

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: November 18, 2010

COUNCIL DISTRICT: 4
SNI AREA: NA

SUBJECT: FILE NO. GP10-04-01. A GENERAL PLAN AMENDMENT REQUEST TO CHANGE THE LAND USE/TRANSPORTATION DIAGRAM DESIGNATION FROM NEIGHBORHOOD/COMMUNITY COMMERCIAL AND HIGH DENSITY RESIDENTIAL (25-50 DU/AC) TO GENERAL COMMERCIAL ON 13.7 ACRES AND MEDIUM HIGH DENSITY RESIDENTIAL (12-25 DU/AC) ON 13.7 ACRES OF THE 27.4 GROSS ACRE SITE LOCATED AT THE SOUTHWEST CORNER OF E. BROKAW ROAD AND OLD OAKLAND ROAD.

RECOMMENDATION

The Planning Commission voted 6-0-1 (Commissioner Platten absent) to recommend that the City Council approve the proposed General Plan Amendment to change the Land Use/Transportation Diagram land use designation from Neighborhood/Community Commercial and High Density Residential (25-50 DU/AC) to General Commercial on 13.7 acres and Medium High Density Residential (12-25 DU/AC) on 13.7 acres of the 27.4 gross acre site located at the southwest corner of E. Brokaw Road and Old Oakland Road.

OUTCOME

Should the City Council approve the General Plan Amendment, the applicant would be able to move forward with a Planned Development Rezoning to allow for a mixed use (commercial, office, residential) project on the subject site.

BACKGROUND

On November 3, 2010, the Planning Commission held a public hearing to consider the proposed General Plan Amendment. The Director of Planning, Building and Code Enforcement recommended approval of the General Plan Amendment request on the 27.4 gross acre subject site for the reasons stated in the attached staff report.

Planning staff gave a brief report stating that two additional comment letters were recently received and that both of those letters were in support of the proposed amendment. These letters are attached to this memorandum.

The applicant, Sean Morely, with the Morely Bros., LLC, then spoke on the item. He spoke about how the land use change would provide for more economic development opportunities on the site and that the amendment itself was a reverse conversion of employment lands as the proposal would increase the amount job generating land use on the site.

There were no speakers from the public on the item.

The Commission then closed the public hearing. The Commission noted their appreciation of the proposal's increase in employment land and decrease in residential land that will help the City's jobs/housing balance. The Planning Commission then voted 6-0-1 (Platten absent) to recommend to the City Council approval of the proposed General Plan Amendment.

ANALYSIS

For complete analysis please see the original staff report (see attached).

EVALUATION AND FOLLOW-UP

The applicant would be required to file subsequent development permits with the Planning Division in order to implement a mixed use project on the subject site.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

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

A notice of the Planning Commission and City Council public hearings was mailed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. This staff report is also posted on the Planning division website and staff has been

HONORABLE MAYOR AND CITY COUNCIL

November 18, 2010

Subject: GP10-04-01

Page 3

available to respond to questions from the public. In addition, On August 31, 2010, a community meeting was held at the Orchard Elementary School located on Fox Lane, at which six community members were in attendance. Those in attendance generally were supportive of the project, but really wanted to see single-family detached units on the site as that housing product type is in short supply in the area.

COORDINATION

This project was coordinated with the City Attorney's Office, Department of Transportation, Department of Public Works, Building Division, and the Fire Department.

FISCAL/POLICY ALIGNMENT

This amendment has been evaluated for its consistency with the San Jose 2020 General Plan as further discussed in attached staff report.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

CEQA: Mitigated Negative Declaration.

/s/

JOSEPH HORWEDEL, SECRETARY
Planning Commission

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

STAFF REPORT
PLANNING COMMISSION

FILE NO.: GP10-04-01

Submitted: January 5, 2010

PROJECT DESCRIPTION:

General Plan Amendment to change the Land Use/Transportation Diagram designation from Neighborhood/Community Commercial and High Density Residential (25-50 DU/AC) to General Commercial on 13.7 acres and Medium High Density Residential (12-25 DU/AC) on 13.7 acres of the 27.4 gross acre subject site.

LOCATION:

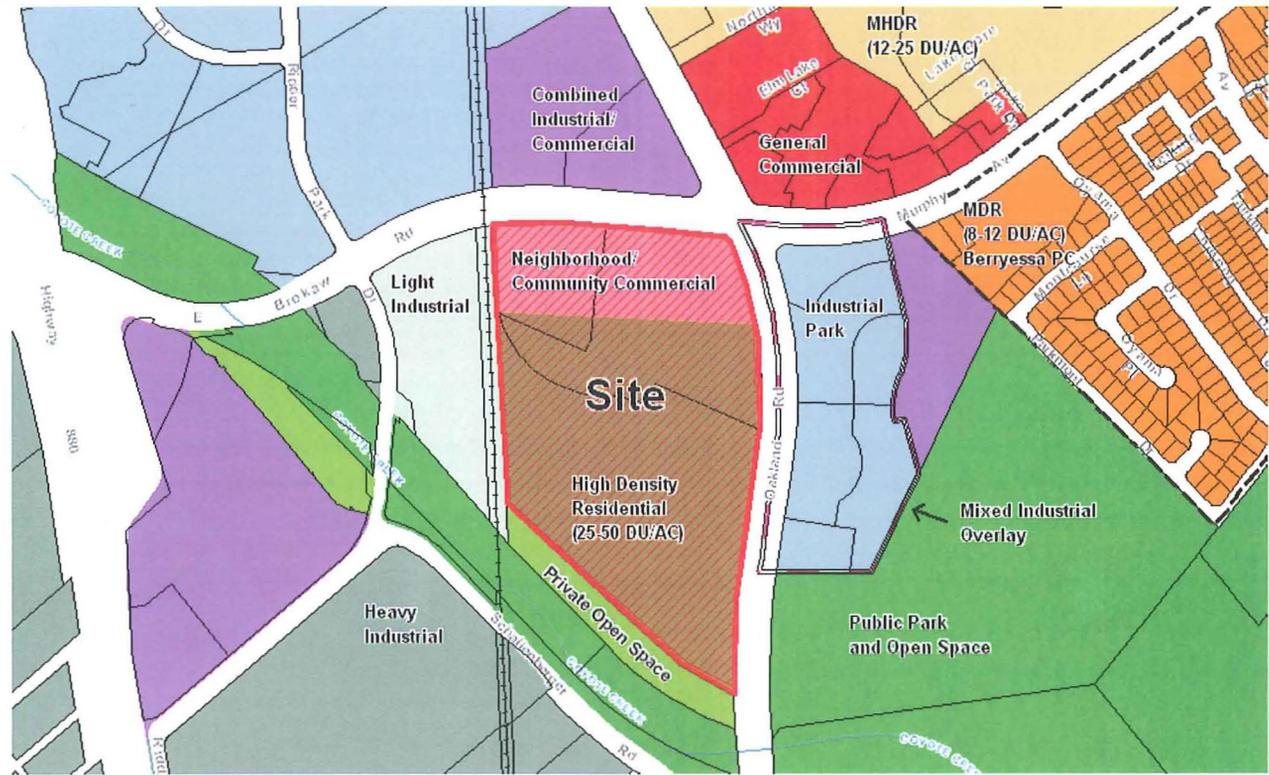
Southwest corner of E. Brokaw Road and Old Oakland Road. (1060 & 1080 Brokaw Road)

