



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

**SUBJECT: PROPOSED SECOND
AMENDMENT TO THE
NORTH SAN JOSE AREA
DEVELOPMENT POLICY**

DATE: May 27, 2010

Approved

Date

5/27/10

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

RECOMMENDATION

Staff recommends that the City Council:

- (1) Adopt a resolution amending the North San Jose Area Development Policy to:
 - (a) Add capacity within the Policy to allow for up to 1 million square feet of regional retail distributed throughout the Policy area, and 1,000 hotel rooms outside the Core Area with no more that 250 rooms being developed in any given hotel except those sites designated as preferred hotel sites by the General Plan; and
 - (b) Make other clarifying changes to facilitate implementation of the Policy.
- (2) Accept the North San Jose Urban Design Guidelines together with the addendum thereto dated April 2, 2009.
- (3) Accept the North San Jose Neighborhoods Plan.

OUTCOME

Adoption of the proposed amendments to the Area Development Policy, along with the acceptance of the North San Jose Urban Design Guidelines and the North San Jose Neighborhoods Plan, will support and facilitate the continued development of North San Jose as a vital job center, consistent with the vision set forth in the City's General Plan, the North San Jose Area Development Policy and the North San Jose Neighborhoods Planning Taskforce Guiding Principles. The proposed amendments to the North San Jose Area Development Policy will specify the amount of development capacity for regional commercial and hotel uses, incorporate additional clarification on how to implement the Policy, and make provisions to aid the development of large corporate campuses. The acceptance of the North San Jose Urban Design Guidelines and North San Jose Neighborhoods Plan represents six years of work with the

May 27, 2010

Subject: Second Amendment to the NSJADP

Page 2

community and provides a common understanding of the key elements and long term vision of the area shared by the City, the existing community of neighborhoods and businesses, and the development community.

EXECUTIVE SUMMARY

Adopted in June 2005 the North San Jose Area Development Policy created the opportunity for an additional 26.7 million square feet of new office/industrial development, 32,000 residential units, and 1.7 million square feet of new commercial development in the City's primary employment center. The Policy was designed to establish a framework for economic sustainability and "smart growth" throughout the area while managing regional traffic patterns. This is achieved by promoting economic activity through the creation of up to 80,000 new jobs, the addition of new housing and retail development in close proximity to new jobs, amenities and transit infrastructure, and through the establishment of a fair share funding mechanism to support the necessary infrastructure improvements. North San Jose will also play an integral role in providing new growth areas for industry as part of the City's strategy, being developed through the Envision 2040 General Plan Update, to address the housing imbalance.

On June 16, 2009, the City Council adopted a resolution amending the North San Jose Area Development Policy to facilitate the delivery of affordable residential units within North San Jose consistent with City goals for affordable housing, allow the Director of Planning the discretion to grant permit time extensions, make changes to facilitate implementation of the Traffic Impact Fee for hotel and regional commercial uses, accept the Revised North San Jose Area Traffic Impact Fee Study, and approved an amendment to the North San Jose Area Traffic Impact Fee Ordinance.

In response to Council direction provided at the time of the adoption of the previous amendment to the Policy, staff has completed extensive outreach with key stakeholders throughout North San Jose in order to bring forward a comprehensive package of amendments and Policy documents that support long term sustainable growth in North San Jose. Together these will provide additional strategic direction on the implementation of the Area Development Policy.

In addition to the direction regarding the implementation of the Policy, the proposed Policy amendments provide specific development capacity for large format commercial uses and hotels. Staff is recommending the inclusion of up to 1 million square feet of large format commercial development and capacity for up to 1,000 new hotel rooms. To reflect market demand and not compete with the City's long term commitment to Downtown, the Policy limits each hotel to a maximum of 250 rooms. The Policy amendments include an exception to the 250 room cap for those sites designated as preferred hotel sites by the Rincon South Specific Plan. The amendments also include an update of the Grid Street Plan, additional discretion to the Director of Planning to facilitate ready development during the transition between the Policy's phases, and additional provisions for the sale of over purchased allocation associated with large corporate campuses, where applicable.

