COUNCIL AGENDA: 2/26/08
ITEM: 4.3

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: January 17, 2008

COUNCIL DISTRICT: 10
SNI AREA: N/A

SUBJECT: GP07-10-01. GENERAL PLAN AMENDMENT REQUEST TO CHANGE THE LAND USE/TRANSPORTATION DIAGRAM DESIGNATION FROM VERY LOW DENSITY RESIDENTIAL (2 DU/AC) TO MEDIUM LOW DENSITY RESIDENTIAL (8 DU/AC) ON A 1.82-ACRE SITE LOCATED ON THE EAST SIDE OF ALMADEN EXPRESSWAY APPROXIMATELY 300 FEET NORTHERLY OF FLEETWOOD DRIVE.

RECOMMENDATION

The Planning Commission voted 6-0-1, with Commissioner Platten absent, to recommend that the City Council continue processing of the General Plan Amendment request..

OUTCOME

The City Council has the option to either deny or direct staff to continue processing of the proposed General Plan Amendment. Should the City Council deny the General Plan Amendment, the existing General Plan Land Use/Transportation Diagram designation of Very Low Density Residential (2 DU/AC) would remain.

Should the City Council request continued processing of the proposed General Plan Amendment, staff would complete environmental review and return to public hearings.

BACKGROUND

When a proposed land use Amendment to the San José 2020 General Plan is inconsistent with adopted Council policies, or the applicant has not submitted the environmental documentation necessary for the City to complete environmental clearance in conformance with the California Environmental Quality Act (CEQA), the Administration may bring the Amendment to the Planning Commission for consideration of a denial recommendation to the City Council. This approach provides an opportunity for the Planning Commission and City Council to consider identified policy issues as well as the lack of responsiveness by the applicant and to determine (1) whether such an application should be denied based upon those inconsistencies and

inadequacies prior to completion of environmental review, or (2) whether any such application should be directed for complete processing, including environmental review.

A Planning Commission recommendation and Council direction in the processing of such Amendments could potentially save applicants and the City time and money by providing a decision of denial prior to the applicant's submittal of documents required to complete environmental clearance. A Council decision to direct staff to complete processing for later consideration during a General Plan Amendment public hearing would in no way indicate how the Council might ultimately vote upon that Amendment during that hearing – such a decision would indicate only that the Council is not opposed to considering such a proposal with complete environmental review at a later date.

On January 16, 2008, the Planning Commission held a public hearing to consider denial or continued processing of a General Plan Amendment request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Medium Low Density Residential (8 DU/AC) on a 1.82-acre site. The Director of Planning recommended denial of the proposed project.

Staff gave a brief description of the project and indicated that the project is inconsistent with the General Plan Sustainable City Major Strategy because conversion of the site to allow residential uses up to 8 DU/AC would threaten the viability of a vibrant riparian corridor. In addition, staff commented that the project site currently takes access from Almaden Expressway, and Santa Clara County Roads and Airports staff have stated that no further access opportunities will be available, so that an alternate access route would be required with redevelopment of the property. Staff confirmed that all available access alternatives present design challenges. Staff also stated the current General Plan text identifies this site as a site where the existing land use designation of Very Low Density Residential (2 DU/AC) is applicable and appropriate.

The applicant, Tom Mazzone, was present and requested that the Planning Commission continue processing of the application. No members of the public spoke on this item. The Planning Commission then closed public hearing.

Commissioner Zito asked staff if the access issues would remain the same with a project at 2 DU/AC versus a project at 8 DU/AC. Staff responded that the access issues could potentially be similar, but that no engineering work had been done. Chair Kalra asked staff if the access discussion from the recent Jayden Lane rezoning (PDC06-070) had been incorporated into this project discussion. Staff responded that ongoing detailed discussion is occurring pertaining to access and the access options presented by the Jayden Lane rezoning. Staff also stated that the deceleration/acceleration lane from Almaden Expressway, for which the City Council encouraged further study after the Jayden Lane zoning, had been the assumed access for the subject site until the Santa Clara Valley Water District presented the issue of above-ground utilities that could impact the feasibility of such a road.

