



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** June 5, 2006

---

**COUNCIL DISTRICT:** 5  
**SNI AREA:** Mayfair

**SUBJECT:** GP05-05-01. GENERAL PLAN AMENDMENT REQUEST TO CHANGE THE SAN JOSE 2020 GENERAL PLAN LAND USE/TRANSPORTATION DIAGRAM DESIGNATION FROM MEDIUM DENSITY RESIDENTIAL (8-16 DU/AC) TO NEIGHBORHOOD/COMMUNITY COMMERCIAL ON AN APPROXIMATELY 0.6-ACRE SITE ON THE EAST SIDE OF SOUTH KING ROAD, APPROXIMATELY 300 FEET NORTHERLY OF EAST SAN ANTONIO STREET (150 SOUTH KING ROAD).

## RECOMMENDATION

The Planning Commission voted 6-0-0 to recommend approval of the General Plan amendment request to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Neighborhood/Community Commercial on an approximately 0.6-acre site on the east side of South King Road, approximately 300 feet northerly of East San Antonio Street (150 South King Road).

## BACKGROUND

On June 5, 2006, the Planning Commission held a public hearing to consider the proposed General Plan amendment. This item was considered as part of the consent calendar, with no discussion by the Planning Commission. No one appeared in support of, or in opposition to, the proposed General Plan amendment.

## ALTERNATIVES

Not applicable.

## PUBLIC OUTREACH

A community meeting was held in conjunction with the Mayfair Strong Neighborhoods Initiative Neighborhood Advisory Committee (SNI NAC) meeting at the Mayfair Community Center on April 27, 2006. Approximately 25 people attended the meeting. City staff and the applicant presented the General Plan amendment request and a Planned Development Zoning application that is also pending for the site, which assumes that a discretionary alternate use policy would be applied to allow a mixed-use development. Public comments included the need to scale down the height and massing of the proposed

June 5, 2006

**Subject:** GP05-05-01

Page 2

development, the need to incorporate security elements into the development, and the need for the proposed residential units to be affordable. City staff and the applicant explained that although 20 percent of the residential units within the Redevelopment Area in which the site is located are required to be affordable, the specific requirements for affordability for units on the subject site are based on criteria provided by the City and Redevelopment Agency in response to a specific proposal. The Mayfair SNI NAC then voted unanimously to support the concept of uses on the site.

Property owners and tenants within a 1,000-foot radius of the subject site received a notice of the public hearings to be held on the General Plan amendment request before the Planning Commission on June 5, 2006 and City Council on June 20, 2006. The Department web site contains information regarding the General Plan amendment process, 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 applications.

### **COORDINATION**

The review of this General Plan amendment request was coordinated with the San Jose Office of Economic Development, the Department of Public Works, Fire Department, Department of Transportation, Environmental Services Department, Police Department, Building Division, the Department of Parks, Recreation and Neighborhood Services, and the San Jose Redevelopment Agency.

### **COST IMPLICATIONS**

Not applicable.

### **BUDGET REFERENCE**

Not applicable.

### **CEQA**

The request to change the General Plan land use designation on the subject site was analyzed in an Initial Study that resulted in a Mitigated Negative Declaration. The Initial Study determined that the change in land use would create a less than significant impact with mitigation measures in the following categories: Air Quality, Biology, Hazards and Hazardous Materials, Hydrology and Water Quality, and Noise. All of the mitigation measures consist of implementation of existing General Plan policies when rezoning and development occurs.

  
for JOSEPH HORWEDEL, SECRETARY  
Planning Commission

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



COUNCIL AGENDA: 06-20-06

ITEM: 10.1 (a)

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** June 1, 2006

---

## TRANSMITTAL MEMO

**COUNCIL DISTRICT:** 5

**SNI AREA:** None

**SUBJECT: FILE #GP05-05-01.** Tentative approval of General Plan Amendment request to change the Land Use/Transportation Diagram designation on a 0.6-acre parcel on the east side of South King Road, approximately 300 feet northerly of East San Antonio Street (150 South King Road) from Medium Density Residential (8-16 dwelling units per acre) to Neighborhood/Community Commercial.

The Planning Commission will hear this project on Monday, June 5, 2006. The memorandum with Planning Commission recommendations will be submitted under 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 E Santa Clara Street, 3<sup>rd</sup> Floor  
San Jose, CA 95113

Hearing Date/Agenda Number:  
P.C. June 5, 2006 Item: 6.a.

File Number:  
GP05-05-01

Council District and SNI Area:  
District 5

Major Thoroughfares Map Number:  
68

Assessor's Parcel Number(s):  
481-17-070

Project Manager:  
Jenny Nusbaum / Hadasa Lev

## GENERAL PLAN AMENDMENT STAFF REPORT SPRING 2006 HEARING

**PROJECT DESCRIPTION:**

General Plan amendment request to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 dwelling units/acre) to Neighborhood/Community Commercial on an approximately 0.6-acre site.

**LOCATION:** East side of King Road, approximately 300 feet northerly of East San Antonio Road (150 South King Road)

**ACREAGE:** 0.6

**APPLICANT/OWNER:**

Erik Schoennauer, Applicant / Toan & Tammy Nguyen, Owner

**GENERAL PLAN LAND USE / TRANSPORTATION DIAGRAM DESIGNATION:**

Existing Designation: Medium Density Residential (8-16 DU/AC)

Proposed Designation: Neighborhood/Community Commercial

**ZONING DISTRICT(S):**

Existing District: R-1-8 Residence

Proposed District: CP (PD) Planned Development Zoning

**SURROUNDING LAND USES AND GENERAL PLAN DESIGNATION(S):**

North: Single-family residence; Medium Density Residential (8-16 DU/AC)

South: Restaurant; Medium Density Residential (8-16 DU/AC)

East: Public elementary school; Public/Quasi-Public

West: South King Road, and single-family residences; Medium Low Density Residential (8 DU/AC)

