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**STEVE TATE**  
Mayor

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June 28, 2007

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**CITY OF SAN JOSE  
DEVELOPMENT SERVICES**

Mr. Darryl Boyd, Principal Planner  
Department of Planning, Building & Code Enforcement  
City of San Jose  
200 East Santa Clara St.  
San Jose, CA 95113-1905

Dear Mr. Boyd:

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the Coyote Valley Specific Plan. Also, on behalf of the City Council, would like to thank you and your staff for your presentation earlier this month to the group of South County agencies that will be affected by development of this important area. The presentation was very informative and helpful to us in understanding the proposed development of the area and impacts that it will have on our City.

Following are the City's comments regarding the Draft EIR.

**Uses of the EIR**

Section 1.5.1 indicates the EIR is intended to be used for the adoption of the CVSP and its initial implementation through the pre/rezoning and annexation processes. Morgan Hill agrees that use of the document for the land use approvals specifically listed in this Section could be appropriate, if other deficiencies identified in this letter are resolved. Section 1.5.2 lists other possible land use approvals that may rely on the EIR. However, the Note included in Table 2.0-2 indicates "The round numbers in the EIR reflect the program level of the EIR." Morgan Hill agrees that, with the exception of the initial implementation of the CVSP and the one other exception identified below, the EIR needs to be used only as a program level EIR and amended to so state. For reasons stated throughout this letter, Morgan Hill does not believe the DEIR contains sufficient information to be used for the other possible land use approvals. The exception is modification of the existing development agreements that provide for development of property in Coyote Valley. Amendment to these agreements is necessary for implementation of the CVSP. The DEIR must be amended to specifically address the impacts related to amendment of these documents.

## **Project Description**

Table 2.0-2 of the DEIR indicates the project will include 55,000 jobs and 26,400 housing units. The Introduction to the Traffic Impact Analysis refers to 50,000 jobs and 25,000 housing units and the analysis, itself, refers to 57,060 jobs and 25,500 housing units. The DEIR needs to be amended to clearly state the maximum development levels anticipated and used in its analyses.

## **Consistency with Adopted Plans**

Section 3.7 of the DEIR identifies Morgan Hill General Plan policies that are relevant to adoption of the CVSP. The policies included are those contained in the August 2005 General Plan document. A significant number of additional policies were added to the General Plan in April, 2006 that relate to Coyote Valley development and the Greenbelt between Morgan Hill and San Jose. These policies need to be evaluated in the DEIR.

## **Transportation and Traffic**

Section 4.2.2 addresses the near-term operation of the transportation system by adding the project traffic to the existing volumes and recalculating the density to determine if a significant impact occurs. However, the addition of approximately 780 to 850 CVSP vehicle trips in the northbound direction of Hwy 101 through Morgan Hill during the AM peak hour requires more detailed analysis to evaluate potential impacts. At a minimum, the state-of-the-practice calls for the use of methods described in the Highway Capacity Manual to evaluate freeway mainline and ramp operations, or use of simulation to show the impact of adding volumes exceeding 10 to 12 percent of the freeway capacity. This analysis would very likely show additional freeway impacts in Morgan Hill and other jurisdictions and the need for additional mitigation. The DEIR needs to be revised to include this additional analysis.

Section 4.2.2.11 of the DEIR discusses "traffic spillover" onto streets in the Greenbelt area during project build-out. It does not address spillover traffic onto Morgan Hill streets during build-out. The DEIR identifies traffic congestion on Hwy. 101, northbound in the a.m. peak period as a Significant Unavoidable Impact. This impact will cause spillover traffic onto Morgan Hill city streets. This impact needs to be addressed in the DEIR.

Section 4.2.2.11 also indicates that traffic improvements will be phased "commensurate with what is required for the proposed development phases." The DEIR indicates that because of this phasing of improvements, traffic impacts in the Greenbelt would be "temporary". Without knowing how and when traffic improvements will be phased, it is not possible to determine the level and duration of traffic impacts. Given that the "project" is tantamount to a new city, this "temporal impact" could be years or decades, which certainly cannot be termed a temporary impact. If significant impacts last for extended periods of time, the impact must be considered significant and mitigation

provided. The DEIR must be amended to indicate the timing of improvements in relation to the impacts that will be created.