| | |
|-------------------------|---|
| Existing General Plan | Neighborhood/Community Commercial; High Density Residential (25-50 DU/AC) |
| Proposed General Plan | General Commercial; Medium High Density Residential (12-25 DU/AC) |
| Existing Zoning | HI Heavy Industrial; IP Industrial Park |
| Council District | 4 |
| Annexation Date | February 26, 1960 (Orchard No. 24-A) |
| SNI | NA |
| Historic Resource | NA |
| Redevelopment Area | Rincon de Los Esteros |
| Development Policy Area | North San Jose |

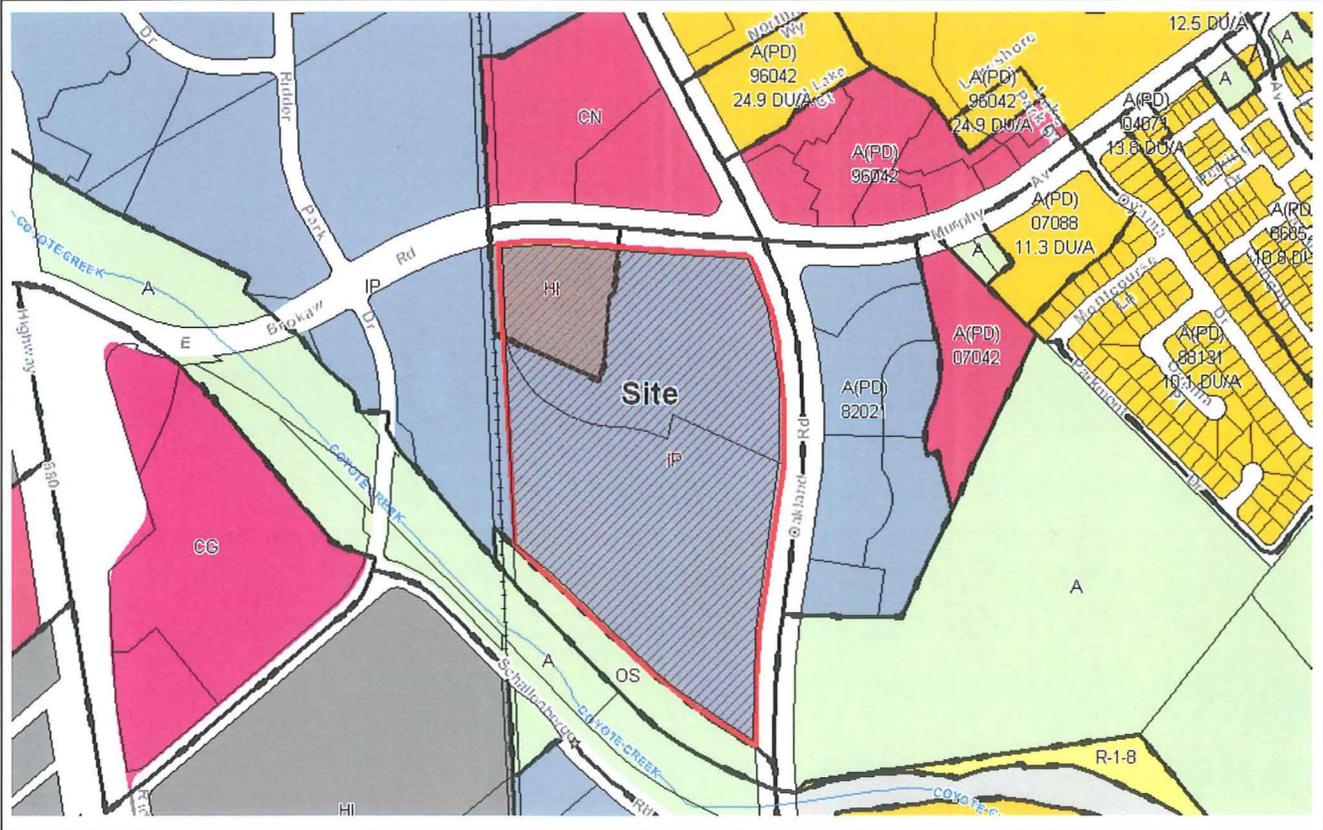
Aerial Map



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends that the Planning Commission recommend to the City Council approval of the proposed General Plan Amendment on the subject site for the following reasons:

1. The proposed amendment to change the Land Use/Transportation Diagram land use designation on the subject site from Neighborhood/Community Commercial and High Density Residential (25-50 DU/AC) to General Commercial on 13.7 acres and Medium High Density Residential (12-25 DU/AC) on 13.7 acres of the 27.4 gross acre subject site is inconsistent with the goals and policies of the San Jose 2020 General Plan, most notably:
 - a. Balanced Community Policy No. 1, as the requested land use change would increase the amount of job generating land uses and decrease the amount of residential land uses thereby improving the jobs/housing balance.
 - b. Residential Land Use Policy No. 9, as the requested land use change to lower the residential density on the site will have a lesser impact on city services.

BACKGROUND & DESCRIPTION

On January 5, 2010, Sean Morley of Morley Bros., LLC, representing the property owner, filed a privately initiated General Plan Amendment to request a change to the San José 2020 General Plan Land Use/Transportation Diagram land use designation from Neighborhood/Community Commercial on six (6) acres and High Density Residential on 21.4 acres to General Commercial on 13.7 acres and Medium High Density Residential (12-25 DU/AC) on 13.7 acres for a site located at the southwest corner of E. Brokaw Road and Old Oakland Road.

