COUNCIL AGENDA: 12/2/08
ITEM: 10.1

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: **SEE BELOW**

DATE: April 22, 2008

Approved Paul Krutt Date 4-25-08

COUNCIL DISTRICT: City-wide
SNI AREA: All

SUBJECT: **OVERVIEW OF SPRING 2008 GENERAL PLAN REVIEW AND FRAMEWORK FOR PRESERVATION OF EMPLOYMENT LANDS**

RECOMMENDATION

1. Accept the Overview of the Spring 2008 General Plan Review.
2. Accept the Status Report on the Framework for Preservation of Employment Lands (Framework);
3. Adopt a resolution to consolidate in one document: (a) the text of the Framework originally adopted by City Council on October 23, 2007, and (b) the further implementation direction for the Framework set forth by City Council on that same date, as memorialized in that certain memorandum dated October 19, 2007 from Mayor Reed and Council members Nguyen, Pyle, and Williams, and also to change the term "Extraordinary Economic Benefit" to "Extraordinary Benefit" in order to make the Framework consistent with that certain memorandum dated October 19, 2007, which recognizes that extraordinary benefits should not only be limited to those that are economic in nature, none of which actions are intended to create any substantive changes to the Framework as approved by City Council on October 23, 2007.
4. Schedule a Study Session in September 2008 to discuss the Framework and implications for implementation.

OUTCOMES

The Overview can provide information for the Council to consider when evaluating individual General Plan amendment proposals during the Spring 2008 General Plan Review.

BACKGROUND

This memorandum provides:

1) An overview of General Plan land use and text amendment proposals for consideration by the City Council during the Spring 2008 General Plan Review;
2) A status report on the *Framework for Preservation of Employment Lands* (Framework), and
3) Recommended Council actions.

Two Council policies most relevant to the Spring 2008 General Plan review are also discussed in this memorandum: 1) the General Plan text amendment adopted by Council limiting General Plan amendment hearings to at least twice a year and 2) the Framework.

ANALYSIS

1. OVERVIEW OF SPRING 2008 GENERAL PLAN REVIEW

A. Annual Review of General Plan Amendments involving Major Policy Issues

On May 22, 2007, the City Council adopted a General Plan text amendment establishing hearings on General Plan amendments at least twice a year. The text amendment stipulated that not more than once a year, the City Council should hold a General Plan hearing for the review and consideration of all proposed amendments that involve the conversion of employment land to non-employment uses, or that involve minor modifications to the Urban Growth Boundary (UGB) or expansion of the Urban Service Area (USA).

Any proposed amendment that involves a major policy issue as defined above should only be considered during this annual General Plan hearing unless early consideration for continued processing or denial is recommended by the City, in which case the amendment may be considered at the next scheduled General Plan hearing. The Spring 2008 General Plan Review includes four items required to be considered during this annual review: two proposed amendments for conversion of employment lands to residential uses; one proposal for a minor modification to the City's UGB; and one proposed expansion of the USA (see description of File Nos. GP06-04-05, GP07-06-01, GP06-02-02, and UGB06-001 in Attachment 1.a.).

B. Summary of Amendments for Spring 2008 General Plan Review

The Spring 2008 General Plan Review includes proposals for General Plan land use and text amendments on nine individual sites (see Attachment 1a, and table on next page) and one stand-alone text amendment (see Attachment 1b, File No. GP08-T-02 to allow an increase in height) on one additional site, for a total of ten sites under consideration. There are also four staff-initiated proposals for General Plan land use and text amendments related to transportation management and infrastructure investments affecting larger areas, encompassing a number of properties in the City (File Nos. GP07-03-03/GPT07-03-03, GP08-08-01/GPT08-08-01, GP08-T-04, and GP08-T-05) and a General Plan text amendment (File No. GP08-T-03) to facilitate mixed-use development on small sites (see Attachments 1a and 1b).

Staff analyzed each General Plan amendment proposal for consistency with the San José 2020 General Plan Major Strategies, goals, and policies. For the proposals involving the conversion of employment lands to other uses, staff also considered each proposal in accordance with the criteria in the Framework. In addition, staff evaluated General Plan amendment proposals (File Nos. GP07-04-02 and GP07-04-04) on sites in the North San José Development Policy Area for consistency with the criteria of the North San José Area Development Policy.

