

SUPPLEMENTAL



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: July 27, 2006

Approved

Date

8/1/06

SUPPLEMENTAL MEMO

COUNCIL DISTRICT: 8
SNI AREA: N/A

SUBJECT: C05-125. REZONING OF PROPERTY LOCATED AT THE SOUTHWEST CORNER OF TULLY ROAD AND CAPITOL EXPRESSWAY FROM A-AGRICULTURE ZONING DISTRICT TO IP INDUSTRIAL PARK ZONING DISTRICT AND CG-COMMERCIAL GENERAL ZONING DISTRICT TO ALLOW COMMERCIAL/INDUSTRIAL USES.

REASON FOR SUPPLEMENTAL

The reason for the supplemental memorandum is to provide a response to the Airport Land Use Commission (ALUC) comment letter, which was dated June 1, 2006 and received by the Planning Department on June 12, 2006. The letter was regarding the potential override by the City Council of the ALUC's actions taken on April 26, 2006 when the ALUC found the request to rezone (file number C05-125) the 6.6 acre parcel located on the southern corner of Capitol Expressway and Tully Road from the A-Agriculture Zoning District to the IP-Industrial Park Zoning District and CG-Commercial General Zoning District to allow commercial/industrial uses inconsistent with their ALUC policies.

This supplemental memorandum also transmits a revised draft resolution overriding the ALUC determination that the subject rezoning proposal is not consistent with the ALUC safety policies. This revised draft resolution is to replace the draft resolution that was previously distributed to the City Council.

RECOMMENDATION

Planning Staff recommends that the City Council adopt a resolution to override the ALUC's determination that the proposed rezoning is inconsistent with ALUC safety policies and find, as required by State law, that the proposed rezoning action is consistent with the purposes of Section 21670 of the California Public Utilities Code.

OUTCOME

Adopt a resolution to override the ALUC determination that the proposed rezoning (file number C05-125) is inconsistent with ALUC safety policies and then adopt an ordinance to rezone the 6.6 acre parcel located on the southern corner of Capitol Expressway and Tully Road from the A-Agriculture Zoning District to the IP-Industrial Park Zoning District and CG-Commercial General Zoning District to allow commercial/industrial uses.

BACKGROUND

The site is located at the southwest corner of Capitol Expressway and Tully Road, just south of the Reid Hillview County Airport. The site is the subject of General Plan Amendment request (GP05-08-02) which was heard at the June 20, 2006 City Council hearing. The proposed rezoning (C05-125) and override have been continued from the June 20, 2006 City Council hearing in order for Staff to meet with the ALUC to discuss their concerns with the proposed rezoning. As discussed further in the Public Outreach section below, Staff met with the ALUC for this purpose on July 18, 2006.

The proposed rezoning includes two parts: 1) the westerly 5.6-acre portion of the site is proposed to be rezoned from A Agriculture Zoning District to the IP Industrial Park Zoning District to allow industrial and other uses as identified in the Zoning Ordinance, and 2) the easterly 1.4-acre portion of the site, which is also proposed for a General Plan Amendment to Regional Commercial, is proposed to be rezoned from A Agriculture Zoning District to CG Commercial General Zoning District to allow a variety of commercial uses.

The General Plan Amendment being heard concurrently with the proposed rezoning requests to change the Land Use/Transportation Diagram designation on a 1.4 acre-portion of the 7.0-acre parcel from Industrial Park to Regional Commercial

Both the General Plan Amendment and rezoning proposals were referred to the Airport Land Use Commission (ALUC) for comments on February 21, 2006. At an ALUC hearing on April 26, 2006, the ALUC determined that the proposed General Plan amendment is consistent with its safety policies, but that the proposed rezoning would allow uses that would not be consistent with the applicable safety policies for that area, in particular ALUC safety policies S-4 and S-5(b). Staff does not concur with the ALUC's determination of inconsistency as further discussed

July 27, 2006

Subject: File No. C05-125

Page 3

in the Staff Report prepared earlier for the General Plan Amendment and concurrent rezoning on the subject site.

The City of San Jose sent a draft resolution intending to potentially override the ALUC determination that the proposed rezoning is inconsistent with the safety policies as defined by the Land Use Plan for Areas Surrounding Santa Clara County Airports to the ALUC on May 5, 2006 and sent the same draft resolution to the State of California Department of Transportation, Division of Aeronautics on May 24, 2006. The Division of Aeronautics responded to the draft resolution and requested that a condition be placed on the rezoning so that any future development be consistent with the Airport Land Use Compatibility Plan. Conditions are unable to be imposed upon conventional zoning districts. However, Staff is cognizant of these concerns and during any subsequent development permit process will work to address them.

Staff from Planning attended the May 24, 2006 ALUC hearing to answer questions and discuss Staff's recommendation to City Council to override the ALUC's determination of inconsistency. The ALUC has provided a comment letter to the City, dated June 1, 2006, responding to the draft resolution overriding their determination. This memo addresses and provides analysis of the issues raised in the comment letter.

ANALYSIS

The ALUC has commented on a draft City Council resolution to override their determination that the subject rezoning is inconsistent with ALUC safety policies. Below is a discussion of the ALUC's comments and the relevant staff response.

ALUC Comment:

The draft resolution does not accurately reflect their action taken on April 26, 2006, in particular, that the language in the draft resolution, which stated "the ALUC determination did not cite any specific policy that was the basis for the determination, nor how the proposal was inconsistent with any such specific policy". The ALUC commented that their action and staff report did discuss that the rezoning is in fact inconsistent with ALUC safety policies S-4 and S-5(b)

Staff's Response:

Staff recognizes this to be the case and recommends that this language be stricken from the draft resolution.

ALUC Comment:

A parking lot would not meet the criteria in the above mentioned safety policies because, Safety Policy S-4 states that "no new object or structure be permitted to be erected or grown above the primary surface of the runway." The ALUC believes that a parking lot, which was noted by Staff as a potential use that would meet the ALUC safety policies, is indeed not consistent with their interpretation of the policy because the ALUC considers automobiles to be objects.

July 27, 2006

Subject: File No. C05-125

Page 4

Staff's Response:

Staff does not agree with the ALUC's interpretation that parking lots are not consistent with the ALUC safety policies given that the language put forward in the Land Use Plan for Areas Surrounding Santa Clara Airports, adopted by the ALUC, explicitly states in Safety Policy S-5b, related specifically to South Safety Area I for the Reid Hillview Airport (in which the subject site is located and which policy was specifically referred to by the ALUC, as noted above) that "parking lots, preferably covered, are permissible uses in this zone." Because the ALUC's Safety Policy S-5b specifically provides that parking lots are permissible uses within this area, Planning staff is confident that such uses can be designed through a development permit under the proposed rezoning that would meet the language of this ALUC Safety Policy.

ALUC Comment:

The draft override resolution references but has not done the quantitative assessment to fulfill the purpose of Section 21670 of the California Public Utilities Code, which is "to protect public health, safety and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses." The ALUC suggests that to adopt a finding demonstrating consistency with this purpose of the section of the California Public Utilities Code, the local agency first must determine whether the existing noise or safety hazards are excessive. The ALUC also states that the City of San Jose issued a Mitigated Negative Declaration (MND) without referring it to the ALUC.

Staff's Response:

Staff has confirmed that the City of San Jose did refer the Mitigated Negative Declaration to the ALUC for review and comment on April 24, 2006, and no comments by the ALUC regarding the MND were received by the City of San Jose during the public review period for this Negative Declaration. Additionally, through the Initial Study staff has investigated the issues related to exposure to excessive noise and safety hazards and determined that the proposal would have a less than significant impact; to the extent they are relevant for the General Plan Amendment and conventional rezoning of the subject property. Specifically, a noise assessment was prepared by Charles M Salter and Associates, which determined adherence to the General Plan's noise policies through the use of site design, noise attenuation and suppression techniques, and the need for future project specific noise assessments would be mitigations that would reduce the any impacts to a less than significant level.

The adopted Mitigated Negative Declaration investigated the applicable safety hazards relevant to the subject property and referenced adherence to the Land Use Plan for Areas Surrounding Santa Clara County Airports as among the appropriate mitigations. Staff asserts that the proposed rezoning is in fact consistent with the policies put forward in the Land Use Plan. In addition to noise issues, the proposed rezoning is consistent with the purposes of state law to protect the public health, safety and welfare by ensuring the adoption of land use measures that will minimize the public's exposure to safety hazards within areas around public airports in that land uses consistent with the ALUC's safety policies, as described above, can be fashioned under the proposed rezoning.

ALUC Comment:

The draft resolution does not accurately reflect the ALUC's historical objection to structures constructed in the vicinity of the subject site, such as the parking lots adjacent to the Eastridge Mall and perimeter fencing. Further, the ALUC believes that there is a difference between long-term parking of cars associated with auto storage and with short-term parking lots in that short-term parking lots are usually not entirely full, and the development of a long term parking lot will eliminate any vacant areas for pilots to land in an emergency.

Staff's Response:

Staff's response is that a long-term parking lot can be less hazardous because it will be have a lower usage/turnover rate by actual customers, as opposed to a short-term parking lot in which there can be more frequent use and circulation of customers. Staff believes that careful site planning which provides for orderly rows of similar models of cars with wide aisles that coincide with the flight paths, or even areas of the site intentionally left vacant directly opposite the runway can be accomplished at the Development Permit stage in a manner that could address the issues raised by the ALUC. Further, the careful planting of low growing landscaped material and short break-away light poles and fences could further address safety concerns.