May 27, 2010

Subject: Second Amendment to the NSJADP

Page 3

To provide clear guidance in implementing the Policy as the industrial market recovers led by San Jose's driving industries, staff is bringing forward the North San Jose Urban Design Guidelines. Historically, typical development in North San Jose has been one or two story industrial park type development, with setback further from the street and separated by surface parking lots. The Guidelines will promote more "urban" design principles that promote new development at appropriate densities, encourage compatibility between existing industrial uses and new retail and residential development, promote pedestrian and transit oriented connectivity, and support the long term intensification resulting from the addition of the Policy's 26.7 million square feet of industrial development capacity and 32,000 residential units.

Created through the North San Jose Neighborhoods Taskforce process, the North San Jose Neighborhoods Plan is intended to serve as additional guidance for the implementation of the Policy and replaces previous work on the North San Jose Implementation Strategy which has been abandoned. The Neighborhoods Plan incorporates the Taskforce Guiding Principles, the Parks Plan referenced by the City Council through prior direction, and additional standards for the development of neighborhood serving and regional retail, parks, trails, libraries, schools and other public facilities to support both residential and employment uses within the Policy Area. The Plan also includes a diagram that illustrates the potential locations of these amenities and identifies retail opportunity areas.

BACKGROUND

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

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

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

May 27, 2010

Subject: Second Amendment to the NSJADP

Page 4

On November 18, 2008, the City Council directed staff to devise a process for the expansion of Phase 1 to allow for an additional 500 residential units above the cap of 8,000 residential units, as set forth in the North San Jose Area Development Policy. The City Council considered a staff-proposed process in December of 2008 and gave further direction to staff as noted below.

On February 11, 2009, staff brought forward a status report to the Community and Economic Development Committee outlining the key elements of the documents to be considered by the Council including amendments to the North San Jose Area Development Policy, the North San Jose Urban Design Guidelines, and a North San Jose Neighborhoods Plan. The Neighborhoods Plan represents the Taskforce's vision for the development of amenities throughout North San Jose as a result of the Policy's intensification of the area and is directly derived from the previous draft Implementation Strategy. The remaining portions of the Implementation Strategy that dealt with the technical implementation of the Policy were considered to be more appropriate as amendments to the Policy itself. Work on the draft North San Jose Implementation Strategy ended.

On June 16, 2009, the City Council adopted a resolution amending the North San Jose Area Development Policy to facilitate the delivery of affordable residential units within North San Jose consistent with City goals for affordable housing, allow the Director of Planning the discretion to grant permit time extensions, make changes to facilitate implementation of the Traffic Impact Fee for hotel and regional commercial uses, accept the Revised North San Jose Area Traffic Impact Fee Study, and approve an ordinance amending the North San Jose Area Traffic Impact Fee. The Council deferred discussion of a proposal to add capacity within the Policy area to allow for up to 1 million square feet of large scale regional commercial uses and up to 2,000 hotel rooms outside the Core Area and acceptance of the North San Jose Neighborhoods Plan in order to allow for additional community outreach to occur on those issues.

Following extensive community participation as described in the Outreach Section below, staff is bringing forward for Council consideration the remainder of the Policy changes and documents presented to the Community and Economic Development Committee on February 11, 2009, which includes an Amendment to the North San Jose Area Development Policy, the North San Jose Urban Design Guidelines and the North San Jose Neighborhoods Plan. The proposed amendments incorporate a significant portion of what previously had been drafted as an Implementation Strategy and clarifies the means by which the Policy will be implemented. Other items from the Implementation Strategy are now proposed to be combined with the Taskforce Guiding Principles as part of a Neighborhoods Plan for North San Jose.

ANALYSIS

Staff is bringing forward three documents for Council consideration. They are amendments to the North San Jose Area Development Policy, the North San Jose Urban Design Guidelines, and the North San Jose Neighborhoods Plan. Together these documents are intended to further strengthen the City's vision to intensify and develop North San Jose as a key employment center, while also incorporating successful new residential neighborhoods and providing amenities for

the benefit of both the area's residents and employees. The content of these documents ultimately represents six years of staff work and stakeholder participation. Key elements of each document are summarized in the following analysis.

