

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: June 1, 2006

COUNCIL DISTRICT: 3
SNI AREA: None

SUBJECT: FILE # GP06-04-02. Tentative Denial of General Plan Amendment request to change the land use designation on an approximately 27.4-acre site (the entire property consists of 29.9 acres, 2.5 acres of which is Private Open Space which will remain unchanged) from Industrial Park on 11.9 acres and Industrial Park with a Mixed Industrial Overlay on 15.5 acres to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 dwelling units per acre) on 21.4 acres. The site is located on several parcels on the southwest corner of East Brokaw Road and Old Oakland Road (1633 Old Oakland Road, and 1040, 1060, and 1080 East Brokaw Road).

RECOMMENDATION

The Planning Commission voted 4-1-1 (Commissioners Platten absent and Dhillon abstained) to recommend continued processing of the General Plan Amendment request to change the land use designation on an approximately 27.4-acre site from Industrial Park on 11.9 acres and Industrial Park with a Mixed Industrial Overlay on 15.5 acres to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 dwelling units per acre) on 21.4 acres. The site is located on several parcels on the southwest corner of East Brokaw Road and Old Oakland Road (1633 Old Oakland Road, and 1040, 1060, and 1080 East Brokaw Road).

BACKGROUND

On May 24, 2006, the Planning Commission held a public hearing for early consideration of a privately initiated General Plan Amendment request to change the land use designation on an approximately 27.4-acre site from Industrial Park on 11.9 acres and Industrial Park with a Mixed Industrial Overlay on 15.5 acres to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 dwelling units per acre) on 21.4 acres. The site is located on several parcels on the southwest corner of East Brokaw Road and Old Oakland Road (1633 Old Oakland Road, and 1040, 1060, and 1080 East Brokaw Road). The early consideration process is intended to provide an opportunity early in the process for the Planning Commission and City Council to determine (1) whether such an application should be denied based upon substantial inconsistencies with adopted Council policies prior to

June 1, 2006

Subject: GP06-04-02

Page 2

completion of environmental review, or (2) whether the application should be directed for complete processing, including environmental review. The Director of Planning, Building and Code Enforcement recommended denial of the General Plan amendment.

Chair Dhillon asked for a staff report and Planning staff explained the purpose of the early consideration process, public notification for the proposal, as well as reasons why staff recommended denial of the proposal. Paul Krutko, Director of the City's Office of Economic Development (OED) commented that the project site is ready to be developed as a retail site that will support the City's General Fund services. The OED Director stated that the retail leakage identified in 2004 as 25% in the city is equivalent to \$1.8 billion and represents how San Jose is falling behind neighboring cities especially when the city's population and buying power is also experiencing substantial growth. The OED Director also acknowledged that large commercial sites with qualifying features such as the subject property are difficult to find in the city. He added that the particular site has issues not suitable for housing and that Redevelopment Tax revenue generated by the residential use cannot fund general city services. The OED Director noted that the balance of housing and commercial uses is important, but the City has already identified other sites suitable for housing. Commissioner Zito asked the OED Director what he envisioned for development on the site, and the OED Director stated that the site would support commercial development similar to the new Market Center on Coleman Avenue.

Applicant Eric Morley stated that he envisions a mixed-use village in a well-established neighborhood with existing services. Mr. Morley stated that the project conforms to the Industrial Conversion Framework and will offer entry-level homes and revenue to support city services. Mr. Morley stated that staff selectively analyzed the project and that the North San Jose Area Development Policy does not support Big Box retail on the site. He also added that the early consideration process does not provide the opportunity for public input. The OED Director responded to the applicant's comments by stating that the Office of Economic Development had multiple meetings with the applicant and that OED had expressed strong opposition to the project. There were no public speakers on this item.

Chair Dhillon asked for a staff response to the applicant's comments. Planning staff clarified that the applicant's remarks about the mixed-use village and the funds to support city services were speculative because no development application is currently on file. Planning staff added that the North San Jose Area Development Policy did not oppose large-format retail; rather it states that such uses would require separate environmental review, because the traffic capacity analyzed in the Policy does not include large-format retail uses.

Commissioner Zito stated that the property is located in a questionable area and would want to understand the impacts of the proposal. He recommended continued processing of the application in order to allow further analysis. Commissioner Levy commented that this site is unique and agreed that it would be appropriate for commercial use since there are few parcels of the subject size with few sensitive receptors in the immediate vicinity.

The Planning Commission voted 4-1-1 (Commissioners Platten absent and Dhillon abstained) to recommend continued processing of General Plan Amendment request to change the land use designation on an approximately 27.4-acre site from Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 dwelling units per acre) on 21.4 acres at the southwest corner of East Brokaw Road and Old Oakland Road.

June 1, 2006

Subject: GP06-04-02

Page 3

ALTERNATIVES

Not applicable.

PUBLIC OUTREACH

In addition to on-site signage, a joint notice of the public hearings on the subject General Plan amendment before the Planning Commission on May 24, 2006 and City Council on June 13, 2006 was circulated to the property owners and residents within a 1000 foot-radius of the subject property. The Planning Department website contains information regarding the General Plan process, amendments, staff reports, and hearing schedules. Another 186 members of the public were notified through the email notification subscription service, in addition to discussions at the Developer's Roundtable and the City Council Rules Committee. If Council decides to allow continued processing of the amendment, then Planning staff will continue to coordinate with the applicant, Council District 4 staff, and neighborhood group representatives to schedule community meetings and additional public outreach.

Subsequent to the distribution of the Planning Commission staff report, staff received from the applicants nine letters representing various organizations in support of the applicant's proposal. The Director of the Office of Economic Development and the Redevelopment Agency also submitted separate letters to the Planning Commission to address the economic issues related to the proposal. Copies of these correspondences are attached to this memo.

COORDINATION

Preparation of this report has been coordinated with the City Attorney's Office, Housing Department, Office of Economic Development, and the Redevelopment Agency.

COST IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

Incomplete. Preparation of an Environmental Impact Report would be required for continued processing of this application.


for JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Allen Tai in the Planning, Building and Code Enforcement Department at (408) 535-7866.

HONORABLE MAYOR AND CITY COUNCIL

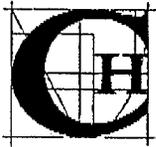
June 1, 2006

Subject: GP06-04-02

Page 4

Attachments: Letters received on May 23, 2006 from Project Applicants
Letter received on May 24, 2006 from the Director of the Office of Economic Development
with attachment
Letter received on May 24, 2006 from the Redevelopment Agency

Item # 7d



CHARITIES HOUSING
AN AFFILIATE OF CATHOLIC CHARITIES OF SANTA CLARA COUNTY

RECEIVED
MAR 16 2006

RECEIVED
MAY 23 2006
CITY OF SAN JOSE
PLANNING DEPARTMENT

March 14, 2006

Mr. Joe Horwedel, Acting Director
Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street
San Jose, CA 95113

Re: 1040, 1060, 1080 Brokaw Road-Retail/Residential Mixed Use

Dear Mr. Horwedel:

Charities Housing Development Corporation has had preliminary discussions with The Riding Group regarding the company's mixed-use, retail/residential proposal at the corner of Brokaw and Old Oakland Roads.

The mixed-use plan would provide approximately 600 units, of which 20% would be affordable. Our organization is eager to participate in developing this significant affordable housing opportunity in the North San Jose/Berryessa area. I also understand the project is in a redevelopment area which would generate millions of additional dollars for the City's affordable housing projects elsewhere.

We support residential use on this site and hope the City will consider the benefits for affordable housing in reviewing The Riding Group's mixed use plan here.

Sincerely,

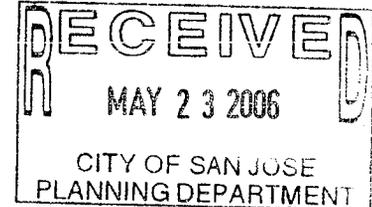
Chris Block
Executive Director

UFCW

a VOICE for working America LOCAL 428

May 19, 2006

Hon. Mayor Ron Gonzales
City Hall
200 East Santa Clara Street
San Jose, CA 95113



Dear Mayor Gonzales,

I write to express the support of the United Food and Commercial Workers, Local 428 of the Ridding Group and Morley Bros, LLC mixed-use proposal located at southwest corner of Brokaw and Old Oakland Roads.

