



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: November 24, 2008

COUNCIL DISTRICT: 8
SNI AREA: N/A

SUBJECT: GP08-08-05. General Plan amendment request to change the Land Use/Transportation Diagram designation from Low Density Residential (5 DU/AC) to Office on approximately 0.69 acres and Private Open Space on approximately 0.92 acres of a 2.98-acre property on the west side of San Felipe Road, approximately 600 feet south of Delta Road. (4203 San Felipe Road).

RECOMMENDATION

The Planning Commission voted 6-0-0 to recommend that the City Council approve the proposed General Plan land use amendment request as recommended by staff.

OUTCOME

If approved, the proposed General Plan amendment

- Will meet the applicant's objective to facilitate office land uses at this location;
- Will facilitate the opportunity for future economic development of office uses that can contribute to the economic base, provide jobs, and serve the surrounding community; and
- Will establish a minimum setback of at least 50 feet from the Riparian Corridor designated as Private Open Space.

BACKGROUND

On August 19, 2008, Hawkstone LLC submitted a privately initiated General Plan amendment request to change the land use designation from Low Density Residential (5 DU/AC) to Office on a 0.69-acre portion of a 2.98-acre property located on the west side of San Felipe Road approximately 600 feet south of Delta Road.

The surrounding land uses are predominantly single-family residential to the north, east, south and west. A senior housing facility is located south of the subject site. The western boundary of the larger 2.98-acre property is adjacent to Thompson Creek.

In the staff report to the Planning Commission, distributed November 12, 2008, staff proposed an alternative to the proposed General Plan amendment to change the land use designation from Low Density Residential (5 DU/AC) to Office on approximately 0.69 acres and Private Open Space on approximately 0.92 acres of the 2.98-acre property to ensure a minimum setback of 50 feet from the riparian corridor for any future development proposals. The land use designation of Private Open Space allows land that is restricted to agricultural uses and private buffer lands such as riparian setback areas.

On November 19, 2008, the Planning Commission held a public hearing to consider the proposed General Plan amendment. The applicant expressed support for the staff recommendation. The Planning Commission voted 6-0-0 to recommend to the City Council approval of the staff recommended proposal.

PUBLIC TESTIMONY AND PLANNING COMMISSION DISCUSSION

Public Testimony

Several members of the public expressed full support for the General Plan amendment proposal. Other members of the public expressed support yet raised several issues or concerns regarding land use compatibility, Evergreen Development Policy conformance, Thompson Creek Trail, and project level issues such as traffic, setback, and site design.

Ms. Carla Evans, Evergreen Resident, business owner and President of the Business Association, stated that she strongly recommended approval of the proposed General Plan amendment. She noted that there is a compatible coexistence of business and residential uses in the area and that a professional office building would fit well with the existing community and would enhance the overall appearance of the area. She added that future office uses would help meet the demand for professional office buildings and would alleviate traffic because residents would not have to travel as far to receive services.

Mr. Todd Jones, an Evergreen resident and owner of a medical practice, expressed support for the proposal. He stated that it would provide needed professional office space for additional medical office uses.

Ms. Bonnie Mace, representing the District 8-Community Table Land Use Sub Committee, expressed support for the proposal but raised several issues and questions. Ms. Mace asked why a 50-foot setback was being proposed when Environmental Services recommended a 100-foot setback and why the project was exempt from traffic analysis. She expressed concern about parking impacts, setbacks, implications to the eleven units of traffic allocation, the height and width of a future office building, and how the various land uses will interface with a future development proposal. She expressed support for implementing future development proposals through a Planned Development Zoning District for the entire property and providing a buffer for the riparian corridor under the proposed Private Open Space land use designation. Ms. Mace questioned the implications for the existing Candidate Structure of Merit and trees on-site when a future development is proposed. Lastly, she inquired about consistency of the project with the proposed Evergreen East-Hills Development Policy and the implementation of the Thompson Creek Trail.

Mr. Brad King, neighbor and property owner of the parcel south of the site, expressed support for medical and dental office uses in the area, but he stated that he was not in support of office uses in this location. He expressed concern about traffic and noise that may result from a future development proposal, and he cited current noise issues that he has experienced from an existing assisted living facility south of the site. He added that he believed office uses should not be in the middle of a residential neighborhood.

The applicant and current property owner, Mr. Reyad Katwan, stated that the project would contribute to the economic base, serve the community, be compatible with the surrounding land uses, and would not negatively impact traffic, but rather alleviate traffic from other heavily impacted intersections in the surrounding area. He added that, as part of a future development project, open space will be dedicated along the riparian corridor and enhancement plantings will be done. Mr. Katwan stated that future development would provide additional public benefit by adding sewer facilities on site that could provide the opportunity for sewer connection for the neighbors. He noted that he personally contacted the surrounding property owners to address their concerns and intends to continue working with the neighbors and community through the process.

Mr. Katwan, stated that he is willing to implement staff's recommendations and work through the riparian issues with a future development proposal. He noted that the site is surrounded by land uses that have minimal riparian setback and that with a 50-foot riparian setback he is left with approximately 1.3 acres of developable land because of the unusual shape and conditions of the property.

Mr. Katwan stated that, while there is no development proposal on file at this time, the proposed plans for the property include office and residential and that the property currently has allocation for eleven single-family residential units. He stated that he intends to develop the entire property through a Planned Development Zoning and that the number of residential units will be determined through density calculations.

Commission Kamkar asked Mr. Katwan how he felt about the 0.92 acres of Private Open Space being proposed by staff. Mr. Katwan stated that provided the 0.92 acres could be calculated into the overall net density for the site as staff has indicated, that he is in support of staff's recommendation. Mr. Katwan added that the overall average riparian setback proposed for the future development is 66 feet.

Commissioner Zito asked what determined the shape of the 0.69-acre portion proposed for the Office land use designation. Mr. Katwan responded that he tried to move the office use away from the existing residential uses and riparian corridor to minimize potential impacts and still maintain adequate area for his project.

The Planning Commission then closed the public hearing.

Planning Commission Discussion

The three issues of concern to the Planning Commission were 1) Thompson Creek Trail, 2) Riparian Corridor Policy Conformance, and 3) Evergreen Development Policy.

Thompson Creek Trail

Commissioner Zito asked staff for clarification as to the location of the proposed Thompson Creek Trail. Staff stated that this information would be researched and the answer would be provided as a follow up item.

Riparian Corridor Policy Conformance

Commissioner Zito expressed concern about compliance with the Riparian Corridor Policies. Staff responded that the Riparian Corridor Policies allow exceptions to the standard 100-foot setback under certain circumstances. Staff added that, for CEQA purposes, a 50-foot setback does not cause a significant impact. Staff noted that at the time of a future development proposal, staff would work with the applicant to achieve the maximum riparian setback feasible with the office use. Staff noted that theoretically a proposed office use could occupy the existing residential structure and the rest of the site would remain unchanged. Staff stated that the current proposal is for a land use change and that a development proposal is not on file at this time.

Commissioner Zito expressed concern about ample protection of the Thompson Creek Riparian Corridor and implementation of the Thompson Creek Trail. He stated that the creek is a vibrant riparian area and that the Riparian Corridor Policies were adopted to address these areas. He encouraged staff to explore reconfiguration of the portion of the site proposed for an Office land use designation to optimize the setback from the riparian corridor and ideally increase the setback to as close to 100 feet as possible, and to achieve a minimum setback of 75 feet.

Commissioner Jensen stated her support to recommend approval of the General Plan amendment proposal as recommended by staff but with a 75-foot setback as Commissioner Zito proposed. She cautioned staff to address the concerns raised by the Santa Clara Valley Water District as the project moves forward in that the loss of riparian habitat should be taken seriously.

Evergreen Development Policy

Commissioner Zito asked how the proposed project affects the proposed Evergreen East-Hills Development Policy. Staff responded that the Evergreen East-Hills Development Policy (EEHDP) is being considered by the City Council on December 16, 2008. Staff added that if the EEHDP moves forward, the future development as indicated by the applicant would include approximately 12,000 square feet of Office, which is within the capacity of the 75,000 square feet of office uses analyzed included in the proposed EEHDP. Staff noted that traffic for this capacity has been analyzed for the EEHDP. Any additional near-term traffic analysis that would be needed would be determined at the time a future development proposal is submitted.

Commissioner Zito asked that information regarding the consistency of the proposal with the proposed Evergreen East-Hills Development Policy be provided.

The Senior City Attorney Deputy indicated that the City could not mandate conformance with the Evergreen East-Hills Development Policy but that any future development proposals would be subject to evaluation for consistency the General Plan policies and the current Development Policy for Evergreen.

Staff clarified that the future development described by the applicant would be consistent with the current and proposed Evergreen East-Hills Development Policy.

The Assistant Director of Planning, Building and Code Enforcement, reiterated the Planning Commission's recommendation to recommend approval of the General Plan amendment as proposed by staff but to include with the memorandum to City Council a diagram illustrating the implications of 50, 75 and 100 foot setbacks in relation to the 0.69 acre portion proposed for Office and the entire 2.98-acre parcel.

