

# MEMORANDUM



TO: Honorable Mayor & City Council

FROM: Vice Mayor Dave Cortese

SUBJECT: Evergreen East Hills Vision Strategy

DATE: May 14, 2007

APPROVED:

DATE:

5/14/2007

## RECOMMENDATION

1. Approve Staff's recommendation to adopt a funding agreement between the City of San Jose and the property owners of the Four Opportunity Sites with the following modifications to the amendments proscribed by staff. This revised funding agreement should come back to City Council at the May 22, 2007 Evening City Council Meeting with a total monetary contribution of approximately 176 million to be allocated as outlined below:
  - a. Cost of Highway 101 upgrades and Base Transportation Improvements (as articulated by staff in the draft funding agreement and revised Evergreen Development Policy-EDP) after Proposition 1B funds have been applied.
  - b. Cost of all Tier 1 Amenities (as articulated by staff in the funding agreement)
  - c. Cost of Two Pedestrian Overcrossings: (1) Neiman Boulevard and (2) Lake Cunningham Park.
  - d. Cost of locating the Southeast Branch Library either through cash contribution for land purchase or the donation of land itself on either the Evergreen Valley College site or the Campus Industrial site.
  - e. Retention of 105 acres of Campus Industrial.
  - f. Reservation of 2 acres of land on the Arcadia property (in addition to the 4.7 acres as specified in the 5/11/07 Funding Agreement) for possible future acquisition for community center/school purposes.
  
2. Approve Staff's recommendation to adopt an update to the Evergreen Development Policy (EDP) with the following modifications, to be brought forward for council consideration on May 22, 2007:
  - a. Additional development of up to 4,230 residential units on the Four Opportunity Sites,
  - b. Between 395,000SF and 420,000SF of commercial/retail on the Four Opportunity Sites. Of the permitted commercial/retail, a minimum of 175,000SF and a maximum of 225,000SF shall be applied to Arcadia and no more than 20,000SF may be used towards a grocery store at EVC. A re-visitation of the limit on EVC may occur after five years has passed (or if the next General Plan update gives direction otherwise), provided a new retail study is conducted:
    - i. To show the obvious need for another market that is greater than 20,000SF without it having a detrimental effect on neighboring grocers
    - ii. With the inclusion of community input with not less than three outreach meetings
    - iii. With the entire funding borne by EVC
    - iv. By a study consultant chosen and independently commissioned by the CityThis retail study must occur in conjunction with either of the two conditions occurring:
    - At least 80% of the housing has been fully built out on the industrial and 100% of the housing has been fully built on EVC.

- One of the existing supermarkets in the area closes permanently that is at least 40,000SF in size and is within three miles of EVC
  - c. Construction of three elementary schools in addition to other public/quasi-public and open space uses
  - d. Preservation of 105 acres of Campus Industrial.
  - e. No additional residential allocations will be made available for properties located within the EDP study area. In the event a development application is made by a non Opportunity Site Owner/Representative seeking allocations, staff can bring forward for City Council consideration additional amendments to the EDP, and may recommend acceptance of voluntary developer agreements accompanying such applications. Only applications for sites with development proposals of 25 units or less will be considered. The sum total of such amendments cannot exceed 500 allocations to be spread over the remaining properties located within the EDP.
  - f. Design principles on the Arcadia property should incorporate a maximum of two-story units along any edges that front existing single family homes and a maximum of four stories throughout the entire property. The incorporation of rental and for-sale units shall be encouraged on Arcadia.
3. Defer adoption of the proposed General Plan Land Use/Transportation and Text Amendments (GP05-08-01a-f and GPT05-08-01) based on the development capacities adopted in the proposed EDP (as modified above) until the May 22, 2007 City Council Meeting.
  4. Adoption of staff recommendations d through f (page 2 of staff report).
  5. Acceptance of correspondence from the Four Opportunity Sites specifying that their voluntary contributions (defined as anything above the statutory impact fee as required per government code SB60) to the East Side Union High School District, Mt. Pleasant School District and Evergreen Elementary School District are intended for the same uses as the statutory impact fees.

### **BACKGROUND**

The Evergreen East Hills Vision Strategy (EEHVS) was conceived to involve District 8 (Evergreen-Silver Creek-East Hills), District 7 and District 5 residents in the planning of their community in terms of housing, retail, open space and public infrastructure. Specifically the community was tasked with creating a vision that balanced transportation capacity, residential growth and public amenities – the intended result of this masterplan for Districts 8, 7 and 5 was to stave off the myriad of piecemeal development scenarios that if left uncoordinated could leave the area less than whole.

This method of managing growth is not a new phenomenon. Evergreen was largely rural until the 1980s, at which point the Mayor and City Council openly approved thousands of homes. This explosive growth made Evergreen the fastest growing area in San Jose and it was realized that to better plan the growth, an area development policy should be adopted to regulate growth. Those seeking development rights could apply for allocations (housing units as determined by traffic capacity), a finite number of which were assigned through the development policy. Once the allocations were used up, development would no longer be permitted. This Evergreen Development Policy (EDP) remained in effect for the balance of the 1980s. It is important to note that around the same time, the City Council approved a “swap” of lands; industrial zoned land in Berryessa was converted to residential and residential zoned land in Evergreen (320 acres along Yerba Buena Road) was converted to industrial. The details of the new residential community in Berryessa are meticulously explained in the Berryessa Swap Neighborhood Area Plan. Curiously there is no similar plan for the development of the industrial zoned land in Evergreen.