UFCW represents more than 9000 members, mostly in San Jose. Critical to our members and their families is the availability of quality affordable housing. We are pleased with the Riding Group and Morley Bros. mixed-use proposal which has good mix of housing, both market rate and affordable units, additional open space, as well as the opportunity for great neighborhood serving retail. We feel this is a quality project that deserves your support.

While we are supportive of the Ridding Group/Morley Bros. proposal, we are extremely concerned that the entire site could be devoted completely to retail—specifically for one or more “big box” stores. We would oppose such a proposal. The Office of Economic Development staff has also publicly stated that they are targeting the Knight Ridder property west of the project site and other sites in the immediate area for this use as well.

The City’s desire to increase sales tax revenue is understandable, but we respectfully ask that you consider the other impacts of large format and big-box retail stores such as traffic, primarily lower paying jobs, the lack of character and quality of life it adds to a neighborhood and the likelihood of actually attracting “new” sales tax dollars given the extent of the regional serving and big box format retail in the immediate trade area.

You have an opportunity to approve a project that will provide working families with a quality place to live and help an already mixed use neighborhood build character and further define itself. We ask you to take advantage of this opportunity, reject the staff’s recommendation for early denial of the application and give guidance to allow this mixed-use proposal to move forward as proposed by the applicant.

Sincerely,

A handwritten signature in black ink that reads "Ronald J. Lind".

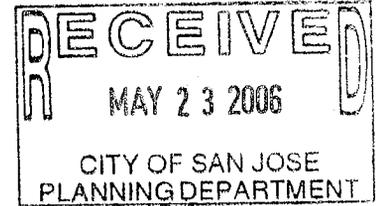
Ronald J. Lind
President
Ronald J. Lind
Phil Salgado
Secretary/Treasurer

United Food & Commercial Workers
International Union, Local 428
240 South Market Street
San Jose, CA 95113-2382
408-998-0428 Fax: 408-971-8355
www.ufcw428.org





DOLLINGER PROPERTIES



May 17, 2006

The Honorable Ron Gonzales, Mayor
City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113

Re: Brokaw and Old Oakland

Dear Mayor Gonzales and Council:

Our firm has developed many retail projects throughout the State of California including the new power center currently under construction in Mountain View. We are the retail partner with the Riding Group for the Brokaw Mixed Use site.

It is our opinion that the only retail concept that will work on this site referenced above is an approximately 55,000 square foot high end, neighborhood and community serving shopping center with various neighborhood oriented uses including a drug store, restaurants, dry cleaners and maybe a small high end grocery component. The maximum area needed for this type of retail is approximately five to six acres. If the area was expanded any larger (say 8-12 acres) then you would have to go to a typical food anchored center which would compete directly with several other centers including the Sobrato development across the street and the Ranch 99 shopping center nearby. In addition, Costco, with extensive grocery operations, is developing a 141,000 square foot store near the site at Automation Parkway and Murphy Avenue. Expanding larger than 12 acres would require us to do a power center and we feel very strongly that would not occur for the following reasons:

1. There is no freeway visibility.
2. There are existing power centers at both McCarthy Ranch (880 @ 237) and The Great Mall of the Bay Area that are within the trade area as well as Eastridge Mall.
3. There is a site (Knight Ridder Site) that is planning a 187,000 sq. ft. power center and in our opinion it is a better site for power retail.
4. The former PALM campus (Route 237 and N. 1st Street) is currently being planned for approximately 300,000 square feet of retail development.



DOLLINGER PROPERTIES

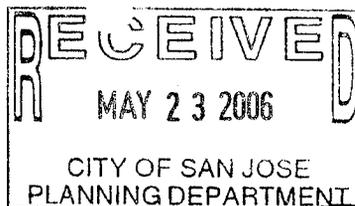
We were one of the finalists to purchase the Knight Ridder site, but dropped out at the end after talking to many retailers as we felt there were no tenants available for that project other than Lowe's. There is insufficient depth in the market in this I-880 corridor trade area as a result of all the other existing and well established power centers.

We look forward to developing a high quality neighborhood and community serving retail center integrated with homes in Brokaw Mixed Use. This unique, integrated approach will create synergy that will promote the retail environment and increase the quality of life in the neighborhood. With existing, well established power centers nearby and the Knight Ridder and PALM sites planned for additional major retail locations, Costco securing the Automation Drive site, an additional up to 350,000 square feet of retail on the site referenced above is not feasible from a market perspective.

I hope this helps inform your decision making related to the policy issues for the site. Please call me if you would like to discuss this further.

Sincerely,

David Dollinger



Santa Clara County Housing Action Coalition



The Santa Clara County Housing Action Coalition is comprised of a broad range of organizations and individuals who have, as a common goal, the vision of affordable, well-constructed and appropriately located housing

May 19, 2006

Joe Horwedel
Acting Director Planning Building & Code Enforcement
City of San Jose
801 North First Street, Room 400
San Jose, CA 95110

Dear Mr. Horwedel,

We write on behalf of the Santa Clara County Housing Action Coalition to express our support of the Brokaw Mixed Use Development by The Riding Group and the Morley Bros.

By way of background, the Housing Action Coalition includes more than 100 organizations and individuals. Its goal is the production of well-built, appropriately-located homes that are affordable to families and workers in Silicon Valley. Organizations participating in the HAC include the Silicon Valley Leadership Group, the Home Builders Association, Greenbelt Alliance, the Sierra Club, the League of Women Voters, Santa Clara County Association of Realtors, California Apartment Association Tri-County Division, and Santa Clara County School Boards Association.

As you know, the need for entry-level housing persists. One of the biggest challenges to meeting this need is finding land suitable for homes. Fortunately, the City of San Jose has been the leader in identifying sites appropriate for housing, especially in the North San Jose area per the recent Vision North San Jose Plan. After reviewing this proposal, we feel this site would make an excellent location for a housing and mixed use community and encourage your support.

The Housing Action Coalition supports the Brokaw Mixed Use Development. Thank you for your consideration of our comments.

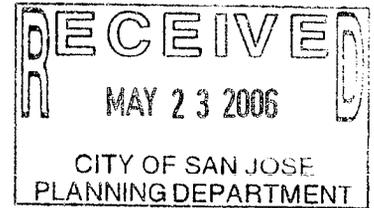
Sincerely,

Lee Wieder
HAC co-chair

Margaret Bard
HAC co-chair



May 19, 2006



Joe Horwedel
Acting Director Planning Building & Code Enforcement
City of San Jose
801 North First Street, Room 400
San Jose, CA 95110

Dear Mr. Horwedel,

We write on behalf of the Silicon Valley Leadership Group to express our support of the Brokaw Mixed Use Development by The Riding Group and the Morley Bros.

By way of reference, David Packard of Hewlett-Packard founded the Silicon Valley Leadership Group (SVLG), formerly the Silicon Valley Manufacturing Group, in 1978. Today, the Group represents more than 190 of the Valley's most respected private sector employers, which collectively provide approximately 250,000 local jobs—or nearly one of every four in Silicon Valley.

As you know, there is a high demand for entry-level homes and a very limited supply of suitable land. One of the biggest challenges to meeting this need is finding land suitable for homes. Fortunately, the City of San Jose has been the leader in identifying sites appropriate for housing, especially in the North San Jose area per the recent Vision North San Jose Plan. After reviewing this proposal, we feel this site would make an excellent location for a housing and mixed use community and encourage your support.

The Silicon Valley Leadership Group supports the Brokaw Mixed Use Development by the Riding Group and Morley Bros. Thank you for your consideration of our comments.

