

**ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE
SAN JOSÉ FLEA MARKET GENERAL PLAN AMMENDMENT & PLANNED
DEVELOPMENT REZONING PROJECT**

September 2009

I. PURPOSE OF ADDENDUM

The California Environmental Quality Act (CEQA) recognizes that between the date an environmental document is completed and the date the project is fully implemented, one or more of the following changes may occur: 1) the project may change; 2) the environmental setting in which the project is located may change; 3) laws, regulations or policies may change in ways that impact the environment; and/or 4) previously unknown information can arise. Before proceeding with a project, CEQA requires the Lead Agency to evaluate these changes to determine whether or not they affect the conclusions in the environmental document.

In April 2007, the City of San José certified the Final Environmental Impact Report (FEIR) for the San José Flea Market General Plan Amendment and Rezoning project. The FEIR analyzed the redevelopment of the existing San José Flea Market site with a mixed use development to be built within the planned Berryessa Station Area Node¹ which surrounds the future Berryessa Bay Area Rapid Transit (BART) Station.

The project proposed map and text amendments to the City of San José General Plan which would decrease the acreage of land designated *Combined Industrial/Commercial* and increase the acreage of land designated *Transit Corridor Residential (20+ dwelling units per acre)* on the project site. Additionally, the General Plan amendments would allow future development at the project site with a *Flexible Land Use Boundary*; allow an increase in the maximum building height for the area south of Berryessa Road from 120 feet to 150 feet; downgrade Sierra Road from a four-lane Major Collector to a two-lane Major Collector; and add a Major Collector on the project site from Mabury Road to Berryessa Road. The project would rezone the site to *A(PD)- Planned Development*, which would allow the development of up to 2,818 residential dwelling units and approximately 365,622 square feet of commercial/industrial/office uses on the 120-acre site.

Since certification of the FEIR changes have been made to the project, which are the subject of this Addendum. The purpose of this Addendum is to analyze the impacts which may result from the modified project (see *Description of the Proposed Changes to the Project*).

The CEQA Guidelines Section 15162 states that when an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless

¹ The San José General Plan defines BART Station Area Nodes as the area within a radius of 3,000 feet from a planned BART Station. The purpose of the BART Station Area Node is to direct transit-oriented and pedestrian-friendly land use development in close proximity to BART stations. BART Station Area Nodes are suitable for higher residential densities, intensive job generating uses, and mixed use development, which in turn should support BART ridership.

the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines Section 15164 state that the lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in 15162 (see above) calling for preparation of a subsequent EIR have occurred.

II. DESCRIPTION OF THE PROPOSED CHANGES TO THE PROJECT

The project proposes the following changes to the existing *(A)PD-Planned Development Zoning*:

1. Include single family detached dwelling units within Subarea N3a², where single family detached units are currently prohibited. (The overall housing density on the project site would remain consistent with the density of the previously approved project);
2. Allow a gasoline service station in Subarea N1³, where vehicle related uses are currently prohibited; and

² Subarea N3a is located in the northeast portion of the project site. The proposed residential development would be constructed in the northeast corner of Subarea N3a.

³ Subarea N1 is north of, and adjacent to Berryessa Road. The proposed gasoline service station would be constructed in the southeast corner of Subarea N1.

3. Modify the mitigation requiring that improvements must be constructed by the project at the interchange of US 101 and Oakland Road, and add that the project may participate in the US 101/Oakland/Maybury Area Transportation Development Policy.

III. ENVIRONMENTAL IMPACTS OF PROPOSED CHANGES TO THE PROJECT

The discussion below describes the environmental impacts of the modified project which includes the proposed changes, as it compares with the impacts of the previously approved project analyzed in the *San José Flea Market General Plan Amendment and Rezoning FEIR*. Also noted are any changes that have occurred in the environmental setting that would result in new impacts or impacts of greater severity than those identified in the previously certified FEIR.