As identified above, Section 4.2.2.11 addresses the phasing of improvement in the Greenbelt area. It is unclear if the same type of phasing is proposed for areas outside of the Greenbelt. If so, the DEIR needs to be amended to indicate such. Also, as mentioned above, the phasing of improvements must be analyzed relative to the level and duration of impacts that will occur prior to improvement implementation.

In Section 4.2.3, the DEIR includes analysis of a partial buildout of CVSP with 20,000 jobs and 10,000 dwelling units. This analysis does not address any non-automobile modes, so it is not clear if the proposed Caltrain station or the internal transit circulator is part of the Partial CVSP project. This needs to be clarified in the DEIR to determine if the trip generation for this scenario is appropriate.

Transportation Mitigation Measure 12 identifies improvements that would be necessary to improve the Level of Service at the intersection of Old Monterey Rd. with Monterey Rd. to an acceptable level. However, the mitigation does not indicate who will be financially responsible for the improvement, or when funding will be provided and improvement made.

Transportation Mitigation Measure 15 identifies the need for traffic signals at 15 unsignalized intersections, including four in Morgan Hill, due to Plan implementation. The Impact indicates the project would contribute its fair share towards installation of those signals. However, the impact (and associated mitigation measure) does not indicate how the fair share contribution would be determined, who would be responsible for making that contribution or when it would be made. The DEIR needs to be amended to provide this additional information. Relating to this need, Section 4.2.2.4 of the DEIR identifies the Dunne Ave. / Murphy Ave. as needing signalization. This intersection is currently signalized.

Transportation Impact 17 identifies significant Level of Service impacts that would occur to portions of Hwy. 101, including a segment from Tennant Ave. to Dunne Ave. during the a.m. peak period. Section 4.2.5.4 of the DEIR indicates that widening of the highway would be required to mitigate this impact. The section further states, in reference to all segments of Hwy. 101 that would be impacted, that widening would be infeasible because it would require the relocation of "hundreds of residences and businesses." It is not possible for the City to evaluate the "infeasibility" of the mitigation for the significantly impacted segment in Morgan Hill, including the need for relocation, without knowing the specific widening that would be required. The DEIR needs to be amended to provide this information.

In order to mitigate the impacts to Hwy. 101, Mitigation Measure 17 proposes transit improvements. However, the transit improvements proposed are not under the jurisdiction of the City and no indication is given regarding how the improvements would be implemented.

Section 4.2.5.4 further indicates that the significance of the impacts to Hwy. 101 and “the associated costs make this mitigation infeasible for one project to implement”. If this “project” was a single use on a single parcel, Morgan Hill would agree. However, this “project” constitutes development of a new “city” the size of Mountain View. It is not unreasonable for a project of this size to contribute to freeway improvements. Alternative mitigation involving partial widening of Hwy. 101 and/or ramp metering need to be evaluated and, if feasible, incorporated into the project, even if it would not improve the impact to a less than significant level.

Section 4.2.2.7 of the DEIR indicates that approximately 3,250 trips would be made daily using transit and originating outside of Coyote Valley and ending in the Valley. Page vii of Appendix C, the Transportation Impact Analysis, indicates that “contra flow (CalTrain) service will be operational by the time the full CVSP development is completed.” It is unclear if this transit ridership was factored into the traffic analysis and, if so, at what year during the build-out process. The DEIR needs to be amended to provide this information and ensure that these transit trips were not counted before the contra flow service will be available.

The City of San Jose General Plan analysis was conducted to determine how such a substantial change to the General Plan (i.e., the addition of the project) would affect the City’s overall transportation network. In Section 6.2.4, the DEIR describes the North San Jose Redevelopment Policies project as a recently approved project that ultimately will add approximately 26 million square feet of commercial development and 32,000 dwelling units at buildout. However, the text does not indicate the level of development included in technical analysis and needs to be provided for clarity.