An associated Planned Development Zoning (File No. PDC07-010) is on file to allow for the development of up to 150,000 square feet of mixed use and general commercial uses or continued use of up to 300,000 square feet of office/research and development (R&D) uses, within existing buildings, located in the northern 13.7 acres of the site and a maximum of 342 residential units, at a density of 20 DU/AC, on the southern 13.7 acres of the site. The commercial component may include up to 300+ residential units within a mixed use building for a total of approximately 650 residential units over the entire site. The proposal includes an Open Space/Riparian Area which provides an approximately 100-foot from Coyote Creek. This area may include a 25-foot easement, or approximately 0.6 acres, for trail purposes. This proposed zoning would be presented in a staff report to Planning Commission and City Council at a future date.

Site and Surrounding Land Uses

The subject site is developed with two (2) research and development (R&D)/office buildings (Fairway Business Park) that are situated at the southwest corner of Old Oakland and E. Brokaw Roads. The site is bordered by E. Brokaw Road on the north, Old Oakland Road on the east, Coyote Creek to the south, and the Union Pacific rail line to the west. The land uses surrounding the site include industrial park/office uses to the west, north and south across E. Brokaw Road, the rail line and the creek, a commercial shopping center (North Park Plaza) to the northeast across E. Brokaw Road, and office/R&D and the San Jose Municipal Golf Course to the east across Old Oakland Road.

The northern portion of the site was previously developed with three (3) office/R&D buildings. One of the buildings was demolished in the spring of 2008 as part of ongoing hazardous materials remediation work on the site. The two remaining buildings on the site were constructed in 1998. The southern portion of

the site is primarily vacant land that was previously used as a metals recycling facility. This portion of the site is currently undergoing remediation work to address hazardous materials contamination.

Previous Planning Approvals

In 2000, a General Plan Amendment (File No. GP00-04-03) was approved for the site, which changed the land use designation from Heavy Industrial to Industrial Park on 27.5 acres and Private Open Space on 2.5 acres. The area designated as Private Open Space reflects the required riparian setback for future development. Given the changing character of the general area, the site was no longer well suited for heavy industrial uses.

In 2003, a 15.5-acre portion of the site previously occupied by a metal recycling facility was the subject of a General Plan Amendment (File No. GP03-04-05), which was approved in December 2003, that added a Mixed Industrial Overlay to the existing Industrial Park land use designation. The intent of adding the Mixed Industrial Overlay on this portion of the site was to provide a greater opportunity for industrial, compatible non-industrial, or a combination of both types of uses in order to help facilitate economic development opportunities.

In 2006, a General Plan Amendment (File No. GP06-04-02) was approved for the site, which changed the General Plan Land Use/Transportation Diagram land use designation from Heavy Industrial and Industrial Park with Mixed Industrial Overlay to Neighborhood/Community Commercial on six (6) acres and High Density Residential (25-50 DU/AC) on 21.4 acres. The 2.5 acres of the site designated as Private Open Space was left unchanged.

Community Meeting

On August 31, 2010, a community meeting was held at the Orchard Elementary School located on Fox Lane, at which six community members were in attendance. Those in attendance generally were supportive of the project, but really wanted to see single-family detached units on the site as that housing product type is in short supply in the area.

ANALYSIS

The proposed General Plan Amendment was analyzed with respect to: 1) appropriateness of the requested land use designations, 2) conformance with the San Jose 2020 General Plan Goals and Policies, 3) conformance with the North San Jose Area Development Policy, 4) conformance with the Framework for the Preservation of Employment Lands, and 5) conformance with the California Environmental Quality Act (CEQA).

Land Use Designations

The existing Neighborhood/Community Commercial land use designation applies primarily to shopping centers of a neighborhood or community scale. The primary distinction between neighborhood and community commercial centers lies in the difference as to trade area served and the range of uses. The existing High Density Residential (25-50 DU/AC) land use designation is typified by three-to four-story apartments or condominiums over parking and is planned primarily near the Downtown Core Area, near commercial centers with ready access to freeways and/or expressways and in the vicinity of the rail stations.

The proposed General Commercial land use designation is a non-specialized commercial designation intended to permit miscellaneous commercial uses. It includes both strip commercial areas along major thoroughfares as well as freestanding commercial establishments. Business and professional office uses are allowed within this category as well. The proposed Medium High Density Residential (12-25 DU/AC) land use designation is typified by two-story apartments and condominiums with surface parking, although structures of greater height with compensating amounts of open space is possible. This density is planned primarily for locations on major streets and near major activity centers.

The requested General Commercial land use designation is more appropriate for the site than the existing Neighborhood/Community Commercial land use designation in that the site is located adjacent to primarily industrial park uses along two major arterials Old Oakland and Brokaw Roads. The General Commercial land use designation allows a wider range of commercial uses that will serve not only the job sites in the area, but the existing nearby residents and the proposed new residential units on the site. The site also has easy access from the freeway and could support destination retail similar to the Lowe's site just to the west.

Given that the subject site is not located near the Downtown Core Area, in a Transit Corridor, or near rail transit, by definition the existing High Density Residential land use designation is not as appropriate as the Medium High Density Residential. The Medium High Density Residential land use designation would be more appropriate because the site is located on two major streets, near Highway 880, near job uses, and small commercial shopping centers. However because of the sites proximity to all of the aforementioned uses, the residential uses should be developed at the higher end of the allowed density range.

General Plan Goals and Policies

The proposed land use change from Neighborhood/Community Commercial and High Density Residential (25-50 DU/AC) to General Commercial and Medium High Density Residential (12-25 DU/AC) on the subject site is consistent with the following General Plan Goals and Policies and are the main reasons for recommending approval of the amendment request as discussed in the following:

- Balanced Community Policy No. 1: The City should foster development patterns which will achieve a whole and complete community in San José, particularly with respect to improving the balance between jobs and economic development on the one hand, and housing resources and a resident work force on the other.

The requested land use change would increase the amount of job generating land uses and decrease the amount of residential land uses, which will improve the balance between jobs and economic development and housing.

- Economic Development Goal No. 2: Create a stronger municipal tax base by obtaining a greater share of the total industrial and commercial development in the County, protecting the exclusively industrial areas from incompatible development, and by nurturing and encouraging expansion of the existing industrial and commercial development in the City.

The change in land use to General Commercial, which allows for a wider range of commercial uses than the Neighborhood/Community Commercial land use designation, and an increase in the acreage of commercial uses along with the reduction in residential acreage, helps the City in working towards the goal of creating a stronger municipal tax base.

- Commercial Land Use Policy No.1: Commercial land in San José should be distributed in a manner that maximizes community accessibility to a variety of retail commercial outlets and services and minimizes the need for automobile travel. New commercial development should be located near existing centers of employment or population or in close proximity to transit facilities.