Commissioner Kamkar asked if staff was being consistent in terms of the implementation of the riparian policy between the subject project and the Jayden Lane project. Staff responded that the Jayden Lane zoning was approved with a 75-foot setback from the riparian edge, but that no

General Plan Amendment was requested by the Jayden Lane applicants, and that the project was approved at 6.9 DU/AC, less than the maximum allowed by that site's General Plan designation of Medium Low Density Residential (8 DU/AC).

Commissioner Zito asked is there is a General Plan Land Use/Transportation Diagram designation with a density range between Very Low Density Residential (2 DU/AC) and Medium Low Density Residential (8 DU/AC). Staff responded that Low Density Residential (5 DU/AC) was in between. Commissioner Zito stated that 5 DU/AC may be a more appropriate designation.

Commission Campos made a motion to continue processing of the General Plan Amendment request. Commissioner Zito seconded the motion, and stated that the Planning Commission is concerned with riparian issues, and would like to see the applicant return with something below 8 dwelling units per acre. The Planning Commission voted 6-0-1, with Commissioner Platten absent, to recommend that the City Council continue processing of the General Plan Amendment request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Medium Low Density Residential (8 DU/AC) on a 1.82-acre site.

ANALYSIS

See attached staff report.

EVALUATION AND FOLLOW-UP

Not Applicable.

POLICY ALTERNATIVES

Not Applicable.

PUBLIC OUTREACH/INTEREST

- ☐ **Criteria 1**: Requires Council action on the use of public funds equal to $1 million or greater.
  (Required: Website Posting)
- ☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30; Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

COORDINATION

This project was coordinated with the Department of Public Works, Fire Department, Police Department, Environmental Services Department and the City Attorney.

FISCAL/POLICY ALIGNMENT

This project is not consistent with applicable General Plan policies as further discussed in attached staff report.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

Incomplete: Pursuant to Section 15270 of the CEQA Guidelines, CEQA does not apply to projects that a public agency rejects or disapproves, or on which no approval action is being taken.

Susan Walton
for JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Jeannie Hamilton at 408-535-7800.

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, California 95113-1905

EARLY CONSIDERATION OF GENERAL PLAN AMENDMENT STAFF REPORT JANUARY 2008

Hearing Date/Agenda Number:	P.C. 1/16/08 Item: 5.a. C.C. 2/5/08
File Number:	GP07-10-01
Council District and SNI Area:	District 10 / None
Major Thoroughfares Map Number:	141
Assessor's Parcel Number(s):	696-01-020
Project Manager:	Licínia McMorrow

PROJECT DESCRIPTION: GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Medium Low Density Residential (8 DU/AC) on a 1.82-acre site.

LOCATION: East side of Almaden Expressway approximately 300 feet northerly of Fleetwood Drive (6082 Almaden Expressway)

ACREAGE: 1.8 acres

APPLICANT/OWNER: R. Tom Mazzone, Owner and Applicant

GENERAL PLAN LAND USE / TRANSPORTATION DIAGRAM DESIGNATION:

Existing Designation: Very Low Density Residential (2 DU/AC)

Proposed Designation: Medium Low Density Residential (8 DU/AC)

EXISTING ZONING DISTRICT(S): A Agricultural

SURROUNDING LAND USES AND GENERAL PLAN DESIGNATION(S):

North: Golf Creek, Public Park and Open Space

South: Santa Clara Valley Water District pipeline, Very Low Density Residential (2 DU/AC)

East: Alamitos Creek, Public Park and Open Space

West: Almaden Expressway and Golf Creek, Public Park and Open Space

ENVIRONMENTAL REVIEW STATUS: **Incomplete.**

PLANNING STAFF RECOMMENDATION:

No change to the existing General Plan land use designation of Very Low Density Residential (2 DU/AC) on the entire site.

Approved by: Andrew Crabtree
Date: 12-18-07

PLANNING COMMISSION RECOMMENDATION:

CITY COUNCIL ACTION:

CITY DEPARTMENT AND PUBLIC AGENCY COMMENTS RECEIVED:

Correspondence from various City departments addressing specific development issues regarding the future residential use of the property is attached to this staff report and will be considered if the project continues through the process.

