



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: AGRICULTURAL LAND
CONVERSION AND MITIGATION

DATE: January 20, 2006

Approved

Date

Council District: Citywide
SNI: None

INFORMATION

BACKGROUND

The conversion of agricultural land to urban land uses has been a long-standing issue in Santa Clara County and the City of San Jose. Prime soils, which have the ability to produce common cultivated crops without deterioration over a long period of time, underlie most of San Jose. The San Jose 2020 General Plan, and its predecessors going back to 1975, acknowledges that the preservation of all prime soil land would mean a virtual halt to urbanization and is not a reasonable goal. However, the stated goal is to “avoid the premature conversion of agricultural land to urban uses”. The policies of the General Plan, such as the Urban Reserve Land Use/Transportation Diagram designation, have protected such lands until the appropriate time for development.

Under CEQA, a project may be considered to have a significant environmental effect if it will result in the loss of agricultural land. The Environmental Impact Reports (EIRs) prepared by the City as the lead agency over the past decade, such as the adoption of the San Jose 2020 General Plan, the Coyote Valley Research Park, Moitozo Ranch Residential Project and McKean Road Sports Complex to name a few, have all identified the loss of the prime farm lands in the respective areas as a significant environmental impact. The practice of the City has been to conclude that the impact was significant and unavoidable in that there were no feasible mitigation measures to reduce the impact to a less than significant level.

In conjunction with several very large pending projects, review of recent CEQA case law and awareness of the changing practices by other cities around the state, the Director of Planning, as the City’s CEQA administrator, has reviewed the City’s practice in analyzing environmental impacts arising from the conversion of agricultural land to non-agricultural uses for possible update. Staff has also reassessed the feasibility of various mitigation measures utilized in other

communities and their respective ability to reduce the level of significance for agricultural land conversions.

ANALYSIS

The term Agricultural land, as used in this memo, is defined by the California Environmental Quality Act (CEQA) as those lands that are designated “Prime”, “Unique Farmland”, and lands of “Statewide and Local Importance” by the State Department of Conservation as shown on their latest “Important Farmland Map”, updated in 2005. This also includes land that has been used for agriculture, but has not been irrigated for four years, as defined by the California State Farmland Mapping Program.

CEQA was enacted to ensure that information on the potential environmental impacts of a proposed project is identified for the decisions maker and the public and to help implement mitigations that would lessen the environmental impacts of the project. In this manner, CEQA plays an important role in the preservation of agricultural land by ensuring that significant effects on the environment of agricultural land conversions are qualitatively and consistently considered in the environmental review process. CEQA requires the avoidance and/or minimization of significant impacts when those impacts can be feasibly mitigated.

CEQA provides the City with a substantial amount of authority and discretion, and is intended for use in conjunction with powers granted to the City by other laws. CEQA supplements the City’s land use approval powers by authorizing the City to use its discretionary powers to mitigate or avoid significant effects on the environment, when it is feasible to do so, with respect to projects subject to the City’s powers. The City, as a lead agency acting in conformance with the CEQA statutes, makes the decision of when to require an EIR, establish thresholds of significance, determine levels of impact significance, determine the feasibility of mitigation measures, and approve projects despite significant unmitigated environmental effects.

Title 21 of the San Jose Municipal Code (Environmental Clearance) implements the provisions of the California Environmental Quality Act (CEQA) and the CEQA guidelines. This title designates the Director of Planning as responsible for environmental clearance in the City of San Jose under the Municipal Code and CEQA. The Director of Planning is responsible for the identification of projects with potentially significant environmental impacts and the initial decision to require an EIR.

City of San Jose's Current CEQA Practice

The current policy of the City of San Jose is to consider the loss of agricultural land a significant unavoidable impact, which cannot be mitigated (refer to Option no. I on page 9). The City has approved projects despite this significant effect without any requirement to provide any mitigation for the conversion of agricultural land. It has been the City's view that the loss of agricultural land cannot reasonably be considered replaced by simply protecting other existing agricultural land, regardless of the mechanism employed (agricultural easements or outright fee title purchase). While securing the on-going use of existing agricultural at a particular ratio may protect those lands from future conversion, this does not offset the net reduction of the loss of agricultural land by replacing the land lost to urban development. Other jurisdictions utilize this same line of thinking, which the courts have upheld.

The vast majority of San Jose's land designated as "Prime", "Unique", or farmland of "Statewide Importance" by the State Department of Conservation is located in Coyote Valley, and to a much lesser extent in the South Almaden and Evergreen Valleys. Another primary reason the City does not (and has not) require mitigation for the loss of agricultural land is due to the fact that the majority of those converted lands have been located on small, isolated infill sites surrounded by urban development. Therefore, the long-term agricultural viability of those lands was not considered high. The currently pending large projects, particularly Coyote Valley and to a lesser extent Evergreen, have a long history of agricultural operations and uses. This uniqueness warrants reconsideration of how the City's environmental review process treats the conversion of agricultural land.

Staff's preliminary estimate for the amount of agricultural land Citywide is approximately 3,540 acres. Of these 3,540 acres of agricultural land citywide, approximately 525 acres, including about 30 acres in Evergreen, have existing entitlements but remain undeveloped, 295 acres are owned by the Santa Clara County Parks and the State Department of Parks and Recreation (former Lester property), 345 acres are located in the South Almaden Valley Urban Reserve, and approximately 2,330 acres are located in Coyote Valley (see map). In some cases there are parcels of land that are not being actively used and would be considered fallow. Properties that are under existing agricultural production, or are vacant, and meet the definition of an agricultural property generally range from approximately 300 acres to less than 5 acre lots.

Defining the Level of Significance

CEQA encourages a public (lead) agency to adopt thresholds of significance to be used in the determination of the significance of environmental effects of projects. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular effect, non-compliance with which means the effect will normally be determined to be significant by the agency and the compliance with which means the effect will normally be determined to be less than significant.

Staff intends to begin using the California Agricultural Land Evaluation and Site Assessment Model (LESA) of 1997 to assess environmental impacts of conversion of agricultural land. The Land Evaluation and Site Assessment (LESA) criteria were initially developed by the U.S. Natural Resources Conservation Service, which the State Department of Conservation used to formulate a state model LESA system. This model is intended by CEQA to provide lead agencies with a standardized methodology to ensure that significant effects on the environment of agricultural land conversions are quantitatively and consistently considered in the environmental review process. This methodology will be used to analyze the pending Evergreen – East Hills Vision Strategy Project, as well as the Coyote Valley Specific Plan.

The LESA Model uses six different factors to rate the significance of the proposed land conversions. There are two “Land Evaluation” factors that are based upon measures of soil resource quality and capability and weighted at 50%. The other 50% is comprised of four “Site Assessment” factors based on the project size, water resource availability, surrounding agricultural lands, and the amount of protected resource lands surrounding the project site/area. Each of these six factors are rated separately on a 100-point scale and subsequently weighted relative to one another and combined, resulting in a single numeric score with a maximum attainable score of 100 points. This overall score is the basis for making a determination of the project’s potential significance related to land conversion.

The LESA Model thresholds are dependant upon the attainment of a minimum score for the Land Evaluation and the Site Assessment factors. Both factors are weighted equally (50/50) so that no single subscore can heavily skew the final results. The model establishes scoring thresholds for determining significance when a project would convert agricultural land to non-agricultural uses. A score greater than 39.0 points would be automatically considered significant by the model. However, it is important to note that the adopted San Jose 2020 General Plan goal is to avoid the “premature” conversion of agricultural lands.

Based on a preliminary citywide assessment, the conversion of approximately 3,540 acres of agricultural land would be forecasted as a potentially significant impact. Staff intends to use the LESA model as a quantitative indicator tool, but also consider other relevant factors on a case-by-case basis. Staff will regard projects scoring less than 39 points to be exempt for purposes of agricultural land conversion and require no further analysis or review. For this reason, small infill projects would not have a potentially significant impact and be considered otherwise exempt. Other relevant qualitative factors, such as the existence of surrounding protected farmlands, will be considered for projects scoring 39 points or higher prior to making a final impact significance determination.

Those projects that exceed the threshold of significance would typically be required to prepare an EIR. For these projects, staff would impose a specified amount (to be determined, see Option no. IV on page 9) of mitigation to partially minimize or reduce the potentially significant impact, due to the loss of agricultural land. However, this mitigation measure would not be considered feasible to actually lessen or avoid the potentially significant impact to a less than significant level. Therefore, the approval of projects with significant agricultural land conversion impacts

would require the decision maker to identify how the expected project benefits outweigh the policy of reducing or avoiding the significant conversion of agricultural land by the proposed project.