ALUC Comment:

The ALUC recognizes that although the rezoning does not approve a specific development project and that any future development of the subject site would require approval by the City of San Jose through a subsequent development permit, referrals of site development permits are not mandated to be referred to the ALUC. Because the ALUC will not be referred any subsequent development permits, they feel that the issues need to be resolved at the rezoning stage.

Staff's Response:

It has been staff's practice to refer all projects involving a legislative action, including General Plan amendment and rezonings, to the ALUC as required. However, since there is no mandate to refer development projects involved in an administrative decision to the ALUC, staff reviews said projects in conformance with the City's policy of consistency with the respective Airport Land Use Plans.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

Property owners and tenants within a 1000 foot radius of the subject site received a notice of the public hearings to be held on the General Plan Amendment request and rezoning application before the Planning Commission on May 24, 2006 and City Council on June 20, 2006. The Department web site contains information regarding the General Plan Amendment process,

zoning 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.

As a result of the recently updated City Council Policy on Public Outreach (Public Outreach Policy), staff requested and the applicant installed on January 5, 2006 an on-site sign describing the proposed project. The sign provided information about a proposed project to the public early in the planning review process and conformed to the requirements prepared by the City of San Jose. The sign will be maintained while the proposal is under consideration by the City, and then removed within 10 days of a decision on the proposed project.

Both the General Plan Amendment and rezoning proposals were referred to the Airport Land Use Commission (ALUC) for comments on February 21, 2006. Staff attended ALUC meetings to discuss the proposed General Plan Amendment and rezoning on April 26, 2006 and May 24, 2006. On July 18, 2006, Staff met with the ALUC to discuss the proposed rezoning. The ALUC indicated concerns with the proposed override of their determination. At that time, Staff requested further information from the ALUC regarding flight patterns adjacent to the Reid-Hillview Airport. Staff maintains its recommendation of overriding the ALUC determination. Staff is confident that design techniques can be employed at the Site Development or Conditional Use Permit stage to keep areas of the project site, most adjacent to the runway, free of incompatible uses or structures.

COORDINATION

Preparation of the draft resolution and this supplemental memo to override the ALUC determination that the subject rezoning is inconsistent with ALUC policies was coordinated with the City Attorney's Office and Airport Department.

FISCAL/POLICY ALIGNMENT

Adoption of the resolution overriding the ALUC's determination that the proposed rezoning is inconsistent with their safety policies would enable the City Council to approve the subject rezoning which will facilitate future commercial and industrial uses determined to be compatible with the Land Use Transportation Diagram of the General Plan.

COST SUMMARY/IMPLICATIONS

Not applicable.

CEQA

A Mitigated Negative Declaration was adopted by the Director of Planning on May 23, 2006. The Mitigated Negative Declaration included mitigation to reduce any potential impacts to a less

HONORABLE MAYOR AND CITY COUNCIL

July 27, 2006

Subject: File No. C05-125

Page 7

than significant level per the California Environmental Quality Act (CEQA). The Mitigated Negative Declaration concluded that the project would have a less than significant impact with mitigation measures in the following categories: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, and Noise.


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

For questions please contact Reena Mathew, Project Manager, at (408) 535-7844.

Attachments:

- Draft resolution overruling the Airport Land Use Commission's determination that the proposed project is not consistent with the ALUC safety policies.
- ALUC letter regarding City of San Jose override of ALUC determination, dated June 1, 2006
- Department of Transportation Division of Aeronautics comments regarding City of San Jose draft override resolution, dated June 15, 2006
- County of Santa Clara Department of Planning and Development Staff Report to ALUC, dated May 24, 2006
- Department of Transportation Division of Aeronautics comment on Mitigated Negative Declaration (MND), dated May 19, 2006
- County of Santa Clara Department of Planning and Development Staff Report to ALUC, dated April 26, 2006
- Supplemental Transmittal Memo from Director of Planning, Building, and Code Enforcement to the Planning Commission responding to comments from Department of Transportation Division of Aeronautics comment on MND, dated May 19, 2006

DRAFT

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS REQUIRED BY CALIFORNIA PUBLIC UTILITIES CODE SECTION 21676 THAT PROPOSED REZONING APPLICATION FILE NO. C05-125 IS CONSISTENT WITH THE PURPOSES SET FORTH IN CALIFORNIA PUBLIC UTILITIES CODE SECTION 21670 AND OVERRULING THE AIRPORT LAND USE COMMISSION'S DETERMINATION THAT THE PROPOSED PROJECT REZONING IS NOT CONSISTENT WITH THE ALUC SAFETY POLICIES AS DEFINED BY THE "LAND USE PLAN FOR AREAS SURROUNDING SANTA CLARA COUNTY AIRPORTS"

WHEREAS, pursuant to the provisions of Section 21676 of the California Public Utilities Code ("Section 21676"), the City of San Jose ("City") made a mandated referral of the Rezoning application file number C05-125 (the "Rezoning") to the Airport Land Use Commission of Santa Clara County ("ALUC") for a determination of the Rezoning's consistency with the ALUC's plans insofar as the area covered by C05-125 the Rezoning relates to that certain real property located at the southwest corner of Capitol Expressway and Tully Road (the "Subject Site"), and such real property the Subject Site falls within the ALUC's referral area surrounding Reid-Hillview Airport; and

WHEREAS, on April 24, 2006 ~~the City referred on April 24, 2006 the Mitigated Negative Declaration for the Rezoning (the "MND") to the ALUC, which MND analyzed analyzing the environmental impacts, including but not limited to, the noise and safety hazards, associated with the Rezoning at the Subject Site, and No comments by the ALUC regarding the MND were received by the City of San Jose during the public review period for this Negative Declaration~~MND; and

WHEREAS, ~~A~~a noise assessment was prepared by Charles M. Salter Associates Inc. to quantify the noise environment at the Subject Site and compare it to City of San Jose noise standards contained in the City's Zoning Ordinance and General Plan; and

WHEREAS, on May 24, 2006, ~~The City referred the a draft override of this Resolution on May 24, 2006 to the California Department of Transportation (Caltrans), Division of Aeronautics (the "Division"), and received from the Division comments on the draft Resolution on June 15, 2006;~~ and

WHEREAS, on April 26, 2006 the ALUC, acting pursuant to its authority under Section 21676, determined that C05-125 the Rezoning is inconsistent with ALUC safety policies, as defined in the "Land Use Plan for Areas Surrounding Santa Clara County Airports"

(the "Land Use Plan"), although the ALUC determination did not cite any specific policy that was the basis for the determination, nor how the proposal was inconsistent with any such specific policy and cited the proposed rezoning Rezoning as inconsistent with ALUC safety policies S-4 and S-5(b) as the basis for that determination; and

WHEREAS, the Land Use Plan for Areas Surrounding Santa Clara Airports, adopted by the ALUC, explicitly states in Safety Policy S-5b, related specifically to South Safety Area I for the Reid Hillview Airport (in which the sSubject sSite is located) that "parking lots, preferably covered, are permissible uses in this zone"; and

WHEREAS, further pursuant to the provisions of Section 21676, the City may after a public hearing on the matter propose to overrule a determination by the ALUC of inconsistency with the Land Use Plan by a two-thirds (2/3) vote of the City Council so long as the City Council makes specific findings that a proposed action is consistent with the purposes set forth in Section 21670 of the California Public Utilities Code ("Section 21670"); and

WHEREAS, Section 21670 provides that the purpose of these sections of the California Public Utilities Code is to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses; and

WHEREAS, the City has notified the ALUC of its proposed decision to override the ALUC's determination that the rezoning proposal proposed Rezoning was inconsistent with ALUC safety policies, as defined in the Land Use Plan, and has conducted a duly noticed public hearing thereon; and

WHEREAS, the City Council heard and considered all testimony and other evidence presented, including a memorandum from the Department of Planning, Building, and Code Enforcement, related to this item; and

WHEREAS, the City Council believes it is appropriate under its authority provided in Section 21676 to override the ALUC's determination that the Rezoning file no. C05-125 is not consistent with the Land Use Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

SECTION 1. The City Council hereby makes the following findings with regard to the ALUC's determination of inconsistency with ALUC safety policies in the Land Use Plan:

- A. Rezoning file no. C05-125 that proposes to rezone the sSubject Site area from A-Agriculture to IP-Industrial Park is consistent with the Subject sSite's

General Plan Land Use/ Transportation Diagram designation of Industrial Park.

- B. Rezoning file no. C05-125 is in compliance with applicable General Plan Transportation Policies including number 47 which indicates that new development in the vicinity of airports should be regulated in accordance with Federal Aviation Administration (“FAA”) guidelines to: 1) maintain the airspace required for the safe operation of these facilities, and 2) avoid reflective surfaces, flashing lights and other potential hazards to air navigation. The proposed ~~rezoning~~ does not approve any specific development. A proposal for a specific development project can ~~only~~ be constructed only upon approval of a subsequent development permit. Pursuant to ALUC requirements, such a development permit would not require a mandated referral to the ALUC.
- C. City shall consider and comply with all applicable FAA guidelines, in consultation and coordination with the FAA if appropriate, including those noted above, in its processing and analysis of any development proposal submitted for the sSubject sSite pursuant to the Rezoning file no. C05-125.
- G.D. Rezoning file no. C05-125 is in compliance with applicable General Plan Transportation Policies including number 48 that indicates that development should take into consideration the safety areas identified in the ALUC policies. This proposal is a rezoning and not a development permit. Upon review of a subsequent development permit, the City will take into consideration all relevant ALUC policies. The City believes that there are subsequent development opportunities that could be allowed under an IP-Industrial Park rezoning that would ~~comply with all applicable ALUC policies.~~ be consistent with all ALUC policies applicable to the sSubject sSite for the Rezoning C05-125. The ALUC’s safety policy S-5(b) indicates that parkings lots are permissible uses within the South Area I for the Reid-Hillview Airport and the City believes that uses can be fashioned under the proposed ~~rezoning~~ that would meet the language of this ALUC Safety Policy.
- D.E. Under this proposed ~~rezoning~~ to IP-Industrial Park, a variety of uses and/or development could be allowed. Such uses could include a parking establishment that does not include the construction of any buildings on the Subject Site.
- F. Although not raised by the ALUC or Division as an issue, it was determined through the noise assessment prepared for the sSubject sSite that adherence to the City’s General Plan’s Noise Policies 1, 9, 12 and Urban Design Policy 18, as well as, the future of evaluation of noise levels at adjacent property

lines at the Subject sSite design stage would further reduce potential noise impacts at the Subject Site to less than significant levels.

