



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: November 20, 2006

COUNCIL DISTRICT: 3

SNI AREA: None

SUBJECT: FILE # GP06-03-01. General Plan amendment request to change the land use designation on a 24.8-acre site from Light Industrial to Transit Corridor Residential (20+ DU/AC) with a Floating Park designation. The site is on several parcels on the northeast corner of North King Road and Dobbin Drive.

RECOMMENDATION

The Planning Commission voted 5-1-1 (Commissioner Zito opposed and Commissioner Dhillon abstained) to recommend approval of the subject General Plan amendment request.

OUTCOME

Approval of the General Plan amendment request could allow the development of up to 1,364 dwelling units and up to 250,000 square feet of commercial uses on the site. The land use change would provide eligibility to secure State and Federal funding to relocate the San Jose Family Shelter and develop 100 units of affordable housing units on the subject site. The General Plan amendment would also result in the loss of approximately 24.8 acres of Light Industrial-designated land, which is equivalent to approximately 2% of the remaining Light Industrial-designated land in the City.

BACKGROUND

On November 13, 2006, the Planning Commission held a public hearing on the subject General Plan amendment request. The Director of Planning, Building and Code Enforcement, the Director of the Office of Economic Development, and the Director of Housing recommended approval of the General Plan amendment. Staff also recommended that the Council direct staff to initiate a General Plan amendment to convert the site back to the Light Industrial designation if the emergency shelter and affordable housing components are not developed on the subject site.

ANALYSIS

Public Testimony

Chris Neale, representing the applicant San Jose Transit Village Partners, LLC., requested the Planning Commission support the General Plan amendment request and certify the Environmental Impact Report (EIR). He stated that the future project would include approximately 700 units of various housing types, including a 100-unit affordable housing component associated with the relocation of the San Jose Family Shelter. He noted that the site is close to the future Berryessa BART station and is suitable for residential development. Mr. Neale stated that the existing buildings on the site are functionally obsolete, and that market conditions do not support intensive industrial uses on the site. Mr. Neale also cited the project's consistency with the Industrial Conversion Framework criteria and the existence of residential development to the north and east of the site as reasons for converting the site to residential use. He noted the availability of schools and public parks in the general vicinity of the site. Mr. Neale opposed staff's recommendation to convert the site back to the Light Industrial land use designation use if the emergency shelter and affordable housing are not developed on the site.

Commissioner Kamkar inquired whether the Industrial Conversion Framework had approved residential use on the site. Chris Neale responded that the Framework indicated that areas in the BART Station Area Node should be considered for conversion to housing. Staff noted that the recommendation to convert the site back to Light Industrial use is not to condition the General Plan amendment approval. Instead, it is staff's intent to convert the site back to Light Industrial use if the affordable housing components do not come to fruition. The Planning Commission and the applicant discussed the intent to build the shelter and affordable housing, funding, and steps necessary to complete the project.

Chris Block, representing the Charities Housing Development Corporation, who will be partnering with the applicant to develop the affordable housing component of the future project, stated that there is contractual agreement with the applicant to complete the entire development process. He asked for the Planning Commission's support. Commissioner Kamkar asked what would happen to the site if the necessary funding for the project were not available. Mr. Block stated that it would be very unlikely that the project will not be completed. He cited the need for the City's support as most critical in allowing the project to proceed with securing funding sources.

Tanya Freudenberger, Norma Martinez, Frank Chavez, and Jose Manzo, representing the Alum Rock School District, spoke in opposition of the proposal due to the potential impacts to Alum Rock School District school facilities. They cited the need for a new elementary school as a result of future residential development on the site. They requested the City to revisit the Environmental Impact Report to adequately compute student generation rates and identify impacts to school districts. They stated that the two schools serving the project site currently do not have the capacity to accommodate the additional students generated by the residential development on the site. Further, they indicated that no one school can accommodate the projected number of new students, and that bussing to other schools would be required. They noted that school fees paid by the developer are not adequate. Commissioners Zito and Pham inquired about the School District's intent to sell

several surplus school sites and whether changing school attendance boundaries is possible to alleviate overcrowding. Jose Manzo, Deputy Superintendent, responded that the schools in the immediate area are being impacted and redrawing school boundaries will not solve the problem. School District Superintendent Martinez asked that the City and developer to collaborate on finding a win-win solution.

Bena Chang, representing the Silicon Valley Leadership Group, indicated support for the proposal and cited the need for affordable housing as a priority in Santa Clara County.

Trish Crowder, Executive Director of Family Supportive Housing, cited the site's ability to accommodate relocation of the Family Shelter and to incorporate a new service model that will benefit homeless families. The Planning Commission inquired where future students would go to school, and Ms. Crowder indicated that the shelter has a relationship with the San Jose Unified School District to accommodate students in the shelter. Steve Becerra and Stacey Hendler-Ross, members of the Board of the Family Supportive Housing, asked for the Planning Commission's support of the proposal. Margaret Bard, co-chair of the Housing Action Coalition, also expressed support of the proposal.

Chris Neale stated that the impacts identified in the EIR would be mitigated according to applicable state and local regulations. He cited the applicable State regulations that provide school impacts fees as the exclusive mitigation for school impacts. He also noted that the school impacts noted in the EIR may not be used to deny a project based on school facility needs. Mr. Neale noted that he had been in contact with the school district to discuss the potential impacts of the project, but that the communication terminated when the School District threatened litigation.

Staff Response to Public Testimony

Staff indicated that the EIR adequately addressed school impacts by describing the anticipated student generation as a result of the project and the capacity at the existing school facilities. The Final EIR noted that different housing types generate different student generation rates. Since there is not a specific development proposal on file, the average student generation rate for attached housing was used to calculate the student generation. Subsequent environmental analysis for a specific development proposal would take into account project-level detail to address the specific number and type of housing units and the resulting student generation rates. State law establishes developer fees as the exclusive means of considering as well as mitigating school impacts, and, thereby, limits the scope of review, the mitigations to be required, and the findings to be adopted for school impacts. Staff also noted that the EIR discussion represents the worse case scenario analysis of student generation for the General Plan amendment.

Commissioner Kamkar requested Office of Economic Development (OED) staff to comment on the loss of employment opportunities as a result of the General Plan amendment. OED staff noted that OED has been collaborating with the Housing Department for more than five years to identify a suitable site. OED staff pointed out only the emergency shelter and affordable housing components were intended on the site, but noted that the market-rate component is necessary to underwrite part

of the cost of the affordable housing component. OED staff also stated that they would not support the General Plan amendment without the emergency shelter and affordable housing.

Planning Commission Discussion

The Planning Commission voted 6-0-1 (Commissioner Dhillon abstaining) to certify the EIR.

Commissioner Kalra moved to approve the General Plan amendment and indicated that there is a trade-off in losing employment, but the site is close to future BART and placing affordable housing near transit is a good idea. Commissioner Platten seconded the motion.

Commissioner Zito inquired about the size of the future park dedication, and Parks, Recreation, and Neighborhood Services staff indicated that the park dedication would be determined by the specific number of units, ranging from three to twelve acres in size. However, other credits may be applied through the development of open space and private recreation space that could reduce the amount of land required for dedication. Commissioner Zito stated his opposition to the proposal due to concerns about school impacts. He and Commissioner Kalra requested the developer, staff, and the School District to work together to resolve school capacity issues.

Chair Campos stated that the proposal is transit-oriented and is important to supporting future BART ridership. Commissioner Kamkar expressed concerns about the loss of employment land, but noted that the emergency shelter and affordable housing outweigh the loss of jobs and potential school impacts.

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)**

Subsequent to the distribution of the Planning Commission staff report, staff received from the applicant a response to the staff analysis. Copies of this correspondence is attached to this memo.

This General Plan amendment is subject to the State of California Tribal Consultation Guidelines. To date, staff has received no response to the letters mailed to the tribal representatives.

COORDINATION

Preparation of this report has been coordinated with the Housing Department and the Office of Economic Development.

FISCAL/POLICY ALIGNMENT

Not applicable.

COST SUMMARY/IMPLICATIONS

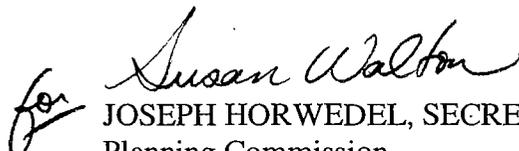
Not applicable.

BUDGET REFERENCE

Not applicable.

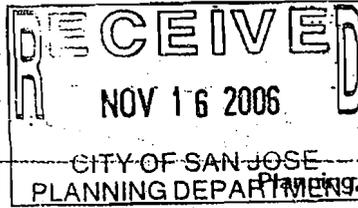
CEQA

EIR Resolution to be adopted at the December 12, 2006 Council hearing. The Planning Commission's decision to certify the Final EIR prepared for the subject General Plan amendment was appealed to the Council, to be heard December 12, 2006 prior to the Council's action on the General Plan amendment request. The Director of Planning, Building and Code Enforcement will provide a memo addressing the EIR appeal under separate cover.


JOSEPH HORWEDEL, SECRETARY
Planning Commission

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

Attachments: Notice of EIR Appeal received November 16, 2006
Letter received on November 13, 2006 from applicants
Planning Commission staff report and attachments



CITY OF SAN JOSE
 Building and Code Enforcement
 200 East Santa Clara Street
 San José, CA 95113-1905
 tel (408) 535-3555 fax (408) 292-6055
 Website: www.sanjoseca.gov/planning

NOTICE OF EIR APPEAL

TO BE COMPLETED BY PLANNING STAFF	
FILE NUMBER GP06-03-01	RECEIPT # 433742
NAME OF EIR Dobbin Drive General Plan Amendment	AMOUNT 100.00
	DATE 11/16/2006
	BY AT

TO BE COMPLETED BY PERSON FILING APPEAL
PLEASE REFER TO EIR APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE.
THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE FOLLOWING EIR: ENVIRONMENTAL IMPACT REPORT, DOBBIN DRIVE RESIDENTIAL GENERAL PLAN AMENDMENT, GP06-03-01.
REASON(S) FOR APPEAL (For additional comments, please attach a separate sheet): PLEASE SEE ATTACHED

PERSON FILING APPEAL	
NAME CHAD J. GRAFF	DAYTIME TELEPHONE (415) 543-4111
ADDRESS 71 STEVENSON ST., 19TH FLOOR	CITY SAN FRANCISCO
	STATE CA
	ZIP CODE 94105
SIGNATURE <i>[Signature]</i>	DATE 11-16-06

CONTACT PERSON (IF DIFFERENT FROM PERSON FILING APPEAL)			
NAME LINDA LATASA, ASSISTANT SUPERINTENDENT			
ADDRESS 2930 GAY AVENUE		CITY SAN JOSE	STATE CA
		ZIP CODE 95127	
DAYTIME TELEPHONE (408) 928-8647	FAX NUMBER (408) 928-6445	E-MAIL ADDRESS linda.latasa@arused.org	

PLEASE SUBMIT THIS APPLICATION IN PERSON TO THE DEVELOPMENT SERVICES CENTER, CITY HALL.

CHAD J. GRAFF
ATTORNEY AT LAW
cgraff@mbdlaw.com

SAN FRANCISCO



November 16, 2006

City of San Jose
Planning, Building and Code Enforcement
Attn: Joseph Horwedel, Darren McBain
200 East Santa Clara Street
San Jose, CA 95113-1905

Re: Alum Rock Union Elementary School District Appeal of Certification of Environmental Impact Report, Dobbin Drive Residential General Plan Amendment, GP06-03-01;
Our File 1105.10106

Dear Mr. Horwedel and Mr. McBain:

The Alum Rock Union Elementary School District ("District") hereby appeals the Planning Commission's Certification of the Environmental Impact Report ("EIR") for the proposed Dobbin Drive Residential General Plan Amendment, GP06-03-01 ("Project").

As set forth in the attached written comments filed with the City on behalf of the District on July 7, 2006, and October 2, 2006, and in the follow-up comments provided at the Planning Commission Meeting on November 13, 2006, the District contends that the Draft EIR and First Amendment to the Draft EIR have failed to meet the requirements of the California Environmental Quality Act ("CEQA") in that: 1) they have not properly considered the impacts of the Project on the District's school facilities; 2) they have not properly considered what mitigation measures would be necessary to address those impacts; and 3) they have failed to provide for adoption of a statement of overriding considerations for the City's approval of the Project despite significant unmitigated effects. (See Pub. Resources Code, §§ 21002.1, 21100; Cal. Code Regs., tit. 14, §§ 15091, 15093, 15126, 15126.2, 15126.4, 15126.6 "CEQA Guidelines.")

SAN FRANCISCO

71 Stevenson Street
Nineteenth Floor
San Francisco, CA 94105
Tel 415.543.4111
Fax 415.543.4384

LONG BEACH

301 East Ocean Boulevard
Suite 1750
Long Beach, CA 90802
Tel 562.366.8500
Fax 562.366.8505

SAN DIEGO

750 B Street
Suite 2310
San Diego, CA 92101
Tel 619.595.0202
Fax 619.702.6202
www.mbdlaw.com

City of San Jose
Planning, Building and Code Enforcement
Attn: Joseph Horwedel, Darren McBain
November 16, 2006
Page 2

Attached please find a completed Notice of EIR Appeal and filing fee. The District further requests that the filing fee for this appeal be waived pursuant to Government Code section 6103. Please do not hesitate to contact us with any questions. Thank you.

Very truly yours,

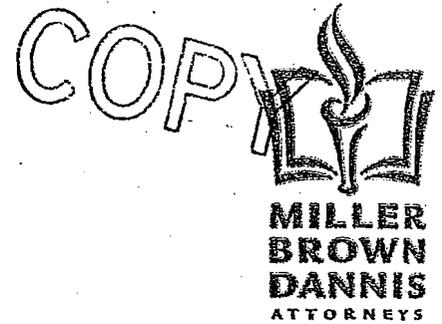
MILLER BROWN & DANNIS



Chad J. Graff
CJG/psg

Attachments

cc: Norma Martinez, Superintendent
Linda S. Latasa, Assistant Superintendent of Business Services



CHAD J. GRAFF
ATTORNEY AT LAW
cgraff@mbdlaw.com

SAN FRANCISCO

October 2, 2006

VIA E-MAIL AND U.S. MAIL

Darren McBain
Department of Planning, Building & Code Enforcement
200 E. Santa Clara Street
San Jose, CA 95113

Re: Draft Environmental Impact Report, Dobbin Drive Residential General Plan Amendment (GP06-03-01); Comments by Alum Rock Union Elementary School District; Our File 1105.10106

Dear Mr. McBain:

The Alum Rock Union Elementary School District ("District") appreciates the opportunity to submit comments on the Draft Environmental Impact Report ("EIR") prepared for the proposed Dobbin Drive Residential General Plan Amendment (GP06-03-01). As you know, the District and your office exchanged preliminary information on the preparation of the Draft EIR on this matter during the summer, including written comments provided on July 7, 2006. (See attached.) For the District's comments on the Draft EIR, the District resubmits its written comments of July 7, 2006, and provides the additional comments included herein.

The District remains extremely concerned about the potential severe impacts of the General Plan Amendment and proposed project, and the cumulative impacts of other projects referenced in the Draft EIR, on the District. The District found that the draft EIR was cursory in its analysis of potential impacts on the District and mitigation thereof, that it contained misleading and/or incorrect statements regarding District information and the potential impacts, and that it did not meet statutory requirements for environmental review under the California Environmental Quality Act ("CEQA").

As discussed in the District's July 7, 2006 letter, the student generation rate identified by the City of .60 students appears to be low in relation to a study obtained by the District prior to this process. Nonetheless, the .60 student generation rate provides that the General Plan Amendment and proposed project would generate 818 additional students for which the District has inadequate facilities. These students would include approximately 578 new elementary school students, a number which

SAN FRANCISCO
71 Stevenson Street
Nineteenth Floor
San Francisco, CA 94105
Tel 415.543.4111
Fax 415.543.4384

LONG BEACH
301 East Ocean Boulevard
Suite 1750
Long Beach, CA 90802
Tel 562.366.8500
Fax 562.366.8505

SAN DIEGO
750 B Street
Suite 2310
San Diego, CA 92101
Tel 619.595.0202
Fax 619.702.6202
www.mbdlaw.com

exceeds the current student population of a District elementary school, and 240 new middle school students.

When the General Plan Amendment and proposed project are combined with other forthcoming projects, the cumulative impacts are even more severe. In its review of the cumulative impacts (again using the .60 student generation rate), the Draft EIR finds that 2009 additional residential units will be created within District boundaries with approximately 1205 new students to be served by the District. Assuming that 29 percent of these students attend middle school, this low estimate means that the cumulative projects would result in 976 new elementary school students and 229 new middle school students. The number of new elementary school students is nearly double the average size of a current District elementary school and will require new facilities. As discussed in the District's July 7, 2006 letter, statutory developer fees will be inadequate to fund necessary new facilities.

Student Generation Rate

The Draft EIR incorrectly asserted that "[t]he [District] has identified a rate of .60 students per dwelling unit for attached residences." (Draft EIR, p. 128.) As the attached letter of July 7, 2006, provides, the District obtained a demographic study for student generation rates for the District for areas west of Capitol Avenue/Expressway before this General Plan Amendment and proposed project were introduced. A table with the results of this study is provided on page two of the District's July 7, 2006 letter, and it identifies student generation rates for particular types of housing, including .75 students for Intermediate Attached: Market Rate units and .65 students for Intermediate Attached: Section 8 units. The rates identified in this study exceed the rate of .6 used in the preparation of the Draft EIR and indicate that the actual impacts will exceed what has been projected in the Draft EIR. The District requests that the City use the rates identified in the District's study as it provides the best source of information for estimating what the actual number of students generated will be.

The Draft EIR also used student generation rates of the San Jose Unified School District ("SJUSD") as a basis for comparison without identifying any appropriate basis for doing so. SJUSD differs remarkably from the District with regard to the demographics of its population and the range and diversity of its territory. In no way is a student generation rate of SJUSD an appropriate basis for comparison with the District. It presents misleading information and conflicts with the public purposes of the EIR. The study referenced above and in the District's July 7, 2006 letter was prepared with particular attention to the District's territory and in advance of the introduction of the General Plan Amendment and proposed project. It represents the best source of available information for the number of students that would be generated by the proposed project and cumulative projects.

Methods for Accommodating Students

The Draft EIR lists methods for accommodating increased numbers of students that apparently "would not require the building of new schools." (Draft EIR, p. 128.) The methods identified, however, are listed with little regard for the District's jurisdiction over its educational program and for the quality of facilities and educational opportunities for existing and incoming District

students. Methods such as “the provision of portable or relocatable classrooms” and “the busing of students to schools with surplus capacity” potentially sacrifice the quality of educational programs and facilities for existing and incoming District students and also require significant funding and other resources to be available. A method such as “the conversion to year-round schools with a four-track schedule,” like other identified measures, requires the District to make significant program determinations and to consider the input of District families and staff members. Moreover, none of the methods listed would be fully funded by developer fees.

Review of Mitigation Measures

The Draft EIR references California Government Code sections 65995-65998 and sets forth “payment of school fees by new development as the exclusive means of ‘considering and mitigating impacts on school facilities that occur or might occur as a result of any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to the planning, use, or development of real property.’” (Draft EIR, p. 128.) If, however, payment of developer fees will not fully mitigate the environmental impacts of the General Plan Amendment and potential project on the District, as the District provided in its July 7, 2006 letter and as the City recognized in stating that “school impact fees. . . would partially offset project-related increases in student enrollment,” then CEQA requires additional action by the City.