Other Jurisdictional Policies/Practices

Staff has conducted a survey of some northern California cities to obtain information regarding an appropriate amount of mitigation to require. Staff identified the mitigation policies of the Cities of Gilroy, Livermore, Davis, and Fairfield as potential benchmarks to determine a mitigation policy and/or agricultural preservation policy for the loss of agricultural land in San Jose. The communities surveyed are in various stages of growth and have various goals related to the type of growth that they envision in each community. These Cities were chosen based on their reputation of being agriculturally based communities which are experiencing, or have experienced, pressures to convert their supply of agricultural land to nonagricultural uses. They share some common landscapes and urban surroundings with San Jose.

Findings of the survey are described below. Although the following jurisdictions provide for and require mitigation when converting agricultural land to a non-agricultural use, the environmental clearance documents for such projects make no findings that the mitigation reduces the impact of conversion to a less than significant level.

- City of Gilroy Agriculture Mitigation – The City of Gilroy is currently requiring a 1:1 ratio and/or an in-lieu fee for lands converted from agricultural use or zoning to a nonagricultural use. The in-lieu fee is currently based upon the lowest appraisal of purchasing development rights. The City of Gilroy also allows for a developer to purchase development rights at a 1:1 ratio on agricultural land and transfer of ownership of those rights to the Open Space Authority or other City approved agency.
- City of Livermore Agriculture Mitigation – The City of Livermore is requiring the planting of new agricultural land at a 1:1 ratio and/or an in-lieu fee per new dwelling unit (approximately \$40k per unit/acre) for agricultural land converted to a nonagricultural land in the South Livermore area. Additionally, the developers are required to arrange for the maintenance of the new agricultural planting for a period of at least eight years. This mitigation policy applies to approximately 1,900 acres located in the South Livermore area allowing for development of up to 481 acres accommodating 1,200 housing units. The South Livermore Valley Agricultural Land Trust was formed to assist in the negotiation and purchase of these mitigation easements and hold jointly with the City of Livermore.
- City of Davis Agriculture Mitigation – The City of Davis is requiring a 2:1 ratio and/or an in-lieu fee based on a per capita formula similar to a typical parkland dedication requirement. The City of Davis additionally passed Measure O in 2000. Measure O is a special tax for an annual \$24 tax per household to pay for open space acquisition. Measure O is not considered a “mitigation measure” but rather a pro-active approach by the City to maintain a sufficient amount of open space either as agriculture and/or habitat areas for wildlife (“banking”).

According to the City, the tax revenue generated from Measure O is expected to produce approximately \$17.5 million over the next 30 years.

- City of Fairfield Agriculture Mitigation – The City of Fairfield requires mitigation at a 1:1 ratio. The City of Fairfield also established an initial Mello-Roos (Capital Facilities District) in 1995, which requires a fee of \$80 per dwelling unit with no inflation adjustment. Additional Mello-Roos (CFDs) have been incorporated which have accounted for allowing increases (inflation rate) to address raising land costs. These new Mello-Roos fees are currently up to \$120.00 per dwelling unit. The Mello-Roos tax is not considered a special assessment, and therefore there is no requirement that the tax be apportioned on the basis of property benefit.

Next Steps

For the appropriate next steps, staff has identified, as a first priority, the need to engage in discussions with appropriate stakeholders to determine potentially feasible mitigation measures for incorporation into projects that would lessen, but not reduce to a less than significant level, significant environmental impacts to agricultural lands. The measures to be discussed could include acquisition of agricultural conservation easements or land in fee, mitigation ratios, identification of acceptable techniques for implementation (fee acquisition, easements, etc.), methods for the provision for long term agricultural use and management, locating an adequate supply of mitigation land, and so forth. If an in-lieu fee was proposed to be established, a nexus study would be required prior to implementing such a proposal.

Agricultural conservation easements, purchased as a mitigation requirement, should ideally be purchased or maintained within the Santa Clara County boundaries in order to preserve and protect the remaining agricultural resources in our county, which are subject to strong development interests. Agricultural mitigation land should be counted towards the fulfillment of multiple mitigation requirements, such as open space preservation, habitat conservation, storm water quality and flood control if the lands being preserved allow the appropriate applicable criteria to be met.

A mitigation requirement that includes the purchase of agricultural conservation easements or farmland in fee-title would require the effective management of these lands. Effective management would involve the protection and sustaining of these lands in perpetuity, through an Acquisition and Implementation Management Plan. An Acquisition and Implementation Management Plan would be prepared as part of any Mitigation Monitoring and Reporting Program.

PUBLIC OUTREACH

The information in this memo has been presented to the Coyote Valley Specific Plan Task Force (January 9), at a CVSP community meeting (January 12), and to the Developers' Roundtable

(January 13). Staff stated at all of these meetings that the next step is to engage in a public discussion with property owners with lands that appear to qualify under the screening of agricultural lands conducted by staff. The future meetings would address the intended application of the LESA model, the initial results of the model, and the ability for owners to provide information on their property that might modify the results of the LESA model and to discuss potential measures that might lessen impacts to prime farmland conversion from developing their property.

The CVSP Task Force was generally supportive of the concepts but wanted to wait until the public meetings were concluded before making any formal recommendation. There were no substantial or relevant comments made at the community meeting. The development community stated a preference for not changing the City's current practice due to potential impediments for desirable development in accordance with the General Plan. However, they acknowledged that the Coyote Valley is unique and warrants consideration for a different approach to the conversion of agricultural lands. As a group, the developers present at the roundtable were opposed to the imposition of a "one size fits all" mitigation ratio. A letter from Berg and Berg (Myron Crawford) is attached to this memo.

Discussions would also include the environmental and open space community. At a recent CVSP environmental focus group meeting a representative from the Committee for Green Foothills presented options for addressing conversion of agricultural lands in Coyote Valley (see attached letter). Other such letters, which addressed agricultural issues, were submitted in response to the CVSP EIR Notice of Preparation and are attached for your review.

COORDINATION

The preparation of this memorandum was coordinated with the City Attorney's Office and CVSP Task Force. It will be coordinated with the CVSP Technical Advisory Committee, the CVSP Environmental Focus Group, appropriate business organizations and affected property owners during the public outreach efforts.

COST IMPLICATIONS

There are no initial cost implications to the City because any mitigation measures for agricultural land conversion will be required in conjunction with and as a result of development proposals that result in significant impacts. This CEQA methodology would be applicable to City owned property and projects, which convert agricultural land as described. A nexus study may be required for the implementation of an in-lieu fee if such a fee were chosen to implement a broader agricultural land preservation program on a citywide basis.

CEQA

This is not a project under CEQA.

OUTCOMES

The intended outcome is to establish and implement a methodology to determine potentially significant environmental impacts for the conversion of agricultural land as defined by CEQA.

JOSEPH HORWEDEL, ACTING DIRECTOR
Planning, Building and Code Enforcement

Attachments:

1. Potential Agricultural Land Conversion Map
2. LAFCO NOP Letter
3. Department of Conservation NOP Letter
4. Committee for Green Foothills Letter (2)
5. Greenbelt Alliance NOP Letter
6. Berg and Berg Letter

AGRICULTURAL LAND MITIGATION STRATEGY OPTIONS

1. *“No Change” Strategy Option I* - Strategy I represents no change in current City policy and would continue to take the approach that it is infeasible to mitigate the loss of agricultural land conversion. Under this approach no mitigation would be required and the loss of agricultural land would be considered a significant and unavoidable environmental impact.

2. *Strategy Option II* – An argument could be made that the preservation of farmland outside of the developed CVSP area is feasible. The second strategy involves developing certain preservation and other mitigation measures that are considered feasible, and concluding that the loss of agricultural land, although significant, would be reduced to a level that is less than significant with mitigation. Mitigation measures could include preserving agricultural lands within the greenbelt at a ratio less than 1:1, preservation of some agricultural land within the developed area, and measures for the management of the preserves. However, a strong argument can be made that preserving “existing” agricultural lands does result in no “net” loss of agricultural lands and cannot technically reduce the environmental impact to a less than significant level.