A. Aesthetics and Visual

The project site is not located within a scenic view shed or along a scenic highway. The proposed changes to the project would include construction of a gasoline service station located in a planned commercial area and detached single family homes located in a planned residential area. These structures would fit the character of the surrounding land uses and would not represent a visual or aesthetic impact beyond those of the previously approved project.

The modified project would be located within the same boundaries as the previously approved project and the proposed changes would not result in new impacts to aesthetic or visual resources or impacts of greater severity than those previously identified in the certified *San José Flea Market General Plan Amendment and Rezoning FEIR*.

B. Air Quality

The previously certified FEIR identified significant unavoidable air impacts related to emissions from project generated traffic which would exceed the Bay Area Quality Management District's (BAAQMD) threshold of significance for ozone precursors and PM₁₀ of 80 pounds per day.

The proposed changes to the project would result in a net reduction in multi-family and single family dwelling units North of Berryessa Road, however, overall density of the project site will remain the same. Full buildout of the site under the modified project would have the same daily traffic trips as the previously approved project. The proposed gasoline service station would not increase the daily traffic trips generated by the project site because patrons would likely use the facility while on the way to another destination. The proposed changes to the approved project would not result in an increase in the daily traffic trips generated by the project site. The modified project would be subject to the mitigation measures listed in the previously certified FEIR to reduce long-term regional air quality impacts from traffic.

The FEIR identified significant temporary construction impacts associated with construction activities such as demolition, excavation and grading operations, construction vehicle traffic,

and wind blowing over exposed soils. Impacts from construction/demolition would be mitigated to a less than significant level through standard dust control measures listed in the certified FEIR for the previously approved project.

The previously approved project included construction of a sanitary sewer pump station with a backup diesel generator which would expose residents of the project site to toxic air contaminants. Air quality impacts from the backup diesel generator would be less than significant, and verified by BAAQMD prior to issuance of a permit. The project includes a gasoline service station where equipment could produce emissions. The equipment is also subject to permitting by BAAQMD to ensure that standards for the Santa Clara Valley air basin are met.

The changes to the previously approved project would not result in new air quality impacts or impacts of greater severity than those already identified in the certified *San José Flea Market General Plan Amendment and Rezoning FEIR*.

C. Biological Resources

The previously certified FEIR found that the project would result in significant impacts to nesting raptors, steelhead, and western pond turtles. The project would also result in the loss of trees, the loss of riparian habitat, and temporary degradation of water quality in Coyote Creek and Upper Penitencia Creek.

Impacts to nesting raptors were reduced to a less than significant level in the previously certified FEIR through standard procedures including scheduling of construction activities to avoid the nesting raptor season. Impacts to steelhead and western pond turtles were reduced to a less than significant level through measures including the provision of a constant creek flow suitable for fish passage during bridge demolition/construction activity, and the relocation of steelhead and western pond turtles when necessary. In locations where preservation of existing trees was not feasible due to site constraints, the loss of trees was mitigated to a less than significant level through compliance by the project with the San José Tree Ordinance and implementation of specific mitigation, including the replacement of removed trees at specified ratios.

Demolition of two bridges and construction of two replacement bridges and two outfalls would impact riparian habitat at the project site. The previously approved project included measures to avoid impacts during project demolition and construction activities. Riparian habitat permanently affected by demolition and construction activities would be replaced with locally grown native plantings at a level sufficient to ensure no net loss of habitat functions and values. Impacts to water quality in the streams were reduced to less than significant levels using best management practices (BMPs).