ANALYSIS

See original staff report (attached) for analysis of the proposed General Plan amendment.

EVALUATION AND FOLLOW-UP

Approval of the proposed General Plan amendment as recommended by staff and the Planning Commission facilitates implementation of the General Plan's Economic Development and Growth Management Major Strategies and Commercial Land Use and Riparian Corridors and Upland Wetland Goals and Policies.

POLICY ALTERNATIVES

Alternative 1: Denial of the proposed General Plan amendment.

Pros: Denial would retain the existing land use designation of Low Density Residential (5 DU/AC) on the entire 2.98-acre property.

Cons: Denial would not facilitate the opportunity for future economic development of office uses that could contribute to the economic base, provide jobs, and serve the surrounding community.

Reason for not recommending: This alternative is not recommended because it does not facilitate the implementation of the General Plan's Economic Development and Growth Management Major Strategies and Commercial Land Use Goals and Policies.

PUBLIC OUTREACH/INTEREST



Criteria 1: Requires Council action on the use of public funds equal to \$1 million or greater.

(Required: Website Posting)

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

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy as described in the attached staff report.

COORDINATION

The proposed General Plan amendment was coordinated with the Environmental Services Department, Department of Public Works, Fire Department, the Department of Fish and Game, U.S. Fish and Wildlife Service, Santa Clara Valley Water District, Department of Transportation and the City Attorney.

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.

CEQA

A Negative Declaration was adopted on November 19, 2008 that provides environmental clearance for the project.

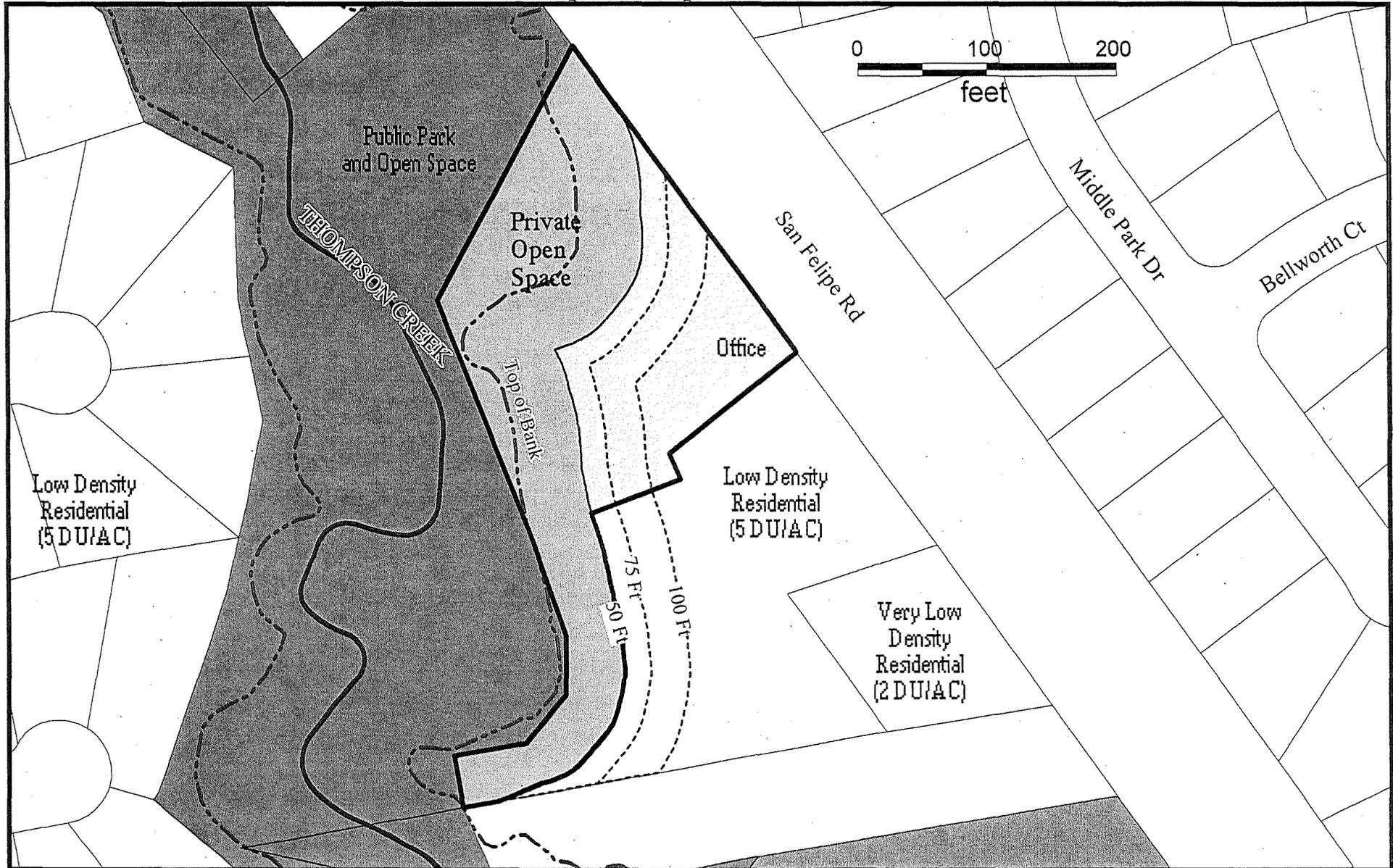

for JOSEPH HORWEDEL, SECRETARY
Planning Commission

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

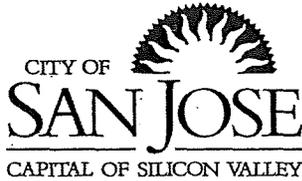
Attachments

1. Map/Setback Illustration
2. Supplemental Memo to Planning Commission and correspondence received after distribution of original staff report
3. Staff report for Planning Commission

GP08-08-05 Proposed Riparian Setback



- Top of Bank
- Riparian Setback
- Site



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: 8

SNI: NONE

SUPPLEMENTAL MEMORANDUM

SUBJECT: GP08-08-05. General Plan Amendment request to change the Land Use/ Transportation Diagram designation from Low Density Residential (5 dwelling units per acre) to Office on a 0.69-acre portion of a 2.98-acre property.

REASON FOR SUPPLEMENTAL MEMORANDUM

The following correspondence, received subsequent to distribution of the staff report dated November 12, 2008, is attached:

On November 13, 2008, staff received an email from Mr. David Salah, an Evergreen resident, expressing support for the proposed General Plan amendment in that it would help to provide jobs and needed services to residents and is compatible with the existing assisted senior living use along San Felipe Road.

On November 18, 2008, staff received an email from Leo and Donna Herrick, property owners of a parcel west of the site, across Thompson Creek, on Peartree Lane. The Herricks expressed concern about traffic and noise that may be generated by future development proposals. The Herricks also stated in the email that they preferred residential uses on the site rather than office uses. The Herricks added that they are concerned with how a future two-to-three story office building may impact the view of the mountains from their property and degrade their property value.

The public review period for the Negative Declaration/Initial Study prepared for the project ended at 5 p.m. on November 17, 2008. Staff received comments on November 17, 2008 during the public review period from Mr. Samuel Yung, Associate Civil Engineer/Community Projects Review Unit, Santa Clara Valley Water District. Staff has prepared a response letter to the District's comments, dated November 19, 2008, and has amended the Initial Study accordingly. Please refer to the attached documents for staff's response to the issues raised in the District's letter.

Staff has provided the Negative Declaration (attached) prepared for the project, which was not available with the staff report.

Andrew C. C. C.
For JOSEPH HORWEDEL, DIRECTOR
Department of Planning, Building,
and Code Enforcement

Attachments

Email from Mr. David Salah, dated November 13, 2008

Email from Leo and Donna Herrick, dated November 18, 2008

Draft Negative Declaration/Initial Study Comment Letter from Mr. Samuel Yung, Santa Clara Valley Water District, dated November 17, 2008

Response to Comments Received from the Santa Clara Valley Water District (4203 San Felipe Road), dated November 18, 2008

Negative Declaration, dated November 19, 2008

Roberts, Rachel

From: David Salah [david.salah@gmail.com]
Sent: Thursday, November 13, 2008 8:24 PM
To: rachel.roberts@sanjoseca.gov
Subject: Re:GP08-08-05 (4203 San Felipe Rd.)

Ms Rachel Roberts
Project Planner
Planning Commission
City Of San Jose, California

November 13, 2008

Subject: 4203 San Felipe Rd., GPO8-08-05

I have been a resident of Evergreen, for the last 32 years, since 1976, and watched it grow to a metropolitan area. I would like to express my support, for the City of San Jose to approve the request of the applicant, to change the zoning from residential, to a professional medical office use, on a portion of the property referenced above. This mixed use development, will help in providing jobs, vitally needed services for the Evergreen residence, and fits well for the existing assisted senior living use, along San Felipe Rd.

Please approve the project, and I thank you.