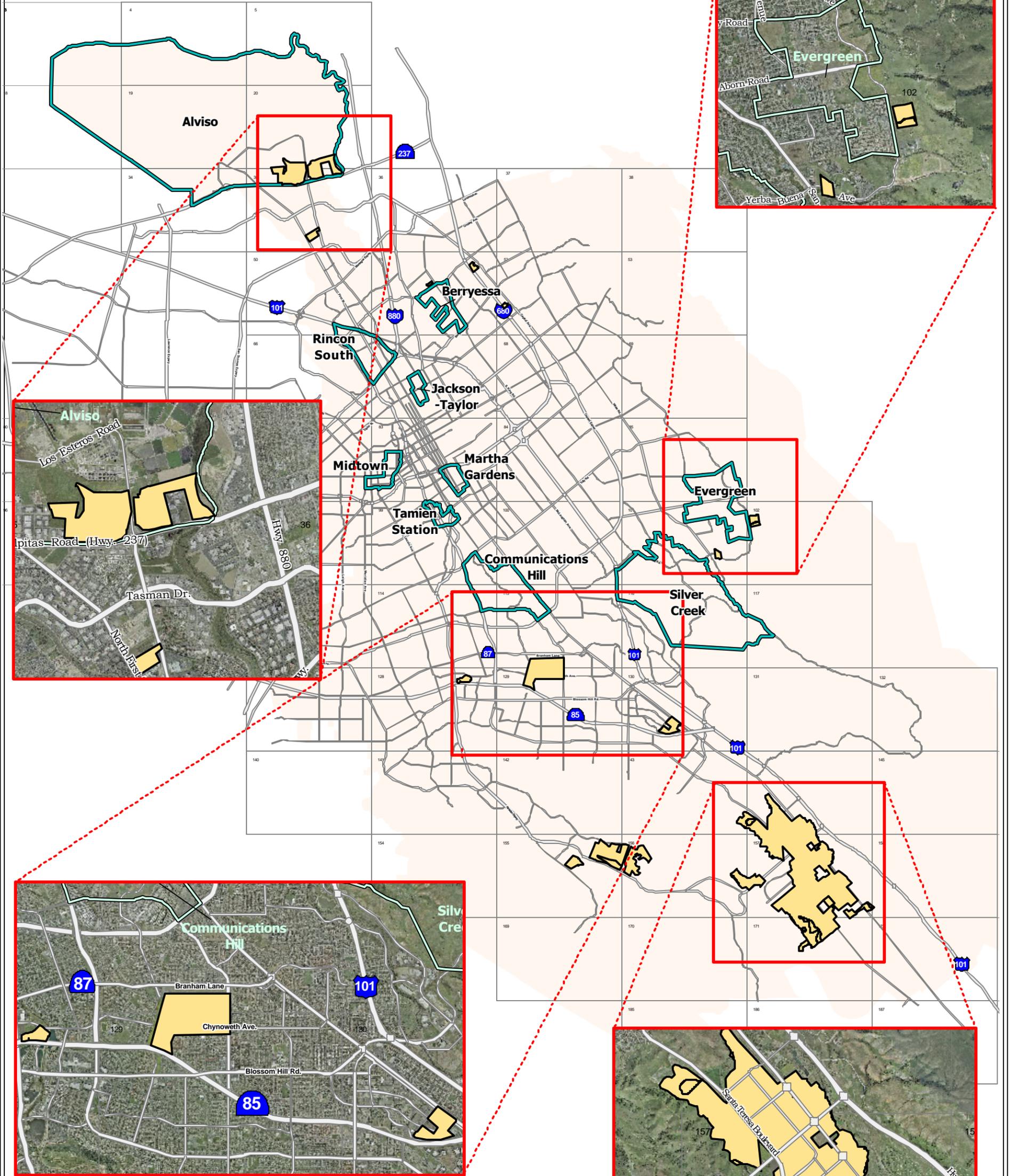
3. *Strategy Option III* - This alternative strategy would involve adopting the mitigation measures in Strategy II as feasible measures, but would conclude that even with the adoption of these measures, the impact would be significant and unavoidable.

4. *Strategy Option IV* –This alternative strategy would provide for the preservation of agricultural land at a ratio of 1 acre: 1 acre, or something more than 1:1, but nevertheless would treat the impact as significant and unavoidable. This alternative appears to most appropriately assess the level of significance, as well as attaining mitigation at a ratio of 1:1 or greater. This option would be the most expensive. This option would require findings for a Statement of Overriding Consideration.

**SUMMARY TABLE 1
 MITIGATION OPTIONS FOR AGRICULTURAL CONVERSION**

OPTION	MITIGATION	REDUCE SIGNIFICANCE	ADOPT OVERRIDING CONSIDERATIONS
I	None	No, significant unavoidable	Yes
II	Yes (less than 1:1)	Yes, less than significant	No
III	Yes (less than 1:1)	No, significant unavoidable	Yes
IV	Yes (greater than 1:1)	No, significant unavoidable	Yes

Potential Agricultural Land Conversion in San Jose



LEGEND

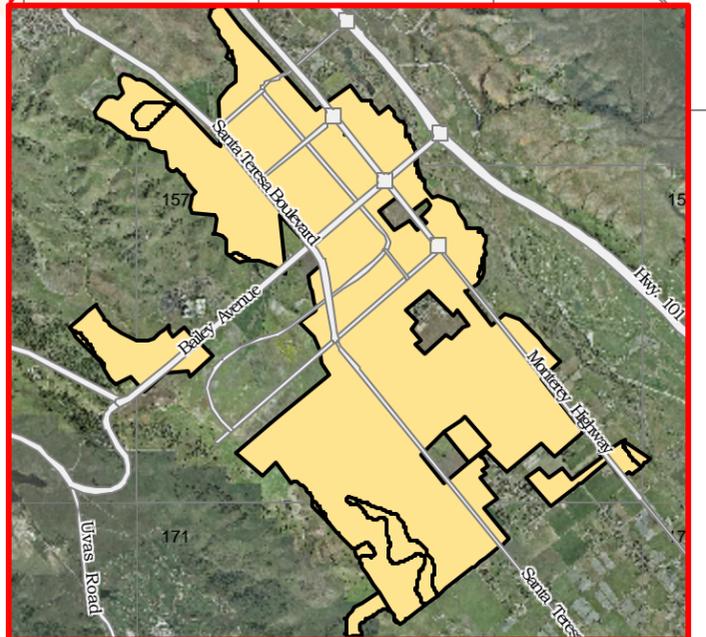
-  Agricultural Lands
-  Planned Communities
-  City of San Jose

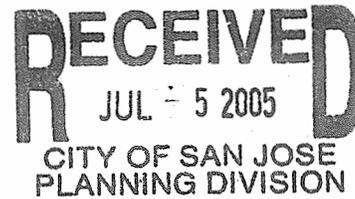


Source: U.S. Department of Agriculture - NRCS
Natural Resources Conservation Service, 2004

Prepared by: City of San Jose, Dept of Planning,
Building and Code Enforcement. Dec 22, 2005

Scale: 1 Inch = 11,700 Feet





June 30, 2005

Darryl Boyd, Principal Planner
San Jose Planning Department
City of San Jose
801 N. First Street
San Jose, CA 95110-1704

Re: Comments on the Scope of the EIR for San Jose's Coyote Valley Specific Plan (CVSP)

Dear Mr. Boyd:

Thank you for providing the Local Agency Formation Commission of Santa Clara County (LAFCO) with the opportunity to provide input on the scope and content of environmental information to be addressed in the Environmental Impact Report (EIR) for the Coyote Valley Specific Plan.

The current scoping and preparation period for the Draft Environmental Impact Report provides an opportunity for LAFCO to inform the City about the issues that LAFCO will be considering as part of the Urban Service Area amendment and annexation process. LAFCO provides these preliminary comments to the City at this time, so that the City can consider them during the fiscal and environmental impacts analysis process and address them in the Coyote Valley Specific Plan.

BACKGROUND

LAFCO staff has been attending the Coyote Valley Specific Plan community workshops and participating on the CVSP Technical Advisory Committee in order to stay informed about the development of the specific plan and to provide input where appropriate.

According to City staff:

- The City Council is tentatively expected to consider adopting the CVSP in Spring 2006. Once the CVSP is adopted, the City then plans to apply to LAFCO to expand its Urban Service Area boundary and to annex the mid-Coyote Urban Reserve in Winter 2006,

- The City will be preparing an Environmental Impact Report (EIR) for the CVSP and expects to start the scoping and preparation of the Draft Environmental Impact Report (DEIR) for CVSP this summer (June 2005), and to circulate the DEIR for public review and comment in Fall 2005, and
- The City also plans to use the CVSP Final EIR when they apply to LAFCO for an Urban Service Area amendment and annexation.

In October 2004, the Local Agency Formation Commission of Santa Clara County (LAFCO) provided preliminary comments to the City of San Jose regarding the issues that LAFCO will consider during the urban service area amendment and annexation process for Coyote Valley. We request that the EIR for the Coyote Valley Specific Plan address the following issues in anticipation of the City's request to expand its Urban Service Area Boundary in order to implement the Coyote Valley Specific Plan:

ISSUES OF CONCERN TO LAFCO BASED ON PRELIMINARY REVIEW

Project's Consistency With LAFCO's Objectives

As part of the USA and annexation review process, LAFCO staff will be evaluating whether the project is consistent with LAFCO's four primary objectives. These objectives are as follows:

- Encourage the orderly formation of local governmental agencies,
- Preserve agricultural land and open space resources,
- Discourage urban sprawl, and
- Encourage the efficient provision of services.

