



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: November 24, 2008

COUNCIL DISTRICT: Citywide
SNI AREA: All

SUBJECT: GP08-T-07. GENERAL PLAN TEXT AMENDMENT REQUEST TO ADD A NEW LAND USE/TRANSPORTATION DIAGRAM DESIGNATION OF "TRANSIT CORRIDOR COMMERCIAL" TO THE TEXT OF THE SAN JOSÉ 2020 GENERAL PLAN

RECOMMENDATION

The Planning Commission voted 6-0-0 to recommend approval of the proposed text amendment.

OUTCOME

If the proposed text amendment is approved as recommended by the Planning Commission and staff, a new Transit Corridor Commercial land use designation will be established in the text of the General Plan. The proposed land use designation requires commercial uses on the street-level floor of development. On upper stories of development, the Transit Corridor Commercial land use designation allows commercial uses, and may allow residential uses, subject to the City's discretionary review and approval. The Transit Corridor Commercial land use designation is intended to be applied to sites near Light Rail, Bus Rapid Transit, and future BART stations.

No land use change affecting any specific site is identified or included in the proposed General Plan text amendment. If the General Plan text amendment is adopted, any future land use changes on sites that implement the new land use designation will be subject to the California Environmental Quality Act.

BACKGROUND

On November 19, 2008, the Planning Commission held a public hearing to consider the proposed General Plan text amendment. The proposal was on the consent calendar portion of the agenda, and was pulled off the calendar for discussion by Chair Zito to allow public testimony.

Staff summarized the text amendment request and noted that additional correspondence received after distribution of the original staff report was provided to the Planning Commission at the beginning of the public hearing.

Public Testimony

There were two speakers from the public, Terri Balandra and Chet Lockwood, both representing Fiesta Lanes Action Group. The first speaker, Ms. Balandra, stated that she had serious concerns about transit-oriented development that backs up into an established residential neighborhood on small infill lots with high densities, as she witnessed this year with the Fiesta Lanes development behind her home. She stated that the City needed to consider the following seven items before granting approval of transit-oriented development:

1. A maximum density policy that relates to the existing density in an established neighborhood.
2. A neighborhood setback transition policy, for a required graduated height setback from existing adjoining homes.
3. Parks for transit-oriented development. If the surrounding area is park-deficient, that deficiency should trigger park fees that should be required to be spent only in that neighborhood area. This should be a requirement for approval of the development.
4. Expedited review should not impact the public outreach process in any way.
5. New transit-oriented development must have bordering streets that are wide enough to support bike lanes and rapid transit, not just the standard bus line. Rapid transit must be clearly defined. Wide pedestrian-friendly sidewalks are required and should not be bargained away by city planners or developers.
6. Adjoining homeowners must be notified when a for-sale development changes to a rental development after the public outreach process. [Staff notes that such notification is not feasible because staff cannot track how and when such changes occur.]
7. Adjoining-community concerns should be respected — when a neighborhood community voices concerns the neighbors should be treated with respect and not portrayed as NIMBYs. The adjoining homeowners to a transit-oriented development are the biggest stakeholders of all.

Ms. Balandra stated that the neighborhood needs to be recognized as part of the transit-oriented development process as their homes' value and desirability are at stake. She commented that in the spirit of Dan Burden, one of the key speakers for the Envision 2040 group, regarding "walkable cities and future transit-oriented development" it is like a four-cornered box. She said that there needs to be a partnership with city officials, developers, city planners and the neighborhood community. All four need to be on board together for there to be a successful

partnership to produce outstanding infill development. She stated that we should all work together to make San José's future all it can be.

Mr. Lockwood commented favorably on clear and legible language of the proposal. He identified additional language that he requested should be considered for inclusion in the text amendment:

1. Hours of operation — limitation should be possible. Commercial businesses outside the core would be interfacing with neighborhoods.
2. Adequate parking requirements. If there is an increase in transit-oriented mixed-use development there should be an appropriate increase in parking spaces. The argument of a 10% reduction in areas where there is such development should not apply to transit-oriented development because there is an increase in traffic that impacts the neighborhoods.
3. Diversion of the new traffic away from the neighborhoods of existing homeowners and existing development would be helpful.
4. Bicycle lane requirements for this type of development would be useful.
5. Strict adherence to the 2,000-foot distance in determining eligibility for mixed-use development should be recommended.

Mr. Lockwood concluded that he was generally in support of the intent of the proposal. The Planning Commission then closed the public hearing.

Planning Commission Discussion

Chair Zito asked staff whether the suggestions would be useful at this stage in considering the proposed text amendment, and if not, when the suggestions would be useful. Staff responded that the general intent of the suggestions is appreciated and that some of them could be considered at the point that a zoning or planning permit is pending for a site that has the proposed land use designation. Staff noted further that the suggestions could be reiterated later as individual proposals come forward and that the comments could be included in the recommendation that the Planning Commission transmits to the City Council.

Chair Zito stated that the Commission could include some of the suggestions made by the public for the Council to consider with the recommended text amendment. Commissioner Campos made a motion to consider the addendum to the San José 2020 General Plan EIR resolution and recommend to the City Council approval of the text amendment request as recommended by staff.

Commissioner Kamkar stated that he supported some of the recommendations made by the public. He suggested that the speakers submit their comments in writing to staff and the Planning Commission.

The Assistant Director of Planning, Building and Code Enforcement noted that the comments from the public speakers raised some important issues, which can occur at the operational level of development. She stated that the proposed text amendment is intended to be a policy statement in the General Plan. The importance of neighborhood compatibility is clear, but the comments on hours of operation and other operational issues in the context of a General Plan policy and land use designation proposal are at a level of detail beyond that typically included in the General Plan. The Assistant Director suggested to the Commissioners that if there are specific elements of the public testimony that they would like to have considered in the text of the proposed amendment, that these elements should be put into the record so that the City Council has the full benefit of the Commission's complete recommendation.

Commissioner Kamkar commented that the vehicle exit lanes from transit-oriented mixed-use development should be designed so that traffic does not flow into neighborhood streets. The exits should be directed to bigger arterials or larger collector streets. Whether or not a reduction in parking is appropriate is another issue that he stated should be considered. He noted that hours of operation cannot be mandated or dictated at this stage, but consideration of commercial deliveries could perhaps be referenced.

Commissioner Platten requested staff to expressly include the seven points that were articulated by the first speaker as particulars to be forwarded to the Council, and to give consideration to operational incidents as they come forward in the future. This memorandum transmits these comments.

Chair Zito concurred with Commissioner Platten and requested that the speakers work with staff on forwarding those items to the Council for consideration. He stated that he was especially interested in the interface with the neighborhoods and the multimodal transportation aspects of projects. He also recommended trying to refine some of the language about approximate walking distance to available transit. He noted that sometimes the walking distance is expanded to such a length that it results in a pedestrian connection that is not practical for some users.

ANALYSIS

See original staff report for analysis of the proposed General Plan text amendment.

EVALUATION AND FOLLOW-UP

The Planning Commission requested staff to forward the seven points made by the first speaker to the Council for the Council's consideration of the potential operational implications of the proposed land use designation and to consider operational incidents as they are presented in future land use and development proposals (the seven points are included in Attachment 1 to this memorandum).

POLICY ALTERNATIVES

Alternative 1: Denial of the proposed General Plan text amendment.

Pros: Potentially preserves commercial employment lands for exclusively commercial uses.

Cons: Reduces opportunities for vertical mixed commercial-residential use intensification while preserving commercial employment opportunities.

Reason for not recommending: This alternative is not recommended because it does not facilitate streamlining the implementation of the Framework per Council direction.

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 as discussed in the attached staff report.

COORDINATION

Preparation of the proposed General Plan text amendment was coordinated with the City Attorney's Office, the Department of Transportation, Public Works, Housing, the Office of Economic Development, the San José Redevelopment Agency, and the Santa Clara County Airport Land Use Commission.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan goals and policies as further discussed in the staff report.

COST SUMMARY/IMPLICATIONS

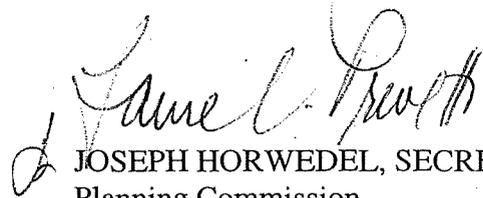
Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

The proposed text amendment is covered by an Addendum to the San José 2020 General Plan Final Environmental Impact Report, certified by the City Council on August 16, 1994, Resolution No. 65459.


JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Andrew Crabtree, Department of Planning, Building and Code Enforcement at 535-7893.

Attachments:

1. Public correspondence received during and after the Planning Commission hearing.
2. Public correspondence received prior to the Planning Commission hearing and after distribution and web posting of the Staff Report.
3. Staff Report to the Planning Commission.

Attachment 1

November 19, 2008, Planning Commission
T.O.D. Amendment

As you all know I have serious concerns over T.O.D. that "backs up" into an established residential neighborhoods. The small infill lots, with higher density bonuses, shorter setbacks, height increases, lower parking, affects the lives and in many cases, the financial well-being of the adjoining landowners... as I witnessed this year with the Fiesta Lanes development behind my home.

Please consider these six items BEFORE granting PD zoning or PD approval:

- 1) The need for a "Maximum Density Policy" as it relates to an established neighborhood 's "existing density".
- 2) The need for a "Neighborhood Setback Transition Policy" for a required "graduated height setback from existing adjoining homes.
- 3) Lack of Parks near an upcoming TOD: If the surrounding area is "park deficient", that would trigger "park fees" to be required to be spent ONLY in that neighborhood area for the development's PD approval.
- 4) "Expedited Review" would not impact the "Public Outreach Process" in any way.
- 5) A requirement for new TOD development: It must have bordering streets that are wide enough to support bike lanes and Rapid Transit (not just a standard bus line) . "Rapid Transit" for each development MUST be clearly defined. Wide pedestrian friendly sidewalks are REQUIRED and cannot be "bargained away" by City Planners or Developers.
- 6) Adjoining Homeowners to be notified when a "For Sale" Development changes to a Rental Development after the Public Outreach Process.
- 7) Adjoining Neighborhood Community's Concerns: Need I remind our "hired" City Officials, when a neighborhood community voices concerns over a development, they should be treated with respect and not projected as NIMBYS by City Planners and Housing Dept officials. The adjoining homeowners to a TOD are the biggest "Stakeholders" of all, with large mortgages, and their lifesavings and "retirement incomes" at stake when they sell their homes. We need to be recognized as part of the TOD process - as our homes' value and desirability is "at stake".

In the spirit of Dan Burton, one of the key speakers for the "Envision 2040" group, regarding "Walkable Cities and future Transit Oriented Development" - It's like a four-cornered box: there needs to be a partnership with City Officials, Developers, City Planners, AND THE NEIGHBORHOOD COMMUNITY. All four need to be "on board" for there to be a successful partnership to produce outstanding infill development.

Let us all work together to make San Jose's future "ALL it CAN be"...

Terri Balandra
F.L.A.G., Fiesta Lanes Action Group

SEVEN REQUIREMENTS FOR T.O.D. APPROVAL

- 1) The need for a "Maximum Density Policy" as it relates to an established neighborhood's "existing density".
- 2) The need for a "Neighborhood Setback Transition Policy" for a required "graduated height setback" from existing adjoining homes.
- 3) Lack of Parks near an upcoming TOD: If the surrounding area is "park deficient", that it would trigger "park fees" to be required to be spent ONLY in that neighborhood area for the development's PD approval.
- 4) "Expedited Review" would not impact the "Public Outreach Process" in any way.
- 5) A requirement for new TOD development: It must have bordering streets that are wide enough to support bike lanes and Rapid Transit (not just a standard bus line). "Rapid Transit" for each development MUST be clearly defined. Wide pedestrian friendly sidewalks are REQUIRED and cannot be "bargained away" by City Planners or Developers.
- 6) Adjoining Homeowners to be notified when a "For Sale" development changes to a Rental development after the Public Outreach Process.
- 7) Adjoining Neighborhood Community's Concerns: Need I remind our "hired" City Officials, when a neighborhood community voices concerns over a development, they should be treated with respect and not projected as NIMBYS by City Planners and Housing Dept. Officials. The adjoining homeowners to a TOD are the biggest "Stakeholders" of all – with large mortgages, and their lifesavings and "retirement incomes" at stake when they sell their homes. We need to be recognized as part of the TOD process – as our homes' value and desirability is "at stake".

Terri Balandra
F.L.A.G., Fiesta Lanes Action Group

Nusbaum, Jenny

From: Chet Lockwood [ch24u@sbcglobal.net]
Sent: Thursday, November 20, 2008 5:20 PM
To: jenny.nusbaum@sanjoseca.gov; laurel.prevetti@sanjoseca.gov; joseph.horwedel@sanjoseca.gov
Cc: tbalandr@apr.com; helen chapman; Jean The Brain; Michael LaRocca; deborah; bobandsuec@sbcglobal.net
Subject: Mixed Use Text Amendment comments

o: Jenny Nusbaum, Senior Planner , Planning Department San Jose Ca.

i Jenny . I look forward to working with you to refine and incorporate these important considerations in your recommendations
 n the Mixed use 11-20-08

assification.

hese are the points I spoke about at the Planning commission hearing 11/19/2008 on the text amendment for " Mixed Use"
 anned development policy.

- a. **Hours of operation** should be limited to minimize the negative impact on the occupants of the development and the adjoining residences.
- b. **Adequate parking** should be designed into the retail/ office portions to eliminate conflict of parking with residential neighbors.
- c. **Traffic diversion** systems and devices should be employed to direct traffic flow out of and away from residential neighborhoods and onto arterials.
- d. The ability to **institute Permit Parking** policy in surrounding residential neighborhoods should be simplified and requirements lowered (i.e. less than 100 addresses required, 18-24 month process time reduces). A streamlined process should be created and fees to residential neighbors either eliminated or extremely reduced. As needed, additional parking enforcement should be easily available.
- e. As new developments are added **assure "Multi-Modal" transportation** is available on adjacent arterials with the addition of bike lanes, and provisions for bike / scooter / electric scooter lockable racks or storage be provided onsite for patrons and residents is designed in.
- f. To define the development as a TOD Strict **adherence to the 2000 foot limitation** should be required from Existing or **Funded Mass transit** with regular schedules. Do Not stretch beyond the 2000 ft. limit.

Thank You,

Chet Lockwood F.L.A.G. (Fiesta Lane Action Group) Ch24u@ sbcglobal.net

55 N. Buena Vista Ave. , San Jose , Ca. 95126

Chet Lockwood

Cell (408)218-0102, Office (408)996-9693, Home (408)288-5677

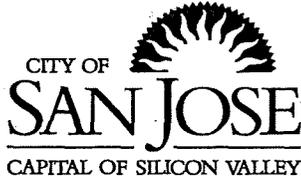


1/21/2008

Attachment 2

AGENDA: 11-19-08

ITEM: 4.b.



Department of Planning, Building and Code Enforcement

JOSEPH HORWEDEL, DIRECTOR

TO: PLANNING COMMISSION

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: November 19, 2008

COUNCIL DISTRICT: Citywide

SNI AREA: All

SUPPLEMENTAL MEMORANDUM

SUBJECT: GP08-T-07. General Plan text amendment request to change the *San Jose 2020 General Plan*, Chapter V. Land Use Diagram, Commercial section, page 235.

REASON FOR SUPPLEMENTAL MEMORANDUM

After distribution of the original report to the Planning Commission, staff received additional e-mail correspondence in support of the proposed text amendment. This correspondence is included as an attachment to this memo.

Andrew Ceballos
for JOSEPH HORWEDEL, Director
Planning, Building and Code Enforcement

Nusbaum, Jenny

From: Bob341@comcast.net
Sent: Thursday, November 13, 2008 11:08 AM
To: Nusbaum, Jenny
Subject: RE: Mixed use issue

Attachments: RE: Mixed use issue



RE: Mixed use issue

Thanks for the information. Makes more sense now. Really seems like it will profit all involved if there is financing for small business to upgrade.

----- Original message -----

From: "Nusbaum, Jenny" <Jenny.Nusbaum@sanjoseca.gov>

> Hi,

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Nusbaum, Jenny

From: Shawn Milligan [smilligan@ktpropertiesinc.com]
Sent: Thursday, November 13, 2008 5:14 PM
To: Nusbaum, Jenny
Subject: Re: Proposed Text for New General Plan Land Use Category for Mixed Uses Near Transit

Ok, thanks for the update. Let me know if there's anything I can do. This is a great addition to our land use designations. Looking at the site and midtown area during the 2040 update makes a lot of sense. good work.