The proposed gasoline service station would be subject to the same measures as the previously approved project and to the following specific BMPs for gas stations: 1) Install and maintain a treatment control measure, 2) Pave the fueling area floors with an impermeable surface (i.e., portland cement concrete or equivalent smooth impervious surface), 3) Cover the fueling areas with a canopy or cover that extends a minimum of ten feet in each direction from each pump. Alternatively cover the fueling areas with a canopy or

cover that has minimum dimensions equal to or greater than the area within the grade break or fuel dispensing area. (The fuel dispensing area is defined as the area extending a minimum of 6.5 feet from the corner of each fuel dispenser or the length at which the hose and nozzle assembly may be operated plus a minimum of one foot, whichever is greater. In no case should the canopy or cover drain onto the fueling area.), 4) Grade the fuel area to prevent water draining toward the fueling area, 5) Grade the fuel area with the minimum slope necessary to prevent ponding, 6) Separate the fueling area from the rest of the site by a grade break that prevents run-on of storm water to the maximum extent practicable, 7) Dry sweep the fueling area routinely, 8) Stencil on all on-site storm drains in conformance with the City's requirements, 9) Prepare a spill cleanup plan in conformance with the City of San José Fire Code.

The above listed BMPs for the proposed gasoline service station and the mitigation measures listed in the previously certified FEIR which reduced impacts to biological resources to a less than significant level will apply to the modified project. Therefore, the proposed changes will not result in new impacts to biological resources or impacts of greater severity than those previously identified in the certified *San José Flea Market General Plan Amendment and Rezoning FEIR*.

D. Energy

The previously certified FEIR estimated that the approved project would consume approximately 24 million kilowatt hours of electricity and 139 million cubic feet of natural gas. An energy impact is considered significant if the project would 1) result in the wasteful use of fuel or energy, 2) cause a substantial increase in demand upon energy resources in relation to project supplies, or 3) create longer overall distances between jobs and housing. The previously approved project would comply with existing state, federal, and local regulations regarding energy efficiency of buildings, appliances, lighting, etc., and the project would not result in the wasteful use of fuel or energy. Although the previously approved project would use only a small percentage of the total energy consumed in San José, the energy usage would be a substantial increase in demand upon energy resources in relation to projected supplies, which is a significant impact. The FEIR mitigated impacts to energy consumption to a less than significant level through mitigation and avoidance measures.

The modified project would have the same population density and commercial development as the previously approved project, therefore, energy consumption is expected to remain approximately the same at the project site. It is expected that occupants of the project site will require the use of personal vehicles for trips with destinations not located near mass transit. The proposed gasoline service station would minimize driving for the residential community by providing a nearby, easily accessible facility to obtain fuel. As further explained in the *Land Use* section, the proposed detached single family dwelling units will not reduce the density of the proposed development and will be located near the Berryessa BART Station, making mass transit an option for the neighborhood, thereby reducing fuel consumption. The proposed changes to the project would not result in the wasteful use of fuel or energy, and the project would comply with existing state, federal, and local regulations regarding energy efficiency of buildings, appliances, lighting, etc.

The modified project would have the same energy consumption levels as the previously

approved project, and would cause a substantial increase in demand upon energy resources in relation to project supplies. The mitigation and avoidance measures listed in the previously certified FEIR to reduce energy consumption to a less than significant level will apply to the modified project. Therefore, the proposed changes will not result in new energy impacts or impacts of greater severity than those previously identified in the certified *San José Flea Market General Plan Amendment and Rezoning FEIR*.

E. Cultural Resources

The previously certified FEIR found that construction on the project site could result in significant impacts to culturally significant buried prehistoric and/or historic archaeological resources from ground disturbance. The impact was mitigated to a less than significant level with implementation of measures including ground surveys, monitoring, reporting, and construction procedures. The FEIR determined that the loss of the San José Flea Market would be a significant unavoidable impact to a historically significant cultural resource. The modified project would be within the same footprint as the previously approved project and, therefore, will have the same impacts to cultural resources.

The mitigation and avoidance measures listed in the previously certified FEIR to reduce impacts to cultural resources will apply to the modified project. Therefore, the proposed changes will not result in new impacts to cultural resources or impacts of greater severity than those previously identified in the certified *San José Flea Market General Plan Amendment and Rezoning FEIR*.