LAFCO of Santa Clara County has adopted local policies based on the above objectives. Furthermore, LAFCO has adopted specific policies for Urban Service Area (USA) amendments and annexations (See Attachment A). The following comments are in light of LAFCO's Urban Service Area amendment policies:

Loss of Agricultural Lands and City's Plans for Mitigating That Loss

Development of the Coyote Valley will result in the conversion of thousands of acres of prime agricultural land. LAFCO policies discourage USA expansions that include agricultural and open space land. LAFCO strongly encourages the city to develop effective mitigation measures to address the loss of the agricultural and open space lands. As part of the USA amendment process, LAFCO will require an explanation of why the inclusion of agricultural and open space lands is necessary and how the loss of such lands will be mitigated.

LAFCO's policies state that mitigation measures could include, but are not limited to: the acquisition and dedication of farmland, development rights, open space and conservation easements to permanently protect adjacent and other agricultural lands within the county, participation in other development programs such as transfer or purchase of development rights, payments to recognized government and non-profit organizations for such purposes, and establishment of buffers to shield agricultural operations from the effects of development.

Evidence That An Adequate Water Supply is Available to USA Amendment Area

City staff has indicated that discussions are occurring between the City and potential water suppliers to determine water supply options for the CVSP. LAFCO will require evidence that an adequate water supply is available to the amendment area and that water proposed to be provided to the new area does not include supplies needed for unserved properties already within the city, the city's Urban Service Area or other properties already committed for city water services.

Addressing Local and Regional Impacts of Proposed USA Amendment

LAFCO will consider factors included in Government Code section 56668 as well as factors such as the following to determine the local and regional impacts of a proposed USA amendment:

- The ratio of lands planned for residential use to lands planned for employment-producing use;
- The existence of adequate regional and local transportation capabilities to support the planned city growth;
- The ability of the city to provide urban services to the growth areas (both lands within the city, as well as lands within San Jose's USA boundary) without detracting from current service levels; and
- The project's fiscal impact on schools and the ability of school districts to provide school facilities.

Addressing Affordable Housing Needs as Part of the CVSP

LAFCO will discourage proposals that undermine regional housing needs plans, reduce affordable housing stock, or propose additional urbanization without attention to affordable housing needs. LAFCO will specifically consider whether the proposal creates conditions that promote local and regional policies and programs intended to remove or minimize impediments to fair housing including:

- City/County General Plan Housing Elements,

- Analysis of Impediments to Fair Housing,
- Consolidated Plans for Housing and Community Development, and
- ABAG's regional housing needs assessment and related policies.

City's Inventory of Vacant Lands Within its Urban Service Area

LAFCO will require current information on the amount of vacant lands located in San Jose's Urban Service Area. If a city has a substantial supply of vacant land within its Urban Service Area and applies for an USA expansion, LAFCO will require an explanation of why the expansion is necessary, why infill development is not undertaken first, and how an orderly, efficient growth pattern, consistent with LAFCO mandates, will be maintained.

City's Efforts to Annex Urban Unincorporated Islands Existing With Their Current USA

In February 2005, LAFCO adopted a set of Island Annexation Policies indicating that cities should annex urban unincorporated islands existing within their current USAs (urban service areas), before seeking to add new lands to their USAs (see Attachment B, specifically Policies #5 and #6). We request that the City address this new set of policies as part of the environmental analysis process as well as all applicable LAFCO policies.

LAFCO WILL CONTINUE TO PROVIDE INPUT WHERE APPROPRIATE

LAFCO staff will continue to attend the Coyote Valley Specific Plan community workshops and participate on the CVSP Technical Advisory Committee in order to stay informed and to provide input where appropriate. If you have any questions regarding these comments, you can reach me at (408) 299-5127 or contact Dunia Noel, LAFCO Analyst, at (408) 299-5148. Thank you.

Sincerely,



Neelima Palacherla, LAFCO Executive Officer
LAFCO of Santa Clara County

Cc: Coyote Valley Specific Plan Task Force
LAFCO Members

Attachment s

- A. LAFCO's Urban Service Area Amendment Policies
- B. LAFCO's Island Annexation Policies

URBAN SERVICE AREA POLICIES

A. General Guidelines

1. Review and amendment of Urban Service Area (USA) boundaries is the Commission's primary vehicle for encouraging orderly city growth.
2. LAFCO will review/amend a city's Urban Service Area once a year, if such review is desired by the city and initiated by city resolution and application. Until a city's application has been heard and acted upon by the Commission, no further Urban Service Area amendments will be accepted for filing from that city. LAFCO may make an exception to the once a year limitation upon Urban Service Area amendment requests where amendment is needed to carry out some special institutional development or activity that is in the public interest. Such exceptions shall not normally be extended in connection with proposed residential, commercial, or industrial development.
3. Within the Urban Service Areas, LAFCO does not review city annexations and reorganizations if the proposals are initiated by city resolution and meet certain conditions. State law gives cities in Santa Clara County the authority to approve such reorganizations.

B. Urban Service Area Amendment Policies

1. LAFCO will require application of an appropriate general plan designation to territory proposed for inclusion in an Urban Service Area.
2. LAFCO encourages contractual agreements and/or plans between the cities and the County which define:
 - a. Growth at the urban fringe; and
 - b. Potential new growth areas.
3. LAFCO will consider factors included in Government Code section 56668 as well as factors such as the following to determine the local and regional impacts of a proposed Urban Service Area amendment:
 - a. The ratio of lands planned for residential use to lands planned for employment-producing use
 - b. The existence of adequate regional and local transportation capabilities to support the planned city growth;

- c. Ability of the city to provide urban services to the growth areas without detracting from current service levels;
 - d. The ability of school districts to provide school facilities;
 - e. Whether the conversion of agricultural and other open space lands is premature, or if there are other areas into which to channel growth;
 - f. The role of special districts in providing services;
 - g. Environmental considerations which may apply;
 - h. The impacts of proposed city expansion upon the County as a provider of services;
 - i. Fiscal impacts on other agencies;
 - j. Regional housing needs;
 - k. Availability of adequate water supply; and
 - l. Consistency with city or county general and specific plans.
4. LAFCO will consider the applicable service reviews and discourage urban service area amendments that undermine adopted service review determinations or recommendations.
 5. When a city with a substantial supply of vacant land within its Urban Service Area applies for an Urban Service Area expansion, LAFCO will require an explanation of why the expansion is necessary, why infill development is not undertaken first, and how an orderly, efficient growth pattern, consistent with LAFCO mandates, will be maintained.
 6. The Commission will discourage Urban Service Area expansions which include agricultural or other open space land unless the city has accomplished one of the following:
 - a. Demonstrated to LAFCO that effective measures have been adopted for protecting the open space or agricultural status of the land. Such measures may include, but not limited to, the establishment of agricultural preserves pursuant to the California Land Conservation Act, the adoption of city/County use agreements or applicable specific plans, the implementation of clustering or transfer-of-development-rights policies; evidence of public acquisition; or
 - b. Demonstrated to LAFCO that conversion of such lands to other than open space uses is necessary to promote the planned, orderly, efficient development of the city.

7. The Commission will consider whether an Urban Service Area amendment leading to the conversion of agricultural or other open space land, will adversely affect the agricultural or open space resources of the County. Factors to be studied include, but are not limited to:
 - a. The agricultural significance of the amendment area relative to other agricultural lands in the region (soil, climate, water-related problems, parcel size, current land use, crop value, Williamson Act contracts, etc.)
 - b. The economic viability of use of the land for agriculture;
 - c. Whether public facilities, such as roads, would be extended through or adjacent to other agricultural lands in order to provide services to anticipated development in the amendment area or whether the public facilities would be sized or situated to impact other agricultural lands in the area
 - d. Whether the amendment area is adjacent to or surrounded by existing urban or residential development.
8. If an Urban Service Area proposal includes the conversion of open space lands or agricultural lands, LAFCO strongly encourages the city to develop effective mitigation measures to address the loss of the agricultural and open space lands. LAFCO will require an explanation of why the inclusion of agricultural and open space lands is necessary and how the loss of such lands will be mitigated.

