



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** November 19, 2009

**COUNCIL DISTRICT:** 8  
**SNI AREA:** N/A

**SUBJECT: GP09-08-04. GENERAL PLAN AMENDMENT REQUEST TO CHANGE THE LAND USE/ TRANSPORTATION DIAGRAM DESIGNATIONS FROM 34 ACRES OF MEDIUM LOW DENSITY RESIDENTIAL (8.0 DU/AC), 23 ACRES OF INDUSTRIAL PARK, AND 12 ACRES OF PUBLIC/QUASI-PUBLIC, ALL WITH MIXED USE OVERLAY, TO 11.5 ACRES OF MEDIUM HIGH DENSITY RESIDENTIAL (12-25 DU/AC), 12 ACRES OF PUBLIC PARK/OPEN SPACE AND 45.5 ACRES OF GENERAL COMMERCIAL, WITH REMOVAL OF MIXED USE OVERLAY, ON A 69 GROSS ACRE SITE, AND REMOVAL OF MIXED USE OVERLAY ON 10.5 ACRES OF PROPERTY DESIGNATED OFFICE.**

## RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend that the City Council consider the Evergreen-East Hills Vision Strategy FEIR in accordance with CEQA. Recommend approval of a General Plan Amendment to change the Land Use/Transportation Diagram designation from 34 acres of Medium Low Density Residential (8.0 DU/AC), 23 acres of Industrial Park, and 12 acres of Public/Quasi-Public, all with Mixed Use Overlay, to 11.5 acres of Medium High Density Residential (12-25 DU/AC), 12 acres of Public Park/Open Space and 45.5 acres of General Commercial, with removal of Mixed Use Overlay, on a 69 gross acre site, and removal of Mixed Use Overlay on 10.5 acres of property designated Office, as recommended by staff.

## OUTCOME

Approval of the City-initiated General Plan Amendment will facilitate new near-term commercial retail development in coordination with the long-term vision of the Evergreen-East Hills Development Policy Area, which will increase the sales tax revenue of the City. The project also facilitates the dedication to the City of San Jose 12 to 14 acres of land to be designated Public Park/Open Space for the development new public park uses.

### **BACKGROUND**

On November 18, 2009, the Planning Commission held a public hearing to consider the proposed General Plan Amendment. The Commission had questions regarding the Traffic Impact Fees, where a community center and school could be located, and how roadways would connect to future development. Staff explained that the current Evergreen Development Policy Traffic Impact Fees would pertain only to the commercial portion of the development, a community center can be located on the two southern-most acres designated Public Park/Open Space, a public school could potentially be located anywhere on the subject property, and any future development will have to be served by new road ways.

The Commission voted 7-0-0 to recommend approval of the General Plan Amendment as recommended by staff.

Community members, Mr. DeSilva and Ms. Mace, spoke in support of the General Plan Amendment in order to facilitate a future community center on the subject property, expressed concern that the new commercial development needs to be of high quality, that there be no increase of residences to the existing residential allocation of 217 dwelling units, and recommended that the future commercial and residential development happen concurrently. Mr. Finkelstein, on behalf of subject property owner Pepper Lane Properties, was concerned that the proposed project was insufficiently defined, that the residential area was "land locked", the area designated General Commercial is too large for a 350,000 square foot commercial development, and that the impacts from future development had not been addressed. Mr. Finkelstein also desired more information regarding how the site would be planned.

Additionally, a letter was received from the Santa Clara County Audubon Society regarding impacts to the habitat of the Western Burrowing Owl, and concern about unpermitted discing that has occurred on the subject property. Staff is working with Code Enforcement to determine if Section 9.54.010, which pertains to discing restrictions, has been violated. The attached Supplemental Memo that was distributed to Planning Commission explains the required mitigation that would be conditioned as part of any future development of the property.

Also on November 18, 2009, the Airport Land Use Commission held a public hearing to consider the proposed General Plan Amendment. Staff will forward comments from the ALUC to the City Council under separate cover upon receipt. The 12-14 acres proposed to be designated Public Park/Open Space is consistent with the 2007 Comprehensive Land Use Plan for Reid-Hillview Airport (CLUP).

### **ANALYSIS**

For complete analysis, please see original staff report.

### **EVALUATION AND FOLLOW-UP**

An applicant would be required to file subsequent development permits with the Planning Division in order to implement the changes to the San Jose 2020 General Plan Land Use/Transportation Diagram designations.

### **POLICY ALTERNATIVES**

Not applicable.

**PUBLIC OUTREACH/INTEREST**

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

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30; Public Outreach Policy. A notice of the public hearing was 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**

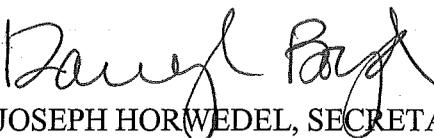
This project was coordinated with the Department of Public Works, Department of Transportation, Environmental Services Department, Airport Land Use Commission and the City Attorney.

**FISCAL/POLICY ALIGNMENT**

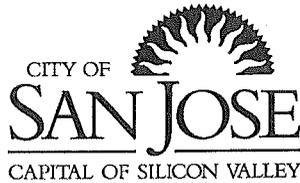
This project is consistent with applicable General Plan policies and City Council approved design guidelines as further discussed in attached staff report.

**CEQA**

CEQA: Addendum of Evergreen-East Hills Vision Strategy (EEHVS) Final EIR, Resolution Number to be adopted.

for   
JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact Avril Baty, at 408-535-7652



# Memorandum

**TO:** Planning Commission

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** November 10, 2009

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## SUPPLEMENTAL MEMO

**SUBJECT:** GP09-08-04. General Plan Amendment request to change the Land Use/Transportation Diagram designations from 34 acres of Medium Low Density Residential (8.0 DU/AC), 23 acres of Industrial Park, and 12 acres of Public/Quasi-Public, all with Mixed Use Overlay, to 11.5 acres of Medium High Density Residential (12-25 DU/AC), 12 acres of Public Park/Open Space and 45.5 acres of General Commercial, with removal of Mixed Use Overlay, on a 69 gross acre site, and removal of Mixed Use Overlay on 10.5 acres of property designated Office.