GENERAL CORRESPONDENCE:

None.

RECOMMENDATION

Denial without Environmental Clearance

- **Staff recommends no change to the General Plan Land Use/Transportation Diagram designation of Very Low Density Residential (2 DU/AC) on the subject site** (i.e., denial of the proposed amendment to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Medium Low Density Residential (8 DU/AC) because of substantial inconsistency of the General Plan amendment request with adopted policies in the *San José 2020 General Plan.*
- **Environmental clearance is incomplete for this application.** The Planning Commission has the following options to recommend to the City Council: (1) denial of the proposed General Plan amendment; or (2) direct staff to continue processing the application and complete environmental review for consideration of the amendment at a later General Plan hearing.

INTRODUCTION

When a proposed land use amendment to the San José 2020 General Plan is inconsistent with adopted Council policies, or the applicant has not submitted the environmental documentation necessary for the City to complete environmental clearance in conformance with the California Environmental Quality Act (CEQA), the Administration may bring the amendment to the Planning Commission for consideration of a denial recommendation to the City Council. This approach provides an opportunity for the Planning Commission and City Council to consider identified policy issues as well as the lack of responsiveness by the applicant and to determine (1) whether such an application should be denied based upon those inconsistencies and inadequacies prior to completion of environmental review, or (2) whether any such application should be directed for complete processing, including environmental review.

A Planning Commission recommendation and Council direction in the processing of such amendments could potentially save applicants and the City time and money by providing a decision of denial prior to the applicant's submittal of documents required to complete environmental clearance. A Council decision to direct staff to complete processing for later consideration during a General Plan Amendment public hearing would in no way indicate how the Council might ultimately vote upon that amendment during that hearing – such a decision would indicate only that the Council is not opposed to considering such a proposal with complete environmental review at a later date.

PROJECT DESCRIPTION

This is a privately initiated General Plan amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Medium Low Density Residential (8 DU/AC) on a 1.82-acre site located on the East side of Almaden Expressway approximately 300 feet northerly of Fleetwood Drive (6082 Almaden Expressway). Approval of the proposed General Plan amendment to Medium Low Density Residential (8 DU/AC), and a subsequent re-zoning to a Planned Development Zoning District could allow up to 10 single-family detached residential units. This resulting net maximum allowable residential density would be approximately 6 DU/AC because of a no-build PG&E easement existing on the south side of the property.

The site's existing Very Low Density Residential (2 DU/AC) land use designation allows half-acre residential lots. In areas planned for this density, the designation is based upon topographical or geologic considerations. As stated in the General Plan, in Almaden, this designation also applies generally to areas near creeks, and to areas that are subject to ground failure from liquefaction. Typically, on a given parcel designated Very Low Density Residential (2 DU/AC), sufficient unaffected area may be found to sustain an overall density of two units per acre.

The Medium Low Density Residential (8 DU/AC) designation proposed by the applicant is typified by the 6,000 square-foot subdivision that is prevalent in San Jose. It is characteristic of many residential neighborhoods, and is the density at which the majority of San Jose's single-family housing has been built.

An associated Planned Development Zoning (PDC07-058) has been filed on this site to allow up to thirteen (13) single-family detached residences. This zoning application proposes very small lot single-family units (between 2,240 and 4,540 square feet in size) and a site design that is highly inconsistent with the development pattern in the area. This proposed zoning would be presented in a staff report to Planning Commission at a future date if the proposed General Plan amendment were approved. In addition, the pending Planned Development Zoning application proposes no significant setback from Golf Creek and a 45-foot setback along some of Alamitos Creek, with the setback decreasing to as little as 5 feet along the southeastern portion of the proposed development.

BACKGROUND

Site and Surrounding Land Uses

The site is located on the east side of Almaden Expressway (6082 Almaden Expressway) approximately 300 feet northerly of Fleetwood Drive, and is bounded by Golf Creek and a small residential Planned Development to the north, Santa Clara Valley Water District property housing a major pipeline to the south, Alamitos Creek to the east, and Almaden Expressway to the west. Surrounding land uses in the larger area include single-family residential to the north northwest, southwest and south, as well as beyond Alamitos Creek to the east.