First, CEQA requires a full discussion of mitigation measures. Section 21002.1 of the Public Resources Code provides in part that “[t]he purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided. Each public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.” (See also Pub. Resources Code, § 21100; Cal Code Regs., tit. 14, §§ 15126, 15126.2, 15126.6.) Certainly, measures in addition to the payment of developer fees are available to mitigate the impacts of the proposed General Plan Amendment and the project on the District. Possible measures include dedication of land for a new school site, a developer-built school, and additional funding mechanisms for school facilities that may include cooperation by the developer in the formation of a community facilities district. These measures, or combinations thereof, can result in the full mitigation of impacts on the District and create a situation that benefits the developer, the City, the District, and new and existing District families and students by providing adequate school facilities and educational programs. Such measures would help avoid a disastrous situation where the District has inadequate or no facilities for large numbers of new students. Accordingly, the EIR should include discussion of other available mitigation measures that are available to fully offset the impacts on the District.

Second, if the City may not legally require adoption of mitigation measures in addition to the payment of developer fees, then CEQA provides additional requirements for adoption of the EIR. CEQA provides in part that “[i]f economic, social or other conditions make it infeasible to mitigate one or more significant effects on the environment of a project, the project may nonetheless be carried out or approved at the discretion of the a public agency if the project is otherwise permissible under applicable laws and regulations.” (Pub. Resources Code, § 21002.1.) If mitigation measures are infeasible, the lead agency is required to make findings and

adopt a statement of overriding considerations if the lead agency proceeds with approval of such a project. Applicable regulations provide that:

[n]o public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are: . . . (3) Specific economic, legal, social, technological, or other considerations . . . make infeasible the mitigation measures or project alternatives identified in the final EIR.

(Cal Code Regs., tit. 14, § 15091.)

Additional applicable regulations provide that:

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered 'acceptable.' When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(Cal Code Regs., tit. 14, § 15093.)

Accordingly, if the City finds that it may not legally require measures to mitigate fully the impacts on the District but that benefits of the project outweigh environmental risks, then CEQA provides for adoption of a statement of overriding considerations.

Conclusion

The District faces overwhelming impacts from the General Plan Amendment, proposed project, and other forthcoming projects considered in the Draft EIR. Using a low student generation rate, these projects will result in approximately 1205 new students to be served by the District, including approximately 976 new elementary school students and 229 new middle school students. The District does not have adequate educational facilities for these students. The

number of new elementary school students is nearly double the average size of a District elementary school and current elementary schools are already at 85 percent capacity. Statutory developer fees will be inadequate to fund necessary new facilities for the students generated.

The District finds the Draft EIR to be inadequate in its review and analysis of project impacts on the District. The District believes that the Draft EIR must use the best available information on student generation rates previously provided by the District. Further, the EIR must contain a full discussion of mitigation measures to address the impacts on the District. If the City finds that it is restricted in the mitigation measures that it may legally require, then CEQA requires adoption of a statement of overriding considerations for project approval.

The District appreciates the City's consideration of these comments. Please do not hesitate to contact the District directly or us if you have any questions regarding these comments.

Sincerely,

MILLER BROWN & DANNIS



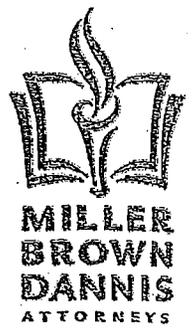
Chad J. Graff

CJG/psg

Attachment

cc: Linda Latasa, Assistant Superintendent

FILE COPY



CHAD J. GRAFF
ATTORNEY AT LAW
cgraff@mbdlaw.com
SAN FRANCISCO

July 7, 2006

VIA E-MAIL AND U.S. MAIL

Darren McBain
City of San Jose Planning Division
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113

Re: Preparation of Draft Environmental Impact Report;
Dobbin Drive Residential General Plan Amendment Project;
Comments by Alum Rock Union Elementary School District;
Our file: 1105.10106

Dear Mr. McBain:

The Alum Rock Union Elementary School District ("District") and your office have exchanged preliminary information on the preparation of a Draft Environmental Impact Report ("DEIR") for the Dobbin Drive Residential General Plan Amendment Project ("Project"). This Project foresees high-density residential development. Because of the overwhelming potential impacts of this Project on the District, the District asked this office to provide preliminary comments on behalf of the District for the preparation of the DEIR.

The District is primarily concerned with the following issues raised by the Project:

- The DEIR must adequately address the need to house the students to be generated by the foreseen development and discuss or provide mitigation.
- The DEIR must discuss or provide mitigation for community and recreational facilities for the students and residents of the District.

A. The DEIR Must Address Provision of Adequate School Facilities To House The Students That Will Be Generated By The Residential Development.

The Project's new residential development will generate a large number of new elementary and middle school students that the District will be obligated to serve. Current Project projections show approximately 1364 new residential units as part of a high-density residential development. A recent demographic study determined the following student generation rates for areas west of Capitol Avenue/Expressway:

SAN FRANCISCO
71 Stevenson Street
Nineteenth Floor
San Francisco, CA 94105
Tel 415.543.4111
Fax 415.543.4384

LONG BEACH
301 East Ocean Boulevard
Suite 1750
Long Beach, CA 90802
Tel 562.366.8500
Fax 562.366.8505

SAN DIEGO
750 B Street
Suite 2310
San Diego, CA 92101
Tel 619.595.0202
Fax 619.702.6202
www.mbdlaw.com

VIA E MAIL AND U.S. MAIL

Darren McBain
July 7, 2006
Page 2

<u>Type of Housing</u>	<u>Student Generation Rate</u>
Most Affordable SFD	1.11
Modest Income SFD	.96
Minimal Amenities Attached	
Duplexes through Fourplexes	.96
Apartments, Condos, Townhouses	.77
Intermediate Attached: Section 8	.65
Intermediate Attached: Market Rate	.75
Upgrade Attached (incl. large duplexes)	.22

Projected Enrollment 2000-2010
Enrollment Projection Consultants
3 West 37th Avenue, Suite 7
San Mateo, CA 94403-4457

It appears that using a student generation rate of .6 students per dwelling unit substantially underestimates the number of students the Project will generate. To determine approximate numbers, the District would need to know the number of each type of unit within the Project.

Nonetheless, even a low generation rate of .6 students per dwelling unit for the Project results in 818 additional students for which the District has no facilities. At the District's generation rates, even more students will be generated. Assuming that 29% of these students attend middle school and using the low estimate, the Project will generate approximately 578 new elementary school students, a number which exceeds the current average total student population of a District elementary school, and 240 new middle school students. The District does not have adequate space to house these new students.

The District has nineteen elementary schools (grades K-5/6) and seven middle schools (grades 6-8). McCollam Elementary School and Sheppard Middle School currently serve the area where the Project will be located. The capacity of McCollam Elementary School is 650 students and current enrollment is 538. The capacity of

VIA E MAIL AND U.S. MAIL

Darren McBain

July 7, 2006

Page 3

Sheppard Middle School is 900 and current enrollment is 650. Current District-wide elementary enrollment is at 85% of capacity and middle school enrollment is at 76% of capacity.

The District has very limited available space at its current school sites to house students from the new Project. The District recently completed a space utilization study and determined that no one school would be able to accommodate all of the students generated by this Project. The students would have to be bused to several different schools. Moreover, the District expects new incoming students from other new development projects already in process to fill its limited available space. If any space remains for new Project students at existing District sites, this space will be at various school sites and busing will be necessary to transport Project students to available spaces. This will mean an additional burden on the District's existing transportation capacity and require the purchase of new buses and the hiring of new bus drivers. The additional burden from this Project would require the hiring of approximately five new bus drivers and the purchase of five new buses. The hiring of school bus drivers is a difficult task in today's market. The District spent the entire 2005/06 school year with two open driver positions. The necessary numbers of new drivers and buses may increase depending upon how many schools the children will be distributed among. Alternatively, attendance areas would need to be reconfigured and a larger number of current District students would need busing.

The District estimates that the Project will require at least one new elementary school to house new students generated by the Project. The new school would need to house approximately 600 students. The District estimates that it will require a school with at least 30 classrooms, a minimum of two per grade, for a kindergarten through 5th grade (K-5) school. Under the formula of the state Office of Public School Construction the minimum acreage for a K-5 school with 30 classrooms is 9.6 acres. In addition to regular classrooms, multi-use, and administrative space, the school must have facilities to house preschool children, special education services, migrant student services, and a media center. These are minimal amenities required for a properly sized and functional public K-5 school.

The District expects that dedication of space for a new school site will be included in the proposed mitigation of the Project's impacts. Yet, dedication of a school site does nothing to secure the critical funding needed for the construction of the school to serve students generated by this Project.

A K-5 school with 30 classrooms and the appropriate auxiliary facilities is estimated to cost a minimum of \$13,000,000 to construct. This estimate does not include any

VIA E MAIL AND U.S. MAIL

Darren McBain

July 7, 2006

Page 4

cost for land acquisition, furniture and equipment, or educational materials. In addition, this estimate does not include the cost of escalation in construction costs which has exceeded 4 percent per year in recent years. Construction of an actual school facility would take from three to five years.

The District is currently eligible to collect Level 1 developer fees of \$1.43 per square foot of residential space and \$.22 per square foot of commercial/industrial space. Such developer fees will barely begin to mitigate the impact of the Project on the District's facilities, however, and will be inadequate to fund the construction of facilities necessary to house the Project students. As a small school district dependent on limited state revenue, the District is not in a financial position to build the necessary school facilities to house the students generated by this large Project. In 1991 the District passed a \$47 million bond. As a result, the District's remaining bonding capacity is approximately \$23 million. The District expended all of the \$47 million on improvements to facilities at existing sites. In order to have bond funding for a new school to meet the needs presented by this Project, the District would have to receive the approval of voters on a new bond measure, which would be a formidable task for the community.

It is critical, therefore, for the DEIR to discuss the significant impact of student generation from the Project upon the District's limited school facilities and to review available mitigation measures extensively. CEQA requires this discussion and consideration. (See Pub. Resources Code, §§ 21002.1, 21100; Title 14 Cal. Code of Regs. §§ 15126.2, 15126.4, "CEQA Guidelines.")

B. The DEIR Must Address Provision Of Adequate Community And Recreational Facilities To Serve The District's Residents.

The Project's proposed high-density residential development of the Project will also impact the limited community and recreational facilities available to the District's residents. The City of San Jose has funded or assisted with funding of three large youth centers and two smaller youth-oriented buildings. All five are on District property. A new community library is being built on a sixth site. Both youth and adult sports leagues use District sites daily. There does not appear to be any other public land available through either the City or the County for community recreation. The Project's new development should provide the impacted communities recreation facilities and other community services. Such facilities and services are critical to the quality of life of the children of the District community and their families. The DEIR should address the impacts of potential overcrowding of existing community and recreational facilities.

VIA E MAIL AND U.S. MAIL

Darren McBain

July 7, 2006

Page 5

As discussed above, the District has no resources to assist in providing, expanding or improving these types of facilities in light of the fact that it does not have sufficient financial resources to build classrooms. The Project description should describe current community and recreational facilities in great detail and address the Project's impacts on these facilities in the DEIR.

C. Conclusion

For the foregoing reasons, the District believes the DEIR must address the provision of adequate school facilities to house new students generated by the Project and the provision of community and recreational facilities for District residents. The District faces an overwhelming impact from the proposed Project. Even using a low estimate, the Project will generate approximately 578 new elementary school students, a number that exceeds the number of students currently housed at an average-sized District elementary school, and 240 additional middle school students. CEQA requirements provide for discussion and review of these impacts and provision of adequate mitigation measures.

Please contact the District directly or us if you have any questions regarding these comments. Thank you for your consideration.

Very truly yours,

MILLER BROWN & DANNIS

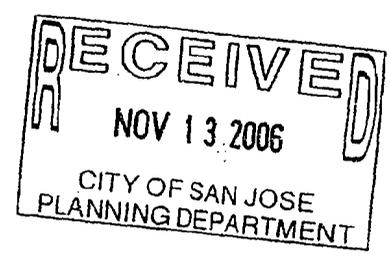

Chad J. Graff

cc: Linda Latasa
Will Burns

ITEM 7.e

November 10, 2006

The Honorable Members of the Planning Commission
Attention: Chairperson Xavier Campos
200 East Santa Clara Street, Tower 3
San Jose, CA 95133



SUPPLEMENTAL: RE: GENERAL PLAN AMENDEMENT GP06-03-01

Dear Members of the Planning Commission,

Yesterday, San Jose Transit Village Partners, LLC received the Staff Report (Report) supporting our General Plan Amendment. The Report requests that the Commission forward the following recommendations to the City Council:

1. Change the San Jose 2020 General Plan Land Use/Transportation Diagram designation from Light Industrial to Transit Corridor Residential (20+DU/AC) with a Floating Park designation on an approximately 24.8-acre site to facilitate future development of the Housing Department's new emergency family shelter and accompanying 100-unit affordable rental housing facility that will replace the existing San Jose Family Shelter at Las Plumas Avenue; and
2. Direct planning staff to initiate a General Plan amendment to convert the site back to the Light Industrial land use designation *if* the emergency family shelter and accompanying affordable rental housing facility are not developed on the subject site. (Emphasis Added).

The Report further states as follows:

Staff support of this proposal is contingent upon successful completion of the family shelter/affordable housing components of the project. In the event that the emergency shelter and associated components are not built on the subject site, staff would recommend that the City re-designate the site to the Light Industrial land use designation. (Emphasis Added).

In effect, through the second recommendation above, the Staff is recommending a condition that we provide a \$50,000,000 (Housing Department's estimate to build out the affordable housing and new family shelter) guarantee to the affordable housing component or else risk that the project site will be re-designated to Light Industrial.

Unfortunately, we cannot meet Staff's requirement in Recommendation #2, as set forth above.

Therefore, we respectfully request that you simply approve the General Plan Amendment as outlined in Recommendation #1 in the staff report.

To date, in good faith, San Jose Transit Village Partners, LLC has expended nearly \$2 million to develop our vision of a mixed housing village near the Berryessa BART Station, including advancing funds to support our development partners, Family Supportive Housing and Charities Housing Development Corporation.

In addition, we have entered into a binding legal agreement (Letter of Intent) (attached to this letter) with our development partners to illustrate our commitment to this affordable housing and family shelter project.

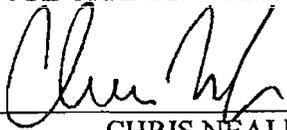
We believe our willingness to expend significant funds and enter into binding agreements in good faith should be ample evidence of our desire to bring the affordable housing and new family shelter to fruition. However, we simply cannot guarantee build-out of the affordable housing and family shelter as contemplated by the staff.

Additionally, we wish to point out that planning staff incorrectly states that “the minimum overall residential density within the BART Station Area Node is 55 dwelling units per acre.” According to the San Jose 2020 General Plan the landuse designations in the Berryessa BART Station Area Node “include Transit Corridor Residential (20+ DU/AC), Medium Density Residential (8-16 DU/AC).” The General Plan only refers to the densities in the area and states “[t]he Flea Market site should be 55 DU/AC.” (Emphasis added). In short, the General Plan does not state that densities within this BART node be at a minimum 55 DU/AC.

Finally, as outlined previously we feel this General Plan Amendment is consistent with long-standing City policies and goals in the General Plan, the City’s Framework for Evaluating Proposed Conversion of Employment Lands to Other Uses, and as stated in the planning report “the proposed high-density market rate housing on the site would also achieve goals for transit-oriented development and support the future BART ridership.”

Very Truly Yours,

SAN JOSE TRANSIT VILLAGE PARTNERS, LLC

By: 
CHRIS NEALE
MEMBER

Attachments

cc: Allen Tai, Department of Planning
Leslye Krutko, Department of Housing

September 5, 2006

David Neale
San Jose Transit Village, LLC
470 Market St.
San Jose, CA 95113

Re: Portions of Parcel Numbers 254-04-76 and 254-04-97

Dear David

The purpose of this letter is to outline the terms and conditions upon which Charities Housing Development Corporation ("Buyer") would be willing to enter into a Purchase and Sale Agreement, in which San Jose Transit Village LLC ("Seller") would sell, and Buyer would purchase, that certain real property consisting of land and improvements as defined below. The proposed terms are as follows:

Property: Portions of two parcels of land totaling approximately 1.15 acres and all its existing improvements located at 686 N. King Rd. and adjacent property owned by the Union Pacific Railroad Company, located in the City of San Jose, County of Santa Clara, State of California. The parcels are further identified by Santa Clara County Assessor Parcel Numbers 254-04-76 and 254-04-97. An Assessor's Parcel Map is attached hereto and incorporated herein as Exhibit A. The approximate parcel which is the subject of this letter is delineated on the Map and may be varied by a later Final Subdivision Map (the "Property").

Purchase Price:

Initial Deposit: Buyer shall deposit _____ to First American Title Company, to be held in trust, within five (5) days upon execution of the purchase and sale agreement. The deposit shall be placed in an interest bearing escrow account for the Buyer and shall be fully refundable prior to the expiration of the due diligence contingency. The initial deposit and all earned interest shall be fully credited toward the purchase price. The initial deposit shall be considered non-refundable at the removal of the due diligence contingency unless the Seller is unable to consummate the transaction.

Balance of Purchase Price: The balance of purchase price shall be deposited

If the Buyer determines, in his sole discretion, that the Property is not suited for the purposes of the Buyer due to financial feasibility, physical or environmental defects, the executed purchase and sale agreement shall be deemed null and void. Any deposits and all earned interest shall be immediately refunded to the Buyer in full and there shall be no further obligations between all parties to the transaction.

Entitlement Contingency: Seller has initiated a General Plan change that is required to enable the Buyer's development of the Property to proceed. Seller in conjunction with Buyer will initiate a PD Rezoning immediately following the approval of the General Plan change. Seller shall bear no expense, and Seller shall assume no liability to Buyer, in processing the application for PD Rezoning to the extent that the application seeks approval for Buyer's intended use of the Property. If the General Plan change and PD Rezoning have not been completed by June 15, 2007 through no fault of either party, then Seller and Buyer agree to negotiate in good faith a mutually beneficial extension to the Entitlement Contingency for the sole purpose of obtaining the PD rezoning.

Seller agrees to cooperate with Buyer and execute all necessary permits and applications for development as required by the City of San Jose, County of Santa Clara, or any other regulatory agencies in a timely manner.

Other Conditions: Seller shall provide to the Buyer within fifteen (15) days of the executed purchase and sale agreement, at Seller's expense, a preliminary title report dated within thirty (30) days of the executed purchase and sale agreement. Buyer shall have fifteen (15) days upon receipt of said report to approve the report in whole, or notify the Seller of exceptions for which the Buyer will not assume responsibility.

Seller shall provide to the Buyer any and all documents pertaining to the Property, provided to the Seller by the existing landowner, including but not limited to: leases, operating statements, architectural/civil drawings in his possession within five (5) days of the executed purchase and sale agreement.

Seller shall make his best effort to make Property managers, asset managers and tenants pertaining to the Property available for interviews and access to Property for inspection in a timely manner.

Seller shall require existing landowner not to engage in any of the following acts prior to close of escrow without written consent of the Seller and Buyer; such consent shall not be unreasonably withheld:: (a) Rent or lease any vacant unit or other part of the premises; (b) alter, modify or

extend any existing rental or lease agreement; (c) enter into, alter, modify or extend any service contracts; or (d) change the status of the condition of the Property.

Seller shall warrant that to the Seller's knowledge all known environmental issues related to the Property have been disclosed in the Phase 1 Environmental Site Assessment prepare by AEI Consultants dated September 28, 2005.