The ability for traffic to use key routes (Hwy 101, Monterey Rd., Santa Teresa Blvd., and Bailey Rd.) to access Coyote Valley has the potential to impact traffic in Morgan Hill. Although representatives of Hexagon Transportation Consultants indicate that Bailey Rd. was configured in the traffic model as a two-lane roadway, this status is unclear in the DEIR. The text of the DEIR needs to be modified to clearly state how Bailey was modeled and analyzed. In addition, in order to better understand the importance and effect of the Bailey connection, the transportation analysis needs to be expanded to include a sensitivity analysis with a higher capacity (i.e., 4 and/or 6 lanes).

The information in Section 6.0 (Cumulative Impacts) only refers to impact thresholds used by the City of San Jose for their General Plan analysis and provides limited information to the public or decision-makers in other jurisdictions as to the magnitude of impacts outside the City. Changes in cordon line and screenline volumes are presented

but specific changes (i.e., mitigation) to facilities are not identified. The DEIR needs to include some level of mitigation for cumulative impacts.

The DEIR does not include any reference to the Year 2030 analysis in Section 4.2 (Transportation and Traffic) or in Section 6.3.2 (Cumulative Transportation and Traffic Impacts). This analysis was included as Appendix G to the TIA (which is Appendix C to the DEIR) and is only referred to in the conclusions section of the TIA. This analysis is critical to determining the long-term cumulative traffic needs in Morgan Hill with additional growth in south Santa Clara County, and needs to be fully incorporated into the DEIR. The 2030 analysis only addressed freeway and roadway segment volumes and did not analyze intersection operations. While using this approach is helpful from an overall planning perspective, it does not allow Morgan Hill and other adjacent jurisdictions, or San Jose for that matter, to determine specific improvements at each of their intersections that will be needed to accommodate project-generated and cumulative traffic volumes. The DEIR needs to be revised to include roadway segment mitigation at a minimum and long-term intersection analysis at critical locations south of the project site in Morgan Hill along Monterey Road, Cochrane Road, and Hale Avenue/Santa Teresa Boulevard.

Roadway segments listed as operating at LOS E or F in the Year 2030 analysis (Appendix G to the TIA) are also shown as congested link sets in the Long-Term Cumulative Impact Summary (Table 6.0-4 in the DEIR). However, the volume change in Table 6.0-4 for Link Sets 16 and 17 (N of Cochrane- NB and SB) is either negative or zero, and no impacts are identified. This result does not make sense since a substantial amount of CVSP traffic is expected to use US 101, Monterey Road, and Santa Teresa Boulevard south of the project site. In addition, Table G-10 (in Appendix G to Appendix C of the DEIR) presents the 2030 analysis and includes *increased* traffic on all three of these roadways with the proposed project. This inconsistency needs to be investigated and explained.

The 2030 roadway segment analysis in Table G-10 (in Appendix G to Appendix C of the DEIR) incorrectly identifies Monterey Road between Cochrane Road and Old Monterey Road as having two lanes in the southbound direction with a capacity of 2,400 vehicles per hour (vph). This segment narrows from two to one along this segment and needs to be listed with a capacity of 1,200 vph. This change would cause the segment to operate LOS F during one or both peak hours under constrained and unconstrained conditions, resulting in an additional impact and requiring mitigation. The DEIR analysis needs to be revised to include this correction.

Summary of Transportation and Traffic Comments: Based on the recent legal decision regarding the North San Jose project, we believe that the DEIR evaluation of transportation impacts and mitigation measures is inadequate. The major inadequacies include the following:

- It fails to identify the impact of exacerbating excessive congestion in the Hwy 101 corridor and the resulting diversion to Monterey Rd. and Santa Teresa Blvd (among other local facilities), and
- It does not provide adequate mitigation for traffic impacts outside the CVSP area and San Jose. Specifically, no physical improvements for significant freeway and roadway segment impacts are identified in the Transportation Impact Analysis or DEIR under near-term or cumulative conditions.

