



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: May 28, 2009

COUNCIL DISTRICT: 10
SNI AREA: N/A

SUBJECT: GP08-10-01. General Plan Amendment to change the Land Use/Transportation Diagram land use designation from Medium Low Density Residential (8 DU/AC) to Medium Density Residential (8 - 16 DU/AC) on a 0.85-acre site, located on the east side of Almaden Expressway, approximately 300 feet north of Redmond Avenue.

RECOMMENDATION

The Planning Commission voted 4-3-0 (Commissioners Campos, Platten, and Cahan opposed) to recommend that the City Council deny the proposed General Plan Amendment request to change the Land Use/ Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Medium Density Residential (8-16 DU/AC) on a 0.85 acre site, located on the east side of Almaden Expressway, approximately 300 feet north of Redmond Avenue.

OUTCOME

Denial of the proposed General Plan Amendment to Medium Density Residential (8-16 DU/AC) would not allow an increase in density on the subject site. The pending Planned Development Rezoning would need to be redesigned to meet the Medium Low Density Residential (8 DU/AC) land use designation.

BACKGROUND

On May 27, 2009, the Planning Commission held a public hearing to consider the proposed General Plan Amendment. The Director of Planning, Building and Code Enforcement recommended denial of the proposed amendment.

Staff noted the receipt of comments, which are attached, on the Initial Study and Mitigated Negative Declaration (MND) and the proposed General Plan amendment. The MND comments do not raise any new environmental issues or impacts and do not change the conclusions of the environmental review. Public comments on the project are generally opposed to any density increase.

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The applicant, Jerry Strangis, spoke in favor of the proposal, and stated that the increase in density will give him greater flexibility in site design and allow for a setback from the existing neighborhood while still making his project viable. Eight speakers spoke in opposition to the proposed General Plan Amendment. All of the speakers were concerned about the neighborhood compatibility of development, based on the review of the Planned Development Rezoning proposal, in regards to lot size and building height that would result from an increase in density. All of them were also very concerned about how the subject property would be accessed. They indicated that the subject site along with the undeveloped properties to the north and south should have jointly planned access that does not occur through Fleetwood Drive, but directly off of Almaden Expressway. A majority of the speakers did not support the proposed General Plan Amendment if access to the subject site would occur via Fleetwood Drive and a few would be in favor of the increase in density of the site if the site is accessed solely from Almaden Expressway.

The Commission closed the public hearing and made a motion to recommend to the City Council denial of the proposed amendment. Commissioner Do stated that the site is awkward and a comprehensive access solution is needed. Commissioner Jensen asked staff whether or not the site was located within a Transit Oriented Development (TOD) corridor. Staff responded that while the site was located on Almaden Expressway, it is not a designated TOD corridor on the General Plan Land Use/Transportation Diagram. Commissioner Campos commented that he saw this as an infill site and that it was an opportunity for an increase in density and that Fleetwood had the capacity for the additional traffic.

Commissioner Platten stated that the site was an infill opportunity and that an increase in density would provide the Fleetwood Drive properties with a physical buffer from Almaden Expressway and a transition from the attached-unit development Flowering Plum Street. Commission Cahan commented that this was a good infill opportunity given close proximity to the expressway. Commissioner Zito commented that regardless of the decision, Fleetwood Drive would be affected with some additional traffic.

The Planning Commission voted 4-3-0 (Commissioners Campos, Platten, and Cahan opposed) to deny the General Plan Amendment as recommended by staff.

ANALYSIS

The proposed General Plan Amendment to change the land use designation from Medium Low Density Residential (8 DU/AC) to Medium Density Residential (8-16 DU/AC) will allow for an increase in the actual allowable number of residential units on the subject site from 6 units (minimum) to 12 units (maximum), although the actual number of units proposed with the pending Planned Development Rezoning is six. A development of this type would not achieve compatibility with the existing land use patterns. Planning staff recommends **denial** of the proposed General Plan Amendment because the increase in density is inconsistent with the goals and policies of the San Jose 2020 General Plan, in that, it would significantly change the neighborhood character and would not enhance the existing neighborhood.

A complete analysis of the issues regarding this project, including General Plan conformance, is contained in the attached staff report.

EVALUATION AND FOLLOW-UP

The applicant would be required to file subsequent development permits with the Planning Division in order to implement the increased density on the subject site.

POLICY ALTERNATIVES

Not Applicable.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30; Public Outreach Policy. A community meeting was held on April 28, 2009. 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 rezoning was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

COORDINATION

This project was coordinated with the Department of Public Works, Department of Transportation, and the City Attorney. Santa Clara Valley Water District comments received and staff responses to those comments are attached.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan policies.