Seller shall warrant that to their Seller's knowledge the existing landowner is not in default under any agreement affecting the Property and there are no current litigation affecting the Property.

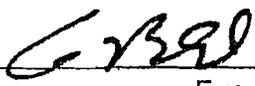
All closing and escrow costs shall be apportioned between Buyer and Seller typical of the County of Santa Clara custom.

It is acknowledged by all parties that this letter of intent is non-binding. A written Purchase and Sale Agreement, to be negotiated by all parties and in a form satisfactory to the parties and their legal counsel, may be executed at a later date. Unless the Agreement is executed, the parties shall bear no obligation to each other under this letter of intent.

Sincerely,

BUYER

Charities Housing Development Corp.,
a California non-profit public benefit corporation



_____, Executive Director

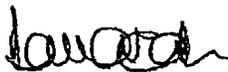
9.7.06

Date

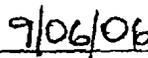
SELLER

Accepted by:

San Jose Transit Village, LLC (Seller)



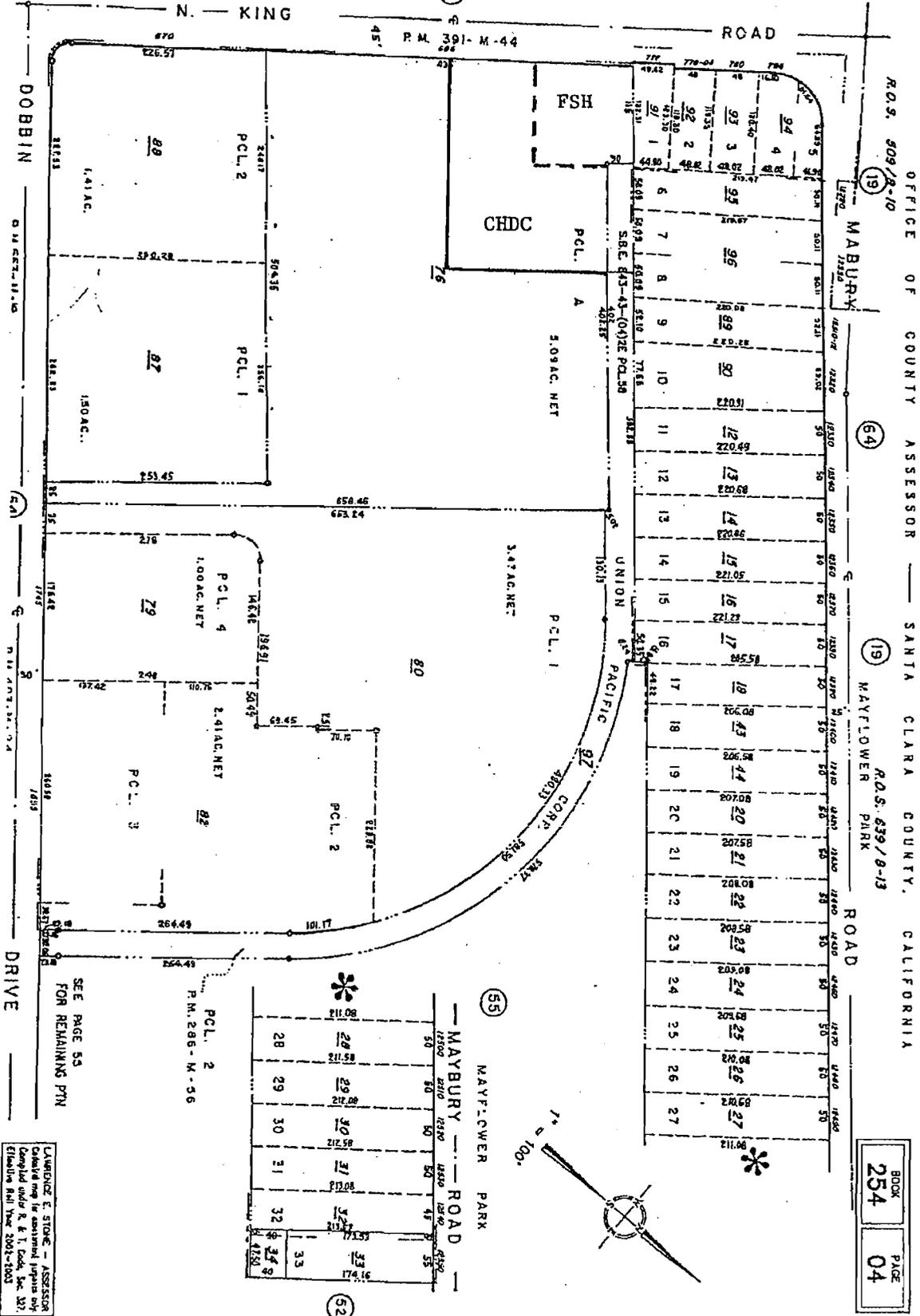
By: David Neale, Manager



Date

EXHIBIT A

FSH-FAMILY SUPPORTIVE HOUSING
CHDC-CHARITIES HOUSING



OFFICE OF COUNTY ASSESSOR — SANTA CLARA COUNTY, CALIFORNIA
 R.O.S. 509/8-10
 R.O.S. 639/8-13
 MARYBURY ROAD
 MAYFLOWER PARK ROAD

BOOK 254
 PAGE 04

SEE PAGE 55
 FOR REMAINING P/N

LAURENCE E. STONE - ASSESSOR
 Created Map by automated computer software
 compiled under R. & L. Code, Sec. 337
 Revision 10/11/03 File 2003-1003

Escrow Extension: Buyer shall have the right to extend the escrow period for two (2), thirty (30) day periods for any reason other than obtaining the PD rezoning.

Extension Payment: If the Buyer chooses to exercise its option(s) to extend the escrow period, Buyer shall notify Seller in writing and deposit an additional \$_____ into the escrow account for each extension. Each escrow extension payment shall be non-refundable and fully credited toward the purchase price unless the Seller is unable to consummate the transaction.

Due Diligence Contingency: Buyer shall have three (3) months after the execution of the purchase and sale agreement to complete all necessary interviews, studies and investigations pertaining to the property, including but not limited to Seller's books and records, appraisal report, environmental assessment report, insurance policy, property inspection report and title report.

Buyer shall notify Seller in writing prior to the expiration of the due diligence contingency period of Buyer's intent to proceed or terminate the purchase and sale agreement.

If the Buyer determines, in his sole discretion, that the property is not suited for the purposes of the Buyer due to financial feasibility, physical or environmental defects, the executed purchase and sale agreement shall be deemed null and void. Any deposits and all earned interest shall be immediately refunded to the Buyer in full and there shall be no further obligations between all parties to the transaction.

Entitlement Contingency: Seller has initiated a General Plan change that is required to enable the Buyer's development of the property to proceed. Seller in conjunction with Buyer will initiate a PD Rezoning immediately following the approval of the General Plan Change. Seller shall bear no expense, and Seller shall assume no liability to Buyer, in processing the application for PD Rezoning to the extent that the application seeks approval for Buyer's intended use of the Property. If the General Plan change and PD Rezoning have not been completed by June 15, 2007 through no fault of either party, then Seller and Buyer agree to negotiate in good faith a mutually beneficial extension to the Entitlement Contingency for the sole purpose of obtaining the PD rezoning.

Seller agrees to cooperate with Buyer and execute all necessary permits and applications for development as required by the City of San Jose, County of Santa Clara, or any other regulatory agencies in a timely manner.

Other Conditions: Seller shall provide to the Buyer within fifteen (15) days of the executed purchase and sale agreement, at Seller's expense, a preliminary title report dated within thirty (30) days of the executed purchase and sale agreement. Buyer shall have fifteen (15) days upon receipt of said report to approve the report in whole, or notify the Seller of exceptions for which the Buyer will not assume responsibility.

Seller shall provide to the Buyer any and all documents pertaining to the Property, provided to the Seller by the existing landowner, including but not limited to: leases, operating statements, architectural/civil drawings in his possession within five (5) days of the executed purchase and sale agreement.

Seller shall make his best effort to make Property managers, asset managers and tenants pertaining to the property available for interviews and access to property for inspection in a timely manner.

Seller shall require existing landowner not to engage in any of the following acts prior to close of escrow without notification of the Seller and Buyer: (a) rent or lease any vacant unit or other part of the premises; (b) alter, modify or extend any existing rental or lease agreement; (c) enter into, alter, modify or extend any service contracts; or (d) change the status of the condition of the Property.

CW



Family Supportive Housing, Inc.
Empowering Homeless Families

September 21, 2006

David Neale
San Jose Transit Village, LLC
470 Market St.
San Jose, CA 95113

Re: Portions of Parcel Numbers 254-04-76 and 254-04-97

Dear David

The purpose of this letter is to outline the terms and conditions upon which Family Supportive Housing, Inc. (Buyer) would be willing to enter into a Purchase and Sale Agreement, in which San Jose Transit Village LLC (Seller) would sell and Buyer would purchase that certain real property consisting of land and improvements as defined below. The proposed terms are as follows:

Property: Portions of two parcels of land totaling approximately .5 acres and all its existing improvements located at 686 N. King Rd. and adjacent property owned by the Union Pacific Railroad Company, located in the City of San Jose, County of Santa Clara, State of California. The parcels are further identified by Santa Clara County Assessor Parcel Numbers 254-04-76 and 254-04-97. An Assessor Parcel Map is attached hereto and incorporated herein as Exhibit A. The approximate parcel is delineated on the Map and may be varied by a later Subdivision Map.

Purchase Price:

Initial Deposit: Buyer shall deposit _____, to First American Title Company, to be held in trust, within five (5) days upon execution of the purchase and sale agreement. The deposit shall be placed in an interest bearing escrow account for the Buyer and shall be fully refundable prior to the expiration of the due diligence contingency. The initial deposit and all earned interest shall be fully credited toward the purchase price. The initial deposit shall be considered non-refundable at the removal of the due diligence contingency unless the Seller is unable to consummate the transaction.

Balance of Purchase Price: The balance of purchase price shall be deposited into the said escrow account at close of escrow.

Close of Escrow: Escrow shall not close unless and until both of the following conditions have been met 1) the Property has been created as one or more separate legal parcels on the final map complying with the Subdivision Map Act and 2) Seller has acquired title to the Property through a separate escrow in which the existing landowners have sold the Property to Seller. Failure of either or both of these conditions shall relieve Seller of all obligations under this agreement and shall not place Seller in default. In the event Close of Escrow does not proceed as a result of either of these conditions, Seller shall refund Buyer's deposits and the agreement shall terminate.

Escrow shall not close unless Seller has been granted a General Plan Change and PD Rezoning by the City of San Jose. Seller's PD rezoning encompasses the development proposed by Buyer.

Buyer shall close escrow on the earlier of 15 days following the City Council approval of PD rezoning or June 30, 2007 which ever occurs first. In the event the PD rezoning has not occurred on or before June 20, 2007, then the Agreement shall terminate unless Buyer and Seller agree in writing to extend the time for closing escrow solely for the purpose of obtaining the PD rezoning

ON

Seller shall warrant that to the Seller's knowledge all known environmental issues related to the Property have been disclosed in the Phase 1 Environmental Site Assessment prepare by AEI Consultants dated September 28, 2005.

Seller shall warrant that to their Seller's knowledge the existing landowner is not in default under any agreement affecting the Property and there is no current litigation affecting the Property.

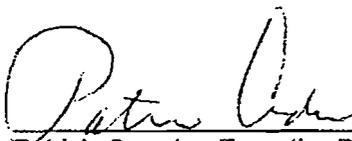
All closing and escrow costs shall be apportioned between Buyer and Seller typical of the County of Santa Clara customs.

It is acknowledged by all parties that this letter of intent is non-binding. A written Purchase and Sale Agreement, to be negotiated by all parties and in a form satisfactory to the parties and their legal counsel, may be executed at a later date. Until the Purchase and Sale Agreement is executed, the parties shall bear no obligation to each other under this letter of intent

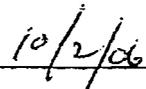
Sincerely,

BUYER

Family Supportive Housing, Inc.
a California non-profit public benefit corporation



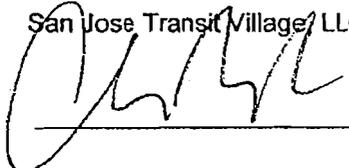
Patricia Crowder, Executive Director



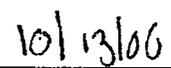
Date

SELLER

Accepted by:

San Jose Transit Village LLC (Seller)


David Neale, Manager



Date:

Vasona Light Rail Corridor

The Vasona Light Rail Transit-Oriented Development Corridor is centered along Southwest Expressway, between West San Carlos Street and South Bascom Avenue, following a portion of the planned Vasona Light Rail route. The currently funded rail line will link Campbell and southwestern San Jose with Downtown San Jose and the Guadalupe Light Rail line. The Transit-Oriented Development Corridor includes planned and funded light rail stations at Fruitdale Avenue and South Bascom Avenue. The intent of the corridor is to facilitate new, higher-density housing and mixed use development on several currently underutilized commercial sites. These new developments should be well-integrated with existing residential neighborhoods. Long-range traffic implications are likely to regulate the pace of new residential development within this Corridor.

Bay Area Rapid Transit (BART) Station Area Nodes

In November 2001, the Santa Clara Valley Transportation Authority (VTA) Board of Directors approved the extension of BART to Milpitas, San Jose, and Santa Clara, as the preferred Investment Strategy for the Silicon Valley Rapid Transit Corridor. The proposed alignment is planned to utilize the existing Union Pacific Railroad right-of-way through northeast San Jose, until approximately Julian Street and Highway 101, at which point the BART line moves underground through Downtown San Jose. Station locations have been identified along the route at Berryessa Road, Santa Clara and 28th Streets, and various locations within the Downtown area, including the Diridon Station.

A Station Area Node is a place in the City where a BART transit station is a focal point of the surrounding area. The general purpose

of the BART Station Area Nodes is to direct transit-oriented and pedestrian friendly land use development in close proximity to BART stations. BART Station Areas are suitable for higher residential densities, more intensive job generating uses, and mixed use development, which in turn should support BART ridership. The amount of development potential and the intensity of uses are defined by the Land Use/Transportation Diagram. In addition, new development should incorporate a mix of parks, recreational trails, pedestrian linkages, access to transit, and active ground floor uses. Parking garages in particular should incorporate ground floor retail/commercial uses into the design of the structure.

Further study regarding the appropriate type and amount of intensification at the various BART Station Area Nodes may occur in the future as the BART project becomes further defined.

Berryessa Station Area Node

The Berryessa Station Area Node is planned for a mix of job generating land uses, high density residential and supportive commercial uses, and parks/open space. The land use designations for the area include Transit Corridor Residential (20+ DU/AC), Medium Density Residential (8-16 DU/AC), Combined Industrial/Commercial, and Public Park/Open Space. The area currently has existing businesses, including the San Jose Flea Market. As these properties are developed with new uses, residential, commercial and other job generating uses should be coordinated and phased together, so that no one use will be developed separately and in advance of other uses. In particular, residential development should not occur in advance of commensurate job growth.

Careful attention should be given to the compatibility of land uses. Job generating

V. LAND USE/TRANSPORTATION DIAGRAM

uses (e.g., offices) should buffer any new residential uses from the existing and planned heavy industrial land uses east of Coyote Creek. New residential development at the edge of existing single-family uses should be of a lower density. The greatest densities, preferably within mixed use developments, should be adjacent to the station. The overall residential density at the Flea Market site should be 55 DU/AC. The planned parks should provide an additional buffer between existing and proposed uses as well as providing recreational and open space uses to support the future residential community.

All development should foster pedestrian activity and connections to the BART station, trails, parks, and possible schools. New construction should comply with the development parameters identified later in this section.

Due to the preliminary nature of the land use planning for the BART Stations, flexibility in the final distribution of the proposed land use designations should be allowed, consistent with the relative proportions of each designation as shown on the Land Use/Transportation Diagram.

Santa Clara/28th Streets Station Area Node

Another station is planned north of the Five Wounds Church at Santa Clara and 28th Streets. Existing uses in this node include the San Jose Steel site. This site is planned for a new transit-oriented, mixed use urban center. The land use designation for the area is Mixed Use with No Underlying Land Use designation, which includes a mix of Transit Corridor Residential (20+ DU/AC), General Commercial, Public Park/Open Space, and Public/Quasi-Public. This Mixed Use land use designation provides an opportunity to integrate and intensify land uses, and allow for the type of development that is

envisioned in the Five Wounds/Brookwood Terrace Neighborhood Improvement Plan (NIP). The Plan calls for new housing opportunities, neighborhood serving retail, services, parks, office buildings and hotels. The NIP also contains guiding principles and development regulations to ensure a transit and pedestrian friendly design. All development in this area should follow the guiding principles and development standards contained in the Five Wounds/Brookwood Terrace Neighborhood Improvement Plan.

Downtown Station Area Nodes

The Downtown area is an urban environment and a place that is appropriate for the intensification of uses. The addition of BART further supports the intensification of uses by bringing more people into the Downtown (see Special Strategy Area - Downtown Core and Frame Area for further direction).

The Diridon Station area is within the Midtown Specific Plan Area. Land use and development direction is contained within the General Plan under the Midtown Planned Residential Community.

Evolution of Intensification for Transit-Oriented Development

The process of intensification is expected to be gradual and the character of the land uses along the Transit-Oriented Development Corridors will evolve over time. The pace of this change will depend on the timing of transit planning and construction. For example, since the Guadalupe Corridor LRT system is complete, the intensification process has already begun and is likely to develop sooner than in the other corridors. Intensification of development in areas surrounding BART Stations, on the other hand, is a long-term land use planning goal.



Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, California 95113-1904

Hearing Date/Agenda Number:
P.C. Nov. 13, 2006 Item: 7.e

File Number:
GP06-03-01

Council District and SNI Area:
3 / Not in an SNI Area

Major Thoroughfares Map Number:
67

Assessor's Parcel Number(s):
254-04-097, -076, -079,
-080, -082, -087, -088, and
254-55-006, -010

Project Manager: Allen Tai

GENERAL PLAN AMENDMENT STAFF REPORT FALL 2006 HEARING

PROJECT DESCRIPTION:

General Plan amendment request to change the Land Use/Transportation Diagram designation from Light Industrial to Transit Corridor Residential (20+ DU/AC).

