



October 24th 2016

Justin Daniels,
Planning Project Manager
City of San Jose
Justin.Daniels@sanjoseca.gov

Re: General Plan Amendment GP16-003

Dear Mr. Daniels,

The Santa Clara Valley Audubon Society, the Loma Prieta Chapter of the Sierra Club, and the Committee for Green Foothills submit this letter asking the City of San Jose to set aside and stop processing the proposed General Plan Amendment (GPA). If the City continues to process this GPA, an Environmental Impact Report (EIR) is needed in order to fully analyze, mitigate, and potentially make a statement of overriding consideration due to significant and unavoidable impacts to visual and biological resources.

The proposed GPA will change the Land Use/Transportation Diagram from the Open Space, Parklands, and Habitat designation to the Residential Neighborhood designation on a 2.28 gross acre site located at the narrow outlet of a 20-acre open space greenbelt and wildlife corridor across the street from Almaden Lake Park and the Alamitos Creek Trail. We understand that the developer has promised that in the future, when a specific residential housing project is approved, the landowner plans to donate the remainder of the property to Public Open Space and to build a trail to Santa Teresa County Park. However,

Since 1926, the Santa Clara Valley Audubon Society (SCVAS) has promoted the enjoyment, understanding, and protection of birds by engaging people of all ages in birding, education, and conservation. The Sierra Club, ever since its inception in 1892, has been focused on the protection of Open Space not only for the benefit of the natural world but also for the health and enjoyment of fellow humans.

Our organizations are concerned whenever property designated as Open Space suddenly is converted into a commodity simply in exchange for a transfer of ownership. This type of activity establishes a negative precedent in that all such properties might henceforth be re-evaluated as having similar fungibility.

The Project constitutes improper piecemealing under CEQA

The Project in front of this body consists solely of the requested GPA that would redesignate the 2.28 acres from Open Space, Parkland and Habitat to Residential Neighborhood. However, since the applicant intends to develop this property, a future rezoning request and development permit(s) of some sort will be required. The requested GPA is merely the first step in a larger development project.

Declaring that the GPA will not cause any significant impacts ignores the fact that the remainder of this development project is not only a foreseeable result of this GPA, it is a result that could not occur but for approval of this GPA. The GPA, the future rezoning, and the eventual development are all part of a single project, and breaking that project up into separate actions constitutes improper piecemealing of the project under CEQA.

The GPA should be set aside because it ignores previous commitments by the City and the land owner

The 2.28 acres are part of a larger, 20-acre parcel. This 20-acre parcel is in turn part of a larger approximately 30-acre parcel, of which 11 acres was designated Very High Density Residential in the 1980's and subsequently developed. The remaining 20-acre parcel (of which the subject 2.28 acres is a part) was designated Open Space, Parklands, and Habitat in order to allow this clustering of development on the flat 11-acre portion.

The clustering of development on the flat portion of the property required a GPA Amendment to the San Jose 2020 General Plan. Following the GPA, Staff recommended rezoning of the remaining 20 acres to Open Space. Documents from the subsequent 1985 rezoning of the 20-acre parcel show a clear recognition of the need to protect the 20 acres of hillside due to visual and geological impacts, and a clear commitment to protect the hillside in perpetuity:

- “The original rezoning application proposed condominiums on the northerly section of the site (General Plan is for 12-25 DU/AC) and private open space for the southerly portion of the site.” The documents include the statement, *“At that time, the City approved a Very High Density Residential designation on 11 acres of the site and Private Open Space on these 20 + acres. When Valley Christian School wanted to subdivide the site to make the flatter portion more marketable, it was necessary to encumber the property with an open space easement, or to rezone it, to conform to the General Plan. (see below)”*