**ENVIRONMENTAL REVIEW STATUS:**

Mitigated Negative Declaration

**PLANNING STAFF RECOMMENDATION:**

Neighborhood/Community Commercial General Plan  
Land Use/Transportation Diagram designation

Approved by:

Date:

*Stanley Ketter*  
May 30, 2006

**PLANNING COMMISSION RECOMMENDATION:**

**CITY COUNCIL ACTION:**

**CITY DEPARTMENT AND PUBLIC AGENCY COMMENTS RECEIVED:**

Memoranda received for the General Plan amendment request:

- San Jose Fire Department, Bureau of Fire Prevention indicated on March 11, 2005 that comments will be provided with subsequent permit applications. They also indicated that site flow requirement may be as high as 4,500 GPM.
  - The Department of Public Works (DPW) stated on March 4, 2005 that the subject site is in a State Liquefaction Zone, and that street dedication may be required if redevelopment of the site is proposed.
  - The Department of Transportation (DOT) stated on August 9, 2005 that this General Plan amendment is exempt from a computer model traffic impact analysis.
  - Parks, Recreation, and Neighborhood Services (PRNS) stated on May 1, 2006 that due to the size of the site, they recommend collecting the associated in-lieu fees if any market rate residential units are proposed for the site. The in-lieu fees would be collected to augment funding to either develop or renovate a neighborhood park in the area.
  - Parks and Recreation Commission stated on May 3, 2006 that they concurred with staff's recommendation for the collection of in-lieu fees.
  - Santa Clara Valley Water District (SCVWD) stated on February 28, 2005 that they have no objections to the proposed General Plan amendment.
  - Santa Clara Valley Transportation Authority (VTA) stated on February 23, 2005 that they do not have comments at this time.
- 

**GENERAL CORRESPONDENCE:**

None received.

---

**ANALYSIS AND RECOMMENDATIONS:**

**RECOMMENDATION**

Planning staff recommends that the Planning Commission forward a recommendation to the City Council to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Neighborhood/Community Commercial on the subject 0.6-acre site.

**PROJECT DESCRIPTION**

This staff report addresses a privately initiated General Plan amendment request (File No. GP05-05-01) to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Neighborhood/Community Commercial on an approximately 0.6-acre site on the east side of King Road, approximately 300 feet northerly of East San Antonio Road (150 South King Road). The Neighborhood/Community Commercial designation would potentially allow a group of commercial uses planned and developed as a unit, and related in size and type to the trade area served. Typical uses in this designation are neighborhood-serving retail and service establishments.

A commercial land use designation on the site would also allow consideration of residential uses, or a mix of residential and neighborhood commercial uses, through the application of the "Two Acre Rule" Discretionary Alternate Use Policy, which is intended to encourage infill development, and further the objective of innovative design solutions for small, or otherwise

physically constrained infill sites that are two acres or less in size. This policy allows parcels with a non-residential land use designation to be developed under any residential or non-residential category, provided that the alternate land use would be compatible with existing and planned uses on adjacent and neighboring properties. To use this policy, projects should exceed the minimum standards of the Zoning Ordinance and adopted design guidelines.

## **BACKGROUND**

A related Planned Development Zoning application, File No. PDC05-013, is pending for a Rezoning from R-1-8 Residence Zoning District to CP (PD) Commercial Pedestrian Planned Development Zoning District to allow up to 7,670 square feet for commercial uses and up to 21 single-family attached residences on the site. When originally submitted, the General Plan amendment application was for a Mixed Use with No Underlying Designation, which was created to provide flexibility for developers to build innovative projects on unique properties.

Planning staff concluded that the Mixed Use with No Underlying Designation was not appropriate for the small site, and, instead, recommended that the applicant revise the General Plan amendment application to request either the Office or Neighborhood/Community Commercial land use designation, and if the General Plan amendment request were approved, the applicant's concurrent proposal for a vertical mixed-use residential/commercial development could be considered under a Discretionary Alternate Use Policy for compatibility with the General Plan.

On April 24, 2006 the applicant sent a letter to Planning staff to revise his General Plan amendment request to Neighborhood/Community Commercial. If this General Plan amendment request is approved, the pending Planned Development Zoning for a mixed-use project with ground-floor retail/dental office and housing above could then be considered with a Discretionary Alternate Use Policy at subsequent public hearings.

## **Site and Surrounding Uses**

A single-family residence is located on the northerly portion of the site, and the remainder of the site is open space. Surrounding uses include single-family residences to the north and on the westerly side of King Road, a restaurant to the south, and San Antonio Elementary School to the east. The larger surrounding area contains a mix of residential, commercial, and recreational uses including the Alum Rock Avenue Neighborhood Business District — a 2.25-mile commercial corridor from Highway 101 to Manning Avenue, with both commercial and residential uses — with the Mexican Heritage Plaza and Cultural Center on the southeast corner of Alum Rock Avenue and King Road. On the southwest corner of King Road and San Antonio Street is a restaurant, and the Rancho del Pueblo Golf Course is approximately 120 feet further southwest. Although located on a site with a Medium Density (8-16 DU/AC) Land Use/Transportation Diagram designation, the restaurant on the northeast corner of King Road and San Antonio Street is within the CP-Commercial Pedestrian Zoning District.