### REASON FOR SUPPLEMENTAL

Staff has received correspondence from the Audubon Society regarding the burrowing owl habitat on the subject property. Burrowing owls are designated as a California Species of Concern.

### BACKGROUND/ANALYSIS

The Evergreen-East Hills Vision Strategy (EEHVS) EIR considered changes to the General Plan Land Use/Transportation Diagram designations on the subject site, along with four other "opportunity" sites.

The subject site is referred to as the Arcadia Property. The EIR stated that burrowing owls are known to nest and forage in the vicinity of the Arcadia property, as well as on the site itself. Nearby populations also occur at Reid-Hillview Airport and Lake Cunningham Park. During the 2004 nesting season, three pairs of adult owls and three individual owls were observed utilizing ground squirrel burrows at the Arcadia property. A follow-up survey during the 2005 nesting season found one pair nesting on the site. Such fluctuation in owl population is not unusual. The site generally appears to provide good nesting and foraging habitat for owls.

The EIR disclosed that development of the Arcadia property would result in most or all of the burrowing owl habitat being lost, abandonment of active burrowing owl nests and/or direct mortality to individual burrowing owls.

Nesting Burrowing Owl Mitigation: The following measures will avoid potentially significant impacts to individual burrowing owls during the construction phase:

- Prior to construction, during the non-nesting season, any owls occupying burrows within construction zones shall be passively relocated under the authorization of the CDFG. Passive relocation is an intensive process that involves the installation of one-way doors in all ground squirrel burrows occurring on the site. The one-way doors allow owls to leave

their burrows but do not allow them to return, thereby forcing owls to move to a different area. Owl doors shall be monitored by a qualified biologist daily for a period of no less than three days and after that period, burrows shall be destroyed to preclude owls from returning to the burrows, and grading of these areas shall commence within seven days. The passive relocation shall be repeated if owls move back to the development areas.

- Burrows on the site that are occupied by owls shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist verifies that either the owls have not begun laying and incubating eggs, or that juvenile owls have fledged and are able to live independently of their parents. If construction will occur during the nesting season, the project shall establish and maintain a minimum of a 250-foot buffer around any active nest.

Loss of Burrowing Owl Habitat Mitigation: If they are found to be feasible, the following measures would avoid/mitigate for the loss of burrowing owl habitat that would result from the development of the Arcadia property. The applicant has not included any of these measures as part of the proposed project. However, if the City Council determines the measures to be feasible and requires them as conditions of approval, they would reduce significant impacts to a less-than-significant level. In the event the mitigation is determined to be infeasible, adoption of a statement of overriding considerations will be required.

- *Avoidance:* Compensation for the loss of burrowing owl habitat typically requires that 6.5 acres be set aside per resident pair or per resident individual. Based on the observance of three nesting pairs and three individual adult owls occurring on the site during the 2004 surveys, complete avoidance of impacts resulting from a loss of burrowing owl nesting habitat would include setting aside a conservation easement on the site totaling 39 acres, with deed restrictions that guarantee preservation of the easement as burrowing owl habitat into perpetuity. As part of this measure, a Mitigation and Monitoring Plan would be developed and implemented in consultation with the City of San José and CDFG to manage the easement site for owls.
- *Offsite Mitigation Within the Region:* Full or partial compensation for impacts to burrowing owl habitat can also occur in the form of purchasing sufficient credits at a mitigation bank that services the area, or purchasing and setting aside 39 acres of suitable habitat in the City of San José, or some combination of onsite and offsite mitigation that equals 39 acres. If the mitigation is to be done partially onsite and partially offsite, however, it should be noted that relatively small habitat areas left onsite (i.e., less than 13 acres), would be considered insufficient mitigation unless they are contiguous with suitably protected open space areas. In the case of the study area, which is surrounded by development, there are no contiguous open space areas. Additionally, although it would lessen impacts to owls overall, complete or partial mitigation that occurs offsite and outside of the local area (i.e., outside of Santa Clara County) would result in a significant unavoidable loss of burrowing owl nesting and foraging habitat in the local area. At this time, there are no known mitigation banks within Santa Clara County that offers credits for burrowing owl habitat. There may, however, be vacant land available that is suitable as burrowing owl habitat elsewhere in Santa Clara County.

Either of the above methods of mitigation (if lands were purchased locally) would fully and adequately offset impacts to burrowing owl habitat to a less-than-significant level.

- *Funding of a Burrowing Owl Habitat Management Plan at Reid-Hillview Airport:* Partial compensation for impacts to burrowing owl habitat may take the form of the applicant funding and implementing a Burrowing Owl Management Plan for established populations of burrowing owls occurring at Reid-Hillview Airport, which is located within one-quarter mile to the north of the Arcadia property. Airfields are known to provide excellent habitat for burrowing owls as evidenced by the success of the CDFG-approved Burrowing Owl Management Plan developed and implemented for the nearby Mineta San José International Airport (1997).

The objectives of such a plan at Reid-Hillview Airport would include 1) reducing the number of aircraft strikes on burrowing owls and 2) providing for ongoing maintenance and management of an existing burrowing owl population. The plan would include the following elements: 1) development of procedures to ensure safety areas such as runways are kept free of nesting owls; 2) establishment of management areas in non-safety locations that will be managed to maintain breeding owl populations; and 3) development and implementation of a plan to monitor owl populations on the site.

- *Active Relocation:* Prior to construction, during the non-nesting season, any owls occupying burrows within the construction zones can be actively relocated as partial compensation for impacts to onsite burrowing owl habitat. An active relocation would be preferred over passive relocation in the event that any offsite mitigation alternative for impacts to burrowing owl habitat is chosen. Although the CDFG has historically recommended only passive relocation, active relocations may be considered if sufficient information can be provided that such active relocations have been successful.