Sincerely,

Carl Guardino
President & CEO

224 Airport Parkway, Suite 620
San Jose, California 95110
(408)501-7864 Fax (408)501-7861
<http://www.svlg.net>
CARL GUARDINO
President & CEO

AART J. DE GEUS
Immediate Past Chair, SVLG
Synopsis, Inc.
Board Officers:

WILLIAM T. COLEMAN III
Chair

Cassati Corporation
MICHAEL CANNON
Vice Chair

Solectron Corporation
ROBERT SHOFFNER
Secretary/Treasurer

Cajibank

Board Members:

JOHN ADAMS

Wells Fargo

TODD BRADLEY

Hewlett-Packard

DENICE DENTON

University of California, Santa Cruz

RAQUEL GONZALEZ

Bank of America

BRIAN HALLA

National Semiconductor

JEANNETTE HORAN

IBM Corporation

LEONARD KWIATKOWSKI

Lockheed Martin Space Systems Co.

RICHARD LEVY

Varian Medical Systems

PAUL LOCATELLI, S.J.

Santa Clara University

HIROAKI NAKANISHI

Hitachi Global Storage Technologies

LEN PERHAM

Optimal Corporation

KIM POLESE

SpikaSource

STAV PRODRMOU

Alien Technology

BYRON SCORDELIS

Greater Bay Bancorp

DAVID J. SHIMMON

Celerity, Inc.

MICHAEL SPLINTER

Applied Materials, Inc.

JOYCE M. TAYLOR

AT&T Inc.

WILLIAM D. WATKINS

Seagate Technology

KENNETH WILCOX

Silicon Valley Bank

DAVID WRIGHT

EMC Corporation

JOANN ZIMMERMAN

Kaiser Permanente

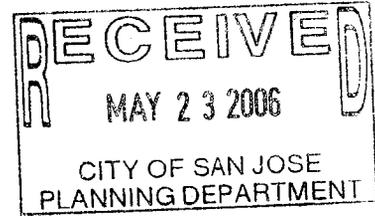
Working Council Chair

LEON BEAUCHMAN

AT&T Inc.

Founded in 1977 by

DAVID PACKARD



FOX PROPERTIES
A Division of Markovits & Fox
14125 Capri Drive
Los Gatos, CA 95032

Tel: 408 364 1265
Fax: 408 364 0765

office@foxprop.com

March 13, 2006

Council Member Chuck Reed
Dist. 4 Council
200 E. Santa Clara Street
San Jose, CA 95113

Dear Chuck:

As you know we are currently in escrow with the Riding Group to sell our property at the corner of Old Oakland and Brokaw Roads. Their proposal of a mixed use development will be a win-win not only for the city but also for nearby residences and businesses.

While we realize the importance of sales tax revenue to the City's General Fund, we also believe there is a significant quality of life issue to consider as well. In our opinion, the combination of residential and retail development at this site presents an opportunity to address both issues. Given the property's location within the Redevelopment Agency, the incremental increase in value would greatly enhance the City's ability to fund major redevelopment projects. Furthermore, the increased number of residential units would increase the number of dollars spent at the nearby neighborhood businesses. From a quality of life standpoint, a mixed use development would be a great compliment to the nearby residential neighborhoods, the adjacent retail, the golf course, the creek, and the easily accessible bus line. This is an ideal setting for a residential community given the easy access to services and the relatively quiet surroundings.

We appreciate the importance of planning a community development that blends market driven forces with the needs of the community, and we feel that the Riding Group has demonstrated this in their plan. As long time owners of this and other property in the neighborhood, we believe the mixed use plan with retail and residential proposed by The Riding Group is the best balance at this location.

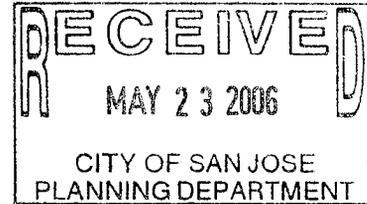
If it would fit in your busy schedule, we would be pleased to meet with you to further discuss this project.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to be 'M. Fox' or similar, enclosed within a circular scribble.

Marvin and Rob Fox
Markovits & Fox
14125 Capri Dr. #4
Los Gatos, CA 95032
408-364-2265



March 9, 2006

The Honorable Ron Gonzales, Mayor
City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113

RE: SUPPORT-The Riding Group-Mixed Use Development Proposal

Dear Mayor Gonzales:

As the leasing agent for the R&D building located at 1075 E. Brokaw directly across the street from the proposed project, I am writing to recommend that the City approve the mixed use retail/residential development plans identified in GP-06-04-02. Our property will be a neighbor of the Riding development and will be one of the most impacted by this new mixed use community.

I fully support the development proposal by the Riding Group given the residential and retail components. Such a development will be the best and highest use of the given property for the neighborhood without congesting the roads.

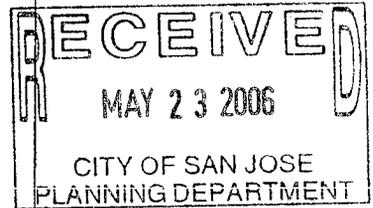
The combination of retail, residential and employment uses is ideal in this neighborhood which already has a strong mixed use character. The neighborhood has combined these types of varied uses for nearly two decades, and the development of housing, jobs and retail all close to pedestrian, transit, bike and transportation alternatives is smart planning. The addition of this project will only enhance the neighborhood and will provide a significant additional retail base for the city, while providing housing for Silicon Valley workers and their families.

I request that you approve the retail/residential mix development as proposed by the Riding Group.

Thank you for your consideration of our opinions.

Linda Fox Mighdoll
LFM Properties
(408) 379-6730
migfox@sbcglobal.net

cc: Planning Commission
Council Members
Planning Department



March 14, 2006

Mr. Joe Horwedel, Acting Director
Department of Planning Building and Code Enforcement
200 E. Santa Clara Street
San Jose, CA 95113

Re: 1040, 1060, 1080 Brokaw Road-Retail/Residential Mixed Use

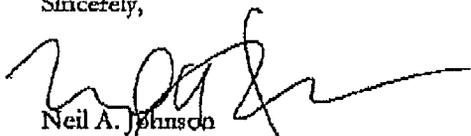
Dear Mr. Horwedel:

As the owner of two properties and several buildings directly adjacent to and across the street from the property referenced above, we are writing to register our support for the Riding Group's mixed use, retail/residential proposal at the corner of Brokaw and Old Oakland Roads. We own and manage 880 Ridder Park Drive and 1001 Ridder Park Drive.

The plan makes sense for the neighborhood and is very compatible with surrounding uses. We support the proposal and mix of retail and residential uses that has been proposed by the Riding Group.

We request that you approve the mixed use plan.

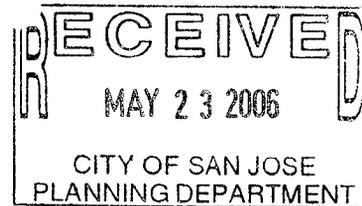
Sincerely,



Neil A. Johnson
Director of Acquisitions
Westcore Properties, LLC

10600 North De Anza Blvd.
Suite 200
Cupertino, CA 95014-2075

408.446.0700
Facsimile: 408.446.0583
www.sobrato.com



SOBRATO
| DEVELOPMENT COMPANIES

March 13, 2006

The Honorable Chuck Reed, Council Member
District #4
City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113

RE: GP-06-04-02, SUPPORT-Brokaw Mixed Use

Dear Council Member Reed:

On behalf of Sobrato Development Companies, I am writing to request that you approve General Plan Amendment GP-06-04-02. The project consists of up to 50,000 square feet of neighborhood serving retail and 600 condominiums on the 30 acres. The proposed project is directly across the street from our retail center, residential apartment homes and near many of our commercial properties.

However, our interest goes well beyond any one project or application. As the single largest owner of real estate in Santa Clara County, we hold the long view for Silicon Valley and our portfolio in the region. As one of the leading providers of Office/R&D and other commercial space to Silicon Valley's leading high tech companies, we recognize that the single greatest barrier to creating jobs and retaining workers in San Jose is the availability and affordability of housing. We hear time and time again from high tech CEO's that housing is the single most critical factor in maintaining Silicon Valley's competitiveness in an increasingly global economy.