CEQA

The environmental impacts of this project were addressed by a Mitigated Negative Declaration adopted for File Nos. GP08-10-01 and PDC08-051 on May 26, 2009. The Mitigated Negative Declaration states that no significant impacts will result from the subject project.

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Planning staff has responded in writing to comments received from the Santa Clara Valley Water District before the end of the public review period. (See attached). The comments contained in the letter did not affect the conclusion of the Mitigated Negative Declaration, that there are no significant environmental effects from, or to, the proposed project.


for JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Lesley Xavier, Project Manager, at 408-535-7852.

Attachments

Xavier, Lesley

From: alison dougherty [alisondougherty@hotmail.com]
Sent: Saturday, May 23, 2009 8:25 PM
To: Office of Councilmember Nancy Pyle; Horwedel, Joseph; Xavier, Lesley; Sutherland, Kathy; mayore@sanjoseca.gov; Angeles, Maria; Connie Page; don gage; doug page; Wilcox, Leland; Enderby, Mike; susie taylor; Tom kelly
Subject: Fleetwood Drive

I am a resident of Fleetwood Drive who has been active in the effort to keep the character of our neighborhood/block in the face of the proposed developments along Almaden Expressway. I was very happy with the decision of the Council a few years ago when this issue came to them with regard to the Jayden Lane property. Yet, here we go again. At this time all of the properties, a total of three new proposed developments, are at various stages with regard to zoning and planning. We have a wonderful opportunity to look at the projects as a whole. I believe that the Planning Department and the Council should take this time to act in support of the existing neighborhood by ensuring that access to the new developments comes from the Expressway, not through Fleetwood Drive.

I understand that the Woodrum property owner will not allow access for the corner property through his property, so access to that lot closest to Redmond will **have** to come from Almaden Expressway. While I understand that this approach will be more expensive to both the City, County and developers it is the alternative that will appease the neighborhood. There are several other issues which concern us; flooding, small lots, parking, the potential three story homes looking down at our properties, but access down our street, increased traffic and parking is the focus of our concern. If you work with us on the access the rest will work itself out.

I also have heard of a potential development at the corner of Almaden and Coleman. This property will require access from Almaden Expressway as well. While I know that this approach is less than ideal from the view point of county roads, I believe that since there is existing precedent in the neighborhood and it appears that there is a future need for similar access you allow whatever measures or exceptions need to take place to save our street.

In closing I ask that you work with us to keep the character of the place we live. This is why we bought homes on this quiet one block street. The traffic from 4 developments, potentially over 30 new homes and the cars they bring will would make a significant negative impact on the lives of the 48 homes worth of residents of Fleetwood Drive.

Thank you for your time

**Alison Dougherty
1047 Fleetwood Drive**

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Xavier, Lesley

From: capage0519@aol.com
Sent: Tuesday, May 26, 2009 3:14 PM
To: MayorEmail; Office of Councilmember Nancy Pyle; don.gage@bos.sccgov.org; Angeles, Maria; Sutherland, Kathy; Xavier, Lesley; Horwedel, Joseph; mike.enderby@sajoseca.gov
Subject: Fleetwood Homes Project

After our Public Community Meeting in April, I feel the general consensus is we are NOT in favor of the General Planned Amendment proposed by Project No: GP08-10-01 and PDC08-051. In 2007 Jayden Lane was approved for rezoning to a PD to allow for 6 single family homes on a parcel just a little over an acre in size. The Fleetwood Homes project is requesting rezoning to Medium Density Residential allowing for 8-16 DU/AC on *less* than an acre. This would mean much smaller lots and reduced parking. The applicant is also proposing to build 8 two story homes with a loft. This style of architecture is completely incompatible with the existing neighborhoods. With the grading that has to take place prior to building the homes, this will make them even higher giving the existing neighbors restricted views of the hills they have so much come to enjoy.

Another of our concerns is that traffic would be increased on Fleetwood Dr. if Alternative 3 were not followed through with. There is not only one project that will effect the traffic on Fleetwood, but in the future there will be 4 projects. It has been approximately 2 years ago that the City recommended Alternative 3. In fact, in a memo from Councilmember Pyle to Mayor Reed and City Council, dated June 5, 2007, she stated that Alternative 3 is acceptable to the Santa Clara County Roads and Airport Department, with the requirement of land dedication from the other properties, and as an INTERIM condition, until the other sites develop, access would be via Fleetwood Dr. The homeowners on Fleetwood have no problem with this.