Any active relocation effort would need to be undertaken under consultation with CDFG and under the guidance of a qualified biologist who is experienced with active relocation techniques and that possesses the proper permits to conduct active relocations. Funding for any active relocation effort would be provided by the project proponent.

Active relocation would require the trapping and physical relocation of owls to established preserve areas that have been set aside in perpetuity for the conservation of burrowing owls and that have been determined by CDFG to provide suitable habitat for burrowing owls. Possible reserve sites include 11.3 acres that have been set aside as mitigation for burrowing owls by Summerhill Homes on the Dairy Hill site in San José, and communications with Tony Eulo, a Planner at the City of Morgan Hill indicate that Morgan Hill would be willing to have owls actively relocated to areas that the City has set aside for burrowing owls under their Citywide Burrowing Owl Habitat Mitigation Plan (2003).

- *Offsite Mitigation Outside of Region:* Impacts to burrowing owl habitat may be partially compensated through offsite mitigation outside of the region (i.e., outside of Santa Clara County), either by purchasing sufficient credits at an established mitigation bank or by purchasing and setting aside sufficient acreage of lands outside of the region for burrowing owl habitat management. If this mitigation were combined with either Mitigation #3 or Mitigation #4 above, then sufficient acreage to compensate for impacts would be reduced to half of the requisite 39 acres, or 19.5 acres.

The above mitigations all represent measures that, individually, would partially reduce project impacts to burrowing owl habitat. In order to fully offset project impacts, however, any two of these three measures must be implemented.

Development of all five "opportunity" project sites, as well as the North San José Development Policies and Hitachi projects, will result in the loss of native and non-native grassland habitat and active and fallow agricultural land throughout the City, some of which are either occupied or potential burrowing owl breeding and foraging habitat. Development of the cumulative projects would result in the loss of a total of approximately 731 acres of burrowing owl habitat, including the North San José Development Policies Project (650 acres) and the Arcadia property (81 acres). In addition, potential habitat exists and Burrowing Owls may be found within the iStar project area, and on approximately 100 acres of the Hitachi project site. The development of virtually all large pieces of vacant land in the City, as proposed by the cumulative projects, will result in significant cumulative impacts to burrowing owls and their habitat.

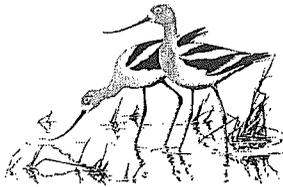
To address the cumulative loss of burrowing owl habitat, the proposed Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP) includes borrowing owls as a covered species, and includes a conservation strategy to ensure the long-term viability of the owl population in Santa Clara Valley. Depending upon the timing of the development of the Arcadia property and the HCP/NCCP adoption by the City, other local partners, and the Federal and State wildlife agencies, the project may be require to contribute towards the owl conservation strategy.

### **CONCLUSION**

The EEHVS EIR has disclosed the potential impacts to burrowing owl habitat and means of mitigating those impacts. The proposed project is to change the San Jose 2020 General Plan Land Use/Transportation Diagram designations of the subject site. Approval of the proposed project would not entitle development of the subject site, and, therefore, would not cause any direct physical impacts to the existing burrowing owl habitat.

Mitigation as called for in the EEHVS EIR shall be conditioned as part of the approval of any future development of the subject property.

  
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JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement



Santa Clara Valley Audubon Society  
Founded 1926

October 20<sup>th</sup>, 2009

Mr. Joseph Horwedel, Director,  
Ms. Avril Baty, Planner  
Department of Planning, Building and Code Enforcement  
City of San Jose  
Re: City File No. GP09-08-04  
APN: 670-29-017, 670-29-020

Dear Mr. Horwedel and Ms. Baty,  
Please review Santa Clara Valley Audubon Society (SCVAS) comments on the proposed General Plan Amendment to change the General Plan designation of a 77 gross acres site located at the south side of Quimby Road, approximately 1000 feet westerly of Capitol Expressway, as follows:

From	To
Industrial Park with Mixed Industrial Overlay	Private Open Space and general Commercial
Medium Low Density Residential	General Commercial and Major Collector
Public/Quasi-Public	Medium Low Density Residential and General Commercial
Public/Quasi-Public and Public Park and Open Space	Private Open Space
Mixed Industrial Overlay	No Mixed Industrial Overlay

SCVAS has nearly 4000 members in Santa Clara County, and more than 2000 in the city of San Jose. We insist that a complete Environmental Impact Report (EIR) be prepared for this site before ANY change is made to the General Plan designation of this site.

## Current Situation

### 1. The Site

The site in question has been used by Western Burrowing Owls as a nesting and foraging area. Burrowing Owls nested at the site in 2008. In 2009, the site was disced in violation of Title 9 of the San José Municipal Code Chapter 9.54. Ordinance No. 26419 and Resolution No. 75065 currently impose a fine of \$2500 on any person or entity that discs, plows or otherwise breaks into or turnover soil upon any real property within the city at any time or for any purpose,

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including without limitation for weed or vegetation management or abatement, when the real property, or portion thereof, meets one of the two following criteria:

a. The real property is two acres or greater in size or, together with any contiguous real property, constitutes a part of an area that is two acres or greater in size and that real property, or the portion thereof that constitutes a part of an area that is two acres or greater in size, is vacant;

**OR**

b. There is known to be one or more occupied burrowing owl burrows present on a real property of any size at any time within the immediately preceding thirty-six-month period.

Please note that for the purposes of 9.54, a burrowing owl burrow shall be considered occupied when a burrowing owl is currently using the burrow or has used the burrow at any time within the immediately preceding thirty-six-month period, even if the burrow is temporarily unoccupied (Ord. 26419.)

SCVAS demands that the baseline for any rezoning or development plan should be the nesting Burrowing OWLS of 2008, so that the parties that violated the law and disced the site will not benefit from their illegal activity.