Cumulatively, approval of all nine General Plan land use amendments, as proposed by the applicants for individual sites, potentially result in a long term net loss of 12.8 acres of employment land and

loss of 913 jobs, as well as a net gain of 1,533 dwelling units (assuming future development on the Berryessa Road site, File No. GP06-04-05 does not include commercial uses; if future development does include mixed residential/commercial uses, then a total of 0.84 acres of employment land are gained and 741 jobs are lost). If staff's recommendations are approved, then a total of 5.95 acres of employment land are gained, 586 jobs are lost, and 515 units are gained.

SUMMARY OF PROPOSED LAND USE DESIGNATION CHANGES

File No.	Applicant	Jobs Gained or Lost	Housing Units Gained or Lost	Acres Affected	Potential Benefits
GP08-01-01	Planning Director	+18	-27	1.45	Commercial uses
GP06-02-02	Jack Previte	0	127	3.2	None
GP07-03-04	Williams & Dame	0	600	5.8	Intensification
GP07-03-05	Arcadia	0	-50	2.2	None
GP06-04-05	Enterprise/San Jose V	-247	750	13.64	Intensification
GP07-04-02	Dollinger Properties	-252	0	0	Commercial uses
GP07-04-04	San Jose V Investors	-397	0	0	Heavy Industrial
GP07-06-01	Silverstone	-93	191	5.15	Parkland potential
GP08-09-01	Silverstone	+58	-58	4.5	Commercial uses
Total Changes		**-913**	**1533**	**35.94**	
Employment Land Lost				-18.79	
Employment Land Gained				5.95	
Total Change in Employment Land in Acres				**-12.84**	

C. Consistency with General Plan Major Strategies

The City-initiated land use and text amendments scheduled for the Spring 2008 General Plan Review are intended to further City goals and policies in support of the San José 2020 General Plan Major Strategies, with particular emphasis on the Growth Management, Housing, Sustainable City, and Economic Development Major Strategies. Several of the privately-initiated land use and text amendment proposals may also help the City implement these Major Strategies.

Two of the privately-initiated amendment proposals involve employment land use conversions to residential uses (File Nos. GP06-04-05 and GP/GPT07-06-01). In addition, one amendment proposal for High Density Residential (25-50 dwelling units per acre) includes an expansion of the USA with an associated proposal for a minor modification of the UGB (File Nos. GP06-02-02 / UGB06-001). As proposed by the applicants, these privately-initiated General Plan amendment requests may not advance the General Plan Major Strategies, goals, and policies because they can result in the net loss of viable employment land in the City, or increase residential uses on unstable land on the urban fringe, while worsening the existing jobs/housing imbalance as discussed further in staff reports for each proposal transmitted to Council under separate memoranda.

Growth Management

The General Plan Growth Management Major Strategy addresses population growth by balancing it with economic development, and directing the growth to infill areas of the City that are centrally located and have established infrastructure, so that the City can provide services and jobs to residents in a cost-effective manner. With the exception of File Nos. UGB06-001, and GP06-02-02 (requests for a minor modification to the UGB, expansion of the USA, and a General Plan amendment for High Density Residential (25 – 50 DU/AC) all of the proposed General Plan land use amendments facilitate development of infill sites.

In support of the Growth Management Major Strategy, staff also initiated land use and text amendment proposals that allow transportation improvements and mixed uses on small infill sites. These include File Nos. GP08-T-03, GP/GPT07-03-03, GP/GPT08-08-01, and GP08-T-04 (see Attachments 1.a. and 1.b.).

Housing

The Housing Major Strategy supports a variety of housing opportunities in the City to meet residential needs at all economic levels. Housing is intended to be located in neighborhoods that are stable with adequate urban services. As discussed in the Annual Progress Report on the Implementation of the Housing Element presented to the City Council on March 11, 2008, the City is embarking upon a Housing Element Update to the General Plan. During the 2007-2014 implementation period of the updated Housing Element, the City must address its share of the Regional Housing Needs Allocation determined by the Association of Bay Area Governments, which includes over 34,000 housing units, of which more than 19,000 units should be affordable to households of Extremely Low to Moderate Income.