F. Geology and Soils

The project site is located within a liquefaction hazard zone and has a moderate to high shrink/swell potential. The previously certified FEIR found that unstable soil conditions on the project site could expose people and structures to major geologic or soil hazards that could not be mitigated using standard engineering design and seismic safety techniques.

The modified project would include construction of a gasoline service station with associated underground storage tanks (USTs) located north of Upper Penitencia Creek (which is across Berrycsa Road from the site), and approximately 500 feet east of Coyote Creek. The USTs would be subject to the hazards of unstable soil conditions which could cause the USTs to leak gasoline, with detrimental effects to the nearby water sources.

The previously approved project mitigated the effects of unstable soils on structures to a less than significant level through a mandatory geotechnical investigation which would identify and describe the specific engineering practices to be used to reduce or avoid the identified geologic hazards on the project site. The proposed gasoline service station and associated USTs would also be subject to a mandatory geotechnical investigation prior to construction in order to ensure that their design and construction would prevent future leaks in the USTs.

The mitigation measures listed in the previously certified FEIR to reduce impacts from geology and soils will apply to the modified project, including the gasoline service station and the single family detached dwelling units. Therefore, the proposed changes will not result in new impacts to geology and soils or impacts of greater severity than those

previously identified in the certified *San José Flea Market General Plan Amendment and Rezoning FEIR*.

G. Hazards and Hazardous Materials

The previously certified FEIR found that development on the project site could result in significant impacts from hazardous materials.

The project site is located in an area with a long history of agricultural and commercial uses. Soil and groundwater sampling and analyses indicate that soil and groundwater at the project site have been impacted by hazardous materials. The FEIR found that future residents of the proposed project site could be exposed to hazardous levels of lead-contamination, volatile organic compounds, and/or polychlorinated biphenyls (PCBs) from contaminated soils. Future residents could also be exposed to petroleum hydrocarbons and/or organochlorine pesticides and pesticide-related metals in excess of soil cleanup goals.

Demolition of older structures at the project site could expose construction workers and the general public to airborne asbestos dust and/or airborne lead dust. Various historic uses at the project site may have also left behind hazards including buried structures, improperly closed wells, burn pits, or debris which could be encountered during site development activities and could create a significant hazard to construction workers, the general public, and/or the environment.

There are two high-pressure gas lines (10- and 12- inch diameter) within the Mabury Road right-of-way. These gas lines present a hazard to the previously approved project which allows high-density residential structures within 250 feet of the right-of-way. These gas lines would not, however, present a threat to the northern portion of the project site where the proposed detached single family residences would be located.

A study conducted for the previously approved project, which modeled accidental chemical releases, found eight facilities that store and use hazardous materials in the vicinity of the project site that could be life threatening to occupants in the event of a release. Measures were identified to reduce this impact in the certified FEIR, however, not to a less than significant level. All other hazardous materials impacts were reduced to a less than significant level through mitigation measures.

The modified project would be within the same boundaries as the previously approved project and, therefore, would be subject to the same impacts from hazardous materials located in the vicinity of the project site. Customers and employees of the proposed gasoline service station, and occupants of the detached single family residential development could be exposed to hazardous materials in the event of a release.

The proposed gasoline service station will comply with all City and County regulations, ordinances, and policies involving the use and storage of hazardous materials including the requirement of double walled tanks.

The mitigation and avoidance measures listed in the previously certified FEIR to reduce impacts from hazardous materials will apply to the modified project. Therefore, the proposed

changes will not result in new impacts from hazardous materials or impacts of greater severity than those previously identified in the certified *San José Flea Market General Plan Amendment and Rezoning FEIR*.

H. Hydrology and Water Quality

The previously certified FEIR found that development on the project site would result in significant impacts to hydrology and water quality.