## **2. Burrowing Owls in Santa Clara Valley**

Burrowing Owls in the South Bay are on the verge of extirpation. Over the past five years, the population of Burrowing Owls in Santa Clara Valley declined dramatically. Of over 120 nesting pairs a decade ago, fewer than 40 remain in Santa Clara Valley today.

### **CEQA Requirements**

The Burrowing Owl is a "Species of Special Concern," and is protected under the Federal Migratory Bird Treaty Act, which prohibits the "taking of active nests, eggs, young or adults." In addition, the owl is protected under the Fish and Game Code, Sections 3503, 3503.5, 3513, and 3800.

SCVAS maintains that a complete CEQA EIR must be prepared before the proposed project is approved by the city of San Jose. We believe we can **fairly argue**, based on **substantial evidence**, in light of the **whole record**, that this project **may have a significant environmental effect on a Species of Special Concern**. Further, we argue that **ANY impact on the Burrowing Owl population of San Jose will contribute substantially to cumulative effects** on the population of BUOW in Santa Clara Valley and the Bay area as a whole. Under the current dire circumstances this project may **substantially reduce numbers or restrict range of a rare, threatened, or endangered species**.

Please provide answers to the following questions and issues:

1. SCVAS demands that the baseline for any rezoning or development plan should be the nesting Burrowing OWLS of 2008 (SCVAS has photographs of these Owls, and has alerted the city to

their presence at the site), so that the parties that violated the law and disced the site in 2008 and 2009 will not benefit from their criminal activity.

2. In other sites in Santa Clara Valley, loss of Burrowing Owl foraging habitat is being mitigated in areas where owls are not presently residing. Mitigation for disturbance to habitat is typically compensated in the range of 1:1 to 3:1 compensation ratio. What is the precise proposed mitigation acreage for disturbance of this species' breeding and foraging habitat? Please explain what is the exact proposed mitigation plan for the loss of existing Burrowing Owl Nesting Sites.

3. Santa Clara County is currently in the 4th year of a five-year Habitat Conservation Plan planning process. Included in this plan is the conservation strategy for Western Burrowing Owls. Please describe how your project is working in concert with this overall Santa Clara County effort.

4. Mitigations need to include a monitoring plan that includes quarterly population surveys of single or nesting pairs of owls as well as adaptive management plans should the owl population decline during or following the implementation of this project. Please describe in detail who will be carrying out these surveys, how this land will be managed, and who will be responsible for implementing an adaptive management plan.

5. Mitigations need to include the implementation of a best practices plan for actively protecting and managing Burrowing Owl habitat, including but not limited to, timing of mowing, maintenance of plant and grass height, and certification training of staff responsible for habitat maintenance.

6. The project sponsor is required to ensure that all mitigation measures are carried out. What specific actions will the City of San Jose undertake to make this assurance? In light of the current failure of the City of San Jose to enforce its no-discing ordinance, please describe the way in which the city will improve its current method of mitigation monitoring and enforcement.

7. What legal mechanisms does the City of San Jose have in place to address problems with mitigation implementation or code violations? Please list the possible enforcement mechanisms.

8. Please identify the staff member(s) who will be responsible for ensuring that the mitigations imposed on this project are implemented. If responsibilities for monitoring or enforcement change to other staff members, or even other departments, in the future, how will those responsibilities be transferred, and will you inform commenting parties on this document of such a change?

9. The City of San Jose should require at least quarterly monitoring reports to track compliance with each and every mitigation contained in the Mitigation Monitoring and Reporting Plan. These reports should be public documents, along with any attachments, such as biologists' reports, that substantiate compliance or lack thereof. Any member of the public requesting so should be advised when the monitoring reports are

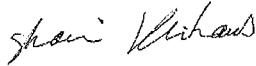
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submitted. The reports should continue until the City of San Jose has determined that all mitigation measures are completed. The reports should also be sent to whoever asks for them, and Santa Clara Valley Audubon Society would like to receive them. Please specify where, in the future, all documents related to mitigation compliance will be located, so that the public may inspect them. All documentation, not just summary reports, should be considered public records.

## CONCLUSION

Thank you for the opportunity to comment on this proposed General Plan Amendment. We wish to stress the importance of preparing an adequate EIR for this project. A complete and legally binding environmental document is needed in order to prevent damaging impacts to our county's wildlife, and to allow the public to fully understand the implications of the proposed change. Please keep SCVAS informed of the progress of this proposal and any additional projects that may have an impact on Burrowing Owls and other wildlife species. We look forward to remaining engaged on this vital issue.

Sincerely,



Shani Kleinhaus, PhD.  
Environmental Advocate  
Santa Clara Valley Audubon Society  
22221 McClellan Rd.  
Cupertino, CA 95014  
[shani@scvas.org](mailto:shani@scvas.org)