Shawn

On Thu, Nov 13, 2008 at 5:04 PM, Nusbaum, Jenny <Jenny.Nusbaum@sanjoseca.gov> wrote:

Hi Shawn,

Thank you for your comments. I talked to Jim McDonald today as well. I think we want to look at this site within the context of the larger corridor, possibly through the General Plan Update 2040 process. Jim indicated to me that he has sent a letter to our Director regarding the issues associated with keeping the uses CIC, given the residents in the area, and safety issues with truck circulation.

I have encouraged Jim to e-mail me more comments that I can include in the written public record for GP08-T-07, the text amendment proposal for Transit Corridor Commercial.

From: Shawn Milligan [mailto:smilligan@ktpropertiesinc.com]
Sent: Thursday, November 13, 2008 11:30 AM
To: Nusbaum, Jenny
Subject: Fwd: Proposed Text for New General Plan Land Use Category for Mixed Uses Near Transit

Hi Jenny,

Do you think that OC McDonald would qualify under this new land use designation?

Thanks,

Shawn

----- Forwarded message -----

From: **Taylor, Mary** <Mary.Taylor@sanjoseca.gov>

Date: Wed, Nov 12, 2008 at 4:48 PM

Subject: Proposed Text for New General Plan Land Use Category for Mixed Uses Near Transit

To:

New General Plan Land Use Category Proposed For Mixed Uses Near Transit

The Director of Planning, Building and Code Enforcement has proposed a General Plan text amendment (GP08-T-07) to add a new land use designation to the *San José 2020 General Plan* that can:

1. Encourage vertical mixed-use development near transit while preserving commercial employment lands in San Jose.
2. Be considered for application on sites located in the Downtown Core and Frame Areas or BART Station Area Nodes or within a reasonable walking distance of existing or funded passenger rail stations or bus rapid transit stations in other intensely developed areas of the City. A reasonable walking distance is defined as approximately 2,000 feet along a safe pedestrian route.
3. Require commercial uses in a viable configuration on the street level floor of any development. Wholly commercial projects are allowed. Retail uses are encouraged on the street level floor and office uses are encouraged on upper floors.
4. Allow vertical mixed commercial and residential uses on sites that are of adequate size to accommodate such a mix of uses provided that the street level floor consists of wholly commercial uses.
5. Expand the potential for mixed commercial-residential development with convenient access to major job centers and help create new consumer markets in appropriate areas of the City.

No land use change affecting any specific site is identified or included in the proposed General Plan text amendment. If the General Plan text amendment is adopted, any future land use changes on sites that implement the new land use designation will be subject to the California Environmental Quality Act.

The proposed text amendment is scheduled to be heard by the Planning Commission on November 19, 2008 at 6:30 PM and by the City Council on December 16, 2008 at 7:00 PM. The draft text is available for review at the following web link:

http://www.sanjoseca.gov/planning/gp/PDF/GP08-T-07_proposed_text_changes.pdf

Please contact the Project Manager, Jenny Nusbaum, by e-mail at jenny.nusbaum@sanjoseca.gov or by phone at 408-535-7872 if you have questions or comments.

--
Shawn Milligan
Vice President
KT Properties
21710 Stevens Creek Blvd.
Suite 200
Cupertino, CA 95014
408/257-2100
408/255-8620 fax

--
Shawn Milligan
Vice President

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408/257-2100
408/255-8620 fax

Nusbaum, Jenny

From: Jim McDonald [jvm@ocmcdonald.com]
Sent: Friday, November 14, 2008 8:28 AM
To: 'Nusbaum, Jenny'
Cc: Mtersini@aol.com
Subject: new general plan land designation
Attachments: site zoneing request for general plan task force.doc

Jenny,

I am writing to show my support for the new land use designation. In fact, I believe it to be what my property on San Carlos st should be designated. I would like to request this designation in the new general plan. Please let me know if I need to do anything to help facilitate this.

Enclosed is a letter I sent to Joe Horwedel outlining why I don't believe the current industrial zoning works in my area any longer.

Sincerely,

Jim McDonald

October, 27, 2008

General Plan Task Force
Department of Planning
200 East Santa Clara Street
San Jose, CA 95113-1905

Attn: Joe Horwedel

I am writing this letter in the hopes that the task force will look at the current zoning in the midtown area. I have operated my business in the same location since 1930 or so, and have seen many changes to the area. The most dramatic are the changes that have occurred in the last 5 years. This area is no longer conducive to industrial uses. The increase in the number of housing units have increased traffic to the point where it impacts the efficiency of my operation. The number of pedestrians has increased to cause potential safety hazards, i.e. possible pedestrian/truck conflicts, noise, etc.

With housing all around us, we would like to look for a more conducive industrial area within the city limits, to relocate to in the future. I would like for the task force to look at my site for possible residential use looking forward. I believe it makes the most sense for the area, and we can not undo what has already happened, we can only make good choices going forward.

I am available to answer any questions about traffic or the area in general as I have spent my entire adult life coming to this location every day.

Thank you for looking into this matter

Sincerely,

Jim McDonald
President/CEO

Attachment 3

STAFF REPORT
PLANNING COMMISSION

FILE NO.: GP08-T-07

Submitted: Director-initiated, 8/19/08

LOCATION: Citywide

TEXT REFERENCE: *San José 2020 General Plan*, Chapter V. Land Use Diagram, Commercial section, page 235.

Existing Zoning	N/A
Proposed Zoning	N/A
General Plan	Text Amendment
Council District	Citywide
Annexation Date	N/A
SNI	Citywide
Historic Resource	N/A
Redevelopment Area	N/A
Specific Plan	N/A
CEQA	Addendum to EIR

PROJECT DESCRIPTION: This General Plan text amendment request, initiated by the Director of Planning, Building and Code

Enforcement, establishes a new land use designation of Transit Corridor Commercial in the *San José 2020 General Plan*. As proposed, the Transit Corridor Commercial land use designation requires commercial uses on the street-level floor of development. On upper stories of development, the Transit Corridor Commercial designation allows commercial uses, and may allow residential uses, subject to the City's discretionary review and approval. The Transit Corridor Commercial land use designation is intended to be applied to sites near Light Rail, Bus Rapid Transit, and future BART stations.

No land use change affecting any specific site is identified or included in the proposed General Plan text amendment. If the General Plan text amendment is adopted, any future land use changes on sites that implement the new land use designation will be subject to the California Environmental Quality Act.

RECOMMENDATION

Staff recommends approval of the proposed text amendment.

BACKGROUND

On October 23, 2007, the City Council adopted the *Framework for Preservation of Employment Lands* (Framework) to preserve remaining industrial and commercial lands in the City of San José. Proposals for changes in uses on designated employment lands in San José are subject to the criteria in the Framework (see Attachment 1 and Attachment 2). 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. The Framework also requires that proposed conversion of employment lands to non-employment uses include an Extraordinary Benefit from the project proponents to the City in the form of a Development Agreement or like mechanism. For sites in proximity to BART or Light Rail Transit Stations, the Extraordinary 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 provisions in the Framework, an offsetting conversion on an alternate site, and Extraordinary Benefit from the project, are met (see Attachment 2).

ANALYSIS

The proposed text amendment is intended to achieve the following objectives:

1. Implement City Council direction to streamline processing of development entitlements by providing a new land use designation that preserves commercial employment capacity, thereby facilitating development consistent with the Framework;
2. Encourage intensified vertical development of commercial uses on sites located in the Downtown Core and Frame Areas, or BART Station Area Nodes, or within a reasonable walking distance of existing or funded passenger rail stations or Bus Rapid Transit Stations, or in other intensely developed areas of the City. A reasonable walking distance is defined as approximately 2,000 feet along a safe pedestrian route;
3. Encourage retail uses on the street-level floor and office uses on upper floors of development;
4. Allow, at the City's discretion, vertical mixed commercial and residential uses on sites that are of adequate size and configuration to accommodate such a mix of uses provided that the street level floor consists of wholly commercial uses;
5. Expand the potential for mixed commercial-residential development with convenient access to major job centers and help create new consumer markets in appropriate areas of the City.

Since its adoption in October 2007, implementation of the Framework has highlighted the need for a new General Plan land use designation. Existing land use designations, such as Transit Corridor Residential (20+ DU/AC) and High Density Residential (25-50 DU/AC), allow commercial uses on the first two levels of residential development on sites located near transit stations, but these existing land use designations do not require a commercial component, potentially allowing purely residential development. Some existing Discretionary Alternate Use Policies in the General Plan allow residential uses on sites that have a commercial land use designation, but these Discretionary Alternate Use Policies are intended to be used infrequently within an area, and each Discretionary Alternate Use Policy has its own specific criteria for implementation.

