

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** VISION NORTH SAN JOSE  
AREA DEVELOPMENT POLICY  
PROPOSED AMENDMENT

**DATE:** May 27, 2009

Approved

Date

5/27/09

**COUNCIL DISTRICT:** 3 and 4  
**SNI AREA:** N/A

## RECOMMENDATION

Staff recommends that the City Council:

- (1) adopt a resolution amending the North San Jose Area Development Policy to:
  - (a) add capacity within the Policy to allow for up to one million square feet of large scale regional commercial uses and up to 2,000 hotel rooms outside the Core Area, and to decrease the capacity for new industrial uses by two million square feet;
  - (b) facilitate the delivery of affordable residential units within North San José consistent with City goals for affordable housing;
  - (c) other clarifying changes to facilitate implementation of the Policy; and
  - (d) allow the Director of Planning the discretion to grant permit time extensions;
- (2) approve an ordinance amending the North San Jose Area Traffic Impact Fee; and
- (3) accept the North San José Neighborhoods Plan.

## OUTCOME

Adoption of the proposed amendment to the Area Development Policy, along with the North San Jose Neighborhoods Plan will support and facilitate the continued development of North San Jose as a vital job center, consistent with the Vision set forth in the City's General Plan, the North San Jose Area Development Policy and the North San Jose Neighborhoods Planning Taskforce Guiding Principles. The proposed Amendment to the North San Jose Area Development Policy will specifically establish a fee for large scale regional commercial and hotel uses, establish requirements for affordable housing within each Phase and incorporate additional clarification on how to implement the Policy. The changes to the Traffic Impact Fee Ordinance will allow large scale retail development to move forward in North San Jose.

## **EXECUTIVE SUMMARY**

The proposed Policy Amendment and Neighborhoods Plan will significantly further the City's goal of promoting job growth and creating a center of innovation within the North San Jose area, while also building positive residential neighborhoods and creating a high quality environment for both employees and residents. These documents are based upon an extensive and cooperative Taskforce process and have the support of residents, business owners, property owners and developers.

Staff is bringing forward three documents for Council consideration: an Amendment to the North San Jose Area Development Policy, an Amendment to the North San Jose Traffic Impact Fee Ordinance and the North San Jose Neighborhoods Plan. Together these documents are intended to further strengthen the City's vision to intensify and develop North San Jose as a key employment center, while also incorporating successful new residential neighborhoods and providing amenities for the benefit of both the area's residents and employees. The content of these documents ultimately represents five years of staff work and stakeholder participation. Key elements of each document are summarized in the following analysis.

To date, the City Council has approved sixteen rezoning requests for residential projects within the Policy area, providing for the development of up to 8,900 new residential units, 22.8 acres of new neighborhood parkland, and up to 107,000 square feet of mixed-use neighborhood serving retail space. In addition, since adoption of the Policy, permits have been approved by the City for the development of up to approximately 1.5 million square feet of office space and for the development of approximately 270,000 square feet of stand alone retail space.

## **BACKGROUND**

On April 22, 2008, the City Council formally accepted the Guiding Principles developed by the North San Jose Neighborhoods Planning Taskforce and provided direction to staff to continue work on the North San José Implementation Strategy and the North San José Urban Design Guidelines. Staff from multiple City departments and the Redevelopment Agency, with the assistance of an urban design consultant, have been working since then to draft these documents.

At Council direction, the North San Jose Neighborhoods Taskforce was reconvened on October 2, 2008 in order to review the draft documents. Staff presented the draft North San Jose Urban Design Guidelines and a draft Implementation Strategy to the Taskforce. The Taskforce endorsed these draft documents and provided further input which is being incorporated into the documents for Council consideration. The draft documents were also presented to a group of North San Jose property owners, business owners and developers who provided additional comments which will be addressed by staff.

On November 13<sup>th</sup>, 2008, Mayor Reed, Councilmember Chu and Councilmember Liccardo held a charette on the North San José Draft Urban Design Guidelines. Business representatives, property owners and consultants with an interest in North San Jose were invited to participate in a general discussion of development trends within the North San Jose Policy area followed by a charette exercise in which the participants tested the draft North San Jose Urban Design Guidelines. This input is being evaluated and incorporated into the draft Urban Design Guidelines which will be brought forward for consideration by City Council at a later date.

On November 18, 2008 the City Council directed staff to devise a process for the expansion of Phase 1 to allow for an additional 500 units to receive entitlement on a temporary basis above the cap of 8,000 residential units, as set forth in the North San Jose Area Development Policy.