CC: Councilmember Rose Herrera

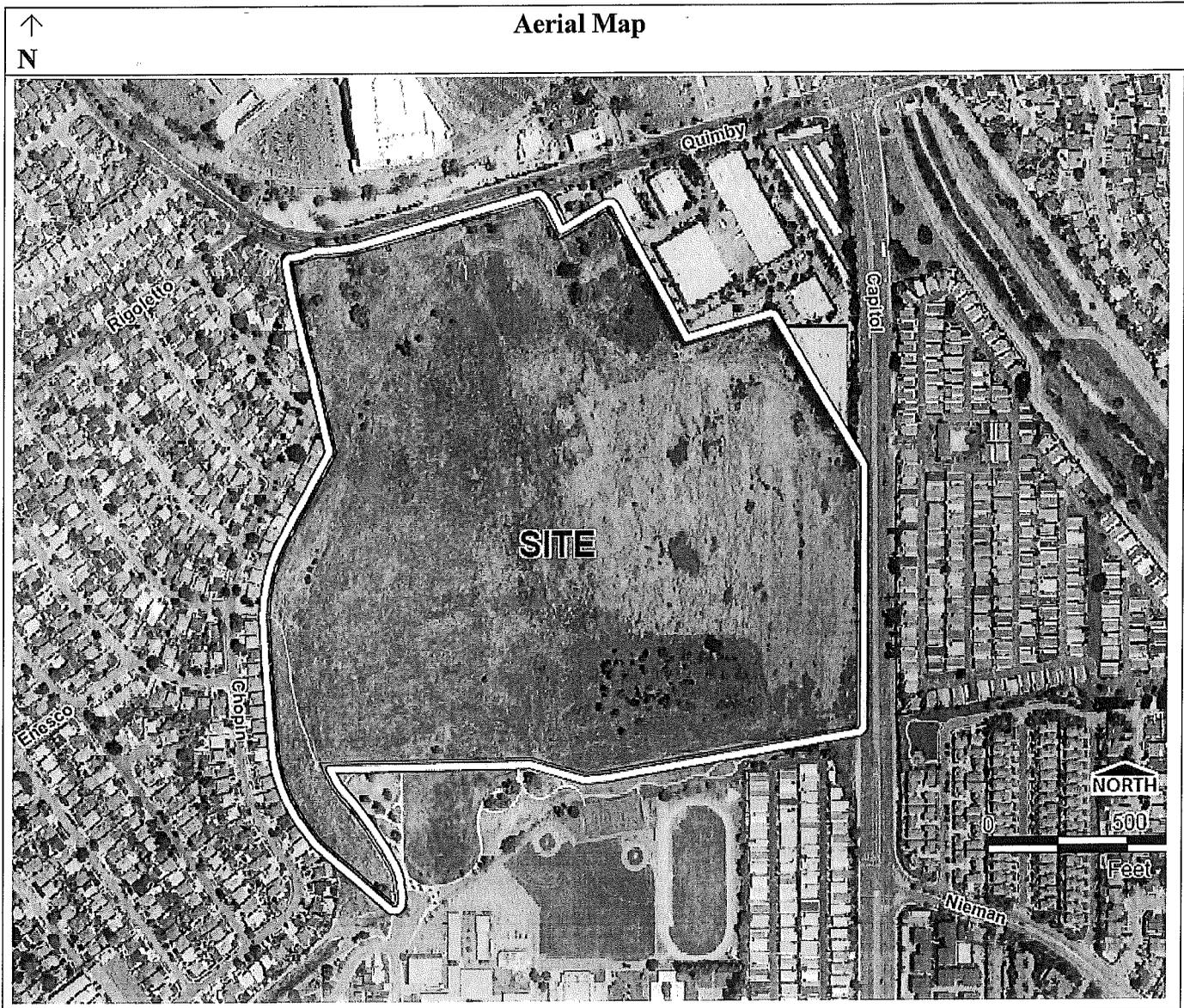
**STAFF REPORT**  
**PLANNING COMMISSION**