There is currently a convergence of market dynamics that provides for you to substantially address the critical housing supply needs of our workforce and also redevelop in mixed use areas with established services. We believe that selective redevelopment of vacant land and employment space that make sense, such as this proposal, are appropriate and should be encouraged.

We are also the largest property owner in the immediate neighborhood, maintaining substantial holdings of commercial, retail and residential property in the immediate neighborhood of the proposed project. Residential, retail and business uses have coexisted in this well established mixed use neighborhood for years. New neighborhood retail and homes at this location are both appropriate and beneficial to both the existing neighborhood and employment base.

Council Member Chuck Reed
Page 2
March 13, 2006

This proposal provides workforce housing and at the same time, promotes economic development through retail and other benefits which, as evidenced by the project, are not mutually exclusive. The project locates housing next to jobs, services, transit options and is well served by more than 100 resident serving retail and commercial businesses in walking distance. The project will be complimentary to this already mixed use neighborhood.

We urge you and your colleagues to approve the Brokaw Mixed Use village as proposed by the applicant.

Best Regards,



John M. Sobrato
Managing Partner
johnm@sobrato.com

cc: Mayor Ron Gonzales
Council Members
Planning Department

May 24, 2006

San Jose Planning Commission
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

Re: General Plan Amendment (File No. GP06-04-02)
Approximately 27.4 acres bounded by E. Brokaw Road
And Old Oakland Road.

Dear Planning Commissioner:

In my capacity as the Director of the Office of Economic Development (OED), I ask that you support Planning staff's request for early denial of the proposed Fox and Markovitz proposed General Plan amendment. The Fox and Markovitz site would be best used as a retail site.

The General Plan and the Economic Development Strategy strive for a balance between jobs, housing, and revenues to support the City's workforce and residents. San Jose is deficient in its jobs-housing balance. The City needs General Fund revenues to support police, fire, library and park operations. Residents want goods and services conveniently located to enhance their quality of life.

The Office of Economic Development's 2004 Retail Study highlights that San Jose is 25% under retail. In order to fill the gap an additional \$1.8 billion dollars worth of purchases would need to be made in the City. Projects such as the General Electric, San Jose Market Center, and Eastridge expansion are helping to close some of the present gap, more needs to be done. The amount of retail square footage developed is not the question, it is the actual sales, goods purchased, and the resulting 1% sales tax is what must be considered.

While we are making short-term progress, it is clear that unless the City is strategic and persistent in creating new retail the gap will continue to widen. ABAG projects that by 2030 over 400,000 new residents will live in San Jose and 250,000 new jobs will be generated in San Jose. Steve Levy of the Continuing Study of the California Economy projects that the effective buying power of San Jose/Santa Clara County will out strip San Mateo County, San Francisco County and Alameda County's effective buying power, due in large part to the strong

Report

Fox & Markovits Project (GP06-04-02) Fiscal Impact Analysis

Prepared by:
City of San Jose

Methodology by:
Economic & Planning Systems

May 2006

Introduction

The following report has adopted the methodology developed by Economic & Planning Systems for a prior residential project to be located at Lundy & McKay (June 2004, EPS Report #13167). The Lundy & McKay Fiscal Impact Analysis was produced for the Riding Group. Utilizing the same variable cost approach, this report updates various numbers reflecting the proposed Fox and Markovits project (GP06-04-02).

Three basic assumptions made in this analysis:

- A detailed breakdown of proposed units was not available therefore in Table 2 persons/per household is assumed to be the same as the Lundy & McKay project.
- Additionally, no information was available as to the number of miles of streets/roads that the City would be responsible to service as a result of the Fox & Markovits proposed project, therefore it is assumed to be zero in Table 2.
- In Table 3, the average sales price is estimated to be \$550,000. This figure is higher than the Lundy & McKay average sales price of \$490,000 and is also higher than the current asking price of existing units at \$481,000 on the market today.

Table- by-Table Assumptions and Analysis

Table 1- Summarizes the revenue and expenditures to the City from the Fox & Markovits project. If all assumptions hold true, the Fox & Markovits mixed-use project costs the City more than the revenue received.

Table 2- Assumed earlier, the persons/per household is assumed to be the same from the Lundy & McKay analysis. As such, this results in 1,718 new residents. For context, the 2006 State of California Department of Finance E-6 report finds the persons/per household in San Jose is 3.18. Assuming everything else constant in the model, the increase in residents/per household from 2.81 (assumed in the model) to 3.18 still results in costs exceeding revenue to the City.

Table 3- Figures for Household Income for San Jose is based upon San Jose's Sphere of Influence (SOI) using ABAG's Projection 2005. As noted earlier, the average sales price is assumed to be \$550,000. This figure is estimated a little higher than existing statistics. A search of www.mlslistings.com conducted on May 23, 2006, for condominiums located in zip code 95131, shows the average asking rate to be \$427,000. Similarly, according to the Santa Clara County Association of Realtors, the March 2006 average asking rate for condominiums in San Jose is \$481,000. All Utility figures are assumed to be the same as the Lundy & McKay project. If month utility figures are raised by 60% to correct for the 2004 figures from EPS, the Fiscal Impact Analysis still results in costs exceeding revenues to the City of San Jose.

Table 4- All figures have been updated to most recent data available. All sources are the same as the Lundy & McKay Analysis.

Table 5- All general fund figures are based upon the City of San Jose's Proposed 2006-2007 Operating Budget. All allocation percentages are based upon the same assumptions as the Lundy & McKay Analysis.

Table 6- Based upon the Fox & Markovits proposed project, the City will receive over \$500 thousand in property tax revenue, assuming the average sale price of \$490,000. The City's share of 17.4% is based upon the 2005-2006 Santa Clara County Tax Book (Page 41). The turnover rate is assumed to be the same as Lundy & McKay Analysis.

Table 7-The percentages for sales tax are assumed to be the same as the Lundy & McKay Analysis. The only change that has occurred is in the Expenditures Captured by San Jose. The original Bay Area Economics Retail Report produced for the City in 2004 found a 24% leakage of sales to outside of San Jose. A more recent analysis performed by the City of San Jose incorporating recent retail developments found that the leakage out of San Jose is now at 19%. Therefore the assumed capture rate of expenditures is 81%.

Table 8- All figures assumed to be the same as the Lundy & McKay Analysis.

Table 9-10 Both Police and Firefighter employment figures have been updated to reflect figures from the City of San Jose's 2006-2007 Proposed Operating Budget.

Conclusion

Using the basic assumptions from the Lundy & McKay Fiscal Impact Analysis and providing updates to available figures, as it stands, Fox & Markovits has a negative impact to the City of San Jose.

Table 1
 Annual Fiscal Impact Summary at Project Buildout
 Fiscal Impact Analysis of Fox Markovits Project

Item	Project Total
Total Project General Fund Revenue	
Property Tax	\$573,504
Property Transfer Tax	\$87,265
Sales Tax	\$127,622
Franchise Tax	\$32,454
Utility Users Tax	\$67,312
Fines, Forfeitures, and Penalties	\$22,582
Revenue from State Government	<u>\$17,129</u>
Subtotal Revenues	\$927,869
<u>Total Project General Fund Expenditures</u>	
General Government	\$51,651
Finance	\$10,298
Economic Development	\$3,860
Fire	\$231,870
Police	\$459,122
<u>Capital Maintenance</u>	
General Services	\$36,378
Total Transportation	<u>\$0</u>
Total Capital Maintenance	\$36,378
<u>Community Service</u>	
Environmental Services	\$2,248
Library	\$37,277
Park, Recreation & Neighborhood Services	\$81,635
Planning, Building & Code Enforcement	<u>\$32,329</u>
Total Community Services	\$153,489
Non-Departmental	<u>\$90,081</u>
Subtotal Expenditures	<u>\$1,036,749</u>
Net Fiscal Balance	(\$108,880)