On December 16, 2008, the City Council gave direction to staff to 1) explore adequate provisions to ensure the delivery of affordable residential units within North San Jose consistent with City goals for affordable housing, 2) evaluate the possibility of including a shortened timeframe for the reservation of residential units, 3) draft an "Economic Emergency Amendment" to allow for the reservation of a maximum of 500 additional residential units within Phase I for any project(s) that meet certain criteria, and 4) return in spring 2009 with a strategy establishing priorities for redistribution of Phase I units of expired permits.

On February 11, 2009, staff brought forward a status report to the Community and Economic Development Committee outlining the key elements of the documents to be considered by the Council: an Amendment to the North San Jose Area Development Policy, the North San Jose Urban Design Guidelines, and a North San Jose Neighborhoods Plan. At this time, staff is bringing forward a portion of the proposed changes outlined for the Committee for consideration by the City Council. Staff is continuing to work on the North San Jose Urban Design Guidelines.

To respond to the most recent Council direction, staff has prepared an Amendment to the North San Jose Area Development Policy and the North San Jose Traffic Impact Fee Plan. The proposed Amendment incorporates a significant portion of what previously had been drafted as an Implementation Strategy. Other items from the Implementation Strategy are now proposed to be combined with the Taskforce Guiding Principles as part of a Neighborhoods Plan for North San Jose.

## **ANALYSIS**

The proposed Amendment and North San Jose Neighborhoods Plan are intended to supplement and provide implementation tools for the North San Jose Area Development Policy (Policy), the General Plan and other policies related to the development of the North San Jose area. Together these documents establish a policy framework for the intensification of North San Jose as a key employment center for the City.

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In 2005, the City Council adopted the North San Jose Area Development Policy with the goal of allowing and encouraging the intensification of North San Jose as a jobs center. Subsequently, the City Council organized a taskforce of North San Jose residents, property owners, business owners, developers and other interested parties who met from August of 2007 through March of 2008. This Taskforce produced a set of Guiding Principles which were accepted by the City Council. Staff has been working with developers in North San Jose since June of 2005 to develop projects that implement the overall vision for North San Jose as expressed in the Policy and reinforced in the Guiding Principles. Through this experience, staff has received additional input from developers related to the content of the Policy. This experience has also prompted other ideas as to how the Policy might be amended to achieve other City goals, particularly the production of affordable housing within the Policy area.

At the April 22, 2008 Council meeting, the City Council provided the following guidance related to preparation of the Guidelines and Implementation Strategy and included in a memorandum prepared by Mayor Reed and Councilmember Chu:

“Silicon Valley is in constant change. The goal must be to ensure the economic viability of San José’s premier employment center and to establish a successful new residential living environment supported by parks, schools and other public facilities. Processing certainty is a key element to site selection decision making by investors and the development community. It is critical in present market conditions to provide flexibility in the development process and not preclude investment in North San José by creating uncertainty. The Urban Design Guidelines and Grid Street Master Plan must be supportive and consistent with the economic development goals and must not become rigid rules that discourage major investments.”

### Proposed Amendment to the North San Jose Area Development Policy

#### *Economic Emergency Amendment*

Initially one goal for the proposed Policy Amendment was to provide additional capacity for residential development within the first Phase of the Policy’s implementation. As previously discussed at the Council CED Committee meeting, the proposed amendment would have temporarily moved 500 additional residential units to the Phase 1 capacity from the Phase 2 capacity, while not increasing the total Policy capacity above 32,000 units. The impetus for this redistribution of residential capacity was a pending Development Permit application for a 460 unit project that would have been able to proceed to hearing only if the Policy is amended to add the additional capacity. The Council provided Staff with specific criteria related to this additional capacity including a requirement that this accommodation expire on July 1, 2009.

Due to the current economic climate, the only project seeking this additional capacity no longer has the financial backing required for the project to proceed at this time. Staff is therefore recommending that the Economic Emergency Amendment to the North San José Area Development Policy be dropped.

### *Regional/Large Scale Retail and Hotels*

When initially adopted, the Policy only supported the development of neighborhood-serving commercial retail projects intended to support the planned expansion of industrial and residential uses within North San Jose. The Policy currently provides capacity for the development of up to 1.7 million square feet of local-serving retail which is not subject to the Traffic Impact Fee, and up to 26.7 million square feet of industrial office capacity subject to a Traffic Impact Fee. The Policy does not currently provide capacity for large-scale retail development and hotel uses which could generate additional traffic trips and further potential impacts. Following an expressed interest by the development community and input of the North San Jose Taskforce, staff has subsequently reconsidered the significant social and fiscal benefits of the development of large-scale retail and hotels within North San Jose and is now recommending that the Policy provide capacity for these uses.