Maria Angeles received a letter from William R. Lee, Senior Civil Engineer with the Land Development and Survey, Roads and Airports Department dated April 23, 2009. There is a paragraph that states, "If City decides on "Alternative 3" or other hybridized alternative, RAD is open to discussion with the City. It seems the homeowners on Fleetwood have continually been told the County will not allow Alternative 3 to be implemented. Apparently this is not completely true.

Then there is the proposed Sycamore Terrace Project at the Northeast corner of Almaden Expressway and Coleman Road. This proposed project is to consist of 32 single family attached residential units on approximately 1.4 acres. Ingress/egress for this project will be off of Almaden Expressway.

It appears there me be a lack of communication or interpretation between departments. This seems like an opportune time to get this resolved once and for all. The homeowners have to face this same issue every time a developer decides it is time to do something with his property. We feel it is like a "*divide and conquer*" situation.

Connie Page
1060 Fleetwood Dr.
San Jose, CA 95120

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Xavier, Lesley

From: page douglas [douglas_a_page@yahoo.com]
Sent: Tuesday, May 26, 2009 3:44 PM
To: Horwedel, Joseph; Office of Councilmember Nancy Pyle; Xavier, Lesley; Sutherland, Kathy; mayore@sanjoseca.gov; Angeles, Maria; Enderby, Mike
Cc: Connie Page
Subject: Amendment to general plan, Woodrum / Strangis, FILE #GP08-10-1 & PDC08-051

Currently there are four pieces of property on Almaden Expressway that are in some phase of development, Hudson Property, Woodrum / Strangis, Jayden Lane, and Mazzoni. These four properties were addressed over 2 years ago by the residents of Fleetwood Drive, who requested that they all be considered jointly for ingress & egress from Almaden Expressway. It was recommended at that time to get the developers of those properties to address a method for ingress and egress. This was evidently never followed through with. Now the Woodrum / Strangis developers are requesting a change to the city general plan to allow R8 to R16 zoning for that piece of property, with a special PD allowance. This will allow 8 DUs to be built on .85 acres, or the equivalent of 9.5 DUs per acre. The presented plan requires ingress and egress via Fleetwood Drive, with no accessibility to Almaden Expressway. If this is allowed, the Hudson property will become an island by itself, with no access other than the expressway. So, property #1, Hudson will have access via the expressway, property #2, Woodrum / Strangis wants access to & from Fleetwood, and property #3, Jayden lane has Almaden Expressway access, property #4, Mazzoni, undeclared. The Jayden Lane property has already dedicated property for access to and from Almaden Expressway, Hudson properties has no other choice, and Mazzoni's property access would logically be from the expressway as well. The only logical solution is to **not allow** Woodrum / Strangis any zoning other than R8 maximum. This would allow them to develop 6 DUs instead of 8 on a plot of land that is 25% smaller than the Jayden Lane property. I asked Mr. Bo, the architect for Woodrum / Strangis, if he had done a layout of the property with 6 DUs rather than eight which might allow for more parking, namely 2 covered & 2 driveway, his answer was that "it wouldn't pencil out". That is very strange considering that the Jayden Lane property was purchased 3 years ago, at high market value, and the Woodrum / Strangis property was purchased over 10 years ago, when values were much less, and it seems to have "penciled out" for Jayden Lane, even with property dedicated for expressway access.

There are many other issues to be considered in the development of the Woodrum / Strangis property, lot size, parking, and of course the height issue. The proposed document presented showed 3 story homes, they called them 2 story with a loft, but the loft is a full 8 foot ceiling bedroom and bathroom which pencils out 3 stories to me. If the property is graded to 220 ft elevation that would be about 6 foot higher than the existing properties before they build the 3 stories, the floor level of the balconies and bedrooms of these DUs would be about 26 foot higher than the backyards of the existing homes. I would consider this to be a serious privacy issue. In addition to the privacy issue there would be a deprivation of view for many of the existing homes. For over 45 years these residents have had a view of Mount Um Uh Num and of the hills to the north where the golf course is now. If the grade level is built up 6 foot and the new construction allowed to go to 31 foot over grade, the roof tops will be high enough to seriously restrict the views of the people who have lived here for decades. This would be a serious restriction to the quality of life that people have enjoyed.

Sincerely,

Douglas A. Page

5/26/2009

Xavier, Lesley

From: mmullen1059@comcast.net
Sent: Tuesday, May 26, 2009 7:35 PM
To: Xavier, Lesley
Subject: Fwd: Attached ltr Regarding Fleetwood Development Plans....
Attachments: Fleetwood Homes IS Mit Neg Dec.docx

Mr. or Mrs. Xavier:

My attempt earlier to reach you by email failed, please accept this document as attempts have been made previously.