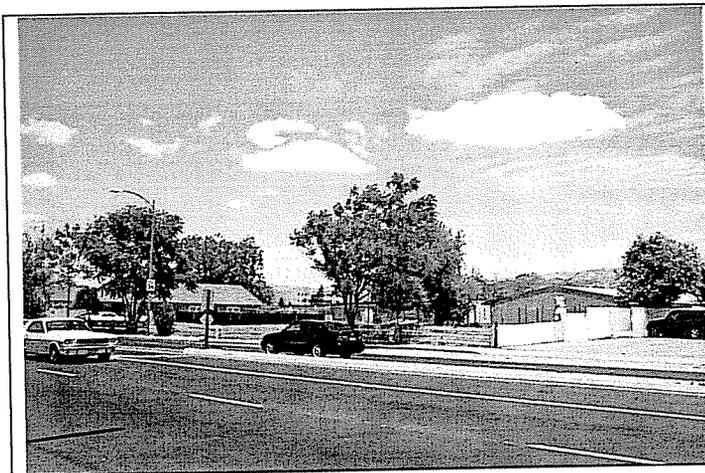
The site is also located within the Mayfair Strong Neighborhoods Initiative (SNI) Neighborhood Improvement Plan area, the Alum Rock Redevelopment Area, and a State designated economic Enterprise Zone, which is a historically economically depressed geographic area that has been designated by the State of California to encourage and stimulate business growth, development, and investment in the area. Taxpayers that conduct business activities within the boundaries of

an Enterprise Zone may qualify for special tax incentives. The Gateway East SNI Neighborhood Improvement Plan area is on the west side of King Road across the street from the site.

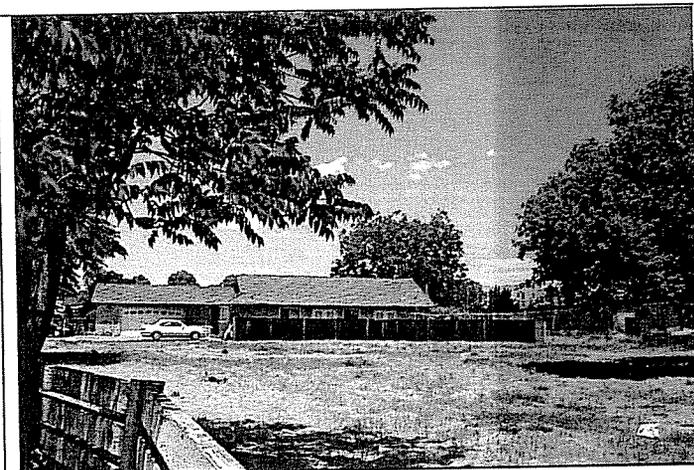


**Aerial Exhibit of the site and  
Surrounding Area**

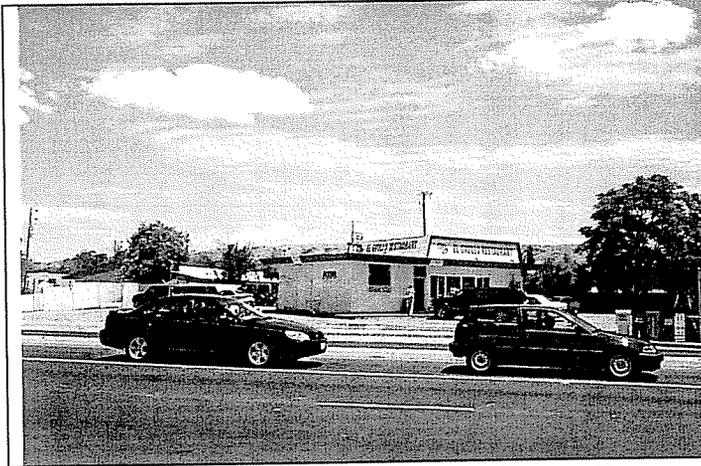
**The red dashed line represents the Alum Rock Neighborhood Business District**  
(Source: Department of Public Works, 2001, City of San Jose)



Subject Site Facing East



Subject Site Facing North



Restaurant South of Subject Site Facing East



Restaurant Parking Lot and Golf Course  
Southwest of Subject Site Facing South

## ANALYSIS

The key issues in analyzing the proposed General Plan amendment are: 1) consistency with the *San Jose 2020 General Plan* Major Strategies, goals, and policies; 2) land use compatibility; and 3) consistency with the Mayfair SNI Neighborhood Improvement Plan.

### Consistency with the San Jose 2020 General Plan Major Strategies, Goals, and Policies

This proposed General Plan amendment directly relates to two of the Major Strategies, *Economic Development* and *Sustainable City*, as well as the *Balanced Community Goal*, the *Commercial Land Use Goal* and Policies, and *General Plan Urban Design Policy No. 1*.

*The Economic Development Major Strategy* supports a healthy community by encouraging more commercial growth to balance existing residential development, providing employment opportunities, and providing a strong economic base for San Jose. *The Sustainable City Major Strategy* encourages achieving a relative jobs/housing balance to reduce traffic congestion, pollution, wastefulness, and environmental degradation. Increasing the amount of land designated as Neighborhood/Community Commercial and allowing new commercial uses should help to create jobs, which in turn furthers the intent of the *Economic Development* and *Sustainable City* Major Strategies.

The proposed change is consistent with the General Plan's *Balanced Community Goal* by providing additional services to the community. The *Balanced Community Goal* states that communities should be balanced and complete in terms of housing types, economic development, job opportunities, and social activities.

### Commercial Land Use Goal and Policies

The Commercial Land Use Goal of the *San Jose 2020 General Plan* reflects 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.

Commercial Land Use Policy No. 1 states, “Commercial land in San Jose 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 ...” The proposal is compatible with this policy because it would encourage pedestrian activity, community accessibility and new professional services and retail in this area.

### Urban Design Policies

General Plan Urban Design Policy No. 1 states that strong architectural and site design controls should be applied to protect and enhance neighborhood character by providing a proper transition between different land uses. Future commercial development is subject to additional discretionary review and should be designed in conformance with the Commercial Design Guidelines, other City policies, and the Zoning Ordinance to address the relationship and to buffer commercial uses from the adjoining single-family neighborhood. Future development should be designed to provide a compatible interface with the adjacent residential neighborhood to the north and the commercial uses to the south.