Mitigation measures include, but are not limited to: the acquisition and dedication of farmland, development rights, open space and conservation easements to permanently protect adjacent and other agricultural lands within the county, participation in other development programs such as transfer or purchase of development rights, payments to recognized government and non-profit organizations for such purposes, and establishment of buffers to shield agricultural operations from the effects of development.
9. Where appropriate, LAFCO will consider adopted policies advocating maintenance of greenbelts or other open space around cities in reviewing Urban Service Area amendments.
10. LAFCO will require evidence that an adequate water supply is available to the amendment areas and that water proposed to be provided to new areas does not include supplies needed for unserved properties already within the city, the city's Urban Service Area or other properties already charged for city water services. In

determining water availability, LAFCO will evaluate, review and consider:

- a. The city's plan for water service to the area and statement of existing water supply in terms of number of service units available; service units currently allocated; number of service units within city (and current USA) boundaries that are anticipating future service and service units needed for amendment area.
 - b. Whether the city is able to provide adequate water supply to the amendment area in the next 5 years, including drought years, while reserving capacity for areas within the city and Urban Service Area that have not yet developed.
 - c. Whether the city is capable of providing adequate services when needed to areas already in the city, in the city's Urban Service Area or to other properties entitled to service.
 - d. If capacity is not reserved for unserved property within the city and its Urban Service Area boundary, the current estimate of potential unserved properties and related water supply needs
 - e. Whether additional infrastructure and or new water supplies are necessary to accommodate future development or increases in service demand. If so, whether plans, permits and financing plans are in place to ensure that infrastructure and supply are available when necessary including compliance with required administrative and legislated processes, such as CEQA review, CEQA mitigation monitoring plans, or State Water Resources Board allocation permits. If permits are not current or in process, or allocations approved, whether approval is expected.
 - f. Whether facilities or services comply with environmental and safety standards so as to permit acquisition, treatment, and distribution of necessary water.
11. LAFCO will discourage proposals that undermine regional housing needs plans, reduce affordable housing stock, or propose additional urbanization without attention to affordable housing needs. LAFCO will consider:
- a. Whether the proposal creates conditions that promote local and regional policies and programs intended to remove or minimize impediments to fair housing including city/ county general plan housing elements, Analysis of Impediments to Fair Housing or Consolidated Plans for Housing and Community Development and ABAG's regional housing needs assessment and related policies.

- b. Whether the proposal introduces urban uses into rural areas thus increasing the value of currently affordable rural area housing and reducing regional affordable housing supply.
- c. Whether the proposal directs growth away from agricultural / open space lands towards infill areas and encourages development of vacant land adjacent to existing urban areas thus decreasing infrastructure costs and potentially housing construction costs.
- d. Whether funding of infrastructure to support development in the amendment area imposes an unfair burden on residents or customers within the existing boundaries thus impacting housing construction costs in the area.

Island Annexation Policies Effective February 9, 2005

1. In order to fulfill the intent of the state legislature and implement the joint urban development policies of the cities, County and LAFCO, and in the interests of efficient service provision and orderly growth and development, the cities should annex unincorporated urban islands.
2. LAFCO will collaborate with the cities and the County in facilitating annexation of unincorporated urban islands.
3. LAFCO will provide a 2-year LAFCO fee waiver for annexations that result in the elimination of entire unincorporated islands. The current LAFCO fee is \$670 for each annexation area. This fee waiver will expire on January 1, 2007.
4. Where feasible, and in furtherance of goals to support orderly growth and development, cities are encouraged to annex entire islands, rather than conducting single parcel annexations.
5. In the interests of orderly growth and development, cities should annex urban unincorporated islands existing within their current USAs (urban service areas), before seeking to add new lands to their USAs.
6. Prior to seeking any USA amendment, except if the USA amendment is to resolve a significant, demonstrable public health and safety issue or if the USA amendment is a minor corrective action, the city should:
 - a. Initiate and complete annexation proceedings pursuant to Government Code Section 56375.3(a)(1), for all unincorporated islands that meet the provisions of Government Code Section 56375.3, unless the island constitutes publicly owned land, and,
 - b. For any city that has unincorporated islands larger than 150 acres, the city is strongly encouraged to adopt an annexation plan for the islands after holding community meetings, to apply a pre-zoning designation and to adopt resolutions to initiate annexation.
7. LAFCO encourages the County to remove incentives for property owners in the unincorporated islands to remain in the County, by making development standards in the unincorporated islands comparable to development standards in the surrounding city.
8. LAFCO will provide information on the island annexation procedures to each of the cities. LAFCO will develop process flow charts and public hearing notice / resolution templates for cities to use. LAFCO staff will conduct workshops on island annexation process for city staff.
9. LAFCO will work with the County, the cities and other interested parties/agencies to find ways to reduce or share the cost of processing unincorporated island annexations.
10. LAFCO staff will report to the Commission at each LAFCO meeting on the status of each city's island annexation efforts.



DEPARTMENT OF CONSERVATION

DIVISION OF LAND RESOURCE PROTECTION

801 K STREET • MS 18-01 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 324-0850 • FAX 916 / 327-3430 • TDD 916 / 324-2555 • WEB SITE conservation.ca.gov

June 30, 2005

VIA FACSIMILE (408) 277-3250

Darryl Boyd
San José Planning, Building and
Code Enforcement
801 North First Street, Room 400
San José, CA 95110-1795

Subject: Notice of Preparation (NOP) of a Draft Environmental Impact Report
(DEIR) for the Coyote Valley Specific Plan Project **SCH# 2005062017**

Dear Mr. Boyd:

The Department of Conservation's (Department) Division of Land Resource Protection (Division) monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. The Division has reviewed the above NOP and has the following comments.

The project involves development of the Coyote Valley Specific Plan (SP) covering a 7,000-acre area south of the City of San José. The SP would provide for 50,000 jobs and 25,000 dwelling units within the specified areas. The SP also provides for permanent establishment of the Greenline/Urban Growth Boundary (greenbelt) between two portions of the SP area.

The NOP notes that implementation of the SP would result in the loss of Prime Farmland and Farmland of Statewide Importance and that the DEIR would address impacts associated with the loss of farmland and also identify feasible mitigation measures. Therefore, the Division recommends that the DEIR address the following items to provide a comprehensive discussion of potential impacts of the project on agricultural land and activities.

Mr. Darryl Eoyd
June 30, 2005
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Agricultural Setting of the Project

- Location and extent of Prime Farmland, Farmland of Statewide Importance, and other types of farmland in and adjacent to the project area.
- Current and past agricultural use of the project area. Include data on the types of crops grown, and crop yields and farmgate sales values.
- To help describe the full agricultural resource value of the soils on the site, we recommend the use of economic multipliers to assess the total contribution of the site's potential or actual agricultural production to the local, regional and state economies. State and Federal agencies such as the UC Cooperative Extension Service and USDA are sources of economic multipliers.

Project Impacts on Agricultural Land

- Type, amount, and location of farmland conversion resulting directly from project implementation.
- Type, amount, and location of farmland conversion resulting indirectly from project implementation through growth inducement.
- Impacts on current and future agricultural operations; e.g., land-use conflicts, increases in land values and taxes, vandalism, etc.
- Incremental project impacts leading to cumulatively considerable impacts on agricultural land. This would include impacts from the proposed project as well as impacts from past, current and probable future projects.

Impacts on agricultural resources may also be quantified and qualified by use of established thresholds of significance (California Code of Regulations Section 15064.7). The Division has developed a California version of the USDA Land Evaluation and Site Assessment (LESA) Model, a semi-quantitative rating system for establishing the environmental significance of project-specific impacts on farmland. The model may also be used to rate the relative value of alternative project sites. The LESA Model is available on the Division's website listed on page 4.

Williamson Act Lands

A project is deemed to be of statewide, regional or area-wide significance if it will result in cancellation of a Williamson Act contract for a parcel of 100 or more acres [California Code of Regulations Section 15206(b)(3)]. If lands under Williamson Act contract exist on or adjacent to the project area, the

Mr. Darryl Boyd
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Department recommends that the following information be provided in the DEIR:

- A map detailing the location of agricultural preserves and contracted land within each preserve. The DEIR should also tabulate the number of Williamson Act acres, according to land type (e.g., prime or non-prime agricultural land), which could be impacted directly or indirectly by the project.
- A discussion of Williamson Act contracts that may be terminated as part of SP implementation. The DEIR should discuss the impacts that termination of Williamson Act contracts would have on nearby properties also under contract; i.e., growth-inducing impacts (in the sense that the removal of contract protection not only lifts a barrier to development, but results in higher property taxes, and thus, an incentive to shift to a more intensive land use, such as urban development.)

As a general rule, land can be withdrawn from Williamson Act contract only through the nine-year nonrenewal process. Immediate termination via cancellation is reserved for "extraordinary", unforeseen situations (See Sierra Club v. City of Hayward (1981) 28 Cal.3d 840, 852-855). The City or County of jurisdiction must approve a request for contract cancellation, and base that approval on specific findings that are supported by substantial evidence (Government Code Section 51282). If Williamson Act contract cancellation is proposed, we recommend that a discussion of the findings be included in the DEIR. Finally, the notice of the hearing to approve the tentative cancellation, and a copy of the landowner's petition, must be mailed to the Director of the Department of Conservation ten (10) working days prior to the hearing. (The notice should be mailed to Debbie Sareeram, Interim Director, Department of Conservation, c/o Division of Land Resource Protection, 801 K Street MS 18-01, Sacramento, CA 95814-3528.)