E.

G. The MND determined that environmental impacts, including but not limited to noise and safety hazards associated with the Subject sSite, can be mitigated to a less than significant level through

E.H. Various other structures have been approved and constructed in the vicinity of the sSubject sSite that historically have not adversely impacted Airport operations or resulted in safety issues related to proximity to the Airport. Examples of this include the parking lots for the adjacent Eastridge Mall and perimeter fences surrounding the Reid-Hillview Airport.

SECTION 2. Therefore, based upon the findings set forth above, the City Council hereby finds that the proposed Rezoning ~~under file no. C05-125~~ is not in conflict with and would be consistent with the purposes set forth in California Public Utilities Code Section 21670 regarding protection of public health, safety, and welfare around Reid-Hillview Airport. by ensuring adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards in that area.

SECTION 3. Based upon all of the foregoing findings and conclusions, the City Council hereby overrules the ALUC determination of nonconformance of the proposed Rezoning ~~file no. C05-125~~ with the safety polices within the Land Use Plan.

ADOPTED this 15th day of August by the following vote:

AYES:

NOES:

ABSENT:

6/20/06

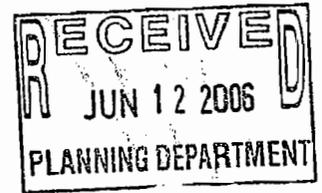
DISQUALIFIED:

RON GONZALES
Mayor

ATTEST:

LEE PRICE,
City Clerk

June 1, 2006



Reena Mathew, Project Manager
City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, Tower 3
San Jose, CA 95113

RE: Proposed override by the City of San Jose regarding ALUC action on April 26, 2006 finding inconsistent with ALUC policies the Conventional Rezoning request (City of San Jose File No. C05-125) to rezone the 6.6 acre parcel located on the southern corner of Capitol Expressway and Tully Road from A (Agriculture) to IP (Industrial Park) and CG (Commercial) zoning districts to allow industrial and commercial uses on APN 491-04-046.

Dear Ms. Mathew,

On May 24, 2006 the Santa Clara County Airport Land Use Commission (ALUC) considered the City of San Jose's draft resolution to override ALUC action on April 26, 2006 determining the above-cited rezoning request inconsistent with ALUC policies. The ALUC thoroughly discussed the draft resolution and made the following comments:

Page 1, Paragraph 2 of the draft resolution states that "the ALUC determination did not cite any specific policy that was the basis for the determination, nor how the proposal was inconsistent with any such specific policy." This statement does not accurately reflect the April 26, 2006 ALUC action. The ALUC voted to approve the action outlined in the staff report for the subject project which recommended "that the proposed rezoning from A (Agricultural Zoning District) to IP (Industrial Park) and CG (Commercial General Zoning) be determined inconsistent with ALUC safety policies S-4 and S-5(b)." The staff report (enclosed) was previously forwarded to the City of San Jose along with the ALUC's inconsistency determination.

ALUC discussion on both April 26, 2006 and May 24, 2006 included concern that uses allowed in the IP and CG zoning districts could not meet the criteria set forth in ALUC safety policies S-4 and S-5(b). In particular, safety policy S-4 states that within Reid-Hillview Airport South Safety Area I no new object or structure be permitted to be erected or grown above the primary surface of the runway within the designated safety areas, directly adjacent to the ends of the runway. The ALUC believes that a parking lot, as discussed on Page 2, Section 1, Paragraph D, would not meet the above-cited

criteria because the ALUC considers automobiles to be objects.

Page 1, Paragraph 4 of the draft resolution states that the purpose of Section 21670 of the California Public Utilities Code is "to protect public health, safety and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses." Key words in this component of the law's purpose are minimize and excessive. The phrase "to the extent that these areas are not already devoted to incompatible uses" is significant as well.

The language used in the state statute implies a quantitative assessment of noise exposure and safety hazards. The purpose of the statute is not to merely reduce the public's exposure to noise and safety hazards, but to minimize exposure in areas with excessive noise or safety concerns. To adopt a finding demonstrating consistency with this purpose, the local agency first must determine whether the existing noise or safety hazards are excessive.

If existing noise and safety hazards are excessive, then the actions taken by the local agency must prevent the creation of new noise and safety problems. If the existing exposure is excessive, the local agency would have to show how its action in overruling an ALUC determination of inconsistency nonetheless minimizes additional exposure to the noise and safety concerns that have been identified. Finally, the local agency needs to show the extent which land uses in the area in question are already incompatible with airport operations, and how an action to overrule would not create a new incompatible use or would expose additional persons or property to noise and safety hazards associated with existing compatible uses.

Page 2, Section 1, Paragraph E states that "various other structures have been approved and constructed in the vicinity of the subject site that historically have not adversely impacted airport operations or resulted in safety issues related to proximity to the airport." Examples cited are parking lots adjacent to Eastridge Mall and perimeter fences surrounding Reid-Hillview. These "structures" exist in the Reid-Hillview safety area because Eastridge Mall was constructed prior to the establishment of ALUCs statewide and the adoption of the ALUC's land use plan. The ALUC has accommodated parking lots at Eastridge Mall because this pre-existing land use could not practically function without a parking facility.

It should be noted that the ALUC has previously opposed the erection of objects in Eastridge Mall parking lots, such as trees and bollards. The cited perimeter fences are necessary for the protection of Reid-Hillview Airport and are designed to collapse upon impact. Indeed portions of land within the safety area have been developed (pre-



Airport Land Use Commission

County Government Center, 70 W. Hedding Street, East Wing, 7th Fl., San Jose, CA 95110
(408) 299-5798 FAX (408) 288-9198

SANTA CLARA COUNTY

existing), however, further development within the safety areas will eliminate any vacant areas for pilots to land in an emergency. Pilots will ultimately have no choice but to land in developed areas. Further, the ALUC believes there is a difference between parking lots, which normally are not entirely full, have aisles between the rows and accommodate only short-term parking, and an automobile storage lot which would accommodate dense, long-term parking on a more permanent basis.

Regarding Page 2, Section 1, Paragraph B of the draft resolution, the ALUC understands that the rezoning does not approve any specific development project and that any future development of the subject site would require approval by the City of San Jose of a subsequent development permit. However, any future development permits would not require referral to the ALUC, as only proposed general plan amendments and rezoning are mandated by state statute to be referred to the ALUC. Therefore it is critical that safety issues be addressed and resolved at this point, rather than at the development permit stage.

The ALUC understands that the City of San Jose has issued a Negative Declaration for the project, and would like to state for the record that the environmental document was not forwarded to the ALUC for review and comment.

Please note that the May 19, 2006 Caltrans Division of Aeronautics letter (enclosed) states concurrence with the ALUC's determination.

Sincerely,

Robert Sturdivant, Chairman
Santa Clara County Airport Land Use Commission

Enclosures: April 26, 2006 ALUC staff report for subject project
May 19, 2006 Caltrans Division of Aeronautics Letter

Cc: Ron Bolyard, Caltrans Division of Aeronautics
Santa Clara County Airport Land Use Commission
Lizanne Reynolds, Santa Clara County Deputy County Counsel
Carl Honaker, Director of County Airports
Cary Greene, San Jose International Airport Planner

DEPARTMENT OF TRANSPORTATION

DIVISION OF AERONAUTICS – M.S.#40

1120 N STREET

P. O. BOX 942873

SACRAMENTO, CA 94273-0001

PHONE (916) 654-4959

FAX (916) 653-9531

TTY (916) 651-6827

*Flex your power!
Be energy efficient!*

June 15, 2006

Ms. Reena Mathew
City of San Jose PBCE
200 East Santa Clara Street, Tower 3
San Jose, CA 95113

Dear Ms. Mathew:

Re: City of San Jose intent to overrule the Airport Land Use Commission

The Department of Transportation, Division of Aeronautics (Department) has received notice that the City of San Jose's City Council (Council) intends to overrule the Santa Clara County Airport Land Use Commission (ALUC). The overrule is regarding a rezoning (File #C05-125). The proposal is to rezone the subject area from A-Agriculture to IP-Industrial Park on a 3.3-acre portion of the 7.0-acre parcel; and Commercial General Zoning Districts on a 2.3-acre portion of the 7.0-acre site approximately 300 feet from the southern boundary of the Reid-Hillview Airport. Please see the following comments regarding the specific findings the Council intends to use regarding this overrule.

Findings in your draft resolution point out that your General Plan Transportation Policy 47 and 48 ensure that no incompatible land uses will be placed around the airport. We suggest that a condition be placed on this rezoning permit that would require any future development permits to be consistent with the policies found in the Airport Land Use Compatibility Plan.