### Land Use Compatibility

The proposed General Plan designation of Neighborhood/Community Commercial is compatible with the existing neighborhood. The Neighborhood/Community Commercial designation would encourage commercial uses designed to support and be compatible with the existing and planned residential and commercial land uses in the vicinity of the site.

Approximately 600 feet north of the site is the Alum Rock Neighborhood Business District, and approximately 900 feet north of the site is the Santa Clara Street/Alum Rock Transit Corridor. The site is also between 3,000 and 3,500 feet in radius from the Alum Rock BART Station Area Node.

The Neighborhood Business District overlay designation is applied predominantly on commercial land use designations, reflecting the City’s and Redevelopment Agency’s Neighborhood Business District Program. It applies to commercial areas that function in their neighborhoods and communities as central business districts, providing community focus and identity through the delivery of goods and services. Uses that are typical for Neighborhood Business Districts are neighborhood-serving businesses. Retail uses and new housing investments are occurring along the length of the Alum Rock Neighborhood Business District. With the proposed land use designation of Neighborhood/Community Commercial, commercial or a mix of commercial and residential uses could complement the existing community in that the commercial uses could be of a neighborhood scale and pedestrian focused, potentially with a mix of residential uses above.

Areas within Transit Corridors or within 3,000 feet of a BART Station Area Node are designated by the City as suitable for higher residential densities, more intensive non-residential uses, and mixed uses. The purpose of the BART Station Area Node is to acknowledge that this is a prime urban area where intensified uses and public transit would help create and support pedestrian-oriented neighborhoods. Allowing commercial uses on this site would help implement the General Plan’s goal of intensifying development in the vicinity of a Transit Corridor and future BART Station Area Node, and may help facilitate the greater use of public transit. Allowing

commercial uses on this property would also help transition between the residential uses to the immediate north of the site, and the commercial uses to the immediate south of the site.

### **Consistency with the Mayfair SNI Neighborhood Improvement Plan**

The site is located in the Mayfair Strong Neighborhood Initiative area. The Mayfair Neighborhood Improvement Plan (NIP), developed jointly with the City and the area residents and adopted by the City Council, is an important component of the planning policies that provide guidance for the Mayfair area. The NIP identified affordable housing as a priority goal for the area. When a preliminary proposal for development on the site was presented to the Mayfair SNI Neighborhood Advisory Committee (NAC) in 2004 for review, the NAC did not express support for the project and specifically stated that the preference was for affordable ownership residential units to be built on site, consistent with the Mayfair NIP. In response, the applicant modified the General Plan amendment request, and is refining the concurrently pending Planned Development Zoning application to provide a housing component to a vertical mixed-use development proposal.

A revised development proposal was presented with the General Plan request for Neighborhood/Community Commercial by the applicant at the Mayfair SNI NAC meeting on April 27, 2006. This proposal was unanimously supported by the Mayfair NAC, but a representative from the Gateway SNI area, which includes the area on the westerly side of King Road, stated that the related Planned Development Zoning proposed too massive a development for the area. The Mayfair SNI NAC reiterated that it wants affordable housing as part of future development.

### **ENVIRONMENTAL REVIEW**

The request to change the General Plan land use designation on the subject site was analyzed in an Initial Study that resulted in a Mitigated Negative Declaration. The Initial Study determined that the change in land use would create a less than significant impact with mitigation measures in the following categories: Air Quality, Biology, Hazards and Hazardous Materials, Hydrology and Water Quality, and Noise.

All of the mitigation measures consist of implementation of existing General Plan policies when rezoning and development occurs.

### **PUBLIC OUTREACH**

A community meeting was held in conjunction with the Mayfair SNI NAC meeting at the Mayfair Community Center on April 27, 2006. Approximately 25 people attended the meeting. City staff and the applicant presented the revised General Plan amendment request and the Planned Development Zoning application. Public comments included the need to scale down the height and massing of the proposed development, the need to incorporate security elements into the development, and the need for the proposed residential units to be affordable. City staff and the applicant explained that although 20 percent of the residential units within the Redevelopment Area in which the site is located are required to be affordable, the specific requirements for affordability for units on the subject site are based on criteria provided by the City and Redevelopment Agency in response to a specific proposal. The Mayfair SNI NAC then voted unanimously to support the proposed concept of uses on the site.

Property owners and tenants within a 1,000 feet radius of the subject site received a notice of the public hearings to be held on the General Plan amendment request before the Planning Commission on June 5, 2006 and City Council on June 20, 2006. The Department web site contains information regarding the General Plan amendment process, 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 applications.

Attachments

GP05-05-01



**CITY OF SAN JOSE**  
 DEPARTMENT OF PLANNING, BUILDING AND CODE ENFORCEMENT  
 PLANNING SERVICES DIVISION

-  SITE
-  Neighborhood Business District
-  Mixed Use with No Underlying Designation
-  Mayfair Boundary

  
**N**  
 Scale: 1" = 250'  
 Quad: 68

# Memorandum

**TO:** Laurel Prevetti  
Planning, Building  
and Code Enforcement

**FROM:** Hans F. Larsen

**SUBJECT: TRAFFIC IMPACT ANALYSIS  
FOR GP05-05-01**

**DATE:** 8-9-05

---

Approved

Date

---

File Number: GP05-05-01

~~Location: NE corner of N Capital Ave and Grandview Dr~~

Acreage: 0.6 ac.

Description: Medium Density Res. (8-16 DU/AC) to Mixed Use with No Underlying designation  
(Add 8 Jobs)  
Outside Special Subarea (Remainder of City)

We have reviewed the subject General Plan Amendment (GPA) and submit the following comments. The estimated number of new PM peak hour trips resulting from the proposed land use change is below the exemption threshold established for this area. Therefore, this GPA is exempt from a computer model (TRANPLAN) traffic impact analysis.