Alamitos Creek is a natural riparian corridor for most of its length, and supports moderate to high quality riparian habitat, especially red willow, white alder and California sycamore trees. The riparian edge is fairly clearly marked by a Santa Clara Valley Water District maintenance road that runs between the creek and the subject site. Some concrete access ramps, in-stream weirs and gabion baskets have been used to maintain the creek's banks, but Alamitos Creek remains a highly natural riparian corridor. While it could benefit from planting of native riparian grass vegetation, it does support sensitive riparian habitat in its current form.

Golf Creek is a seasonal stream that drains into Alamitos Creek from the west. At the section of Golf Creek adjacent to the project site, the banks are poorly vegetated, and mostly with non-native vegetation. There is one small coast live oak tree on the bank adjacent to the southwest corner of the project site. However, because no concrete channel has been introduced into this riparian area, Golf Creek could benefit from riparian planting and revitalization into a natural wildlife corridor.

The project site is currently developed with one single-family residence, one barn and associated accessory structures. The structures appear to be more than 50 years old, and they have not yet

been reviewed for Historic Resources Inventory qualification. Review of historic structures for potential inclusion on the Historic Resources Inventory occurs during CEQA environmental review. The applicant has not submitted adequate environmental documentation for this project to allow staff to complete environmental review.

Previous Planning Approvals Affecting the Project Site

On June 5, 2007, the City Council approved a Planned Development rezoning (PDC06-070) on a nearby site, Jayden Lane (16310 Almaden Road), for up to six single-family detached residential units on a 1.07 gross-acre site. This project is located just south of the Santa Clara Valley Water District property that borders the south side of the project site. A residential density of 6.9 DU/AC was deemed by Council appropriate for the site on Jayden Lane because this site is not as geographically and environmentally constrained as the subject site. Additionally, the existing designation at the time of application submittal was Medium Low Density Residential (8 DU/AC) and no General Plan amendment was required.

This Planned Development Zoning (PDC06-070) was approved with a recommendation from City Council that staff should proactively study and analyze access for these identified sites via Almaden Expressway and meet with the Santa Clara County Roads and Airports Department to discuss guidelines and implementation of an acceleration and deceleration lane. Since receiving this direction from City Council, staff has actively addressed the issue of the acceleration and deceleration lane with various City departments and outside agencies. After consulting with the Santa Clara Valley Water District staff, it was brought to staff's attention that there is a 72-inch diameter high pressure water transmission pipeline and associated telemetry cable running through the Santa Clara Valley Water District property immediately to the south of the site, with an above-grade vault in such a position that it could render the acceleration and deceleration lane recommended by City Council to be infeasible on the subject site.

ANALYSIS

The following points summarize the main reasons for recommending denial of the proposed General Plan amendment:

1. Inconsistency with the San José 2020 General Plan Major Strategies, Goals and Policies

   a. **The proposal is inconsistent with the San José 2020 General Plan *Sustainable City Major Strategy* to use resources efficiently and protect and conserve sensitive ecosystems and riparian corridors** by proposing a density that would create pressure to compromise the full 100-foot riparian setback envisioned by the Riparian Corridor Policy Study. **Conversion of the site to allow residential uses up to 8 DU/AC would threaten the viability of a vibrant riparian corridor.** The General Plan's Sustainable City Major Strategy strives to improve the quality of water and air and to conserve land, soil, water, energy and ecosystems. Maintaining the subject site with the existing Very Low Density Residential (2 DU/AC) land use designation would allow a maximum of three single-family residential units on the site, which would allow for the full 100-foot riparian setback envisioned in the Riparian Corridor Policy Study. Allowing higher density residential uses on the subject site would contradict that intent, threatening the viability of this sensitive riparian area.

   b. **The proposal is inconsistent with the *Riparian Corridors and Upland Wetlands Goal* to preserve, protect, and restore riparian corridors** in that it would allow an increase in residential density that will limit the future possibility of full restoration and preservation of the Alamitos Creek and Golf Creek riparian corridors.