There are several privately-initiated General Plan land use and text amendment requests that result in a net addition of residential capacity if approved, which may address some of these issues to varying degrees, as well as the staff-initiated text amendment proposal, File No. GP08-T-03, which provides opportunities for affordable housing on small infill sites. The privately-initiated General Plan amendment proposals for housing include GP/GPT07-03-04, GP/GPT07-03-05 (which results in a potential loss of housing units), GP06-02-02, GP06-04-05, and GP/GPT07-06-01 (see Attachments 1.a. and 1.b.).

Staff supports the Japantown Corporation Yard General Plan/Specific Plan amendment proposal, File No. GP/GPT07-03-04, which includes up to 600 residential units, one acre of public park/open space, and at least 16,000 square feet of commercial space within the Japantown Neighborhood Business District and Redevelopment Project Area. This proposal is consistent with the General Plan Housing Major Strategy, and is also consistent with the Growth Management, Economic Development, and Sustainable City Major Strategies. As proposed by the applicants, the other amendments for residential uses listed above are not consistent with one or more of the General Plan Major Strategies or the Framework, and therefore staff does not support these requests, as discussed further in staff reports for each amendment transmitted to Council under separate memoranda.

Sustainable City

The General Plan Sustainable City Major Strategy promotes the development of the City as an environmentally and economically sustainable city through conservation and renewal of its natural resources and built environment and through economic development of clean technology businesses. To further the intent of the Sustainable City, in October 2007, the City Council adopted the San José Green Vision, which includes ten goals that the City intends to achieve within 15 years. One of these goals is to plant 100,000 trees within the City. In 2007, the City Council also directed the administration to review City policies and procedures related to tree preservation and develop recommendations for collective improvements utilizing all available resources. As outcomes of the review and outreach process, staff recommended six strategies that encompass community concerns citywide to improve and augment tree-related City policies and procedures.

One of these strategies is to develop an overarching City policy on urban forestry in San José. This strategy includes the update of existing goals and policies to include the following items: connection to the City's Green Vision and Urban Environmental Accords; establishment of unprecedented partnerships with residents, businesses, and volunteers; and an urban forest vision drafted by the community and staff. To implement this strategy, staff proposed General Plan text amendment File No. GP08-T-05, which furthers the intent of the Sustainable City Major Strategy by adding text facilitating the overall management, conservation, and renewal of the Urban Forest and the social, economic, ecological, and environmental benefits the Urban Forest provides as a natural resource.

Economic Development

The Economic Development Major Strategy encourages more commercial and industrial growth to address the service delivery and employment needs created by residential development. The City has more employed residents than it has jobs. This jobs-housing imbalance creates challenges to producing enough revenue to provide adequate urban services for the City's residents, because generally residential uses alone do not generate sufficient revenues to cover service needs. Economic development is essential to improve the City's financial standing and provide employment opportunities to San José's residents.

The staff-initiated text amendment proposals mentioned above, as well as a Planning Director-initiated land use amendment proposal, Filè No. GP08-01-01, for General Commercial uses on the Auto Row on Stevens Creek Boulevard, and several privately-initiated text and land use amendment proposals help implement the City's economic development goals by supporting revenue-generating and employment uses. These proposed amendments include File Nos. GP08-01-01; GP08-T-02; GP07-04-02; GP07-04-04; and GP08-09-01 (see Attachments 1.a. and 1.b.).

2. STATUS REPORT ON THE FRAMEWORK

Framework for Preservation of Employment Lands

On October 23, 2007, the City Council adopted the Framework to preserve remaining industrial and commercial lands in the City of San José. The Framework states that cumulative changes to the General Plan should result in no net loss of employment capacity, and no net loss of acreage designated for exclusively Light Industrial or Heavy Industrial uses in the City. Proposals for changes

in land uses on designated employment lands in San José are subject to the Framework criteria (see Attachments 2a, 2b, and 3). The Framework also requires that proposed conversion of employment lands to non-employment uses on a site include an Extraordinary Economic Benefit from the project proponents to the City set forth in the form of a Development Agreement or like mechanism. For sites in proximity to BART or Light Rail Transit Stations, the Extraordinary Economic Benefit must include an agreement that a significant portion of future housing on the site be affordable, with a significant portion of the affordable housing to be allocated to Extremely Low Income (ELI) households (i.e., households that earn 30% of Area Median Income (AMI)). The Framework also allows consideration of loss of employment capacity on sites in proximity to Light Rail Transit Stations or future BART Stations in the City if the proposal includes an offsetting conversion on an alternate site and Extraordinary Economic Benefit from the project (see Attachment 3).