Adding capacity for large-scale retail commercial development is consistent with the Taskforce Guiding Principles. The City currently has a pending Conditional Use Permit for a large format commercial use within the Policy boundaries that would require this amendment to the Policy to allow it to proceed. To address this goal, the proposed Amendment will incorporate an ability to reallocate industrial office trip capacity to regional commercial projects on a trip equivalency basis subject to an appropriate Traffic Impact Fee amount. The proposed Amendment would also include an amendment to the Traffic Impact Fee Plan to establish a fee for the new large-scale retail and hotel uses.

### *Affordable Housing*

The proposed Amendment also incorporates a requirement that within each Phase of new residential development at least 20% of the units available (e.g., 1,600 units out of 8,000 units) be developed as affordable housing units. In 2005 when the Policy was adopted, the City did not have an in-lieu fee for affordable housing projects built within Redevelopment Project area; therefore, it was expected that units would be built by each developer and integrated as "inclusionary" units in each development. Subsequently, the City adopted an in-lieu fee provision which, based on discussions with the North San Jose residential developers, is likely to be used by each of the projects. Therefore, because of the unique nature of the North San Jose Policy area's phasing plan and cap on residential units, it is apparent there may not be any affordable units actually constructed within the Policy area upon build-out of the residential units allowed by the Policy.

The proposed Amendment would remedy this situation by specifically requiring that a set-aside of a minimum of 20% of the units in each Phase be allocated to affordable housing projects. Because the Policy allows for a range of residential units in each phase, the proposed Amendment will not preclude industrial development from proceeding ahead of the development of affordable housing of a given phase. Once the Citywide Inclusionary Ordinance is adopted by the City Council any developer which does not yet have a building permit may choose to provide their inclusionary units in North San Jose under the provisions of the new ordinance.

### *Grid Street Plan*

The Grid Street Plan currently included within the Policy is intended to enable the construction of new streets, primarily within the Policy's Core Area, to provide increased capacity, improved vehicle and pedestrian circulation, on-street parking opportunities, suitable frontages for supporting commercial services and access to internal building service and parking areas. It includes the extension of existing streets, the completion of missing segments, and the construction of completely new streets. The proposed Amendment includes an updated graphic of this Grid Street Plan that refines the conceptual layout in the North San Jose Area Development Policy, as it specifically identifies the location of the proposed new Grid streets, primarily located within the Core Area.

This Grid Street Plan was prepared with the assistance of a consultant who carefully reviewed existing street and property conditions to identify more specifically the preferred layout for the new street system. The potential for new street construction outside of the Core Area will potentially be addressed in the North San Jose Urban Design Guidelines, but is not a specific requirement in the Policy other than that the Policy anticipates the need to construct new streets as part of new North San Jose residential development projects.

### *Other Changes*

Other proposed changes included within the Amendment are intended to provide additional clarification on how to implement the Policy. These clarifications are being brought forward to reflect the City's experience gained through the implementation of the Policy to date. These changes include the addition of criteria for the granting of development allocation for new projects; addition of criteria for implementing the Traffic Impact Fee for minor additions to existing buildings, low intensity uses, credits for existing development, and high intensity uses; and elimination of the ability to expand the Transit Employment Residential Overlay where it would result in a net increase in the total amount of acreage that may be converted from employment to residential uses.

### Proposed Amendment to the North San Jose Traffic Impact Fee Plan

Based on the proposed change to the Policy to allow regional/large scale retail and hotel uses, analysis was completed to allow for the conversion of industrial capacity within the Policy area to allow the new commercial uses. The proposed amendment to the Traffic Impact Fee Plan would allow the conversion of two million square feet of the planned 26.7 million square feet of industrial space, which will provide capacity for up to 1.0 million square feet of regional retail space and 2,000 hotel rooms, and would establish a trip generation rate and fee for regional retail and hotel uses. The conversion of approved North San Jose industrial space to retail and hotel uses based on PM peak hour trip equivalency will maintain consistency with the completed environmental analysis for the NSJDP.

### Neighborhoods Plan

The Neighborhoods Plan is intended to act as a performance strategy that documents the work of the North San Jose Neighborhoods Taskforce and serves as a supplement to the North San Jose Area Development Policy. The Neighborhoods Plan incorporates the Taskforce Guiding Principles, the Parks Plan approved by the City Council, and additional performance standards for the development of retail, parks, trails, libraries, schools and other public facilities to support both residential and employment uses within the Plan Area. The draft Neighborhoods Plan also includes a Plan diagram which illustrates the potential locations of these amenities.