In 1991 the City Council adopted the Evergreen Specific Plan (ESP), the first specific plan in San Jose, along with an updated development policy. The ESP was a roadmap for the development of 865 acres in southeast Evergreen into a self-sustaining community with residential capacity, commerce and public infrastructure. The

updated policy offered a new round of allocations (4700) for the ESP area and around District 8 for those seeking development rights, thereby providing a second round of managed growth options. Curiously absent from the ESP or the updated EDP was any mention of planned activities for the 320 acres of industrial land in Evergreen nor was there a plan to phase the 4,700 units permitted by the ESP with job development on the industrial land.

This brings us to present day. There are several large tracts of land of varying development potential as well as smaller parcels owned for generations; the second round of allocations had been exhausted. In keeping with past planning practices, it is both appropriate and logical to revisit the development policy and consider permitting yet another round of growth. It is also the right juncture to undertake a masterplan for all of District 8 and plan for what it should look like once finished. To inventory the unmet public infrastructure sanctioned by the City Council (Fowler Creek Park, Thompson Creek Trail, West Evergreen SNI Community Center) and by the community itself (Evergreen Little League Complex, new schools) and figure out a plan for making these needs a reality. Most important, the update to the development policy and the masterplan for the district had to be done in the context of improving Highway 101 at Capitol, Yerba Buena and Tully, in order to accommodate increased growth in homes and public infrastructure and to make these key interchanges safe. It is at this point that a group of developers agreed to discuss a voluntary contribution to satisfy the district's unmet needs in exchange for a release of additional allocations.

### **ANALYSIS**

Over the last four years, at the Council's direction, community leaders, property owners/representatives and city staff have worked tirelessly to recommend a proposal that addresses a spectrum of issues, including industrial retention, housing supply, public infrastructure needs, open space, and traffic congestion, to name a few. At the April 30<sup>th</sup> Council Study Session, staff was directed to return with a funding agreement and associated documents that satisfied a number of conditions. Staff's recommendations, with the modifications outlined above, is a balanced approach to implementing a strategy for a self-sustaining community in East San Jose. It is consistent with the Guiding Principles of the original Evergreen Task Force as well as with the Vision and Expected Outcomes unanimously approved by the City Council in June 2005. It provides the opportunity for companies to locate along the San Felipe foothills while creating housing supply for our home-hungry valley. It offers relief for the dangerous interchanges along Highway 101 while creating a major trail network to connect neighborhoods in East San Jose. It satisfies unmet community center and park needs while creating additional funding sources for our educational institutions. Most important, it protects a community from developers seeking to do piecemeal development with minimal community investment.

The City Council should give great consideration as to why they sanctioned a study such as the EEHVS. They entrusted three city councilmembers, community members, labor leaders, environmentalists and developers to delve into a multi-year, long-range planning process and become experts in the areas of smart growth, employment land potential, market absorption, community infrastructure and much more.

The consequences of not approving a strategy and funding agreement for managed growth in Districts 8, 7 and 5 cannot be understated. If all four Opportunity Sites are not considered in totality then the City Council is rejecting a nearly \$200 million dollar investment in San Jose and is condemning Districts 8, 7 and 5 to a future of piecemeal development. This is because no one property on its own has the leverage to meet community infrastructure needs.

Some members of the City Council feel that the merits of industrial retention in Evergreen have not been fully vetted by the EEHVS Task Force (despite nearly four years of study) and that the General Plan update is the appropriate venue for a decision on this issue. This is inconsistent with previous (and unanimous) City Council action to defer to the EEHVS to recommend future uses for these lands. The removal of these lands from consideration at the present time completely disembowels the EEHVS because all four Opportunity Sites are relying on each other in a complex financial arrangement designed to bring balance across the entire study area. Furthermore, if the General Plan update process eventually recommends the conversion of *any* of those acres to residential then the developers will be able to proceed with their construction plans without even considering

voluntarily contributions. The City Council therefore should be careful about gambling the surety of a nearly \$200 million dollar investment in San Jose now versus the possibility of corporate location to a site that has remained largely vacant since 1981, at a time when most of the City Council's efforts are spent bolstering the employment capacity of North San Jose, the downtown and Edenvale.

As stated above, a refusal to consider even a partial conversion of industrial land is the death-knell for the EEHVS. The three remaining properties lack the financial wherewithal to fully fund the upgrade of Highway 101 and the other unmet needs of the study area. Each property will likely apply for development rights individually, seeking to meet only the minimum contributions as required by city ordinance. This piecemeal development should not be entertained or else the City Council will have betrayed their commitment to thoughtful and managed growth in this community.