The proposed Transit Corridor Commercial land use designation functions as the commercial complement to the existing Transit Corridor Residential (20+ DU/AC) land use designation in that the proposed land use designation stipulates commercial uses and may allow mixed commercial-residential uses as a discretionary option. Adoption of the proposed text amendment can, therefore, provide a new means of developing mixed commercial-residential uses with an emphasis on incorporation of employment uses on appropriate sites in the City.

The subject text amendment request furthers all seven Major Strategies in the General Plan, including Economic Development, Growth Management, Downtown Revitalization, Urban Conservation/Preservation, The Greenline, Housing, and Sustainable City, by encouraging the efficient allocation and development of new commercial uses within the City's transit corridors and core areas.

The proposed text changes are shown as underlined text for additions as follows:

Office

The primary allowed uses in this category are business and professional offices. Retail and other commercial uses may be allowed only as secondary uses in a larger office development. This designation can be used in association with hospitals in order to provide professional office support. Development should be of low intensity and compatible with surrounding uses. This designation can be used on margins of residential neighborhoods because it is not intrusive.

Transit Corridor Commercial

This land use category is intended to expand the potential for commercial development in proximity to major public transit particularly along the City's Transit-Oriented Development Corridors and within BART Station Area Nodes. Development under this designation should be compatible with existing neighborhoods and not impair the viability or the character of these neighborhoods. Wide sidewalks, street trees, and other pedestrian-friendly amenities should be incorporated into development proposals. The determination of the intensity and scale of development on specific sites should be decided through a Planned Development Zoning or use/development permit process in compliance with the City of San José Zoning Ordinance.

Transit Corridor Commercial is intended for sites located in the Downtown Core and Frame Areas or located in designated Transit Corridors or BART Station Area Nodes, or located within a reasonable walking distance of major public transit in other intensely developed areas of the City. "Reasonable walking distance" is considered a distance of approximately 2,000 feet along a safe pedestrian route from major public transit. "Major public transit" includes existing or funded passenger rail stations, or bus rapid transit stations.

This designation requires commercial uses in a viable configuration on the street-level floor of any development. "Viable configuration" includes but is not limited to constructed space of adequate height, width, depth, and floor area with provision of sufficient venting and service areas for all potential commercial uses and consistent with the City's adopted applicable design guidelines. Wholly commercial projects are allowed. Retail uses are encouraged on the street-level floor and office uses are encouraged on upper floors. Vertical mixed commercial and residential uses may be allowed on sites that are of adequate size and configuration to accommodate such a mix of uses provided that the street-level floor consists of wholly commercial uses with the exception of residential support facilities of limited size, such as parking areas, entry lobbies, mail rooms, and concierge facilities, the total area of which constitutes a minor portion of the site area.

This category is intended to expand the potential for commercial development and mixed commercial-residential development with convenient access to major job centers and to create new consumer markets in appropriate areas of the City.

Core Area

This designation includes office, retail, service, residential, and entertainment uses in the Downtown Core Area. In the Downtown Core Area, the only limit on building intensity (and associated employment density) is expected to be the FAA height limitation, which varies from approximately 120 feet (10± stories) to approximately 315 feet (23± stories) necessary to maintain obstruction-free airspace around San José International Airport. High density commercial development is planned for the Park Center and San Antonio Plaza redevelopment areas, integrating a mix of office, hotel, commercial, residential, recreational, and cultural activities to create a balanced focus for the urban core in San José. Retail sales should be located at ground level. Lower intensity commercial uses are appropriate in outer parts of the Core Area, peripheral to the high intensity Park Center/San Antonio Plaza area. General commercial uses along major corridors of the Frame Area should support the Downtown Core Area. These outer areas are intended to provide locations for commercial activities that are not necessarily a part of the most intensely developed portions of Downtown, but which, for functional reasons, need to be in close proximity to activities in the

Downtown Core Area. Such entertainment uses as nightclubs, dancehalls, and comedy clubs should be located within the Core Area provided that such uses do not adversely impact existing or planned residential uses or conflict with other General Plan goals and policies. Development should incorporate pedestrian oriented design features at street-level. Uses that discourage pedestrian activity and movement such as uses that serve the occupants of vehicles, i.e., drive-up service windows, are not considered appropriate. Uses that serve the vehicle, such as car washes and service stations may be considered appropriate when they do not disrupt pedestrian flow, are not concentrated, do not break up the building mass of the streetscape, and are compatible with the planned uses of the area. In areas where the Core Area designation exists, higher density residential uses at 25+ dwelling units per acre or mixed use development of commercial and residential uses are appropriate as is development of either use individually. For mixed use projects, residential uses should generally be located above non-residential uses with commercial uses at street-level. Residential uses should only be allowed where they are compatible with adjacent development.

ENVIRONMENTAL REVIEW

The proposed General Plan text amendment is covered by an Addendum to the San José 2020 General Plan Final Environmental Impact Report, certified by the City Council on August 16, 1994, Resolution No. 65459.

PUBLIC OUTREACH

- 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. Notice of the Fall 2008 hearings on the General Plan was published in the San José Post-Record. A description of the proposed General Plan text amendment was posted on the Planning Division web page. The proposed text amendment was presented at the Developers Roundtable on September 12, 2008, the Neighborhood Roundtable on September 16, 2008, and at the Housing and Community Development (HCD) Commission meeting on October 9, 2008, for review and comment.

The (HCD) Commission, Neighborhood Roundtable participants, and members of the public expressed support for the proposed text amendment but voiced concerns that the commercial component of proposed mixed-use development could be configured or constructed in a manner that could create inadequate street-level floor space for substantial viable commercial uses, thereby making successful occupancy of the commercial space unlikely. One member of the public submitted correspondence (attached) that discusses these issues as well. Developers Roundtable participants representing companies that include residential components in their development ventures did not speak against the proposed text amendment, but some of these representatives did comment that the Framework was thwarting residential development in the City.

In response to these comments, staff has proposed a definition for the Transit Corridor Commercial land use designation that can create mixed residential-commercial opportunities that do not exist today. This definition includes wording that stipulates parameters for viable configured space, including adequate height, width, depth, and floor area. The proposed amendment also includes text that limits street-level residential support facilities to a minor portion of a site's total area.

Project Manager: Jenny Nusbaum **Approved by:** Andrew Crabtree **Date:** 11/12/08

Owner/Applicant:	Attachments:
City of San José/Staff	<ol style="list-style-type: none">1. Framework for Preservation of Employment Lands adopted October 23, 2007, and2. Joint Mayor-Council Memo on Framework, dated October 19, 20073. Addendum to San José 2020 EIR4. Agency Correspondence5. Public Correspondence

Employment Lands Preservation

The City Council adopted the *Framework for Preservation of Employment Lands* on October 23, 2007 to preserve remaining industrial and commercial lands in the City of San José.

This policy and the Joint Mayor-Councilmember (Nguyen, Pyle, Williams) Memo provide the criteria to maintain no net loss of employment capacity on lands designated in the San José 2020 General Plan for commercial or industrial uses. Proposals for changes in land uses on designated employment lands in the City of San José are subject to the criteria in the Framework and the associated Joint Mayor-Council Memo.

For more information on this topic, please contact Andrew Crabtree, Principal Planner at andrew.crabtree@sanjoseca.gov

FRAMEWORK FOR PRESERVATION OF EMPLOYMENT LANDS

BACKGROUND

2005 Framework

On April 6, 2004, the City Council approved the *Framework, as a Guideline, to Evaluate the Proposed Conversions of Employment Lands to Other Uses* (2005 Framework) to address the cumulative loss of employment lands, and in particular, land designated for industrial uses (industrial lands), through incremental conversions resulting from General Plan amendments. The intent of the 2005 Framework was to identify employment subareas within the City where conversion should be discouraged, and identify other subareas where conversion of industrial land to other uses could be considered on a case-by-case basis depending on consistency with key criteria listed in the Framework. The 2005 Framework was modified on November 15, 2005 (see attachment). Despite these modifications, the 2005 Framework has not been successful in stemming the tide of industrial land conversions. Since 2004, the City has lost approximately 120 acres of industrial land per year through conversion to other uses.