Regards,

The Mullen's

----- Forwarded Message -----

From: mmullen1059@comcast.net
To: mkamkar@ccengineers.com, lesley.xavier@sanjoseca.gov, hopecahan@mac.com, xavierc@macsa.org, tdo@aedisgroup.com, "lajensen PC" <lajensen_PC@yahoo.com>, District10@sanjoseca.gov
Cc: capage0519@aol.com, "Christian Mullen" <mmullen1059@comcast.net>
Sent: Tuesday, May 26, 2009 11:33:24 AM GMT -08:00 US/Canada Pacific
Subject: Attached ltr Regarding Fleetwood Development Plans....

Please find attached a letter pertaining to the Mitigated Negative Declaration for Fleetwood Drive.

Sincerely,

The Mullen's

May 26, 2009

Ms. Lesley Xavier, Project Manager
Planning, Development and Code Enforcement
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113-1905

Subject: Fleetwood Homes, File No.s GP08-10-1 and PDC08-051

Dear Ms. Xavier,

We are residents of Fleetwood Drive. After reading the City's Initial Study and Mitigated Negative Declaration for the subject project (Project), as well as the staff memo prepared for the May 27, 2009 Planning Commission meeting for this same project, we have several

5/27/2009

concerns which have either not been addressed or have been misinterpreted by City staff. Here are our comments:

INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION

1. On Pages 3 and 4 of the Initial Study (IS) under Aesthetics, the report states the Project would be a less than significant impact to the aesthetics of the community because it would not "...significantly degrade the existing visual character of the site in that the project would be required to undergo architectural and site design review by Planning Staff to ensure compatibility with the surrounding neighborhood." Completely contrary to that, the City's staff memo for the May 27, 2009 Planning Commission meeting (Page 3 of 7) states "...the proposed amendment would significantly change the neighborhood character; andwould not enhance the existing neighborhood." Consequently, City staff recommends **denial** of the proposed General Plan Amendment. Please explain how the IS can state the Project will have a less than significant impact on aesthetics and compatibility with the surrounding neighborhood, when the same City staff recommends denial based on the opposite premise that the site will not be compatible with the surrounding neighborhood nor be consistent with General Plan Policies.
2. Secondly, the Aesthetics section does not even mention the fact that, in addition to the Project constructing 3 story homes on miniscule lots in complete contrast to all the adjacent neighborhoods, the new development will be required to pad up its lots to meet current Federal Emergency Management Agency (FEMA) requirements which did not exist when Fleetwood Drive was constructed. This may mean (although it is not even discussed) that the new 3 story homes may present an even higher elevation obstruction than they would if they were not required to meet the FEMA regulations. The IS should discuss how the FEMA and National Flood Insurance Program (NFIP) requirements may impact the compatibility of the neighborhood.
3. Part 5 of Chapter 17.08 of the City's municipal code titled "Requirements for Special Flood Hazard Area, New Developments," section 17.08.370(C) states that: "The director shall require that until a floodway is designated by the Administrator, no new construction, subdivision, improvement or other development, including fill, shall be permitted within a special flood hazard area on the community FIRM unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community." The IS has no mention of this requirement in the Hydrology and Water Quality section. New FEMA Flood Insurance Rate Maps (FIRMs) effective date May 18, 2009 still, appropriately, do not show a floodway on Alamitos Creek where it is adjacent to the Fleetwood Drive neighborhood or the project site. **Therefore, Section 17.08.370(C) applies to this development.** This section of the City's municipal code is a requirement of the NFIP. The City is required to follow NFIP regulations. The IS has zero discussion of this requirement. This requirement is meant to address impacts to existing development (such as Fleetwood Drive neighborhood and the other adjacent neighborhoods) from adverse impacts from new development (such as the Project) by filling in the floodplain. When the project site develops, it will be required to pad up and fill in the project site to meet other NFIP regulations (City Municipal Code 17.08.350). When the Project site adds fill to pad up the site, the flooding patterns will change in the floodplain and additional flood waters may be diverted to adjacent neighborhoods or the flood waters may "back up" onto adjacent properties and increase flooding elevations on adjacent properties. Further, there will be a loss of capacity in the floodplain. New

FIRM maps show the Project site and the adjacent neighborhoods are in Zone AE. The Project site extends across and perpendicular to the floodplain by about one third. The "padding up" requirement is listed as one of two CHOICES of mitigations for the Flooding and Hydrology section. The other CHOICE is to prepare a Flood Study apparently in reference to the Municipal Code Section 17.08.370(C) requirement. The problem is that **BOTH Sections 17.08.370(C) and 17.08.350 ARE REQUIRED.** The City's lists 2 mitigations, but there is an "OR" at the end of the first mitigation.