**File No.: GP09-08-04**

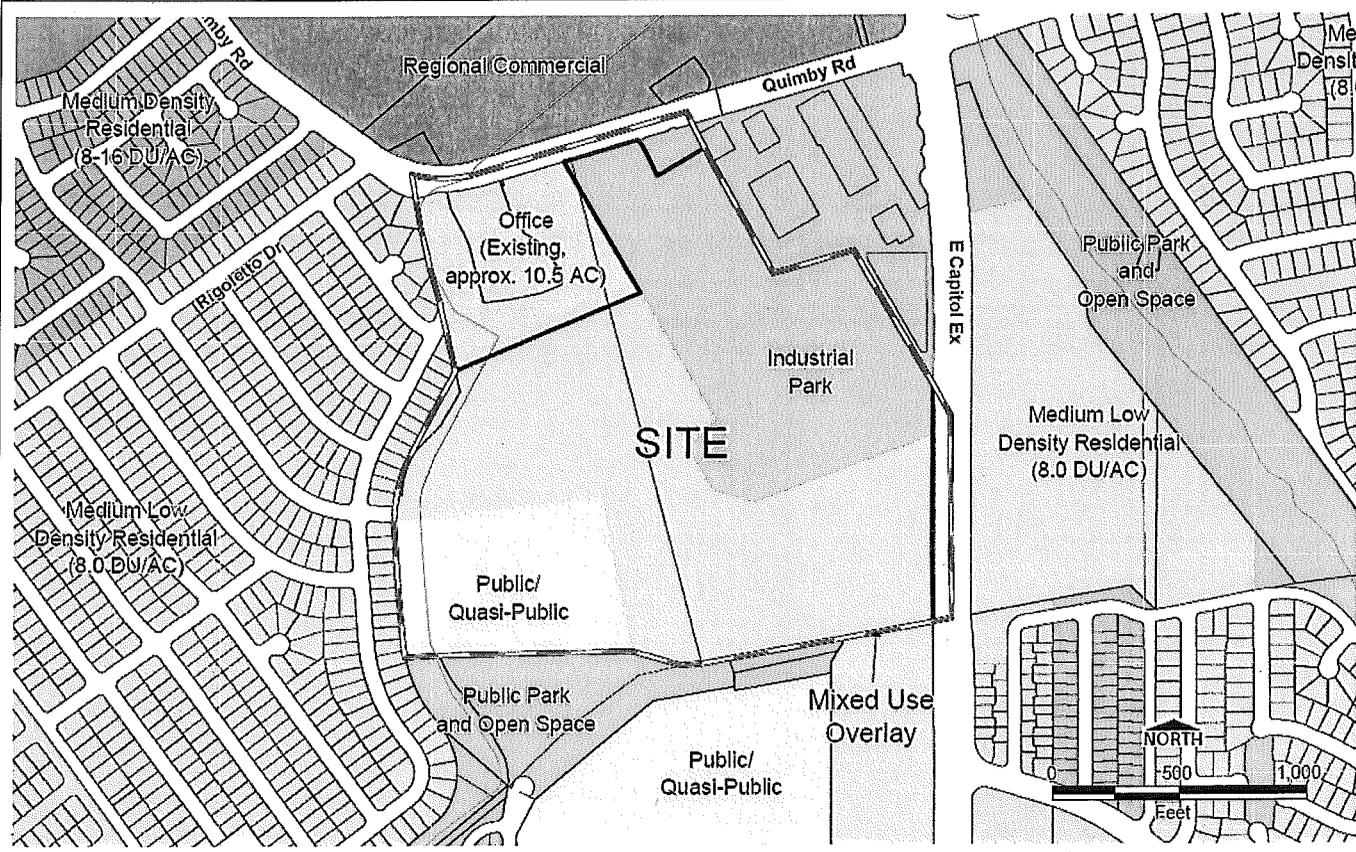
**Submitted: October 2, 2009**

**PROJECT DESCRIPTION:** General Plan Amendment request to change the Land Use/Transportation Diagram designations from 34 acres of Medium Low Density Residential (8.0 DU/AC), 23 acres of Industrial Park, and 12 acres of Public/Quasi-Public, all with Mixed Use Overlay, to 11.5 acres of Medium High Density Residential (12-25 DU/AC), 12 acres of Public Park/Open Space and 45.5 acres of General Commercial, with removal of Mixed Use Overlay, on a 69 gross acre site, and removal of Mixed Use Overlay on 10.5 acres of property designated Office.

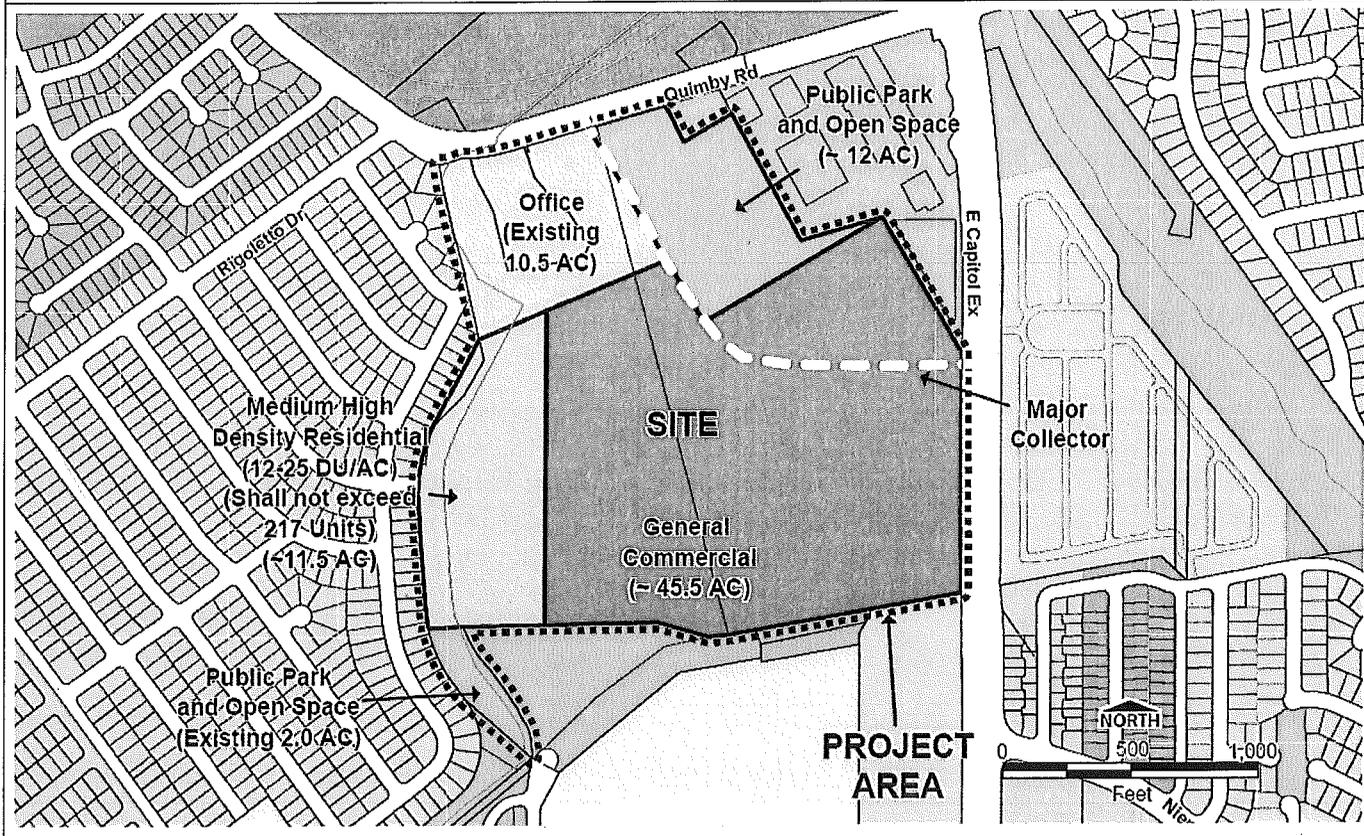
Existing Zoning	R-1-8 and CO
General Plan	(see map below)
Proposed General Plan	(see map below)
Council District	8
Annexation Date	Jan. 24, 1964
SNI	West Evergreen
Redevelopment Area	Yes



### EXISTING GENERAL PLAN



### PROPOSED GENERAL PLAN



## **RECOMMENDATION**

Planning staff recommends the change to the General Plan Land Use/Transportation Diagram for the following reasons:

1. The project will facilitate new near-term commercial retail development in coordination with the long-term vision of the Evergreen-East Hills Development Policy Area.
2. The project conforms to the Evergreen-East Hills Development Policy.
3. The project facilitates the dedication to the City of San Jose 12 to 14 acres of land to be designated Public Park/Open Space for the development new public park uses.