Spring 2008 General Plan Review Amendments for Employment Land Conversions

There are two General Plan amendment proposals involving the conversion of employment land to residential uses that are scheduled for the Spring 2008 General Plan Review. These are File Nos. GP06-04-05 and GP07-06-01 described above. They are "pipeline" proposals, submitted prior to adoption of the Framework in October 2007.

To address the Framework Criteria for no net loss of employment capacity as well as no net loss of Light Industrial or Heavy Industrial designated acreage, the applicants for these two proposals have submitted two off-setting "reverse conversions":

- File No. GP07-04-04 changes Industrial Park to Heavy Industrial acreage on Junction Avenue to offset the loss of Light Industrial acreage on Berryessa Road under File No. GP06-04-05; and
- File No. GP08-09-01 changes Medium Density Residential (8-16 DU/AC) to General Commercial designated acreage on Blossom Hill Road to offset partially the loss of Commercial job capacity under File No. GP07-06-01 on South Monroe Street.

After analyzing these proposed employment land conversions for consistency with the Framework and the General Plan, staff recommends an alternative of Combined Industrial/Commercial for File No. GP06-04-05 because staff has concluded that the applicant's proposal of Transit Corridor Residential (20+ DU/AC) is inconsistent with the intent of the Berryessa BART Station Area Node. Staff recommends denial of File No. GP/GPT07-06-01, because the applicant does not meet the Framework criteria for provision of an Extraordinary Economic Benefit through a Development Agreement or like mechanism (see Attachments 2a, 2b, and 3). Both of these proposals are discussed in greater detail in staff reports provided to the Council under separate memoranda.

3. RESOLUTION TO ADDRESS COUNCIL DIRECTION FOR THE FRAMEWORK

When the City Council adopted the Framework in October 2007, the Council directed City staff to return to Council with proposals for policy changes to:

1. Facilitate the redevelopment of small, unusually configured, and remnant parcels with mixed-use development, Extremely Low Income (ELI) housing units, or Public/Quasi-Public uses, secured by a Development Agreement or similar mechanism; and

2. Define a process for securing an "Extraordinary Economic Benefit" when conversions of employment lands to non-employment uses are proposed. Council also directed staff not to pursue a mitigation fee program or monetary capital contributions for economic development.

To address City priorities for locating ELI and other affordable housing in proximity to public transit, the City Council also provided direction that proposals for conversions to residential use in support of BART or Light Rail should include a significant portion of ELI units and other affordable units, secured by a Development Agreement or similar mechanism.

1. Small and Remnant Parcels

In response to this Council direction, City staff initiated a General Plan text amendment proposal, File No. GP08-T-03, to revise the General Plan Discretionary Alternate Use Policies to facilitate mixed-use development on sites that are two acres or smaller in size. This proposed text amendment strengthens the General Plan language for preserving employment capacity on these sites, while providing more flexibility for mixed-use development on small sites than what the Framework would generally require. The provisions of this text amendment are discussed in detail in a separate staff report that will be transmitted to Council under a separate memorandum.

2. Extraordinary Economic Benefit

Since adoption of the Framework, staff has worked with applicants to prepare Development Agreements or similarly binding agreements such as affordable housing restrictions to secure the applicants' proposed Extraordinary Economic Benefits in conformance with the City of San José Ordinance 24297 for Procedures and Requirements for the Consideration of Development. To date, applicants have attempted to address the Extraordinary Economic Benefit requirement through two different types of agreement:

- File No. GP06-04-05 proposes an Affordability Restrictions Agreement, per direction in the Joint Mayor-Councilmembers' (Nguyen, Pyle, and Williams) Memo (Joint Memo) dated October 19, 2007 (see Attachment 4), which requires affordable housing with an ELI component for proposals within 3000 feet of a future BART Station (see Attachments 1a and 3) and

- File No. GP07-06-01, which is not near a BART or Light Rail Transit Station, proposes a Development Agreement that does not involve an affordable housing component. To date, the applicant for File No. GP07-06-01 has not met the requirements for Extraordinary Economic Benefit as defined in Ordinance 24297 as discussed further in the staff report for GP07-06-01 transmitted to the City Council under a separate memorandum, and so a Development Agreement has not been prepared for Council consideration.