David Salah
3088 Delta Rd.
San Jose, CA. 95135

Roberts, Rachel

From: LEOHERRICK@aol.com

Sent: Tuesday, November 18, 2008 2:12 PM

To: Rachel.Roberts@sanjoseca.gov

Subject: Re: Staff Report for San Felipe General Plan Amendment GP08-08-05

We will not be able to attend the meeting on Nov 19th. However, the property owner was by to take some pictures from our back yard and across the creek towards his building proposal/Amendment. We would like to know if there has been an environmental impact done for the ~~extra traffic~~ that would be turning into the property from the already heavily burdened San Felipe Rd? We know he has an allowance for traffic for the 8 or so homes, but does he have one for the extra traffic going into the commercial building he wants to build? Will another ~~turn lane~~ be installed on San Felipe Rd., by the property owner, as cars exiting his property can only go to the right.

Also will a sound fence be installed between his property and the creek area (back of his property) to help prevent the ~~traffic noise~~ from being directed at all the homes the back property line faces? We already get a severe echo effect across the creek from all the sirens and traffic noise due to the 2 large senior facilities on San Felipe Rd, and the Villages just down the road from where he intends to put a 2 or 3 story office building.

Just for the record, we would prefer to see homes put in there and not an office building. If he is allowed to put in 3 stories, I believe it will ruin the view of the mountains for many of us directly behind him and thus degrade our property values more than the economy already has.

Thanks for your understanding.

Sincerely, Leo and Donna Herrick

You Rock! One month of free movies delivered by mail from blockbuster.com

File: 28848
Thompson Creek

November 17, 2008

Ms. Rachel Roberts
Planning Division
Department of Planning, Building, & Code Enforcement
City of San Jose
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113-1905

Subject General Plan Amendment (GP08-08-05) – Draft Negative Declaration / Initial Study

Dear Ms. Roberts:

The Santa Clara Valley Water District (District) has reviewed the draft Negative Declaration (ND) / Initial Study (IS) General Plan Amendment to change the Land Use/Transportation Diagram designation from Low Density Residential (5 DU/AC) to Office on a .69-acre portion of a 2.98-acre parcel located at 4203 San Felipe Road, in San Jose. The following are our comments:

Page 10, Physical Characteristics

The document includes a discussion of the proposed grading and trenching activities. Potential impacts to trees resulting from these activities should be discussed, if any.

Page 11, Tree Removal

The IS should be revised to definitively state the total number of trees on site. The informal tree survey needs to be updated and completed with specific information that may be used to guide discussion of potential project impacts.

Page 15-16, Aesthetics

The discussion is limited to only "Light and Glare" and does not discuss 1b, 1c, nor 1e. Without sufficient project information/detail to know what sort of impacts may occur from the project, a scientific analysis cannot be made.

Ms. Rachel Roberts
Page 2
November 17, 2008

Page 18, Agriculture

Although the IS noted that the "implementation of the... Program Measures would reduce the project's impact on agriculture resources to a less-than-significant impact", no Program Measures were stated. The logic that the "preservation of all prime soil and land would mean a virtual halt to urbanization and is not a reasonable goal" does not provide for a less-than-significant impact.

Page 27, Riparian Corridor

The IS states that "the biotic values for this reach of Thompson Creek are considered moderate" and "the site offers a moderate value for wildlife". As such, a 100 foot riparian setback is warranted rather than the proposed 50 foot setback which will ensure further degradation of habitat value.

Page 29, Wildlife

The statement that "birds and small mammals would diminish during site construction..." is not a quantifiable impact as written and does not include a discussion of significance. The discussion of project impacts to wildlife is vague and needs to be elaborated. Increased edge effects to wildlife in the riparian zone that will result from the project should also be discussed.

The project site is located within dispersal distance from known sensitive species including the red-legged frog and California tiger salamander. As such, potential impacts to these species should be identified and mitigation measures provided.

Page 30, Riparian Corridor

Reduction of the riparian setback due to an "unusual geometric characteristic and/or disproportionately long riparian frontages" should be substantiated by text and a map.

Page 32-33, Project-Level Measures to be Considered at the Time of Development

Construction of barricades around the drip line of trees would not adequately protect the roots. Proper Tree Protection Zone setbacks should be calculated using the formulae provided in 'Trees and Development' by Matheny and Clark, ISA 1998 and mapped in the submittal. The methodology is also found in Chapter 4, Design Guide 1 of the 'Guidelines and Standards for Land Use Near Streams' manual, developed by the Water Resource Water Protection Collaborative, which the District and City of San Jose are party to.

"Additional trees and landscaping" is vague. Please elaborate on the details.

Tree Preservation Plan should require a minimum success criteria and the conclusion of 5-years to ensure complete mitigation for impacts.

Ms. Rachel Roberts
Page 3
November 17, 2008

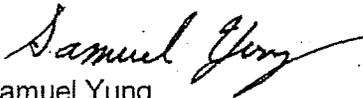
The IS should be revised to clarify that the native riparian plant materials/native landscaping should be site-specific propagules collected from the same site, an adjacent site, or within the same watershed.

Page 56, Hydrology and Water Quality

The development should be designed so that there is no overbank drainage into the creek. Storm water should be dispersed through the sites landscaped areas and directed into the City storm drain system.

Thank you for the opportunity to comments on the draft ND/IS and we look forward to your response to our comments. If you have any questions or comments, you can contact me at (408) 265-2607, extension 3174 or at syung@valleywater.org.

Sincerely,



Samuel Yung
Associate Civil Engineer
Community Projects Review Unit

cc: Ms. Rebekah Ross
Planning Division
Department of Planning, Building, & Code Enforcement
City of San Jose
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113-1905

S. Tippets, S. Yung, T. Hipol, M. Klemencic, L. Spahr, J. Hillman, S. Williams, D. Padley,
File

28848_51384sy11-17

November 18, 2008

Samuel Yung, Associate Civil Engineer
Community Project Review Unit
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3686

Dear Mr. Yung,

Re: Response to Comments Received from the Santa Clara Valley Water District (4203 San Felipe Road)

The following are our responses to your comments on the Draft Initial Study for File No GP08-08-05 in your letter, dated November 17, 2008. We have listed your comments first, followed by our responses in italics.

1. Comment: Page 10, Physical Characteristics. The document includes a discussion of the proposed grading and trenching activities. Potential impacts to trees resulting from these activities should be discussed, if any.

Response: This is a General Plan Amendment proposal and no development application has been submitted yet. When a development application is filed it will include a detailed tree survey and landscape plan and mitigation will be identified for any impacts to trees. Impacts to trees are discussed in Section II. 4. Biological Resources, and a list of "Project Level Mitigation-Measures to be Considered at the Time of Development" is provided on page 32 of the Initial Study.
2. Comment Page 11, Tree Removal. The IS should be revised to definitively state the total number of trees onsite. The informal tree survey needs to be updated and completed with specific information that may be used to guide discussion of potential project impacts.

Response: The proposed project is a General Plan Amendment, and the level of specificity of the tree inventory reflects that. The trees identified in the tree survey have been verified by a staff field check. (Also, please see the response to comment number 1, above.
3. Comment Pages 15-16, Aesthetics. The discussion is limited to only "Light and Glare" and does not discuss 1b, 1c, or 1e. Without sufficient project information/detail to know what sort of impacts may occur from the project, a scientific analysis cannot be made.

The project will have no adverse affects on any scenic highway or scenic resources or increase shading in public open space areas. The project will also be required to be consistent with the City's Commercial Design Guidelines, Riparian Corridor Policy and other City policies to ensure compatibility with the surrounding uses.
4. Comment: Page 18, Agriculture. Although the IS noted that the "implementation of the....Program Measures would reduce the project's impact on agriculture resources to a less-than-significant impact", no Program Measures were stated. The logic that the "preservation of all prime soil and land would mean a virtual halt to urbanization and is not a reasonable goal" does not provide for a less-than-significant impact.

Response: As in all of the sections, the Program Measures are the General Plan policies. For clarification the last sentence on page 18 has been revised as follows: While future office development would result in the loss of farmland, the conversion of this isolated island of land surrounded by urban use, not contiguous to other farmlands, or of sufficient size to support a farming operation, would not result in a significant environmental impact. The last line has also been revised as follows: Implementation of the project would result in a less than significant impact.