In order to reduce and avoid impacts related to water quality the project proponents would be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) and a Notice of Intent (NOI). Additionally, the project would have to comply with the conditions of the approved Planned Development (PD) Permit, all applicable City of San José ordinances, and the National Pollution Discharge Elimination System (NPDES) Permit. Best Management Practices (BMPs) would be included to control erosion and the discharge of stormwater pollutants.

Upper Penitencia Creek flows through the project site south of and immediately adjacent to Berryessa Road. Upper Penitencia Creek does not have capacity within its banks to contain water flow during large storm events. The US Army Corps of Engineers (USACE), in conjunction with the Santa Clara Valley Water District (SCVWD) is working to develop a flood management plan for Upper Penitencia Creek.

According to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate maps (FIRM), the portion of the project site where the proposed gasoline service station would be located is within *Zone AH* with a base flood elevation of 82 feet, which is defined as a 100-year flood area with average flood elevations of one to three feet. The proposed detached single family residential development is located in *Zone D* which is defined as an area with possible but undetermined flood hazards. The previously approved project included measures to mitigate impacts from flooding should construction of the project precede completion of the USACE flood control project for Upper Penitencia Creek. In the absence of the USACE flood control project, the proposed gasoline service station and residential development would be subject to the floodplain mitigation measures listed in the previously certified FEIR.

Stormwater runoff pollutants generated by the proposed gasoline service station would be reduced through implementation of the specific BMPs described in the *Biological Resources* section of this document. The previously approved project proposed podium residential structures in the area where the modified project proposes detached single family residential development. The detached single family residential development would include small backyards and would, therefore, increase permeable surface and natural filtration on the project site. Construction of the modified project would contribute to temporary impacts to water quality.

The mitigation measures listed in the previously certified FEIR to reduce impacts related to water quality, drainage, and hydrology to a less than significant level will apply to the modified project. Therefore, the proposed changes will not result in new impacts related to water quality, drainage, and hydrology or impacts of greater severity than those previously

identified in the certified *San José Flea Market General Plan Amendment and Rezoning FEIR*.

I. Land Use

The previously approved PD- Planned Development zoning at the project site prohibited detached single family dwellings in Subarea N3a, and gasoline service stations. This addendum would amend the PD zoning to allow the proposed gasoline service station and detached single family residential development.

The previously approved project site is within the Berryessa Station Area Node which requires an overall residential density of 55 dwelling units per acre (DU/AC). The previously approved PD zoning allowed residential development as low as 20 DU/AC if it could be demonstrated to the satisfaction of the Director of Planning, Building, and Code Enforcement that residential development at a density less than 55 DU/AC in any given area of the project site would not inhibit the attainment of an overall average density of 55 DU/AC within the boundaries of the overall project site.

The proposed detached single family residential development, located within Subarea N3a, would have a density of 24 to 26 DU/AC resulting in a total of 242 dwelling units for Subarea N3a. The minimum density required for Subarea N3a is 20 DU/AC; the minimum number of units for all of the site north of Berryessa Road is a total of 350 dwelling units. Therefore, the proposed addition of single family detached units to Subarea N3a would not result in a lower density or fewer units than required for the project to comply with other elements of the existing zoning. The previously approved zoning stipulated that to the extent that any individual PD Permit Application falls below 55 DU/AC, other PD Permit Applications would then have to exceed 55 DU/AC. The proposed detached single family residential development would be consistent with the previously approved PD zoning so long as future development in other subareas of the project site exceed 55 DU/AC to achieve a density of 55 DU/AC for the overall project site.

The proposed gasoline service station would be located in the area planned as a commercial center in Subarea N1. The gasoline service station would be consistent with the planned surrounding commercial land uses, and would support the nearby high density housing. The proposed gasoline service station would not have a garage or repair station and, therefore, will not use power tools, compressors, or other equipment that could generate noise levels which would impact the planned residential development located approximately 150 feet to the east. With mitigation measures to reduce the possible hazards from the USTs (see *Geology and Soils*) the gasoline service station would not result in any new land use impacts.

