



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** CLARIFICATON ON SITE  
INFORMATION

**DATE:** September 29, 2006

Approved

*Ray Winer*

Date

*9/29/06*

**COUNCIL DISTRICT:** 8  
**SNI AREA:** N/A

## SUPPLEMENTAL MEMO

**SUBJECT: C05-125. CONVENTIONAL REZONING FROM A AGRICULTURE DISTRICT TO CG COMMERCIAL GENERAL DISTRICT ON A 2.07 GROSS ACRE SITE ON THE SOUTHWEST CORNER OF CAPITOL EXPRESSWAY AND TULLY ROAD.**

### REASON FOR SUPPLEMENTAL MEMORANDUM

To provide clarification regarding the size of the site proposed to be rezoned from the A Agriculture District to the CG Commercial General District.

Hearing notices were sent depicting a location map that showed an area to be rezoned larger than the actual area proposed. The project description of the hearing notices indicated an incorrect number of acres proposed for rezoning. In addition, the Staff Report on the subject rezoning identified an incorrect gross acreage of the site to be rezoned.

### RECOMMENDATION

Consideration of an ordinance to approve a conforming rezoning the real property located on the southwest corner of Capitol Expressway and Tully Road from A Agriculture Zoning District to CG Commercial General Zoning District to allow commercial uses on a 2.07 gross acre site. The Director of Planning, Building and Code Enforcement recommended approval. No Planning Commission action was required for this conforming rezoning.

### OUTCOME

To approve the subject rezoning of a site 2.07 gross acres in size on the southwest corner of Capitol Expressway and Tully Road from A Agriculture Zoning District to CG Commercial General Zoning District.

## **BACKGROUND**

This supplemental report has been provided in order to clarify the correct size and location of the area to be rezoned through the proposed rezoning (file C05-125). The size of the area to be rezoned is 2.07 gross acres. Hearing notices and the previous staff report indicated the incorrect size of the area to be rezoned. The hearing notice stated that the project area included 1.4 gross acres in size, and included a location map that depicted the project site as a 7.0 gross acre site. The staff report indicated that the subject site was 2.42 gross acres in size.

The measurement of 2.07 gross acres was measured and provided to the city by a licensed surveyor. It is important to note that the subject 2.07 gross acres are entirely outside of the Airport Land Use Commission (ALUC) Safety Area for Reid Hillview Airport, which is a key issue of consideration and basis for the recommendation for approval of the subject rezoning.

This staff report also transmits the plat and legal description that accompanies the subject rezoning of the 2.07 gross acres.

## **ANALYSIS**

See original Staff Report.

## **POLICY ALTERNATIVES**

Not applicable.

## **PUBLIC OUTREACH/INTEREST**

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30 Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1000 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public. Staff has also contacted representatives of the ALUC regarding the change in the rezoning proposal.

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**Subject:** Site Area Clarification

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**COORDINATION**

The information provided in this memo was coordinated with the City Attorney's Office.

**FISCAL/POLICY ALIGNMENT**

This proposed project conforms to the San Jose 2020 General Plan, as noted in the staff report.

**COST SUMMARY/IMPLICATIONS**

Not applicable.

**BUDGET REFERENCE**

Not applicable.

**CEQA**

The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan," and certified on August 16, 1994, by the City of San José City Council, resolution: 65459.



JOSEPH HORWEDEL, ACTING DIRECTOR  
Planning, Building and Code Enforcement

For questions please contact Mike Enderby, Acting Principal Planner, at (408) 535-7806.

c: Accompanying Plat & Legal Description



GRAPHIC SCALE  
1 INCH = 150 FT.

TULLY ROAD

CAPITOL EXPRESSWAY

P.O.B.

60°

N49°51'05"E 323.81'

S28°55'38"E 312.99'

N40°06'52"W 307.00'

S49°51'05"W 263.09'

PARCEL 4  
PARCEL MAP  
304-M-38

K295 O.R. 1991

PARCEL 1  
PARCEL MAP  
304-M-38

SHEET 1 OF 1

Date: 12-06-50  
Scale: 1" = 150'  
Designed: -  
Drawn: AH  
Checked: TG  
Proj. Engr.: -  
Dwg Name: 3032PL04



San Jose  
(408) 487-2200  
Gilroy  
(408) 846-0707

hmh-engineers.com

Plat to accompany description:  
REZONING

SAN JOSE

CALIFORNIA

20051206.0958

EXHIBIT "A"  
REZONING

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being a portion of Parcel 4 as shown on that certain Parcel Map filed for record on July 12, 1977, in Book 304 of Maps, page 38, Santa Clara County Records, and more particularly described as follows:

BEGINNING at the northerly corner of said Parcel 4, being the intersection of the southeasterly line of Tully Road and the southwesterly line of Capitol Expressway;

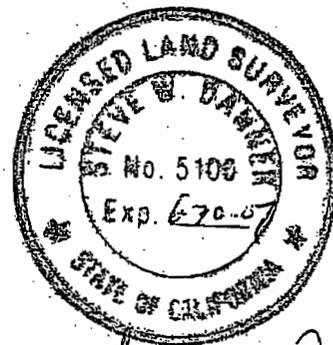
Thence along said southwesterly line of Capitol Expressway, South 28°55'38" East, 312.99 feet, to the northwesterly line of that parcel of land described in the deed recorded September 17, 1987, in Book K295 of Official Records, page 1991, Santa Clara County Records;

Thence along said northwesterly line, South 49°51'05" West, 263.09 feet;

Thence North 40°06'52" West, 307.00 feet, to said southeasterly line of Tully Road;

Thence along said southeasterly line, North 49°51'05" East, 323.81 feet, to the POINT OF BEGINNING.

Containing 2.07 acres, more or less.



A handwritten signature in black ink, appearing to read "Steve Dambert", written over the bottom portion of the professional seal.