5. Comment: Page 27, Riparian Corridor. The IS states that "the biotic values for this reach of Thompson Creek are considered moderate" and "the site offers a moderate value for wildlife". As such, a 100-foot riparian setback is warranted rather than the proposed 50-foot setback which will ensure further degradation of habitat value.
Response: The value of the riparian canopy adjacent to the project site is "moderate" due to the significant incision of Thompson Creek and the structural diversity of the canopy which runs from the top of bank to the low flow channel. When considered in the context of the adjacent land uses and setbacks to existing developments, Thompson Creek in this region (from Yerba Buena Road to Aborn Road) is best characterized as an urban creek that supports largely common species due to the residential and commercial development occurring all along its length from Yerba Buena Road to Aborn Road (setbacks ranging from 30- to 50 feet) along much of this distance on both sides of the creek. The current landscape on the eastern side of Thompson Creek is fairly disturbed while on the western side of the creek residential development occurs within 50-feet from the riparian corridor. While the Initial Study concludes that the 50-foot setback would not result in degraded habitat value and would result in a less than significant environmental impact, a recommendation regarding the appropriate setback width will be made by the Planning Commission.
6. Comment: Page 29, Wildlife. The statement that "birds and small mammals would diminish during site construction..." is not a quantifiable impact as written and does not include a discussion of significance. The discussion of project impacts to wildlife is vague and needs to be elaborated. Increased edge effects to wildlife in the riparian zone that will result from the project should also be discussed.
Response: As is typical of all construction projects, animals that currently use a site will be displaced during construction. As noted in the Initial Study and comment No. 5 above, this site is highly degraded, and supports only relatively common wildlife species as is typical of degraded and urban environments. Thompson Creek, adjacent to the site, as noted in response No. 5, is an urban creek system that tends to support bird and small mammals species typical of urban systems. While the birds and small mammals would be incrementally reduced during the initial construction, as the urban landscaping is restored and the setback planted with riparian plantings the birds and other small mammals that have adapted to the urban environment would return. As stated in the initial Study, this temporary impact would result in a less than significant environmental impact.
7. Comment: Page 29, Wildlife. The project site is located within dispersal distance from known sensitive species including the red-legged frog and California tiger salamander. As such, potential impacts to these species should be identified and mitigation measures provided.
Response: There have been no sightings in the last 30 years of either the California red-legged frog or California tiger salamander within reasonable dispersal distance of the project site. The majority of the records within 2-miles and all of the records within 1-mile of the project site illustrated on the CNDDDB map are of populations that are now extirpated as almost all of these sites are now developed. Therefore, development of the site (a former degraded farmed area) will have no affect on either the California red-legged frog or the California tiger salamander.
8. Comment: Page 30, Riparian Corridor. Reduction of the riparian setback due to an "unusual geometric characteristic and/or disproportionately long riparian frontages" should be substantiated by text and a map.
Response: The riparian frontage is shown on the Riparian Corridor Setback map on page 31 and the riparian corridor assessment, dated October 21, 2008, indicates that the "site is irregularly shaped and has nearly 800-feet of riparian frontage compared to approximately 600-feet of frontage on San Felipe Road. Therefore, the riparian frontage is approximately 25 percent more than the project's roadside frontage and falls under the exception for disproportionately long riparian frontage."
9. Comment: Pages 32-33, "Project-Level Measures to be Considered at the Time of Development". Construction of barricades around the drip line of trees would not adequately protect the roots. Proper Tree Protection Zone setbacks should be calculated using the formulae

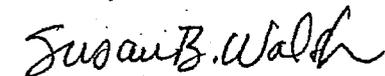
provided in "Trees and Development by Matheny and Clark, ISA 1998 and mapped in the submittal. The methodology is also found in Chapter 4, Design Guide 1 of the "Guidelines and Standards for Land Use Near Streams" manual, developed by the Water Resource Water Protection Collaborative, which the District and City of San Jose are party to.

Response: The description of the Tree Protection Plan mentioned in this "Project-Level Measures to be Considered at the Time of Development" is from the City's Tree Ordinance. The proposed project is a General Plan Amendment and the specific details regarding tree protection zone setbacks will be determined at the time a specific development application is submitted. The above methodology will be considered at that time.

10. Comment: Pages 32-33, "Project-Level Measures to be Considered at the Time of Development". "Additional trees and landscaping" is vague. Please elaborate on the details.
Response: Please see the response to comment number 9, above. Details regarding additional trees and landscaping related to any future development will be discussed at the time a specific development project is proposed.
11. Comment: Pages 32-33, "Project-Level Measures to be Considered at the Time of Development". Tree Preservation Plan should require a minimum success criteria and the conclusion of 5-years to ensure complete mitigation for impacts.
Response: Please see response to comment No. 9 above. Details regarding minimum success criteria and for any future plantings will be determined at the time a specific development project is proposed and included in a monitoring and reporting plan as noted in section II. 4. Biological Resources.
12. Comment: Pages 32-33, Project-Level Measures to be Considered at the Time of Development. The IS should be revised to clarify that the native riparian plant materials/native landscaping should be site-specific propagates collected from the same site, and adjacent site, or within the same watershed.
Response: Please see response to comment No. 9 above. The specific details regarding the native plant materials will be determined at the time a specific development project is proposed and included in a monitoring and reporting plan as noted in section II. 4. Biological Resources.
13. Comment: Page 56, Hydrology and Water Quality. The development should be designed so that there is no overbank drainage into the creek. Storm water should be dispersed through the site's landscaped areas and directed into the City storm drain system.
Response: Details regarding storm drainage resulting from any future development, in accordance with the "Standard Measures to be Included in Future Development", will be determined at the time a specific development project is proposed. As stated in section II. 8. Hydrology and Water Quality on page 58, "The project shall comply with Provision C.3 of NPDES permit No. CAS0299718, which provides enhanced performance standards for the management of storm water of new development."

If you have any further comments or questions please feel free to contact me at (408) 535-7910.

Sincerely,



Susan Walsh, AICP
Senior Planner
Environmental Team



Department of Planning, Building and Code Enforcement

JOSEPH HORWEDEL, DIRECTOR

**PUBLIC NOTICE
INTENT TO ADOPT A NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

GP08-08-05. General Plan Amendment request to change the Land Use/Transportation Diagram designation from Low Density Residential (up to 5 dwelling units per acre) to Office on a .69-acre portion of a 2.98-acre parcel located at 4203 San Felipe Road on the west side of San Felipe Road approximately 600 feet south of Delta Road (Dennis Wong, Owner / Reyad Katwan, Hawkstone, LLC, Applicant).
Council District: 8

California State Law requires the City of San José to conduct environmental review for all pending projects. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. Based on an initial study, the Director of Planning, Building & Code Enforcement has concluded that the project described above will not have a significant effect on the environment. The project location **does not** contain a listed toxic site.

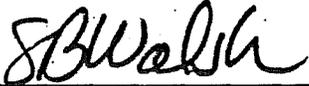
The purpose of this notice is to inform the public of the Director's intent to adopt a Negative Declaration for the proposed project on November 17, 2008, and to provide an opportunity for public comments on the draft Negative Declaration. The public review period for this draft Negative Declaration begins on October 28, 2008 and ends on November 17, 2008 at 5 p.m. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance.

The draft Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp>

For additional information, please call Rachel Roberts at (408) 535-7860 or Susan Walsh at (408) 535-7910.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: October 28, 2008


Deputy



Department of Planning, Building and Code Enforcement

JOSEPH HORWEDEL, DIRECTOR

**DRAFT
NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

PROJECT NAME: San Felipe

PROJECT FILE NUMBER: GP08-08-05

PROJECT DESCRIPTION: General Plan Amendment request to change the Land Use/Transportation Diagram designation from Low Density Residential (up to 5 dwelling units per acre) to Office on a 0.69-acre portion of a 2.98-acre parcel.

PROJECT LOCATION & ASSESSORS PARCEL NO.: 4203 San Felipe Road located on the west side of San Felipe Road approximately 600 feet south of Delta Road; APN: 676-36-005

COUNCIL DISTRICT: 8

APPLICANT CONTACT INFORMATION: Reyad Katwan, Hawkstone, LLC, 3750-B Charter Park Drive, San Jose, CA 95136

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- I. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- II. **AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

- III. **AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IV. **BIOLOGICAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- V. **CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VI. **GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VII. **HAZARDS AND HAZARDOUS MATERIALS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VIII. **HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IX. **LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- X. **MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XI. **NOISE** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XII. **POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIII. **PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIV. **RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XV. **TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVI. **UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVII. **MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings; therefore no additional mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on November 17, 2008 any person may:

1. Review the Draft Negative Declaration (ND) as an informational document only; or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft ND. Before the ND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft ND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final ND.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: October 28, 2008

JBWalsh
Deputy

Adopted on: 11/19/08

JBWalsh
Deputy

Revised 10/19/07 JAC



Department of Planning, Building and Code Enforcement

JOSEPH HORWEDEL, DIRECTOR

NOTICE OF PUBLIC HEARINGS

City of San Jose, City Hall
200 East Santa Clara Street, City Council Chambers, Wing 2nd Floor

Fall 2008 Hearings on General Plan Amendments

Planning Commission: Wednesday, November 19, 2008 6:30 p.m.

City Council: Tuesday, December 16, 2008, 7:00 p.m.