Proposed Amendment to the North San Jose Area Development Policy

Regional/Large Scale Retail and Hotels

When initially adopted, the Policy only supported the development of neighborhood-serving commercial retail projects intended to support the planned expansion of industrial and residential uses within North San Jose. Through the prior amendment to the Policy adopted by Council in June 2009, limited regional/large scale retail and hotel development is accommodated throughout the Policy area. This initial step allowed development activity to continue as part of the @First development at North First Street and Highway 237 while staff completed further outreach with key stakeholders to determine the appropriate amount of regional/large scale and retail capacity to include in the Policy area. The prior amendment required that no more than 150,000 square feet of regional/large scale retail, and no more than 300 hotel rooms be created in any single development, reflecting the immediate need to support the construction of the new Target store and the Hotel Sierra at the @First development.

In August 2009 staff held two focus groups with experts in retail and hotel development to better understand the opportunities and the current market for these development types. The retail stakeholders believed that based on the location between three freeways and the significant work-day population within the Policy area, there was a growing and currently underserved market for regional retail development in North San Jose. Once developed, the Policy's 32,000 residential units will significantly add to this market. However, given the nature of this type of development there are only limited opportunities throughout the Policy area to utilize key intersections which would support regional retail. Including the current @First development, there are seven potential sites for regional retail development throughout the Policy area (identified in the North San Jose Neighborhoods Plan). By analyzing the available land area against the average size of development and consulting with these key stakeholders, staff is recommending that up to 1 million square feet of large format commercial development be included in the Policy area to meet increasing demand as the area's population expands and to further capture sales tax revenues that might otherwise benefit neighboring cities. This capacity does not include smaller supporting commercial development such as associated pad retail development adjacent to a large format commercial development, as this would be drawn from the existing neighborhood commercial development capacity and would not be subject the North San Jose Traffic Impact Fee. This amendment to the Policy replaces the prior requirement that limited any single development to 150,000 square feet of regional/large scale retail, thereby allowing more than one large format retailer as part of a development.

The feedback from the hotel stakeholders was less encouraging in the short term. Given the high cost of development associated with this type of use, the existing supply of hotel development downtown and around the airport, and the current climate for development financing, it was unlikely that new hotels will be proposed in the near future. The important feedback received

May 27, 2010

Subject: Second Amendment to the NSJADP

Page 6

from this outreach was that there was an insufficient market at this time to support additional hotels in North San Jose. However, given the scale of development included in the Policy and the addition of key uses that compliment hotel development, this market has considerable potential to grow and may support new hotels in the future. Key development projects that would support potential growth in this sector include the Airport Terminal Area Improvement Program at Norman Y. Mineta San Jose International Airport, the recently approved Garden City card room relocation, the proposed 49ers Stadium in Santa Clara, and a proposed new conference facility in Milpitas. Staff has, therefore, incorporated the flexibility to support the redevelopment of existing hotels and the introduction of new hotel development throughout North San Jose by including capacity for up to 1,000 new hotel rooms. To reflect future market demand and support the City's investment in downtown, the proposed Policy amendments limit each hotel to a maximum of 250 rooms. The proposed Policy amendments also include an exception to the 250 room cap for those sites designated as preferred hotel sites by the Rincon South Specific Plan and General Plan. These select sites have been previously designated for new hotel development in the General Plan and have mostly been developed with hotel uses since the adoption of that plan in 1993. The exception for those designated sites will allow for redevelopment and/or expansion of these key resources adjacent to Norman Y. Mineta San Jose International Airport. These hotels may include additional supporting facilities for local businesses such as meeting and function space. An example of the types of development that may be developed in this area is the recently approved relocation of the Garden City card room to Airport Parkway in Rincon South. This Planned Development Rezoning included a new full service hotel with up to 600 rooms.

The development capacity available for regional retail and hotel uses is drawn from the pool of industrial development capacity included in the Policy area. In order to maintain the 26.7 million square feet of industrial development, large format commercial development and hotel development is accommodated through additional trip capacity provided for by the entitlement of residential projects which include the demolition of industrial capacity. As the 285 acres included in the Transit Employment Residential Overlay convert to residential uses, the existing industrial buildings will be demolished. The excess development capacity associated with the demolished development, which is included within the background of this Policy, will become available for use by new industrial development within the Policy area.

