



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** April 27, 2007

Approved

Date

5/1/07

**COUNCIL DISTRICT:** City-Wide  
**SNI AREA:** All

**SUBJECT: FRAMEWORK, AS A GUIDELINE, TO EVALUATE PROPOSED CONVERSIONS OF EMPLOYMENT LANDS TO OTHER USES**

## RECOMMENDATION

Accept the staff recommended conceptual approach for preparation of an update to the City Council adopted "Framework, as a Guideline, to Evaluate Proposed Conversions of Employment Lands to Other Uses."

## OUTCOME

Staff will prepare an update to the "Framework, as a Guideline, to Evaluate Proposed Conversions of Employment Lands to Other Uses" (Framework) based upon the conceptual approach described in this memorandum. The proposed update to the Framework should be brought to the City Council for consideration in September prior to the next review cycle for General Plan amendments. If adopted, the updated Framework will provide revised policy direction for the review of future General Plan amendments that potentially impact the City's employment lands, consistent with the issues and concerns raised by staff and the City Council at the March 29, 2007 "Economic Development and Employment Lands" City Council study session. The current Framework will be used in the review of General Plan amendments in the interim.

## BACKGROUND

At its March 29, 2007 study session on "Economic Development and Employment Lands," the City Council gave direction to staff to conduct public outreach on proposed changes to the Framework and to return to the City Council with an update to the Framework in advance of the City Council's consideration of the Evergreen\*East Hills Vision Strategy (EEHVS) General Plan amendments.

As part of the staff presentation at the study session, staff provided extensive data on the relationship between land use and revenue to the City, demonstrating serious potential fiscal impacts related to the conversion of employment lands to non-employment uses. Staff suggested the Council consider an update to the Framework and identified three possible directions that update might reinforce: 1) prohibiting any further conversions; 2) strengthening the Framework to limit conversions to projects of “extraordinary economic benefit”; or 3) continuing to use current policies without modification (which has resulted in an average conversion of 120 acres per year). Staff recommended that the Framework be strengthened per the second option. Staff also identified instances where application of the current Framework was interpreted overly permissively, resulting in an unintended amount of conversions.

During the course of the study session, Council members articulated a number of specific concerns related to different land use types and identified some situations where the City should place an emphasis on achieving broad City goals related to quality of life or other issues. The Council expressed interest in pursuing the option to strengthen the Framework. The Council requested that staff provide more detail associated with this option, suggesting that staff should carefully define “extraordinary economic benefit” so that the Framework is not too permissive.

## **ANALYSIS**

Staff has begun preparation of a proposed update to the Framework intended to provide a stronger policy for the City to use in the evaluation of potential conversion of employment land and also addressing the specific concerns raised by the City Council. The proposed Framework will also incorporate the revised categorization of geographic sub-areas presented to the City Council at the study session. Based upon the discussion that took place at the study session, key elements of the updated Framework should include: 1) support for conversion of one type of employment land to another (e.g., industrial to commercial) where appropriate; 2) support for land use changes that enable a significant intensification of land use; 3) protection of and general prohibition of any conversion of lands designated for Heavy Industrial or Light Industrial use; 4) support for land use changes that respond directly to a significant public investment in infrastructure; and 5) a clearly defined methodology for determination of findings of “extraordinary economic benefit” as a necessary criteria for any conversion of employment lands to non-employment use.

Application of these elements will vary within the four geographic sub-area types, corresponding to their relative importance as employment centers. The first four elements will apply to all sub-areas while the fifth, a finding of extraordinary economic benefit, will be the key criteria for the evaluation of proposed conversion of employment lands within geographic sub-areas that potentially allow conversions. This fifth element may also be applied to evaluate proposed intensifications or conversions intended to support significant public infrastructure projects. Each of the sub-areas is depicted on the attached map, “Preservation Strategy for Employment Lands”.

As depicted on the sub-area map, staff recommends that the City’s most valuable industrial lands not be open to consideration for any further conversions. Specifically, staff recommends the City should not convert any of the employment lands in North San Jose, Edenvale and Coyote Valley to non-employment use. The City’s goal should be to retain all of the existing jobs, and to add more jobs if possible within these areas. In the future, staff would like to bring forward some General Plan

amendments, such as removal of the Mixed Industrial Overlay in these three areas, to protect these lands. As a corollary, staff would also identify new locations for the Mixed-Industrial Overlay.