Table 2
 Project Description
 Fiscal Impact Analysis of Fox Markovits Project

Item	Total	Persons/ Household	Number of Households (1)	New Population
Development				
<u>Townhomes</u>				
Plan 1-2BR	- units	2.50	#VALUE!	#VALUE!
Plan 2-3BR	- units	3.25	#VALUE!	#VALUE!
Plan 3-3BR	- units	3.25	#VALUE!	#VALUE!
Plan 4-4BR	- units	4.00	#VALUE!	#VALUE!
	<u>0</u>	<u>3.25</u>	<u>#VALUE!</u>	<u>#VALUE!</u>
<u>Condominiums</u>				
1BR	- units	2.00	#VALUE!	#VALUE!
2BR	- units	2.50	#VALUE!	#VALUE!
2BR	- units	2.50	#VALUE!	#VALUE!
3BR	- units	3.25	#VALUE!	#VALUE!
1BR	- units	2.00	#VALUE!	#VALUE!
1BR	- units	2.00	#VALUE!	#VALUE!
Total/Average	<u>0</u>	<u>2.38</u>	<u>#VALUE!</u>	<u>#VALUE!</u>
<u>Total Development</u>				
Urban/Live/Work Lofts	370 units	3.25	3.25 363	1180
Condominiums	231 units	2.38	2.38 227	538
	<u>601</u>	<u>2.81</u>	<u>590</u>	<u>1718</u>
New Parks (2)				
Park	2.1 acres			
Public Road Adjacency				
Public Roads	0 miles			
Project Share (50%)	0 miles			

Table 3
Description of Typical New Household
Fiscal Impact Analysis of Fox Markovits Project

Item	Estimating Factors		Description/Source
Population	2.81	per unit	Table 2
Household Income (\$2005)	\$90,400		ABAG 2005
Average Sales Price*	\$550,000		OED-SCCOAR, EPS
Turnover	8%	per year	RAND 2002
Total Utility Bill			
Water	\$30	per mo	EPS
Telephone Bill (1)	\$35	per mo	EPS
Electricity Bill	\$32	per mo	EPS
Gas Bill	\$90	per mo	EPS
Cable Bill (2)	\$30	per mo	EPS
Total per month	\$217		
Total per year	\$2,604		

(1) Intrastate service only

(2) Assumes unit receives cable service

* Current MLS Listing for Condo's in the 95131 have an average asking price of \$427,000

Table 4
Citywide Demographic Data
Fiscal Impact Analysis of Fox Markovits Project

Item	Amount	Notes
Households (2006)	301,848	DOF E5 File
Mean Household Income (\$2005)	\$90,400	ABAG 2005
Single Family Housing Units (2006)	194,570	DOF E5 File
Multifamily Housing Units (2006)	96,250	DOF E5 File
Population (2006)	953,679	DOF E5 File

Table 5
General Fund 2006/07 and Estimating Factors
Fiscal Impact Analysis of Fox Markovits Project

Item	Table Reference	06-07 Proposed General Fund	% Variable Costs (1)	Allocation Factor	Project Total
Revenues					
Fund Balance		\$107,778,614			\$573,504
Property Tax	Table 6	\$183,914,000		17.35% of Assessed Value	\$87,265
Property Transfer Tax	Table 6	-		\$3 per \$1,000 of value of homes sold annually	\$127,622
Sales Tax	Table 7	\$144,008,000		1.00% of estimated sales	-
Transient Occupancy Tax	Table 8	\$7,600,000		not estimated	\$32,454
Franchise Tax	Table 8	\$36,904,000		5.00% gross receipts	\$67,312
Utility Users Tax	Table 8	\$76,088,000		5.00% of utility bills	-
License and Permits		\$74,660,399	100%	not estimated	\$22,582
Fines, Forfeitures and Penalties		\$12,536,567		\$13 per capita	-
Revenue from Money & Property		\$10,541,869		not estimated	-
Revenue from Local Agencies		\$45,290,121	100%	not estimated	\$17,129
Revenue from State Government		\$9,509,479		\$10 per capita	-
Motor Vehicle In Lieu Fee		-		not estimated	-
Airplane In-Lieu Fee		\$1,533,307		not estimated	-
Revenue from Federal Government		\$29,460,375		not estimated	-
Department Charges		\$11,044,499		not estimated	-
Other Revenue (2)		\$95,608,271		not estimated	-
Transfers and Reimbursements		-		not estimated	-
Gas Tax Transfer		-		not estimated	-
Subtotal Revenues		\$846,687,501			\$927,869
Expenditures					
General Government (3)		\$57,348,388	50%	\$30 per capita	\$51,651
Finance (4)		\$11,434,248	50%	\$6 per capita	\$10,298
Economic Development		\$4,285,491	50%	\$2 per capita	\$3,860
Redevelopment		\$1,356,285		not estimated	-
Fire	Table 9	\$128,724,531	100%	\$173,017 per firefighter	\$231,870
Police	Table 10	\$254,885,193	100%	\$176,942 per police officer	\$459,122
Capital Maintenance (5)		\$20,195,398	100%	\$21 per capita	\$36,378
General Services		\$9,517,193		not estimated	-
Public Works		-			-
Transportation (6)		-			-
Street Landscape		\$11,163,076	100%	\$4,854 per road mile	\$0
Pavement Maintenance		\$6,483,896	100%	\$2,819 per road mile	\$0
Traffic Maintenance		\$11,131,574	100%	\$4,840 per road mile	\$0
Other (7)		\$4,547,352	100%	\$1,977 per road mile	\$0
Total Transportation		\$33,325,908		\$14,490 per road mile	\$0
Community Service		-			-
Environmental Services		\$1,664,344	75%	per capita	\$2,248
Library		\$27,592,546	75%	\$22 per capita	\$37,277
Park, Recreation & Neighborhood Services		\$60,426,882	75%	per capita	\$81,635
Planning, Building & Code Enforcement		\$35,859,574	50%	per capita	\$32,329
Total Community Services		\$125,579,346	75%	per capita	\$153,489
Non-Departmental (8)		\$200,035,520	25%	per capita	\$50,081
Subtotal Expenditures		\$846,687,501			\$1,036,749
Total Net		\$0			(\$108,880)

(1) Percentage of costs that increases with growth, as opposed to fixed costs
(2) Includes reimbursements from investment programs
(3) Includes city attorney, auditor, clerk, manager, mayor, council, emergency services, employee services, and information technology
(4) Includes independent police auditor
(5) Includes general services, public works and transportation
(6) City Budget forecast of 2,295 mi. of roads to be maintained by city 2004 annual report.
(7) Other transportation costs funded by General Fund
(8) Includes citywide expenses, transfers, capital contributions and reserves

Table 6
 Property Tax Calculation
 Fiscal Impact of Fox Markovits Project

	Assumptions	Project Total
Total Assessed Value		
Project Sales Value/Unit (1)		\$550,000
Number of Units		601
Projected Assessed Value		<u>\$330,550,000</u>
Property Tax Total	1.00% of Assessed Value	\$3,305,500
City Property Tax Share	17.4% of Assessed Value	\$573,504
Transfer Tax	\$3.30 per \$1,000 of value of homes sold annua	\$87,265
Turnover Rate (2)	8%	

(1) Average market price of all units

(2) Assumes that on average, 8% of the residents are sold in any given yea

Table 7
 Sales Tax Calculations
 Fiscal Impact Analysis of Fox Markovits Project

	Assumptions	Number
Income Assumptions		
Average Household Income	\$90,400 per household	
Average HH Taxable Retail Expenditure (1) Average Household Expenditure	29% of income	\$26,216
Total Expenditure Captured by San Jose Expenditures per New Household	81% of taxable exp (2)	\$21,235
Total New Retail Sales New Households	601	\$12,762,211
Total New Sales Taxes New Housholds	1.00% of estimated sales	\$127,622

(1) Bureau of Labor Statistics: assumes households with average incomes over \$70,000 spend 29% of income on taxable expenditures

(2) Represents the estimated average capture rate for the City of San Jose based on City Report, BAE Retail Study 2004, Figures updated to 2005