If an Environmental Impact Report (EIR) is required for this GPA for other reasons, the EIR must include a traffic impact analysis report for the project and a cumulative analysis for all GPAs on file this year. Additional traffic data will be provided to the applicant's traffic engineering consultant for the preparation of the report.

Please contact Paul Ma at 975-3272 if you have any questions.



HANS F. LARSEN  
Deputy Director  
Department of Transportation

HFL:PM

cc: Jenny Nusbaum  
Meera Nagaraj

# Memorandum

**TO:** Elena Lee  
Planning and Building

**FROM:** Ebrahim Sohrabi  
Public Works

**SUBJECT: RESPONSE TO GENERAL PLAN  
AMENDMENT APPLICATION**

**DATE:** 03/04/05

---

PLANNING NO.: GP05-05-01  
DESCRIPTION: GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Mixed Use with No Underlying Designation on a 0.618-acre site. (Toan & Tammy Nguyen, Owner/Erik Schoennauer, Applicant)  
LOCATION: east side of South King Road, 300 feet northerly of East San Antonio Street  
P.W. NUMBER: 3-12550

Public Works received the subject project on 02/22/05 and submits the following comments:

[NO] Flood Zone  
[NO] Geological Hazard Zone  
[NO] State Landslide Zone  
[YES] State Liquefaction Zone  
[NO] Inadequate Sanitary capacity  
[NO] Inadequate Storm capacity  
[NO] Major Access Constraints

**Comments:** Street dedication may be required.

Please contact the Project Engineer, Mirabel Aguilar at 277-5161 if you have any questions.



EBRAHIM SOHRABI  
Senior Civil Engineer  
Transportation and Development Services Division

ES:ma



MAR 16 2005

# Memorandum

**DATE:** 03/11/05

**TO:** Elena Lee

**FROM:** Nadia Naum-Stoian

Re: Plan Review Comments

**PLANNING NO:** GP05-05-01

**DESCRIPTION:** GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Mixed Use with No Underlying Designation on a 0.618-acre site. (Toan & Tammy Nguyen, Owner/Erik Schoennauer, Applicant)

**LOCATION:** east side of South King Road, 300 feet northerly of East San Antonio Street

**ADDRESS:** east side of South King Road, 300 feet northerly of East San Antonio Street (150 S KING RD)

**FOLDER #:** 05 005474 AO

The Fire Department's review was limited to verifying compliance of the project to Article 9, Appendix III-A, and Appendix III-B of the 2001 California Fire Code with City of San Jose Amendments (SJFC). Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.

The drawing provided does not include any information necessary for our review.

No comments can be made at this time.

Site flow requirement may be as high as 4,500 GPM.

**Note:** *The plans shall be submitted to the Fire Department by appointment only (call Nadia Naum-Stoian) as soon as possible.*

Nadia Naum-Stoian  
Fire Protection Engineer  
Bureau of Fire Prevention  
(408) 277-8754

# Memorandum

**TO:** PLANNING COMMISSION

**FROM:** Dave Mitchell

**SUBJECT: SPRING 2006 GENERAL PLAN  
AMENDMENT REVIEW**

**DATE:** 5-1-06

---

Approved

*Mac Lam*

Date

5-3-06

---

Parks, Recreation and Neighborhood Services (PRNS) has the following comments regarding the Spring 2006 General Plan Amendments:

- 1) **GP03-02-05:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram designation from Industrial Park to Mixed Use with No Underlying Designation on 76.0 acres, located in the general area of Highway 85, approximately 1,200 feet west of Monterey Road in CD2. PRNS's understanding that no housing units will be created from the proposed amendment, therefore this project is not subject to the Park Impact or the Parkland Dedication Ordinances.
- 2) **GP06-02-01:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram designation from Industrial Park to Combined Industrial/Commercial on 2.18 acres, located on the southeasterly side of Silver Creek Road at the south terminus of Fontanoso Way in CD 2. PRNS's understanding that no housing units will be created from the proposed amendment, therefore this project is not subject to the Park Impact or the Parkland Dedication Ordinances.
- 3) **UGB05-001 & GP05-02-04:** General Plan Amendment request to modify the Greenline/Urban Growth Boundary to include approximately 4.75 acres within the Urban Services Area and to change the San José 2020 Land Use/Transportation Diagram designation from non-urban hillside to Medium Low Density Residential (8 DU/AC) on a 9.7 acres site, in which approximately 4.5 acres would be park/protected hillsides located on the southeast corner of Piercy Road and Tennant Avenue. The proposed housing project is under 51 units, therefore the City cannot condition the developer to provide parkland associated with this project. The developer has offered a 1.5 acre park site as part of the project. The proposed park site is currently proposed to be outside the Urban Service Area. PRNS is willing to accept the proposed park site and is requesting that the proposed park be included within the Urban Service Area to permit any future connections to public services.

**4) GP05-03-02:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram designation from Light Industrial to High Density Residential (25-50 DU/AC) on a 5.13 acres site, located on the north side of Campbell Avenue, approximately 2,000 feet northwesterly of Newhall Street in CD 3. PRNS's recommendation is to accept in-lieu fees to be used to either support the enlargement of the proposed park at Newhall and Campbell, or the development of a second park site to serve the area.

**5) GP05-03-05:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram designation from Light Industrial to High Density Residential (25-50 DU/AC) on a 23.0 acres site, located on the west side of 10<sup>th</sup> Street, approximately 900 feet northwesterly of Hedding Street in CD 3. Planning staff is recommending denial for this project in order to preserve the current light industrial facilities in the area. If the denial is not approved, and housing development does occur in this area, then PRNS would be looking at a minimum of a 1.5 acre turnkey park from the project.

**6) GP05-04-03:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram from Heavy Industrial Park to Heavy Industrial Park with Mixed Industrial Overlay on a 2.66 acres site, located on the east side of Oakland Road, approximately 400 feet north of Rock Road in CD 4. PRNS's understanding that no housing units will be created from the proposed amendment, therefore this project is not subject to the Park Impact or the Parkland Dedication Ordinances.