#### Conversion of an Employment Land Use to Another Employment Land Use

Staff recommends that the Framework allow proposed land use conversions from one employment generating land use type to another. Instead of merely focusing on industrial to industrial conversions as promoting jobs, staff proposes changes to the Framework include the change in its name to acknowledge this shift in emphasis from preservation of industrial lands to a broader goal of preserving lands that provide employment and long-term fiscal benefit to San Jose. Because San Jose has an overall deficit of both large format and small format retail sites, explicitly considering conversion of industrial lands to a Combined Industrial/Commercial designation, where appropriate, will have both economic and social benefit and can be an important element of planning for sustainable neighborhoods. While large format retail provides a greater fiscal benefit to the City, small retailers provide important job opportunities and other social benefits. Specifically, within areas such as North San Jose with an easily identifiable shortage of commercial sites, it may be beneficial to convert some Industrial Park lands to Combined Industrial/Commercial lands. Staff will continue to develop other policy and ordinance changes to foster employment growth, facilitate the growth of small businesses, and create opportunities to intensify employment lands.

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#### Intensification of Land Use

In some cases it may be possible to convert employment lands as a component of a larger project that will maintain or increase the total number of jobs within San Jose. Such intensifications are like most readily possible with industrial park land uses. As industrial park business activities in San Jose evolve to focus more on innovation and creativity, and less on manufacturing, industrial business owners may be more amenable to or prefer denser building types for their operations. Intensification of industrial lands will allow the City to improve the economic utilization of finite land resources and existing infrastructure systems. As the City continues to grow, it will be important to strategically identify areas for such intensification. Notable examples of recent land use intensification projects include Vision North San Jose, the Hitachi project and the Downtown vision.

The Council adopted the Vision North San Jose policies as a direct response to the changing needs of industrial land users and other market forces. While the Floor Area Ratio (FAR) cap included in the old North San Jose policies was largely not an obstacle to the construction of the one- or two-story tilt-up construction that supported the growth of the Silicon Valley in the 1980s and 1990s, it was a direct barrier to the development of mid-rise office parks increasingly in demand by companies such as eBay. Due to the particular traffic conditions of the broader North San Jose area, the Vision project included the conversion of 285 acres of land for higher density housing within the 4,700 acre Policy area. This conversion enabled the City to add approximately 26.7 million square feet of industrial development capacity and 1.7 million square feet of neighborhood-serving retail capacity.

The Hitachi project provided a similar benefit by allowing the City to achieve a much greater use of a particular site. While protecting the number of jobs on the Hitachi site, the City was able to add housing and retail capacity and thereby increase utilization of the land resource.

Expansion of the Downtown area, potentially allowing more housing or mixed-use development on older industrial lands near the Downtown core, is a strategy consistent with the City's goals for increasing the vitality of the Downtown and maximizing use of public infrastructure (such as the light rail system) and access to civic amenities.

Key elements of these intensifications are the increased utilization of land resources through higher-density development, strategic location of higher density development in close proximity to existing services, and the potential for job growth incorporated into the project through the use of innovative policy.

#### Protection of Light Industrial and Heavy Industrial lands

As noted above, this element should be applied in sub-areas of the City where the City has indicated a willingness to consider potential conversions. It also relates to conversions resulting in an intensification of land use or conversions intended to support a major public infrastructure project.

Sites for which the General Plan land use designation and Zoning district allow light or heavy industrial land uses are in high demand as these activities continue to be a vital and necessary element of the local economy. Vacancy rates in San Jose for heavy and light industrial properties hover at or below 5%. Heavy and light industrial lands are critical for business support resources. For example, production activities such as rapid prototyping or precision tooling remain essential to innovation and time to market. While the current economy cannot function without these activities, the economics of individual industrial businesses are such that they cannot bid competitively with other potential non-industrial land users. Because the conversion of light and heavy industrial lands to residential or commercial use can result in a significant increase in land value for the converted property, a significant portion of the recent conversions of employment lands have diminished light and heavy industrial uses within the City.

It is also not feasible to intensify the number of light or heavy industrial jobs on a particular property by using techniques that are often viable for intensifying industrial park, industrial office or research and development type uses. Light industrial and heavy industrial operations generally involve outdoor uses, outdoor storage of equipment and trucks or other activities that cannot be conducted within multi-story structures. As a result, conversion of light and heavy industrial lands results in a permanent loss of light or heavy industrial activity.