Retail Strategy

In 2004, the City completed the *San José Neighborhood Retail Model Summary Report* (Retail Study) that identified significant retail sales leakage out of San José. In particular, this was due to the lack of retail uses in many areas of the City, especially areas within the Berryessa community and North San José. In response to the conclusions of the Retail Study, the City is proactively identifying sites that have the potential to provide retail opportunities. For these reasons, the *Framework* includes criteria for the preservation of lands designated for industrial or commercial uses, and criteria for converting industrial to commercial land.

Council Direction to Change the 2005 Framework

On March 29, 2007, as part of a presentation to the City Council during a study session on Economic Development and Employment Lands, City staff provided extensive data on the relationship between land use and revenue to the City, demonstrating serious potential fiscal impacts related to the conversion of employment lands to non-employment uses. In this presentation to Council, staff defined employment lands as industrial and commercial lands supporting private sector employment.

Staff suggested that the Council consider an update to the 2005 Framework and identified three possible directions that update might reinforce: 1) prohibiting any further conversions of industrial lands; 2) strengthening the 2005 Framework to limit conversions to projects of "Extraordinary Economic Benefit"; or 3) continuing to use previous policies without modification. Staff recommended that the Framework be strengthened per the second option.

In response to the information presented at the March 29, 2007 study session, the City Council gave direction to staff to conduct public outreach on proposed changes to the 2005 Framework and to return to the City Council with an update to the Framework in advance of the City Council's consideration of the Evergreen*East Hills Vision Strategy (EEHVS) General Plan amendments.

Framework Update

Acting on Council direction, on May 15, 2007, City staff recommended to the City Council that the 2005 Framework be updated and strengthened to limit industrial conversions to projects of "Extraordinary Economic Benefit". In response, Council provided direction to staff to prepare an updated Framework that emphasizes the Preservation of Employment Lands (Preservation Framework), and that incorporates policies to discourage the conversion of employment lands— industrial and commercial lands— to non-employment uses, while maintaining the flexibility to consider special or unique proposals with clear benefit to the City towards the achievement of overall City goals for economic development including retail opportunities and other strategies for increasing revenue to the City's General Fund.

DEFINITION OF EMPLOYMENT LANDS

Employment lands are defined as non-residentially designated lands supporting private sector employment. Sites designated Public/Quasi-Public in the San Jose 2020 General Plan Land Use/Transportation Diagram are not considered employment lands for the purposes of the Preservation Framework.

PURPOSES OF PRESERVATION FRAMEWORK

To maintain a viable economy and provide services to residents at levels consistent with City of San José policies, the City has a strong interest in preserving the City's remaining employment land acreage and building floor area capacity for various business operations. Purposes of preserving and enhancing the City's remaining employment land capacity include:

1. Bringing revenue to the City;
2. Providing jobs to residents;
3. Providing a variety of types and sizes of sites for employment opportunities for the City to remain competitive internationally;
4. Identifying and facilitating the development of sites for retail to serve individual neighborhoods, larger community areas, and the Bay Area region; and
5. Accommodating future demand for land for employment uses through 2020.

As per the Council Memo from Mayor Reed dated May 15, 2007, and adopted by the City Council, the Preservation Framework is intended to achieve the following outcomes:

1. No net loss of total employment capacity as the result of any amendment to the San José 2020 General Plan.
2. No net loss from non-employment land use conversions of Light Industrial or Heavy Industrial acreage or building area square footage on land that has the General Plan land use designation of Light Industrial or Heavy Industrial.
3. Applications for conversions to support public infrastructure may be accepted only after the infrastructure has been designated by the City Council as public infrastructure intended to be supported by increases in non-employment uses.
4. Extraordinary Economic Benefit conversions must meet the above criteria and shall be limited to those instances where there will be an increase or retention of jobs, and a significant increase in revenue to the City, or a significant capital contribution for investments in economic development like the Catalyst fund or the Economic Development Reserve.
5. Changes in areas with mixed use overlays shall not decrease the amount of land available for religious assembly uses.

APPLICABILITY

The Preservation Framework applies to any General Plan amendment that includes:

1. The conversion of any category of employment lands, including industrial or commercial lands, to non-employment uses; or
2. The conversion of employment lands to a mix of uses that includes both employment and non-employment uses.

Examples of conversions include, but are not limited to:

- Land designated for exclusively employment uses changed to land designated for a mix of uses that includes non-employment uses; and
- Land designated for exclusively Light or Heavy Industrial uses changed to land designated for other industrial or non-industrial uses.

The Preservation Framework does not apply to conversions of Light Industrial acreage to Heavy Industrial acreage or vice versa, and does not apply to conversions of commercial land to industrial land.

Strategies for Preservation

In contrast to the 2005 Framework, the Preservation Framework focuses on strategies for preserving employment lands instead of identifying criteria or subareas where conversion can be facilitated. The maintenance of an adequate supply of a variety of employment lands is essential to San José's economic development. Production is increasing again as part of the new industrial economy focused on clean technology, and the City needs to maintain an adequate inventory of Light and Heavy Industrial lands to accommodate the new industrial demands.

The specific measures for the preservation of employment lands are discussed below:

I. Maintain No Net Loss of Light or Heavy Industrial Acreage

Heavy and Light Industrial lands have had the lowest vacancy rates of all employment lands even during the recent economic downturn. It is essential to retain Light and Heavy Industrial lands for production-related jobs, many of which do not require 4-year college degrees. Examples of such businesses include cabinetry, auto repair, home improvement warehouses, garbage and recycling operations, and concrete and asphalt production.

Many Light and Heavy Industrial businesses cannot function in smaller, vertical spaces because their operations require large horizontal spaces and outdoor storage areas. Examples include composting, garbage truck parking, auto wrecking yards, and recycling.

Ideally, existing Light and Heavy Industrial acreage should be preserved. If it is not feasible to preserve the acreage and job capacity of existing Light or Heavy Industrial employment lands, then changing non-employment, or other employment, acreage to Light or Heavy Industrial acreage should offset the impacts of conversion of Light or Heavy Industrial acreage to other uses so that there is no net loss. The challenge is to find viable sites in suitable locations for this type of offset.

By way of example, the area bounded by East Trimble, Zanker, and Brokaw Roads, and Interstate 880 could be a viable location for such offsets. This area is designated Industrial Park on the General Plan, but is zoned LI-Light Industrial or HI-Heavy Industrial and may contain existing LI and HI businesses.

An applicant requesting an offset should demonstrate to City staff the viability of the offset proposal. Based on this information and staff's analysis, staff would make a recommendation to Council. The City Council may approve General Plan amendments to change land use designations on such sites to allow exclusively Light or Heavy Industrial uses, thereby creating acreage for these uses. This new acreage could then offset the loss of other acreage proposed to convert from Light Industrial or Heavy Industrial to other designations.

These re-designations would be most successful in protecting industrial lands, if they met all of the following criteria:

1. The site is adjacent to viable Light or Heavy Industrial designated land.

2. The site is currently zoned to allow Light or Heavy Industrial uses.
3. The site currently contains legal Light or Heavy Industrial businesses.
4. The site is at least five acres in area.

Another way to create Light or Heavy Industrial land capacity is by the removal of an overlay that allows a mix of uses such as a Mixed Industrial Overlay or a Transit/Employment Residential Overlay, on a site with a base land use designation of Light or Heavy Industrial. In situations where an overlay that allows a mix of uses is removed from a site, it should be demonstrated that such a removal does not decrease the amount of land available for religious assembly uses.

A third way to create Light or Heavy Industrial acreage is by changing sites designated Combined Industrial/Commercial to an exclusively Light or Heavy Industrial land use designation.

The project proponent should coordinate with City staff to determine an appropriate area in which to look for a site for an appropriate offsetting conversion to a Light or Heavy Industrial land use designation. The project proponent should then work with the appropriate property owners to obtain their support for such a proposal, and then submit to the Planning Division a privately-initiated General Plan amendment application with environmental clearance and appropriate fees paid.

Land Use Planning to Support Public Infrastructure Projects: In some cases, a special public infrastructure project may warrant land use changes. Specifically, the extension of the BART system to San José requires such a significant investment of public resources that it is appropriate for the City to consider the conversion of employment lands to viable mixed commercial-residential uses, or, where clearly not marketable, even purely residential uses in order to support the project. Such conversions may be supported if they provide the highest possible density of new residential development with adequate incorporation of open space, retail, and other services to support the new residential development. In these situations, it may not be feasible to maintain no net loss of employment capacity; however, no net loss of Light or Heavy Industrial acreage should be maintained through the acquisition and conversion of other lands in the City of San José to Light or Heavy Industrial uses. The "no net loss of Light or Heavy Industrial designated acreage" criterion may not be applicable to publicly owned land used by a public agency for public purposes related to the public infrastructure project.