The subject site is already designated for commercial uses. The requested General Commercial land use designation allows for a wider range of commercial uses and therefore the site would have the ability to provide a greater variety of commercial to serve the specific needs of the area, which is unique in that the commercial will serve an existing and planned neighborhood as well as the nearby job uses.

- Residential Land Use Policy No. 9: When changes in residential densities are proposed, the City should consider such factors as neighborhood character and identity, compatibility of land uses and impacts on livability, impacts on services and facilities, including schools, to the extent permitted by law, accessibility to transit facilities, and impacts on traffic levels on both neighborhood streets and major thoroughfares.

The requested land use change to lower the residential density on the site will have a lesser impact on city services and traffic, but at the same time be at a density that will be compatible with the existing and planned commercial uses providing multi-family development and a residential base supportive of the commercial uses.

North San Jose Area Development Policy

The subject site is located within the North San José Area Development Policy. This Policy establishes a framework to guide the ongoing development within the North San José area. The updated Policy allows for the development of 26.7 million square feet of new industrial/office/R&D building space, 1.7 million square feet of new neighborhood serving commercial uses, one million square feet of new regional commercial, 1,000 new hotel rooms, and 32,000 new dwelling units in the Rincon area. Consistent with the Policy, the increase in the amount of commercial uses on the site would support the planned job growth in the area not only by providing additional jobs, but by also providing commercial services for the job sites in the area.

This Policy includes phased job generation triggers before residential can be developed. Allocation is reserved with the approval of a Planned Development Permit. At this time all of the Phase I allocation for residential units have been approved. Residential development may only occur on the portion of the site designated for such as a part of Phase II of the Policy or if approved Planned Development Permits for residential units in Phase I expire.

Framework for the Preservation of Employments Lands

The proposal does not include the conversion of industrial or commercial lands to residential, but rather a reduction in the amount of land dedicated for residential uses and the increase in land dedicated for commercial uses. This proposal is consistent with the Framework and the goal of increasing lands for job and tax generating uses.

Environmental Review

The proposed General Plan Amendment will not have a significant effect on the environment and therefore an Addendum to the Fox Property General Plan Amendment Environmental Impact Report (EIR) was prepared. This EIR was certified by the City Council on December 13, 2006 under File No. GP06-04-02. The Initial Study supporting the Addendum is available for review on the Planning web site at: www.sanjoseca.gov/planning/eir/MND.asp

Conclusion

As discussed in this report, the subject General Plan amendment request is consistent with several of the goals and policies in the San Jose 2020 General Plan. It is also consistent with the North San Jose Development Policy and the goal of increasing commercial services for job sites in the area. The proposal is exactly the type of land use envisioned with the Framework for the Preservation of Employment Land in that it is increasing land dedicated to job and tax generating uses.

PUBLIC OUTREACH/INTEREST

In addition to the community meeting held on August, 21, 2010, the property owners and occupants within a 1,000-foot radius of the site were sent public hearing notices for the Planning Commission and City Council hearings. This staff report has been posted on the City's web site. Signage has been posted at the site to inform the public about the proposed change. Staff has been available to discuss the proposal with interested members of the public.

Tribal Consultation

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

Project Manager: Lesley Xavier

Approved by:



Date:

10/24/10

| | |
|--|---------------------|
| Owner/Applicant: | Attachments: |
| <u>Owner:</u> Fox Properties/Markovits & Fox, Inc. 14125 Capri Drive, #4 Los Gatos, CA 95032 <u>Applicant:</u> The Morley Bros. Sean Morley 506 N. Santa Cruz Avenue Los Gatos, CA 95030 | NA |

6.6

The **SOBRATO** Organization

Sobrato Development Company, LLC Sobrato Family Holdings, LLC
Sobrato Builders, Incorporated Sobrato Family Foundation
Sobrato Construction Corporation

October 28, 2010

Hon. Chuck Reed
Mayor, City of San Jose
200 E. Santa Clara Street, 18th Floor
San Jose, CA 95113

RE: Markovits & Fox, Inc. – Brokaw & Old Oakland Redevelopment/Mixed Use Master Plan

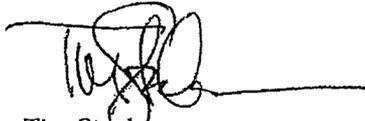
Dear Mayor Reed,

As you know, the Sobrato Organization owns the North Park Plaza retail site at the northeast corner of E. Brokaw & Old Oakland Road across the intersection from the 30 acre site owned by Markovits & Fox, Inc. We also have other extensive commercial and residential holdings in the immediate neighborhood so have followed the redevelopment plans for the Fox property with interest for some time.

We wrote you a detailed letter in 2006, a copy of which is attached, in support of the prior General Plan Amendment allowing the Fox property to be developed with a mix of uses. We are writing again to let you know of our support for the current General Plan Amendment (GP 10-04-01) and Planned Development Rezoning (PDC 07-10) which will be considered by the Planning Commission and City Council in the coming weeks.

We believe the current proposal will create an even better mixed use opportunity on the property than was envisioned in 2006 and the site's redevelopment will go a long way toward enhancing the surrounding neighborhood with its already thriving mix of uses.

Sincerely,



Tim Steele
Senior Director Real Estate

cc: Councilmember Kanesen Chu
Rob & Marv Fox, Markovits & Fox, Inc.

10600 North De Anza Blvd.
Suite 200
Cupertino, CA 95014-2076

408.446.0700
Facsimile: 408.446.0583
www.sobrato.com



SOBRATO
[DEVELOPMENT COMPANIES]

March 13, 2006

The Honorable Chuck Reed, Council Member
District #4
City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113

RE: GP-06-04-02, SUPPORT-Brokaw Mixed Use

Dear Council Member Reed:

On behalf of Sobrato Development Companies, I am writing to request that you approve General Plan Amendment GP-06-04-02. The project consists of up to 50,000 square feet of neighborhood serving retail and 600 condominiums on the 30 acres. The proposed project is directly across the street from our retail center, residential apartment homes and near many of our commercial properties.

However, our interest goes well beyond any one project or application. As the single largest owner of real estate in Santa Clara County, we hold the long view for Silicon Valley and our portfolio in the region. As one of the leading providers of Office/R&D and other commercial space to Silicon Valley's leading high tech companies, we recognize that the single greatest barrier to creating jobs and retaining workers in San Jose is the availability and affordability of housing. We hear time and time again from high tech CEO's that housing is the single most critical factor in maintaining Silicon Valley's competitiveness in an increasingly global economy.