   c. **The proposal is inconsistent with *Riparian Corridors and Upland Wetlands Policy No. 2,* which states that new public and private development adjacent to riparian corridors should be consistent with the Riparian Corridor Policy Study** as illustrated by the associated Planned Development Zoning (PDC07-058), which proposes a considerable encroachment into the 100-foot riparian setback. The associated Planned Development Zoning would be facilitated by the proposed increase in density through this proposed General Plan amendment.

   d. **The proposal is inconsistent with *Water Resources Policy No. 5,* which states that the City should protect groundwater recharge areas, particularly creeks and riparian corridors** because allowing an increase in the residential density around a riparian corridor leads to more human presence, more light pollution spilling into the riparian corridor, and more noise in the area, which could threaten sensitive animal species habitat supported by the riparian corridor.

2. Site Access Challenges Make this Site a Poor Candidate for Increased Density

   The project site currently takes access off Almaden Expressway, and Santa Clara County Roads and Airports staff has repeatedly stated that no further access opportunities will be available. As each site along this stretch of Almaden Expressway redevelops, each site must gain access from an alternative location. The likely infeasibility of the acceleration and deceleration lane due to Santa Clara Valley Water District facility's requirements could severely limit the access opportunities for the subject site. The existing land use designation of Very Low Density Residential (2 DU/AC) on the subject site may allow future development options of a maximum of three single-family detached residential units, potentially accessible across Golf Creek through the northern extension of Almaden Road, or by a smaller extension south of the site where the acceleration and deceleration lane

has been proposed. These access options may be more realistic because of the relatively smaller amount of infrastructure required to construct access roads for three residential units in comparison to fourteen units, as currently proposed. Additionally, crossing the Santa Clara Valley Water District property solely for access to the subject site and not for acceleration and deceleration onto and off of Almaden Expressway would reduce the width necessary for the street across the SCVWD property, and potentially not interfere with the pipeline and vault.

3. Existing Land Use Designation of Very Low Density Residential (2 DU/AC) is the Most Appropriate Designation for the Site

   The subject site is identified in the General Plan as a site where the existing land use designation of Very Low Density Residential (2 DU/AC) is applicable and appropriate. In the General Plan description of Very Low Density Residential (2 DU/AC), the text explicitly reads:

   > In Almaden, this designation...applies generally to areas near creeks, which are subject to ground failure from liquefaction and where, therefore, higher densities are not appropriate. On a given parcel, sufficient unaffected area may be found to sustain a density of two units per acre.

   Because the General Plan clearly states an intent to preserve the riparian areas in Almaden, staff does not find any compelling reason to support the proposed General Plan amendment. The opportunity to build three single-family detached residential units on this property is the most consistent option available at this time, given the geological, ecological, and riparian constraints of the site.

Conclusion

When recommending a General Plan amendment request, there should be compelling evidence that the change is changes consistent with the General Plan Major Strategies. In the case of this proposed General Plan amendment application, no such compelling evidence has been presented and the proposed amendment conflicts with the General Plan Major Strategies, goals and policies, as stated above.

ENVIRONMENTAL REVIEW

Pursuant to Section 15270 of the CEQA Guidelines, CEQA does not apply to projects that a public agency rejects or disapproves. A CEQA Initial Study would be required to determine the level of environmental clearance required under CEQA for the City Council to consider approval of the General Plan amendment request. In the review letter for this project, staff requested that the applicant submit an Initial Study in accordance with CEQA. To date, no Initial Study has been received.