General Plan Amendment File No. (GP08-08-05):

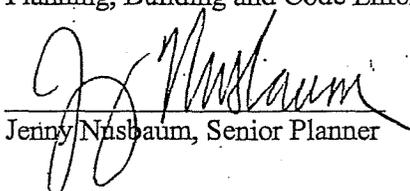
Proposal to amend the General Plan land use designation for a property located on the west side of San Felipe Road approximately 600 feet south of Delta Road (4203 San Felipe Road)(see map on back) to change the Low Density Residential designation (up to 5 dwelling units per acre) to an Office designation on a .69-acre portion of a 2.98-acre parcel. Approval of this General Plan amendment would allow business or professional office uses at this location. The General Plan amendment request is for a land use change only. No new development is being proposed at this time. CEQA: Negative Declaration.

You are invited to participate in the above public hearings. The Planning Commission will make a recommendation to the City Council, and the City Council will make the final decision on the proposed General Plan amendment. Please note that the San Jose 2020 General Plan reflects the long-range future growth for the City. A change in the General Plan land use designation would only affect the type and intensity of future development allowed on the subject property. The proposed amendment to the General Plan for the above referenced property would not change the zoning district of the property. Zoning changes occur through the rezoning process, which is separate from the General Plan amendment process.

The General Plan amendment (**File No. GP08-08-05**) being considered is a request to change the Land Use/Transportation Diagram designation from Low Density Residential (5 DU/AC) to Office on a .69-acre portion of a 2.98-acre parcel located on the west side of San Felipe Road approximately 600 feet south of Delta Road (Dennis Wong, Owner / Reyad Katwan, Hawkstone, LLC, Applicant) (APN 676-36-005). Council District: 8. SNI: None CEQA: Negative Declaration.

Comments and questions regarding this proposal or the General Plan amendment process are welcome, and should be referred to the Project Manager, **Rachel Roberts**, at (408) 535-7860. Documents for this project are on file and available for review at: **Planning, Building and Code Enforcement, 200 East Santa Clara Street, San Jose, CA 95113**. Reports and documents will also available online at: http://www.sanjoseca.gov/planning/hearings/planning_com.asp one week prior to the scheduled hearing.

Joseph Horwedel, Director
Planning, Building and Code Enforcement


Jenny Nasbaum, Senior Planner

Date: 10/28/08

GENERAL PLAN AMENDMENT REQUEST to change the Land Use/Transportation Diagram designation from Low Density Residential (5 DU/AC) to Office on a .69-acre portion of a 2.98-acre parcel located on the west side of San Felipe Road approximately 600 feet south of Delta Road (Dennis Wong, Owner / Reyad Katwan, Hawkstone, LLC, Applicant) (APN 676-36-005). Council District: 8. SNI: None CEQA: Negative Declaration.

Existing General Plan Designation:

Low Density Residential
(5 dwelling units per acre)

This density is typified by 8,000 square-foot lots. This density category responds both to the need for slightly larger than normal lots to prevent excess grading on slopes between the five and fifteen percent of the slope line and to the need to provide a variety of lot and house sizes within the City. This density is found throughout the Almaden Valley and eastern Evergreen and in the foothill areas of Edenvale, Alum Rock and Berryessa.

Proposed General Plan Designations:

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. 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.



08/19/2008

* Project boundaries are estimates
Noticing Radius: 500 feet

File No: GP08-08-05

District: 8

Quad No: 101

To arrange an accommodation under the Americans with Disabilities Act to participate in these public hearings, please call (408) 294-9337 (TTY) at least 48 hours before the hearing. This document can be made available upon request in alternative formats such as Braille, large print, audiotape, or computer disk. Requests can be made by calling (408) 535-3500 (Voice) or (408) 294-9337 (TTY).

If you choose to challenge this land use decision in court, you may be limited to only those issues that you or someone else raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing. Reports including the staff report and recommendation are available a week before the public hearing). Additionally, a public packet will be available for review at the hearing.

Muốn biết tin tức bằng tiếng Việt Nam về tờ thông tin này, xin quý vị liên lạc Trung Nguyen ở số (408) 535-7883.
Para información en Español acerca de esta solicitud, comuníquese con Ben Corrales al (408) 535-7868

STAFF REPORT
PLANNING COMMISSION

File No.: GP08-08-05

Submitted: 8/19/08

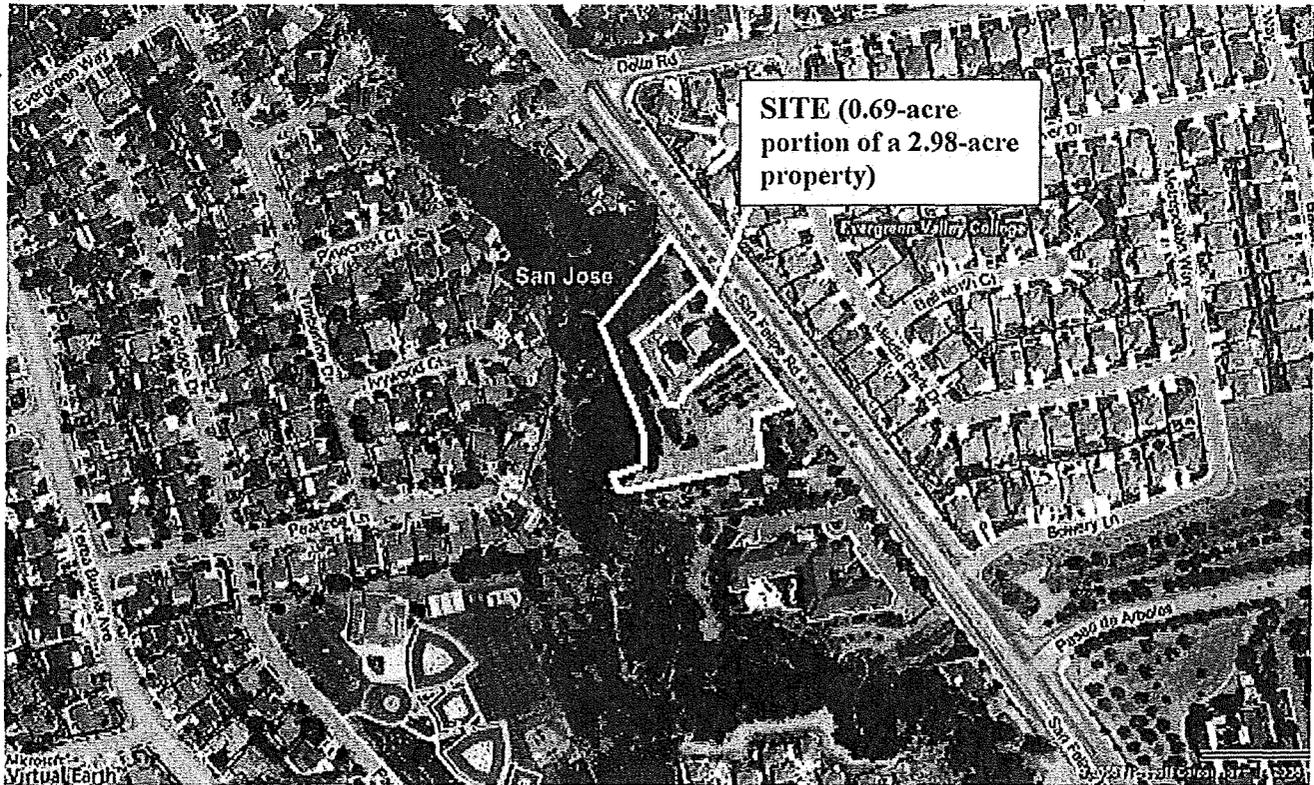
PROJECT DESCRIPTION: General Plan amendment request (GP08-08-05) to change the land use designation from Low Density Residential (5 dwelling units per acre) to Office on a 0.69-acre portion of a 2.98-acre property.

LOCATION: West side of San Felipe Road approximately 600 feet south of Delta Road (4203 San Felipe Road).

