



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Stephen M. Haase

**SUBJECT:** SEE BELOW

**DATE:** June 11, 2004

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Approved

Date

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COUNCIL DISTRICT: 3  
SNI AREA: N/A

## SUPPLEMENTAL

**SUBJECT:** Proposed Override of the Santa Clara County Airport Land Use Commission Action Regarding General Plan Amendment request GPT03-03-01a and GP03-03-01b to amend the *San Jose 2020 General Plan Land Use/Transportation Diagram* from General Commercial on 6.2 acres, Combined Industrial/Commercial on 1.0 acre, and Residential Support for the Core Area (25+ DU/AC) on 1.8 acres to Core Area; the realignment of Julian Street between Market and Saint James Streets; and an associated text amendment to redefine the Downtown Core Area and Downtown Frame Area boundaries on an approximate 9-acre site generally bounded by the Union Pacific Railroad tracks, Market Street, Julian Street, and Highway 87.

## REASON FOR SUPPLEMENTAL MEMORANDUM

The California Public Utilities Code (PUC) (Section 21670(b)) requires that the City refer the proposed override of a Santa Clara County Airport Land Use Commission determination to the ALUC and the CalTrans Division of Aeronautics for their review and comment prior to the public hearing by the City Council. Due to a new PUC requirement, expanded notice of the City's proposed action was required to be provided to these agencies, which delayed receiving their response. The PUC also requires that the comments from these agencies be incorporated into the record of the hearing and decision on the proposed override (see attached). This memo transmits the comments of the Santa Clara County Airport Land Use Commission and the Cal Trans Division of Aeronautics regarding the proposed override of the ALUC determination. Also attached is the memorandum previously transmitted to City Council proposing the override of the ALUC determination.

## ANALYSIS

### Santa Clara County Airport Land Use Commission Review

On May 26, 2004, the Santa Clara County Airport Land Use Commission considered the proposed override of their March 24, 2004 determination that found the proposed General Plan amendment in conformance with the ALUC Plan, subject to conditions. Two of those conditions are inconsistent with the *San Jose 2020 General Plan* policies regarding the location of new residential land uses in proximity to airports. Those conditions require future residential development to comply with applicable ALUC policies regarding acceptable noise levels and would restrict residential development to outside the 65dB CNEL Contour. *San Jose 2020 General Plan* noise policies allow residential land use in these areas if it can be demonstrated that a maximum interior noise level of 45 dB DNL will be maintained and that on-site outdoor activities are limited to acoustically protected areas. The ALUC conditions, which would significantly modify the proposed General Plan Amendment, are not acceptable to the City Administration and Redevelopment Agency.

The ALUC Plan and Public Utilities Code (PUC) Section 21676 state that a city may overrule the action of the ALUC if it makes specific findings that the proposed project is consistent with the purposes of PUC Section 21670 regarding the protection of public health, safety and welfare in areas surrounding airports. The attached staff report establishes the basis for findings of conformance with the purpose of Section 21676.

At the May 26, 2004 meeting, the ALUC reaffirmed the action taken on March 24, 2004, finding the proposed General Plan amendment in conformance with the ALUC plan, based on the conditions identified. As noted above, two of these conditions are inconsistent with the San Jose 2020 General Plan and unacceptable to the City, therefore, warranting the proposed override of the ALUC action.

### CalTrans Division of Aeronautics Review

The CalTrans Division of Aeronautics reviewed the proposed override of the ALUC determination regarding the conformance of the proposed General Plan amendment to the ALUC Plan. As noted in the attached response, the Department is now required to review the specific findings that a local government intends to use when proposing to overrule an ALUC. The findings must show evidence that the city is "...minimizing the public's exposure to excessive noise and safety hazards within areas around public airports ..." if the proposed General Plan amendment is approved. The conclusion from CalTrans is that the proposed findings "are sufficient".

### Conclusion

The City has satisfied the requirements of the Public Utilities Code to provide notification and opportunity for review and comment concerning the proposed override of the ALUC determination regarding General Plan amendment GP03-03-01 a, b.

## **PUBLIC OUTREACH**

The property owners and occupants within a 1,000-foot radius were sent a newsletter regarding the community meetings that were held on March 25 and 29, 2004. They also received a notice of the public hearings to be held on the subject amendment before the Planning Commission in February and City Council in March. In addition, the Department's web site contains information regarding the General Plan process, amendments, staff reports, and hearing schedule. This site is available to any member of the public and contains the most current information regarding the status of the amendments. The ALUC conducted public hearings in March and May on the override.

## **COORDINATION**

The review of the override was coordinated with the City Attorney's Office.

## **CEQA**

Brandenburg Mixed Use Project/North San Pedro Housing Sites Environmental Impact Report - Certified on February 25, 2004, Resolution #04-019.

Stephen M. Haase, Director  
Planning, Building and Code Enforcement