LOCATION: Northeasterly corner of North King Road and Dobbin Drive, approximately 250 feet south of Mabury Road

ACREAGE: 24.8 acres

APPLICANT/OWNER:

San Jose Transit Village Partners, LLC, Applicant/Various, Owner

GENERAL PLAN LAND USE / TRANSPORTATION DIAGRAM DESIGNATION:

Existing Designation: Light Industrial

Proposed Designation: Transit Corridor Residential (20+ DU/AC) with a Floating Park designation

EXISTING ZONING DISTRICT(S): LI - Light Industrial

SURROUNDING LAND USES AND GENERAL PLAN DESIGNATION(S):

North: Unincorporated County single-family residences; Medium Low Density Residential (8 DU/AC)

South: Various warehouses and light industrial uses; Light Industrial

East: Single-family residences; Medium Low Density Residential (8 DU/AC)

West: North King Road and various light industrial uses; Light Industrial

ENVIRONMENTAL REVIEW STATUS:

Dobbin Drive General Plan Amendment Environmental Impact Report - Pending

PLANNING STAFF RECOMMENDATION:

Transit Corridor Residential (20+ DU/AC) on 24.8 acres with a Floating Park designation

Approved by:

Date:

Stanley Ketchum
Nov. 8, 2006

PLANNING COMMISSION RECOMMENDATION:

CITY COUNCIL ACTION:

CITY DEPARTMENT AND PUBLIC AGENCY COMMENTS RECEIVED:

- ❑ Department of Public Works (DPW) – The Department of Public Works staff has indicated that flow monitoring of sanitary sewer lines in the area will be required at the zoning stage. Sanitary mitigation requirements may be required based on the flow monitoring data. A Traffic Impact Analysis Report will be required at the zoning stage.
- ❑ Department of Transportation – Department of Transportation staff has indicated that according to their analysis the proposed land use change is projected to have a significant traffic impact at the project level and at the cumulative level.
- ❑ Fire Department – Fire Department staff has indicated that in-depth review of the project for compliance with fire and building codes would occur at the Building Permit Process.
- ❑ Department of Parks and Neighborhood Services (PRNS) – PRNS staff has indicated that the project will be subject to Park in-lieu fees.
- ❑ Valley Transportation Authority (VTA) – VTA staff has no comments on the proposal.
- ❑ County of Santa Clara Roads and Airports Department – County Roads and Airport Dept. staff has no comments on the proposal.
- ❑ Airport Land Use Commission (ALUC) – The project is located outside of the ALUC referral boundary, and the ALUC has no comments.
- ❑ Parks Commission – The Parks Commission has indicated that the project will be subject to parkland dedication.
- ❑ San Jose Water Company – The San Jose Water Company has indicated that its 2005 Urban Water Management Plan will have the water capacity to accommodate up to 1,364 residential units and 248,800 square feet of commercial development on the Dobbin Drive site.

GENERAL CORRESPONDENCE:

- ❑ Chad Graff, Miller Brown Dannis Attorneys – Representing the Alum Rock Union Elementary School District, Mr. Graff commented on the need to adequately address school capacity to house the additional students generated by a residential development on the site and discuss recreational facilities for students and residents in the school district.
- ❑ George, Guy and Todd Gummow – The property owners of 1885 Las Plumas Avenue expressed their support of the General Plan amendment request.
- ❑ Leo Gorospe – A resident of Mabury Road inquired about the Verizon Wireless cellular tower on the subject site and noted that the neighborhood does not want a reduction in wireless service. He also expressed concerns about how future development would interface the single-family homes along Mabury Road.

ANALYSIS AND RECOMMENDATIONS:

RECOMMENDATION

Planning staff recommends that the Planning Commission forward a recommendation to the City Council to:

1. Change the *San Jose 2020 General Plan* Land Use/Transportation Diagram designation from Light Industrial to Transit Corridor Residential (20+ DU/AC) with a Floating Park designation on an approximately 24.8-acre site to facilitate future development of the Housing Department's new emergency family shelter and accompanying 100-unit affordable rental housing facility that will replace the existing San Jose Family Shelter at Las Plumas Avenue.
2. Direct planning staff to initiate a General Plan amendment to convert the site back to the Light Industrial land use designation if the emergency family shelter and accompanying affordable rental housing facility are not developed on the subject site.

PROJECT DESCRIPTION

This is a privately initiated General Plan amendment request to change the *San Jose 2020 General Plan* land use designation on the site from Light Industrial to Transit Corridor Residential (20+ dwelling units per acre) with a Floating Park designation. The Transit Corridor Residential (20+ DU/AC) designation allows medium-high and high density residential uses within, or very near, Transit-Oriented Development Corridors and BART Station Area Nodes, Housing Initiative Areas, or major bus routes. Under this designation, neighborhood-serving commercial uses are encouraged on properties within 2,000 feet (reasonable walking distance) of existing or planned light rail and within BART Station Area Nodes. BART Station Area Nodes are areas defined by a circle with a radius of 3,000 feet from a planned BART station and are intended for higher residential densities, more intensive job-generating uses, and mixed use development to support BART ridership. The subject site is located within the Berryessa BART Station Area Node. The minimum overall residential density within this BART Station Area Node is 55 dwelling units per acre.

The proposed Transit Corridor Residential (20+ DU/AC) designation would allow a range of 496 to 1,364 residential units, and up to 250,000 square feet of neighborhood-serving commercial uses on the site. The General Plan also allows a maximum building height of 120 feet, given the site's proximity to a planned rail station. If the General Plan amendment were approved, any future development would be subject to separate subsequent review by the City of San Jose. Approval of the amendment also presumes the likely future demolition of all existing buildings on the site.

The Floating Park designation indicates that a park is needed in the general area, but that details of the size, location, and configuration of the park and surrounding development have not been specified and will be determined in conjunction with future development proposals.

Development of a new Emergency Family Shelter and Affordable Rental Housing

The proposed General Plan amendment request is primarily intended to facilitate a long-envisioned Housing Department project to construct a new emergency family shelter with a 100-unit accompanying affordable rental housing and childcare services to replace the existing San Jose Family Shelter facility currently located on Las Plumas Avenue. Staff support of this proposal is contingent upon successful completion of the family shelter/affordable housing components of the project. In the event that the emergency shelter and associated components are not built on the subject site, staff would recommend that the City re-designate the site to the Light Industrial land use designation.

BACKGROUND

Site Description

The approximately 24.8-acre site is located on the northeast quadrant of Dobbin Drive and North King Road. The rectangular site includes nine parcels (APNs: 254-04-097, -076, -079, -080, 082, -087, -088, and 254-55-006, -010) and includes a former Union Pacific Railroad spur. The site is presently developed with seven warehouse and various light industrial buildings totaling approximately 421,000 square feet. The topography of the site is flat, and the majority of the site is paved, with landscaping scattered throughout the site adjacent to the existing buildings and in parking areas. The site was previously used for agricultural purposes until the development of industrial buildings on the site in the 1960s. These current uses on the site conform to the existing Light Industrial land use designation, which is intended for a wide variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects. Typical uses within this designation are warehousing, wholesaling, and light manufacturing.

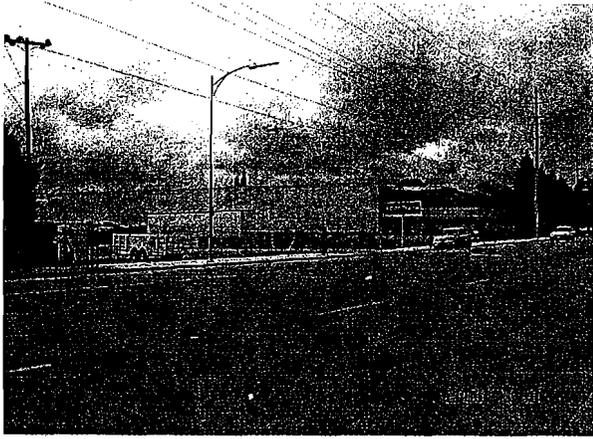


Figure 1: Looking northwest across North King Road.

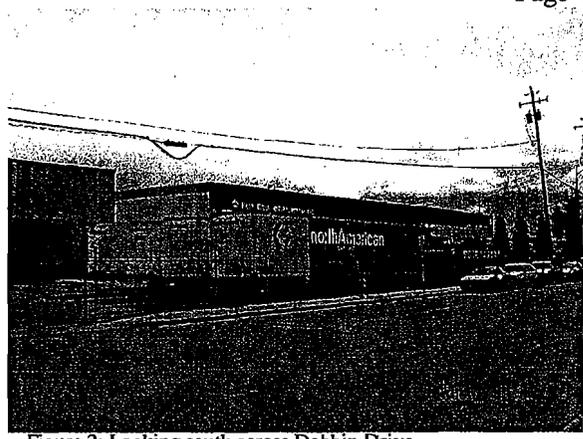


Figure 2: Looking south across Dobbin Drive.



Figure 3: Looking southwest across North King Road.

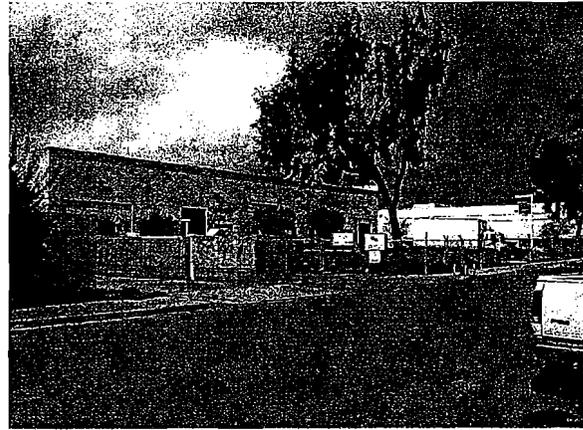


Figure 4: Looking northwest along Dobbin Drive.

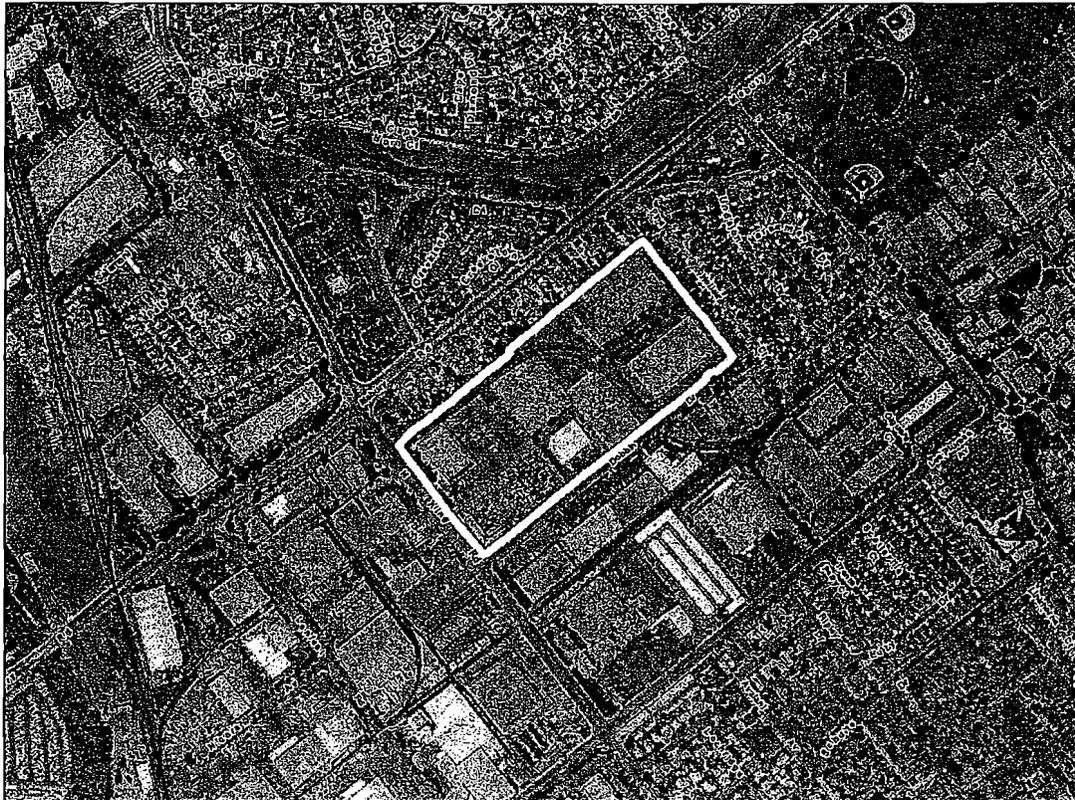


Figure 5: Aerial photograph of project site and surrounding land uses.

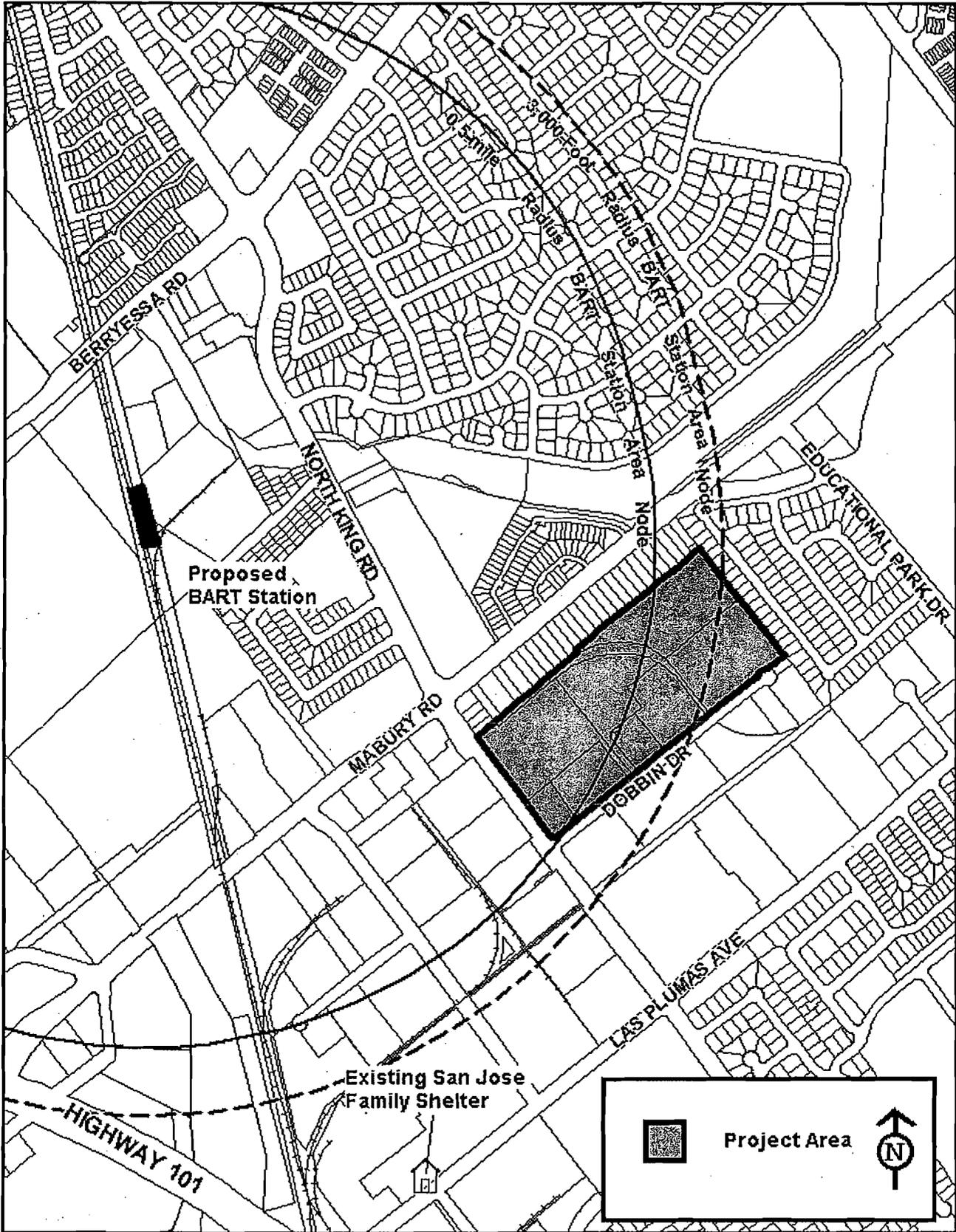


Figure 6: Neighborhood Vicinity in Relationship to the Berryessa BART Station Area Node.

Surrounding Uses and Area Context

The surrounding area is developed with predominantly industrial land uses, but the subject site may be described as the border between various land uses including residential, industrial, and commercial uses. Immediately to the north and east are larger residential neighborhoods, to the west and south are industrial areas, and in the northwest vicinity is the San Jose Flea Market. The site is oriented towards the adjacent industrial uses on Dobbin Drive and North King Road. Although industrial uses are currently located along both sides of North King Road, the predominant industrial area is concentrated west of North King Road.

In 2001, a site within the southern portion of the Flea Market, between Berryessa and Mabury Roads, was identified for the future Berryessa BART Station as part of a plan to extend BART service into Santa Clara County. Subsequently, the *San Jose 2020 General Plan* was amended by the City Council to add BART Station Area Nodes as Special Strategy Areas in conjunction with the Transit-Oriented Development Corridors Special Strategy to create vibrant pedestrian and transit oriented neighborhoods to support future BART ridership. This subject site is located within the Berryessa BART Station Area Node. The minimum overall residential density envisioned within this BART Station Area Node is 55 dwelling units per acre.

ANALYSIS

The key issues of concern with the proposed General Plan amendment are:

1. Provision of an emergency family shelter and affordable rental housing with child care services;
2. Consistency with the *San Jose 2020 General Plan* Major Strategies, goals, and policies;
3. Consistency with the *Framework, as a Guideline, to Evaluate Proposed Conversions of Employment Lands to Other Uses*;
4. Land use compatibility; and
5. Environmental issues.

Emergency Family Shelter and Affordable Rental Housing

In recent years, the Housing Department has been searching for a suitable location to relocate the existing San Jose Family Shelter, operated by Family Supportive Housing (FSH), currently situated nearby within the adjacent industrial area on Las Plumas Avenue. The shelter is a unique facility where up to 35 homeless families reside and receive services for as long as 90 days. No other facility sponsored by the City of San Jose allows homeless families to remain together at times of economic and social distress. The decision to construct a new facility is due to the fact that the current facility is no longer adequate to meet the growing needs of the City's eligible population, represents an outdated service delivery model, and the increased activity of operations of adjacent industrial users in the Las Plumas Avenue area. (See attached memo from Leslye Krutko, Director of Housing)

The new facility will be based on a new housing model that consists of providing shelter residents with private space that approximates the living conditions of families in private housing. The Housing Department, in coordination with the applicants, FSH, and Charities Housing Development Corp (CHDC), plans to incorporate a 100-unit affordable rental housing facility with an accessory childcare center as part of future development of this site. The applicant's vision for future development on the site has the emergency family shelter and accompanying affordable housing occupying the North King Road frontage, and approximately 700 market rate-housing units would occupy the remainder of the site. FSH and the Housing Department selected the subject site for the following reasons:

1. Proximity to the existing San Jose Family Shelter – Family Supportive Housing needed a location close to the existing shelter to continue to serve the eligible population located in the general vicinity. The existing shelter location was previously selected because of its proximity to transportation, retail shops, local schools, and job opportunities. The Dobbin Drive site also provides similar advantages.
2. Ability for a new facility to co-locate with private permanent housing – The co-location of the shelter and permanent affordable housing with market rate housing is intended to approximate the conditions of a typical residential neighborhood, which allows for the programmatic and operational linkages that improve how homeless families are stabilized and provided permanent housing. The subject 24.8-acre site provides adequate land for the new shelter and accompanying affordable housing to be located adjacent to private market rate housing with neighborhood amenities, including public open space and access to transit, schools, and employment.
3. Cost – Light Industrial land is less costly to acquire. Compared to other available sites within the general vicinity of the existing San Jose Family Shelter and the future Berryessa BART Station, Light Industrial designated lands are generally less expensive to acquire in recent years than commercially or residentially designated land.
4. Conformance with the City Council Policy on the Emergency Homeless Shelters (attached) – This Council policy, adopted in 1995, states that emergency shelters should be located on commercial (except Core Area) or industrially designated lands and located where there are travel routes to transit facilities that do not traverse existing residential neighborhoods. The location of the subject site within an existing industrial area with orientation to North King Road and proximity to the future Berryessa BART Station conforms to the criteria of this Council Policy.

Other sites studied by the Housing Department do not offer the same advantages of the Dobbin Drive site. The Housing Department has contemplated the development of a new facility on numerous sites, including the Housing Opportunities Study Phase III site adjacent to the Flea Market, and none were found to fully satisfy FSH's unique requirements for the Family Shelter. Only the Dobbin Drive site meets most, if not all, of the required criteria and is in close proximity to anticipated BART facilities.