Table 8
 Utility Tax Calculation
 Fiscal Impact Analysis of Fox Markovits Project

	Assumptions	Project Total
Utility Tax	5% of utility bills	
Annual Utility Bill per Home	\$2,604	\$2,604
Tax per home	\$112	\$112
Total Taxes		\$67,312
Franchise Fees		
Water	2% gross receipts	
Annual Water Bill Per Home	\$360	\$360
Franchise Fee per Home	\$7	\$7
Total		\$4,207
Cable	5% gross receipts	
Annual Cable Bill Per Home	\$360	\$360
Franchise Fee per Home	\$18	\$18
Total		\$10,818
Gas & Electric	2% gross receipts	
Annual Gas & Electric Bill Per Home	\$122	\$122
Franchise Fee per Home	\$29	\$29
Total		\$17,429
Total Franchise Fees		\$32,454

- (1) Includes electricity, gas and phone. Excludes cable services because cable is not subject to utility user tax.
 (2) Calculated on cable, gas, and electric

Figures are all assumed from Lundy & McKay Fiscal Impact Analysis Report

Table 9
 Fire Department Expenses
 Fiscal Impact Analysis of Fox Markovits Project

Item	
Number of Firefighters 2006 (1)	744
Per 1,000 population	0.78
Buildout Project Population	1718
Total New Firefighters Required	1.34
Annual General Fund	\$173,017
Expenditures per firefighter (2)	\$231,870

(1) Includes Chiefs, Captains, Engineers and Firefighters: Proposed 2006-2007 Budget

(2) Includes Emergency Response, Fire Prevention and Fire Safety and Code Enforcement: Proposed 2006-2007 Operating Budget

Table 10
 Police Department Expenses
 Fiscal Impact Analysis of Fox Markovits Project

Item	
Number of Officers 2006 Per 1,000 population	1440.5 1.51
Buildout Project Population	1718
Total New Officers Required	2.59
Annual General Fund (1) Expenditures per Officer	\$176,942 \$459,122

(1) Includes response calls for service, crime prevention & community education, investigative services and traffic safety services: Proposed 2006-2007 Operating Budget

MEMORANDUM

TO: Jenny Nusbaum, Planning, Building, and Code Enforcement

FROM: Donald Rocha, Redevelopment Agency - Industrial Division

RE: Comments on GP06-04-02

DATE: May 24, 2006

Thank you for the opportunity to provide comments on GP06-04-02. The San Jose Redevelopment Agency supports the recommendations from PBCE staff to:

- Deny the GPA request to change the Land Use/Transportation Diagram designation from Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres to Neighborhood/Community Commercial on 6 acres and High Density Residential on 21.4 acres on an approximately 27.4-acre site located on several parcels on the southwest corner of East Brokaw Road and Old Oakland Road;
- Initiate a GPA to change the Land Use/Transportation Diagram designation from Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres to Combined Industrial/Commercial on 27.4 acres.

The site is located within the North San José Development Policy Area (NSJADP), and within the Rincon de Los Esteros Redevelopment Area. The request for residential uses would eliminate employment land and reduce the potential for sales tax revenue, therefore it is critical to preserve the potential for sales tax revenue, and most importantly preserve the land for employment uses. The NSJADP already identifies sites for conversion to residential (up to 24,700 units) and the inclusion of additional residential units presents a number of issues in respect to environmental clearance, traffic impacts, public services, and infrastructure improvements.

In addition, the site in question represents a valuable opportunity for developing a large retail commercial center, thus the recommended Combined Industrial/Commercial designation will provide for maximum flexibility to allow either future industrial or commercial development or a mix of both uses. These sites have been recommended for location at the edges of San José and in high-growth areas so that resident dollars will be retained in San José and new shoppers will be attracted from nearby cities. Based on the conclusions of staff's analysis the amendment site represents a valuable opportunity for developing a large retail commercial center.



COUNCIL AGENDA: 06-13-06
ITEM: 10.4

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: May 22, 2006

TRANSMITTAL MEMO

COUNCIL DISTRICT: # 4
SNI AREA: None

SUBJECT: FILE # GP06-04-02. General Plan Amendment request to change the land use designation on an approximately 27.4-acre site (the entire property consists of 29.9 acres, 2.5 acres of which is Private Open Space which will remain unchanged) from Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 dwelling units per acre) on 21.4 acres.

The Planning Commission will hear this project on May 24, 2006. The memorandum with Planning Commission recommendations will be submitted under a different cover. We hope the submittal of this staff report is of assistance in your review of this project.


for JOSEPH HORWEDEL, ACTING DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Planning, Building and Code Enforcement at (408) 535-7800.



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

**GENERAL PLAN AMENDMENT
STAFF REPORT
SPRING 2006 HEARING**

Hearing Date/Agenda Number:
P.C. May 24, 2006 Item: **7d**

File Number:
GP06-04-02

Council District and SNI Area:
4

Major Thoroughfares Map Number:
51

Assessor's Parcel Number(s):
237-03-061, -069, -070

Project Manager:
Jenny Nusbaum and Allen Tai

PROJECT DESCRIPTION: General Plan Amendment request to change the land use designation on an approximately 27.4-acre site (the entire property consists of 29.9 acres, 2.5 acres of which is Private Open Space which will remain unchanged) from Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 dwelling units per acre) on 21.4 acres.

LOCATION: Southwest corner of East Brokaw Road and Old Oakland Road (1633 Old Oakland Road, and 1040, 1060, and 1080 East Brokaw Road).

ACREAGE:
27.4 acres

APPLICANT/OWNER: The Riding Group/Applicant; Markovits & Fox, Inc./Owner

GENERAL PLAN LAND USE / TRANSPORTATION DIAGRAM DESIGNATION:

Existing Designation: Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres
Proposed Designation: Neighborhood Community/Commercial on 6 acres and High Density Residential (25-50 DU/AC) on 21.4 acres.

EXISTING ZONING DISTRICT(S): Heavy Industrial and Light Industrial

SURROUNDING LAND USES AND GENERAL PLAN DESIGNATION(S):

North: Office uses with Industrial Park land use designation

South: Coyote Creek riparian corridor, Light Industrial/office uses; Private Open Space, Public Park/Open Space, and Heavy Industrial

East: Commercial/Office uses with Light Industrial land use designation

West: Coyote Creek riparian corridor, active Union Pacific Railroad, Office building with Light Industrial land use designation

ENVIRONMENTAL REVIEW STATUS: **Incomplete.**

PLANNING STAFF RECOMMENDATION:

1. No change to the existing General Plan land use designations of Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres.
2. City Council initiate a General Plan amendment to change the existing General Plan land use designations to Combined Industrial/Commercial on the entire 27.4-acre site.

Approved by:

Date:

May 18, 2006

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 property is contained in the project file and will be considered if the project continues through the process.

GENERAL CORRESPONDENCE:

None.

INTRODUCTION

When City departments determine that proposed land use amendments to the *San José 2020 General Plan* are inconsistent with adopted Council policies, the Administration may bring those amendments to the Planning Commission for consideration of a denial recommendation to the City Council at the first available General Plan hearing. This approach provides an opportunity at the earliest point in the process for the Planning Commission and City Council to consider identified policy issues and to determine (1) whether such an application should be denied based upon those inconsistencies 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 early in the processing of such amendments could potentially save applicants and the City time and money in the continued processing of such proposals. 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.

RECOMMENDATION**Denial without Environmental Clearance**

Staff recommends no change to the General Plan Land Use/Transportation Diagram designation of Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres on the subject site (i.e., denial of the proposed amendment) because the proposal to change the land use designations to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 dwelling units per acre) on 21.4 acres is substantially

inconsistent with adopted policies in the San José 2020 General Plan and the City's Economic Development Strategy.

Environmental clearance is incomplete for this application. The Planning Commission has the options to recommend to the City Council: (1) denial of the 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.

Council-Initiated General Plan Amendment

Based on the conclusions of staff's analysis that the amendment site represents a valuable opportunity for developing a large retail commercial center, staff recommends that the City Council initiate a General Plan amendment to designate the entire 27.4-acre site Combined Industrial/Commercial so the site has maximum flexibility to allow either future industrial or commercial development or a mix of both uses.