The documentation defers to future improvements identified in the on-going South County Circulation Study and no commitment of funding is provided for any regional improvement. In addition, no phasing plan is provided that would link future mitigation with specific levels of development to ensure timely installation of transportation improvements.

San Jose has set a precedent with other major studies by establishing comprehensive roadway improvement programs and funding mechanisms for improvements in San Jose and in other jurisdictions. The DEIR does not clearly state which external improvements will be funded, and the technical assumptions rely on transit and project design to help alleviate future congestion on regional facilities. If excessive congestion occurs on Hwy 101 similar to that of the late 1990's and early 2000's, diversion to Monterey Rd. and Santa Teresa Blvd. will occur at a higher level than identified in the transportation analysis and other mitigation will be required. While it is correct that substantial additional growth planned in Morgan Hill and Gilroy will contribute to congestion in the Hwy 101 corridor, processing of the CVSP as a specific project at this time requires that the DEIR address all cumulative impacts and identify mitigation measures and funding to minimize those impacts. At a minimum, the CVSP project could fund ramp metering through the corridor, auxiliary lanes between interchanges and other improvements to reduce future congestion in the Hwy 101 corridor.

The DEIR needs to be modified to address these issues.

### **Noise and Vibration**

Section 4.3.3.1 identifies the threshold of significance for noise impacts to be an increase of 3 dBA DNL or an increase that causes ambient noise levels to exceed guidelines adopted in the General Plan (60 dBA DNL). Section 4.3.3.4 of the DEIR evaluates the significance of long-term noise impacts outside of the development area. This Section defines significant noise impacts to include roadways where current noise levels exceed the General Plan standard of 60 dBA and where project related noise would increase the ambient level by 3 dBA. The standard of significance in Section 4.3.3.4 is inconsistent with the standard identified in Section 4.3.3.1 and the San Jose and Morgan Hill General Plans. All traffic noise impacts that would increase ambient noise levels by more than 3 dBA OR exceed the City's standard of 60 dBA DNL (even if by a single dBA) needs to be evaluated and mitigated.

Further, Noise Mitigation Measure 8-1 indicates that mitigation for roadway noise impacts outside of the CVSP area may not be feasible in all locations and that the determination of feasibility will be based on a “detailed study of the affected roadway segments to be completed prior to the project-level design review process.” Roadway noise levels will increase gradually during the build-out process for Coyote Valley. The mitigation measure does not indicate at what time or upon the review of which project the detailed study would occur. Nor does the mitigation identify responsibility for mitigation where it is found to be feasible. The DEIR must be modified to provide specific information regarding the timing of mitigation and responsibility for its funding.

### **Air Quality**

Section 4.4.3.1 of the Air Quality section of the DEIR indicates that an air quality impact is considered significant if it would “expose sensitive receptors ... to substantial levels of toxic air contaminants (TACs)”. Section 4.4.2 indicates that Hwy. 101 produces significant amounts TACs due to the amount of traffic it carries and that residences are considered sensitive receptors. As a result, the Section indicates that sensitive receptors should not be located within 500 feet of the Hwy. Section 4.4.3.4 indicates that “the project would not result in the long-term exposure of the general public to substantial levels of mobile TACs because the project does not propose any development within 500 feet of Hwy 101. The DEIR needs to be amended to evaluate the impact of TACs on existing residences that are located within 500 feet of Hwy. 101 in Morgan Hill.

### **Water Supply**

The description of the project and the Water Supply section needs to be revised to include a description of the proposed project’s water supply. The DEIR is unclear on which water supply elements are included in the project and which ones are not. An adequate and accurate environmental analysis is not possible without a clear and complete description of the project. The water supply description needs to include a discussion of water demands and all the different water sources that may be used to meet or reduce those demands, including groundwater from the Coyote Sub basin, recycled water, aggressive conservation, groundwater from the Santa Clara Sub basin, and treated surface water. In addition, the description needs to include planned measures to avoid and/or minimize adverse impacts, including additional groundwater recharge to avoid groundwater overdraft and advanced recycled water treatment to protect groundwater quality. The impacts associated with the mitigation measures also need to be evaluated. Lastly, water supply facilities need to be treated in a manner comparable to other new facilities necessitated by the project and be included in the financing plan for the project.