Family Shelter Timeline and Funding

The timing of this General Plan amendment is tied to timelines for securing funding sources, including Federal HOME funds, to subsidize the new family shelter. A specific development proposal was not submitted along with the subject General Plan amendment request specifically due to the deadlines for obtaining subsidies and environmental clearance requirements related to the use of federal funds. This General Plan amendment request is the first step in making this project eligible for federal subsidies without triggering the need for additional lengthy environmental review under the National Environmental Protection Act (NEPA) process, which would be required if a specific development project, supported by federal funds, was proposed. Approval of this General Plan amendment would assist in securing subsidies to construct the family shelter, allowing the future entitlement process to proceed without significant time constraints. The ability to secure all the various subsidies in a timely manner is critical to support the construction of the family shelter and accompanying affordable housing component. The attached Housing Department memo describes the various funding sources to be used for the family shelter and affordable housing component.

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

The *San Jose 2020 General Plan* has seven Major Strategies that together provide the “vision” for San Jose, particularly related to its future growth and development. Economic Development, Housing, and Urban Conservation/Preservation are three of the seven Major Strategies in the General Plan that are most relevant to this proposed General Plan amendment.

Economic Development Major Strategy

The Economic Development Major Strategy encourages seeking opportunities for expanding the community’s economic base, promoting a balance between “driving” industries and the service/supplier businesses that support them, and actively marketing San Jose as a location for a wide range of businesses. Because the proposed General Plan amendment request essentially involves replacing existing industrial jobs with housing, it would result in a potential loss of well-paying industrial jobs and economic development opportunities. Therefore, the proposal is inconsistent with the General Plan’s Economic Development Major Strategy. Approximately 1,050 acres of Light Industrial designated land remain in the City. The subject 24.8-acre site would translate to a conversion of 2% of these valuable employment lands, which could have a substantial effect on worsening the jobs and housing imbalance in the City. A jobs and housing imbalance can be problematic because it results in longer commutes as City residents travel to other locales for employment. The same imbalance might result in financial hardships for the City due to the costs associated with providing services to residents in relation to revenue generated by various land uses in San Jose.

Although the proposed Transit Corridor Residential (20+ DU/AC) land use designation allows commercial uses, the type of employment offered under the two land use designations differs greatly. Light Industrial and manufacturing jobs tend to require highly skilled labor and offer better wages than jobs in the retail sector. Even if the number of jobs does not decrease as a result of a conversion to a commercial use, the replacement of industrial jobs with retail jobs means that the potential for the higher-paying job opportunities are lost.

Housing Major Strategy

The City’s General Plan seeks to create a well-balanced community. The provision for the City’s residents is as important as the need for economic development. San Jose recognizes the continuing strong demand for housing here and throughout the region. The General Plan’s Housing Major Strategy encourages facilitating housing opportunities of all types and price ranges for its residents. This Major Strategy can be achieved by planning for residential land uses at appropriate locations and densities. This would also accomplish key objectives in the General Plan Housing Element to provide a wide variety of housing opportunities to meet the needs of all the economic segments of the community.

The proposal to construct a new emergency shelter and transitional housing facility is consistent with the General Plan Housing Element goals of providing housing opportunities for all demographics, because it provides housing to extremely low-income and very low-income families that do not have many other housing options. The proposed high-density market rate housing on the site would also achieve goals for transit-oriented development and support future BART ridership.

Urban Conservation/Preservation Major Strategy

The Urban Conservation/Preservation Major Strategy underscores the importance of protecting and enhancing neighborhoods. This includes the protection of existing residential and employment neighborhoods. While

conversion of the subject site provides an opportunity to complete an existing residential neighborhood northeast of North King Road and Dobbin Drive, it could adversely impact existing light industrial businesses in the immediate vicinity. Incompatibilities between industrial and residential uses could lead to restrictions on industrial operations. Light Industrial businesses are a scarce commodity, and the existence of residential uses in close proximity could potentially impact the viability of the area for light industrial businesses, which could result in the conversion of additional Light Industrial land in the area to other uses. The potential for the existing industrial area to decline and erode as a result of introducing residential development in the area should be factored into the decision-making on this General Plan amendment.

General Plan Goals and Policies

The proposed General Plan amendment is consistent with the following General Plan goals and policies:

Balanced Community Policy No. 2 states that varied residential densities, housing types, styles, and tenure opportunities should be equitably and appropriately distributed throughout the community and integrated with the transportation system, including roads, and bicycle and pedestrian facilities. Higher densities are encouraged near passenger rail lines and other major transportation facilities to support the use of public transit. The proposed General Plan land use designation is Transit Corridor Residential (20+ DU/AC) and is intended to facilitate transit-oriented residential and commercial development in close proximity to a planned BART station. The proposal is also intended to accommodate a new emergency shelter as well as transitional and permanent housing. Therefore, the proposed project is consistent with this policy.

Residential Land Use Policy No. 3 states that locations near commercial and financial centers, employment centers, rail transit stations and bus transit routes are preferable for higher density housing. The *San Jose 2020 General Plan* encourages sites located within BART Station Area Nodes to be designed to facilitate a strong pedestrian connection to the BART station. The Berryessa BART Station Area Node should be developed at a minimum density of 55 dwelling units per acre under this land use designation. The major portion of this subject site is located within the planned Berryessa BART Station Area Node and is close to existing community facilities such as schools and public open space. Therefore, the proposed land use designation of Transit Corridor Residential (20+ DU/AC) is consistent with this policy.

Residential Land Use Policy No. 24 states that new residential development should create a pedestrian friendly environment by connecting the development with the adjoining neighborhood, transit access points, and nearby commercial areas. At the present, a residential development on the subject site would be unable to create a pedestrian friendly environment because the primary character of the area is based on vehicular traffic-related activities. However, upon completion of the future BART extension to San Jose, the area within the BART Station Area Node should experience a transition to a friendlier pedestrian, mixed-use environment.

Energy Policy No. 1 indicates the City should promote development in areas served by public transit and other existing services. Higher residential densities should be encouraged to locate in areas served by primary public transit routes and close to major employment centers. The site is adjacent to existing employment lands, served by limited bus service, and within proximity to the planned Berryessa BART station. Therefore the proposal is consistent with the intent of this policy, which is to locate housing where it is close to public services and jobs.

Consistency with “Framework, as a Guideline, to Evaluate Proposed Conversions of Employment Lands to Other Uses”

The intent of the “Framework, as a Guideline, to Evaluate Proposed Conversions of Employment Lands to Other Uses” (Framework) is to create more certainty and predictability in the review of employment land conversion proposals while retaining flexibility to respond to changing conditions, information, and policy considerations. The project site is located within the Northeast San Jose Subarea, one of twenty employment subareas identified in the Framework. When considering the conversion of converting employment lands, the Framework states that housing should be considered near the Berryessa BART station. The Framework also provides criteria for when conversions should occur. In evaluating the subject General Plan amendment based upon the criteria, the conversion of this site generally meets the following criteria:

1. Complete a transition to existing neighborhoods within or adjacent to the subarea, or
2. Buffer and provide uniformity to existing neighborhoods within or adjacent to the subarea, or
3. Further the City’s smart growth policies, or
4. Aid in revitalizing declining neighborhoods within or adjacent to the subarea.

Residential development on the subject site would complete a transition to existing neighborhoods to the north and the east. Additionally, North King Road and Dobbin Drive provide clear boundaries and buffer to the residential neighborhood and industrial uses west of North King Road and south of Dobbin Drive. Residential development on the site also provides an opportunity to ease the transition between the existing single-family neighborhood to the north and east and the existing industrial uses to the south and west. The proposed land use change is also consistent with the General Plan Balanced Community Goal, which states, “Develop a balanced and complete community in terms of land use distribution and densities, housing types and styles, economic development and job opportunities and opportunities for social and cultural expression.” This goal summarizes the City’s smart growth objectives. The subject General Plan amendment is consistent with these smart growth policies and could potentially revitalize the area within the BART Station Area Node by providing new pedestrian-oriented redevelopment opportunities. However, the land use change could also act as a disincentive for existing industrial uses to continue within the larger area around the subject site. Therefore, the proposed General Plan amendment is also potentially somewhat inconsistent with criterion No. 4.

Land Use Compatibility

Land use impacts are a result of conflicts between the different characteristics of various land uses. The subject site is located within an established light industrial area. Locating residences in proximity to this industrial area may create the potential for long-term conflicts. A residential population is more sensitive to what would otherwise be sources of only annoyance to a workplace population. Residents typically object to nighttime noise from loading docks, truck traffic and heavy equipment, outdoor lighting, truck traffic spillover into residential neighborhoods, and the use, storage, and transport of hazardous materials. These activities may be considered unacceptable to nearby residents, even if the businesses are not located immediately adjacent to the residences. These adverse land use impacts can range from minor irritations and annoyances to potentially significant effects on human health and safety.

Complaints from residents may also cause restrictions to be placed on industrial businesses that are near the residential development and could limit the types of businesses that are acceptable at these sites. These restrictions could limit the uses of the affected industrial properties. While such operational effects do not equate to environmental impacts, they may be considered as a measure of significance of the degree of conflict

created between land uses, and eventually could degrade the viability of the industrial land use. Given the analysis above, a residential development on the subject site could potentially result in land use conflicts with nearby industrial uses.

The potential for land use conflicts described above presently exists between the existing industrial uses on the subject site and surrounding industrial area and the existing residential neighborhood to the north and east. The conversion of the amendment site to residential use would increase the number of residents adjacent to the industrial uses and shift the boundary between residential and industrial use areas to North King Road and Dobbin Drive.

Land use incompatibilities may also arise when more intensive uses interface with less intensive uses. Issues related to privacy, shade, and neighborhood character would need to be addressed when higher density development is placed adjacent to single-family residences. The Transit Corridor Residential (20+ DU/AC) designation would allow high density mid-rise buildings up to 120 feet tall, but the size of the site and its rectangular shape provide ample opportunity to buffer future development and incorporate appropriate design measures consistent with the City's Residential Design Guidelines to address the privacy needs of single-family residences to the north and east of the site.

Environmental Review

An Environmental Impact Report (EIR) for the subject General Plan amendment was prepared in conformance with the California Environmental Quality Act (CEQA). The EIR provides program level environmental review appropriate for the consideration of amendments to the *San Jose 2020 General Plan*. The EIR identified the following significant unavoidable impacts as resulting from the proposed General Plan amendment:

- Land Use (project and cumulative)
- Transportation (project and cumulative)
- Hazardous Materials (project and cumulative)
- Noise (cumulative)
- Air Quality (cumulative)

The amendment would result in significant and unavoidable long-term traffic impacts. Key transportation "links" in the vicinity of the site that are already projected to operate at Level of Service "E" or "F" in the long term would experience traffic volume increases of more than 1.5%, constituting a significant impact. In other words, the proposed amendment would worsen the commute pattern during the morning and evening for several major streets already projected to operate below the City's Level of Service policy standard ("D"). However, the analysis also shows that approximately 842 trips generated by Transit Corridor Residential uses on this site would take place on transit, of which half would ultimately be taken on BART when completed.

In addition to significant traffic impacts, the project's impact on air quality is also considered significant unavoidable because the additional residential units and population are not included in the Bay Area Air Quality Management District (BAAQMD) Regional Clean Air Plan. The implementation of identified mitigation measures would reduce the impacts on regional air quality, but not to a less than significant level due to the project's size and potential to generate a substantial increase in air pollutant emissions. In sum, there will be significant and unavoidable impacts occurring in the areas of transportation and air quality.

The EIR also discloses that there is a significant risk factor due to exposure of sensitive receptors to a worse case hazardous material incident from surrounding industrial uses. An accidental release of various toxic

substances stored within industrial uses concentrated west of North King Road near Las Plumas Avenue could have a significant impact on nearby residents. However, this situation already exists for the residents of existing neighborhoods in the vicinity, and many City, State, and Federal safety regulations exist that require proper storage and disposal of hazardous materials. As a result, incidents involving hazardous materials do not normally occur, and there has been no record of any hazardous materials incidents affecting nearby residents in the general vicinity. Nevertheless, the potential effects of a worse case hazardous materials incident should be factored into decision making for this General Plan amendment request.

PUBLIC OUTREACH

A joint notice of the public hearings to be held on the subject General Plan amendment before the Planning Commission on November 13, 2006 and City Council on December 12, 2006 was circulated to the property owners and residents within a 1,000 foot-radius of the subject property. The Planning Department web site also contains information regarding the General Plan process, amendments, staff reports, and hearing schedules. This web site is available to any member of the public and contains the most current information regarding the status of the General Plan amendments. Additionally, on-site signs were erected on the subject site in accordance with the City Council Policy on Public Outreach.

Community Meetings

Two community meetings were held to provide opportunities for public input on the General Plan amendment. The first community meeting occurred on May 4, 2006, and approximately twenty members of the local residential and business community participated. A representative of an existing chrome-plating business on the subject site raised concerns regarding the potential displacement of their business if the General Plan amendment request was approved. He explained that State and Federal regulations on industrial uses and users of hazardous materials limit their opportunity to find suitable sites to relocate their business. Furthermore, he stated that the permitting process to relocate their facility could take more than one year due to safety regulations and strict permitting and inspecting requirements. In response, planning staff has coordinated with the City's Office of Economic Development (OED) to work proactively with affected businesses to identify relocation sites within the City. Staff's goal is to ensure that these affected businesses will maintain a presence within the city.

A second community meeting was held on July 13, 2006. This meeting included approximately ten members of the community. During this meeting, single-family residents along Mabury Road raised concerns about the future interface between high density residential buildings and the rear yards of their homes. In response, staff cited the Residential Design Guidelines, which recommend a minimum 2:1 setback ratio for buildings three stories and taller, as a basis for future review of residential development on the site. The meeting also included discussions of potential displacement of existing businesses, and a representative of the Alum Rock School District emphasized the need for the City and the applicant to explore ways of contributing to expanding school facilities to serve the future population at the site.

State of California Tribal Consultation Guidelines

This General Plan amendment is subject to the State of California Tribal Consultation Guidelines and was referred to the tribal representatives. To date, staff has received no response to the letters mailed to the tribal representatives.

COORDINATION

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

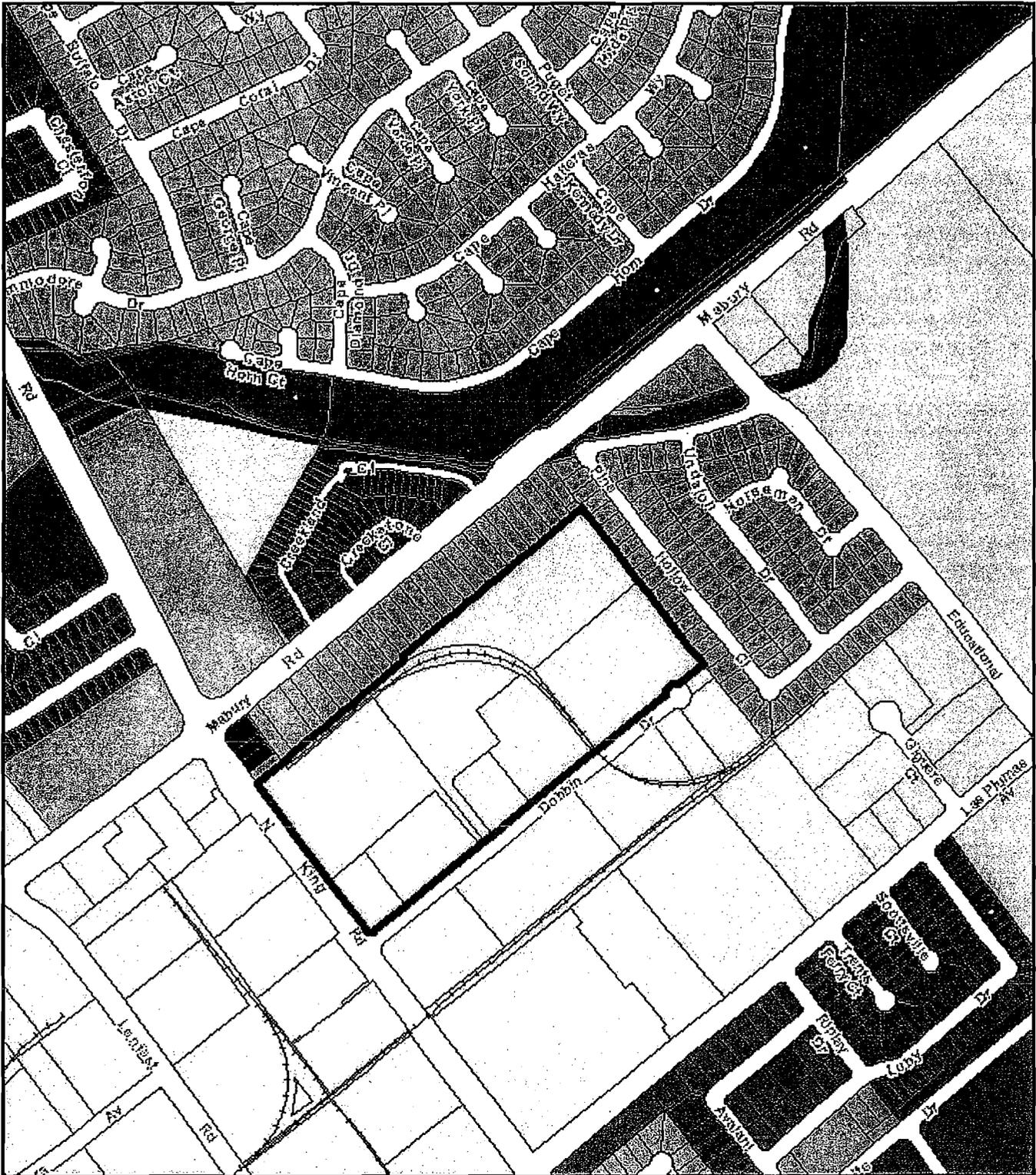
CONCLUSION

Staff is recommending approval of the General Plan amendment solely because of the Housing Department's plans to help Family Supportive Housing (FSH) relocate the San Jose Family Shelter and developing the accompanying transitional/affordable housing project. In light of the many applicable General Plan goals and policies, the goal to develop a new emergency family shelter is a priority that outweighs concerns for the industrial conversion on this site. Staff's recommendation is a result of a thorough analysis of the various policy and environmental issues related to conversion of the subject site to residential and commercial mixed use. Given the multi-year delay due to difficulties encountered by the Housing Department and FSH in finding a suitable site within close proximity of the existing shelter, the Dobbin Drive site represents an exceptional opportunity in terms of the right balance of location and size to accommodate the family shelter, affordable rental housing, and supportive market rate housing along with public open space to fulfill a long-awaited goal of enhancing emergency service to needy families. However, because this conversion will also result in the loss of a significant amount of scarce Light Industrial land, should the family shelter and affordable housing projects not proceed on the subject site staff is recommending that the site be returned to the existing Light Industrial designation.

Attachments

1. General Plan land use map of the surrounding vicinity
2. EIR Notice of Hearing
3. Memorandum from Leslye Krutko, Director of Housing
4. Memorandum from Paul Krutko, Director of the Office of Economic Development
5. City Council Policy - Emergency Homeless Shelters Criteria
6. Memos from other City departments and other agencies
7. General Correspondences

GP06-03-01



Department of Planning, Building
and Code Enforcement
Planning Services Division



Quad: 67



Department of Planning, Building and Code Enforcement

JOSEPH HORWEDEL, ACTING DIRECTOR

PUBLIC HEARING NOTICE

The Planning Commission of the City of San José will hold a Public Hearing on **Monday, November 13, 2006 at 6:30 p.m.**, to certify that the Final Environmental Impact Report (EIR) prepared for the project identified below has been completed in compliance with the California Environmental Quality Act (CEQA). Furthermore, in the event of an appeal of the Planning Commission's certification of the Final EIR, there will be a public hearing before the City Council of the City of San Jose on **Tuesday, December 12, 2006 at 7:00p.m.** on an appeal of the final EIR.

