| Single Family Residential (RS6) | North Todos Santos (NTS) | Regional Commerical (RC) | Downtown Mixed Use (DMX) | Office Business Park (OBP) |
| Residential, Medium Density (RM) | Community Office (CO) | Service Commerical (SC) | Public/Quasi-Public (PQP) | Industrial Business Park (IBP) |
| Residential, High Density (RH) | Commercial Mixed Use (CMX) | Downtown Pedestrian (DP) | Parks and Recreation (PR) | Open Space (OS) |



Legend



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Amended Planning Land Use Zones