## **BACKGROUND**

The subject site is located within the Evergreen-East Hills Development Policy (EEHDP) Area. The purpose of the EEHDP was to replace the original Evergreen Development Policy to specifically allow a limited increase in development in the Evergreen-East Hills area. The EEHDP is intended to promote the long-term vitality of the Evergreen-East Hills Area by linking together new development with supporting transportation infrastructure. In exchange for enabling more development capacity, the Policy provides a mechanism to require commensurate traffic impacts fees in order to construct transportation system investments by means of a Traffic Impact Fee (TIF).

All development is subject to the Traffic Impact Fee (TIF). The current TIF per residential unit is \$13,214 and per 1,000 square feet of commercial or office development is \$11,485. The EEHDP specifically supports the San Jose 2020 General Plan goals of creating livable neighborhoods, and a balanced community, promoting infill development, and ensuring adequate public services and facilities.

The project site previously had a proposed General Plan Amendment, under the prior Evergreen Development Policy, to change the Land Use/Transportation Diagram designation from Public/Quasi-Public, Medium Low Density Residential, Office, Industrial Park, and Public Park/Open Space to Mixed Use with no Underlying Land Use Designation. This former proposal was to allow up to 1,875 residential dwelling units, up to 300,000 square feet of commercial development, and 12 acres of Public Park/Open Space for a potential public park and community center and 10 acres of Public/Quasi-Public for a potential school.

The project site is currently undeveloped, located south of Eastridge Mall and approximately 2,600 feet south of Reid-Hillview Airport. Approximately 12 acres of the site is located within the Inner Safety Zone of the Reid-Hillview Airport. The Inner Safety Zone represents the approach and departure corridors that have the second highest level of exposure to potential aircraft accidents.

The proposed General Plan Amendment would result in the 12 acres within the Inner Safety Zone being designated Public Park/Open Space. This land would not otherwise be made available to the City to allow for the development of a neighborhood park. The existing allocation of 217 dwelling units for the project site would be located adjacent to the existing single-family residential neighborhood. The proposal also would allow for up to 350,000 square feet of commercial development.

## **ANALYSIS**

The key issues in analyzing the proposed General Plan amendment are: 1) consistency with the *San José 2020 General Plan* Major Strategies, goals, and policies; and 2) consistency with the EEHDP Policy.

## Economic Development

The City's Economic Development Strategy strives to make San José a more "balanced community" by encouraging more commercial and industrial growth to balance existing residential development, by creating an equitable distribution of job centers and residential areas, and by controlling the timing of development.

The proposed General Plan Amendment is consistent with this strategy because it would increase the amount of employment land by 22 acres and maintain the limit of residential development on the overall site to 217 dwelling units and therefore facilitate the balance between residential development and employment.

The proposed General Plan Amendment is also consistent with the Economic Development Goals by enabling commercial development that will create a stronger municipal tax base by obtaining a greater share of the total commercial development in the County.

Economic Development Policy #1 seeks to reduce the City's job/housing imbalance. San José continues to be a housing rich community, providing and producing much of the housing growth in the County. While the City continues its effort to facilitate housing for all segments of the population, it must also be able to foster economic development that helps generate employment opportunities for its residents. The proposed creation of up to 350,000 square feet of commercial/retail space would result in the creation of commercial jobs and sales tax revenue in balance with the development of a substantial amount of new housing.

Economic Development Policy #2 seeks to attract businesses and industries which are particularly suited to the area which can provide jobs suitable for the City's unemployed and under-employed labor force. The 350,000 square feet of commercial development can consist of one or more anchor tenants and many smaller retail tenants and public eating establishments, providing a wide range of potential job types. This size and type of commercial development is comparable to the San José Market Center (located on the west side of Coleman Avenue, south of West Taylor Street), which is 356,341 square feet.

## Evergreen-East Hills Development Policy

One of the main purposes of the Evergreen-East Hills Development Policy is to provide a mechanism to require commensurate traffic impact fees in order to construct transportation system investments. A complete build-out of 217 dwelling units and 350,000 square feet of commercial development could result in several million dollars of traffic impact fees.

## ENVIRONMENTAL REVIEW

The Evergreen-East Hills Vision Strategy (EEHVS) consisted of various actions which, when taken together, would fulfill the City's vision for the Evergreen-East Hills area of San José. Actions to be taken as part of the EEHVS included adoption of a revised *Evergreen Development Policy (EDP)*, including design guidelines; and changes in General Plan land use designations and zonings on approximately 542 acres of land in Evergreen; and construction of various transportation and community amenity projects in the Evergreen-East Hills area.

As part of the EIR process, the City considered six different land use development scenarios for the EDP area. The scenarios were intended to facilitate in-fill development for both large and small projects. The project site is one of five that would consist of the bulk of the proposed development.

Far-term traffic impacts were analyzed specifically for the project site in the Evergreen-East Hills Vision Strategy (EEHVS) Project EIR. The traffic analysis was completed in accordance with the Santa Clara Valley Transportation Authority (VTA) Congestion Management Program (CMP) guidelines. The SEIR evaluated traffic impacts using three different standards, or thresholds of significance: 1) the Citywide Transportation Impact Policy LOS standard; 2) the CMP standard; and 3) the proposed Evergreen-East Hills Development Policy (revised Evergreen Development Policy) standard.

The EEHVS Project EIR analyzed a total of up to 1,875 dwelling units and 300,000 square feet of commercial development on the project site. The proposed General Plan Amendment would increase the total amount of commercial development to 350,000 square feet, but not increase the existing allocation of 217 residential units. The proposed project to increase the commercial development by 50,000 square feet has been analyzed. Department of Transportation staff has concluded that the estimated number of new P.M. peak hour trips is below the exemption threshold established for the Evergreen area, and, therefore, the traffic impacts would be consistent with the impacts disclosed in the Final EIR.

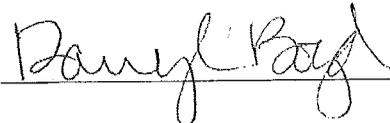
The Final EIR discloses significant, unavoidable traffic impacts resulting from development of the subject site. Therefore, the City Council, in approving the project, will have to adopt findings required by CEQA, including a statement of overriding considerations identifying how the project benefits outweigh the significant, unavoidable impacts.