Section 4.16.2.3 of the DEIR identifies recycled water from SCRWA as a source of up to 4,100 afy of the recycled water proposed for meeting increased water demands in Coyote Valley. The South County Recycled Water Master Plan, a joint effort by SCRWA and the District, does not include exporting water to the Coyote Sub basin, and the Master Plan would need to be amended before any further consideration by SCRWA. The

CVSP DEIR needs to evaluate the potential impacts of delivering and using recycled water from SCRWA in the Coyote Sub basin. At a minimum, the DEIR needs to evaluate impacts on groundwater supply and quality in the Llagas Groundwater Sub basin, impacts to the Bolsa Groundwater Sub basin, and impacts on recycled water quality associated with disposing of advanced treatment brine in the San Jose/Santa Clara sewer system. Mitigation measures for impacts associated with the use of recycled water from SCRWA need to be described in the DEIR. Lastly, please correct the name of the South County agency referred to in the DEIR as the "South County Water Recycled Agency" to its proper name, the "South County Regional Wastewater Authority."

### **Energy and Mineral Resources**

The wording of Impact EMR – 2 as contained on page 397 of the DEIR is inconsistent with the wording of that Impact in the Summary section of the DEIR. Morgan Hill believes the wording contained in the Energy and Mineral Resources section of the DEIR accurately describes the projected impact and that the document needs to be amended to correct this inconsistency.

### **Project Alternatives**

The No Project Alternative, Section 5.2, defines this alternative to allow development of the North Coyote Campus Industrial Area with up to 50,000 jobs. While this treatment is appropriate for one "no project" scenario, that Alternative must also be evaluated from the perspective of the development and jobs existing at the time the Notice of Preparation was issued, without any assumption of further development, as required by Section 15126.6(e)(2) of the CEQA Guidelines.

Section 5.2 addresses the No Project Alternative. This Alternative would allow 50,000 jobs to be created in the North Coyote Campus Industrial Area and no additional housing units. Section 5.2.1.2 indicates that this alternative "would result in fewer significant unavoidable traffic impacts than the proposed CVSP project, because the No Project Alternative does not include 25,000 housing units." Section 4.12.3.2, Energy Impacts of the Proposed CVSP, indicates that "From a regional land use perspective, providing additional housing in San Jose may also lead to some reduction in transportation-related energy consumption. This conclusion is based on the fact that the region has a surplus of jobs in relation to housing, which has been a contributing factor in the decision of many people who are employed in the greater Santa Clara County area to purchase homes in more distant locales." These two statements appear to be contradictory. The DEIR needs to clarify this apparent inconsistency. In addition, Section 5.2.1.2 indicates that the No Project Alternative "would not encourage traffic trips in the reverse commute (non-peak) direction." If this is correct, it appears that traffic congestion in South County would be worse than under Project conditions. This potential needs to be further evaluated and discussed in the DEIR.

Section 5.4.1.12 describes the feasibility of Reduced Scale Alternative II. This Section indicates that this Alternative may not be financially feasible due to the cost of extending infrastructure to the Urban Reserve solely for residential development. At several of the CVSP Task Force meetings, the City's economic consultant indicated that residential development, not commercial and industrial development, would pay for the infrastructure needed to develop the Urban Reserve. That statement appears inconsistent with the assertion in this Section of the DEIR and needs to be corrected.