Thank you for the opportunity to review and comment on this proposal. These comments are required by the PUC to be incorporated into public record. If you have any questions, please call me at (916) 654-7075.

Sincerely,

A handwritten signature in black ink, appearing to read "RWB", written over a white background.

RON BOLYARD
Airport Environmental Specialist

c: Santa Clara County ALUC, Reid Hillview Airport
bc:

County of Santa Clara
Department of Planning and Development
Planning Office



ALUC01 052406

Prepared by: Dana Peak
Special Programs/Program
Manager

Reviewed by: Michael Lopez
Planning and Development
Coordinator

DATE: May 24, 2006

TO: Airport Land Use Commission

FROM: 
Valentin Alexeeff
Director, Department of Planning and Development

SUBJECT: Proposed override by the City of San Jose regarding ALUC action on April 26, 2006 finding inconsistent with ALUC policies the Conventional Rezoning request (City of San Jose File No. C05-125) to rezone APN 491-04-046 from A to IP and CG Districts to allow industrial and commercial uses on the subject site.

RECOMMENDED ACTION

Consider proposed override by the City of San Jose regarding ALUC action on April 26, 2006 finding inconsistent with ALUC policies the Conventional Rezoning request (City of San Jose File No. C05-125) to rezone the 6.6 acre parcel located on the southern corner of Capitol Expressway and Tully Road from A (Agriculture Zoning District) to IP (Industrial Park) and CG (Commercial General Zoning) Districts to allow industrial and commercial uses on APN

491-04-046.

Possible Action:

Forward any comments on the proposed override to the City of San Jose.

REASONS FOR RECOMMENDATION

California Public Utilities Code Section 21676 provides that prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the ALUC pursuant to Section 21675, the local agency (City of San Jose) shall first refer the proposed action to the ALUC. If the ALUC determines that the proposed action is inconsistent with the ALUC's plan, the referring agency shall be notified. The local agency may, after a public hearing, propose to overrule the ALUC by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of the article as stated in Section 21670. At least 45 days prior to the decision to overrule the ALUC, the local agency governing body shall provide the ALUC a copy of the proposed decision and findings. The ALUC may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the ALUC's comments are not available within this time limit, the local agency governing body may act without them. The comments by the ALUC are advisory to the local agency governing body. The local agency governing body shall include comments from the ALUC in the final decision to overrule the ALUC, which may only be adopted by a two-thirds vote of the governing body.

BACKGROUND

On April 26, 2006 the ALUC found the Conventional Rezoning (City of San Jose No. C05-125) inconsistent with ALUC policies, as defined in the Land Use Plan for Areas Surrounding Santa Clara County Airport. The project area encompasses one 6.6-acre parcel located approximately 287 feet from Reid-Hillview Airport. The City of San Jose is processing an Environmental Clearance application to facilitate a future proposal to construct a new car dealership facility on the site. A large portion of the subject parcel is located within Area I of the South Safety Area for Reid-Hillview Airport. The requirements of Area I of the South Safety Area state that no new objects should be permitted to be erected above the elevation of the primary runway surface. The proposed rezoning of the entire 6.6-acre parcel from A (Agriculture Zoning District) to IP (Industrial Park) and CG (Commercial General Zoning) Districts would allow both industrial and commercial uses on the site. The Industrial

Park land use designation would allow a wide variety of industrial uses, including research and development, manufacturing, assembly, testing and offices. The Commercial General land use designation would allow a full range of retail and commercial uses with a local or regional market and includes larger commercial centers as well as regional malls. It is reasonable to assume that these proposed uses would require the construction of new buildings to accommodate such uses. Therefore, staff recommended that the proposed rezoning from A (Agriculture Zoning District) to IP (Industrial Park) and CG (Commercial General Zoning) Districts be determined inconsistent with ALUC safety policies S-4 and S-5(b). The ALUC voted to find the Conventional Rezoning inconsistent with ALUC policies, as defined in the Land Use Plan for Areas Surrounding Santa Clara County Airport, because the rezoning would allow incompatible land uses in Area I of the South Safety Area.

ATTACHMENTS

- Attachment 1: Proposed Override by the City of San Jose
- Attachment 2: April 26, 2006 ALUC Transmittal Regarding City of San Jose File No. C05-125

DEPARTMENT OF TRANSPORTATION

DIVISION OF AERONAUTICS – M.S.#40

1120 N STREET

P. O. BOX 942873

SACRAMENTO, CA 94273-0001

PHONE (916) 654-4959

FAX (916) 653-9531

TTY (916) 651-6827

*Flex your power!
Be energy efficient!*

May 19, 2006

Mr. Ben Corralas
City of San Jose
200 East Santa Clara Street, Third Floor
San Jose, CA 95113-1905

Dear Mr. Corralas:

Re: City of San Jose's Negative Declaration for Beshoff Motors; SCH# 2006042141

The California Department of Transportation (Caltrans), Division of Aeronautics (Division), reviewed the above-referenced document with respect to airport-related noise and safety impacts and regional aviation land use planning issues pursuant to the California Environmental Quality Act (CEQA). The Division has technical expertise in the areas of airport operations safety, noise and airport land use compatibility. We are a funding agency for airport projects and we have permit authority for public and special use airports and heliports. The following comments are offered for your consideration.

The proposal is to amend the General Plan land use designation on a site located on vacant land at the southwest corner of Tully Road and Capitol Expressway to allow for a change from Industrial Park to Regional Commercial on a 1.4-acre portion of a 7.0-acre parcel; Conventional Rezoning from Agriculture Zoning District to Industrial Park on a 3.3-acre portion of the 7.0-acre parcel; and Commercial General Zoning Districts on a 2.3-acre portion of the 7.0-acre site.

The project site is located approximately 300 feet from the southern boundary of the Reid-Hillview Airport. Reid-Hillview is an important and active airport with approximately 700 based-aircraft and over 230,000 annual operations. The project site will be subject to direct aircraft overflights and subsequent airport-related noise and safety impacts.

Protecting people and property on the ground from the potential consequences of near-airport aircraft accidents is a fundamental land use compatibility-planning objective. While the chance of an aircraft injuring someone on the ground is historically quite low, an aircraft accident is a high consequence event. To protect people and property on the ground from the risks of near-airport aircraft accidents, some form of restrictions on land use are essential. The two principal methods for reducing the risk of injury and property damage on the ground are to limit the number of persons in an area and to limit the area covered by occupied structures. The potential severity of an off-airport aircraft accident is highly dependent upon the nature of the land use at the accident site.

In accordance with CEQA, Public Resources Code Section 21096, the Caltrans Airport Land Use Planning Handbook (Handbook) must be utilized as a resource in the preparation of environmental documents for projects within airport land use compatibility plan boundaries or if such a plan has not been adopted, within two miles of an airport. The Handbook is a resource that should be applied to all public use airports and is published on-line at <http://www.dot.ca.gov/hq/planning/aeronaut/>.

The Handbook identifies six airport safety zones based on risk levels. The western portion of the project site is within the Runway Protection Zone (RPZ) for Reid-Hillview Airport. Portions of the project site also appear to be within the Inner Approach/Departure Zone and the Inner Turning Zone as defined in the Handbook. The Runway Protection Zone (RPZ) is the most critical of the airport safety zones, considered to be at "very high risk" due its proximity to the end of the runway. The Handbook generally recommends prohibiting all new structures within the RPZ. Just beyond the RPZ is the Inner Approach/Departure Zone, which is considered to be at "substantial risk". The RPZ together with the inner safety zones encompass 30 to 50 percent of the near-airport aircraft accident sites.

Public Utilities Code, Section 21659, "Hazards Near Airports Prohibited" prohibits structural hazards near airports. Structures should not be at a height that will result in penetration of the approach imaginary surfaces. To ensure compliance with Federal Aviation Regulation, Part 77, "Objects Affecting Navigable Airspace," submission of a Notice of Proposed Construction or Alteration (Form 7460-1) to the Federal Aviation Administration (FAA) will be required. For further technical information, please refer to the FAA web site at http://www.faa.gov/aso/aso500/obst_eval.htm. Please note, the FAA also requires submission of a completed Form 7460-2 Part 1 at least 48 hours prior to starting the actual construction.

Section 11010 of the Business and Professions Code and Sections 1102.6, 1103.4, and 1353 of the Civil Code (<http://www.leginfo.ca.gov/calaw.html>) address buyer notification requirements for lands around airports. Any person who intends to offer land for sale or lease within an *airport influence area* is required to disclose that fact to the person buying the property.

Government Code Section 25302.3 (a) requires general plans, specific plans and amendments shall be consistent with the adopted airport land use plans adopted or amended pursuant to Section 21675 of the Public Utilities Code. In accordance with Public Utilities Code (PUC) Section 21676, General Plans Amendments must be consistent with the adopted airport land use compatibility plans developed by the Santa Clara County Airport Land Use Commission (ALUC).

We have reviewed and concur with the County of Santa Clara ALUC's April 26, 2006 determination concerning this proposal. We support the ALUC findings that the 1.2-acre car dealership is consistent with ALUC policies provided all development is outside the Southern Safety Area I. We also concur with ALUC determination that the remaining portion of the 6.6-7.0-acre parcel should not be considered until an actual project is proposed. We are also concerned that the proposed rezoning on the remaining land could result in incompatible land uses such as local or regional markets, larger commercial centers and regional malls

As stated in the State Law, California Public Utilities Code (PUC) 21676 et seq., Caltrans reviews and comments on the specific findings a local government intends to use when proposing to overrule an ALUC. Caltrans specifically looks at the proposed findings to gauge their relationship to their overrule. Also, pursuant to the PUC 21670 et seq., findings should show evidence that the local agency is minimizing "...the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses." Please note, if the City of San Jose overrules the ALUC for this project, the City must provide the ALUC and the Division

a copy of the proposed decision and findings at least 45 days prior to the decision to overrule.