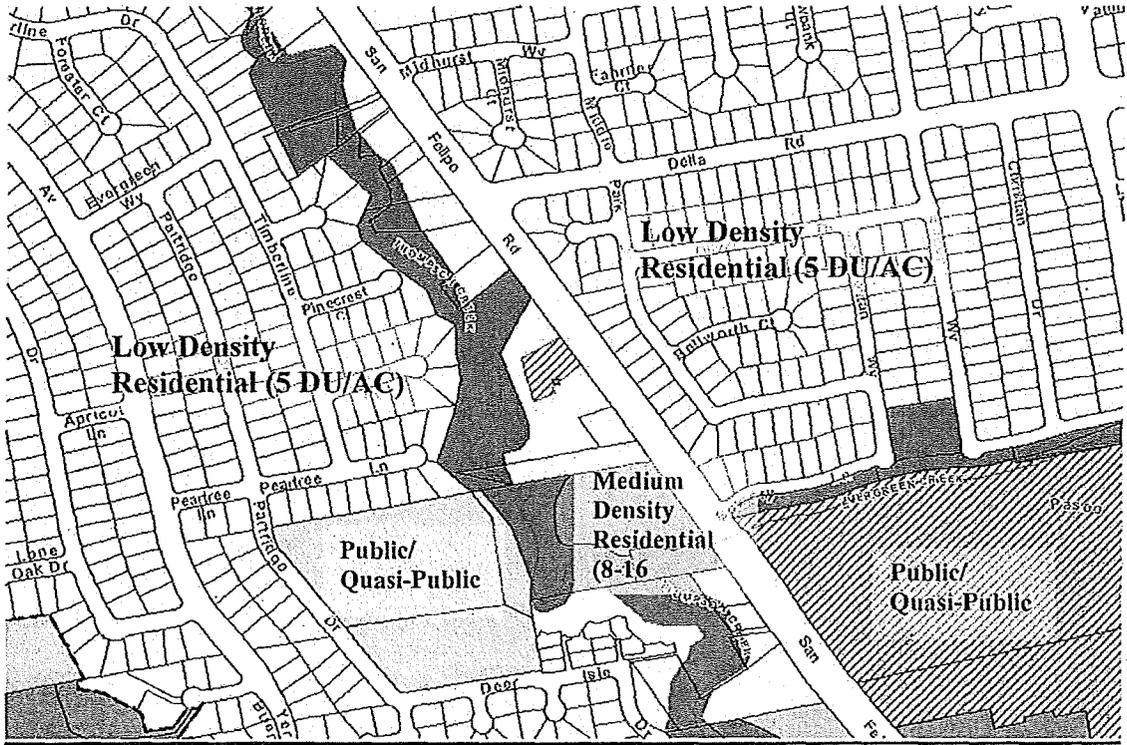
Existing Zoning	R-1-5
General Plan	Low Density Residential (5 DU/AC)
Proposed General Plan	Office
Council District	8
Annexation Date	April 22, 1960
SNI	N/A
Historic Resource	Candidate Structure of Merit
Policy Area	Evergreen Development Policy Area
CEQA	Negative Declaration

↑
N

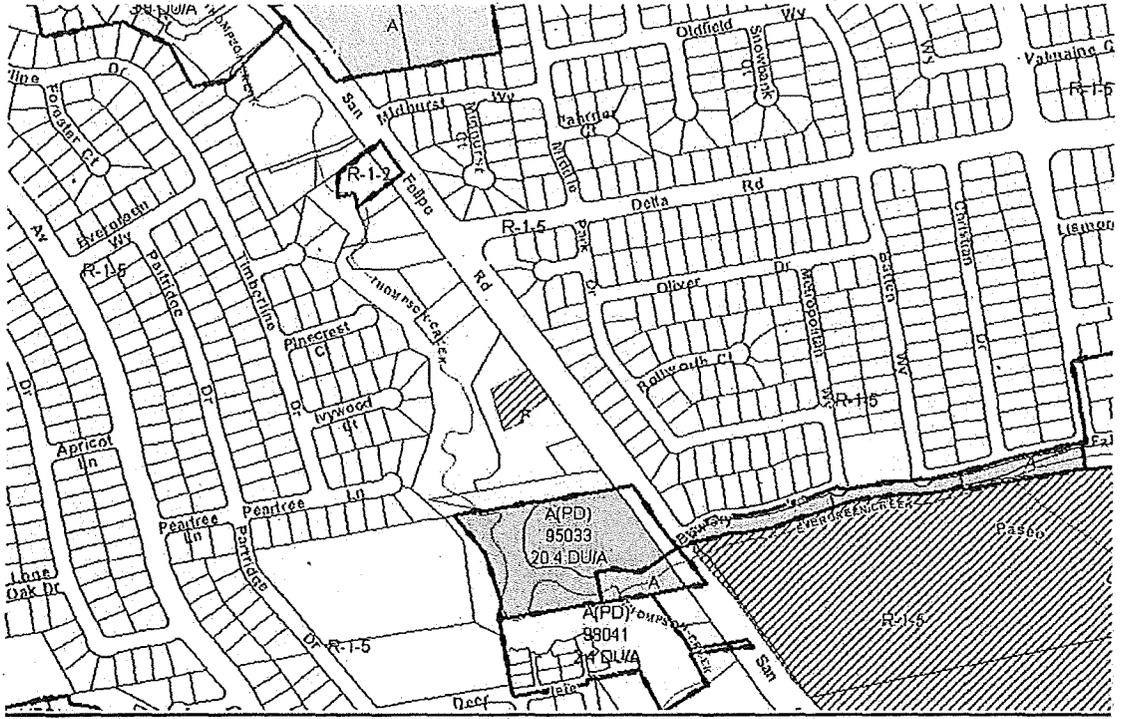
Aerial Map



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends approval of the staff alternative of Private Open Space on approximately 0.92 acres (a 50-foot riparian corridor setback), and Office on 0.69 acres on the subject 2.98-acre property for the following reasons:

1. The General Plan amendment request by the applicant and the staff alternative are consistent with the Economic Development and Growth Management Major Strategies and Commercial Land Use Goals and Policies in the San José 2020 General Plan.
2. The General Plan amendment request by the applicant and the staff alternative are consistent with the existing and surrounding land uses.
3. The staff alternative is consistent with the Riparian Corridors and Upland Wetlands Goals and Policies in the General Plan.

BACKGROUND

On August 19, 2008, Hawkstone LLC submitted a privately initiated General Plan amendment request to change the land use designation from Low Density Residential (5 DU/AC) to Office on a 0.69-acre portion of a 2.98-acre property located on the west side of San Felipe Road approximately 600 feet south of Delta Road.

Site and Surrounding Uses

The 0.69-acre site is located on the west side of San Felipe Road approximately 600 feet south of Delta Road and is currently developed with a single-family residence (c. 1926) and several outbuildings. There are approximately 49 trees onsite consisting primarily of orchard trees, native, and non-native trees. Nine of the trees are ordinance size.

The surrounding land uses are predominantly single-family residential to the north, east, south and west. A senior housing facility is located south of the subject site. The western boundary of the larger 2.98-acre property is adjacent to Thompson Creek.

The subject site has an existing land use designation of Low Density Residential (5 DU/AC) that is typified by single-family homes on 8,000 square-foot lots. This existing land use designation is intended for sites with slopes between the five and fifteen percent to allow for slightly larger than normal lots to prevent excess grading and to provide a variety of lot and house sizes within the City. This density is found throughout Almaden Valley, eastern Evergreen, and in the foothill areas of Edenvale, Alum Rock and Berryessa.

The proposed land use designation of Office on the 0.69-acre site allows business and professional office uses on the site. Retail and other commercial uses may be allowed only as secondary uses in a larger office development. Development should be of low intensity and compatible with surrounding uses. This land use designation can be used on margins of residential neighborhoods because it is not intrusive.

The land use designation of Private Open Space proposed by staff for the 50-foot wide riparian corridor setback on the larger 2.98-acre property allows land that is restricted to agricultural uses and private buffer lands such as riparian setback areas.



Aerial view of the site and surrounding land uses facing north

ANALYSIS

Land Use Compatibility

The Office land use designation proposed for the site allows low-intensity commercial uses that can be compatible with residential neighborhoods. The parcels to the north, east, and west of the 2.98-acre subject property have a General Plan land use designation of Low Density Residential (5 DU/AC). Parcels south of the subject property are designated Very Low Density Residential (2 DU/AC), Low Density Residential (5 DU/AC), and Medium Density Residential (8-16 DU/AC). The surrounding Low Density (5 DU/AC) and Very Low Density Residential (2 DU/AC) land use designations are intended for large-lot, single-family residential uses. The Medium Density Residential (8-16 DU/AC) land use designation allows small-lot single-family homes, townhomes, and duplexes, or a mixture of housing types within the overall density limits. Any future development proposal for the 0.69-acre site is subject to the setback policies in the Riparian Corridor Policy Study and in the General Plan to address the compatibility of the development with the adjacent Thompson Creek Riparian Corridor.

Economic Development Major Strategy

The General Plan Economic Development Major Strategy states that economic development is a fundamental priority for future growth to improve the City's financial position and provide employment opportunities for San José's residents. The proposed General Plan amendment is consistent with the Economic Development Major Strategy in that it facilitates the opportunity for future economic development of office employment uses onsite.

Commercial Land Use Goal and Policies

The Commercial Land Use Goal in the General Plan identifies the importance of providing a pattern of commercial development that best serves the community through maximum efficiency and accessibility. The commercial land use policies reflect the need to locate new commercial uses in the community, to facilitate easy access to professional services and contribute to the economic base of the City. Commercial Land Use Policy No. 5 states that development should be allowed within established residential neighborhoods only when such development is compatible with the residential development and is primarily neighborhood-serving. The proposed General Plan amendment furthers the General Plan Commercial Land Use Goals and Policies because it will facilitate professional office uses that can contribute to the economic base of the City, be compatible with the existing residential development, and serve the surrounding community.