Staff has included a reference to the requirements of the Development Agreement Ordinance No. 24297 in the proposed merged Framework document that incorporates the existing Framework text with the provisions in the Joint Memo (see Attachment 4). The Joint Memo contemplates Extraordinary Benefits that are not necessarily economic, including, for example, a significant contribution of ELI housing, or significant public benefits that far exceed the normal requirements of development. This concept of "Extraordinary Benefit" needs to be clarified in the Framework to reflect Council's intent. The Development Agreement Ordinance provides the structure for consideration of Extraordinary Benefit consistent with the direction previously provided by the City

Council. Staff recommends a consolidation of these documents to provide more clarity for applicants seeking to establish Extraordinary Benefit as part of a project proposal.

Actions for Framework

Based on previous discussion in this memorandum, staff recommends the following Council actions:

1. Accept the Overview of the Spring 2008 General Plan Review.
2. Accept the Status Report on the Framework.
3. Adopt a resolution to consolidate in one document: (a) the text of the Framework for Preservation of Employment Lands originally adopted by City Council on October 23, 2007 (the "Framework"), and (b) the further implementation direction for the Framework set forth by City Council on that same date, as memorialized in that certain memorandum dated October 19, 2007 from Mayor Reed and Councilmembers Nguyen, Pyle, and Williams, and also to change the term "Extraordinary Economic Benefit" to "Extraordinary Benefit" in order to make the Framework consistent with and clarify the intent of that certain memorandum dated October 19, 2007, which recognizes that extraordinary benefits should not only be limited to those that are economic in nature, none of which actions are intended to create any substantive changes to the Framework as approved by City Council on October 23, 2007.

POLICY ALTERNATIVES

Not applicable.

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)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was published in a local newspaper, the Post-Record. This memorandum is also posted on the City's website. Staff has been available to respond to questions from the public. Public hearing notices of General Plan land use amendment proposals discussed in this memorandum were sent to owners and tenants within a 500-foot or 1000-foot radius of each of the subject sites, and community meetings were held for the General Plan amendment proposals. Descriptions of the proposed General Plan amendments were posted on the Planning Division web page. The proposals were also presented at the Neighborhood Roundtable on February 12, 2008 and at the Developers Roundtable on February 15, 2008 for review and comment.

In addition, staff presented the General Plan amendment proposals discussed in this memorandum to the Parks and Recreation Commission on March 19, 2008 and to the Housing and Community Development Commission on April 10, 2008. In response, the Parks and Recreation Commission transmitted a memorandum to Council, dated April 2, 2008, asking the Council to consider as an Extraordinary Benefit the provision of parkland dedication in excess of a project parkland obligation to the City (see Attachment 5).

The Housing and Community Development Commission, Housing Department staff, and applicants to the Planning Division expressed concerns that strict adherence to the Framework may jeopardize the viability of affordable housing proposals on small sites. Planning staff has attempted to address these concerns in File No. GP08-T-03, the staff-initiated General Plan text amendment to revise Discretionary Alternate Use Policies to encourage mixed uses. In addition, staff is recommending a study session in September 2008 to explore these issues in more detail with the Council.

COORDINATION

The preparation of this memorandum was coordinated with the City Attorney's Office, Redevelopment Agency, Office of Economic Development, and Housing Department.

FISCAL/POLICY ALIGNMENT

This content of this memorandum is consistent with applicable General Plan policies.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

Reuse of the San José 2020 General Plan Final Environmental Impact Report, certified by the City Council on August 16, 1994, Resolution No. 65459.

JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

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

Attachments:

1. a. List of General Plan land use amendments for Spring 2008 General Plan Review
   b. List of General Plan text amendments for Spring 2008 General Plan Review
2. a. Framework for Preservation of Employment Lands as proposed by City staff and adopted by City Council October 23, 2007 with
   b. Joint Mayor-Councilmember (Nguyen, Pyle, Williams) Memo dated October 19, 2007.
3. Scenarios for Implementation of Framework.
4. Merged Framework text (proposed).
5. Parks and Recreation Commission Memorandum on Extraordinary Benefit, April 2, 2008.