The Neighborhoods Plan includes a Parks Master Plan, which details a means for the City to provide public parks and recreational facilities in North San Jose, in accordance with the provisions of the North San Jose Area Development Policy and the work of the Taskforce. The current Policy sets a requirement for the development of a 3 to 5 acre Neighborhood Park within each new residential overlay neighborhood which is a higher standard than required by the PDO/PIO. The Neighborhoods Plan provides additional support to the development of a 3 acre minimum central park/urban plaza, trails and trail connections, one or two larger community parks equaling 30 to 35 acres in total size, and a mixture of passive/informal and active open space areas for both residents and employees. The central park/urban plaza is intended to act as a focal point for the employment and residential communities. The community parks provide land for four softball fields and four soccer fields with potential alternative use as a cricket field. Consistent with the Policy, under the Parks Plan, new Neighborhood or Community parks will be located within 1,000 feet of all new residential development.

Through the entitlement of projects to date, approximately 16 acres of new neighborhood parks will be delivered as five turnkey projects. Up to another 7.9 acres of raw land are to be dedicated to the City for future park developments from residential projects within the first phase of development. Park sites in other locations are shown as a depiction of a preferred strategy for meeting the City's park requirements as set forth in the Parks Master Plan, but these sites have General Plan Land Use designations that would allow alternative uses. The Parks Master Plan has been modified per Council's request, to identify the potential Community Park sites as opportunity sites. Additional detail on how the City will implement the parks component of the Master Plan is included in the Parks section of the Neighborhoods Plan.

The contents of the previously drafted Implementation Strategy have been incorporated into either the proposed Policy Amendment or into the Neighborhoods Plan. These include all of the proposed amendments to the Policy Amendment with the exception of the addition of residential capacity for Phase 1. Because adding capacity to Phase 1 would require an Amendment to the Policy that was not originally contemplated, staff's recommended approach is to include other policy changes within the Policy amendment, rather than within a separate Implementation Strategy. This would facilitate the Policy's readability and use as an implementation tool. The proposed Neighborhoods Plan provides a companion supporting document and an appropriate means of recording the key work and recommendations of the Taskforce as City policy.

### North San Jose Neighborhoods Planning Taskforce

The contents of the Implementation Strategy that were reviewed by the Taskforce have now been incorporated into either the proposed Policy Amendment or into the proposed Neighborhoods Plan.

The most significant change to the Implementation Strategy requested by the Taskforce was to rewrite the Retail section to more fully express the goal of using retail to make North San Jose a special place. Related to this, Taskforce members discussed the importance of public art as a means of giving North San Jose an identity and asked that this be further developed in either the Implementation Strategy or the Design Guidelines. The draft Implementation Strategy was revised to include sections that address these concerns, and that text has been transferred into the proposed Amendment or Neighborhoods Plan as appropriate.

### Development Activity Update

All 8,000 residential units available in the first phase of the North San Jose Area Development Policy have been reserved with the issuance of Planned Development Permits. One additional Planned Development Permit is currently pending for an additional 460 units. However, due to the current economic conditions, each of the market rate developers has indicated that it will be at least 18 months before they will be able to move forward with a building permit. Moreover, as noted above, no additional projects are seeking to move forward at this time.

Until such time as additional residential units are available for development under Phase 2, properties that do not receive a residential unit allocation in Phase 1 may continue to enjoy the uses currently operating on the site or may apply to develop the site with uses allowed under a zoning designation that corresponds to the underlying General Plan designation (typically Industrial Park, Light Industrial or Combined Industrial/Commercial).

The approved rezonings, if implemented, will result in the conversion of approximately 150 acres of land from industrial use to residential use. The Policy allows for the conversion of up to 285 acres as part of the addition of 32,000 new housing units within North San Jose. This conversion significantly enables the industrial intensification by addressing regional traffic issues and by providing for the expansion of retail and other amenities within the Policy area to serve both employees and residents.

### EVALUATION AND FOLLOW-UP

As a follow-up to the December 16, 2008 Council direction, staff proposes the following strategy for establishing priorities for the redistribution of Phase I units of expired permits. The earliest PD permits will expire in late June this year (Legacy and Kerley Charities). Another small group of permits will expire later this year (Nov./Dec.) with the majority of permits expiring in the spring of 2010. Some permit holders have provided staff with documentation of their diligent efforts towards completing implementation of their

entitlements. Other permit holders have not recently been in contact with staff and in some cases the companies have downsized substantially, or no longer exist.