Grid Street Plan

The Grid Street Plan currently included within the Policy is intended to enable the construction of new streets, primarily within the Policy's Core Area, to provide improved vehicle and pedestrian circulation, on-street parking opportunities, suitable frontages for supporting commercial services, and access to internal building service and parking areas. This will also provide for better distributed traffic flow throughout the Core Area as intensity increases as described in the North San Jose Policies Update Program EIR. These additional streets will serve to alleviate congestion along the major arterials in the area by distributing the traffic throughout the wider area. Consistent with the City's practice for development projects, dedication of the new street rights-of-way are required when the adjacent properties propose redevelopment. The Policy's Grid Street Plan includes the extension of existing streets, the completion of missing segments, and the construction of completely new streets. The proposed amendments include an updated version of this Grid Street Plan that refines the conceptual

layout in the North San Jose Area Development Policy, as it specifically identifies the location of the proposed new grid streets, primarily located within the Core Area.

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

Phasing Transition

While the Policy attempts to prevent speculative entitlements that divert development capacity away from projects ready to develop in the near-term, there are certain circumstances where development projects may stall significantly, resulting in an inability to provide reservation under the subsequent phase. In order to ensure that desirable development can proceed when ready, the Policy has been amended to provide the Director of Planning the ability to make a determination, where applicable, that a ready project may receive reservation and subsequent allocation under the current phase by moving the deferred development to the subsequent phase. This amendment is not intended to impact those projects that may have stalled but will ultimately progress over a longer timeframe and will include coordination with all interested parties. In addition, this determination may be made only where all of the following conditions are met.

- The development proposed for deferral has made no substantive progress in obtaining all permits necessary for development since approval of a development permit, and
- A development proposed for advancement can demonstrate project readiness within a predetermined timeframe, and
- Entitlement of the development proposed for advancement will, in combination with other existing entitlements, fully satisfy the minimum requirements to allow commencement of the next phase, thereby also maintaining the amount of development capacity needed to allow the deferred project to proceed.

Unused Allocation

Currently, once the City has collected the Traffic Impact Fee at the issuance of Building Permits, the amount of development trips equivalent to the fee is directly allocated to the subject property and, as presently drafted under the current Policy, cannot be allocated to another property. To provide greater flexibility to larger corporate developments (more than 2 million square feet of industrial development) that have overpurchased development allocation under the Policy, the Policy is proposed for amendment to recognize that there may be instances where a large corporate campus developer may want to transfer their previously purchased allocation to another pending development in the Policy Area.

Other Changes

Other proposed changes included within the Policy amendments are intended to provide additional clarification on how to implement the Policy. These clarifications are being brought forward to reflect the City's experience gained through the implementation of the Policy to date. These changes include the addition of:

May 27, 2010

Subject: Second Amendment to the NSJADP

Page 8

- criteria for the granting of development allocation for new projects;
- criteria for implementing the Traffic Impact Fee for minor additions to existing buildings, low intensity uses, credits for existing development, and high intensity uses; and
- limitations to the ability to expand the Transit Employment Residential Overlay where it would result in a net increase in the total amount of acreage that may be converted from employment to residential uses.

Neighborhoods Plan

The draft Neighborhoods Plan is intended to act as guidance that incorporates the work of the North San Jose Neighborhoods Taskforce and serves to further facilitate implementation of the Policy. The draft Neighborhoods Plan incorporates the Taskforce Guiding Principles, the Parks Plan referenced by the City Council through prior direction, and additional standards for the development of retail, parks, trails, libraries, schools and other public facilities to support both residential and employment uses within the Policy Area. The draft Neighborhoods Plan also includes a plan diagram which illustrates the potential locations of these amenities and identifies retail opportunity areas.

Reflected within the draft Neighborhoods Plan is a Master Plan for parks throughout North San Jose, which details a means for the City to provide public parks and recreational facilities in North San Jose in accordance with the provisions of the North San Jose Area Development Policy and the work of the Taskforce. The current Area Development Policy encourages the development of a 3 to 5 acre Neighborhood Park within each new residential neighborhood. The draft Neighborhoods Plan provides additional support for the development of a 3 acre minimum central park/plaza, trails and trail connections, one or two larger community parks equaling 30 to 35 acres in total size, and a mixture of passive/informal and active open space areas for both residents and employees. The central park is intended to act as a focal point for the employment and residential communities. The community parks provide land for 4 softball fields and 4 soccer fields with potential alternative use as a cricket field. Consistent with the Policy, under the Neighborhoods Plan, new neighborhood or community parks should be located within 1,000 feet of new residential development.