The proposal should be coordinated with the Reid-Hillview Airport Manager, Mr. Carl Honaker as well to ensure that the proposal will be compatible with future as well as existing airport operations.

Aviation plays a significant role in California's transportation system. This role includes the movement of people and goods within and beyond our State's network of over 250 airports. Aviation contributes nearly 9 percent of both total State employment (1.7 million jobs) and total State output (\$110.7 billion) annually. These benefits were identified in a recent study, "Aviation in California: Benefits to Our Economy and Way of Life," prepared for the Division of Aeronautics which is available at <http://www.dot.ca.gov/hq/planning/aeronaut/>. Aviation improves mobility, generates tax revenue, saves lives through emergency response, medical and fire fighting services, annually transports air cargo valued at over \$170 billion and generates over \$14 billion in tourist dollars, which in turn improves our economy and quality-of-life.

The protection of airports from incompatible land use encroachment is vital to California's economic future. Reid-Hillview Airport is an economic asset that should be protected through effective airport land use compatibility planning and awareness. Although the need for compatible and safe land uses near airports in California is both a local and a State issue, airport staff, airport land use commissions and airport land use compatibility plans are key to protecting an airport and the people residing and working in the vicinity of an airport. Consideration given to the issue of compatible land uses in the vicinity of an airport should help to relieve future conflicts between airports and their neighbors.

These comments reflect the areas of concern to the Division of Aeronautics with respect to airport-related noise and safety impacts and regional airport land use planning issues. We advise you to contact our District 4 Office in Oakland at (510) 286-4444 concerning surface transportation issues.

Thank you for the opportunity to review and comment on this proposal. If you have any questions, please call me at (916) 654-5314.

Sincerely,

Original Signed by

SANDY HESNARD
Aviation Environmental Specialist

c: State Clearinghouse, Dana Peak-Santa Clara County ALUC, Carl Honaker-Reid-Hillview Airport

5A

County of Santa Clara
Department of Planning and Development
Planning Office



ALUC01 042006

Prepared by: Dana Peak
Special Programs/Program
Manager

Reviewed by: Michael Lopez
Planning and Development
Coordinator

DATE: April 26, 2006

TO: Airport Land Use Commission

FROM: *Valentin Alexeeff* ^{BVL}
Valentin Alexeeff
Director, Department of Planning and Development

SUBJECT: General Plan Amendment request to change the Land Use/Transportation Diagram designation from Industrial Park to Regional Commercial on a 1.2- acre portion of a 6.6-acre parcel located on the southwest corner of Tully Road and Capitol Expressway (City of San Jose No. GP05-08-02, APN 491-04-046)

Conventional Rezoning request from A (Agriculture Zoning District) to IP (Industrial Park) and CG (Commercial General Zoning) Districts to allow industrial and commercial uses on a 6.6 gross acre site located on the southern corner of Capitol Expressway and Tully Road (City of San Jose No. C05-125, APN 491-04-046)

RECOMMENDED ACTION

Consider General Plan Amendment request to change the Land Use/Transportation Diagram designation from Industrial Park to Regional Commercial on a 1.2– acre portion of a 6.6–acre parcel located on the southwest corner of Tully Road and Capitol Expressway and consider Conventional Rezoning request from A (Agriculture Zoning District) to IP (Industrial Park) and CG (Commercial General Zoning) Districts to allow industrial and commercial uses on a 6.6 gross acre site located on the southern corner of Capitol Expressway and Tully Road.

Possible Actions:

A. Find the proposed General Plan Amendment (City of San Jose No. GP05–08–02) consistent with ALUC policies, as defined in the Land Use Plan for Areas Surrounding Santa Clara County Airports, with the following conditions:

1. Property owner grant avigation easement for APN 491–04–046 to the County of Santa Clara for Reid–Hillview Airport in accordance with Policy G–3.
2. When specific development projects are proposed, all development shall be located outside Reid–Hillview Airport South Safety Area I.
3. When specific development projects are proposed, height restrictions on the project area shall be imposed in conformance with the FAA Part 77 Imaginary Surface in effect at that time, regardless of any No Hazard determination by the FAA.

B. Find the Conventional Rezoning (City of San Jose No. C05–125) inconsistent with ALUC policies, as defined in the Land Use Plan for Areas Surrounding Santa Clara County Airports.

REASONS FOR RECOMMENDATION

The subject project is a request from the City of San Jose to change the Land Use/Transportation Diagram designation from Industrial Park to Regional Commercial on a 1.2– acre portion of a 6.6–acre parcel, and to rezone the 6.6–acre parcel from A (Agriculture Zoning District) to IP (Industrial Park) and CG (Commercial General Zoning) Districts to allow industrial and commercial uses on the site located on the southern corner of Capitol Expressway and Tully Road. The project area encompasses one parcel located approximately 287 feet from Reid–Hillview Airport. The City of San Jose is processing an Environmental Clearance application to facilitate a future proposal to construct a new car dealership facility on the site.

The 1.2– acre portion of the 6.6–acre parcel proposed for Land Use/Transportation Diagram designation change straddles the northeast boundary of Area I of the South Safety Area for Reid–Hillview Airport. The requirements of Area I of the South Safety Area state that no new objects should be permitted to be erected above the elevation of the primary runway surface. The majority of the 1.2–acre portion of the parcel appears to be outside the safety zone, however, staff recommends that any determination of consistency regarding the proposed Land Use/Transportation Diagram designation change be conditioned upon a requirement that when specific development projects are proposed, all development shall be located outside Reid–Hillview Airport South Safety Area I. Therefore, staff recommends that the proposal to change the Land Use/Transportation Diagram designation from Industrial Park to Regional Commercial on the 1.2–acre portion of the subject parcel be determined consistent with ALUC safety policies.

The remaining portion of the subject 6.6–acre parcel west of the 1.2–acre area is entirely located within Area I of the South Safety Area for Reid–Hillview Airport. As stated above, the requirements of Area I of the South Safety Area state that no new objects should be permitted to be erected above the elevation of the primary runway surface. The proposed rezoning of the entire 6.6–acre parcel from A (Agriculture Zoning District) to IP (Industrial Park) and CG (Commercial General Zoning) Districts would allow both industrial and commercial uses on the site. As described in the Background section of this report, the Industrial Park land use designation would allow a wide variety of industrial uses, including research and development, manufacturing, assembly, testing and offices. The Commercial General land use designation would allow a full range of retail and commercial uses with a local or regional market and includes larger commercial centers as well as regional malls. It is reasonable to assume that these proposed uses would require the construction of new buildings to accommodate such uses. Therefore, staff recommends that the proposed rezoning from A (Agriculture Zoning District) to IP (Industrial Park) and CG (Commercial General Zoning) Districts be determined inconsistent with ALUC safety policies S–4 and S–5(b).

The subject 6.6–acre parcel lies within a Federal Aviation Administration (FAA) Part 77 Imaginary Surface height–restricted area of 250 feet above sea level. The average mean elevation of the subject parcel is approximately 131 feet. The maximum height of any proposed development must not exceed 119 feet in order to not impact the FAA's surface height limitation at the project site (250 feet). It is not anticipated that the proposal to

construct a new car dealership facility on the site will exceed the FAA Part 77 Imaginary Surface height–restriction. However, staff recommends that any consistency determination be conditioned to require that when specific development projects are proposed, height restrictions on the project area shall be imposed in conformance with the FAA Part 77 Imaginary Surface in effect at that time, regardless of any No Hazard determination by the FAA. In addition, staff recommends that when a specific development project is proposed, the property owner be required to grant an aviation easement to the County of Santa Clara for Reid–Hillview Airport in accordance with Policy G–3.

The subject 6.6–acre parcel straddles the 60dB CNEL Contour for Reid–Hillview Airport. According to the Land Use Compatibility Chart of Aircraft Noise in the Vicinity of County General Aviation Airports, commercial and industrial land use is considered satisfactory inside the 60 dB CNEL Contour. Therefore, the proposal to change the Land Use/Transportation Diagram designation from Industrial Park to Regional Commercial on a 1.2– acre portion of the subject parcel, and to rezone the subject parcel from A (Agriculture Zoning District) to IP (Industrial Park) and CG (Commercial General Zoning) Districts is consistent with ALUC noise requirements.

BACKGROUND

The City of San Jose General Plan and Zoning Ordinance describe the Industrial Park land use designation and IP Industrial Park Zoning District as intended for a wide variety of industrial users, such as research and development, manufacturing, assembly, testing and offices. Industrial uses are consistent insofar as any functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. Areas identified exclusively for Industrial Park uses may contain a very limited amount of supportive and compatible commercial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area. These commercial uses should be located within a larger industrial building to protect the character of the area and maintain land use compatibility.

Areas designated as Regional Commercial are, for the most part, existing regional shopping centers. In a few cases they reflect the cumulative attraction of a regional center and one or more nearby community or specialty commercial centers, or two or more community or special centers in close proximity whose combined drawing power is of a regional scale. All of the regional commercial areas are designated where there are existing shopping centers.

Any completely new regional scale developments should be encouraged to locate in the Downtown Core Area.

The CG Commercial General District is intended to serve the needs of the general population. This district allows for a full range of retail and commercial uses with a local or regional market. Development is expected to be auto-accomodating and includes larger commercial centers as well as regional malls.