Growth Management Major Strategy

The purpose of the Growth Management Major Strategy is to address the delicate balance between the need to house new population and the need to balance the City's budget, while providing acceptable levels of service. Where and when growth occurs can have major implications on City services and fiscal resources. Infill development within urbanized areas is identified as an important means of controlling service costs through increased efficiency. The proposed General Plan amendment would further the intent of the Growth Management Major Strategy by facilitating opportunities for business and professional offices on a site surrounded by lands developed at an urban density where urban facilities and services are already available, thus minimizing the cost to the City of providing services and increasing the City's revenue.

Riparian Corridors and Upland Wetlands Goals and Policies

The Riparian Corridors and Upland Wetlands Goal is to preserve, protect, and restore the riparian corridors and upland wetlands within the City of San José's Sphere of Influence. The Riparian Corridors and Upland Wetlands Policies state that:

- Creeks and natural riparian corridors should be preserved whenever possible;
- New private development adjacent to riparian corridors should be consistent with the provisions of the Riparian Corridor Policy Study; and
- New development within the Urban Service Area should be set back from the outside edge of the riparian habitat (or top of bank, whichever is greater) a distance sufficient to buffer impacts of adjacent human activities and provide avenues for wildlife dispersal.

The Riparian Corridor Policy Study (RCPS) sets forth guidelines for development, intended to help protect riparian habitat and minimize impacts to riparian resources and provides guidance when reviewing and evaluating proposed development projects within or adjacent to riparian corridors. The development guidelines of the RCPS state that development adjacent to riparian habitat generally should be set back 100 feet from the outside edge of the riparian habitat (or top of bank, whichever is greater) to reduce anticipated impacts to riparian biotic communities and hydrologic systems. The RCPS allows exceptions to the 100-foot setback in limited circumstances as long as basic riparian habitat protection objectives are achieved. Circumstances that may warrant consideration of a reduced setback of less than 100 feet include, but are not limited to, sites in or near Downtown, urban infill sites of one acre or less, or sites with unusual geometric characteristics or disproportionately long riparian frontages. The RCPS states that projects with setbacks of less than 100 feet should be conditioned to any measure necessary to ensure compliance with the purpose of the RCPS guidelines.

Staff Alternative with Private Open Space Designated on 50-foot Setback from Riparian Corridor

The staff alternative to the applicant's General Plan amendment request establishes at least a 50-foot setback from the Riparian Corridor for a future development proposal. The site meets the criteria for some reduced setback because the western boundary of the site has a disproportionately long riparian frontage. However, a 50-foot setback may not be wide enough to meet the intent of the RCPS and the General Plan Riparian Corridors and Upland Wetlands Goals and Policies because there is not enough information provided through the General Plan level of review to determine whether a setback of more than 50 feet from the riparian corridor could be achieved onsite to ensure optimum protection and preservation of the riparian corridor while maintaining the opportunity and sufficient acreage for a viable office development on the subject 0.69-acre site.

Future development proposals will be evaluated for consistency with the Riparian Corridor Policy Study and General Plan Goals and Policies. Setbacks ranging from 50 to 100 feet from the riparian corridor will be evaluated at the development review stage to ensure that the optimum setback for the proposed development is achieved to preserve, protect, and minimize impacts to the riparian corridor to the greatest extent feasible. A reduced setback may be considered if:

- There is no reasonable alternative which avoids or reduces the encroachment into the setback area
- It will not significantly reduce or adversely impact the riparian corridor
- The proposed use is fundamentally compatible with the riparian habitat
- There is no evidence of stream bank erosion or previous attempts to stabilize the stream banks which could be negatively affected by the proposed development
- Granting the exception will not be detrimental to adjacent or downstream properties;
- A qualified biologist or other appropriate professional has documented the above conditions and has identified objectives for riparian habitat protection

The Negative Declaration prepared for the proposed General Plan amendment evaluated the impacts of the applicant's General Plan amendment request and a 50-foot reduced setback, and determined that a 50-foot setback does not result in a significant environmental impact under the California Environmental Quality Act (CEQA).

Although there would not be a significant impact as a result of the proposed land use changes and 50-foot reduced setback from the riparian corridor for future office development, staff recognizes the potential opportunity for a future development proposal to achieve a site design that increases the buffer between development and the riparian corridor from a 50-foot reduced setback, as proposed, to up to a 75-foot or greater setback to maximize the protection of the riparian habitat, minimize the potential impacts to the riparian habitat and maintain sufficient acreage for development.

Evergreen Development Policy Area

The current Evergreen Development Policy (EDP) is a policy document adopted by the City Council to address traffic congestion and flooding problems in the Evergreen area. A process to update the EDP, now the Evergreen-East Hills Development Policy, is in progress. The 2.98-acre property currently has traffic fee allocation for 11 single-family residential housing units. However, the traffic allocation is not a guarantee for entitlement of 11 dwelling units. The actual residential yield is ultimately dependent upon the site design for the proposed project. The proposed General Plan amendment has been determined by the Department of Transportation to be exempt from long-range traffic impact analysis. Future

development proposals would be evaluated for conformance to the Evergreen Development Policy and General Plan Goals and Policies.

Implementation of a Future Development Proposal

While there is no specific development proposal on file at this time, the land use proposed by the applicant would include the construction of a professional office building on the 0.69-acre portion of the site with single-family residences on the remaining acreage. The applicant has indicated that development is not proposed within the 50-foot setback area. The staff alternative proposal to designate the 50-foot setback area Private Open Space would preclude development in the setback area.

A future development proposal may be implemented through a Planned Development Zoning of the entire 2.98-acre property or through a Commercial Office Zoning District on the 0.69-acre site and a Planned Development Zoning for residential uses on the remaining acreage.

With a conventional Commercial Office Zoning District and Low Density Residential Zoning District (5.0 DU/AC) on the remaining acreage, a future development proposal would be required to meet the development regulations of the zoning district. This may create some challenges in achieving the most compatible height and setbacks to address the residential interface. A Planned Development Zoning of the entire 2.98-acre property would provide the most flexibility in order to customize the development regulations (height, setbacks, etc.) to address the residential and office interface and achieve optimum compatibility with the existing surrounding land uses. A combination of a Commercial Office Zoning District on the 0.69-acre portion and a Planned Development Zoning on the remaining acreage for residential uses would provide some flexibility but may be limiting in creating the most desirable site design and development standards. Both future development scenarios would be subject to the Commercial Design Guidelines and Residential Design Guidelines.

ENVIRONMENTAL REVIEW

A Negative Declaration was prepared for the proposed General Plan amendment. The Negative Declaration was circulated for public comment and review on October 28, 2008 and will end circulation on November 17, 2008. The Negative Declaration stated that there would be no significant impacts as a result of the proposed General Plan amendment with a 50-foot riparian corridor setback on the subject property.

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)

Notice of the Fall 2008 hearings on the General Plan was published in the San José Post-Record. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The General Plan amendment was presented to the Developers Roundtable on September 12, 2008 and the Neighborhood Roundtable on September 16, 2008. This staff report will also be posted on the City's website. Staff has been available to respond to questions from the public.

The Negative Declaration for the proposed General Plan amendment was referred to the Historic Landmarks Commission (HLC) on November 5, 2008 for comment. The HLC concurred with the Historic Report in the Initial Study that the single-family residence (c. 1926) located on the property, qualifies as a Candidate Structure of Merit, eligible for listing on the City of San José Historic Resources Inventory. The HLC recommended to staff that the structure be listed on the Historic Resources Inventory as a Structure of Merit.

A community meeting was held at the Evergreen Library on October 29, 2008. Three community members were in attendance. The three community members included the property owner of the immediately adjacent parcel to the south of the 2.98-acre property and the property owners of the parcel to the west across Thompson Creek on Peartree Lane. During the meeting, the community members expressed various concerns including the potential for more traffic, noise, inadequate parking, and decline in property values as a result of a future development. The community members also shared comments about impacts to views from their residences and impacts to wildlife and plant species in the riparian corridor of Thompson Creek. The community members stated that they preferred single-story residential uses rather than office uses on the site and that office uses are not compatible with the existing residential development and not needed in the area.

General Correspondence

Staff has received several comments from the public on the proposed General Plan amendment. Ms. Margie King, property owner of the parcel directly south of the site, expressed support for the proposed General Plan amendment in a letter to staff dated November 5, 2008.

Ms. Filomena Cota, Secretary of Evergreen Business and Professional Association and Vice President and Co-owner of C&C Valley Construction Co., Inc., stated in an e-mail to staff on November 5, 2008 that she was strongly supportive of the General Plan amendment request because the proposal would provide the opportunity for the much needed professional office space to the Evergreen area.

Ms. Carla I. Evans, President of the Evergreen Business and Professional Association, expressed in an e-mail to staff on November 4, 2008, strong support for the General Plan amendment request and encouraged the City to approve the request stating that the proposal would allow the professional office space needed in the Evergreen community and would serve the college, retirement community, and nursing homes nearby.

Tribal Consultation

This General Plan amendment is subject to the State of California Tribal Consultation Guidelines and was referred to the tribal representatives. To date, no comments from tribal representatives on the subject General Plan amendment request have been received.