Through the entitlement of projects to date, approximately 16 acres of new neighborhood parks will be delivered as 5 turnkey projects, mostly in the northern half of the Policy Area. Another 7.38 acres of raw land will be dedicated by housing developers for future park developments by the City. Park sites shown in other locations are shown as a depiction of a preferred strategy for meeting the City's park requirements as set forth in the PDO/PIO ordinances, but these sites have General Plan Land Use designations that would allow alternative uses. The draft Neighborhoods Plan has been modified per the Council's request, to identify the potential Community Park sites as opportunity sites. Additional detail on how the City will implement the parks component of the Plan is included in the Parks section of the draft Neighborhoods Plan.

Following further outreach, the Taskforce requested that the language on neighborhood retail be expanded to include further detail. At the last Taskforce meeting on November 5, 2009, it was requested that the North San Jose Neighborhoods Plan be revised to reflect neighborhood retail as a key priority for the Taskforce. A final draft of the North San Jose Neighborhoods Plan was

May 27, 2010

Subject: Second Amendment to the NSJADP

Page 9

sent to the Taskforce following the revisions requested and in coordination with Taskforce Member Michael Betram who was appointed by the Taskforce to assist staff in preparing a final recommendation to Council on this document.

The contents of the previously drafted Implementation Strategy have been incorporated into either the proposed Policy amendments or into the Neighborhoods Plan and all work on the draft Implementation Strategy has ended. The inclusion of the amendments creates a logical and ultimately more user friendly policy document for North San Jose. The proposed Neighborhoods Plan thus provides a companion document and an appropriate means of recording the key work and recommendations of the Taskforce.

North San Jose Urban Design Guidelines

The North San Jose Urban Design Guidelines have been developed to provide more specific design guidance to assist with the implementation of the North San Jose Area Development Policy. The Guidelines will promote considerably more "urban" design principles that support the intensification that will occur as the Policy's 26.7 million square feet of industrial capacity and 32,000 residential units are added to area. Development throughout North San Jose has traditionally been lower density industrial park in nature, represented by one or two story industrial park type development, setback further from the street and separated by surface parking lots. As development returns to the City as a major employment center, the visual and functional definition of the Core Area as a high-profile technology center will be crucial in attracting new corporate tenants and development and will expand the Policy area's role as a premium location for development of high-tech headquarters in Silicon Valley.

A final Draft (Draft #4) of the Guidelines was circulated on September 18, 2008. To ensure that the development community and key stakeholders had an opportunity to better understand the content of the Guidelines, a developer charrette was held on November 13, 2008. The charrette focused on applying the draft guidelines to a series of hypothetical development scenarios in an attempt to identify challenges to new development. A number of challenges were identified, including restrictions on the location of parking, the relationship between buildings and the street, the interpretation of the word "should" as intended to be applied as stated, and considerations of block size, circulation and layout. In response to these and additional written comments, staff prepared and issued a proposed addendum to the Guidelines on April 2, 2009 (attached). To ensure that all comments and concerns had been addressed, staff held meetings with residential and commercial developers on September 10 and 11, 2009, in addition to several one-on-one meetings to discuss the proposed addendum to the Guidelines. The development community was represented by many of the developers working throughout North San Jose, including Morley Brothers, Foster Enterprises, Essex, JMH Weiss, Berg & Berg Enterprises, Boston Properties, Equity Office, and Sobrato Development. Those developers in attendance recognized staff's progress in addressing many of the concerns raised at the November charrette; however, additional concerns were raised about the references to the Grid Street System and the interpretation of the Guidelines. In addition to these focused outreach meetings, staff presented an update on the Guidelines to the Taskforce on October 5, 2009. The Taskforce expressed interest in proceeding with the

implementation of the Guidelines to ensure that new development was in keeping with the intent of the Policy.