All of the proposed Project Alternatives would provide more jobs in Coyote Valley than housing opportunities for Valley employees. San Jose currently has more employed residents than jobs and the intent of the CVSP is to correct this imbalance. However, as indicated in Section 4.12.3.2 (referenced above), the region has a surplus of jobs in relation to housing, which has contributed the decision of many people who are employed in the greater Santa Clara County area to purchase homes in more distant locales. As a result, all of the Project Alternatives will exacerbate existing traffic problems. As such, the DEIR needs to be amended to include at least one Project Alternative that provides a balance between jobs and employed residents or more employed residents than jobs.

The significant impacts associated with each of the Project Alternatives have been compared qualitatively against the impacts of the CVSP. In order to better understand the relative benefits of the Alternatives, the associated impacts of each Alternative needs to be expressed in quantitative terms.

### **Growth-Inducing Impacts**

Section 7.2 of the DEIR indicates that the project "would not allow enough new housing to fully serve all of the new jobs that would be allowed in the Coyote Valley. This Section further suggests that the additional housing could be accommodated in Morgan Hill and other locations and that Morgan Hill General Plan anticipates additional residential growth. The additional housing envisioned in the Morgan Hill General Plan is intended to accommodate employees of future jobs in Morgan Hill, not San Jose. The growth inducing impacts of this additional housing demand in Morgan Hill needs to be assessed and appropriate mitigation measures adopted.

### **General Comments**

Adoption as a Specific Plan: Page 10 of the Coyote Valley Specific Plan – Initial Draft indicates the intent to adopt the Plan as a Specific Plan as defined in the Government Code Section 65451(a)(4). One of the requirements of that type of plan is that it includes "A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out (the project)." Section 2.1.6 of the DEIR indicates that "The financing, phasing and implementation strategies for the CVSP are under preparation." Lacking those strategies, the CVSP cannot be adopted as Specific Plan as defined by State law.

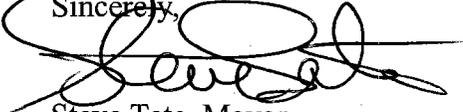
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**Adequacy of Mitigation Measures:** The DEIR identifies many significant impacts that will result from build-out of the CVSP. However, the document does not identify when impacts will occur, how the mitigation measures for those impacts will be funded or when they will be implemented. Lacking this information, it is not possible to determine the magnitude or duration of project impacts that will occur. In addition, the lack of specificity in the mitigation measures brings into question the responsibility and/or feasibility of their implementation. Throughout the DEIR, mitigation measures need to be amended to indicate when impacts are anticipated to reach a significant level, when mitigation is proposed to occur and who is responsible for funding and implementing the mitigation. With this level of additional information, the DEIR needs to be re-circulated for public review and comment.

**Preferred Alternative Plan:** The Coyote Valley Specific Plan is a massive project that will ultimately be the size of Mountain View. Build-out of the Plan is anticipated to take between 30 and 50 years. Most general plans use a time horizon of 20 years in recognition of the increased difficulty of predicting social, economic or technological changes further into the future.

The Draft EIR includes two Project Alternatives that propose a level of development that could occur within a 20 to 25 year time period. One of these, Alternative I, proposes 20,000 jobs and 10,000 housing units in the portion of Coyote Valley that is currently within the city limits and urban service area and is planned for office/industrial development. The DEIR indicates that this is the environmentally superior alternative. One version of this Alternative calls for the creation of a mixed use planned community similar to the CVSP, but on a smaller scale. Should the City decide to prepare the implementation program discussed above and adopt the CVSP as a Specific Plan, limiting the size and scope as identified in Alternative I appears to have significant benefit to San Jose and South County. The shorter time horizon will make the potential impacts be easier to predict and mitigate and will allow for creation of a financing plan that will be more grounded in realistic projections, and thus supportable by banks and investors. In addition, the reduced scale of the project would significantly reduce the number and magnitude of impacts on South County.

If you have any questions regarding our comments, please contact Kathy Molloy Previsich, our Community Development Director or David Bischoff, our project planner at 779-7247. Thank you for your serious consideration of our comments.

Sincerely,  
  
Steve Tate, Mayor

C: City Council  
City Manager  
Community Development Director