There is currently a convergence of market dynamics that provides for you to substantially address the critical housing supply needs of our workforce and also redevelop in mixed use areas with established services. We believe that selective redevelopment of vacant land and employment space that make sense, such as this proposal, are appropriate and should be encouraged.

We are also the largest property owner in the immediate neighborhood, maintaining substantial holdings of commercial, retail and residential property in the immediate neighborhood of the proposed project. Residential, retail and business uses have coexisted in this well established mixed use neighborhood for years. New neighborhood retail and homes at this location are both appropriate and beneficial to both the existing neighborhood and employment base.

Council Member Chuck Reed

Page 2

March 13, 2006

This proposal provides workforce housing and at the same time, promotes economic development through retail and other benefits which, as evidenced by the project, are not mutually exclusive. The project locates housing next to jobs, services, transit options and is well served by more than 100 resident serving retail and commercial businesses in walking distance. The project will be complimentary to this already mixed use neighborhood.

We urge you and your colleagues to approve the Brokaw Mixed Use village as proposed by the applicant.

Best Regards,



John M. Sobrato
Managing Partner
johnm@sobrato.com

cc: Mayor Ron Gonzales
Council Members
Planning Department



DOLLINGER PROPERTIES

October 27, 2010

Hon. Chuck Reed
Mayor, City of San Jose
200 E. Santa Clara Street, 18th Floor
San Jose, CA 95113

RE: Markovits & Fox, Inc. – Brokaw Mixed Use Master Plan

Dear Mayor Reed,

As you know, Dollinger Properties owns the 8.19 acre retail site at the northeast corner of E. Brokaw & Old Oakland Road directly north of the 30 acre site owned by Markovits & Fox, Inc.

I am writing to let you know of our company's support for the proposed General Plan Amendment (GP 01-04-001) and Planned Development Rezoning (PDC 07-10) applications submitted for the Fox property which will be considered by the Planning Commission and City Council in the coming weeks.

As you are aware, our company has been working hard with the City to redevelop our property into a retail center to serve the residents of Berryessa, North San Jose and beyond. We are very close to moving forward with actual development. We believe the mixed use master plan proposed by the Fox family which allows for a range of commercial and residential uses will complement our retail center and help complete the neighborhood with the addition of new housing opportunities to support future retail.

Like our retail center, The Fox property mixed use project will help contribute much needed new revenue to the City's General Fund so we encourage the City to approve the applications and move actual development along as soon as possible.

Sincerely,

Dave Dollinger

cc: Councilmember Kanesen Chu
Rob & Marv Fox, Markovits & Fox, Inc.

Xavier, Lesley

From: Morley, Sean
Sent: Friday, October 29, 2010 10:40 AM
To: Edesa Bitbadal; Edgar Albelite; Hope Cahan; Lisa Jensen; Matt Kamkar; Norman Kline
Cc: Leatha Clark
Subject: Nov. 3 Planning Commission Hearing - GP 10-04-01/Markovits & Fox Property
Attachments: GP 10-04-01, Applicant Ltr..pdf

Dear Planning Commissioners,

I am writing to you on behalf of Markovits & Fox, Inc. regarding GP10-04-01 which the Planning Commission will consider next Wednesday night. The company, a local family-owned business, has owned the 29.9 acre site at the southwest corner of E. Brokaw and Old Oakland Road since the 1950s. The Morley Bros. serve as their development consultants to plan for the reuse of the property.

Staff has recommended support for the General Plan Amendment, which was initiated at the request of the Planning Director and Office of Economic Development, to create a significant new retail/mixed use development opportunity which can generate much needed new sales tax revenue, one of the City's highest priorities. This application and the associated project it would allow is one of the largest economic development opportunities the City currently has under review.

We have prepared the attached letter to supplement the staff report and help facilitate your review of the application. Given the size of the site and significance of the project to the City, we would appreciate an opportunity to meet with you in person to review the proposal in detail and answer any questions you may have. Please feel free to contact me at the number below.

Sincerely,

Sean Morley - The Morley Bros.
408.458.4440 / sean@morleybros.com
506 N. Santa Cruz. Ave., Los Gatos, CA 95030
Main: 408.458.4400 / Fax: 408.458.4299

MARKOVITS & FOX, INC.

14125 Capri Drive, Suite 4
Los Gatos, CA 95032-1541
office@mf-foxprop.com

Telephone (408) 364-1265/2265

Facsimile (408) 364-0765

October 28, 2010

Lisa Jensen, Chair
San Jose Planning Commission
City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113

**RE: E. Brokaw & Old Oakland Redevelopment/Mixed Use Master Plan for 29.9 Acre Site
(GP 10-04-01 = Nov. 3) / (PDC 07-010 = Nov. 17)**

Dear Chairperson Jensen & Members of the Commission:

Markovits & Fox, Inc. respectfully requests that the Planning Commission recommend approval of General Plan Amendment (GP 10-04-01) to change the land use designation on 27.4 acres located on the southwest corner of Old Oakland Road & Brokaw Road to General Commercial on 13.7 acres and Medium-High Density Residential (12-25 DU/AC) on 13.7 acres (*See Attachment "A" - Existing & Proposed Designations*). The General Plan Amendment, undertaken at the request of the Planning Director and Office of Economic Development, is one of many actions we are pursuing to make the site ready for redevelopment in 2011. The purpose of this letter is to provide you with a summary of the key elements of the planned project and facilitate your consideration of the General Plan Amendment.

WHO WE ARE

Markovits & Fox, Inc. is a local family-owned business that has been operating in San Jose for more than 100 years. We have owned this property since 1957 where we operated a metals recycling business for decades as a mixed use neighborhood grew around our property. We began transitioning the site to other uses in the 1990s with the construction of the office buildings along E. Brokaw Road and finally closed the recycling business in 2000.

BACKGROUND

The entire site totals 29.9 acres. The northern portion of the site is currently developed with two office/research and development buildings totaling approximately 129,000 square feet. The southern portion of the site is vacant land and has recently undergone environmental

October 28, 2010

Chairperson Jensen & Members of the Planning Commission

Page 2

remediation work to make it suitable for intended redevelopment. An approximately 2.5 acre area adjacent to Coyote Creek is already designated for private open space and is not subject to the General Plan Amendment which addresses only 27.4 acres.

In recognition of the mixed use nature of the neighborhood that had emerged around the property, the City Council re-designated the 6 acres fronting Brokaw Road as "Neighborhood Retail" and the balance of the site (21.4 acres) as "High Density Residential" (25-50 du/ac) in 2006. A PD Rezoning application was filed in 2007 as the environmental remediation project began in earnest to address contamination associated with past agricultural uses and our metals recycling facility, all done in accordance with a regulatory agency approved clean-up program. However, the PD Rezoning was suspended due to a change in market conditions arising from the Great Recession like so many other projects in San Jose.

