



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** April 28, 2008

**COUNCIL DISTRICT:** 2  
**SNI AREA:** N/A

**SUBJECT: UGB06-001/GP06-02-02. REQUEST TO: 1) MODIFY THE GREENLINE/URBAN GROWTH BOUNDARY (UGB) TO INCLUDE APPROXIMATELY 3.2 ACRES OF UNINCORPORATED TERRITORY (FILE NO. UGB06-001); AND 2) AMEND THE GENERAL PLAN LAND USE/TRANSPORTATION DIAGRAM TO CHANGE THE GENERAL PLAN LAND USE DESIGNATION FROM RURAL RESIDENTIAL (0.2 DWELLING UNITS PER ACRE) TO HIGH DENSITY RESIDENTIAL (25-50 DWELLING UNITS PER ACRE) AND EXPAND THE URBAN SERVICE AREA (USA) TO INCLUDE THE APPROXIMATELY 3.2-ACRE SITE (FILE NO. GP06-02-02) LOCATED AT THE NORTHEASTERLY QUADRANT OF PIERCY ROAD AND SILICON VALLEY ROAD.**

## RECOMMENDATION

The Planning Commission voted 4-1-2, Commissioner Kinman opposed, Commissioners Campos and Zito absent, to recommend approval of the minor modification of the Greenline/Urban Growth Boundary (UGB) to include approximately 3.2 acres of unincorporated territory located at the northeasterly quadrant of Piercy Road and Silicon Valley Road. The Planning Commission also voted 5-0-2, Commissioners Campos and Zito absent, to recommend denial of the General Plan amendment request to change the Land Use/Transportation diagram designation from Rural Residential (0.2 dwelling units per acre (du/ac)) to High Density Residential (25-50 du/ac) and to expand the Urban Service Area (USA) to include the subject 3.2-acre site.

## OUTCOME

Should the City Council approve the UGB minor modification and deny the General Plan amendment and USA expansion as recommended by the Planning Commission, the UGB would be modified to include the subject site, but the site would remain outside of the USA under a non-urban land use designation of Rural Residential (0.2 du/ac).

## BACKGROUND

On March 27, 2006, the applicant, Barbaccia Investments, requested a General Plan amendment request (File No. GP06-02-02) to change the San José 2020 General Plan land use designation from Rural Residential (0.2 du/ac) to High Density Residential (25-50 du/ac) and expansion of the USA

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boundary to include a 3.2-acre site located in unincorporated territory on Piercy Road. The proposal requires a minor modification of the UGB (File No. UGB06-001).

The vicinity of the site is primarily characterized by undeveloped grasslands and horse pastures. The subject site is currently designated Rural Residential (0.2 DU/AC) and is intended for single-family development on lots at least five acres in size. Land use designations limiting development to less than one dwelling unit per acre are considered non-urban in the General Plan. Non-urban land use designations are typically applied to hillside areas located outside of the UGB and USA to preserve open space and to avoid development issues associated with geologic hazards.

The UGB defines the ultimate limit of urbanization in the City by setting clear boundaries to urban development intended in the General Plan. The USA directs urban development to those areas where municipal services and facilities can be provided in an efficient and orderly manner. Together the UGB and USA govern when and where development should occur, including the extension of urban services, so that the City can maximize efficiencies in providing services to residents.

### ANALYSIS

On April 21, 2008, the Planning Commission held a public hearing to consider the subject UGB modification, General Plan amendment and USA expansion. The Director of Planning recommended denial of the General Plan amendment and USA expansion, but recommended approval of the minor modification of the UGB only because the site characteristics meet the criteria for a UGB minor modifications as set forth in Title 18 of the Municipal Code.

### Public Testimony

Tom Cooke, representing Barbaccia Investments, presented the applicant's proposal. Mr. Cooke stated that the site is surrounded by sites located within the UGB and USA and that the site is less than one mile from the freeway, 7.5 miles from downtown, and approximately one mile from regional transit. He stated that the site is suitable for multi-family development because it allows future development on the site to be terraced to preserve views while maintaining ample open space. Mr. Cooke suggested that the proposal is consistent with General Plan policies for housing development and diversification of housing types in the City. He also stated that multi-family housing on the site will help the City meet its housing goals and contribute to a good jobs/housing balance.

Joanie Morgado, resident of the single-family residential neighborhood to the south of the site, expressed strong opposition to the applicant's proposal for high density housing development. She expressed concerns about the domino effect that the proposal would have on future development of other sites in the vicinity and the cumulative effect on traffic congestion in the area. Ms. Morgado also stated that high-density condominium development is incompatible with the surrounding character and the existing single-family neighborhood on Basking Ridge Avenue.

### Planning Commission Discussion

Chair Kalra asked whether the subject site is intended to be a buffer between the existing single-family residential neighborhood to the south and the industrial park uses planned to the north. Staff responded that high-density residential uses adjacent to industrial park uses can potentially be

compatible, but that some industrial park uses may be constrained if residential is adjacent. Staff explained further that high density residential is inappropriate on the subject site because of the geological risks, and location on the urban fringe, with rural and pastoral uses to the north.