**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 2009 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. A community meeting was held on October 6, 2009. One member from public attended, who supports the application. The General Plan Amendment was presented to the Parks Commission on November 4, 2009. Staff has been available to respond to questions from the public. No correspondence from the general public has been received on this proposed General Plan amendment.

**Project Manager:** Avril Baty

**Approved by:**  **Date:** 11-11-09

Applicant: City of San Jose	Attachments: DOT Memo West Evergreen SNI NAC letter
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# Memorandum

**TO:** Avril Baty  
Planning, Building  
and Code Enforcement

**FROM:** P. Paul Ma

**SUBJECT:** TRAFFIC IMPACT ANALYSIS  
FOR GP09-08-04

**DATE:** 10-22-09

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Approved

Date

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File Number: GP09-08-04  
Location: S/o Quimby Road approx. 1,000 feet w/o Capitol Expressway  
Acreage: 69.0 ac.  
Description: Medium Low Density Res. (8.0 DU/AC), Industrial Park, and Public/Quasi-Public to Medium High Density Res. (12-25 DU/AC), Public Park/Open Space and General Commercial  
(Delete 782 J)  
Special Subarea - Evergreen

We have reviewed the subject General Plan Amendment (GPA) and submit the following comments. The estimated number of new PM peak hour trips resulting from the proposed land use change is below the exemption threshold established for this area. Therefore, this GPA is exempt from a computer model (CUBE) traffic impact analysis.

If an Environmental Impact Report (EIR) is required for this GPA for other reasons, the EIR must include a traffic impact analysis report for the project and a cumulative analysis for all GPAs on file this year. Additional traffic data will be provided to the applicant's traffic engineering consultant for the preparation of the report.

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

P. PAUL MA  
Transportation Systems Planning Manager  
Department of Transportation

Subject: Support for the Arcadia site general plan amendment  
Date: October 26, 2009

We, the West Evergreen Strong Neighborhoods Initiative (SNI) Neighborhood Action Committee (NAC), would like to express our strong support for the proposed general plan amendment for the Arcadia site.

1. We support: (a) the construction of 217 housing units, (b) dedication of two additional acres to Meadowfair Park, (c) development of 350,000 square feet of retail space, and (d) dedication of 12 acres for sport fields.
2. We support said general plan amendment with expectations that the site development will set aside land for the future construction of a community center on Meadowfair Park, and that revenues generated from the site retail development be use to operate the center.

We have diligently participated in Strong Neighborhoods Initiative for almost a decade to make available programs and services of a community center available to our youth and residents. Unfortunately, we have seen, in that time, the closing of our Meadowfair Center, renovations and openings of community centers in other area of the city. We support this general plan amendment with clear expectations that there be a community center built at Meadowfair Park in the not too distant future.

*Cal. DeSantis*

*Robert Sanchez*

Sincerely,  
West Evergreen SNI NAC

*Guillermo Hernandez*

**Baty, Avril**

**From:** bgoldmace@aol.com  
**Sent:** Tuesday, November 10, 2009 9:12 PM  
**To:** Baty, Avril; Xavier, Lesley  
**Cc:** Herrera, Rose; Rocha, Donald  
**Subject:** GP09-08-04 recommendations from D8CRT

To: Planning Commission and City Council  
Re: GP09-08-04 (2218 Quimby Road)

**Recommendation:**

The District 8 Community Round Table Steering Committee recommends approval of the General Plan Amendment to change the General Plan designation from 34 acres of Medium Low Density Residential (8.0 DU/AC), 23 acres of Industrial Park, and 12 acres of Public/Quasi-Public, all with Mixed Use Overlay, to 11.5 acres of Medium High Density Residential (12-25 DU/AC), 12 acres of Public Park/Open Space and 45.5 acres of General Commercial, with removal of Mixed Use Overlay, on a 69 gross acre site, and removal of Mixed Use Overlay on 10.5 acres of property designated Office.

This proposal provides an excellent way to combine high quality residential, commercial and public park/open space on a large parcel that is adjacent both to an existing large retail area and a proposed light rail station at the Eastridge Mall. We support using no more than the 217 existing allocations for the residential units that will be built on the site. We are pleased that the project proposal does not envision drawing additional units from the Evergreen Development Policy allocation pool. We also support the 12 acres of Public Park/Open Space, which will be used to provide parkland and sports fields to the community. We also strongly support the designation of General Commercial for 45.5 acres of the site, which will provide high quality retail and general commercial space for the neighborhood and the wider District 8 community.

The D8CRTSC commends staff, the community (especially the SNI members), and District 8 Council Member Rose Herrera for working with the applicant to create a good project that will serve the needs of the community.

As the project moves forward into the zoning stage of the development process, the D8CRTSC makes the following recommendations:

- a portion of the 12 acres of Public Park/Open Space should be dedicated for a community center, which will serve the community's needs.
- there should be a mix of residential unit product types that are compatible with the existing neighborhood.
- commercial development of the site should proceed at a pace similar to residential development.
- commercial development of the site should consist of a blend of high quality retail and commercial space that creates a "sense of place" in the community. We recommend a plaza or some central focal point to the commercial development, so that the adjacent neighborhoods and wider District 8 community will have a public gathering place. We also recommend high quality bicycle and pedestrian access between the new residential neighborhood, the new commercial development, and the existing Eastridge Mall.
- a portion of the 12 acres of Public Park/Open Space should be dedicated to a new elementary school. Currently, elementary school students are divided among three Evergreen Elementary School District sites. Additionally, we support ongoing discussions between the applicant and both the Evergreen Elementary School District and the East Side Union High School District concerning possible school impacts of the new 217 residential units.

Thanks for your time.

Sincerely,  
Bonnie Mace  
District 8 Community Round Table Steering Committee, President

11/12/2009