**7) GP06-04-02:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram from Industrial Park and Industrial Park with Mixed Industrial Overlay to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 DU/AC) on 21.4 acres for a total site size of 27.4 acres, located on the southeast corner of East Brokaw Road and Old Oakland Road in CD 4. Planning staff is recommending denial for this project in order to preserve the current light industrial facilities in the area. If the denial is not approved, and housing development does occur in this area, then PRNS would be looking at a minimum of a 1.5 acre turnkey park from the project.

**8) GP05-05-01:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram from Medium Density Residential (8-16 DU/AC) to Mixed Use with No Underlying Designation on a 0.6 acre site, located on the eastside of South King Road, 300 feet northerly of East San Antonio Street in CD5. Due to the size of the proposed amendment site, PRNS's recommendation is to collect the associated in-lieu fees, if any market rate residential units are proposed for the site. The in-lieu fees would be collected to augment funding to either develop or renovate a neighborhood park in the area.

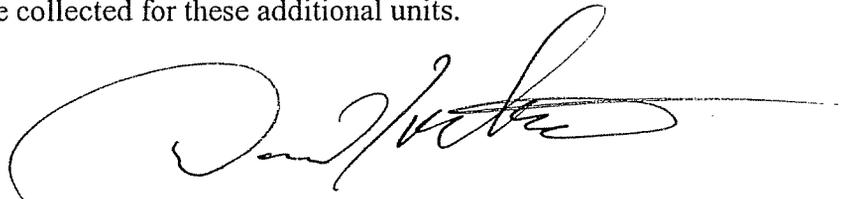
**9) GP05-06-04:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram from Light Industrial to Medium High Density Residential (12-25 DU/AC) on 2.67 acres, located on the south side of Campbell Avenue, approximately 850 feet westerly of Newhall Street in CD6. PRNS's recommendation is to accept in-lieu fees to be used

to either support the enlargement of the proposed park at Newhall and Campbell, or the development of a second park site to serve the area.

**10) GP05-08-02:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram from Industrial Park to Regional Commercial on 1.2 acres, located at the southwest corner of Capitol Expressway and Tully Road in CD 8. PRNS understanding that no housing units will be created from the proposed amendment, therefore this project is not subject to the Park Impact or the Parkland Dedication Ordinances.

**11) GP04-09-01:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram from Very Low Density Residential to Medium Density Residential (8-16 DU/AC) on a 0.99 acre site, located on the northwest corner of Los Gatos Road and Warwick Road in CD9. PRNS's recommendation is to collect the associated in-lieu fees. The in-lieu fees would be used to enhance the recreational opportunities in the project area.

**12) TEXT AMENDMENTS:** PRNS understands there are also a series of text amendments that affect the heights of proposed projects and could provide additional units. In these cases, the current associated in-lieu fees will be collected for these additional units.

A handwritten signature in black ink, appearing to read "David Mitchell", with a long horizontal flourish extending to the right.

DAVID J. MITCHELL  
Parks Planning Manager

May 3, 2006

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

Subject: Spring 2006 – General Plan Amendment Review

Dear Planning Commissioners:

The Parks and Recreation Commission (hereinafter “Commission”) reviewed the proposed Spring 2006 General Plan Amendments in a study session on April 19, 2006 and formally acted on recommendations in response to the amendments at their regular meeting on May 3, 2006. This letter transmits the Commission’s comments regarding the following General Plan Amendments to be considered by the Planning Commission and the City Council.

**1) GP03-02-05:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram designation from Industrial Park to Mixed Use with No Underlying Designation on 76.0 acres, located in the general area of Highway 85, approximately 1,200 feet west of Monterey Road in CD2. It is staff’s understanding that no housing units will be created from the proposed amendment, therefore this project is not subject to the Park Impact or the Parkland Dedication Ordinances.

**Commission’s Recommendation:** *The Commission has no comments on this project.*

**2) GP06-02-01:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram designation from Industrial Park to Combined Industrial/Commercial on 2.18 acres, located on the southeasterly side of Silver Creek Road at the south terminus of Fontanoso Way in CD 2. It is staff’s understanding that no housing units will be created from the proposed amendment, therefore this project is not subject to the Park Impact or the Parkland Dedication Ordinances.

**Commission’s Recommendation:** *The Commission has no comments on this project.*

**3) UGB05-001 & GP05-02-04:** General Plan Amendment request to modify the Greenline/Urban Growth Boundary to include approximately 4.75 acres within the Urban Services Area and to change the San José 2020 Land Use/Transportation Diagram designation from non-urban hillside to Medium Low Density Residential (8 DU/AC) on a 9.7 acres site, in which approximately 4.5 acres would be park/protected hillsides located on the southeast corner

of Piercy Road and Tennant Avenue. The proposed housing project is under 51 units, therefore the City cannot condition the developer to provide parkland associated with this project. The developer has offered a 1.5 acre park site as part of the project. The proposed park site is currently proposed to be outside the Urban Service Area. Staff is willing to accept the proposed park site and staff is requesting that the park site be included within the Urban Service Area.

**Commission's Recommendation:** *Concur with staff's recommendation to accept the offer of the new park site and to request the new park be included within the Urban Service Area.*

4) **GP05-03-02:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram designation from Light Industrial to High Density Residential (25-50 DU/AC) on a 5.13 acre site, located on the north side of Campbell Avenue, approximately 2,000 feet northwesterly of Newhall Street in CD 3. Staff's recommendation is to accept in-lieu fees to be used to either support the enlargement of the proposed park at Newhall and Campbell, or the development of a second park site to serve the area.