Staff recommends that the Framework should state clearly the goal of protecting the remaining supply of light and heavy industrial land. While conversion of light and heavy industrial lands to commercial use may not always correlate to loss of revenue or jobs on the specific parcel, such conversions should be restricted due to the scarcity of remaining light and heavy industrial lands and the role uses on these lands play in supporting the overall economy. Therefore the Framework should not support the conversion of any lands with a Light Industrial or Heavy Industrial designation to any designation other than Light Industrial or Heavy Industrial. It may be permissible to convert land from a Light Industrial to Heavy Industrial or from Heavy Industrial to Light Industrial designation.

### Planning to Support Public Infrastructure Projects

In some unique cases, a special public infrastructure project may warrant the consideration of supporting land use changes. Specifically, the extension of the BART system to San Jose requires such a significant investment of public resources that it is appropriate for the City to consider the conversion of employment lands to viable mixed commercial-residential uses, or, where clearly not marketable, even purely residential uses in order to support the project. Construction of the BART system will also promote economic growth, help attract jobs, improve transportation conditions and have a positive impact on the environment. An exception should be included in the Framework to allow for the careful consideration of such conversions in order to maximize the overall benefit by through the highest possible density of new residential development, and through adequate incorporation of open space, retail, and other services to support the new residential development.

### Projects with Extraordinary Economic Benefit

“Extraordinary economic benefit” needs to be defined clearly. On recent occasions the City has received attractive proposals from private land owners or developers that offer some unique and desirable benefit to the City, while also involving some conversion of employment lands to non-employment use. For example, Lew Wolff is interested in using a conversion of employment lands in the Edenvale area to finance the development of a new soccer stadium. In general, such proposals should be considered within the vehicle of a Development Agreement or like mechanism with comparable standards, and should have a demonstrable net economic and social benefit to the City in order to receive favorable consideration. The measure of “extraordinary benefit” to the community would require the City to consider the actual project development applications (e.g. PD Permit, tentative map or any other applicable conditional forms of land use approvals), or development agreement where appropriate, at the same time as the proposed General Plan amendment so that the Council could evaluate the merits of the actual development project with the broader purely legislative General Plan designation. The only manner in which Council can assure development that has a demonstrable net economic and social benefit to the City at the time of consideration of the General Plan amendment is to require the entire project to come forward for consideration with the General Plan amendment. The updated Framework should recognize the need for concurrent review of development level entitlements with proposed conversions. Extraordinary economic benefit should include an increase or retention of jobs and significant economic benefit in terms of added revenues and/or the ability to significantly advance the City’s goals and policies. Provision of affordable housing, parks, and related infrastructure improvements should be considered a routine component of new development and should not qualify as an extraordinary economic benefit. Staff recommends modifying the provisions in the Framework to add more clarity and to raise the standards for consideration for any proposal reviewed against this criterion.

The City may also want to consider the development of a mitigation fee program. This program should provide a methodology to quantify the economic impact of a proposed conversion and assess a fee that can be used to offset the impact. Staff is working with a consultant to investigate the feasibility of such a program and will further address its implementation when the proposed update to the Framework is brought to the City Council.

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### Conclusion

The City has a strong interest in maintaining as much land as possible to support employment activities that bring revenue to the City and should maintain land use policies to support expansion of those activities if possible. Consequently, the City should adopt policies that strictly limit the conversion of employment lands to non-employment uses while maintaining the flexibility to consider special or unique proposals with clear benefit to the City towards the achievement of overall City goals. The proposed update to the Framework should provide a clear and robust policy framework for staff to use to review potential land use changes, consistent with this approach.

The City can continue refinement of its vision and goals for economic development through an upcoming comprehensive update to the General Plan. Such an effort will provide an opportunity for the City to further consider strategies for providing lands for non-employment uses, including assembly uses and other residential services, which have placed pressure upon the City's industrial land supply.

### POLICY ALTERNATIVES

The City Council may choose to direct staff to make no changes to the Framework (maintain current policy) or provide further direction to staff on how to update the Framework to meet the City's goals.

### 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)**

Comments from members of the public were initially received at the March 29, 2007 "Economic Development and Employment Lands" City Council study session. Per Council direction, staff conducted additional outreach to interested members of the development industry through presentation of the proposed update to the Framework at the April 27<sup>th</sup> Developer's Roundtable forum. Members of the Developer's Roundtable indicated that they would like the City to carefully consider the definition of extraordinary benefit, suggested more clear definition of the boundaries of each of the geographic sub-areas and requested that the City acknowledge, in the Framework, the distinction between the potential economic and fiscal benefits associated with land use. In particular, the Developer Roundtable members suggested that the City should consider the economic and fiscal benefits of adding to the City's housing supply. The proposed update to the Framework is posted on the City's website and staff is available to discuss it with interested members of the public.