2. Discourage Conversion to Non-Employment Uses in Key Employment Areas

Conversion of employment lands to non-employment uses are discouraged in key employment areas including Coyote Valley, North San José, the Evergreen industrial area, the Edenvale Redevelopment Project Area, the Monterey Corridor Redevelopment Project Area, and the expanded Downtown Core. Conversion of employment lands to non-employment uses in a key employment area may be supported by the Framework only if there is no net loss of employment capacity in the subject key employment area as a result of the conversion, and if an Extraordinary Economic Benefit accrues to the City as a result of

the conversion. Please refer to the map for these areas that is incorporated into this Framework document.

The North San José Development Policy Area is not eligible for intensification from the transfer of employment square footage from sites outside of the boundaries of the North San José Development Policy Area. This is because such a transfer would result in a net loss of employment square footage to the City. Sites within the North San José Development Policy Area already have the potential for higher density development (greater than a Floor Area Ratio of .35) given the adopted North San José Area Development Policy, so that the square footage in question is lost. A total of 26.7 million square feet is allowed by the North San José Area Development Policy regardless of transfer of square footage from outside the North San José Development Policy Area.

In the recently expanded Downtown Core, the Downtown Strategy 2000 Plan provides for a balance of residential and commercial uses. Nothing in this Framework limits the development of residential uses consistent with the Downtown Strategy 2000 Plan in the Downtown Core.

3. Intensify to Retain Job Capacity on Sites Currently Designated for Industrial Park or Combined Industrial/Commercial

In situations where conversion does not involve Light Industrial or Heavy Industrial land uses, retention of employment capacity on site by intensification of the development's Floor Area Ratio (FAR) may be feasible. Sites located within North San José and the Downtown Core are eligible for intensification on site as a strategy to preserve employment uses if the proposed General Plan amendment involves conversion of one employment land use designation (e.g., Industrial Park) to another employment land use designation (e.g., Combined Industrial/Commercial). For example, a proposal could combine ground floor retail uses with second-story office uses.

Non-employment uses may be added to a site by retaining the existing job capacity through intensification on the remainder of the site for properties located outside of Coyote Valley, North San José, the Monterey Corridor Redevelopment Project Area, and the Evergreen industrial area. Minimum FARs to achieve this should be at least .35. For sites located within 2000 feet of existing or planned Light Rail Transit stations, or within 3000 feet of future BART stations, the minimum FAR for existing employment uses to be maintained prior to intensification with other uses should be .40.

As part of the City's Retail Strategy, the City continues to consider adding potential retail sites to the City's inventory based on specific criteria for a property's size, shape, access to transportation, and connection to neighborhoods. This strategy includes considering sites for retail uses that are currently designated for exclusively industrial employment uses. Vertical intensification of employment uses can accommodate the retention of existing industrial employment capacity on a site while adding new retail employment capacity. This approach works well for Industrial Park/Research and Development types of businesses that can locate in buildings with multiple stories. The Vision 2030 Plan for North San José and the approved

General Plan amendment and zoning changes for the Hitachi site are good examples.

In situations where it is not feasible to add retail capacity to an existing site while maintaining the original industrial employment capacity on the site, the original industrial employment capacity may be forsaken if the project proponent can document to the satisfaction of the City that a net addition of sales tax revenue to the City of San José will result from the conversion.

4. Maintain Employment Lands for Non-Residential Uses

Land designated for a mix of employment uses that was previously designated for exclusively industrial uses should not be converted to allow residential uses. If a conversion is proposed at a later date, any conversion that occurred less than ten (10) years previously to the proposed conversion shall be reviewed and considered as if the land is designated for exclusively industrial uses.

5. Retain Citywide Job Capacity

Sites in areas of the City other than Coyote Valley, North San José, the Monterey Corridor Redevelopment Project Area and the Evergreen industrial area, may be eligible to convert from employment to non-employment uses only if there is no net loss of total job capacity within the City and there is an Extraordinary Economic Benefit (see below for further discussion) provided by the conversion of the site to non-employment uses. When land designated for employment uses is converted to land designated for exclusively non-employment uses, such as residential uses, there should be no net loss of job capacity in the City of San José. Intensifying job capacity on other lands designated for employment uses in the City of San José or concurrently converting equivalent acreage from exclusively non-employment uses to acreage designated for employment uses within the City are possible methods of maintaining the criterion of no net loss of job capacity Citywide.

6. Discourage New Residential Development on Sites Converted from Industrial to Commercial Land Use Designations

The Combined Industrial/Commercial land use designation should be selected to allow commercial and industrial uses on sites converted from exclusively industrial uses. The Combined Industrial/Commercial land use designation excludes residential uses.

Extraordinary Economic Benefit from Conversion

For an Extraordinary Economic Benefit to occur when employment lands are converted to other uses, the City must receive significant off-setting fiscal benefits, such as revenues, beyond those required or expected from a project that does not result in the net conversion of employment land to other uses. Provision of affordable housing, parks, and related infrastructure improvements are an ordinary component of new development and do not qualify as an Extraordinary Economic Benefit.

The Extraordinary Economic Benefit should be defined by a Development Agreement or similar mechanism at the same time as the proposed General Plan amendment is considered so that the Council can evaluate the merits of the actual development project with the proposed General Plan land use designation.

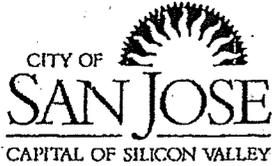
1. Capital Contribution for Investments in Economic Development

Contributions of capital in the City's programs for economic development may provide an Extraordinary Economic Benefit to the City. Proposals will be considered on a case-by-case basis. Examples of programs include the City's Economic Development Catalyst Program and the Economic Development Reserve fund. These two programs are described below:

- Through the City's Economic Development Catalyst Program (EDCP) the City of San José will provide up to \$3 million over the next four years to leverage substantial venture capital investment in private small businesses located in the City of San José. The EDCP leverages City funds at a 6 to 1 ratio. In addition to increasing the direct impact of City funds, the EDCP is anticipated to make equity investments that will enhance job creation, expand the local tax base, and facilitate the integration of other programs and services targeted to the small business community.
- The City Manager has proposed establishing a fund that would be available to provide incentives for extraordinary and unanticipated economic development opportunities to create jobs in San José, such as the recent success of securing CleanTech solar company Nanosolar. The account would only be utilized for unanticipated and extraordinary projects that may require financial incentives to ensure the creation of new jobs in San José and a corresponding increase in City revenues. To determine whether a given economic development opportunity meets the threshold of "unanticipated and extraordinary," the Office of Economic Development will consider the following:
 - a. Does the company meet the City's definition of a driving industry (Computer technology, Bioscience, CleanTech, Nanotech, Informatics, etc)?
 - b. Does the company have the potential to create from 10 to 100 jobs within the next two years?
 - c. Will the company's headquarters be located in San José?
 - d. Does the business activity of the company have the potential to generate significant revenues for the City?
 - e. Does the company have significant location options (regionally, nationally, or internationally) and require assistance to ensure that the site selected is in San José?

2. Mitigation Fee

In the future, the City may propose a mitigation fee program. Such a program should provide a methodology to quantify the economic impact of a proposed conversion and assess a fee that can be used to offset the impact. The Office of Economic Development is working with a consultant to investigate the feasibility of such a program and will further address its implementation if it is determined to be viable.