The proposed addendum to the Guidelines is currently a separate document from Draft 4 of the Guidelines. If Council accepts the Guidelines and the Addendum, staff will consolidate these materials into one document and circulate it to interested parties.

Grid Streets

As referenced above in the section related to amendments to the Policy, the Grid Street Plan was adopted as part of the Policy and Program EIR in 2005 and is intended to enable the construction of new streets, primarily within the Policy's Core Area, to provide improved vehicle and pedestrian circulation, on-street parking opportunities, suitable frontages for supporting commercial services and access to internal building service and parking areas. This Grid Street Plan considers the existing street and property conditions to identify more specifically the preferred layout for the new street system and, as such, alignment of specific streets may vary from the Plan included in the Policy. The potential for new street construction outside of the Core Area is not a specific requirement in the Policy other than that the Policy anticipates the need to construct new streets as part of new North San Jose residential development projects.

The Guidelines make limited reference to the grid street concept; however, in order to clarify the requirements related to mid-block connections, the addendum to the Guidelines includes the following language to clarify the four ways to divide large blocks, where required by the Guidelines on pages 23, 28-31, 34 and 104-105:

- **Grid Streets** are mandatory in the Core Area, but their alignment may vary when indicated on the North San Jose Grid System Master Plan. They shall be open to the public.
- **Other streets** used to divide large blocks shall meet the requirements of the Guidelines for the Streetscape chapter. They shall be open to the public.
- **Paseos** may be used to divide residential blocks and shall satisfy the guidelines on pp. 104-105. They shall be open to the public.
- **Mid-Block Connections** or **Pathways** (the terms are used interchangeably) may be used to divide non-residential blocks and shall satisfy the guidelines on pp. 28-31. Access may be limited to tenants and visitors, but the pathways should provide convenient and direct access from the site to transit and amenities.

Interpretation of the Guidelines

Design guidelines are generally intended to balance issues related to compatibility, function and aesthetics while seeking to improve the character of a specified area or development type. The use of guidelines in the City's review of development proposals provides a level of assurance and consistency in the development review process that enables developers to clearly understand the City's intent with respect to site design and architecture. This, in turn, can expedite the approval process by presenting a common language for all parties involved in the design and review of projects.

The North San Jose Urban Design Guidelines are intended to provide a framework for the

development of 26.7 million square feet of industrial development, 32,000 residential units and supporting commercial uses in a significantly developed portion of the City. They are intended to encourage creativity and design excellence while representing a common understanding of the design criteria and development standards valued by the City, the existing community of neighborhoods and businesses, and development community. In order to clearly define the intent of the Guidelines, the addendum to the Guidelines includes the following language related to interpretation of the Guidelines:

- *How to Interpret the Language of These Guidelines*

Meaning of "should," "encouraged" and "discouraged" and of verbs in the imperative mood:

Guidelines that employ the word "should" or that are phrased in the imperative mood are intended to be applied as stated without much variation. An alternative measure may be considered, however, if it meets or exceeds the objective of the guidelines.

Guidelines using the words "encouraged or "discouraged" are desirable but greater flexibility and variation in application to meet the objective of the guidelines is anticipated and acceptable .

Verbs in the imperative mood are intended to be incorporated and applied as stated without variation, while the use of "encouraged or "discouraged" are considered desirable but greater variation in application is anticipated and acceptable . Given the nature of the Guidelines and that they are accepted by City Council and not adopted through ordinance or other means, additional flexibility is provided at the discretion of the Director of Planning, Building and Code Enforcement, to deviate from particular Guidelines as appropriate to meet the goals and intents of the Guidelines and the Policy. The intent of the document is to encourage creativity, in which case departure from Guidelines may be appropriate, particularly when it results in a higher quality design and project. In cases such as these, staff uses professional judgment to weigh the competing requirements of the development design, the orientation of the site, the intent of the Guidelines and Policy, and the ability of the development to provide appropriate alternatives to promote a mutually acceptable solution so as not to create an impediment to development.

CONCLUSION

The proposed Policy amendments, the Neighborhoods Plan and the Urban Design Guidelines for North San Jose will further enhance the City's goal of adding 80,000 jobs to the area while promoting economic sustainability and creating a more urban center for innovation within North San Jose. The proposed amendments and supporting documents will also help in creating positive residential neighborhoods, accessible retail development and a high quality environment for both employees and residents. These documents are based upon an extensive and cooperative Taskforce process and have additionally been reviewed and coordinated with interested residents, business owners, property owners and developers throughout North San Jose.