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 Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 dwelling units per acre) on 21.4 acres on an approximately 27.4-acre site located on several parcels on the southwest corner of East Brokaw Road and Old Oakland Road (1633 Old Oakland Road, and 1040, 1060, and 1080 East Brokaw Road). Approval of the proposed General Plan amendment would potentially allow between 535 and 1,070 residential units on this site, which has readily available transportation access to support continuing industrial use and development.

The site is located within the North San José Development Policy Area, and within the Rincon de Los Esteros Redevelopment Area.

The site's existing Industrial Park land use designation allows a wide variety of industrial uses, including research and development, manufacturing and assembly, and offices. The Mixed Industrial Overlay designation on 15.5 acres of the site is intended to preserve a supply of land for industrial uses while allowing for commercial or public/quasi-public uses that would not compromise the integrity of the industrial area. Appropriate locations for the overlay designation are areas that already contain, or are surrounded by, non-exclusive industrial areas that contain a mix of uses. These areas provide opportunities for land uses that may have difficulty locating in commercial or residential areas due to neighborhood concerns, land use compatibility, scale of operation or other similar issues.

The High Density Residential (25-50 DU/AC) land use designation that is proposed for the site is typified by three- to four-story apartments or condominiums over parking. A mixture of housing types, subject to overall density limits, could also be considered under the High Density Residential (25-50 DU/AC) land use designation. However, this land use designation is not appropriate for this site. This density is intended near the Downtown Core Area, near commercial centers with ready access to freeways or expressways, and in the vicinity of rail

stations within the Transit-Oriented Development Corridors Special Strategy Areas.

Typical uses in the proposed Neighborhood/Community Commercial land use designation are neighborhood-serving retail and service establishments. Future uses in the Neighborhood/Community Commercial designation should develop in the form of shopping centers, as a group of commercial establishments planned and developed as a unit, and related in size and type of shops to the trade area served.

BACKGROUND

Site and Surrounding Land Uses

The site is located on the west side of Oakland Road, approximately 300 feet north of Schallenberger Road, and is bounded by Oakland Road to the east, Coyote Creek to the south, Union Pacific Railroad tracks to the west, and East Brokaw Road to the north.

Formerly one parcel, in 1984, the site was subdivided to facilitate development of three R&D/office buildings (Fairway Business Park) at the southwest corner of Oakland and Brokaw Roads. One of these three buildings was constructed in the mid-1980s; the other two buildings were built in the late 1990s. The 15.5-acre portion of the site with the existing Mixed Industrial Overlay was formerly used as a metal recycling facility, which closed in March 2000. All buildings associated with the metal recycling facility were removed in December 2001.

1. Surrounding land uses include industrial park/office uses, a commercial shopping center (North Park Plaza), and multi-family residential uses to the north and northeast, PS Business Park and the Municipal Golf Course to the east, Coyote Creek, the adjacent riparian corridor, and the Union Pacific Railroad to the west, and riparian corridor and Coyote Creek to the south.

Previous General Plan amendments on this Site

In 2000, the site was the subject of a General Plan amendment (File No. GP00-04-03) that changed the land use designation from Heavy Industrial to Industrial Park on 27.5 acres and the remainder of the property to Private Open Space on 2.5 acres, reflecting the required riparian setback for future development. Given the changing character of the general area, the site was no longer well suited for heavy industrial uses.

In 2003, the 15.5-acre portion of the site previously occupied by the metal recycling facility was the subject of a General Plan amendment (File No. GP03-04-05) that added a Mixed Industrial Overlay to the existing Industrial Park land use designation. The intent of adding the Mixed Industrial Overlay on this portion of the site was to provide a greater opportunity for industrial, compatible non-industrial, or a combination of both types of uses in order to help facilitate economic development opportunities.

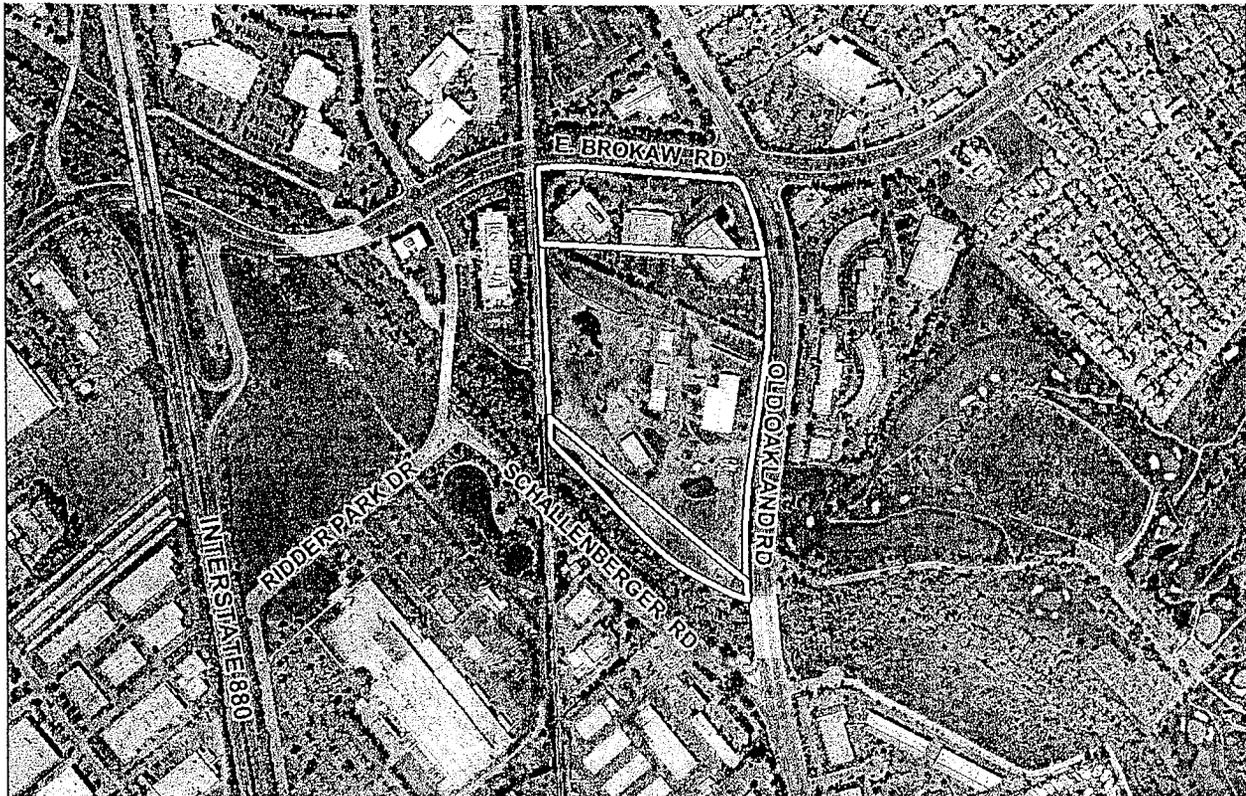


Fig.1. Aerial Photograph of the site and the surrounding area, taken in 2001.

ANALYSIS

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

1. Inconsistency with adopted Economic Development Strategy

Conversion of the site to High Density Residential (25-50 DU/AC) on 21.4 acres and Neighborhood/Community Commercial on 6 acres would compromise the potential of the site for the type and scale of retail uses envisioned by the City's adopted Economic Development Strategy to be supported by existing and future market demand.

The Economic Development Strategy adopted by City Council in November 2003 includes fifteen (15) Strategic Initiatives and identifies tactics to achieve these initiatives. Strategic Initiative No. 13 is to **"Develop retail to full potential, maximizing revenue impact and neighborhood livability."** One of the tactics identified to achieve this initiative is identifying sites of at least 20 acres to accommodate larger retailers offering home furnishings, general merchandise, consumer electronics, and apparel. These sites should be located strategically at the edges of San José and in high-growth areas so that resident dollars will be retained in San José and new shoppers will be attracted from nearby cities.