These Public Hearings will be held in accordance with Title 21 of the San José Municipal Code, during and before which all persons interested in the matter shall be given a reasonable opportunity to be heard. You are welcome to attend and to speak on this issue. If you choose to challenge the decision on this Environmental Impact Report in court, you may be limited to only those issues you, or someone else, raised and discussed at the Public Hearing or in written correspondence delivered to the City at or prior to the Public Hearing. These public hearings will be held at the dates and times stated above in the City Council Chambers, on the second floor of City Hall Wing, at 200 East Santa Clara Street, San José, California, or as soon thereafter as this item can be heard.

The project being considered is a Final Environmental Impact Report (EIR) for the Dobbin Drive project. The project is a General Plan Amendment from *Light Industrial* to *Transit Corridor Residential (20+ dwelling units per acre)*. If approved, the proposed General Plan Amendment would facilitate a later rezoning and permits to allow up to approximately 1,364 residential units and 248,000 square feet of commercial space.

City File Number: GP06-03-01

Location: Northeast corner of North King Road and Dobbin Drive

The Final Environmental Impact Report, including the City's responses to comments received during the Public Review Period (August 18, 2006 to October 2, 2006), will be available for review beginning November 3, 2006, Monday to Friday 8:00 a.m. to 5:00 p.m. at the Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street (3rd floor), San José 95113.

The certification of the Final EIR may be appealed in writing by any person prior to 5:00 p.m. on **Thursday, November 16, 2006**. Such protest shall be filed at the Department of Planning, Building and Code Enforcement and shall include a statement specifying the basis of the appeal. An appeal of the certification of the Final EIR would be heard by the City Council **Tuesday, December 12, 2006 at 7:00p.m.** as noted above. It should be noted that the certification of a Final EIR does not constitute approval of the project for which it was prepared. The decision to approve or deny the project will be made separately as required by City Ordinance.

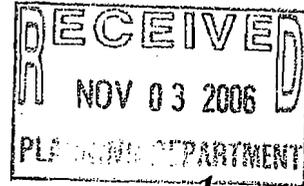
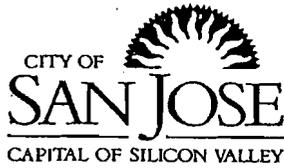
Questions regarding the EIR are welcome and should be referred to **Darren McBain** of the Department of Planning, Building and Code Enforcement (408) 535-7822 or e-mail darren.mcbain@sanjoseca.gov

To arrange an accommodation under the Americans With Disabilities Act to participate in this public meeting, please call TTY#: (408) 294-9337 or (408) 535-3500 (voice) at least 48 hours before the meeting.

Joseph Horwedel, Acting Director
Planning, Building and Code Enforcement

/s/ Akoni Danielsen, Principal Planner *A.D.*

Date: October 27, 2006



Memorandum

TO: Joe Horwedel
Director of PBCE

FROM: Leslye Krutko
Director

SUBJECT: Support for the General
Plan Amendment for the
Dobbin Drive Site (GP06-03-01)

DATE: November 3, 2006

Approved

Date

The following is a brief analysis and recommendation regarding the proposed General Plan Amendment for the Dobbin Drive site. The master developer of the Dobbin Drive site, San Jose Transit Village Partners, LLC (CORE Development), has requested a General Plan Amendment to change the existing GP designation of the site from light industrial to Transit Corridor Residential, totaling approximately 1,000 units. The overall development proposal for the site includes the relocation of the San Jose Family Shelter owned by Family Supportive Housing (FSH) from its current location on Las Plumas Avenue and the development of a new 100-unit permanent, affordable multifamily rental project to be developed by Charities Housing Development Corporation (CHDC).

The San Jose Family Shelter, in operation since 1988, is the only facility in San Jose that provides emergency housing assistance to intact families, including boys over the age of 13. This enables families with children that experience an episode of homelessness to stay together while they seek long term, stable housing. The FSH facility currently has a capacity of accommodating 35 families, with a maximum of 143 individuals.

FSH and CHDC have identified the ideal environment for the relocated San Jose Family Shelter to be on the periphery of an existing residential neighborhood. The collocation of the Family Shelter with a permanent affordable housing project will allow for programmatic and operational linkages that will significantly improve how homeless families are stabilized and provided permanent housing. The closer proximity to retail shops, local schools, job opportunities and other typical community services afforded by the Dobbin Drive site will give the families living in the shelter a more constructive, supportive living experience and will enhance their chances of success. Additionally, due to its proximity to a transit corridor, the site meets the transportation needs of the clients served by FSH.

The new Family Shelter will serve households typically earning less than 15% AMI. The permanent, affordable multifamily housing will be targeted to very-low income households earning less than 45% AMI, with 30 units targeted to extremely-low income households earning less than 25% AMI.

Background

In 1992, the City of San Jose's Code Enforcement Department cited the San Jose Family Shelter for overcrowding. Families with as many as seven and eight members were crowded into rooms no larger than 170 square feet. FSH's short-term solution was to combine some of the rooms with a pass through door, so that large families could still remain together, however, reducing the number of families that could be assisted. On December 15, 1998, the City Council approved a funding commitment of \$2,250,000 to assist the San Jose Family Shelter to acquire and develop an adjacent vacated City Maintenance Warehouse site located on Las Plumas Avenue and Nipper Street. The Maintenance facility site offered the opportunity to expand the shelter capacity, add much needed secure, exterior play areas, and ensure adequate space for necessary social and support services for all family members.

In April 1999, the City granted FSH \$100,000 in predevelopment funds for the purpose of conducting feasibility analysis of a new development on the warehouse site, preparing schematic plans for a new 35 bed shelter and 15 units of transitional housing and preparing for a Capital Campaign to raise funds. The Housing Department purchased the site in anticipation of this development proceeding. FSH was successful in obtaining a \$400,000 federal earmark for the development. However, during the predevelopment process, business opposition emerged to prevent the planned development, and the City elected to preserve the site for light industrial use. The proposed new site for the Family Shelter on Dobbin Drive will allow for better integration into the existing and proposed surrounding neighborhood.

Since that time, City staff have worked with FSH to identify alternative locations for relocation and expansion. In 2003, FSH engaged CHDC to assist in the identification, acquisition, and predevelopment of a new site for development of a new shelter. CHDC is an experienced developer of affordable housing and shelters for low and extremely low income households, with over 600 units constructed in Santa Clara County, including successful facilities targeted to assist victims of domestic violence, seniors, individuals with special needs, and low-income working families. Working in collaboration with City staff, CHDC and FSH have considered and evaluated feasibility of several alternative locations and made offers to purchase nine separate sites including the following:

Property	Issue
935-995 Old Oakland	Prohibitive relocation expenses and toxics issues
645 Horning Street	Seller advised to wait to sell
630-644 Stockton Street	Alternative intended use
1325-1347 E. Julian St.	Site too large, potential BART conflict
831 S. Fifth St.	Alternative intended use, toxics
390 Commercial St.	Alternative intended use
1095 N 7 th St., and 250 Commercial	Assembly of parcels needed, owner of one parcel unwilling to sell
24 th Street & San Antonio	Site too small for both projects, relocation expenses
215 Alma Street	Costly site with short escrow period

Joe Horwedel

Subject: Support for the General Plan Amendment for the Dobbin Drive Site

November 3, 2006

Page 3

City of San Jose Homeless Strategy

On September 9, 2003, the City Council adopted the City of San Jose's 10-Year Plan to End Homelessness. The Plan identifies new strategies and service delivery systems for moving families and individuals off the streets. The City's strategies include:

- Prevention
- "Housing First"
- Wrap-around services
- Pro-active efforts.

The new proposed project to be developed by CHDC and FSH is designed to reflect several of the strategies identified in the City's 10-Year Plan:

Prevention and Housing First: The housing model planned by FSH envisions a facility that will provide shelter residents with private space that approximates the conditions that a family would find in a private rental apartment. Specifically, apartments will include private bathrooms and kitchenettes including a microwave, small refrigerator and storage cabinets. The facilities will offer residents a level of independence that is unusual for temporary housing and that will help the transition into permanent housing, while providing on-site presence to ensure good management practices.

The size of the site available to FSH and CHDC at Dobbins Drive allows the agencies to develop a project that incorporates more than a standard emergency shelter. Specifically, the FSH facility will be constructed adjacent to a permanent housing project to be developed by CHDC, with a minimum of 15 units in the project to be made available to former residents of the FSH after they have been connected with the services required. These units will be secured through a binding agreement, to ensure that they are dedicated to the targeted family homeless population. It is expected that the permanent affordable units available to shelter residents will be "zero rent" units allowing families the opportunity to attain economic stability for a period of time, before incurring traditional rent expenses, requiring nominal rent supplemented through sources such as the McKinney Supportive Housing Program.

Wrap-around services: The integrated housing concept proposed for the Dobbin Drive site allows families to remain together and obtain temporary housing, meals and social services, while avoiding chronic homelessness. The continuum of services proposed for residents of the Family Shelter will also be available to the families residing in the affordable multifamily project who have graduated from the shelter programs. Services planned at the FSH facility include a day-care center, an after-school program, computer laboratory, employment center, life skills classes, individual case management and counseling services and three meals daily.

City Funding for the Family Shelter and Permanent Housing

Proceeds from the sale of two City-owned sites will contribute to financing the new Family Shelter. The City funding sources currently available from the two sales and designated for the shelter project total \$5,575,000. At present, the new shelter is expected to cost \$12,750,000. City staff are expecting to recommend transfer of City debt on the current Family Shelter site to the site of the new Family Shelter, with additional funds coming from the County of Santa Clara Affordable Housing Fund, State of California HCD, Federal Home Loan Bank Affordable Housing Program, the Housing Trust Fund of Santa Clara County, and a capital campaign to be undertaken and completed by FSH prior to the start of construction.

On June 6, 2006, the City Council approved a HOME funding commitment of up to \$5,250,700 to CHDC for the development of a permanent, affordable multifamily housing project. At this time, the proposed 100-unit development is expected to cost \$38,000,000, with the other sources of financing anticipated to include the Low Income Housing Tax Credits, the County of Santa Clara Affordable Housing Fund, State of California HCD, Federal Home Loan Bank Affordable Housing Program, and the Housing Trust Fund of Santa Clara County.

Conclusion

The City has invested considerable time, effort and resources to assist FSH in identifying and obtaining an alternate site for the much needed San Jose Family Shelter. The Dobbin Drive site addresses the needs of FSH and CHDC and allows the agencies to develop a project that incorporates more than a standard emergency shelter. The integrated housing concept proposed for the site allows families to remain together and receive a continuum of support services.

FSH and CHDC have identified the ideal environment for the relocated San Jose Family Shelter to be on the periphery of an existing residential neighborhood. Closer proximity to transportation, retail shops, local schools, job opportunities and other typical community services will give the families living in the shelter a more constructive, supportive living experience and will enhance their chances of success. The Dobbin Drive site meets all of these requirements. Additionally, the site is consistent with San Jose 2020 General Plan Goals and Policies of placing higher density housing near rail transit stations and the future commercial center at the proposed Berryessa BART station, as well as placing housing near existing jobs.

The Housing Department supports the recommendation to approve a General Plan Amendment to change the existing GP designation of the Dobbin Drive site from light industrial to residential.


LESLYE KRUTKO
DIRECTOR OF HOUSING

Memorandum

TO: Joe Horwedel
Director, Planning Building and
Code Enforcement

FROM: Paul Krutko
Director, Office of Economic
Development

SUBJECT: Support for the General Plan
Amendment for the Dobbin
Drive Site (GP06-03-01)

DATE: October 27, 2006

The Housing Department requested assistance from the Office of Economic Development (OED) to find an appropriate site for a combined Family Shelter and a 100-unit permanent, affordable multifamily rental project. OED located a suitable site on Dobbin Drive. OED supports the recommendation to change the existing General Plan designation from light industrial to residential to accommodate the shelter, transitional housing and related market rate housing needed to underwrite the costs of the shelter and transitional housing.

BACKGROUND

The San Jose Family Shelter is currently located on Las Plumas Avenue and offers a safe place for 35 homeless families (up to 143 people) to live and receive services for up to 90 days. The Family Shelter is a unique facility providing essential services to homeless families. No other San Jose facility allows families to remain together at times of economic and social distress. For example, in 2004, the shelter provided emergency housing for 170 families, supplied 605 homeless people (420 of whom were children) with food, clothing, case management, classes, and activities and provided meals to over 162,000 homeless people. However, the current Family Shelter facility is no longer sufficient to meet the growing needs of San Jose's eligible population. As a result, the Housing Department has been searching for suitable sites to construct a new 100 unit transitional housing project intended to meaningfully assist homeless individuals and families to overcome the conditions that led to their homelessness.

In 1999, the Housing Department purchased land on Las Plumas Avenue intending to build the new 100-unit permanent, affordable multifamily rental project and a proposed childcare facility. The Las Plumas property purchased by the Housing Department was across the street from the existing shelter, located in the center of a thriving industrial area. Several companies in the immediate area had recently made significant investments in new and upgraded facilities. Area businesses strongly supported finding an alternate location for the proposed Family Shelter and transitional housing project.

ANALYSIS

As mentioned above, the City's former Las Plumas warehouse facility is in an area with many thriving businesses including Trans Pak, Therma, Strongwell, Butler Johnson, United Marble & Granite and many others. Even earlier than 1999, the City and local businesses were struggling with housing related land use conversions that resulted in little or no buffer between heavy and light industrial uses and housing or housing related uses.

Therma is classified as a heavy industrial use and often runs evening, early morning and weekend shifts. As a heavy industrial user, many of its operations are loud, use hazardous materials and require deliveries by very large delivery vehicles, often many trucks over the course of a day. The company is a major provider of heating and ventilation and precision sheet metal to leading high tech companies, had moved to Las Plumas after a housing project was constructed adjacent to their former San Jose location.

Therma's opposition to the development a shelter came from the company's past experience in their previous location. Shortly after a housing development was constructed nearby the company began to get multiple complaints from its new neighbors and eventually Therma received persistent code violations. Therma observed that the lack of an adequate buffer between incompatible uses diminished the company's ability to run a 24/7 operation, which was allowed in the Heavy Industrial designation. Therma was also concerned that expansion opportunities would be limited because of its need for hazardous materials and adjacent sensitive receptors. As a result, Therma made a decision to relocate its operations to the Las Plumas facility. The move afforded the company a Heavy Industrial site in the heart of an industrial area, not on the edge of an industrial area.

Therma and several other companies with similar concerns were, as a result, strongly opposed to the proposal to add a homeless shelter, a significant amount of transitional housing and a child care center directly across the street from their uses. Due to the strong opposition, the City worked to find an alternate location for the Shelter and transitional housing project.

Finding an appropriate site for the project has taken several many years. The site selection criteria included that the site be on the fringe of a heavy or light industrial area the least possible with close proximity to transportation, retail shops, local schools and job opportunities. OED and Housing staff has explored a number of sites. Almost all did not meet the selection criteria. Only the Dobbin Drive site meets most if not all of the required criteria and is in close proximity to anticipated BART facilities

OED and Planning staff has already identified businesses that will likely be displaced by the project. OED will work proactively with affected businesses to identify relocations sites within San Jose for businesses currently in the area. OED would recommend that CORE provide additional brokerage services to impacted businesses. Though this service is not mandatory, the proposed housing project will displace viable concerns and an effort to minimize those impacts within the City's boundaries is justified.

OED supports the shelter and transitional housing project in the pending General Plan Amendment before the Planning Commission. The Family Shelter, in particular, provides

critical services to San Jose's most vulnerable residents. Finding a suitable location for such services has proven to be difficult. If the overall project did not incorporate the Shelter and transitional housing elements, OED would strongly oppose the project, as it will displace viable San Jose businesses and likely lead to additional requests for further General Plan Amendments to convert valuable light industrial land in the area.

A handwritten signature in black ink that reads "Paul Krutko". The signature is written in a cursive, slightly slanted style.

PAUL KRUTKO
Director, Office of Economic Development

City of San Jose, California

CITY COUNCIL POLICY

TITLE	PAGE	POLICY NUMBER
EMERGENCY HOMELESS SHELTER CRITERIA	1 of 7	6-
	EFFECTIVE DATE	REVISED DATE
	10/17/95	
APPROVED BY Council Action - 10/17/95, Item 9c		

BACKGROUND

On February 7, 1995, the City Council established an ad hoc Council Committee, the Working Group on Homeless Shelters, to examine the current state of homelessness in San Jose and to develop policies and guidelines for the permitting of future emergency homeless shelters in San Jose. This Working Group sought to address certain policy issues raised by a Conditional Use Permit (CUP) application for a 250 bed emergency homeless shelter proposed at 1020 Timothy Drive. Over a period of about seven months, the Working Group reviewed a substantial amount of information regarding homelessness and homeless shelters. Participants in this process included the Mayor and four councilmembers, Planning and Housing staff, homeless shelter providers, homeless people, neighborhood and community groups, and interested businesses. The Working Group also considered the work of other cities (Portland, San Diego, San Francisco, New York, Orlando, etc.) which have adopted policies addressing the issues associated with emergency homeless shelters. The Working Group heard presentations made by key staff from the cities of Portland and San Diego on their innovative efforts to address homelessness.

Using this information, the City Council Working Group on Homeless Shelters developed a set of Emergency Homeless Shelter Criteria designed to govern the location, size and performance of any future emergency homeless shelter proposed in San Jose. The intent of these criteria is to provide clear direction to those concerned with the location and operation of emergency homeless shelters in San Jose, to ensure that neighborhood concerns regarding emergency homeless shelters are adequately addressed, and to develop a shelter system that addresses the needs of homeless people and that helps them to end their homelessness.

In the course of developing these criteria, it became apparent that emergency homeless shelters are not the sole answer to the problem of homelessness. A complete "Continuum of Care" is necessary to address the needs of the homeless or near homeless, including the provision of transitional housing, which can be used to help the homeless to obtain the skills, training and other assistance they need to get into permanent housing. The City is also committed to providing a supply of low cost, permanent housing as part of the "Continuum of Care". The City believes that homelessness should not be a permanent condition.

This policy focuses on only one aspect of the "Continuum of Care" the City of San Jose provides to those who need housing assistance. It is intended that this policy be used in conjunction with the Interim City Council Policy on Homelessness (administered by the City of San Jose Housing Department) which describes the extent of homelessness in San Jose, the City's role in combating this problem, and the manner in which the City will

TITLE	PAGE	POLICY NUMBER
EMERGENCY HOMELESS SHELTER CRITERIA	2 of 7	6-

target its limited resources to meet the needs of the homeless. Key components of the Interim City Council Policy on Homelessness include goals for the production of transitional housing and emergency shelter beds and a five-year plan to achieve these goals.

For the purposes of the following criteria, an *emergency homeless shelter* shall be defined as a building where emergency temporary lodging is provided to persons who are homeless, and where on-site supervision is provided whenever such shelter is occupied. This definition is the same as that for *emergency residential shelter* under Section 20.04.195 of the City of San Jose Zoning Code.