- An agricultural preserve is a zone authorized by the Williamson Act, and established by the local government, to designate land qualified to be placed under the Act's 10-year contracts. Preserves are also intended to create a setting for contract-protected lands that is conducive to continuing agricultural use. Uses of agricultural preserve land must be restricted by zoning or other means so as not to be incompatible with the agricultural use of contracted land within the preserve (Government Code Section 51230). Therefore, the DEIR should also discuss any proposed general plan designation or zoning changes within agricultural preserves affected by the project.

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June 30, 2005
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- The Williamson Act (Government Code Section 51243) requires cities annexing land under Williamson Act contract to succeed to all rights, duties and powers of the county under the contract unless conditions in Section 51243.5 apply to give the city the option to not succeed to the contract. A Local Agency Formation Commission (LAFCC) must notify the Department within 10 days of a city's proposal to annex land under contract (Government Code Section 56753.5). A LAFCC must not approve a change to a sphere of influence or annexation of contracted land to a city unless specified conditions apply (Government Code Sections 51296.3, 56426, 56426.5, 56749 and 56856.5).

Project Alternatives and Mitigation Measures

Feasible alternatives to the project's location or configuration that would lessen or avoid farmland conversion impacts should be considered in the environmental document. If there are no feasible project alternatives to avoid impacts on agricultural land, then mitigation measures should be considered.

One mitigation measure that should be considered is the purchase of agricultural conservation easements on land of at least equal quality and size as partial compensation for the direct loss of agricultural land, as well as for the mitigation of growth-inducing and cumulative impacts on agricultural land. We highlight this measure because of its growing acceptance and use by lead agencies as mitigation under the California Environmental Quality Act.

Mitigation using conservation easements can be implemented by at least two alternative approaches: the outright purchase of conservation easements tied to the project, or via the donation of mitigation fees to a local, regional or statewide organization or agency, including land trusts and conservancies, whose purpose includes the purchase, holding and maintenance of agricultural conservation easements. Whatever the approach, the conversion of agricultural land should be deemed an impact of at least regional significance and the search for mitigation lands conducted regionally, and not limited strictly to lands within the San José area.

Information about conservation easements is available on the Division's website, or by contacting the Division at the address and phone number listed below. The Department's website address is:

<http://www.conservation.ca.gov/DLRP/>

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Of course, the use of conservation easements is only one form of mitigation that should be considered. Any other feasible mitigation measures should also be considered.

Thank you for the opportunity to comment on the NOP. If you have questions on our comments, or require technical assistance or information on agricultural land conservation, please contact the Division at 801 K Street, MS 18-01, Sacramento, California 95814; or, phone (916) 324-0850.

Sincerely,



Dennis J. O'Bryant
Acting Assistant Director

cc: Guadalupe-Coyote RCD
888 North First Street, #204
San José, CA 95112



July 1, 2005

Darryl Boyd
Department of Planning
Building and Code Enforcement
City of San Jose
801 N. First St., Rm 400
San Jose CA 95110-1795

Re: Comments on the Coyote Valley NOP

Dear Mr. Boyd,

The Committee for Green Foothills submits the following comments on the NOP for the Coyote Valley Environmental Impact Report:

- We reaffirm our March 4, 2005 letter to San Jose regarding Coyote Valley (attached), and we request that the DEIR address the letter's concerns.
- Current development "triggers" found in the San Jose General Plan that restrict residential development in San Jose must be included as part of the environmental baseline for assessing the project's impacts.
- Any changes to development triggers that function as replacements, in whole or in part, of these triggers must be analyzed in the DEIR. Analyzing changed triggers separately would constitute improper segmentation of the project.
- In light of the California Supreme Court's depublication of *Friends of the Kangaroo Rat v. California Dept. of Corrections* (2003) 111 Cal.App.4th 1400, the City should consider agricultural preservation as a feasible mitigation for the loss of agricultural land. Preservation should be at least at a one-acre-for-one-acre ratio. Preservation in Coyote Valley Greenbelt is preferable, but preserving farmlands in other areas of Santa Clara County should also be considered for purposes of determining feasible mitigation.
- For purposes of examining the project's effect on housing demand, the number of employed residents per residence should be determined based on the size of anticipated residences, not simply a County-wide or City-wide average that reflect larger residences than will be found in Coyote Valley.
- The NOP referenced 3,000 additional jobs will be expected beyond the 50,000 figure for retail and government support work. This contrasts with the City's own transportation consultant, who had stated at a Coyote Valley Technical Advisory Committee meeting in 2004 that the 50,000 jobs would produce an additional 17% more support jobs. The DEIR should address which of these two figures is correct and give the reasons why, for purposes of determining housing demand.
- The DEIR should identify the amount secondary jobs created outside of Coyote Valley as a result of the business brought to the area at buildout, for purposes of identifying housing demand created by the project.
- The DEIR should consider the net effect of other development projects on housing demand, and specifically address the housing demand concerns expressed in our December 20, 2004 letter (attached).

- The DEIR should address growth inducing and cumulative impacts from the project, especially in relation to the net increase in housing demand from the 50,000 jobs, whatever number that is correct for retail and government jobs, and the secondary jobs created outside of Coyote Valley. This analysis should extend beyond San Jose to all of Santa Clara County, as well as all neighboring counties and to Monterey County.
- The DEIR should address the effect of nitrogen deposition on nearby serpentine soils habitat from development in Coyote Valley, including that coming from increased congestion on Highway 101.
- The DEIR should address how it will conform to the planned County-wide HCP. We suggest a mitigation statement to the effect that "all aspects of the CVSP are subject to change based on the requirements of the forthcoming County-wide HCP." The DEIR should justify any statement of conformance to the future HCP that is less sweeping.
- The DEIR should examine the feasibility of an east-west wildlife migration corridor in the vicinity of the North Coyote area and Tulare Hill, as a mitigation for impacts to wildlife. This examination should include the elimination or relocation of the athletic fields north of Tulare Hill.
- The DEIR should address a wider floodplain for Fisher Creek as an alternative flood storage mechanism than the proposed Coyote Valley Lake, as well as consideration for mitigation of various biological impacts.
- The DEIR should address an empty greenfield as an alternative to the Coyote Valley Lake for flood-control purposes. This greenfield was described by City consultants in early CVSP Task Force meetings.
- The DEIR should address potential spread of perchlorate contamination as it might affect water supplies.

Please contact me if you have any questions.

Sincerely,



Brian A. Schmidt
Legislative Advocate, Santa Clara County



December 20, 2004

Members of the CVSP Task Force
Department of Planning
Building and Code Enforcement
City of San Jose
801 N. First St., Rm 400
San Jose CA 95110-1795

Re: future changes to San Jose's jobs-housing balance, and farmland mitigation requirements

Dear CVSP Task Force Members,

Sal Yakubu asked me to give him the information I mentioned in the most recent Technical Advisory Committee meeting, and I would like to pass this on directly to the Task Force as well. Developing Coyote Valley together with the proposed North First Street development suggests that the City will have more jobs than employed residents, a significant environmental impact. Second, the California Supreme Court recently "depublished" an appellate court case stating there is no need to purchase mitigation for the loss of farmland, which is a strong indication that San Jose will have to require the purchase of agricultural conservation easements in the CVSP EIR.

Attached are excerpts from the Association of Bay Area Governments "Projections 2003" document. They show a fairly consistent surplus of 85,000 employed San Jose residents relative to San Jose jobs for the next 20 years. San Jose's plan to create 50,000 "industry leading" jobs, plus a still-completely-unknown number of support jobs in Coyote Valley, plus an unknown number of additional jobs in the rest of San Jose, is only partially balanced by planned construction of 25,000 residences. A reasonable estimate would conclude that a job demand of 65,000 positions would be created, while Coyote Valley's housing supply would only accommodate 35,000 employed residents. The effect then is to reduce San Jose's employed resident "surplus" from 85,000 to 55,000. Meanwhile, the proposed North First Street development plans to accommodate over 100,000 new jobs while providing just 25,000 residences. North First Street will create 60,000 more jobs than housed residents. Together, Coyote Valley plus North First Street will create a net deficit in housing versus jobs in San Jose, making the city much like the Peninsula cities that have been criticized for not shouldering their housing responsibilities.

While the above does not take into account other housing projects, it also does not consider other job and business development projects. The implication is that San Jose is not just harming the regional housing balance, but creating significant housing problems within the City itself.

Sal and I also discussed the responsibility to mitigate the loss of farmland through agricultural preservation of nearby farmland. It is my understanding that the City has previously argued preserving existing farmland does not mitigate the loss of other farmland. The California Supreme Court recently depublished an appellate court opinion that adopted an identical argument to the City's, *Friends of the Kangaroo Rat v. California Dept. of Corrections* (2003) 111 Cal.App.4th 1400. Depublication means the opinion cannot be used as legal precedent, and is a strong indication that the Supreme Court disagrees with the legal reasoning. This indicates that the City should require mitigation for the loss of agricultural land.