As specified in plans for the previously approved project, parking for non-residential development on the project site would be provided as required by section 20.90.060 of the San José Municipal Code with a 10 percent transit station area reduction. Parking for residential development on the project site would be provided as required by the San José Residential Design Guidelines Chapter 8, "Guideline A. Parking Standards", with a 10 percent transit area reduction. The modified project would also meet the City's parking requirements and include a 10 percent transit station area reduction where applicable. The modified project would be within the same boundaries as the previously approved

project and would be subject to the same land use conditions as identified in the certified FEIR. The mitigation measures listed in the previously certified FEIR to reduce land use impacts to a less than significant level will apply to the modified project. Therefore, the proposed changes will not result in new impacts related to land use or impacts of greater severity than those previously identified in the certified *San José Flea Market General Plan Amendment and Rezoning FEIR*.

J. Noise and Vibration

The previously certified FEIR found that construction of the project could result in impacts to nearby noise-sensitive receptors located adjacent to the northern boundary and in the vicinity of the southern boundary of the project site. The entire build out of the project will take several years and depending on project phasing, construction will move around the site. Construction-related noise impacts will be reduced to a less than significant level using standard mitigation measures.

Sanitary sewer service for the project may require the installation of a pump station, which would require a backup diesel generator. The diesel generator would be operated during maintenance, testing, and power outages and would expose residents of the project site to substantial noise levels. The FEIR identified mitigation to reduce all noise impacts to residents from the diesel generator to a less than significant level.

Residences built on the project site within 1,000 feet of the neighboring asphalt plant would be exposed to noise levels that exceed 55 dBA. Residents within 100 feet of the BART tracks could be exposed to vibration levels above the threshold identified by the Federal

Transit Agency (FTA). The proposed detached single family residential development would be located approximately 1,400 feet east of the asphalt plant, and approximately 725 feet west of the BART tracks and would not be significantly affected by noise or vibration from these sources.

The proposed gasoline service station would not have a garage or repair station and, therefore, will not use power tools, compressors, or other equipment that could generate noise levels in excess of existing ambient conditions. As a result, operation of the proposed gasoline service station will not result in a noise impact on the proposed residential development on the project site.

The future BART rail line would be approximately 1,300 feet from the proposed gasoline service station. At this distance, it is unlikely that groundborne vibration caused by the rail line would impact the structural integrity of the underground storage tanks (USTs). Nevertheless, due to unstable soils conditions on-site (see *Geology and Soils*), the project will be required to complete a structural engineering study on the proposed design of the USTs and submit it to the Building Division for approval prior to issuance of grading permits.

The modified project would be subject to the noise and vibration conditions identified in the previously certified FEIR. The mitigation measures listed in the previously certified FEIR will apply to the modified project. Therefore, the proposed changes will not result in new

impacts related to noise or impacts of greater severity than those previously identified in the certified *San José Flea Market General Plan Amendment and Rezoning FEIR*.

K. Population and Housing

The previously approved project would not displace any substantial numbers of existing housing or people and would induce a one percent population growth in the City of San José. The project would support the City's jobs/housing balance by increasing housing at a major transit station (the future Berryessa BART Station) which would serve the City's nearby existing and planned job centers of Downtown and north San José. The project site is infill development, and would develop up to 365,622 square feet of commercial/industrial development that does not presently exist.

The modified project would be required to maintain the overall 55 DU/AC density on the project site (see *Land Use*) thereby maintaining the anticipated one percent population growth. Commercial development on the project site would remain the same as was planned for the previously approved project.

The modified project would not result in any new population or housing impact or any impact of greater severity than those already identified in the certified *San José Flea Market General Plan Amendment and Rezoning FEIR*.

L. Public Services

The previously approved project would not result in any significant impacts related to the provision of or increased demands upon libraries, parks, fire protection services, or police protection services. The Berryessa Union School District, however, indicated that a new school would need to be constructed to accommodate the students generated by the project. Project proponents could offset effects on the adequacy of school facilities through the payment of a school impact fee or through other methods suggested by the previously certified FEIR.