The Jayden Lane development approved in 2007 and located just north of the Project site extends approximately three-fourths of the way across and perpendicular to the floodplain. In 2007, the Fleetwood Drive neighborhood appealed the IS and Mitigated Negative Declaration for the Jayden Lane project based on the fact that the City did not require the applicant to comply with Municipal Code 17.08.370(C). The City Public Works Director denied the appeal based on their interpretation that a floodway did exist even though it is not shown on the FIRM panels. As a result, Fleetwood Drive neighbors went to FEMA directly to get a proper interpretation of the FEMA map via the local representative Cynthia McKenzie. On the day of the Planning Director's Hearing to approve the Jayden Lane PD permit, FEMA notified City staff and the Fleetwood Drive neighbors that the neighbors were correct and that THERE IS NO FLOODWAY ON ALAMITOS CREEK in the area adjacent to Fleetwood Drive. Accordingly, on the day of the Director's Hearing, the requirement for a Flood Study was added to the project's development conditions. **This is why it is outrageous that 2 years later, the City again chooses to ignore its own municipal code and NFIP regulations,** and not require a cumulative impact flood study to determine the effects that this Project, the Jayden Lane project, and the other 2 pending projects adjacent to these prior two sites will have on the existing floodplain limits and flood elevations. The City had a chance (two years) to look into the floodway issue with FEMA during review of the new maps. **THE NEW MAPS CONFIRM THERE IS NO FLOODWAY.** Further, it is unknown how a floodway can be calculated in this area when there is a levee between the Project site (and Fleetwood Drive) and Alamitos Creek. Despite this, the FEMA maps do not show a floodway.

Again, **NFIP regulations do not list these 2 requirements as an "either/or" option. BOTH are required.** The IS must discuss the effects of the Project's filling in of the floodplain and its potential effects on the surrounding neighborhood and existing floodplain. A Flood Study must be required from this development and should be a part of this IS, not a condition to be fulfilled later. If the Flood Study shows adverse impacts, then this may change the design of the site or limit the amount of fill in the floodplain or limit the number of houses allowed in the floodplain.

4. The Hydrology and Water Quality section states that post construction water quality BMPs will be implemented, but it doesn't say which BMPs will be actually be used on the site. The IS should state which BMPs will be used to clean up the storm water and reduce the amount of runoff from the site which may add to existing flooding in Alamitos Creek or further affect the local storm drains which have been repeatedly backed up due to lack of maintenance (as was discovered by City staff during neighborhood complaints during the Jayden Lane approval process).
5. The Land Use and Planning section is, again, completely contrary to the City staff memo prepared for the Planning Commission (referenced on Comment #1). The IS should discuss how the proposed Project, which is a proposed change in the General Plan to allow for increased development density than currently allowed. According to

the staff memo, the General Plan Amendment is inconsistent with the goals and policies of the San Jose 2020 General Plan. However, the IS does not address the impacts of the Project, rather it addresses how the future Project, if approved, will be forced to comply with other General Plan Policies. In other words, the IS addresses whether development of the site as allowed by the proposed General Plan Amendment will be consistent with the General Plan (which assumes it will be approved) and how the development will comply with General Plan Policies. What the IS does not address or discuss, is whether the proposed General Plan amendment itself and the proposal to increase the land use density from currently allowed is consistent with General Plan policies—this discussion appears to be in the City staff memo which clearly states the proposed General Plan Amendment is not consistent with the existing General Plan goals and policies. The IS should be modified to reflect that the Project does not comply with General Plan policies. It also does not comply with the Municipal Code if the City does not enforce its Flood Hazard Ordinances required by NFIP.