In 2008 the Planning Director and the Office of Economic Development asked the property owner to consider increasing the size of the commercial area to better support the City's Retail Strategy and create an opportunity for additional sales tax revenue. Throughout 2009 our team worked with various City departments to develop an approach that would meet the City's objective for more commercial uses on a larger portion of the site and allow for phased redevelopment in the near term, giving the family more certainty about the ultimate redevelopment and disposition of the site. The result was a master plan for redevelopment of the site that is reflected in this General Plan Amendment and the associated PD Rezoning applications which were filed at the beginning of 2010. It is one of the largest economic development projects the City is reviewing this year.

NEIGHBORHOOD CONTEXT

The 27.4 acre site is bounded by East Brokaw Road to the north, Oakland Road to the east, Coyote Creek to the south, and the Union Pacific Railroad (UPRR) tracks to the west. It is located within the North San Jose Development Policy Area (NSJDPA) and is a gateway to both North San Jose and Berryessa.

The surrounding Berryessa/North San Jose neighborhood is an established mixed-use community that is vibrant and walkable with a balanced concentration of jobs, housing and neighborhood serving commercial/retail. Within walking distance of the site there is a diverse mix of home types ranging from single family, townhomes, apartments and senior living facilities; approximately 130 neighborhood serving businesses; employment opportunities; recreation (including a golf course) and a school (*See Attachment "B" - Contextual Aerial*).

October 28, 2010

Chairperson Jensen & Members of the Planning Commission

Page 3

PROJECT OVERVIEW

The proposed project is one of only a few large private development projects being undertaken within the City during these difficult economic times that would add to the City's economic base and creates an opportunity for significant new jobs and City General Fund revenue. It accomplishes the City's objectives for expanded commercial uses by increasing the commercial acreage on the property from 6 to 13.7 acres.

The proposed General Commercial Land Use Designation would support a range of uses on the northern 13.7 acres of the property, including up to 150,000 SF of retail/commercial uses or up to 300,000 SF of office/research and development and the potential for vertical mixed-use, including residential. The increase in commercial acreage certainly adds to the City's economic base and also allows this infill site to be developed into an even more successful retail, employment or mixed-use site in close proximity to established residential uses than originally planned in 2006.

The proposed Medium High Density Residential Land Use Designation on 13.7 acres would allow up to 343 residential units. The residential portion of the site would be permitted to be developed with a range of residential development types, including multi-story apartments and condominiums, attached and stacked townhomes and single-family detached and attached residences. The proposed residential density range on this portion of the site (12-25 DU/AC) is consistent with the direction of the 2040 General Plan Update and offers an appropriate transition from single family detached homes to the east and multi-family condos and apartments to the north, further expanding housing options in this existing mixed-use neighborhood.

The remaining 2.5 acres of the 29.9 acre site adjacent to Coyote Creek has a Private Open Space Land Use Designation and no change is proposed for this area, although it is included in the PD Rezoning application which accounts for the difference in acreage between the General Plan Amendment which covers only 27.4 acres and the entire site which is somewhat larger.

GENERAL PLAN APPLICATION

The General Plan Land Use/Transportation diagram designations currently applicable to the property aptly fulfill the City's major Strategies, Goals & Policies applicable to the site. The proposed land use designation modifications even better fulfill them. See Attachment "C" for a detailed consideration of how the project complies with these major City Strategies, Goals & Policies.

A major consideration is that increasing retail opportunities fulfills a major *Economic Development Strategy* goal of increasing the City's revenue base. The project actually converts 6 acres to commercial uses, a "reverse employment lands conversion," which fulfills the

October 28, 2010

Chairperson Jensen & Members of the Planning Commission

Page 4

objectives of the *Framework for the Preservation of Employment Lands*. The project also promotes livability by adding new housing and retail development in close proximity to new jobs, amenities and transit infrastructure, which is a primary underpinning of the *North San Jose Area Development Policy*.

PD REZONING APPLICATION

Following the hearing on the General Plan Amendment, the Planning Commission will be asked to review the Planned Development Zoning (PDC07-010) to conform the entire 29.9 acre site's zoning to the new General Plan land use designations. The PD Zoning would allow up to 150,000 sq. ft. of commercial/retail or up to 300,000 sq. ft. of Office/R&D uses on the northern half of the site and up to 650 residential units across the entire property as well as park/open space uses near Coyote Creek.

In addition, the PD Rezoning creates the opportunity for vertical mixed use with residential or office over commercial/retail in the northern half of the site. It also conforms with the requirements, spirit and intent of the Riparian Corridor Policy by providing a full 100 ft. setback from the edge of the Coyote Creek. The PD Zoning is scheduled to be heard at the subsequent Commission meeting on November 17th.

ENVIRONMENTAL CONSIDERATIONS

An Initial Study was prepared for the project to evaluate the environmental impacts of changing the land use designation on the site and to evaluate the project specific impacts of the development that would be allowed under the proposed PD Zoning. The Initial Study found that the proposed land use change would not result in significant environmental impacts.

City staff have determined that this project qualifies for an addendum to the 2005 North San Jose Final Program EIR and the Fox Property General Plan Amendment EIR certified by the City Council in December 2006 due to the fact that the proposed General Plan Amendment and PD Zoning do not raise important new issues about the effects on the environment that were not previously disclosed in the above mentioned EIR's.

COMMUNITY OUTREACH

On-Site signage has been posted at the project site for many months in accordance with the City of San Jose Community Outreach Policy. A City sponsored community meeting was held on August 31 at Orchard Elementary School near the site to review the project with surrounding neighbors, stakeholders and interested parties. More than 1,100 notices were mailed to residents and property owners within a 1,000 foot radius of the project site. We have also regularly communicated with the major property owners nearby the site about the progress of our project. Finally, all these efforts supplement the outreach efforts done in 2006 for the

October 28, 2010

Chairperson Jensen & Members of the Planning Commission

Page 5

major land use change on the site which had wide support from neighboring property owners, businesses and interest groups at the time.

CONCLUSION

The proposed project meets the City's goal to provide additional commercial acreage on the property as well as the North San Jose Area Development Policy housing and commercial goals. It is consistent with the *Envision San Jose 2040* General Plan update and is an infill development opportunity that implements many of the City's most important current goals and policies. The project is also one of the few large private development opportunities being processed in the City at this time and that supports the City's critical economic development goals. We encourage the Planning Commission to recommend approval of the applications as proposed.