The modified project would have the same effects on public services as those identified in the previously certified FEIR, and would be subject to the same policies. The proposed changes to the project would not result in any new impacts to public services or any impact of greater severity than those already identified in the certified *San José Flea Market General Plan Amendment and Rezoning FEIR*.

M. Transportation and Traffic

As stated in the *Air Quality* section of this document, the modified project would result in a net reduction in multi-family and single family dwelling units North of Berryessa Road, however, overall density of the project site will remain the same. Full buildout of the site under the modified project would have the same daily traffic trips as the previously approved project. The proposed gasoline service station would not increase the daily traffic trips generated by the project site because patrons would likely use the facility while on the way to another destination. The modified project would maintain the overall residential density of 55 DU/AC on the project site (see *Land Use*), and would develop approximately 365,622 square feet of commercial/industrial space, as permitted in the previously approved project.

The population density of the project site will not change as a result of the modified project. Transportation and traffic impacts resulting from the project are expected to have the same impacts as identified in the previously certified FEIR.

The FEIR found that the project would significantly impact the intersection of US 101 and Oakland Road (northbound and southbound). The previously approved zoning included a requirement that the project would fund and construct all of its traffic mitigations, including improvements to the US 101/Oakland Road intersection which involved 1) construction of a second right-turn lane added to the US 101 southbound off ramp, and 2) conversion of the southbound through lane to a shared through-right lane and an added second northbound left-turn lane. The second northbound left-turn lane would require the widening of the Oakland Road bridge structure over the freeway.

In June 2007, the San José City Council adopted the US-101/Oakland/Mabury Transportation Development Policy (TDP). The TDP required new residential and commercial development to make a fair-share contribution towards the construction cost of \$31 million to improve specified interchanges, based on development capacity and related trips generated by a given development. The TDP found that the fair-share Traffic Impact Fee was \$30,000 dollars for each interchange trip. If the Flea Market Project joined the policy, it would be required to conform to the requirements of the policy. Therefore, the Flea Market Project would mitigate its traffic impacts through participation in the US-101/Oakland/Mabury TDP, as amended.

Aside from new mitigation for impacts to the US 101/Oakland Road interchange the modified project would result in the same traffic and transportation impacts, and require the same mitigation measures, as listed in the FEIR for the previously approved project. Therefore, the proposed changes would not result in any new impact to transportation and traffic or any impact of greater severity than those already identified in the certified *San José Flea Market General Plan Amendment and Rezoning FEIR*.

N. Utilities and Service Systems

The project site and surrounding area is developed urban environment and served by existing utility and service systems.

The modified project would be subject to the same mitigation measures related to utilities and service systems as the previously approved project. Therefore, the proposed changes would not result in any new impact to utilities or service systems or any impact of greater severity than those already identified in the certified *San José Flea Market General Plan Amendment and Rezoning FEIR*.

Conclusion

There are no new significant impacts; nor is there any increase in the severity of previously identified impacts due to changes in the proposed project for the site at 1590 Berryessa Road.

IV. CONCLUSION

Based on the above analysis and discussion, no substantive revisions are needed to the 2006 San José Flea Market General Plan Amendment and Rezoning FEIR, because no new significant impacts or impacts of greater severity would result from the modified project. No changes in circumstances in the project area would result in new significant environmental impacts. Therefore, no further evaluation is required, and no Supplemental or Subsequent EIR is needed pursuant to State CEQA Guidelines Section 15162. An Addendum has therefore been appropriately prepared, pursuant to Section 15164.

Pursuant to CEQA Guidelines 15164, this addendum will not be circulated for public review, but will be included in the public record file for the project at 1590 Beryessa Road.

for **Akoni Daniel**
Joseph Horwedel, Director
Planning, Building, Code Enforcement

Date: **9/16/09**