6. Page 30 of the IS, under Fire Hazards Policies, fails to include discussion of Municipal Code 17.12.440 Amendment of Section 503.1.2 which states "...A second point of access is required when a fire apparatus access road exceeds one thousand (1,000) feet." As the City is aware, Fleetwood Drive is currently an unusually long dead end street with no outlet other than at Cloverhill Drive. The Project site is located at the end of Fleetwood Drive furthest from the Fleetwood Drive entrance at Cloverhill Drive and is more than 1000 feet away from the entrance. According to the letter dated April 23, 2009 from the County of Santa Clara Department of Roads and Airports to the City of San Jose Public Works Department, the County (who owns Almaden Expressway) "... does not allow a new emergency vehicle access to Almaden Expressway for new developments." So it is unclear how the proposed Project will comply with the Fire Code. This should be explained and addressed in the IS. It should be noted that if the site implements Alternative 3 (discussed below) as directed by City Council in 2007 to be proactively studied and analyzed for implementation (Councilmember Nancy Pyle June 4, 2007 memo from Council Agenda 6-05-07, Item 11.3), that there should be no issue for secondary access because the development would not be more than 1000 feet from a point of access.
7. The Transportation/Traffic section begins with "The following discussion is based in part upon previous transportation studies completed in the project area for existing development on the adjacent school campus." However, the Project site, to our knowledge, is not adjacent to a school campus. This should be explained in the IS. Are the studies for a different site and therefore not applicable or is the IS mistaken?
8. Again, per Comment #6, the Project will not comply with the Fire Code for emergency access for fire apparatus. So, it is unclear how there will be "No Impact" under the IS section (f) where it discusses inadequate emergency access.
9. The Transportation/Traffic section has no discussion of Alternative 3 as described in the Jayden Lane Project approval---see comments 10 through 13 below.

CITY STAFF MEMO TO PLANNING COMMISSION

10. At the City Council's adoption of the Jayden Lane project, the City Council approved the following three recommendations made by Councilmember Nancy Pyle in her memo referenced in Comment #6:
 1. *Approve the Planning Commission's decision to uphold the Planning Director's adoption of a Mitigated Negative Declaration.*
 2. *Approve the A (PD) Planned Development Zoning District to allow six single-family*

detached residences with the following direction to staff:

- a. *At the time that the underutilized properties to the north and south of the subject site are proposed for development, staff shall explore the feasibility of alternative access to those sites utilizing Almaden Expressway.*
3. *In recognition that the properties to the north and south are expected to soon request rezoning, staff should proactively study and analyze access for these sites via Almaden Expressway and meet with the Santa Clara County Roads & Airports Department to discuss guidelines and implementation of an acceleration and deceleration lane.*

To date, according to the staff memo, the City has not proactively studied or analyzed guidelines and implementation of Alternative 3. The City has met with the County Roads and Airports department twice without any further details of Alternative 3 than the conceptual plan provided by the Jayden Lane project owner. It appears that although the County would prefer other alternatives, they have said both in 2007 and in 2009 that the concept for Alternative 3 is supported by staff but more details are needed to provide further comment. The City has not provided sufficient information to the County to obtain guidelines to implement Alternative 3. Therefore, it is not clear why the City can state that Alternative 3 is not feasible. In fact, the County's letter leaves the decision up to the City to "decide" on Alternative 3 and then the County is open to further discussion. This action by the City appears to ignore the City Council's 2007 direction to staff to proactively study and analyze Alternative 3 for implementation.

11. The City staff memo also mentions that an existing Santa Clara Valley Water District (SCVWD) above-grade vault is in such a position that it could render Alternative 3 infeasible. Once again, the City has no idea whether or not this is the case because they have nothing more than a concept plan with no details upon which to actually determine whether Alternative 3 is feasible or infeasible. It is very curious though that City staff believes (but are not sure) that Alternative 3 (which is a one-way acceleration/deceleration single lane) could be infeasible, but that the City's staff recommendation to have a full width 2-way 2-lane residential road is not infeasible because somehow a wider 2-way street can easily work around site constraints on the SCVWD property. Again, City's staff's recommendation has no basis other than vague statements that Alternative 3 could be infeasible. Nothing has been studied since 2007 to determine how Alternative 3 can be implemented. There does not appear to be any designs or plans of Alternative 3 other than the conceptual sketch. Again, this appears to ignore the City Council's 2007 direction to staff to proactively study and analyze Alternative 3 for implementation.
12. The City staff memo states that Alternative 3 is inconsistent with General Plan Residential Land Use Policy No. 14 which limits residential access to four-lane and six-lane arterial streets. However, contrary to the staff's memo, Alternative 3 (a single lane, one-way street with an acceleration and deceleration lane to enter and exit on Almaden Expressway) does not appear to qualify as a four-lane or six-lane arterial.
13. City staff references Urban Design Policy No. 3 as being inconsistent with Alternative 3. I would say that the City's proposal to extend the frontage road and connect Fleetwood Drive to Mazzone Drive is inconsistent with this policy, not Alternative 3. The policy as written in the City's staff memo states that residential subdivisions "...should be designed to provide for internal circulation within neighborhoods, prevent through vehicular traffic from traversing neighborhoods, and encourage pedestrian and bicycle connections between neighborhoods..." Whereas Alternative 3 will still allow for pedestrian and bicycle connections between neighborhoods and prevent vehicular

traffic traversing through Fleetwood Drive, the City's proposal to connect the Mazzone Drive neighborhood to Fleetwood Drive will most certainly invite traffic from the Mazzone Drive neighborhood to "cut through" Fleetwood Drive to avoid turning left onto Almaden Expressway (due to the current 3 minute plus wait time) at McAbee Road to travel to Leland High School, Bret Harte Middle School, church, or other destinations that can be reached through Fleetwood Drive access to Redmond Avenue and Camden Avenue. Fleetwood Drive homeowners would receive no benefit because pedestrian access is currently available to get to Almaden Lake Park, the only desirable destination from Fleetwood Drive to Mazzone Drive notwithstanding potential personal visits.