Given the significance of the General Plan Amendment and associated project, we would appreciate an opportunity to meet with you to discuss the applications and answer any questions you may have. Please contact Sean Morley with The Morley Bros. who serve as our development consultant for the project if you would like to set up a meeting or have any questions. He can be reached at 408.458.4440 or sean@morleybros.com.

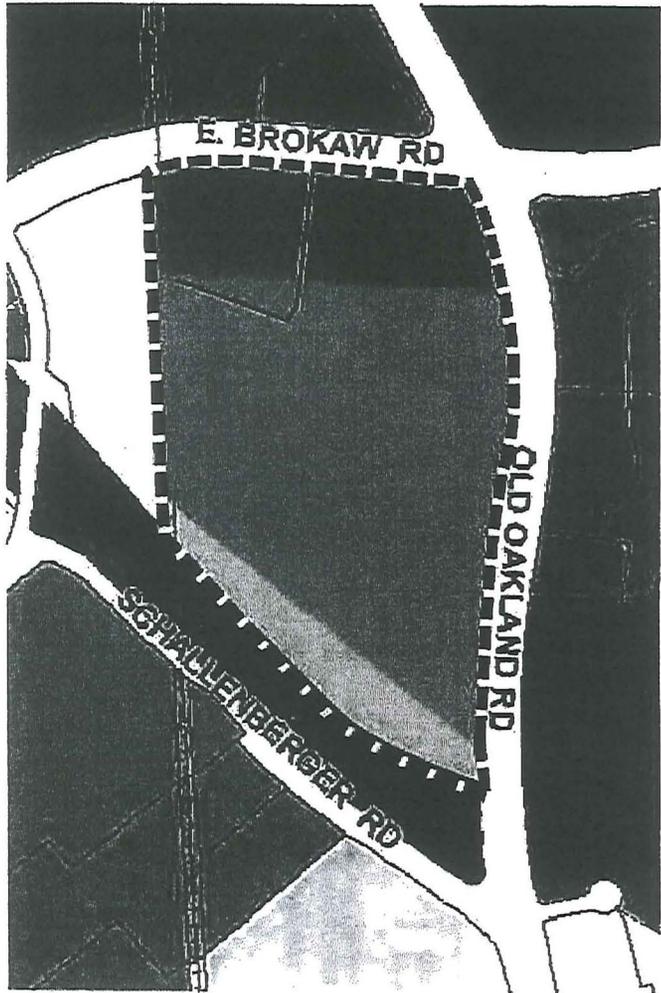
Sincerely,



Marvin Fox

Attachment "A"
Existing and Proposed General Plan Land Use Designations

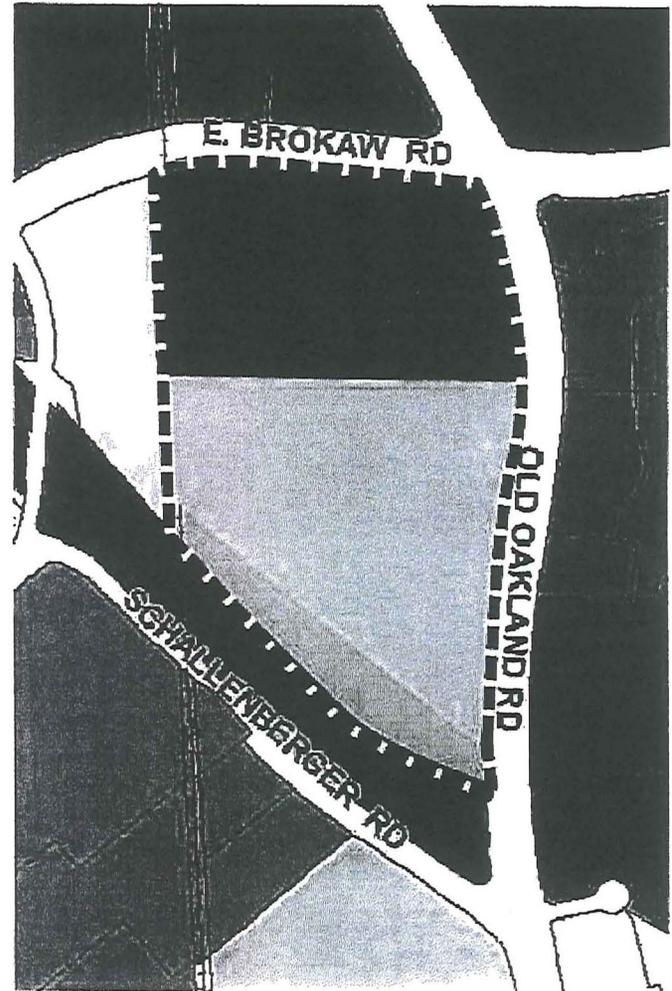
EXISTING



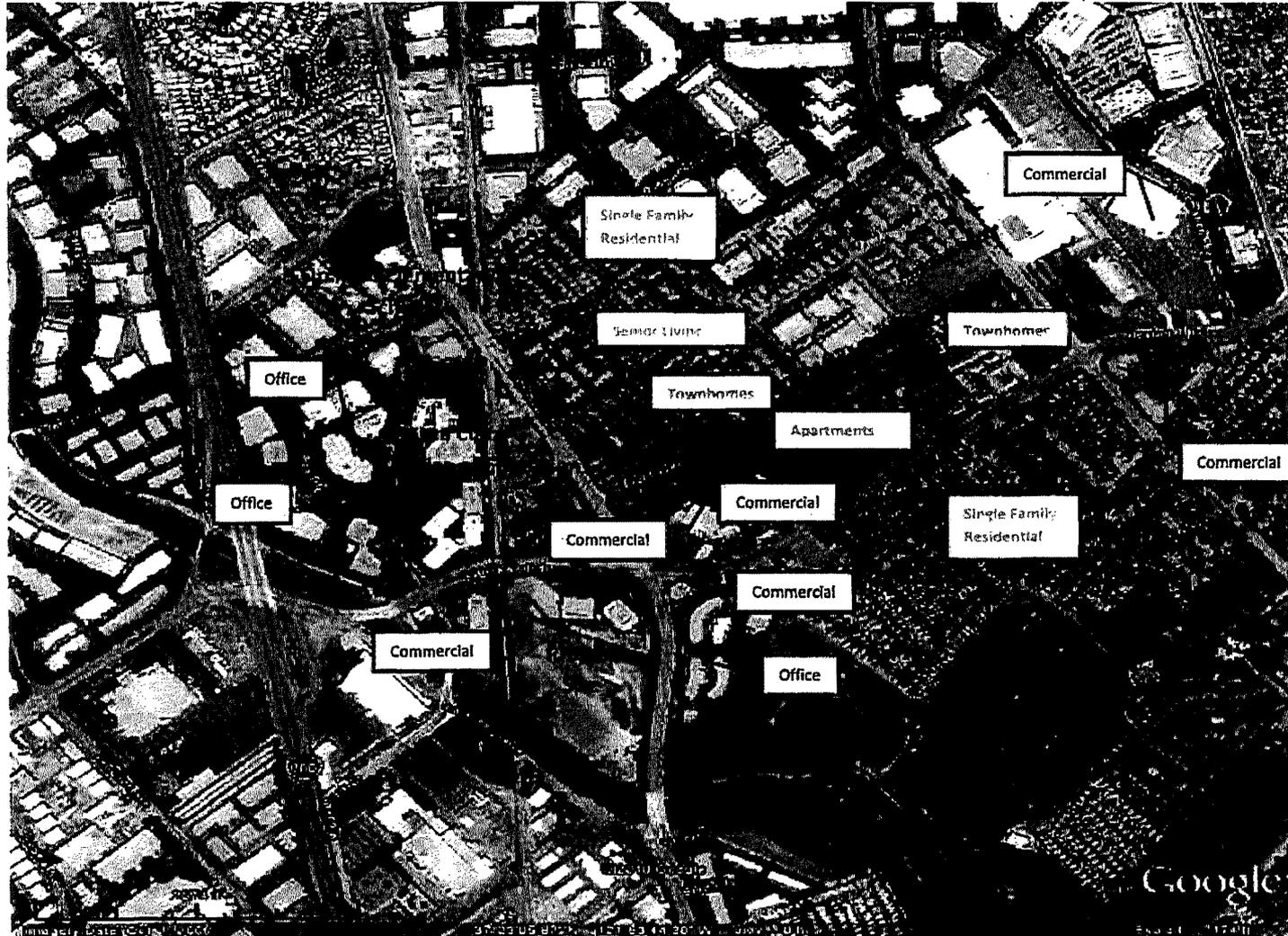
KEY

| | |
|--|-------------------------------------|
| | Project Boundary |
| | Heavy Industrial |
| | Light Industrial |
| | Industrial Park |
| | General Commercial |
| | Public/Quasi-Public |
| | Public Park & Open Space |
| | Private Open Space |
| | Neighborhood / Community Commercial |
| | Medium High Density Residential |
| | High Density Residential |

PROPOSED



Attachment "B"
Contextual Aerial



Attachment "C"

GPA 10-04-001 Conformance with City Strategies, Goals, Policies

General Plan Consistency

The proposal is consistent with, supports and/or implements several of the Major Strategies, Goals and Policies listed in the 2020 General Plan, including Economic Development Goals, Growth Management Strategies, Housing Strategies, Commercial Land Use Goals and Policies and Balanced Community Policies. The proposal is also consistent with and helps to implement the vision and purpose of the North San Jose Area Development Policy.

By increasing the amount of land designated for commercial uses from 6 to 13 acres and creating the opportunity to develop up to 150,000 SF of retail/commercial uses or up to 300,000 SF of office, the project implements and is consistent with the City's Economic Development Goal No.1-“Create more job opportunities for existing residents... to improve the balance between jobs and resident workers” and Goal No. 2 “Create a stronger municipal tax base by obtaining a greater share of the total industrial and commercial development in the County... by nurturing and encouraging expansion of the existing industrial and commercial development in the City”.

The General Plan Growth Management Major Strategy states that “in addition to balancing residential with commercial and industrial uses in order to balance service demands and revenue sources, the location of housing is also critical to minimizing service costs.” The fact that the proposed project is a housing/commercial infill opportunity it helps to achieve the most efficient use of urban facilities and services.

The General Plan Housing Major Strategy states that, “The housing strategy also seeks to provide sufficient housing opportunities for new workers in order to encourage and support continued economic development.” The proposed GPA and PD Zoning would provide the opportunity to add a minimum of 165 residential units that can be developed with a diverse range of residential unit types, including multi-story apartments and condominiums, attached and stacked townhomes and single-family detached and attached residences. The project therefore creates an opportunity to meet the housing needs for a diverse economic community within one of the City's major employment center, North San Jose.