ATTACHMENTS

- Attachment 1: City of San Jose Project Referral
- Attachment 2: Aerial Photograph of Project Area (2001)
- Attachment 3: Project Area in Relation to ALUC Land Use Referral Boundary for Reid–Hillview Airport
- Attachment 4: Project Area in Relation to ALUC Height Restriction Boundary for Reid–Hillview Airport
- Attachment 5: Project Area in Relation to South Safety Area for Reid–Hillview Airport



CITY OF SAN JOSE, CALIFORNIA

SAN JOSE

CAPITAL OF SILICON VALLEY

Stephen Haase

Director of Planning

Department of Planning, Building and Code Enforcement

200 East Santa Clara Street

San Jose, CA 95113-1905

December 21, 2005

Airport Land Use Commission

ATTN: DANA PEAK

70 W HEDDING ST

RE: City File No. GP05-08-02

APN: 49104046

The above referenced project is a

GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Regional Commercial on 0.3 acres and Industrial Park on xxx acres to Regional Commercial on 1.1 acres (General Growth Properties, LLC, Owner/Rayjer Propertie, Applicant)

located at the Southern corner of Capitol Expressway and Tully Road

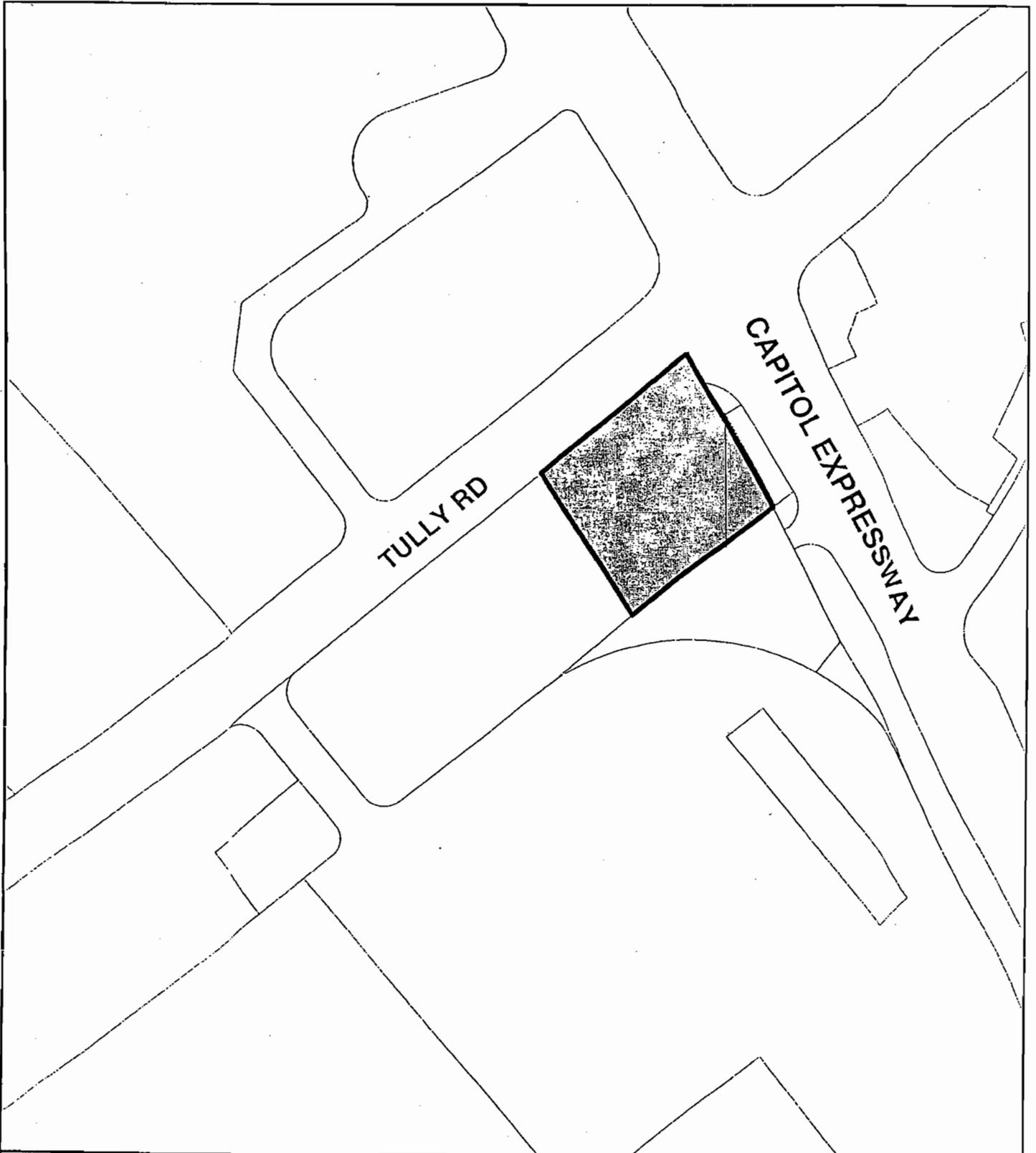
was filed with the City of San Jose and is currently being reviewed by the Department of City Planning, Building and Code Enforcement Staff.

Your comments on this project must be submitted in writing no later than 01/04/2006.

Please refer to the project using the file number above. If you are unable to forward comments by this date, or if you need additional information or have any other questions, please contact me at (408) 535-7800.

Thank you,

Jenny Nusbaum
Project Manager




SAN JOSE
City of the Largest U.S. City
Department of Planning, Building
and Code Enforcement
Planning Services Division

 SITE

 NORTH
Scale 1" = 250'
Quad: 84



SAN JOSE

CAPITAL OF SILICON VALLEY

Stephen Haase

Director of Planning

Department of Planning, Building and Code Enforcement

200 East Santa Clara Street

San Jose, CA 95113-1905

December 21, 2005

Airport Land Use Commission

ATTN: DANA PEAK

70 W HEDDING ST

RE: City File No. C05-125

APN: 49104046

The above referenced project is a

Conventional Rezoning from A Agriculture Zoning District to IP Industrial Park and CG Commercial General Zoning Districts to allow industrial and commercial uses on a 6.6 gross acre site

located at the southern corner of Capitol Expressway and Tully Road

was filed with the City of San Jose and is currently being reviewed by the Department of City Planning, Building and Code Enforcement Staff.

Your comments on this project must be submitted in writing no later than 1/4/2006.

Please refer to the project using the file number above. If you are unable to forward comments by this date, or if you need additional information or have any other questions, please contact me at (408) 535-7800.

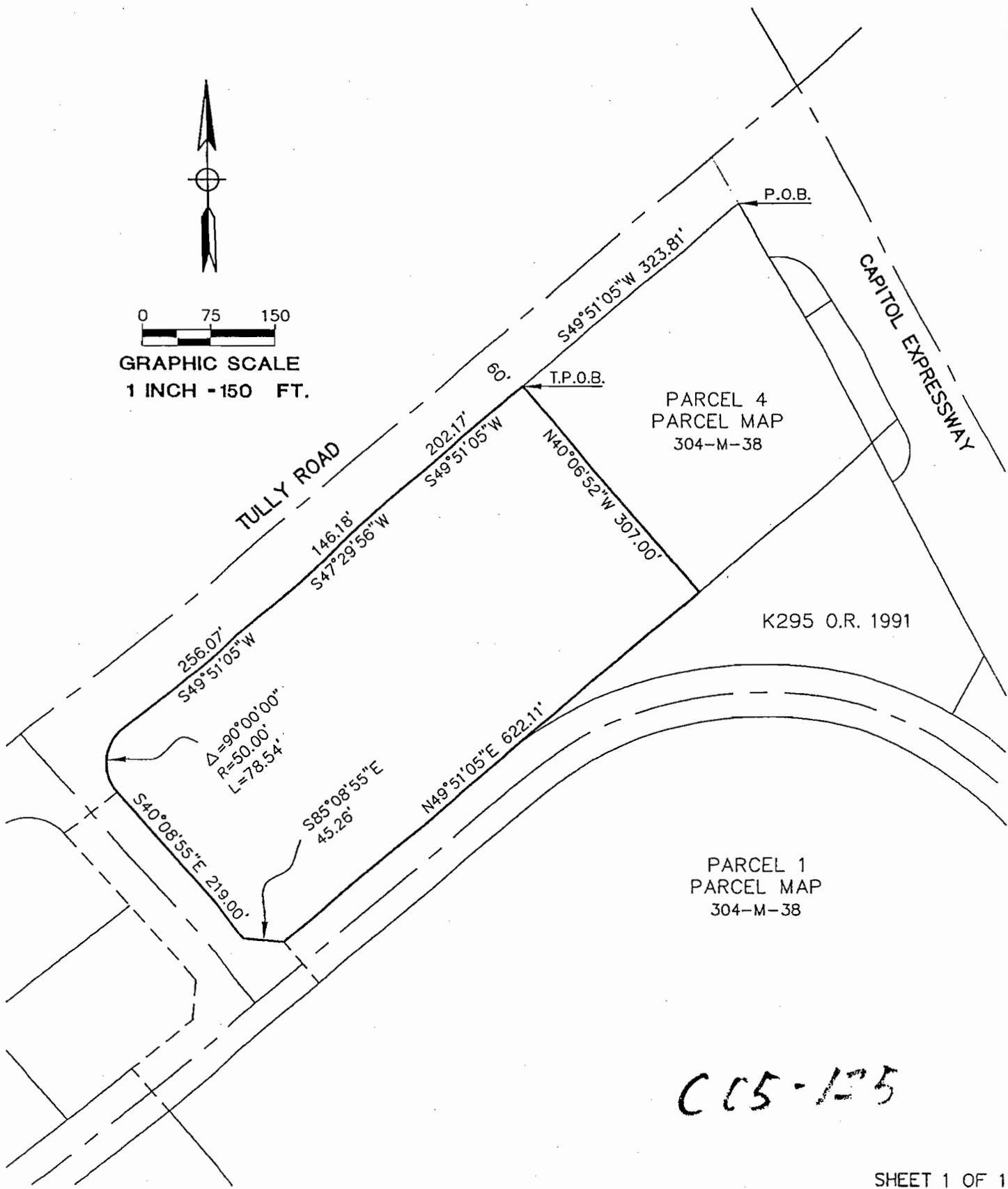
Thank you,

Reena Mathew

Project Manager



0 75 150
 GRAPHIC SCALE
 1 INCH = 150 FT.