Please contact me if you have any questions.

Sincerely,



Brian A. Schmidt
Legislative Advocate, Santa Clara County

Principles Regarding Farmland Conservation in Coyote Valley

January 4, 2006

The Friends of the Coyote Valley Greenbelt, The Sierra Club, Loma Prieta Chapter, Committee for Green Foothills, Greenbelt Alliance and the Santa Clara Valley Audubon Society are all organizations concerned with smart growth, sustainable land use and preservation of open space. We believe that the following farmland conservation principles must guide any proposals for the future of Coyote Valley:

Require mitigation for converted farmland

- Since developers propose converting Coyote Valley farmland to other uses, the developers must mitigate the lost farmland by funding the preservation of farmland on at least a one-for-one acre basis.
- All developed properties should be subject to the mitigation requirement, regardless of the subsequent use of the property. For policy reasons, some properties such as affordable housing may carry a lower share of the mitigation burden, but other properties must then make up the difference.
- Funding should be sufficient to acquire lands or easements for agriculture as well as a program of land/easement acquisition and management in the Greenbelt. The funding should also support programs to promote agricultural activities. The proposed \$15 million is not adequate for these objectives.
- The mitigation requirement must be part of any Specific Plan for the Coyote Valley.

Where mitigation should occur

- To the extent possible, mitigation farmland should be secured in the Coyote Valley Greenbelt and other non-hillside lands within the San Jose Sphere of Influence.
- Should insufficient farmland be secured in these areas, only then nearby farmland in Santa Clara County would be considered appropriate mitigation for the remaining acreage.
- The South Coyote Valley Greenbelt is but one component of a true greenbelt. A protected valley floor including farmland protections along with protected hillsides creates a complete greenbelt. The Specific Plan must address plans to protect the hillsides from development.

An Implementation Agency should be identified or created.

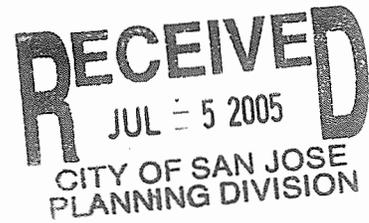
- To assure long range viability and public accountability, the entity responsible for agricultural mitigation land acquisition or easements and related administrative support facilities should be a public agency.
- The Specific Plan must include guideline requirements for the agency, including a financial structure to hold funds until the agency is operative.

Our various organizations may have differing views on the future of Coyote Valley, and this joint position paper should not be considered a joint statement on whether development should occur in Coyote Valley. What our organizations share is the position that any specific plan that moves forward must include the preceding farmland conservation principles. Open space protection is a critical component of any smart growth specific plan. These principles focus on agricultural land conservation and do not represent the full suite of principles that should be incorporated into any Specific Plan for Coyote Valley, such as affordable housing, transit accessibility and hillside protection.



PROTECTING OPEN SPACE AND PROMOTING LIVABLE COMMUNITIES

1922 The Alameda, Suite 213 San Jose, CA 95126
408.983.0856 www.greenbelt.org



July 1, 2005

By Email, Facsimile and US Postal Service Mail

Attn. Darryl Boyd, Principal Planner
Department of Planning, Building and Code Enforcement
City of San Jose
801 North 1st Street, Room 400
San Jose, CA 95110

RE: Initial Study/ Notice of Preparation of a Draft Environmental Impact
Report (DEIR) for the proposed Coyote Valley Specific Plan

Mr. Boyd:

The following comments on the Notice of Preparation (NOP) for a Draft Environmental Impact Report (DEIR) for the proposed Coyote Valley project (proposed project) are submitted on behalf of Greenbelt Alliance. We support the City's requirement that an EIR be prepared and appreciate this opportunity to comment on the scope and content of the EIR.

BACKGROUND OF PROPOSED PROJECT AND PROJECT DEIR

Project Description

The project includes adoption of the Coyote Valley Specific Plan (CVSP), rezoning and annexation of more than 2,000 acres of primarily rural unincorporated land. The project may also include General Plan amendments, subdivision map approvals, development agreements, formation of assessment districts, a project phasing plan, CVSP area design guidelines and a CVSP area zoning code. The City of San Jose (City) anticipates that development in the CVSP area will include 25,000 housing units and 50,000 industry-driving jobs. There will be workplace, residential, retail and mixed-use development in addition to a 50-acre man-made lake, an internal transit system, a new road network and up to seven elementary schools, two middle schools and one high school. Coyote Valley is made up of three distinct areas, the North Coyote Industrial Area, the Coyote Valley Urban Reserve and the Coyote Valley Greenbelt, that together total over 7,000 acres of primarily undeveloped agricultural land.

SCOPE OF THE EIR

We offer the following comments on the scope of the DEIR for the proposed Coyote Valley Specific Plan.

Loss of Prime Agricultural Land

The DEIR must address the project's potentially significant impacts on prime agricultural land. The project proposes the loss of as much as 3,500 acres of farmland. This loss of farmland would have significant impacts on the South Coyote Valley greenbelt, surrounding hillsides and farmland in South Santa Clara County. The project must not be approved absent a reasonable and enforceable mitigation program to preserve regional aesthetic and agricultural resources.

Urban Design

The DEIR must address potentially significant impacts on air quality, traffic, and water quality caused by the proposed urban design in the CVSP area. The City states that the CVSP area is intended to be a self-sustaining, transit-oriented community based on smart growth principles. However, the proposed urban design of the CVSP area would foster an auto-dependent community with associated significant traffic, air quality, and water quality problems since the proposed road network emphasizes a disconnected street pattern over clustered, mixed-use, pedestrian-oriented development. The emphasis on suburban-style roadways virtually guarantees that CVSP area workers and residents will travel almost exclusively by car. Auto-dependence will not only cause traffic congestion and smog, but also lead to more paved surfaces and increased run-off to threaten the water quality in Fisher Creek.

The DEIR must analyze the potentially significant impacts of the proposed road system in the CVSP area. The proposed project does not make efficient use of existing infrastructure, as the proposed CVSP requires that portions of the existing road system be demolished and replaced. To pay the unnecessarily high infrastructure costs, the City would have to seek development impact fees from large-scale projects composed primarily of fast-selling, high-profit housing products such as single-family detached dwellings. As currently proposed, the CVSP increases the probability of development in a series of leap-frogging subdivisions that are neither transit-oriented nor pedestrian friendly.

The DEIR must analyze and compare the proposed road network to a more traditional grid system as set forth in Greenbelt Alliance's vision statement, *Getting It Right*, submitted with these comments as a project alternative to be considered in preparation of the DEIR. Not only does a traditional grid system allow for the urban form to grow from the existing grid of roads, thereby requiring significantly less environmental disturbance from the demolition and reconstruction of the road network, but it is also more pedestrian and bicycle friendly. The DEIR must identify the length and width of proposed blocks and streets and analyze whether the proposed street design encourages walking and bicycling and discourages auto-dependency. Blocks should be less than three acres, since people find it more inviting to walk at this scale, and streets should be narrow. The proposed project shows many winding roadways and long blocks which is more typical of suburban style planning that de-emphasizes pedestrian movement.

The DEIR must analyze the potentially significant direct and indirect impacts of lower density development, especially the impacts on the Coyote Creek Parkway. The DEIR should discuss the average densities of both the proposed project and the project alternative presented in *Getting It Right*. The proposed project has an average density of 18 units to the acre. *Getting It Right* demonstrates that if development has an average density of 28.5 units to the acre, then the City can meet its development targets without approving development east of Monterey Highway and the area can instead be preserved as farmland or in other open space uses. Protecting this land as open space will have a substantial positive environmental benefit for the Coyote Creek Parkway.

Otherwise, development will occur very close to Coyote Creek, increasing urban run-off and the risk of downstream flooding.

Additionally, the DEIR must analyze the location of the proposed artificial lake and its impact on travel patterns. The proposed location of the man-made lake, at the intersection of Bailey Avenue and the major north-south travel route, Santa Teresa Boulevard, impedes orderly urban design. Re-routing travel through the urban core to accommodate a man-made lake would cause traffic congestion on major thoroughfares and force more cars onto Highway 101. The proposed lake is also a physical barrier between Highway 101 and the job centers on the west side of Coyote Valley. This barrier would encourage increased travel into Coyote Valley via Almaden Valley, thus spurring pressure to expand the two-lane road and to develop Almaden Valley. The DEIR must study the possibility of locating the flood management facilities outside of downtown so that they do not interfere with the evolution of an orderly, easily accessible urban form. Also, the DEIR must analyze alternatives to the man-made lake, such as the Fisher Creek floodplain (discussed below in the 'Flood Management' section and in *Getting It Right*).