The proposed project is an commercial/residential infill opportunity located in the heart of an existing mixed-used, walkable community and therefore helps implement and is consistent with the City's Commercial Land Use Goal, to “Provide a pattern of commercial development which best serves community needs through maximum efficiency and accessibility” and Commercial Land Use Policy No. 1- “Commercial land in San José should be

distributed in a manner that maximizes community accessibility to a variety of retail commercial outlets and services and minimizes the need for automobile travel.”

Economic Development Strategy. San Jose’s Economic Development Strategy 2010 states that, “San Jose should redouble its efforts to add a full range of retail shopping amenities across the city. This is critically important for improving quality of life, increasing the city government’s revenue base, and minimizing traffic congestion and carbon emissions.” The proposed project supports several of the City’s Economic Development Strategy 2010 goals in this effort. The increased area for commercial development from 6 to 13.7 acres in an established mixed-use neighborhood supports Economic Development Strategy Goals’ No.2- “Develop Retail to Full Potential, Maximizing Revenue Impact and Neighborhood Vitality”, No.4 “Nurture the Success of Local Small Businesses” and No. 11 “Create More Walkable, Vibrant, Mixed-Use Environments to Spur Interaction and Attract Talent.’ It is clear that the proposed project implements these goals by creating the opportunity for additional retail/commercial development near existing housing and jobs.

Framework for the Preservation of Employment Lands. The proposed reduction in the amount of land dedicated for residential uses and the increase in land dedicated for commercial uses is consistent with the Framework, as the request is not a conversion of employment land to non-employment uses, but rather increases the amount of land dedicated for commercial uses.

North San Jose Area Development Policy (NSJADP). One of the primary goals of the NSJADP is to promote livability by, “adding new housing and retail development in close proximity to new jobs, amenities and transit infrastructure”. The proposed GPA & PD Zoning would produce housing and retail development opportunities within the planning area and in close proximity to established jobs and future job growth sites. In addition, the project site is served by several VTA bus routes including, routes 46, 66, 77 and 180, with two stops on the property and 7 other stops within 500 feet of the site. The site is also less than 2 miles from two VTA light rail stations and a future BART station.