EVALUATION AND FOLLOW-UP

The proposed changes to the Policy and accompanying documents represent the necessary tools required to further implement the City's vision of North San Jose. In addition, staff will continue to analyze and bring back to Council as appropriate, programs that will support growth in the area and remove impediment to development. Specifically, staff will be bringing back to Council later this year an analysis of any infrastructure demands that pose a potential impediment to development, such as sanitary and/or storm sewer capacity.

POLICY ALTERNATIVES

Alternative #1: An alternative to accepting the North San Jose Urban Design Guidelines at this time would be to request staff to further analyze the potential design results to development that the Guidelines present.

Pros: Additional outreach would allow the development community to provide additional input as the market recovers on the appropriateness of the Guidelines.

Cons: The addended version of the Guidelines would need to be revised, completed and brought back to the Council at a later date.

Reason for not recommending: New development resulting from resurgence in the technology industries resident throughout North San Jose would not be subject to the principles of the addended Guidelines and may be incompatible with the long-range vision reflected in the addended Design Guidelines when they come into effect at a later date. Also, additional staff resources would be required to facilitate further outreach with the development community.

PUBLIC OUTREACH/INTEREST

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

The proposed amendments meet criterion 2 and have been posted on the City's website and emailed to interested parties.

May 27, 2010

Subject: Second Amendment to the NSJADP

Page 13

Policy Amendments and Neighborhoods Plan

Staff has completed extensive outreach to develop policy recommendations on appropriate amount for regional retail and hotel development capacity permitted under the Policy. On August 28, 2009, staff held two focus groups with experts in retail and hotel development. A community meeting for North San Jose and Downtown stakeholders was held on September 10, 2009. Staff also participated in a number of meetings with various stakeholder groups including:

- Envision 2040 General Plan Update Task Force
- San Jose / Silicon Valley Chamber of Commerce
- San Jose Downtown Association
- National Association of Industrial and Office Parks
- North San Jose Residents
- Retail and Hotel Developers
- Convention and Visitors Bureau
- San Jose Hoteliers
- Office and Housing Developers
- North San Jose Area Neighborhoods Planning Taskforce (Taskforce)

Staff held three meetings with the North San Jose Neighborhoods Taskforce to discuss the proposed changes to the Policy and to review the North San Jose Neighborhoods Plan. The Taskforce requested that the language on neighborhood retail be enhanced. At the November 5, 2009, meeting, the Taskforce requested that the North San Jose Neighborhoods Plan be revised to reflect neighborhood retail as a key priority for the Taskforce. A final draft of the North San Jose Neighborhoods Plan was sent to the Taskforce on December 18, 2009. Minor revisions were made at the request to Taskforce Member Michael Betram who was appointed by the Taskforce to work with staff in developing a final recommendation on the document.

Guidelines

A final Draft (Draft #4) of the North San Jose Urban Design Guidelines was issued on September 18, 2008. A developer charette was held on November 13, 2008. In response to the comments made at the charette, staff prepared and circulated a proposed Addendum on April 2, 2009. Staff held additional meetings with residential developers on September 10, 2009, and commercial developers on September 11, 2009. Staff also met with developers one-on-one to discuss the proposed addendum to the Design Guidelines.

COORDINATION

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

HONORABLE MAYOR AND CITY COUNCIL
May 27, 2010
Subject: Second Amendment to the NSJADP
Page 14

FISCAL/POLICY ALIGNMENT

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

CEQA

Resolution No. 72768 and Addenda thereto.

/s/
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Jeannie Hamilton, Principal Planner at 408-535-7800.

Due to the length of the below attachments, these documents can be accessed via the City Clerk's Website at Item 4.3 (www.sanjoseca.gov/clerk/agenda):

North San Jose Area Development Policy

North San Jose Urban Design Guidelines Draft #4 and Addendum dated April 2, 2009

North San Jose Neighborhoods Plan

North San Jose Urban Design Guidelines Comparison of Policy and Guidelines