ANALYSIS AND COMMENTS

BACKGROUND

The applicant, Valley Christian School, is proposing to rezone an existing parcel from R-1:B-3 to A(PD) to allow private open space uses on the approximately 20.26 acre site. As originally submitted, this Planned Development Rezoning application covered a much larger site area that included approximately 11.72 acres northerly of the site currently under consideration. The original rezoning was submitted at Staff's request subsequent to an application for a 1985 Tentative Subdivision Map. The rezoning was seen to be necessary to clearly define the uses allowed by the General Plan designation (Private Open Space). This General Plan designation was approved at the property owner's request, in 1984. At that time, the City approved a Very High Density Residential designation on 11 acres of the site and Private Open Space on these 20 + acres. When Valley Christian School wanted to subdivide the site to make the flatter portion more marketable, it was necessary to encumber the property with an open space easement, or to rezone it, to conform to the General Plan. The school filed for PD rezoning of the entire site. The original rezoning application proposed condominiums on the northerly section of the site (General Plan is for 12-25 DU/AC) and private open space for the southerly portion of the site. This zoning request has now been modified to address only the southerly portion of the site, while the northerly portion is the subject of a new rezoning application (PDC 87-5-41).

PDC85-04-038

- Staff recommendation, explaining that the rezoning “will protect the character and stability of the existing foothill area”

RECOMMENDATION

Planning Staff recommends APPROVAL of the subject Planned Development Rezoning to DS(PD) for the following reasons:

1. The subject rezoning conforms to the General Plan Land Use/Transportation diagram.
2. The subject rezoning will protect the character and stability of the existing foothill area.

RH/Jv

cc: Valley Christian Schools
P.O. Box 18820
San Jose, CA 95158

HMI Engineering
1393 Oakland Road
San Jose, CA 95112

PDC85-04-038

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The GPA should be set aside because it is inconsistent with the San Jose General Plan Envision 2040

As stated in a letter from the Planning Department to the applicant (April 8, 2016), the GPA proposal conflicts with Major Strategy #3, Focused Growth, of San Jose's Envision 2040 General Plan. This strategy aims to protect the City's environment and improve its fiscal health by directing growth toward the City's urban core. The strategy also limits growth outside of delineated growth areas aiming to protect the quality of existing

neighborhoods and to minimize adverse environmental impacts of sprawl. The General Plan states, "*As San José prepares for significant population growth over the next 30 years, it has reached a point in its history where it is no longer feasible or desirable to accommodate new housing demand through either outward expansion into exurban areas or lower density infill development within City limits. Either type of development would have significant negative environmental and fiscal impacts upon the City that would lower the quality of life as a result of diminished municipal service levels and a degraded natural environment.*"

*Furthermore, Goal ER-6 – Urban Natural Interface, directs “Minimize adverse effects of urbanization on natural lands adjacent to the City’s developed” and offers Policy **ER-6.2**, “Design development at the urban/natural community interface of the Greenline/ Urban Growth Boundary (UGB) to minimize the length of the shared boundary between urban development and natural areas by clustering and locating new development close to existing development. Key areas where natural communities are found adjacent to the UGB include the Baylands in Alviso, the Santa Teresa Hills, Alum Rock Park, and Evergreen.”*

The 20-acre property abuts the Urban Growth Boundary on the Santa Teresa Hills. In this case, the clustering has already been achieved with the original subdivision. Changing the designation of 2.28 acres to residential will lengthen the shared boundary between urban development and natural areas. It will also encourage other landowners to seek a change of landuse designation for properties along the Santa Teresa Hills.

The Project is likely to cause significant impacts to aesthetic resources; therefore a Negative Declaration cannot be made

The Initial Study (IS) presents a photograph from Almaden Lake Park Trail showing that the Property’s hillside provides a natural and scenic backdrop for Almaden Lake Park and Alamitos Creek Trail.

110 San Jose residents signed the following petition (signatures were collected during a 3-hour effort, with two local residents signing trail users on Alamitos Creek Trail across Winfield Blvd from the proposed GPA site, Oct 13-Oct 14, 2016.)

Clearly, trail users appreciate the visual quality of the 2.18 acres hillside, and consider the construction of residences there a significant aesthetic impact that will degrade the quality of the trail experience.

We, the undersigned, choose views, nature, open space and wildlife habitat preservation over housing and trail development.