Memorandum

TO: City Council

FROM: Mayor Chuck Reed
Councilmember Madison Nguyen
Councilmember Nancy Pyle
Councilmember Forrest Williams

SUBJECT: SEE BELOW

DATE: October 19, 2007

APPROVED: *Madison P. Nguyen*

DATE: *10/19/07*

SUBJECT: PROPOSED FRAMEWORK FOR PRESERVATION OF EMPLOYMENT LANDS

RECOMMENDATION

Approve staff recommendations with the following clarifications and changes:

1. The following are not employment land conversions and are not governed by the Framework:
 - Rezoning that are consistent with existing General Plan land use designation;
 - Rezoning that are consistent with existing Specific Plan land use designation;
 - Changes from Industrial Park uses to Combined Industrial/Commercial uses;
 - Conditional Use Permits for Emergency Residential Shelters and SRO's per the Zoning Code;
 - Development of sites in the General Plan designations of Commercial in Neighborhood Business Districts under Discretionary Alternative Use Policies as appropriate, with preference for mixed use; and
 - Public Schools.
2. Commercial uses or a combination of industrial and commercial uses should be considered on small or unusually configured remnant industrial designated sites per the proposed Discretionary Alternative Use Policies. Staff is directed to develop specific criteria to allow for some flexibility on such sites. Other uses for small or unusually configured industrial sites will be considered by the General Plan Task Force at the appropriate time.
3. Small, isolated remnant commercial parcels that are degrading neighborhoods and are no longer suitable for commercial uses may be considered for conversion for affordable housing projects which include Extremely Low Income units, and/or schools, assembly uses, and other Public/Quasi-Public uses, secured by a Development Agreement or similar mechanism. Staff is directed to identify such remnant parcels and make the information publicly available.
4. Proposals to designate employment lands for conversion to non-employment uses in support of public infrastructure, such as BART or Light Rail, must be accompanied by a proposal to offset the loss of Light Industrial or Heavy Industrial lands as recommended by City staff. Proposals for conversions to residential use in support of BART or Light Rail should include a significant portion of Extremely Low Income (ELI) units and other Affordable units, secured by a Development Agreement or similar mechanism. It is recommended that staff

coordinate the direction above with discussions that are currently in progress on a proposal for citywide inclusionary housing.

5. There are currently 12 pending General Plan Amendments involving the potential loss of 147 acres of employment lands. These pending applications could generate an estimated 3,600 dwelling units. All pending conversion applications will be processed and evaluated under the Preservation Framework and agendaized for Council consideration at one time, no later than the end of March 2008, if ready.
6. Staff is directed not to pursue a mitigation fee program nor monetary capital contributions for economic development.

BACKGROUND

The Framework to Evaluate Proposed Conversions of Employment Lands to Other Uses was originally approved by the City Council in April 2004. Direction was given to staff at our March 2007 Council Study Session that the Framework be updated. On May 15, 2007, City Council unanimously approved strengthening the employment lands conversion criteria and directed staff to modify the Framework as such. Staff has acted upon this direction and drafted a proposed Framework for Preservation of Employment Lands that is before us now.

City Council actions since 1990 have led to the conversion of over 1,400 acres of prime employment lands, a conversion of 9% of all employment lands. We need to send a message that our commitment to land use, economic development and a fiscally sustainable city is a long-term proposition. We must discourage conversion of employment lands that are based on current market demand and pricing. We need to preserve employment lands to support driving industries, as well as our business-support and people-serving industries, jobs, and tax base. We need to generate more revenue to support residents. We need to eliminate the structural budget deficit.

While we take a stand on preservation of employment lands, let us reiterate that our commitment to leading the South Bay in housing production continues to be strong. Staff estimates a General Plan residential holding capacity of approximately 75,000 dwelling units including allocations in the Greater Downtown Core Area and North San Jose. We must encourage and work with our housing partners to achieve full build-out of the General Plan capacity.

Comparing San Jose data with other Silicon Valley cities provides a grim picture of our current fiscal status. Total revenue per capita is 1.4 times less in San Jose than in Santa Clara and 2.1 times less than in Sunnyvale. San Jose continues to be the County's bedroom community with 0.9 jobs per employed resident, trailing badly behind Santa Clara with 2.1 jobs per employed resident, and Sunnyvale with 1.2 jobs per employed resident.

Approval of the proposed Framework will be our opportunity to intentionally slow down the rate of employment land conversions while the General Plan Update is in development. Our approach is not misguided. Rather it is an opportunity to correct the existing imbalance and create opportunities for jobs and housing.

The San Jose Metro Area is ranked as the 10th Major Manufacturing Center in the US. Other major cities in the country including San Francisco, Los Angeles, Oakland, Boston, Chicago, Cleveland, New York, and Portland, are facing similar pressures on conversion of employment lands, and are similarly engaged in preservation and zoning protection of their industrial lands.

Your support of these recommendations is appreciated.



**ADDENDUM TO AN EIR
USE OF A FINAL EIR PREPARED FOR A PREVIOUS PROJECT**

Pursuant to Section 15164 of the CEQA Guidelines, the City of San Jose has prepared an Addendum to an Environmental Impact Report (EIR) because minor changes made to the project that are described below do not raise important new issues about the significant impacts on the environment.

PROJECT DESCRIPTION AND LOCATION

General Plan text amendment (GP08-T-07) Director-initiated proposal to change the *San José 2020 General Plan* text to add a new General Plan Land Use/Transportation Diagram designation as follows:

1. Create a newly defined land use designation in the General Plan text to encourage vertical mixed-use development near transit while ensuring the preservation of commercial employment lands in San Jose.
2. Intended for sites located in the Downtown Core and Frame Areas or BART Station Area Nodes or within a reasonable walking distance of existing or funded passenger rail stations or bus rapid transit stations in other intensely developed areas of the City. (A reasonable walking distance is defined as approximately 2,000 feet along a safe pedestrian route).
3. Requires commercial uses in a viable configuration on the street level floor of any development. Wholly commercial projects are allowed. Retail uses are encouraged on the street level floor and office uses are encouraged on upper floors.
4. May allow vertical mixed commercial and residential uses on sites that are of adequate size to accommodate such a mix of uses provided that the street level floor consists of wholly commercial uses.
5. Expands the potential for mixed commercial-residential development with convenient access to major job centers and helps create new consumer markets in appropriate areas of the City.
6. No land use change to any site is identified or included in the proposed General Plan text amendment. If the General Plan text amendment is adopted, any future land use changes on sites that implement the new land use designation will be subject to the California Environmental Quality Act.

Council District: Citywide

County Assessor's Parcel Nos: Citywide

The environmental impacts of this project were addressed by a Final EIR entitled, "San Jose 2020 General Plan," and findings were adopted by City Council Resolution No. 65459 on August 16, 1994. Specifically, the following impacts were reviewed and found to be adequately considered by the EIR:

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Traffic and Circulation | <input checked="" type="checkbox"/> Soils and Geology | <input checked="" type="checkbox"/> Noise |
| <input checked="" type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Hazardous Materials | <input checked="" type="checkbox"/> Land Use |
| <input checked="" type="checkbox"/> Urban Services | <input checked="" type="checkbox"/> Biotics | <input checked="" type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Aesthetics | <input checked="" type="checkbox"/> Airport Considerations | <input checked="" type="checkbox"/> Microclimate |
| <input checked="" type="checkbox"/> Energy | <input checked="" type="checkbox"/> Relocation Issues | <input checked="" type="checkbox"/> Construction Period Impacts |
| <input checked="" type="checkbox"/> Transportation | <input checked="" type="checkbox"/> Utilities | <input checked="" type="checkbox"/> Facilities and Services |
| <input checked="" type="checkbox"/> Water Quality | <input type="checkbox"/> _____ | |

ANALYSIS

The text changes to create and define the new land use designation of Transit Corridor Commercial will maintain or reduce impacts in the areas where the proposed land use designation may be applied in that the proposed land use designation would likely be selected instead of the land use designation of Transit Corridor Residential (20+ DU/AC) for sites intended for vertical mixed commercial-residential uses. Transit Corridor Residential (20+ DU/AC) is already a land use designation defined and applied in the San Jose 2020 General Plan.

Both the Transit Corridor Residential (20+ DU/AC) and Transit Corridor Commercial land use designations may allow vertical mixed residential-commercial uses on sites if specific criteria are met, as defined in the General Plan. Currently in the General Plan, the primary option to allow vertical mixed residential-commercial uses with an undefined upper residential density is Transit Corridor Residential (20+ DU/AC). This land use designation requires residential uses at a density of at least 20 dwelling units per acre with no upper limit, but does not require commercial uses. The result is often solely residential uses of at least 20 dwelling units per acre on sites under the Transit Corridor Residential (20+ DU/AC) land use designation, and solely commercial development on other sites throughout the City that have commercial land use designations.

The proposed land use designation of Transit Corridor Commercial requires commercial uses and only allows vertical mixed commercial-residential uses at the City's discretion with no explicit minimum density for the residential component. The proposed land use designation of Transit Corridor Commercial can facilitate the preservation of commercial employment capacity within the City of San Jose by locking in this capacity on sites while adding potential residential capacity. Compared to the Transit Corridor Residential (20+ DU/AC) land use designation, Transit Corridor Commercial will more likely eliminate a need for land use changes on other sites within the City to convert residential to commercial uses to maintain no net loss of commercial employment capacity Citywide in accordance with the City's adopted policies, and can result in fewer additional residential uses. Therefore, changes to the Transit Corridor Commercial designation on sites within the City of San Jose individually and cumulatively are anticipated to have the same or fewer impacts compared to land use changes to Transit Corridor Residential (20+ DU/AC) on sites within the City.