PURPOSE

The primary purpose of the Emergency Homeless Shelter Criteria is to provide guidance to staff and decision-makers when evaluating conditional use permit requests for new emergency homeless shelters or expansions to existing emergency homeless shelters. Another purpose of these criteria is to clearly state what the City's expectations are in terms of the size, location and performance of emergency homeless shelters. These criteria are also intended to provide guidance to emergency homeless shelter providers who are considering locating facilities or expanding facilities in San Jose. The criteria also provide concerned residents and business people with a clear idea of the limitations and parameters which will govern the size, location and operation of emergency homeless shelters and a means to measure how well emergency homeless shelters perform.

The Emergency Homeless Shelter Criteria are designed to provide sufficient opportunities for the provision of emergency homeless shelters in broad areas of the City consistent with three main goals: 1) to provide temporary emergency shelter for those who need and desire such shelter, 2) to provide counseling, training, and other assistance and services to those who wish to end their homelessness, and 3) to ensure that residents and businesses near emergency homeless shelters are not adversely affected by the size, location, or operation of emergency homeless shelters in San Jose.

POLICY

The following criteria are intended to provide guidance on the size, location, and performance parameters that should be met by any new emergency homeless shelters proposed to be built or established in San Jose. Existing emergency homeless shelters with valid conditional use permits are not subject to these criteria. Expansions to existing emergency homeless shelters, however, will be subject to these criteria. These criteria provide specific guidelines for the development of emergency homeless shelters but should be interpreted with some flexibility since these criteria cannot address all situations or factors that may arise when considering the location and operation of emergency homeless shelters. The criteria are grouped under three sections: Size, Location, and Performance.

A. Size

1. Emergency homeless shelters should be limited to a maximum size of 125 year around beds. While there may be justification for an individual shelter to be as large as the allowable maximum, it is generally preferable that shelters be limited to not more than 50 year around beds. Although a higher degree of privacy and quality of service is not guaranteed with smaller shelters, there is a greater likelihood that shelter providers will be able to provide adequate services and attention to the needs of the shelter clients.

Shelters larger than 50 year around beds would receive particular attention to their *shelter management plans* (see Performance Criterion No. 1) to ensure that "good neighbor" issues, client travel modes and routes, client supervision, and other issues or concerns are adequately resolved in support of a larger shelter in that particular location. The shelter operator of such a facility should have a proven track record in successfully operating shelters of more than 50 year around beds.

2. During cold weather periods, defined for the purposes of this policy as the months of November through March, emergency homeless shelters offering year round shelter beds may be allowed to temporarily expand the number of beds provided if the City determines that there is an increase in the number of homeless people seeking shelter during cold weather periods and adequate year around beds in existing shelters are not available to meet this need. Shelter bed need will be determined by the Housing Department based on the City Council Policy on Homelessness.
3. An emergency homeless shelter may provide temporary cold weather shelter beds of up to 100% of the number of year around shelter beds permitted by the Conditional Use Permit if that permit specifically allows for such an expansion of temporary cold weather shelter beds. Approval of a shelter to provide an expanded number of beds during the cold weather season should be time-conditioned for a period of not more than three years, and should only be allowed if the temporary expansion can comply with all the conditions of the Conditional Use Permit. The three year time condition governing temporary cold weather expansions for a shelter may be extended through the Conditional Use Permit process if the Housing Department determines that the need for temporary cold weather beds provided by the shelter will extend beyond the initial three year term. Any Conditional Use Permit allowing temporary cold weather shelter beds will require the removal of these beds at the end of the cold weather period.
4. The Department of Planning, Building and Code Enforcement, in consultation with the Housing Department, will consider the following in determining the number, if any, of temporary cold weather shelter beds that may be permitted under a Conditional Use Permit for a specific emergency homeless shelter: site and facility constraints, shelter separation from residential areas, bed availability in other shelters, the probability of adding more year around shelter beds in the City during the permit period, and compliance with all Emergency Homeless Shelter Criteria.

TITLE	PAGE	POLICY NUMBER
EMERGENCY HOMELESS SHELTER CRITERIA	4 of 7	6-

5. The quality of the services provided by a shelter should not be affected by its size. Larger shelters should provide a level of service comparable to the level of individual attention that would be expected at a smaller shelter. To accomplish this, large shelters should devote more area and staff to provide services consistent with the overall goal of assisting people in their efforts to end homelessness. Any services intended for an additional client population are separate uses which may be allowed only if the shelter's Conditional Use Permit specifically permits these uses to operate on site.
6. When shelter providers consider the size of the shelter they wish to provide, they should consider the goals of being cost effective, providing high quality service, and providing adequate attention to individuals as part of the evaluation process.

B. Location

1. At the time these criteria were developed, most of the existing and approved emergency homeless shelter beds were located in an approximately four square mile area near the center of the City. This area includes a portion of the northern part of Council District 3, a portion of the southern part of Council District 4 near Highway 101, and the northwestern corner of Council District 5. Given the relative concentration of shelter beds in this four square mile area, shelter providers should be encouraged to seek sites outside of this area consistent with these Emergency Homeless Shelter Criteria. City staff should work with proponents of emergency homeless shelters to achieve a fairer distribution of homeless facilities within the City.

Shelter Site & Building Needs

2. Emergency homeless shelter sites should be located within a reasonable distance or travel time from services and facilities used by the homeless. These services and facilities include the following: food service (if not provided at the shelter); bus stops or rail transit stations; Government offices that provide support services; job search, placement and training facilities; areas that provide jobs with varying education, skill and experience requirements; and, health services. In aid of this, shelter sites should be located on or near arterials or major collectors.
3. Shelter sites should be in areas that are generally safe and that can be characterized as having relatively low crime rates as indicated by Police Department beat statistics including emergency calls for service.
4. The size of a shelter site or building should be commensurate with the size of the proposed shelter and adequate to support a variety of space needs for the services to be provided to ensure that the shelter operation will be fully contained on site.
5. Sites should have or be able to accommodate adequate parking for shelter vehicles, the personal vehicles of shelter staff, visitors, and the homeless people that have vehicles. Parking standards may vary with shelter type.

TITLE	PAGE	POLICY NUMBER
EMERGENCY HOMELESS SHELTER CRITERIA	5 of 7	6-

Contextual Parameters

6. Emergency homeless shelters should not be located within residential areas (i.e., areas that are planned for residential use as well as those predominately zoned for and developed with residential uses). The minimum separation between shelter sites and residential areas should generally be 150 feet. This separation may be varied if, due to physical circumstances, shelter orientation, or design, a buffer can be provided that would have the same effect as, or be qualitatively better than, the 150 foot separation. The separation between shelters and residential areas should also vary with the size of the shelter; larger shelters should be required to maintain larger separations than 150 feet from residential areas.
7. Emergency homeless shelters would preferably be located on lands with a General Plan designation of Commercial (except Core Area), Combined Industrial/Commercial, Heavy Industrial, or Light Industrial. There might be lands designated Industrial Park which would be appropriate for shelters of 50 beds or less. Emergency homeless shelters should not be located on lands designated Core Area, Research/Development, Administrative Office/Research & Development, or Campus Industrial.
8. Emergency homeless shelters should generally be located away from schools and parks. The minimum separation between shelter sites and schools or parks should be 500 feet. This required separation should vary with shelter size with larger shelters maintaining larger separations from schools and parks. Only shelters oriented to serving children or families with children may be located closer than 500 feet to schools and parks since such facilities are more likely to be needed by homeless children.
9. Emergency homeless shelters should be located so as to minimize the travel routes through residential neighborhoods that may be necessary to get to transit facilities or to other services needed by the homeless.
10. Adequate pedestrian access (sidewalks) and off-site night lighting should be provided between an emergency homeless shelter and transit facilities or other services used by the homeless.
11. The separation between emergency homeless shelters should be adequate to avoid the undue concentration of emergency shelters in any particular area. The separation standards presented in the table below are based on shelter size; shelter size refers to the combined total of year around and temporary cold weather beds allowed by an approved Conditional Use Permit. The separation between shelters should be varied only if it can be shown that such variation will have no adverse effects on nearby uses and such variation would not diminish the stability of nearby residential neighborhoods. The following separation standards should be used:

TITLE EMERGENCY HOMELESS SHELTER CRITERIA	PAGE 6 of 7	POLICY NUMBER 6-
---	-----------------------	----------------------------

Shelter Size (Number of Beds)	Minimum Separation from Other Shelters
25 or less	0.25 mile
26-75	0.50 mile
76-100	1.00 mile
101-125	1.50 miles
126 or more*	2.00 miles

*This refers only to shelters with Conditional Use Permits that allow a combination of year around and cold weather beds.

C. Performance

1. Shelter providers should establish *shelter management plans* in conjunction with the required conditional use permit. Shelter management plans should address "good neighbor" issues, transportation issues, client supervision, food service, and client services. The "good neighbor" and transportation components of the shelter management plan are particularly important because these components deal with the "external" impacts associated with a shelter's operation. The proper functioning of these components are important to ensuring that shelter use will be compatible with adjacent and nearby uses and that potential problems are addressed expeditiously.
 - a. The "good neighbor" component of the shelter management plan should describe how the shelter provider will communicate with neighborhood and business groups as well as nearby neighbors to address issues of concern and would identify the means for addressing problems or concerns as they arise. This component should also address crime prevention, alcohol and drug use prohibition and enforcement, control of loitering, control of littering, and movement of clients through neighborhoods.
 - b. The transportation component of the shelter management plan should address how clients are expected to arrive at and depart from the shelter, the availability of public transit, the assistance which will be provided to clients in planning their mode and route of transportation to desired destinations, and the supplemental transportation service which will be provided by the shelter.
2. Shelter providers should have on-site staff sufficient in number, experience, and training to adequately manage shelter clients both inside the shelter as well as outside.
3. Shelter activities should be enclosed within a building except for on-site outdoor waiting and play areas at family shelters.

4. Shelters should include some outdoor space for resident-only use. Outdoor waiting areas should be physically separated from the public right-of-way and should be large enough to accommodate the expected number of clients. Outdoor areas should be enclosed and appropriately screened to ensure privacy and to provide comfortable waiting areas.
5. Hours of operation should be designed to minimize loitering around the shelter. It is generally preferable that shelters be open twenty-four hours a day to allow for the provision of a full range of services and to allow those homeless who work at night to have a place to stay. At a minimum, shelters should be open at least eight of the twelve hours between 7:00 a.m. and 7:00 p.m. to allow clients to filter in and out of the shelter rather than require clients to enter or leave during a narrow span in time. If a shelter does not provide 24-hour services, its service programs should be integrated with existing day programs serving the homeless.
6. Shelters should be operated and managed in a manner as to avoid interference with the operation of adjacent uses, particularly in terms of site access or the creation of traffic safety hazards.
7. Emergency homeless shelters should not, in general, mix homeless families and special needs-homeless, with the general homeless population. Shelters that are specifically designed to separately house and serve different homeless populations may be allowed if approved through the Conditional Use Permit process. The Housing Department will be consulted on the application of the Policy on Homelessness to each Conditional Use Permit for an emergency homeless shelter as it pertains to this criterion.

October 4, 2006

City of San José Planning Commission
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113

Subject: Fall 2006 General Plan Amendment Review

Dear Planning Commissioners:

The Parks and Recreation Commission (hereinafter "Commission") reviewed the proposed Fall 2006 General Plan Amendments in a study session on September 20, 2006 and formally acted on recommendations in response to the amendments at their regular meeting on October 4, 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) **GP05-02-05:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram designation from Very Low Density Residential (2.0 DU/AC) to Medium Density Residential (8-12 DU/AC) on 4.7 acres, located on at the terminus of Skyway Drive in Council District Two. The nearest park site is Danna Rock Park, which is adjacent to the proposed amendment site.

Commission's Recommendation: *Due to the size of the proposed housing project will likely to be under 51 units, the City can only request the collection of in-lieu fess from the developer.*

2) **GP05-02-06:** General Plan Amendment request to modify the San José 2020 Land Use/Transportation Diagram designation from Very Low Density Residential (2.0 DU/AC) on 4.3 acres and General Commercial on 0.2 acres to Medium Low Density Residential (8.0DU/AC) on 4.5 acres of land, located on the easterly side of Monterey Highway, approximately 800 feet northwesterly of Skyway Drive in Council District Two. The nearest park to the proposed amendment site is Danna Rock Park.

Commission's Recommendation: *Due to the size of the proposed housing project will likely to be under 51 units, the City can only request the collection of in-lieu fees from the developer.*

3) **GP06-02-02 & UGB06-001:** General Plan Amendment request to modify the Greenline/Urban Growth Boundary to include 2.6 acres into the urban area and to modify the San José 2020 Land Use/Transportation Diagram designation from Rural Residential (0.2 DU/AC) to High Density Residential (25-50 DU/AC) on 3.2 acres of land, located on the easterly side Piercy Road, at the northeasterly corner of Piercy Road and Silicon Valley Road in

Council District Two. The nearest park to the proposed amendment site is Basking Ridge Park to the south.

Commission's Recommendation: *The Commission does not support any changes to the Greenline/Urban Growth Boundary. If the boundary adjustment is approved by City Council, the Commission requests that a one acre public park site be required from the developer.*

4) **GP05-03-08:** General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram designation from Combined Industrial/Commercial and General Commercial to Downtown Core Area on 1.7 acres, located on the northeasterly side of Stockton Avenue, approximately 300 feet northerly of Santa Clara Street in Council District Three. This amendment could allow a mix-use project at this site. The nearest park is Cahill Park, approximately 1/8 mile to the south of the proposed amendment site, which requires the crossing of The Alameda.

Commission's Recommendation: *The Commission is concerned with the lack of parklands in this area. The Commission cannot support this amendment or any additional residential projects within this area that would cause pedestrian traffic to cross The Alameda, a four lane street, to access a public park.*

5) **GP06-03-01:** General Plan Amendment request to modify the San José 2020 Land Use/Transportation Diagram designation from Light Industrial to Transit Corridor Residential (20+ DU/AC) on 24.8 acres, located on the northeasterly side of North King Road and Dobbin Drive, approximately 640 feet south of Mabury Road in Council District Three. The nearest park is Overfelt Gardens, approximately 1/2 mile to the south of the proposed amendment site.

Commission's Recommendation: *Due to the size of the proposed housing project will likely to be over 51 units, the City should request the maximum land dedication possible from the developer.*

6) **GP06-04-02:** General Plan Amendment request to modify the San José 2020 Land Use/Transportation Diagram designation from Industrial Park to High Density Residential (25-50 DU/AC) on 21.4 acres and 6 acres of Neighborhood/Community Commercial, located at the southeast corner side of East Brokaw Road and Old Oakland Road in Council District Four. The nearest park is Townsend Park, approximately 3/4 mile to the north of the proposed amendment site.

Commission's Recommendation: *Due to the size of the proposed housing project will likely to be over 51 units, the City should request the maximum land dedication possible from the developer.*

7) **GP06-04-04:** General Plan Amendment request to modify the San José 2020 Land Use/Transportation Diagram designation from Neighborhood/Community Commercial and High Density Residential (25-50 DU/AC) to Medium High Density Residential on 14.28 acres and 3.2 acres of Neighborhood/Community Commercial, located at the southeast corner side of Berryessa Road and Jackson Avenue in Council District Four. The nearest park is Vinci Park, approximately 1/3 mile to the northwest of the proposed amendment site.

Commission's Recommendation: *Due to the location of the proposed housing project, the recommendation is the collection of in-lieu fees for the build out of Penitencia Creek Park (Reach 6), which is a block south of the proposed amendment site on Jackson Avenue.*

8) **GP06-07-02:** General Plan Amendment request to modify the San José 2020 Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Medium Density Residential (8-16 DU/AC) on 1.5 acres, located at the northeast side of McLaughlin Road, approximately 640 feet southeast of Tully Road in Council District Seven. The nearest park is the Tully Ballfields/Stonegate Park Complex, approximately 1/2 mile to the west of the proposed amendment site.

Commission's Recommendation: *Due to the size of the proposed housing project will likely to be under 51 units, the City can only request the collection of in-lieu fees from the developer.*

9) **GP06-07-03:** General Plan Amendment request to modify the San José 2020 Land Use/Transportation Diagram designation from Combined Industrial/Commercial to Medium High Density Residential (12-25 DU/AC) on 2.35 acres, located at the south side of Umbarger Road, approximately 200 feet northeast of Monterey Road in Council District Seven. The nearest parks are the Solari and Stonegate Parks, approximately 1/2 mile away from the proposed amendment site.

Commission's Recommendation: *Due to the size of the proposed housing project will likely to be under 51 units, the City can only request the collection of in-lieu fees from the developer. Such collection should be used for a partial acquisition of the County Fairgrounds for a neighborhood park on Umbarger Road.*

The following amendments are also associated with the Evergreen-East Hills Vision Plan Project.

10) **GP05-08-01A:** General Plan Amendment request to modify the San José 2020 Land Use/Transportation Diagram designation from Public/Quasi-Public, Medium Low Density Residential (8 DU/AC), Office, Industrial Park and Public Park/Open Space to Mixed Use with No Underlying Land Use Designations on 81.0 acres, located on the south side of Quimby Road, approximately 1,000 feet westerly of Capitol Expressway in Council District Eight. The nearest park is Meadowfair Park, which is adjacent to the south boundary of the proposed amendment site.

Commission's Recommendation: *Due to the size of the proposed housing project will likely to be around 1875 units, the City should request the maximum land dedication possible from the developer, which could be around 12 acres.*

11) **GP05-08-01B:** General Plan Amendment request to modify the San José 2020 Land Use/Transportation Diagram designation from Private Recreation to Medium Density Residential (8-16 DU/AC), Neighborhood/Community Commercial, and Public Park/Open Space on 114 acres, located at the northeast corner of Tully and White Roads in Council District Eight. The nearest park is Lake Cunningham Regional Park, just across White Road from the proposed amendment site.

Commission's Recommendation: *Due to the size of the proposed housing project will likely to be around 750 units, the City should request the maximum land dedication possible from the developer, which could be around 7 acres.*

12) GP05-08-01C: General Plan Amendment request to modify the San José 2020 Land Use/Transportation Diagram designation from Campus Industrial to Medium Low Density Residential (8.0 DU/AC), and Public Park/Open Space on 175 acres, located at the southeast corner of Fowler and Yerba Buena Road in Council District Eight. The nearest park is the future Fowler Park, now under construction, around a 1/4 mile to the west from the proposed amendment site.

Commission's Recommendation: *Due to the size of the proposed housing project will likely to be around 1,100 units, the City should request the maximum land dedication possible from the developer, which could be around 11 acres.*

13) GP05-08-01D: General Plan Amendment request to modify the San José 2020 Land Use/Transportation Diagram designation from Campus Industrial to Medium Density Residential (8-16 DU/AC), and Public Park/Open Space on 24 acres, located at the eastside of Yerba Buena Road, opposite of Verona Road in Council District Eight. The nearest park is Montgomery Hill Park, across Yerba Buena Road from the proposed amendment site.

Commission's Recommendation: *Due to the size of the proposed housing project will likely to be around 225 units, the City should request the maximum land dedication possible from the developer, which could be around 2 acres.*

14) GP05-08-01E: General Plan Amendment request to modify the San José 2020 Land Use/Transportation Diagram designation from Campus Industrial to Medium Density Residential (8-16 DU/AC), Medium Low Density Residential (8 DU/AC) and Public Park/Open Space on 120 acres, located at the northeast corner of Yerba Buena Road and Old Yerba Road in Council District Eight. The nearest park is Montgomery Hill Park, across Yerba Buena Road from the proposed amendment site.