Flood Management

Development of the CVSP area will substantially increase run-off and the risk of flooding, therefore the DEIR must identify a significant amount of floodwater retention capacity in Coyote Valley. However, a downtown lake is not the only way to accommodate this need and the DEIR must discuss other technically feasible options as well. The DEIR must look at the potentially significant impacts of filling in portions of Laguna Seca at the northern end of Coyote Valley and excavating a new lakebed in the proposed downtown. This proposed means of floodwater retention is unnecessarily expensive and inconsistent with natural hydrological patterns. In particular, the DEIR must analyze using the Fisher Creek floodplain for retention as outlined in *Getting It Right*. The Fisher Creek floodplain alternative is more sustainable and integrated with Coyote Valley's natural hydrological and ecological systems than the construction of an artificial lake at the urban core. The actual size of the floodplain must be determined, but its potential advantages may make it a reasonable, technically and economically preferable alternative requiring discussion in the DEIR.

The Fisher Creek floodplain would be multi-functional. When the land is dry, passive recreation activities such as jogging and bicycling could be accommodated, and native plants would provide valuable habitat for wildlife. With regard to the floodwater retention function, the DEIR must study the ability of the floodplain to serve the same function as the lake, without the costly commitment of keeping it filled year round. The DEIR must also look at how the floodplain complements Laguna Seca at the northern end of the planning area, which is farmed in the dry season and allowed to flood in the rainy season. This natural pattern should continue.

Internal Transit

The DEIR must analyze how the proposed urban design, with its winding street pattern and disconnected neighborhoods, supports the internal transit system. A winding, disjointed street pattern would increase the operating costs of the proposed fixed guideway transit system, significantly extend travel times, and increase the likelihood that transit service would be infrequent, unpopular, and not a viable alternative to driving. The DEIR must analyze and compare the internal transit system on the proposed road network to the same system on a traditional grid system as outlined in *Getting It Right*.

The fixed guideway in the proposed project provides connections within Coyote Valley and to a proposed Caltrain station, which would be located near Monterey Road close to downtown. CalTrain would provide the sole transit connection in and out of Coyote Valley and may not meet the needs of a wider population. CalTrain has proposed service reductions and it is probable that service south of San Jose will be discontinued in the future. The DEIR must discuss the potentially significant impacts on traffic and air quality if CalTrain is not a viable transit connection to Coyote Valley, leaving residents, workers, and visitors with no other option than to drive. Additionally, the DEIR must analyze the potentially significant impacts of the proposed artificial lake on the existing VTA regional bus route along Santa Teresa Boulevard. The proposed lake would effectively eliminate north-south bus service in the region.

The DEIR must study an alternative to the proposed fixed guideway system that provides residents, workers, and visitors with additional connections in and out of Coyote Valley. In *Getting It Right*, Greenbelt Alliance proposes a transit system that includes neighborhood bus loops that connect to the proposed CalTrain station and to a Bus Rapid Transit (BRT) line along Santa Teresa Boulevard. BRT would connect to VTA's light rail system, providing an additional connection out of Coyote Valley and increasing the probability that people will use public transit for such trips.

The project alternative proposed in *Getting It Right* includes three main components addressing the potentially significant air quality, traffic, and water quality impacts of the proposed project: (1) the traditional grid system; (2) the Fisher Creek floodplain; and (3) the BRT/bus loop transit system. These three components complement each other. For example, the BRT/bus loop transit system would be able to efficiently travel along a traditional grid system, reducing travel times and making it more feasible to provide frequent service. The Fisher Creek floodplain would replace the proposed lake, making Santa Teresa Boulevard more easily accessible to BRT and north-south traffic. This combination would decrease the amount of paved surface area within the CVSP area, provide a more pedestrian and bicycle friendly environment, create a more attractive and viable transit system, and decrease project impacts on air quality, traffic, and water quality.

Growth Inducing Impacts

The proposed project will have impacts that are individually limited but cumulatively considerable. The DEIR must analyze the proposed project's growth inducing impacts on the hillsides surrounding the CVSP area, Almaden Valley, the communities of South Santa Clara County (Morgan Hill, San Martin, Gilroy), and San Benito and Monterey counties. The development of a major job center at the southern edge of Silicon Valley may induce many people to commute up from communities such as Hollister, Los Banos and Salinas. The DEIR must analyze the effect of these added car trips on traffic and air quality. The proposed project will lead to increased pressure to expand smaller roads such as the two-lane road to Almaden Valley. Wider roads would then induce further development of the Almaden Valley.

Public Services and Utilities

At build-out, the proposed project would add 80,000 new residents to the area and substantially increase demand for public services, utilities and facilities. The DEIR must analyze the cumulative demand for these essential services. The project should include land set aside for two health clinics. In San Jose, there is a health clinic for every 40,000 residents, meaning that two additional clinics will be needed to accommodate residents in Coyote Valley. The DEIR must analyze the impact the proposed project would have on San Jose health clinics if none were

located in Coyote Valley.

The DEIR must analyze potentially significant impacts and cumulative impacts on the City's sanitary sewer system and on regional wastewater treatment and landfill capacity. It must also identify a source of water for the proposed project and analyze the direct and indirect impacts of providing natural gas and electrical service to the CVSP area.

The DEIR must compare current levels of service to potentially significant impacts and cumulative impacts on response times for emergency services. The DEIR must determine if the proposed project will result in a reduction of services currently provided to existing residents.

Biological Resources

The DEIR must include a detailed analysis of potentially significant impacts to biological resources prepared by a qualified, independent biologist with expertise in habitats and species found in this region. The DEIR must identify and quantify all sensitive habitats that could be impacted directly or indirectly by the proposed development. The DEIR must also address the potentially significant impact of development on wildlife habitats and endangered species outside of the CVSP area, such as Coyote Ridge, the Coyote Creek park chain and communities to the south.

The DEIR must address the need for a wildlife connection between the hills to the west (the Santa Cruz Mountain Range) and the hills to the east (Mount Hamilton Range). As urban development encroaches onto open space that animals use to migrate across the valley, interaction between wildlife and humans will increase. Increased interaction between wildlife and human beings increases the risk of harm to both.

Sustainability

The DEIR must also analyze the proposed project's incremental impacts on the formation of sustainable communities and the potential direct and indirect substantial adverse effects on human beings. The proposed project's \$1.6 billion price tag represents the cost of infrastructure improvements, but does not include the costs of affordable housing, health care facilities, childcare facilities, and other community services for low-income households. If costly amenities, such as the proposed lake and four-to-six lane thoroughfares, mean that housing and services are not provided for low-income households then the proposed project would create an environment with substantial adverse effects on human beings. The City proposes the creation of a self-sustaining community with a variety of jobs, including low-paid retail, non-profit, service, and maintenance jobs. If low-income households are unable to find affordable housing in Coyote Valley, they will be forced to find cheaper housing in distant communities. This will increase demand for development in these communities, lead to higher home prices, and perpetuate the vicious cycle of long commutes across sprawling low-density development in search of more affordable housing. The DEIR must analyze how the lack of affordable housing and community services in Coyote Valley will impact the environment throughout the region and cause substantial adverse effects on human beings.

Cumulative Analysis

The DEIR must consider the impact of the project combined with other related projects, including past, present and probable future projects. The DEIR must analyze cumulative impacts for all

environmental factors including, but not limited to: land use and planning; aesthetics, biological resources, hazards, public services, utilities/service systems, cultural resources, hydrology/water, noise, air quality, geology, population/housing, economic and social and transportation/circulation.

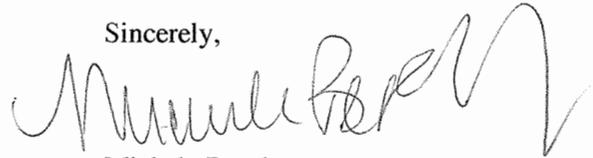
Alternatives

In addition to the No Project Alternative, Reduced Scale Alternative and Alternative Location, the DEIR must also evaluate a project alternative that might reasonably be assumed to reduce project impacts. One such alternative is Greenbelt Alliance's vision for Coyote Valley, *Getting It Right*. It can be reasonably assumed that *Getting It Right* will reduce significant impacts. An alternative that encompasses the traditional grid system, the Fisher Creek floodplain and the transit connections as outlined in *Getting It Right* must be considered in the DEIR. These three components complement each other, each providing significant environmental benefits that increase exponentially when all three elements are implemented.

Concluding Comments

Again, we appreciate being consulted on the scope of the work for the DEIR. Please keep us informed of any and all contracts, notices, hearings, staff reports, briefings, meetings and other matters related to the proposed project. We are pleased to respond to any questions you may have concerning our comments on the NOP.

Sincerely,



Michele Beasley
South Bay Field Representative
Greenbelt Alliance