In summary, although we do agree with the City's staff recommendation to deny the Project's General Plan Amendment, it is very disappointing and upsetting that City staff has gone contrary to the City Council's direction to move forward with Alternative 3 without providing any reasonable rationale for not doing so. The homeowners on Fleetwood Drive cannot support more traffic with the accompanying high speed travel to provide for the increased density housing developments at the end of the street. It is already a problem now that drivers whose destination is at the end of the street feel the need to travel upwards of 40 -50 miles per hour. Adding 10 more vehicle trips per day per house will make the problem much worse when it is not necessary as those 4 undeveloped properties already have at least 6 driveways between them to access Almaden Expressway and 2 of the driveways is for a business. Alternative 3, although not the County's preferred choice, may be feasible and is preferred by the existing residents and Councilmember Pyle and not prohibited by the County. It is also disappointing that City staff is repeating previous errors with regards to implementation of its own Flood Hazard Ordinances which may jeopardize its enrollment in the NFIP which would negatively affect the whole City. We prefer to not go back to FEMA again to get a repeat interpretation of this same map area and pay another \$100 in appeal fees to the City and would prefer that these issues, as well as the other aforementioned issues be addressed prior to any future actions to allow further development of the Project site or the other adjacent undeveloped parcels.

Sincerely,

Marc Mullen and Yvonne Arroyo

**RESPONSE TO COMMENTS RECEIVED ON THE MITIGATED
NEGATIVE DECLARATION FOR FLEETWOOD HOMES
GENERAL PLAN AMENDMENT AND PLANNED DEVELOPMENT
ZONING
FILE NO. GP 08-10-01 & PDC08-051**

**LIST OF AGENCIES & ORGANIZATIONS COMMENTING ON
THE INITIAL STUDY**

A. Santa Clara Valley Water District

**RESPONSES TO COMMENTS RECEIVED ON THE INITIAL
STUDY**

The following section includes all of the comments on the Initial Study that were received by the City of San Jose during the review period. The comments have been excerpted from the letters and are presented as "Comment" with each response directly following "Response". The actual letters submitted follow the responses to the comments.

LETTER A from Santa Clara Valley Water District, dated May 26, 2009

Comment A-1: The District understands from recent discussions with City staff that connection of this site, the Hudson property, the Jayden Lane site, and the Mazzone property via an extension of the existing frontage road across the District's property (APN:696-01-002) at possibly two locations is still being considered. The extension will impact District property and two district facilities, if extended from Mazzone Drive to Fleetwood Drive. At this time the District has not received any plans to review and determine feasibility of using District property. The MND for the project needs to address the ultimate access for these sites, including when and how the extension will be constructed, i.e. which development(s) will construct the extension, will it be a phased construction by various developments, or will the City construct the extension.

Response A-1: The City and County Roads and Airport Department are currently considering several options for extending the existing frontage road to provide access to this area. Such an extension of the frontage road to provide access to these properties would require the crossing of SCVWD property. The current project description does not include the extension of the frontage road, however, as it proposes to take access from Fleetwood Drive. If the project description and road access change in the future, the environmental impacts of the revised project will need to be reevaluated at that time.

Comment A-2: Page 19 of the Initial Study (IS) states under the findings for flooding/drainage that though the site is a special flood hazard zone, "the project would not expose people or structures to flooding because it must elevate the lowest floor above the flood level." On page 21 of the IS and on page 4 of the MND under the Hydrology and Water Quality section, the documents state to mitigate for flooding impacts the project will either elevate the lowest floor above the flood level or "the applicant shall submit a Flood Study to demonstrate that there are not flooding impacts due to the development of the site since there is not floodway mapped on portions of the Alamos Creek." The first mitigation measure, to elevate the structures, appears to be required by the City's Flood Plain Ordinance to protect the project and its occupants from flooding. The second mitigation measure, to complete the a flood study, is to demonstrate that construction of the project will not adversely impact the existing flood plain due to the cumulative effect of development within the flood plain since a floodway on this reach of the Alamos Creek does not exist. Both mitigation measures are required as they address different aspects of the project's potential impacts on flooding and based on our understanding; both are required by the City's Flood Plain Ordinance.