Commission's Recommendation: *Due to the size of the proposed housing project will likely to be around 675 units, the City should request the maximum land dedication possible from the developer, which could be around 6 acres.*

15) GP05-08-01F: General Plan Amendment request to modify the San José 2020 Land Use/Transportation Diagram designation from Public/Quasi-Public to Mixed Use with No Underlying Land Use Designations on 27 acres, located at the north side of Yerba Buena Road, approximately 350 feet easterly of San Felipe Road in Council District Eight. The nearest parks, Evergreen park, the future Falls Creek Park and Montgomery Hill Park, are within walking distance from the proposed amendment site.

Commission's Recommendation: *Due to the location of the proposed housing project, the recommendation is the collection of in-lieu fees to enhance the surrounding parks.*

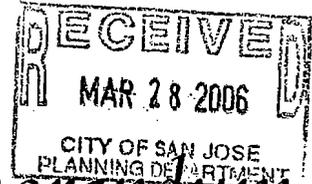
The Parks and Recreation Commission will be glad to answer any questions the Planning Commission may have regarding these recommendations.

Sincerely,

A handwritten signature in cursive script that reads "Helen Chapman" with a small "cs" monogram to the right.

Helen Chapman
Chair, Parks and Recreation Commission

cc: Albert Balagso, PRNS
Joseph Horwedel, PBCE



Memorandum

TO: Allen Tai
Planning and Building

FROM: Michael Liw
Public Works

SUBJECT: RESPONSE TO GENERAL PLAN
AMENDMENT APPLICATION

DATE: 03/22/06

PLANNING NO.: GP06-03-01
DESCRIPTION: GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Light Industrial to Transit Corridor Residential (20+ DU/AC) on a 24.8-acre site. (Various, Owner/San Jose Transit Village Partners, LLC)
LOCATION: Northeasterly side of North King Rd, approximately 640 ft south of Mabury Rd.
P.W. NUMBER: 3-18031

Public Works received the subject project on 02/08/06 and submits the following comments:

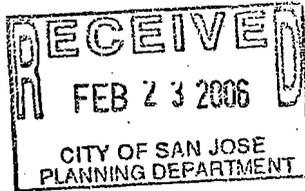
<u>[AH]</u>	Flood Zone
<u>[NO]</u>	Geological Hazard Zone
<u>[NO]</u>	State Landslide Zone
<u>[YES]</u>	State Liquefaction Zone
<u>[See Note 1]</u>	Inadequate Sanitary capacity
<u>[NO]</u>	Inadequate Storm capacity
<u>[NO]</u>	Major Access Constraints

Comments:

1. Flow monitoring of the sanitary sewer lines in the area will be required at the Zoning stage. Sanitary sewer mitigation requirements, if any, will be identified based on analysis of the flow monitoring data.
2. A Traffic Impact Analysis Report is required prior to environmental clearance at zoning.

Please contact the Project Engineer, Mirabel Aguilar at 535-6821 if you have any questions.

Michael Liw
Senior Civil Engineer
Transportation and Development Services Division



Memorandum

DATE: 02/21/06

TO: Allen Tai

FROM: Nadia Naum-Stoian

Re: Plan Review Comments

PLANNING NO: GP06-03-01

DESCRIPTION: GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Light Industrial to Transit Corridor Residential (20+ DU/AC) on a 24.8-acre site. (Various, Owner/San Jose Transit Village Partners, LLC)

LOCATION: northeasterly side of North King Rd, approximately 640 ft south of Mabury Rd.

ADDRESS: northeasterly side of North King Rd, approximately 640 ft south of Mabury Rd. (686 N KING RD)

FOLDER #: 06 004689 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 application provided does not include adequate information for our review; Fire Department staff will provide further review and comments when additional information is received as part of subsequent permit applications.

Planner to check with Hazardous Materials Division, , Michael Murtiff, for Environmental concerns, and Fire Administrative Officer Geoff Cady for response impact.

A handwritten signature in black ink, appearing to read "Nadia Naum-Stoian".

Nadia Naum-Stoian
Fire Protection Engineer
Bureau of Fire Prevention
Fire Department
(408) 535-7699



March 3, 2006

City of San Jose
Department of Planning and Building
200 East Santa Clara Street
San Jose, CA 95113

Attention: Allen Tai

Subject: City Eile No. GP06-03-01 / King-Mabury General Plan

Dear Mr. Tai:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the General Plan amendment for Transit Corridor Residential (20+ du/ac) on 25 acres on the east side of King Road, 640 feet south of Mabury Road. We have no comments at this time but are interested in reviewing future referrals for this project.

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

Sincerely,

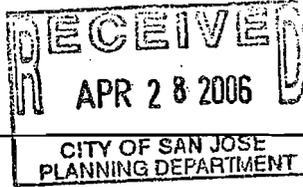
A handwritten signature in black ink, appearing to read "Roy Molseed".

Roy Molseed
Senior Environmental Planner

RM:kh

cc: Ebrahim Sohrabi, San Jose Development Services
Samantha Swan, VTA

SJ0605



Memorandum

TO: Stan Ketchum
Planning, Building
and Code Enforcement

FROM: Manuel Pineda

SUBJECT: TRAFFIC IMPACT ANALYSIS
FOR GP06-03-01

DATE: 04-24-06

Approved

Date

File Number: GP06-03-01
Location: N/E of N. King Rd., approx. 640 feet S/o Mabury Rd.
Acreage: 24.8 ac.
Description: Light Industrial to Transit Corridor Res. (20+ DU/AC)
(Add 1364 HH, Delete 136 J)
Outside Special Subarea (Remainder of City)

We have reviewed the subject General Plan Amendment (GPA) and submit the following comments. This GPA requires a computer model traffic impact analysis based on established criteria. We have completed the CUBE analysis, and the results of the analysis indicate that the impacts exceed the established significant threshold. Therefore, we conclude that the proposed land use change is projected to have a significant traffic impact.

The applicants shall contact the Department of Transportation to review and discuss the results of the analysis and obtain traffic data necessary for the preparation of the EIR. The cumulative traffic impact analysis will be performed by the City, and cumulative traffic impact report will be prepared by a consultant to be selected. This cumulative traffic impact report shall be incorporated into all EIRs within this GPA cycle.

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

for Paul Ma
MANUEL PINEDA
Senior Civil Engineer
Department of Transportation

MP:PM

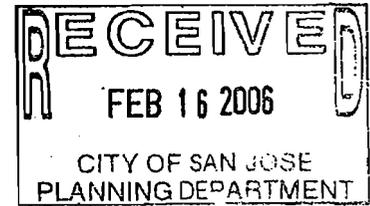
cc: Jenny Nusbaum
Allen Tai



SANTA CLARA COUNTY

Airport Land Use Commis

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



February 15, 2006

Allen Tai, 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: City of San Jose No. GP06-03-01
General Plan Amendment request to change the Land Use/Transportation
Diagram designation from Light Industrial to Transit Corridor Residential
(20+ DU/AC) on a 24.8 acre site located on the northeast side of North King
Road, approximately 640 feet south of Mabury Road (APN 254-04-076)**

Dear Allen:

I am writing in response to the City of San Jose's referral of the above-referenced project. The project site is located approximately 1.9 miles from the nearest referral zone, Reid-Hillview Airport. Therefore, the project site lies outside the Airport Land Use Commission (ALUC) project referral boundaries and the ALUC has no comments.

ALUC staff appreciates the opportunity to review this project. If you have any, please contact me at (408) 299-5798.

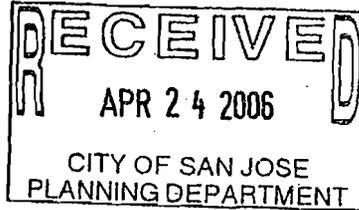
Sincerely,

Dana Peak
ALUC Staff Coordinator



**San Jose
Water
Company**

374 West Santa Clara St.
San Jose, CA 95196-0001



April 20, 2006

Allen Tai
City of San Jose
Department of Planning, Building & Code Enforcement
200 E. Santa Clara Avenue, Tower 3rd Floor
San Jose, CA 95113

Reference: Revised Water Supply Assessment (WSA) for the Dobbin Drive Project

Dear Mr. Tai:

The City of San Jose (City) requested a revised WSA from San Jose Water Company (SJWC) for the Dobbin Drive Residential General Plan Amendment per your email dated April 11, 2006. The revised Dobbin Drive project site consists of nine parcels on 24.8 acres located on the north side of Dobbin Drive at North King Road. The project site is currently developed with light industrial and warehouse buildings. The proposed project consists of a land use designation change from light industrial to transit corridor residential, with a maximum of 1,364 residential units, near the planned Berryessa BART Station. Also included is the general plan amendment is 248,800 square feet of commercial development.

The water usage of this proposed development was included in the growth projections of SJWC's 2005 Urban Water Management Plan. In addition, a hydraulic analysis of SJWC's existing distribution system was performed with and without the Dobbin Drive Project demand of 352,800 gallons per day (245 gallons per minute) or approximately 130 million gallons per year. This demand was based on the City's estimates of 225 gallons per day usage for each single family high density residential unit and 0.18 gallons per day per square foot of commercial space. The model results showed that the additional Dobbin Drive Project demand had a minimal impact on the existing distribution system. SJWC should be able to adequately supply the Dobbin Drive Project without any additional source of supply or system operation changes.

If you have any questions, call me at (408) 279-7862.

Sincerely,

Nicole Dunbar, P.E.

Nicole Dunbar, P.E.
Planning Supervisor

Tai, Allen

From: Leo Gorospe [emailzme@yahoo.com]
Sent: Thursday, November 02, 2006 11:43 AM
To: darren.mcbain@sanjoseca.gov; allen.tai@sanjoseca.gov
Subject: Dobbin Drive Residential Plan
Follow Up Flag: Follow up
Flag Status: Completed

Hi my name is Leo Gorospe and I live on Mabury Rd., where the Dobbin Housing Project will be built behind my house. I don't have any real issue about this but do have one concern.

I notice a cell tower in the area of the Dobbin Project and other one on the next block over. I do not know what service are provided by these towers but I do have excellent reception in our area. My cell phone service is through Verizon.

Will the tower in the Dobbin project be coming down or be relocated? I don't know if it is or not Verizon but who ever that tower belongs to there will be some unhappy folks if all of the sudden there reception becomes weak or become a dead zone.

I hope it is not to late to be able to address this issue.

Leo Gorospe
12520 Mabury Rd.
(408)204-7546

PS. Has there been any plans on how the housing area may look like. What I would be interested in is will our backyard be adjacent to another backyard or will it be a road?

11/7/2006

Tai, Allen

From: George Gummow [george.w@hughes.net]
Sent: Wednesday, October 18, 2006 2:02 PM
To: allen.tai@sanjoseca.gov
Subject: Dobbin Dr. General Plan Amendment

Allen,

My name is George Gummow. My brothers Guy, Todd & I attended the community meeting @ the American Business College on May 4th. We own the property @ 1885 Las Plumas Ave & are in favor of the general plan amendment. Can you let me know of any current news on this project & is this project on schedule for Planning Commission comments/recommendations for approval or denial in November-December.

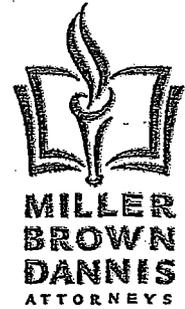
Thank you

George Gummow
515-9423

11/7/2006

CHAD J. GRAFF
ATTORNEY AT LAW
cgraaff@mbdlaw.com

SAN FRANCISCO



July 7, 2006

VIA E-MAIL AND U.S. MAIL

Will Burns
Project Manager
David J. Powers & Associates, Inc.
1885 The Alameda, Suite 204
San Jose, CA 95126

Re: Preparation of Draft Environmental Impact Report;
Dobbin Drive Residential General Plan Amendment Project;
Comments by Alum Rock Union Elementary School District;
Our file: 1105.10106

Dear Mr. Burns:

The Alum Rock Union Elementary School District ("District") and your office have exchanged preliminary information on the preparation of a Draft Environmental Impact Report ("DEIR") for the Dobbin Drive Residential General Plan Amendment Project ("Project"). This Project foresees high-density residential development. Because of the overwhelming potential impacts of this Project on the District, the District asked this office to provide preliminary comments on behalf of the District for the preparation of the DEIR.

The District is primarily concerned with the following issues raised by the Project:

- The DEIR must adequately address the need to house the students to be generated by the foreseen development and discuss or provide mitigation.
- The DEIR must discuss or provide mitigation for community and recreational facilities for the students and residents of the District.

A. The DEIR Must Address Provision of Adequate School Facilities To House The Students That Will Be Generated By The Residential Development:

The Project's new residential development will generate a large number of new elementary and middle school students that the District will be obligated to serve. Current Project projections show approximately 1364 new residential units as part of a

SAN FRANCISCO

71 Stevenson Street
Nineteenth Floor
San Francisco, CA 94105
Tel 415.543.4111
Fax 415.543.4384

LONG BEACH

301 East Ocean Boulevard
Suite 1750
Long Beach, CA 90802
Tel 562.366.8500
Fax 562.366.8505

SAN DIEGO

750 B Street
Suite 2310
San Diego, CA 92101
Tel 619.595.0202
Fax 619.702.6202
www.mbdlaw.com

VIA E MAIL AND U.S. MAIL

Will Burns

David J. Powers & Associates, Inc.

July 7, 2006

Page 2

high-density residential development. A recent demographic study determined the following student generation rates for areas west of Capitol Avenue/Expressway:

<u>Type of Housing</u>	<u>Student Generation Rate</u>
Most Affordable SFD	1.11
Modest Income SFD	.96
Minimal Amenities Attached	
Duplexes through Fourplexes	.96
Apartments, Condos, Townhouses	.77
Intermediate Attached: Section 8	.65
Intermediate Attached: Market Rate	.75
Upgrade Attached (incl. large duplexes)	.22

Projected Enrollment 2000-2010
Enrollment Projection Consultants
3 West 37th Avenue, Suite 7
San Mateo, CA 94403-4457

It appears that using a student generation rate of .6 students per dwelling unit substantially underestimates the number of students the Project will generate. To determine approximate numbers, the District would need to know the number of each type of unit within the Project.

Nonetheless, even a low generation rate of .6 students per dwelling unit for the Project results in 818 additional students for which the District has no facilities. At the District's generation rates, even more students will be generated. Assuming that 29% of these students attend middle school and using the low estimate, the Project will generate approximately 578 new elementary school students, a number which exceeds the current average total student population of a District elementary school, and 240 new middle school students. The District does not have adequate space to house these new students.

VIA E MAIL AND U.S. MAIL

Will Burns

David J. Powers & Associates, Inc.

July 7, 2006

Page 3

The District has nineteen elementary schools (grades K-5/6) and seven middle schools (grades 6-8). McCollam Elementary School and Sheppard Middle School currently serve the area where the Project will be located. The capacity of McCollam Elementary School is 650 students and current enrollment is 538. The capacity of Sheppard Middle School is 900 and current enrollment is 650. Current District-wide elementary enrollment is at 85% of capacity and middle school enrollment is at 76% of capacity.

The District has very limited available space at its current school sites to house students from the new Project. The District recently completed a space utilization study and determined that no one school would be able to accommodate all of the students generated by this Project. The students would have to be bused to several different schools. Moreover, the District expects new incoming students from other new development projects already in process to fill its limited available space. If any space remains for new Project students at existing District sites, this space will be at various school sites and busing will be necessary to transport Project students to available spaces. This will mean an additional burden on the District's existing transportation capacity and require the purchase of new buses and the hiring of new bus drivers. The additional burden from this Project would require the hiring of approximately five new bus drivers and the purchase of five new buses. The hiring of school bus drivers is a difficult task in today's market. The District spent the entire 2005/06 school year with two open driver positions. The necessary numbers of new drivers and buses may increase depending upon how many schools the children will be distributed among. Alternatively, attendance areas would need to be reconfigured and a larger number of current District students would need busing.

The District estimates that the Project will require at least one new elementary school to house new students generated by the Project. The new school would need to house approximately 600 students. The District estimates that it will require a school with at least 30 classrooms, a minimum of two per grade, for a kindergarten through 5th grade (K-5) school. Under the formula of the state Office of Public School Construction the minimum acreage for a K-5 school with 30 classrooms is 9.6 acres. In addition to regular classrooms, multi-use, and administrative space, the school must have facilities to house preschool children, special education services, migrant student services, and a media center. These are minimal amenities required for a properly sized and functional public K-5 school.

The District expects that dedication of space for a new school site will be included in the proposed mitigation of the Project's impacts. Yet, dedication of a school site does

VIA E MAIL AND U.S. MAIL

Will Burns

David J. Powers & Associates, Inc.

July 7, 2006

Page 4

nothing to secure the critical funding needed for the construction of the school to serve students generated by this Project.

A K-5 school with 30 classrooms and the appropriate auxiliary facilities is estimated to cost a minimum of \$13,000,000 to construct. This estimate does not include any cost for land acquisition, furniture and equipment, or educational materials. In addition, this estimate does not include the cost of escalation in construction costs which has exceeded 4 percent per year in recent years. Construction of an actual school facility would take from three to five years.

The District is currently eligible to collect Level 1 developer fees of \$1.43 per square foot of residential space and \$.22 per square foot of commercial/industrial space. Such developer fees will barely begin to mitigate the impact of the Project on the District's facilities, however, and will be inadequate to fund the construction of facilities necessary to house the Project students. As a small school district dependent on limited state revenue, the District is not in a financial position to build the necessary school facilities to house the students generated by this large Project. In 1991 the District passed a \$47 million bond. As a result, the District's remaining bonding capacity is approximately \$23 million. The District expended all of the \$47 million on improvements to facilities at existing sites. In order to have bond funding for a new school to meet the needs presented by this Project, the District would have to receive the approval of voters on a new bond measure, which would be a formidable task for the community.

It is critical, therefore, for the DEIR to discuss the significant impact of student generation from the Project upon the District's limited school facilities and to review available mitigation measures extensively. CEQA requires this discussion and consideration. (See Pub. Resources Code, §§ 21002.1, 21100; Title 14 Cal. Code of Regs. §§ 15126.2, 15126.4, "CEQA Guidelines.")

B. The DEIR Must Address Provision Of Adequate Community And Recreational Facilities To Serve The District's Residents.

The Project's proposed high-density residential development of the Project will also impact the limited community and recreational facilities available to the District's residents. The City of San Jose has funded or assisted with funding of three large youth centers and two smaller youth-oriented buildings. All five are on District property. A new community library is being built on a sixth site. Both youth and adult sports leagues use District sites daily. There does not appear to be any other

VIA E MAIL AND U.S. MAIL

Will Burns

David J. Powers & Associates, Inc.

July 7, 2006

Page 5

public land available through either the City or the County for community recreation. The Project's new development should provide the impacted communities recreation facilities and other community services. Such facilities and services are critical to the quality of life of the children of the District community and their families. The DEIR should address the impacts of potential overcrowding of existing community and recreational facilities.

As discussed above, the District has no resources to assist in providing, expanding or improving these types of facilities in light of the fact that it does not have sufficient financial resources to build classrooms. The Project description should describe current community and recreational facilities in great detail and address the Project's impacts on these facilities in the DEIR.

C. Conclusion

For the foregoing reasons, the District believes the DEIR must address the provision of adequate school facilities to house new students generated by the Project and the provision of community and recreational facilities for District residents. The District faces an overwhelming impact from the proposed Project. Even using a low estimate, the Project will generate approximately 578 new elementary school students, a number that exceeds the number of students currently housed at an average-sized District elementary school, and 240 additional middle school students. CEQA requirements provide for discussion and review of these impacts and provision of adequate mitigation measures.

Please contact the District directly or us if you have any questions regarding these comments. Thank you for your consideration.

Very truly yours,

MILLER BROWN & DANNIS


Chad J. Graff

cc: Linda Latasa