Preservation - Yes

Public Trail and Development - No



The proposal to change the private open space landuse designation to public open space and residential housing would significantly degrade the aesthetically pleasing views of the hillside from Almaden Lake Park and Alamos Creek Trail, and will harm our enjoyment the park and the trail. Further, protecting the wildlife habitat and wildlife corridor is more important than public access everywhere. We choose to wait until there is a public access opportunity that would preserve the entire property.

Name

City/Zip Code

Email Address

The IS/ND proposes that in the context of adjacent development (residences, golf course on the hill), additional residential development will not have significant impacts on visual or aesthetic resources. The IS examines General Plan policies that apply to the visual character of development, but never asks whether the development itself will harm the visual quality of the view-shed from the park and the trail. Clearly, trail and park users believe that the development of the 2.28-acre site would substantially degrade the existing visual character or quality of the site and its surroundings. Furthermore, deer that are often visible on the hill will no longer be accessible for public viewing – a great loss of a visual resource to park and trail visitors.

CEQA provides no “ironclad definition” of what constitutes a significant effect, but the courts have shown deference to relevant personal observations of area residents on nontechnical subjects, which may qualify as substantial evidence in establishing a fair argument that a project requires analysis by an EIR (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.)

The signed petition establishes the fair argument that this project may result in substantial, significant and adverse impacts to the visual resources from Almaden Lake Park and Los Alamos Creek Trail. The finding of no significant impacts cannot be made.



View of project site from Almaden Lake Park Trail.

The Project is likely to cause significant impacts to biological resources; therefore a Negative Declaration cannot be made

The hillside provides native habitat and provides an important wildlife movement corridor between the habitat on the Santa Teresa Foothills and the Los Alamos Creek habitat and corridor. Neighbors report frequent observations of wildlife using this corridor, and indeed, the IS acknowledges the linkage "*The project site likely serves as part of a connection from the open space lands to the east and south east, connecting the ridge of the Santa Teresa Hills to Alamos Creek and Almaden Lake.*" The IS wrongly downplays the significance of this wildlife movement corridor in claiming free wildlife movement across the Boulder Ridge Golf Course, Old Quarry Road, and Los Alamos Creek Trail. However, the area is not as permeable to wildlife as suggested in the IS. The golf course is protected by an exclusionary fence that restricts permeability to wildlife movement. Neighbors' observations and testimony identifies the 2.28-acre site as an important corridor to animal movement between the Santa Teresa Hills and Almaden Valley. Expert opinion by Tanya Diamond of Pathways for Wildlife (please see attached letter) supports our assertion that the IS does not provide sufficient evidence to support the findings of no significant impacts and the Negative Declaration. We maintain that development of the 2.28-acre site will substantially and significantly impede movement of species in the region.

We believe we can make the fair argument that this project may result in substantial, significant and adverse impacts to biological resources. The finding of no significant impacts cannot be made.



Deer on the
2.28-acre
site, Oct 20
2016



In Santa Teresa Foothills, land speculation should be discouraged and land conservation encouraged

If the City accepts this proposal, it will encourage other property owners (especially in the Santa Teresa Foothills) to speculate that they too will be able develop their land beyond currently permitted uses. Land purchase for permanent conservation will become even more difficult and expensive than it is today.

Since Measure Q passed, funds are available for Santa Clara Valley Open Space Authority (OSA) purchased land in the area. Indeed, OSA stated, “*OSA is working with local governments, willing sellers, and the local community to create a connected open space system in the Santa Teresa Foothills for the benefit of wildlife, natural resources*

and passive outdoor recreation. In 2015, the OSA acquired the Sanfilippo Property on Santa Teresa Ridge and are open to other acquisitions as opportunities with willing sellers arise."

Once developed, the natural environment is gone forever. With patience, we can have both a trail and an undeveloped ridge.

Thank you,



Shani Kleinhaus, PH.D.
Environmental Advocate
Santa Clara Valley Audubon Society



Michael Ferreira
Executive Committee Chair
Sierra Club-Loma Prieta Chapter



Alice Kaufman,
Legislative Advocate
Committee for Green Foothills