SHEET 1 OF 1

Date: 12-06-50
 Scale: 1" = 150'
 Designed: -
 Drawn: AH
 Checked: TG
 Proj. Engr.: -
 Dwg. Name: 3032PL05

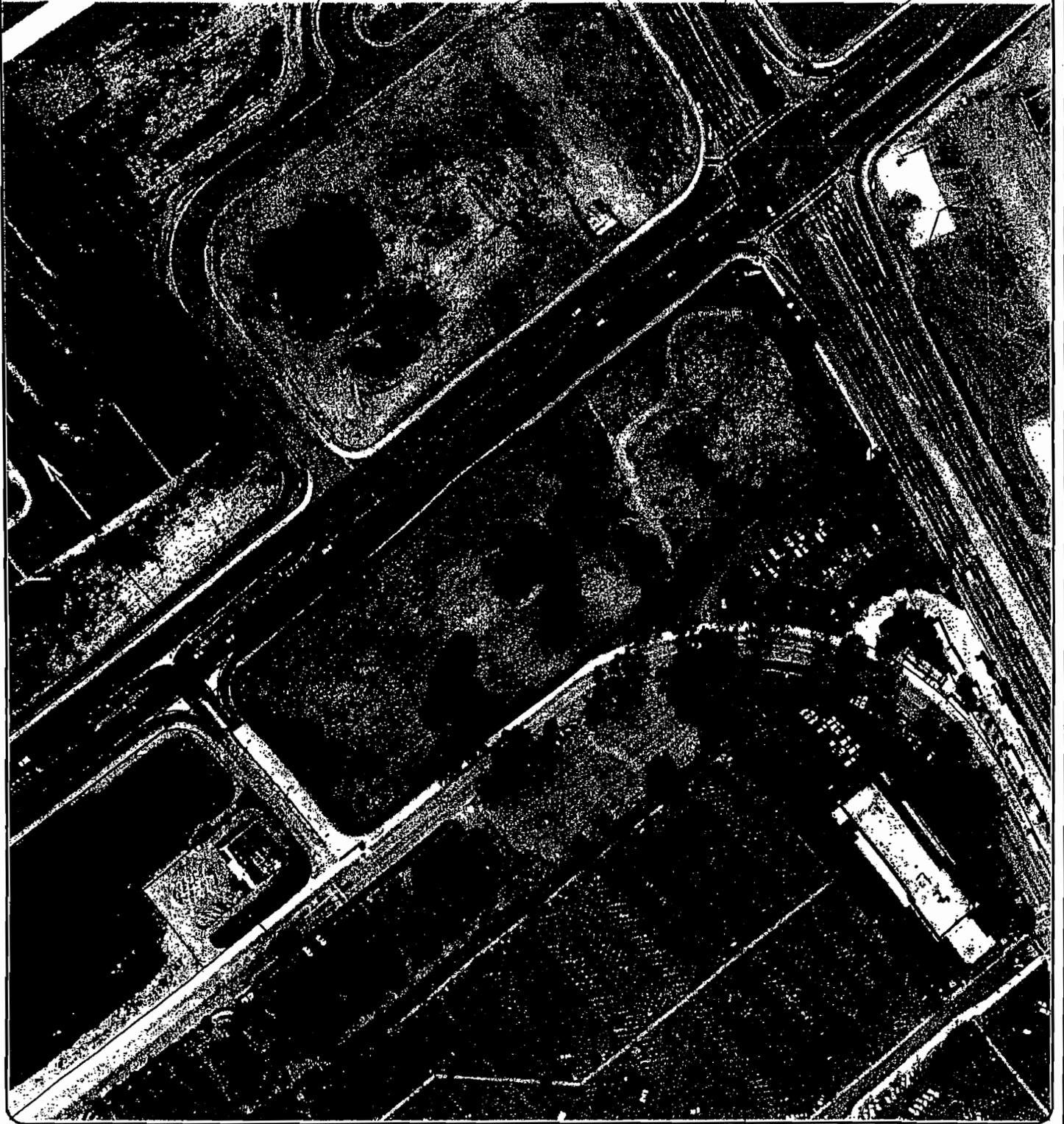


San Jose
 (408) 487-2200
 Gilroy
 (408) 846-0707
 www.hmh-engineers.com

Plat to accompany description:
 REZONING

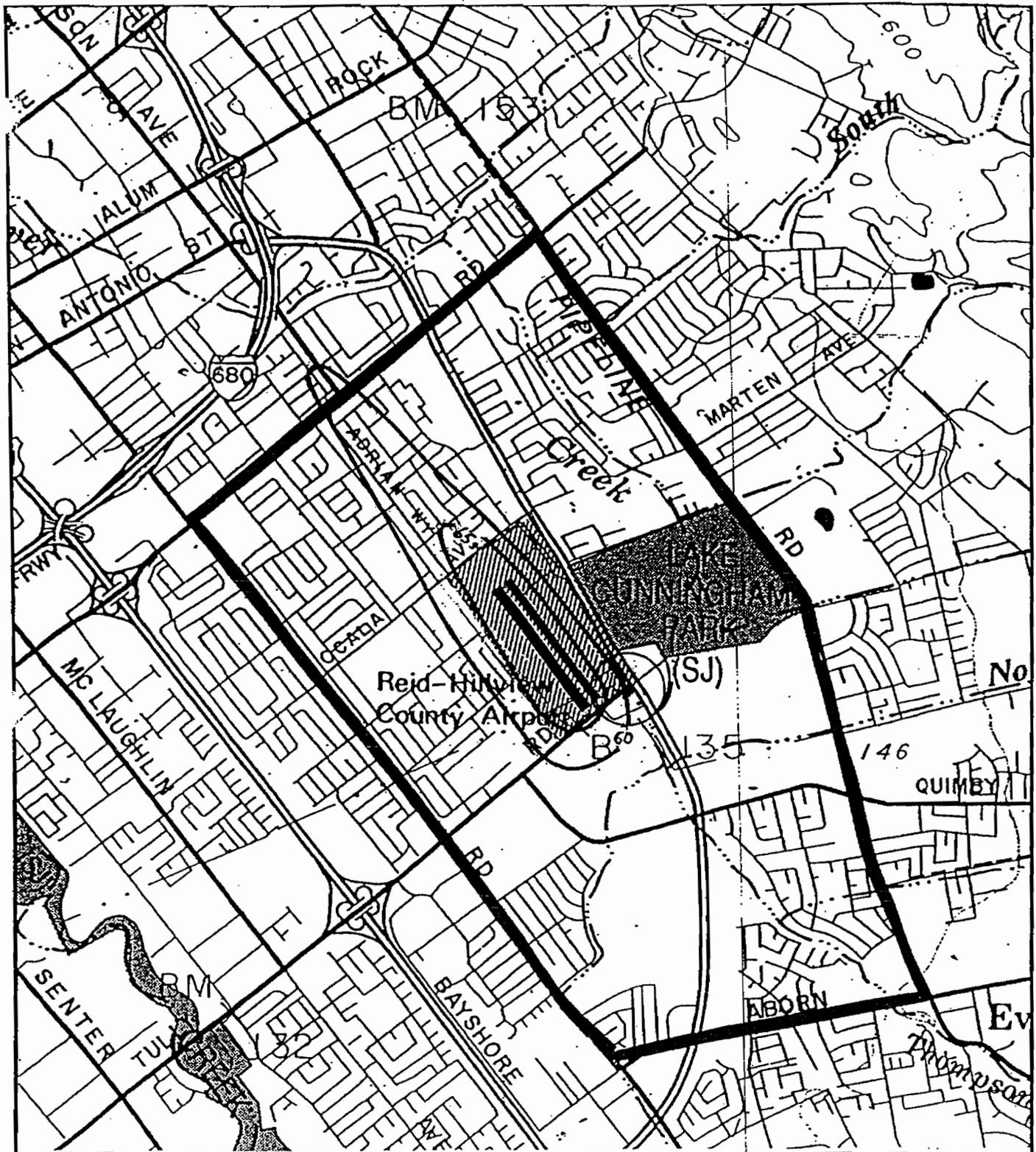
SAN JOSE

CALIFORNIA



APN 491-04-046





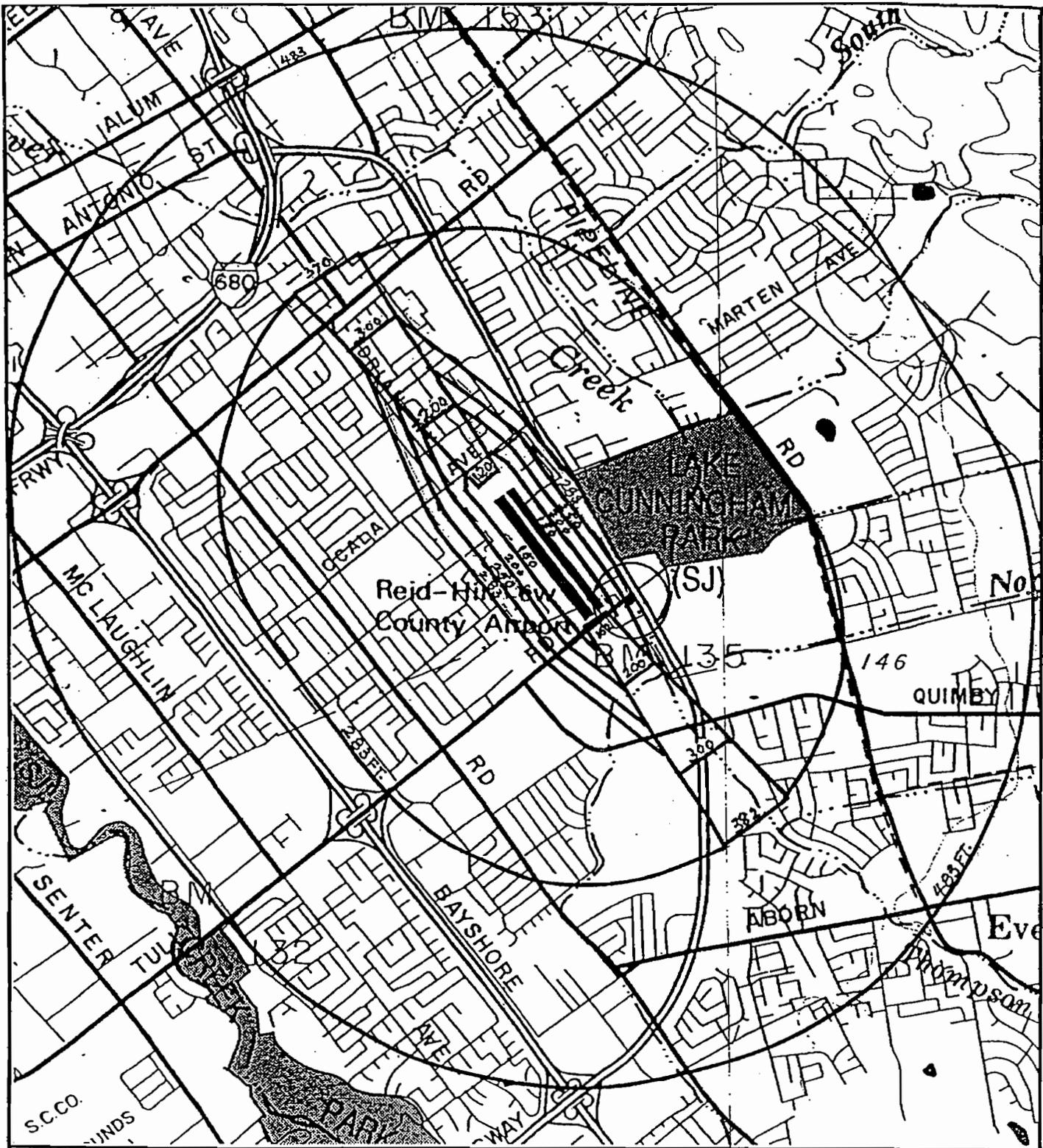
**ALUC LAND USE REFERRAL BOUNDARY
REID-HILLVIEW AIRPORT**



— ALUC BOUNDARY

▨ AIRPORT PROPERTY

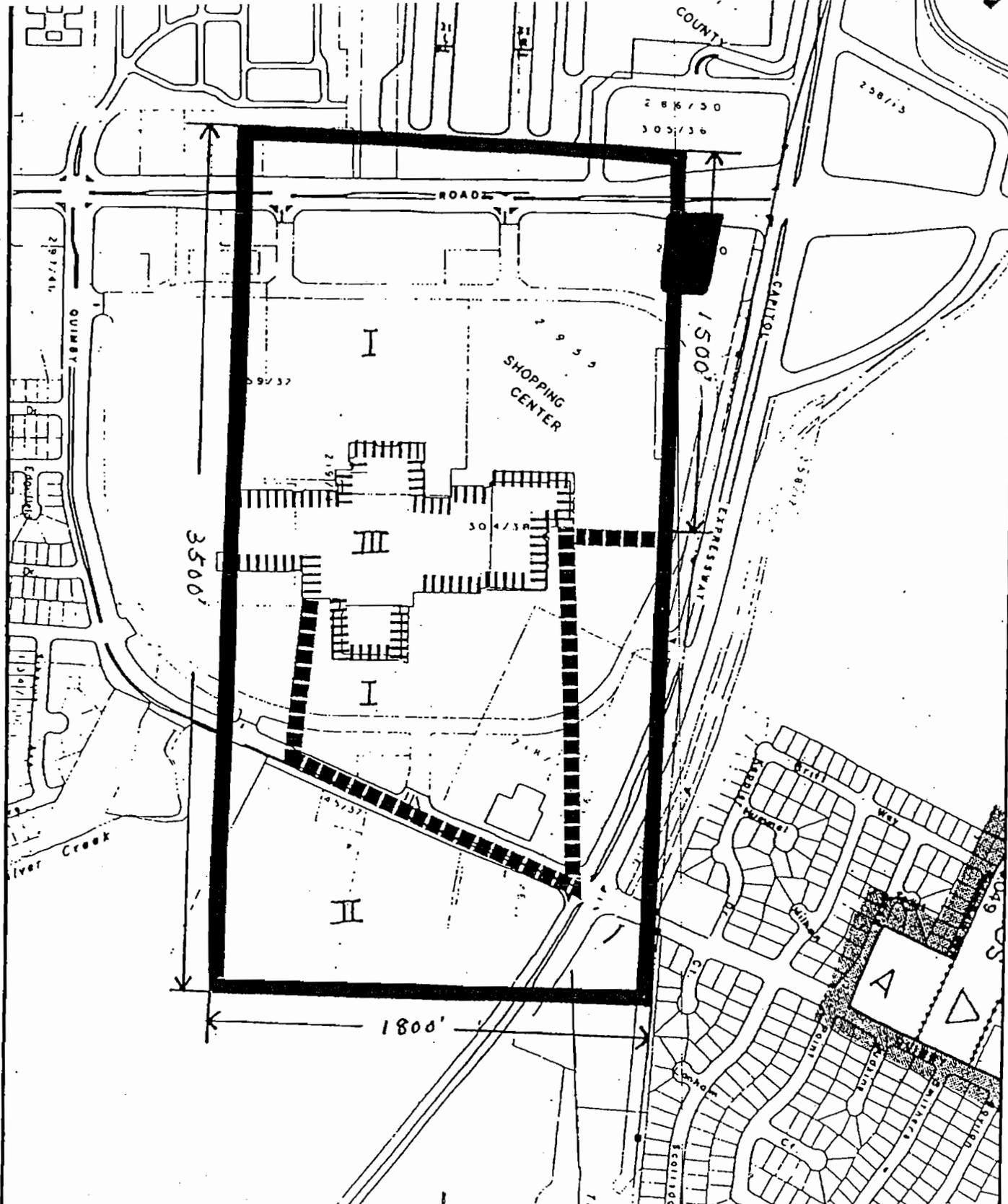
— 60 — 65 — 70 —
CNEL CONTOURS



**ALUC HEIGHT RESTRICTION BOUNDARY
REID-HILLVIEW AIRPORT**



ELEVATIONS ARE ABOVE MEAN SEA LEVEL
NOTE BEGINNING ELEVATION



**SOUTH SAFETY AREA
REID-HILLVIEW AIRPORT**

See Safety Policies for Specific Restrictions in areas I, II, and III
September 1991



Memorandum

TO: PLANNING COMMISSION

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: May 24, 2006

SUPPLEMENTAL TRANSMITTAL MEMO

COUNCIL DISTRICT: 8

SNI AREA: NA

SUBJECT: C05-125. CONFORMING REZONING FROM A AGRICULTURE ZONING DISTRICT TO IP INDUSTRIAL PARK ON 4.2 ACRES AND CG COMMERCIAL GENERAL ZONING DISTRICT ON 2.8 ACRES TO ALLOW INDUSTRIAL AND COMMERCIAL USES ON A 7.0 GROSS-ACRE SITE LOCATED AT THE SOUTHWEST CORNER OF CAPITOL EXPRESSWAY AND TULLY ROAD.

Planning staff received comments to the Mitigated Negative Declaration from the State Department of Transportation (DOT), Division of Aeronautics. In summary the comments made by DOT concur with the Santa Clara County Airport Land Use Commission (ALUC) determination concerning this proposal (see attached). The comments do not raise new issues that would affect the validity of the Mitigated Negative Declaration.

A letter is being prepared to respond to DOT. Planning staff wants to acknowledge that as stated in the staff report, the proposed 2.8-acre area to be rezoned to Commercial General is located outside of the ALUC safety areas. Therefore, buildings constructed in this portion of the project site should be consistent with the ALUC safety policies. In addition, the ALUC finding of inconsistency is based on inaccurate assumptions as it relates to the westerly 5.6-acre portion of the site to be rezoned to IP-Industrial Park, which is within Area I of the South Safety Area. The Commission stated their assumption that buildings would be constructed to support future development in the IP Zoning District. As this time, the proposed rezoning does not approve any specific development. Upon review of a subsequent development permit, the City will take into consideration all relevant ALUC policies.

JOSEPH HORWEDEL, SECRETARY
Planning Commission

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