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One item (attached) of related correspondence was received on March 29<sup>th</sup> from Myron Crawford representing Berg & Berg Enterprises. The correspondence is intended to provide clarification and commentary on the staff presentation made at the study session.

### **COORDINATION**

The preparation of this memo was coordinated with the City Attorney's Office, the Redevelopment Agency, the Housing Department and the Office of Economic Development.

### **FISCAL/POLICY ALIGNMENT**

This project is consistent with applicable General Plan policies.

### **COST SUMMARY/IMPLICATIONS**

Not applicable.

### **BUDGET REFERENCE**

Not applicable.

### **CEQA**

CEQA: Not a project.

  
For JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions please contact Andrew Crabtree, Principal Planner at 408-535-7893.

attachments



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3/29/07

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Reference: San Jose 2020 General Plan:  
Economic Development And Employment Land

Subject: Revenues From Various Land Uses Table

Laurel,

Since this study is regarding the conversion of a broad segment industrial lands city wide it should include single story industrial buildings in R&D, heavy and light segments as well as vacant land.

While intensification is occurring even in new Edenvale the demand for predominately single story R&D and medical products industry; which are considered cleaner industries, will still be in demand. Witness Bergs Optical Court development. In the year 2001 Berg had an eight building complex of 699,600 sf with issued building permits, leased and under construction. Of the eight buildings six were two stories and two were primarily single story with only minor secondary mezzanine space. By the time 2001 was over all of the original tenants had bailed out.

Stryker Endoscopy materialized as a potential tenant in 2001 and even though Berg had paid for building permits for two 105,000 sf two story buildings those plans were scraped at a loss and new plans permitted for a primarily single story building of 185,600 sf with minor secondary mezzanine space in order to secure Stryker as a tenant. Stryker still occupies that building today. One of the original mezzanine buildings was leased to Photon in 2003. Of the remaining four two story buildings only one is partially leased (50%) to the BioCenter in a promotional lease, but the other 3 two story buildings are still vacant. National Display a medical video display design/assembler firm; off-shoring most manufacturing, recently occupied one of Berg's solely single story buildings in new Edenvale choosing a single story over a two story in Optical Court.

The industrial land in Evergreen has been vacant for over 20 years and that certainly has to be considered as a long term if not permanent status for purposes of tax revenue generation.

In view of the above facts I don't see how your conversion analysis can fairly present facts for Councils consideration without including vacant lands and single story developments as categories for evaluation.

# Revenues from Various Land Uses

One Acre of Residential Use	Assessed Value	Property Tax Total/ Unit	Property Tax to City/Unit	Sales Tax/ Unit	Utility Tax	Total Annual Revenues
Single Family (7 units)	\$1,400,000	\$16,355	\$1,750	\$246	\$142	\$ 14,966
Condominiums (20 units)	\$700,000	\$8,177	\$875	\$123	\$70	\$ 21,360
Apartments (30 Units)	\$400,000	\$4,673	\$500	\$123	\$43	\$ 36,630
Hi-Rise Condominiums (150 Units)	\$540,000	\$6,227	\$670	\$170	\$125	\$ 143,843

One Acre of Employment Use	Assessed Value	Property Tax Total	Property Tax to City	Sales Tax	Utility Tax	Total Annual Revenues
Office Tower (1 acre of site)	\$6,750,000	\$78,854	\$8,437	\$18,000	\$8,000	\$34,437
Auto Dealer	\$1,000,000	\$11,682	\$1,250	\$90,250	\$1,250	\$92,750
Neighborhood Retail	\$1,200,000	\$14,018	\$1,500	\$5,553	\$821	\$7,873
Large Format Retail	\$1,700,000	\$19,183	\$2,053	\$65,000	\$3,000	\$70,053

**\*\*Employment lands generate significantly more revenue than residential uses (<55 Units/Acre)**

**It also illustrates that no matter how well planned or intended sometimes the best planning and intentions don't work and the plan has to change!**

**Thank you for your time,**

**Myron Crawford**

**cc:**

**Nanci Klein**

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# Preservation Strategy for Employment Lands