COORDINATION

The proposed General Plan amendment was coordinated with the Environmental Services Department, Public Works, Fire, the Department of Fish and Game, U.S. Fish and Wildlife Service, Santa Clara Valley Water District, and the Department of Transportation.

Public Works

Comments received from Public Works on August 27, 2008, indicated that the subject site is located in a Flood Zone A, Geologic Hazard Zone, State Landslide Zone, State Liquefaction Zone. The comments also stated that the subject site is in the Evergreen Development Policy Area and near-term traffic analysis may be required at the development review stage. Based on the Greater Evergreen traffic study performed in 1992, the subject site is located within the boundaries of Benefit Assessment District 91-209SJ, which specified the number of residential units allocation to developed properties in Evergreen Area. According to the district, a total of 11 residential units have been allocated to APN 676-36-005.

The comments provided to staff by Public Works were incorporated into the analysis of the Initial Study. Future development proposals would be evaluated for conformance with the General Plan Goals and Policies, including the Hazards Policies, Earthquake Policies, and Soils and Geologic Conditions Policies adopted for the purpose of avoiding or mitigating geology and soils impacts resulting from development within the City. The Negative Declaration prepared for the project stated that no significant impacts to geology and soils would result from the proposed General Plan amendment.

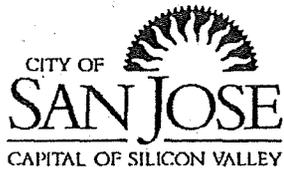
Environmental Services

Environmental Services (ESD) provided comments to staff on September 9, 2008. ESD commented that the parcel borders Thompson Creek in an area with well-developed riparian vegetation and that a minimum of a 100-foot setback from the riparian drip line should be provided per the Riparian Corridor Policy Study.

The comments provided to staff by ESD were incorporated into the analysis of the Initial Study. Future development proposals will be evaluated for consistency with the Riparian Corridor Policy Study and General Plan Goals and Policies. Setbacks ranging from 50 to 100 feet from the riparian corridor will be evaluated at the development review stage to ensure that the optimum setback for the proposed development is achieved to preserve, protect, and minimize impacts to the riparian corridor to the greatest extent feasible. The Negative Declaration prepared for the proposed General Plan amendment evaluated the impacts of the project with a 50-foot reduced setback, which is proposed by staff for a Private Open Space land use designation, and it was determined that a 50-foot setback would not result in a significant impact.

Project Manager: Rachel Roberts **Approved by:** Susan Walton **Date:** 11/13/08

Owner/Applicant:	Attachments:
Hawkstone San Felipe, LLC-Owner	Department of Transportation Memo, dated 9-4-08 Public Works Memo, dated 8-27-08
Reyad Katwan, Hawkstone, LLC-Applicant	Environmental Services Memo, dated 9-8-08 Municipal Water Systems Memo, dated 8-29-08 Fire Department Memo, dated 9-3-08



Memorandum

TO: Jenny Nusbaum
Planning, Building
and Code Enforcement

FROM: P. Paul Ma

SUBJECT: TRAFFIC IMPACT ANALYSIS
REQUIREMENTS FOR GPAs
SUBMITTED AUGUST 2008

DATE: 9-4-08

Approved

Date

This memorandum shall supersede the memorandum dated September 2, 2008, of the same subject.

We have reviewed the General Plan Amendments (GPAs) on file as of August 26, 2008. Based on the land use data provided, our comments with respect to traffic impact analysis requirements are shown on the attached table.

The Department of Transportation will issue a memorandum for each GPA for the project file. For the GPAs that require a model analysis, the memorandum will summarize the findings of the analysis:

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

P. PAUL MA
Transportation Systems Planning Manager
Department of Transportation

PM

attachment

cc: Allen Tai
Bill Roth
Rachel Roberts
Ella Samonsky
Reena Mathew

ATTACHMENT

Traffic Impact Analysis Requirements for
General Plan Amendments Submitted
August 2008

<u>File Number</u>	<u>Comments</u>
GP07-04-03	Exempt
GP07-07-01	Exempt
GP07-07-01 (Alternative)	Exempt
GP07-10-02	Exempt
GP08-06-01	Exempt
GP08-08-02	Model Analysis Required
GP08-08-03	Model Analysis Required
GP08-08-03 (Alternative)	Model Analysis Required
GP08-08-04	Model Analysis Required
→ GP08-08-05	Exempt
GP08-04-01	Exempt
GP08-04-02	Model Analysis Required
GP08-05-01	Exempt
GP08-T-08 (Jackson/Taylor)	Model Analysis Required



Memorandum

TO: Rachel Roberts
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

SUBJECT: RESPONSE TO GENERAL PLAN
AMENDMENT APPLICATION

DATE: 08/27/08

PLANNING NO.: GP08-08-05
DESCRIPTION: General Plan Amendment to change the Land Use/Transportation Diagram designation from Low Density Residential (5 du/ac) to Office on a 0.69 acre portion of a 2.98-acre site
LOCATION: west side of San Felipe Road approximately 600 feet south of Delta Road
P.W. NUMBER: 3-16229

Public Works received the subject project on 08/21/08 and submits the following comments:

A Flood Zone
YES Geological Hazard Zone
YES State Landslide Zone
YES State Liquefaction Zone
NO Inadequate Sanitary capacity
NO Inadequate Storm capacity
NO Major Access Constraints
YES Near-Term Traffic Impact Analysis

Comments:

Project is in Evergreen Development Policy Area. Traffic Analysis may be required.

Based on the Greater Evergreen traffic study performed in 1992, this property is located within the boundaries of Benefit Assessment District 91-209SJ which specified the number of residential units allocated to undeveloped properties in the Evergreen Area. According to the district, a total of 11 residential units have been allocated to assessor's parcel number 676-36-005. The outstanding assessment of \$33,013.02 is due at the first discretionary act towards development and is adjusted annually each February 1st based on the construction cost index for the San Francisco Bay Area.

Planning and Building
08/28/08
Subject: GP08-08-05
Page 2 of 2

Please contact the Project Engineer, Norman Mascarinas at 535-6812 if you have any questions.



EBRAHIM SOHRABI
Senior Civil Engineer
Transportation and Development Services Division

ES:nm:gj



RECEIVED

SEP 8 2008

CITY OF SAN JOSE
DEVELOPMENT SERVICES

Memorandum

ENVIRONMENTAL SERVICES (ESD)

TO: Rachel Roberts
Department of Planning,
Building, & Code Enforcement

FROM: Junko Vroman
Environmental Services

SUBJECT: Response to Development
Application

DATE: Staff Review Agenda
September 4, 2008

APPROVED: *Junko Vroman* **DATE:** 9-8-08

PLANNING NO. :	GP08-08-05
LOCATION:	west side of San Felipe Road approximately 600 feet south of Delta Road
DESCRIPTION:	General Plan Amendment to change the Land Use/Transportation Diagram designation from Low Density Residential (5 du/ac) to Office on a 0.69 acre portion of a 2.98-acre site
APN:	67636005

ESD received the subject project and is submitting the following conditions and comments. Questions regarding these comments may be directed to the program contact given or to me at (408) 975-2579.

Riparian Corridor Policy

The parcel borders Thompson Creek in an area with well developed riparian vegetation. A minimum 100-foot setback from the riparian drip line should be provided per the Riparian Corridor Policy Study (RCPS).



Memorandum

TO: Rachel Roberts
Planning Department

FROM: Tim Town
Municipal Water System

SUBJECT: Muni Water Comments
On Proposed Development

DATE: August 29, 2008

San Jose Municipal Water System has reviewed the proposed General Plan Amendment GP08-08-05 to change the Land Use/Transportation Diagram designation from Low Density Residential (5.0 du/ac) to Office on a 0.69 acre portion of a 2.98 gross acre site located on the west side of San Felipe Road approximately 600 feet south of Delta Road, and has the following comments:

This development is subject to the following fees:

- Major Water Facilities Fee
- Area and Frontage Fee
- Meter Fee
- Engineering & Inspection Fee

In addition, this development will be responsible for the cost of constructing water mains and services for the site.

Any and all wells within the site shall be abandoned in accordance with Santa Clara Valley Water District regulations prior to receiving water service from Muni Water.

If you have any questions please contact me at 277-3671. Thanks for the opportunity to comment.

Timothy S. N. Town
 Timothy S. N. Town
 Associate Civil Engineer
 Municipal Water System



Memorandum

To: Rachel Roberts

From: Du Lam

SUBJECT: INITIAL RESPONSE TO
DEVELOPMENT APPLICATION

DATE: 09/03/08

Re: Plan Review Comments

PLANNING NO: GP08-08-05

DESCRIPTION: General Plan Amendment to change the Land Use/Transportation Diagram designation from Low Density Residential (5 du/ac) to Office on a 0.69 acre portion of a 2.98-acre site

LOCATION: west side of San Felipe Road approximately 600 feet south of Delta Road

ADDRESS: west side of San Felipe Road approximately 600 feet south of Delta Road (4203 SAN FELIPE RD)

FOLDER #: 08 033968 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