**Commission's Recommendation:** *Concur with staff's recommendation for the collection of in-lieu fees to expand the recreational opportunities offered by the proposed park site at Newhall and Campbell.*

5) **GP05-03-05:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram designation from Light Industrial to High Density Residential (25-50 DU/AC) on a 23.0 acres site, located on the west side of 10<sup>th</sup> Street, approximately 900 feet northwesterly of Hedding Street in CD 3. Planning staff is recommending denial for this project in order to preserve the current light industrial facilities in the area.

**Commission's Recommendation:** *Concur with staff's recommendation for denial of the amendment to help preserve the light industrial jobs in the area.*

6) **GP05-04-03:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram from Heavy Industrial Park to Heavy Industrial Park with Mixed Industrial Overlay on a 2.66 acres site, located on the east side of Oakland Road, approximately 400 feet north of Rock Road in CD 4. It is staff's understanding that no housing units will be created from the proposed amendment, therefore this project is not subject to the Park Impact or the Parkland Dedication Ordinances.

**Commission's Recommendation:** *The Commission has no comments on this project.*

7) **GP06-04-02:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram from Industrial Park and Industrial Park with Mixed Industrial Overlay to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 DU/AC) on 21.4 acres for a total site size of 27.4 acres, located on the southeast corner of East Brokaw Road and Old Oakland Road in CD 4. Planning staff is recommending denial for this project in order to preserve the current light industrial facilities in the area.

**Commission's Recommendation:** *Concur with staff's recommendation for denial of the amendment to help preserve the light industrial jobs in the area.*

**8) GP05-05-01:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram from Medium Density Residential (8-16 DU/AC) to Mixed Use with No Underlying Designation on a 0.6 acre site, located on the eastside of South King Road, 300 feet northerly of East San Antonio Street in CD5. Due to the size of the proposed amendment site, staff recommendation is to collect the associated in-lieu fees, if any market rate residential units are proposed for the site. The in-lieu fees would be collected to augment funding to either develop or renovate a neighborhood park in the area.

**Commission's Recommendation:** *Concur with staff's recommendation for the collection of in-lieu fees.*

**9) GP05-06-04:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram from Light Industrial to Medium High Density Residential (12-25 DU/AC) on 2.67 acres, located on the south side of Campbell Avenue, approximately 850 feet westerly of Newhall Street in CD6. It is staffs recommendation to accept in-lieu fees to be used for either support to enlargement the proposed park at Newhall and Campbell, or the development of a second park site to serve the area.

**Commission's Recommendation:** *Concur with staff's recommendation for the collection of in-lieu fees to expand the recreational opportunities by expanding the proposed park site at Newhall and Campbell.*

**10) GP05-08-02:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram from Industrial Park to Regional Commercial on 1.2 acres, located at the southwest corner of Capitol Expressway and Tully Road in CD 8. It is staff's understanding that no housing units will be created from the proposed amendment, therefore this project is not subject to the Park Impact or the Parkland Dedication Ordinances.

**Commission's Recommendation:** *The Commission has no comments on this project.*

**11) GP04-09-01:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram from Very Low Density Residential to Medium Density Residential (8-16 DU/AC) on a 0.99 acre site, located on the northwest corner of Los Gatos Road and Warwick Road in CD9. Staff's recommendation is the collection of the associated in-lieu fees. The in-lieu fees would be used to enhance the recreational opportunities in the project area.

**Commission Recommendation:** *Concur with staff's recommendation for the collection of in-lieu fees to expand the recreational opportunities in the project area.*

**12) TEXT AMENDMENTS:**

**Commission's Recommendation:** *The Commission has no comments on the proposed text amendments associated with the Spring General Plan Amendment Cycle.*

Sincerely,



Helen Chapman  
Chair, Parks and Recreation Commission



February 23, 2005

City of San Jose  
Department of Planning and Building  
801 North First Street  
San Jose, CA 95110

Attention: Elena Lee

Subject: City File No. GP05-05-01 / San Antonio-King General Plan

Dear Ms. Lee:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the project referenced above for a General Plan change from Medium Density Residential to Mixed Use on a 0.618-acre site on the east side of King Road, 300 feet northerly of San Antonio Street. We have no comments at this time.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy Molseed", is written over the typed name.

Roy Molseed  
Senior Environmental Planner

RM:kh

**Lee, Elena**

---

**From:** Samuel Yung [SYung@valleywater.org]

**Sent:** Monday, February 28, 2005 12:13 PM

**To:** elena.lee@sanjoseca.gov

**Subject:** GP05-05-01 (East Side of King Rd, 300 ft northerly of East San Antonio St)

Elena,

The subject project will not have any direct impacts to our facilities. As such, we have no objections to the proposed general plan amendment.

**Samuel Yung**

Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3686

Ph. (408)265-2607 ext. 3174  
Fax (408)979-5635

**ENDORSED**

APR 28 2006

POSTED ON 4/28/06 THROUGH 5/22/06  
IN THE OFFICE OF THE COUNTY CLERK-RECORDER  
BRENDA DAVIS, COUNTY CLERK  
BY [Signature] DEPUTY



BRENDA DAVIS, County Clerk-Recorder  
Santa Clara County  
By [Signature] Deputy

*Department of Planning, Building and Code Enforcement*

JOSEPH HORWEDEL, ACTING DIRECTOR

LETICIA ORTEGA

**PUBLIC NOTICE  
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION  
CITY OF SAN JOSÉ, CALIFORNIA**

***Project File Number, Description, and Location***

**GP05-05-01 & PDC05-013**, General Plan Amendment to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Mixed Use with No Underlying Designation on a 0.618-acre site. A Planned Development Zoning application for a mixed commercial and residential development of approximately 7,670 sf of commercial uses and 21 single family attached (condominium) units. Easterly side of South King Road, approximately 300 feet northerly of East San Antonio Street (150 South King Road) APN 481-17-070. (Toan Nguyen, Owner, The Schoennauer Company, Applicant). Council District: 5

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **May 22, 2006** and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **May 1, 2006** and ends on **May 22, 2006**

A public hearing on the project described above is tentatively scheduled for **June 5, 2006 at 6:30 pm** in the City of San Jose Council Chambers, 200 East Santa Clara Street, San Jose, CA 95113. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the East San Jose Carnegie Branch Library, 1102 East Santa Clara Street, San José, CA 95116, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call Jenny Nusbaum at (408) 535-3555.