PUBLIC OUTREACH

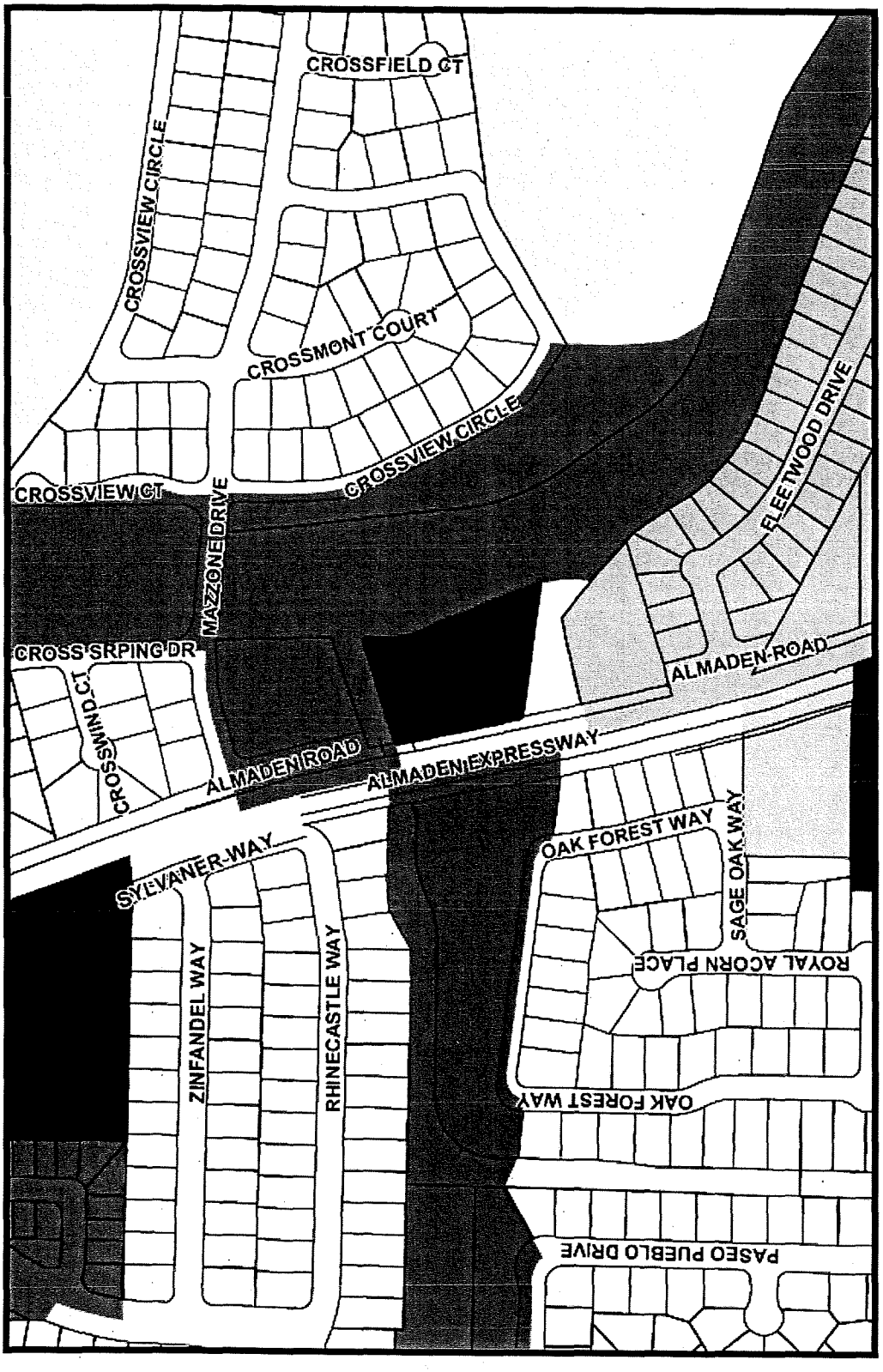
A joint notice of the public hearings to be held on the proposed General Plan amendment before the Planning Commission on January 16, 2008 and City Council on February 5, 2008 was circulated to the property owners and residents within a 500-foot radius of the subject site. This staff report will be posted on the City's website. If Council decides not to consider the General

Plan amendment until environmental clearance is completed, then Planning staff will continue to coordinate with the applicant, Council District 10 staff, and neighborhood group representatives to schedule community meetings and additional public outreach.

Tribal Referral

This General Plan amendment is subject to the State of California Tribal Consultation Guidelines and was referred to the tribal representatives on August 31, 2007. To date, no comments from tribal representatives on the subject General Plan amendment request have been received.

Attachments



File No: GP07-10-01
District: 10
Quad No: 141