In response to a request for clarification from the Planning Commission, staff explained that the U.S. Fish and Wildlife Service correspondence, dated July 7, 2006, is related to analysis of the future development on the site and its potential impact on wildlife movement between the hillsides and Coyote Creek. Staff indicated that the project does not have a significant impact on wildlife movement given the ample open space in the vicinity.

In response to a request for clarification from the Planning Commission, staff explained that the existing infrastructure in the vicinity is funded by the owners of industrial-designated property through an assessment district. The infrastructure improvements do not contemplate development on the site, and future development on the site would require examining the project's fair-share contribution to the assessment district. Future development on the site at the density range proposed by the applicant would require upgrading and expanding existing infrastructure, which was only completed in recent years.

Commissioner Platten motioned to recommend approval of File No. UGB06-001, minor modification of the UGB, as recommended by staff. The Planning Commission debated the staff recommendation against the criteria for UGB minor modifications set forth in Title 18 of the Municipal Code. The City Attorney indicated that the Commission may make its own findings for an alternate recommendation to the City Council, and the Commission discussed the possibility for the City Council to deny the UGB minor modification. The Commission voted 4-1-2, Commissioner Kinman opposed and Commissioners Campos and Zito absent, to recommend approval of the minor modification of the UGB to include the subject site.

Commissioner Platten motioned to recommend denial of the General Plan amendment and expansion of the USA request. Chair Kalra cited environmental concerns and the need to buffer industrial park uses from the existing residential neighborhood as reasons why he supports the staff recommendation to deny the proposal. The Planning Commission voted 5-0-2, Commissioners Campos and Zito absent, to recommend denial of the General Plan amendment and expansion of the USA.

### **EVALUATION AND FOLLOW-UP**

Not applicable.

### **POLICY ALTERNATIVES**

**Alternative 1.** Deny the UGB minor modification, General Plan amendment and USA expansion request.

**Pros:** Denial of the proposed UGB minor modification, General Plan amendment and the USA expansion is consistent with existing General Plan policies that discourage urban development on hillsides subject to geologic hazards.

**Cons:** None.

Reason for not recommending: Staff recommended approval of the applicant's UGB minor modification proposal because it qualifies for a UGB minor modification under the criteria set forth in Title 18 of the Municipal Code. However, the Council may deny the UGB minor modification by making findings supported by other goals and policies in the General Plan.

**Alternative 2.** Approve the UGB minor modification, General Plan amendment and the USA expansion request.

Pros: None.

Cons: Approval of the applicant's proposal would allow future residential development to occur at a density that is inappropriate for a non-urban hillside location with known geologic hazards. The proposal would result in development that is incompatible with the surrounding semi-rural character.

Reason for not recommending: The timing of urban development on a site located outside of the UGB/USA with geologic constraints is inappropriate given that housing opportunities exist in other areas of the City such as downtown and locations along transit corridors. The extension of City services to this site for higher density development would incur higher fiscal impacts to the City.

**Alternative 3.** Approve the UGB minor modification, USA expansion and change the General Plan land use designation on the site to an urban land use designation (defined as a density of one dwelling unit per acre or greater).

Pros: The subject site may be developed with a minimum of three dwelling units.

Cons: Due to identified geologic hazards on the subject site, approval of an urban land use designation is inappropriate given General Plan policies that discourage development in areas subject to geologic hazards.

Reason for not recommending: The existing Rural Residential (0.2 DU/AC) land use designation on the site is specifically intended for low-density rural uses that avoid issues associated with development in areas subject to potential geologic hazards.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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)**

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Although this item does not meet any of the above criteria, staff followed the Council Public Outreach Policy and held a community meeting on March 10, 2008. Three residents from the nearby single-family neighborhood were present and they expressed concerns about neighborhood compatibility and the potential for future traffic impacts to their neighborhood. In addition to the community meeting, the proposal was presented at the Neighborhood Roundtable on February 12, 2008 and at the Developers Roundtable on February 15, 2008 for review and comment. The Housing and Community Development Commission also considered the proposal on April 10, 2008, and the Commission recommended denial of both the subject UGB minor modification and the General Plan amendment/USA expansion.

A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the site. A description of the proposed General Plan amendment, the public hearing notice and the staff report are posted on the Planning Division web page. The Notice of the Spring 2008 hearings on the General Plan was published in the San José Post-Record. No public comments were received regarding the proposed amendment, but the applicant submitted a response to the staff report at the Planning Commission meeting and that correspondence is attached. Staff has been available to respond to questions from the public.

#### COORDINATION

This project was coordinated with the Public Works Department and the City Attorney's Office.

#### FISCAL/POLICY ALIGNMENT

Not applicable.

#### CEQA

A Negative Declaration adopted on April 21, 2008 provides environmental clearance for this proposal under CEQA. The Santa Clara County Parks and Recreation Department submitted a comment letter after the adoption of the Negative Declaration. The comment letter does not introduce any fair arguments for new significant impacts from the proposal and therefore does not necessitate a recirculation of the environmental document. The comment letter and staff response are attached.

  
For JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact Andrew Crabtree at 408-535-7893.

#### Attachments:

1. Applicant response to staff report, submitted April 21, 2008
2. Santa Clara County Parks and Recreation Department comment letter and staff response
3. Planning Commission staff report and attachments