Staff proposes to grant an initial time extension to January 31, 2010 for those permits set to expire in 2009 utilizing the current extension process already allowed by the Zoning Ordinance. The granting of the time extensions would align the expiration cycles of many of the approved permits, provide staff additional time to assess permit holder progress and intentions, develop appropriate criteria for granting additional time extensions for Council review, amend any necessary code changes.

In the next 90 days staff will be conducting an outreach effort to all permit holders of record to compile current project progress information which will be used to develop criteria for time extensions for existing projects. It will also give staff the ability to determine whether some projects are not able to proceed. A standard set of key milestone achievement questions will be provided to each permit holder. Milestone examples would include, but not be limited to, property ownership by a residential developer, executed parkland agreement, parkland purchase or dedication, final map recordation, site clearance, Building Permit Plan Check status and Public Works improvement plans status. This information will be used to determine the overall progress to date as well as the potential number of units available for redistribution (if any). It would also contribute towards the development of criteria for a "round two" prioritization.

The goal is to reward those developers that have invested in their projects so that they are "shovel ready" by extending their permits for up to two years to allow them to preserve their permit entitlements while not unnecessarily locking up the residential capacity for projects that are no longer active or the developer has made no progress. The need to accommodate the affordable units in each phase, as well as the current "over approval" of Phase I will require that some number of the inactive permits be allowed to ultimately expire.

### **POLICY ALTERNATIVES**

**Alternative #1:** An alternative to dropping the Economic Emergency Amendment at this time would be to move forward with its adoption and extend the expiration date beyond July 1, 2009 for some set length of time, such as another six months or a year.

**Pros:** A draft of the amendment has been prepared and could be revised with a new date.

**Cons:** The current amended version of the Policy would need to be revised and brought back to the Council at a later date.

**Reason for not recommending:** There is no apparent demand for the additional 500 residential units at this time and the project prompting the Economic Emergency Amendment is not proceeding at this time. The expansion of Phase I for non-affordable units would delay implementation of later phases.

**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)**

The proposed Amendment meets criterion 2 and has been posted on the City's website and e-mailed to interested parties.

Drafts of the Design Guidelines and Implementation Strategy were previously released to the general public on September 25, 2008. The Guidelines and Strategy were presented to the Parks and Recreation Commission on October 1, 2008, who indicated their support for both documents. With the exception of the addition of 500 units of residential capacity, all issues currently proposed to be included in the Policy Amendment were reviewed by the public through this process. An additional Taskforce meeting and additional outreach to property owners and developers will be conducted to gather input on the revised Design Guidelines prior to being brought to Council.

Guidelines were presented to a group of North San Jose property owners on September 12<sup>th</sup>. Comments received at that meeting have been addressed in the current draft. As noted above, Guidelines were also reviewed by North San Jose property owners, developers and interested consultants through a charette process. Comments from this charette will also be addressed as Guidelines are brought forward for Council consideration.

The City of San Jose convened a Taskforce of North San Jose residents, business owners and property owners to assist with planning for the development of new neighborhoods and neighborhood services as part of the implementation of the City's North San Jose Area Development Policy. The North San Jose Neighborhoods Planning Taskforce held its final regular meeting on March 6, 2008. The Taskforce unanimously adopted a set of Guiding Principles for future planning and development activity in the North San Jose Policy area. The North San Jose Neighborhoods Planning Taskforce was reconvened on October 2<sup>nd</sup> to review the Design Guidelines and Implementation Strategy. The Taskforce voted to indicate support for these documents with some requested edits. Staff is continuing to work with the design consultant to address those edits.

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### COORDINATION

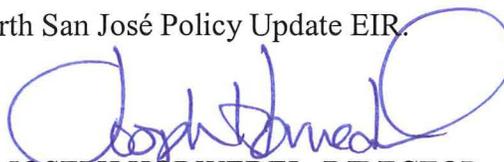
The preparation of this memorandum and the associated work was coordinated with the Redevelopment Agency, Office of Economic Development, Department of Transportation, and the Department of Parks, Recreation and Neighborhood Services.

### FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan policies and City Council approved design guidelines as further discussed in attached staff report.

### CEQA

Resolution No. 72768, Addendum to the North San José Policy Update EIR.



JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions please contact Darryl Boyd, Principal Planner at 408-535-7898

#### Attachments:

North San José Area Development Policy, as amended

NSJ Traffic Impact Fee Plan, Revised May 2009

Neighborhood Plan

NSJ EIR Addendum, May 2009

Given the size of these attachments, it will be made available on the City's website for the June 9, 2009 Agenda at [www.sanjoseca.gov/clerk/agenda.asp](http://www.sanjoseca.gov/clerk/agenda.asp) and a printed hard copy is available for public viewing in the Office of the City Clerk.