Jenny Nusbaum
Project Manager

Date

10/29/07

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Deputy

Mari Smaralsen

V. LAND USE/TRANSPORTATION DIAGRAM

Oriented Development Corridors or along arterials containing major bus routes should be developed at the high end of the density range to support these transit facilities. Properties located within a reasonable walking distance of a planned or existing rail station should be developed at a minimum density of 20 units per acre under this designation. (A reasonable walking distance is defined as approximately 2,000 feet along a safe pedestrian route).

High Density Residential: 25-50 Dwelling Units Per Acre

This density is typified by three-to four-story apartments or condominiums over parking. This density is planned primarily near the Downtown Core Area, near commercial centers with ready access to freeways and/or expressways and in the vicinity of the rail stations within the Transit-Oriented Development Corridors Special Strategy Area. Sites within reasonable walking distance of a passenger rail station (2,000 feet) may be appropriate for vertical commercial/residential mixed-use development under a Planned Development zoning. The commercial component should be well integrated and well designed in the context of the overall development, with the commercial uses serving the surrounding neighborhood and rail passengers.

Residential Support for the Core Area: 25+ Dwelling Units Per Acre

This land use designation is intended for high density residential use (25+ Dwelling Units Per Acre) in and near the Downtown Core Area. This designation permits development with commercial uses on the first two floors, with residential use on upper floors, as well as wholly residential projects. Development within this category is intended to expand the potential for residential development in close proximity to

central area jobs, and to create new consumer markets in the Downtown area.

Transit Corridor Residential: 20+ Dwelling Units Per Acre

This land use designation is intended for medium high and high density residential uses within, or very near, Transit-Oriented Development Corridors and BART Station Area Nodes, Housing Initiative Area, or major bus routes. Residential development should occur at densities of 20 units or more per acre. This land use category is intended to expand the potential for residential development in proximity to major public transit particularly along the City's Transit-Oriented Development Corridors and Station Area Nodes. Under this designation, neighborhood serving commercial uses are encouraged within residential projects in areas with insufficient neighborhood commercial uses. Development under this designation should be allowed only under Planned Development zoning and should be compatible with existing neighborhoods and not impair the viability nor the character of these neighborhoods.

Because of the varied character of development found along the transit corridors within the City, two types of residential development are identified under this designation: Urban Transit Corridor Residential and Suburban Transit Corridor Residential. These categories represent the range of development allowed under the Transit Corridor Residential designation. The determination of the intensity and scale of development on specific sites should be decided at the zoning stage.

- Urban Transit Corridor Residential is intended for sites located in the Downtown Core and Frame Areas or within a reasonable walking distance of passenger rail stations in other intensely developed areas of the City. (A

reasonable walking distance is defined as approximately 2,000 feet along a safe pedestrian route). Development should be wholly residential or allow commercial uses on the first two floors with residential uses on remaining floors and should generally exceed 45 DU/AC unless particular circumstances warrant a lower density to preserve the character of adjacent neighborhoods. On larger sites, a project can be designed with a mix of densities to provide a compatible edge to existing lower density neighborhoods while still achieving the expected minimum density. This category is intended to expand the potential for residential development with convenient access to major job centers and to create new consumer markets in the appropriate areas of the City.

- Suburban Transit Corridor Residential is intended for suburban areas within a reasonable walking distance of passenger rail stations. Densities under this category should generally be a minimum of 25 dwelling units or more per acre. On larger sites, a project can be designed with a mix of densities to provide a compatible edge to existing lower density neighborhoods while still achieving the expected minimum density. Wholly residential projects or projects with commercial uses at street level, in conjunction with residential use on upper floors, would be permitted. Neighborhood serving commercial uses are also permitted in freestanding buildings provided that: they are zoned and built as part of a residential project; they have a clear functional and architectural relationship to the residential buildings; and, they are located along a pedestrian pathway system with convenient links to the rail station and nearby housing.

With the preparation of a specific plan, residential densities and commercial intensities may be limited to specific ranges within the scope of this designation.

**Transit/Employment Residential:
55+ Dwelling Units per Acre**

A high-density residential overlay designation that indicates areas in which City Policy supports residential development as an alternate use at a minimum average density of 55 units per acre. The site may also be developed with uses consistent with the underlying designation. This designation permits development with commercial uses on the first two floors, with residential use on upper floors, as well as wholly residential projects. Development within this category is intended to make efficient use of land to provide residential units in support of nearby industrial employment centers. Site specific land use issues and compatibility with adjacent uses should be addressed through the rezoning and development permit process. Land within this overlay area may also be converted for the development of new schools and parks as needed to support residential development.

Urban Hillside: 1 Dwelling Unit Per 5 Acres

This land use designation is intended for most hillside areas above the fifteen percent slope line but within the Urban Service Area. Because of the geologic conditions found throughout these areas (landslides, soilcreep, earthquake faults) and the extraordinary public costs associated with hillside development, uses should be low intensity in character. These hillside areas also contain important watersheds, natural habitats, and prime percolation soil areas which should be preserved from the encroachment of urban densities. Projects developed under this designation should be designed to minimize their visibility, to enhance the open space

Memorandum

TO: Jenny Nusbaum
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

**SUBJECT: RESPONSE TO GENERAL PLAN
AMENDMENT APPLICATION**

DATE: 09/05/08

PLANNING NO.: GP08-T-07
DESCRIPTION: Director-Initiated General Plan Text Amendment to add and define a new landuse designation of "Transit Corridor Employment" to allow employment uses as the primary ground floor use and residential as discretionary additional use on upper stories in proximity to Light Rail, Bus Rapid Transit, and BART Station Area Nodes
LOCATION: Citywide
P.W. NUMBER: N/A

Public Works received the subject project on 08/25/08 and has no comments at this time.

Please contact the Project Engineer, Vivian Tom at (408)535-6819 if you have any questions.



EBRAHIM SOHRABI
Senior Civil Engineer
Transportation and Development Services Division


ES.VT:jk



Memorandum

To: Jenny Nusbaum

From: Du Lam

SUBJECT: INITIAL RESPONSE TO
DEVELOPMENT APPLICATION

DATE: 09/08/08

Re: Plan Review Comments

PLANNING NO: GP08-T-07

DESCRIPTION: Director-Initiated General Plan Text Amendment to add and define a new landuse designation of "Transit Corridor Employment" to allow employment uses as the primary ground floor use and residential as discretionary additional use on upper stories in proximity to Light Rail, Bus Rapid Transit, and BART Station Area Nodes

LOCATION: Citywide

ADDRESS: Citywide

FOLDER #: 08 033914 AO

The Fire Department's review was limited to verifying compliance of the project to Article 9, Appendix B, and Appendix C of the 2007 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.

Du Lam

Associate Engineer

Bureau of Fire Prevention

408-535-7711

From: bgoldmace@aol.com [mailto:bgoldmace@aol.com]
Sent: Tuesday, September 16, 2008 12:04 PM
To: Jenny.Nusbaum@sanjoseca.gov
Subject: GPA Transit Corridor Employment comments

Hi Jenny

Regarding GP08-T-07 (proposed GPA to create a new land use designation of Transit Corridor Employment), I have the following comments:

- What type of "employment" uses would be allowed under this designation? The word "employment" is vague, and it could mean heavy industrial, light industrial, commercial etc. If we are talking essentially about mixed use developments with employment on the ground floor and residential as the discretionary use on the upper floors, then we are really only talking about commercial not industrial employment. So, perhaps the land designation should be called Transit Corridor Commercial or Transit Corridor Retail.

- Have you specified the types of commercial that would be available under this new land use designation? Would any type of commercial be compatible with residential?

- It's important to have large sidewalks and setbacks in any Transit Corridor Employment designation, since retail and restaurants tend to spill outside onto the street.

- It would be useful to add that employment uses can be applied to the ground floor and second floor. Retail can be on the ground floor, and offices can be on the second floor. Residential can occur on the third floor and above. In this way, there is a buffer between the noise of the retail establishment on the ground floor and the residential on the third floor.

- If the parcels are small, how do you create a TCE designation that is meaningful? Do the parcels need a certain minimum size to use this designation?

Thanks!
Bonnie Mace
District 8

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