- Response A-2: The first mitigation measure, as you have correctly noted, simply requires that the project elevate the lowest floor above the flood level and obtain a Flood Elevation Certificate (FEMA Form 81-31) for each structure prior to the issuance of a building permit.

The second mitigation measure is an alternative to meeting the above-noted flood elevation requirement, and stipulates that if applicant submits a flood study demonstrating that the property is incorrectly mapped in the floodway and the City agrees with the study and submits a Letter of Map Revision to FEMA, the applicant would not be required to elevate above the floodway.

Comment A-3: District records show one well located on the project site. To protect groundwater quality and in accordance with District Ordinance 90-1, all existing wells affected by new or redevelopment need to be identified and properly registered with the District and either by maintained or destroyed in accordance with the District's standards. Destruction of any well and the construction of any new wells proposed (including monitoring wells) requires a permit from the District prior to construction. Property owners or their representative should contact the District Wells and Water Measurement Unit (408) 265-2607, extension 2660 for more information.

Response A-3: Comment noted. The conditions of approval for the project will include conformance with District Ordinance 90-1, regarding the identification and registration, or destruction of wells on the property.

File: 32113
Alamitos Creek

May 26, 2009

Ms. Lesley Xavier
Department of Planning, Building and Code Enforcement
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

Subject: Mitigated Negative Declaration for Fleetwood Homes
City File GP08-10-01 and PDC08-051

Dear Ms. Xavier:

The Santa Clara Valley Water District (District) has reviewed the Mitigated Negative Declaration (MND) for Fleetwood Homes, City File GP08-10-01 and PDC08-051, dated May 5, 2009.

The District does not have any facilities or right of way within the project site; therefore, a District permit is not required.

Though a permit is not required for the onsite components of the development, we have the following the comments on the MND:

1. The District understands from recent discussions with City staff that connection of this site, the Hudson property, the Jayden Lane site, and the Mazzone property via an extension of the existing frontage road across the District's property (APN: 696-01-002) at possibly two locations is still being considered. The extension will impact District property and two District facilities, if extended from Mazzone Drive to Fleetwood Drive. At this time the District has not received any plans to review and determine feasibility of using District property. The MND for the project needs to address the ultimate access for these sites, including when and how the extension will be constructed, *i.e.* which development(s) will construct the extension, will it be a phased construction by the various developments, or will the City construct the extension.
2. Page 19 of the Initial Study (IS) states under the findings for flooding/drainage that though the site is a special flood hazard zone, "the project would not expose people or structures to flooding because it must elevate the lowest floor above the flood level." On page 21 of the IS and on page 4 of the MND under the Hydrology and Water Quality section, the documents state to mitigate for flooding impacts the project will either elevate the lowest floor above the flood level or "the applicant shall submit a Flood Study to demonstrate that there are not

Ms. Lesley Xavier
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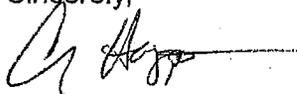
flooding impacts due to the development of the site since there is no floodway mapped on portions of the Alamos Creek." The first mitigation measure, to elevate the structures, appears to be required by the City's Flood Plain Ordinance to protect the project and its occupants from flooding. The second mitigation measure, to complete a flood study, is to demonstrate that construction of the project will not adversely impact the existing flood plain due to the cumulative effect of development within the flood plain since a floodway on this reach of Alamos Creek does not exist. Both mitigation measures are required as they address different aspects of the projects potential impacts on flooding and based on our understanding, both are required by the City's Flood Plain Ordinance.

3. District records show one well located on the project site. To protect groundwater quality and in accordance with District Ordinance 90-1, all existing wells affected by new or redevelopment need to be identified and properly registered with the District and either be maintained or destroyed in accordance with the District's standards. Destruction of any well and the construction of any new wells proposed, including monitoring wells, requires a permit from the District prior to construction. Property owners or their representative should contact the District Wells and Water Measurement Unit at (408) 265-2607, extension 2660, for more information.

Reference District File Number 32113 on further correspondence regarding this project.

If you have any questions or need further information, you can reach me at (408) 265-2607, extension 2322.

Sincerely,



Colleen Haggerty, P.E.
Associate Civil Engineer
Community Projects Review Unit

cc: Mr. Michael Liw
Transportation and Development Services
Department of Public Works
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

S. Tippetts, C. Haggerty, File

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