The City's Office of Economic Development and the Redevelopment Agency have identified this site as one that offers a rare opportunity for redevelopment with Community Retail uses. There are very few sites within the City that meet the criteria for Community Retail.

Typically, a Community Retail Center requires at least 20 acres of land appropriately configured to accommodate large-format stores. The subject site is more than 20 acres in size and consists of large assembled parcels in single ownership, with convenient access to freeways and arterial streets.

The existing General Plan land use designations on the subject site provide the opportunity for community-serving retail uses to address the City's unmet retail needs as identified in the adopted Economic Development Strategy.

The site is unique in size, location, and proximity to transportation to serve the retail needs of both a local and regional population and is within close and convenient access to Interstate 880, East Brokaw Road, and Old Oakland Road.

Redevelopment of the site with Community Retail uses would be consistent with the City's Economic Development Strategic Initiatives. The City's *Economic Development Strategy*, *The San José Neighborhood Retail Model Summary Report*, the *San José 2020 General Plan*, and analyses provided by the Association of Bay Area Governments, show that approximately 10 million square feet of building area for retail uses will be needed to support Driving Industries and Business-Support/People-Serving Industries through 2020.

According to the 2004 Retail Study by Bay Area Economics, the City of San José is underserved by retail throughout many areas of the City. This is resulting in a leakage of sales out of San José into other communities such as Milpitas and Santa Clara. The report goes on to identify local retail trade areas that would benefit by having more retail in the form of grocery, drug, and apparel stores. Of particular interest is local retail trade area #4 in the Greater Berryessa community. Local retail trade area #4 incorporates the subject site and, according to the report, has un-met demand for retail in the area. The report suggests at least 100,000 square feet of mixed retail types could be supported.

2. Inconsistency with San José 2020 General Plan Economic Development Major Strategy

Conversion of the site to residential uses would eliminate employment land and reduce the potential for sales tax revenue. The General Plan's Economic Development Major Strategy strives to make San José a more "balanced community" by encouraging more commercial and industrial growth. Maintaining the subject site with the existing Industrial Park and Industrial Park with Mixed Industrial Overlay land use designations would not only preserve the potential for sales tax revenue, but would also preserve the land for employment uses.

3. Inconsistency with North San José Area Development Policy

In the updated North San José Development Policy Area, developing new housing east of Interstate 880 is intentionally *not* encouraged because the Policy focuses on placing development near existing housing sites where residential support services are available. The purpose of the North San Jose Area Development Policy was, in part, to guide residential development to occur adjacent to existing residential development, have close proximity to jobs, and provide a traffic benefit by locating residential development to the west of Interstate 880, where a number of access points to regional highways exist. The project

location, however, is not adjacent to residential development, have limited access to the core employment area in North San Jose, and is within an area where few pedestrian amenities are available.

4. Inconsistency with the San José 2020 General Plan Goals and Policies

- a. **The proposal is inconsistent with *Economic Development Goal No. 2 to create a stronger municipal tax base*** by obtaining a greater share of total commercial development in the County by nurturing and encouraging the expansion of commercial development in the City.
- b. **The proposal is inconsistent with the *Commercial Land Use Goal***, which emphasizes the need to locate new commercial uses in the community to facilitate convenient shopping and easy access to professional services and to contribute to the economic base of the City.
- c. **The proposal is inconsistent with *Commercial Land Use Policy No. 1***: “Commercial land in San José should be distributed in a manner that maximizes community accessibility to a variety of retail commercial outlets and services and minimizes the need for automobile travel. New commercial development should be located near existing centers of employment, ...”

5. Inconsistency with Previous City Council Actions to Maintain Land Uses on the Site that provide Economic Development Opportunities

Conversion of the site to High Density Residential (25-50 DU/AC) on 21.4 acres and Neighborhood/Community Commercial on 6 acres would contradict previous City Council actions. The City Council has reviewed the site and approved General Plan amendments twice in the last six years to allow a wide range of Industrial Park and compatible commercial uses on the site. The intention with each of these land use changes was to maintain potential economic development opportunities on the site.

6. Residential Uses on Property not Required for Support of General Plan Housing Major Strategy

The subject site and surrounding industrial area do not meet Transit-Oriented Development criteria and are more valuable to the City to support economic development than for additional residential development. San José continues to plan, approve, and issue building permits for more housing than any other city in the Northern California. The City has continued to be proactive in its efforts commitment to meet the community’s housing needs through a variety of innovative development strategies, including proactively planning for mixed-use and transit-oriented development. In particular, the recent approval of the North San José Area Development Policy will facilitate the addition of up to 24,700 units of new, high-density residential in the North First Street Transit-Oriented Development Corridor. In the updated North San José Development Policy Area, developing new housing east of Interstate 880 was intentionally not encouraged because the Policy focuses on placing development near existing housing sites where residential support services are available.

7. Consistency with the Adopted Industrial Conversion Framework

Conversion of 21.4 acres of the site to High Density Residential (25-50 DU/AC) would reduce the potential to provide commercial uses to meet the City's need for community-serving retail, and would not provide an equivalent benefit to the City. The site is located within North San José 5 subarea as identified in the study. The Framework identifies this portion of North San José 5 east of I-880 to consider for conversion to housing, retail, or other Household Serving Industries only in areas that are close to existing residential areas and areas that could be integrated into a neighborhood framework. The criteria for consideration include an assessment of costs and benefits to the City that would result from the conversion to non-industrial uses. The existing Industrial Park with Mixed Industrial General Plan land use designation on the 15.5-acre portion of the site already allows non-industrial uses, such as retail uses, that would address City identified unmet shopping needs in the surrounding area while still maintaining employment and revenue potential for the City. The proposed land use change would not provide these same benefits to the City, and would, therefore, be less consistent with the Framework criteria.

Conclusion

The proposed General Plan amendment request to change the General Plan Land Use designation from the existing Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres to High Density Residential (25-50 DU/AC) on 21.4 acres and Neighborhood/Community Commercial on 6 acres is inconsistent with the City's Economic Development Strategy and fundamental Major Strategies, goals and policies of the General Plan. Approval of this General Plan amendment would diminish the City's ability to provide community-serving retail services, provide employment opportunities for low, medium and high skilled workers, maintain a diverse economy, and provide long-term growth potential for a needed tax base.

While the Mixed Industrial Overlay designation on the 15.5-acre portion of the site would allow large format commercial uses, this report identifies the need for the entire site to be explicitly preserved for future retail commercial uses. In order to provide maximum flexibility to accommodate such uses in the future, Planning staff recommends that the City Council initiate a General Plan amendment to designate the entire 27.4-acre site Combined Industrial/Commercial, which would allow either industrial or a full range of commercial uses that are compatible with industrial uses, or a mix of both industrial and commercial uses on the site. A proposal for Combined Industrial/Commercial would require environmental clearance before it could be considered for approval by the City Council.

ENVIRONMENTAL REVIEW

Pursuant to Section 15270 of the CEQA Guidelines, CEQA does not apply to projects which a public agency rejects or disapproves. An Environmental Impact Report would be required for completion of environmental clearance under CEQA for the City Council to consider approval of the General Plan amendment request.

PUBLIC OUTREACH

A joint notice of the public hearings to be held on the subject General Plan amendment before the Planning Commission on May 24, 2006 and City Council on June 13, 2006 was circulated to the property owners and residents within a 1000 foot-radius of the subject property. The Planning Department web site contains information regarding the General Plan process, amendments, staff reports, and hearing schedules. This web site is available to any member of the public and contains the most current information regarding the status of the General Plan amendments. If Council decides not to consider the General Plan amendment unless environmental clearance is completed, then Planning staff will continue to coordinate with the applicant, Council District 4 staff, and neighborhood group representatives to schedule community meetings and additional public outreach.

COORDINATION

Preparation of this report has been coordinated with the City Attorney's Office, Housing Department, Office of Economic Development, and the Redevelopment Agency.

GP06-04-02