Joseph Horwedel, Acting Director  
Planning, Building and Code Enforcement

Circulated on: May 1, 2006

[Signature]  
Deputy

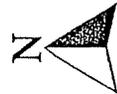


File No: PDC05-013

District: 05

Quad No: 68

Scale: 1"=200'  
Map Created On: 02/14/2005



**DRAFT  
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** 150 South King Road

**PROJECT FILE NUMBER:** GP05-05-01 and PDC05-013

**PROJECT DESCRIPTION:** General Plan Amendment to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Mixed Use with No Underlying Designation on a 0.618-acre site. A Planned Development Zoning application for a mixed commercial and residential development of approximately 7,670 sf of commercial uses and 21 single family attached (condominium) units.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** Easterly side of South King Road, approximately 300 feet northerly of East San Antonio Street (150 South King Road); APN 481-17-070

**COUNCIL DISTRICT:** 5

**APPLICANT CONTACT INFORMATION:** Toan Nguyen, 3389 Royal Meadow Court, San Jose, CA 95135, 408-425-2522

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

- I. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**II. AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**III. AIR QUALITY**

- The following construction practices shall be implemented during all phases of construction for the proposed project to prevent visible dust emissions from leaving the site: 1) water all active construction areas at least twice daily or as often as needed to control dust emissions; 2) cover all trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard; 3) apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas during construction of the site; 4) sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust; and 5) sweep public streets daily, or as often as needed, with water sweepers, to keep streets free of visible soil material.

**IV. BIOLOGICAL RESOURCES**

- If possible, construction should be scheduled between September and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys shall be conducted no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the City's Environmental Principal Planner, to the satisfaction of the Director of Planning, prior to the issuance of any grading or building permit.

**V. CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**VI. GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**VII. HAZARDS AND HAZARDOUS MATERIALS**

- If a well is found on the project site, a well destruction permit shall be obtained from the Santa Clara Valley Water District and the well shall be destroyed in accordance with District standards.
- If a septic system is found during construction, it shall be abandoned in accordance with the requirements of the Santa Clara County Sewage Disposal Ordinance.

- If an underground storage tank(s) is found during construction, a closure plan shall be prepared and a permit for the removal of the underground storage tank(s) shall be obtained and the underground storage tank(s) removed in accordance with City procedures.
- The project site shall be viewed by a qualified environmental professional during demolition and pre-grading activities to observe areas of the property that may have been obscured by existing structures or pavement for such items as stained soils, septic systems, underground storage tanks, and/or unforeseen buried utilities; and, if found, a mitigation program shall be developed, submitted to the City's Environmental Principal Planner, and implemented with such measures as soil testing, removal and/or offsite disposal at a permitted facility, to the satisfaction of the Director of Planning and the City's Municipal Environmental Compliance Officer.
- If any evidence of soil and/or groundwater impact from the adjacent former underground storage tank site is encountered during grading/excavation work, the Santa Clara Valley Water District shall be contacted; testing shall be done; and, if warranted, a mitigation plan shall be developed and implemented with measures such as soil removal and/or treatment, and groundwater treatment.

#### **VIII. HYDROLOGY AND WATER QUALITY**

- A Notice of Intent and a Storm Water Pollution Prevention Plan that addresses both construction and post-construction periods and specifies erosion and sediment control measures, waste disposal controls, maintenance responsibilities and non-stormwater management controls, shall be submitted to the RWQCB and maintained onsite, respectively, to comply with the stormwater discharge requirements of the NPDES General Permit.
- A Storm Water Pollution Prevention Plan (SWPPP) in compliance with the local NPDES permit shall be developed and implemented including: 1) site description; 2) erosion and sediment controls; 3) waste disposal; 4) implementation of approved local plans; 5) proposed post-construction controls, including description of local post-construction erosion and sediment control requirements; 6) Best Management Practices (BMPs) such as the use of infiltration of runoff onsite, first flush diversion, flow attenuation by use of open vegetated swales and natural depressions, stormwater retention or detention structures, oil/water separators, porous pavement, or a combination of these practices for both construction and post-construction period water quality impacts; and 7) non-storm water management.
- The project shall incorporate Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges to the maximum extent practicable.

**IX. LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**X. MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XI. NOISE**

- Mechanical ventilation shall be provided in accordance with Uniform Building Code requirements when windows are to be closed for noise control.
- Windows and sliding glass doors shall be maintained closed and STC 30 to 34 or higher rated windows and glass doors shall be installed at all the façades facing or perpendicular to South King Road of units 1 through 4 on each floor to ensure an interior noise level of 45 dB DNL can be achieved.
- Prior to the issuance of an occupancy permit, building plans for all units shall be checked by a qualified acoustical consultant to ensure that noise levels are attenuated sufficiently to the satisfaction of the Director of Planning.
- Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any onsite or offsite work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- The contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.

**XII. POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XIII. PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XIV. RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XV. TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XVI. UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XVII. MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

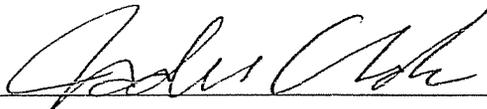
**PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **May 22, 2006**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, San José CA 95113-1905 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Joseph Horwedel, Acting Director  
Planning, Building and Code Enforcement

Circulated on: 5/1/06

  
\_\_\_\_\_  
Deputy

Adopted on: \_\_\_\_\_

\_\_\_\_\_  
Deputy

MND/JAC 8/26/05