



# Memorandum

**TO:** PLANNING COMMISSION

**FROM:** Joseph H. Horwedel

**SUBJECT:** EVERGREEN-EAST HILLS  
DEVELOPMENT POLICY  
AND SUPPLEMENTAL EIR

**DATE:** November 25, 2008

COUNCIL DISTRICT: 5, 7, & 8  
SNI AREAS: West  
Evergreen, K.O.N.A., & East  
Valley/680

## RECOMMENDATION

1. Adopt a resolution certifying the November, 2008 Supplement to the Final Environmental Impact Report, certified December 2006, as prepared and in compliance with CEQA.
2. Recommend that the City Council:
  - a. Update the Evergreen-East Hills Development Policy to allow an additional 500 residential units, 500,000 square feet of commercial retail, and 75,000 square feet of office development in the EEHDP area, and to authorize a decreased level of service at four intersections (Capitol Expressway and Nieman Blvd., San Felipe Road and Yerba Buena Road (North); San Felipe Road and Delta Road; and Evergreen Commons and Tully Road);
  - b. Accept the traffic impact study and associated transportation improvements which form the basis for the proposed Evergreen-East Hills Traffic Impact Fee, entitled Evergreen-East Hills Nexus Study and dated November, 2008; and
  - c. Adopt an ordinance establishing the Evergreen-East Hills Traffic Impact Fee, which is required to implement the traffic improvements set forth in the Evergreen-East Hills Traffic Impact Fee Study dated November, 2008 and the update to the Evergreen-East Hills Development Policy.

## **OVERVIEW**

This report addresses a proposal to update the existing transportation policy in the Evergreen-East Hills Development area. The current transportation policy is entitled the Evergreen Development Policy. The Evergreen-East Hills Development Policy (EEHDP) update proposes to create additional capacity in the transportation policy for an additional 500 residential units, 500,000 square feet of commercial retail and 75,000 square feet of office development in the Evergreen-East Hills area. The proposed EEHDP would require the funding of various transportation projects (improvements) by the applicants of future development proposals which would draw from the development pool created by the EEHDP.

## **BACKGROUND**

### **Policy Area**

The Evergreen-East Hills Development Policy (EEHDP) area boundaries is the area of land within San Jose's Urban Service Area, which is generally south of Story Road, east of the U.S. Highway 101, and the area generally north of the intersection of U.S. Highway 101 and Hellyer Avenue, where the northern boundary of the Edenvale Development Policy Area ends. The predominant land uses within the EEHDP area are single-family residential subdivisions, commercial and retail development, in addition to approximately 426 acres of vacant industrially designated land.

### **Existing Evergreen Development Policy**

The original Evergreen Development Policy (EDP) was adopted in August 1976 to address the issues of flood protection and traffic capacity in the Evergreen area. The EDP was based on City analyses, which concluded that transportation and flood protection deficiencies constituted substantial constraints to development in Evergreen. The 1976 EDP established the policy framework for dealing with the build-out of Evergreen as identified by the General Plan at that time, and identified specific programs for correcting the service deficiencies. Since the adoption of the EDP, growth in the Evergreen area has been limited by the availability of urban services, particularly the capacity of the transportation systems. In particular, the EDP limited the construction of new residential units in order to achieve a goal of meeting a traffic Level of Service "D" at key boundary (screenline) intersections.

Under the original EDP, the screenline intersections reached their maximum traffic capacity in 1989, effectively preventing additional residential development. At that point however there was potential for the construction of almost four thousand new units based on existing General Plan land use designations. Of these potential units, 3,000 were within a sub-area of the EDP, the Evergreen Planned Residential Community (EPRC).

In 1990, the City Council initiated the Evergreen Specific Plan (ESP) to create a unique suburban area with a mix of lot sizes, housing types, some retail, parks, schools, and other amenities. The ESP was the catalyst to revise the EDP, and through that effort, the City was able to identify additional traffic mitigation to support the construction of the new units. Traffic analysis performed in conjunction with the preparation of the Evergreen Specific Plan (ESP) quantified the amount of traffic capacity required to allow full development of the remaining vacant lands in Evergreen, and identified potential street improvements which could provide the required capacity with the goal of maintaining an LOS "D" at the screenline intersections. In 1991, the City Council approved the ESP and revised the Evergreen Development Policy to be consistent with the Evergreen Specific Plan.

The Evergreen Development Policy was again revised in 1995 to provide the policy framework for the buildout of Evergreen based on the General Plan at that time. The 1995 Revised EDP identified the remaining watersheds and street system improvements required to allow 4,759 dwelling units to proceed. A Benefit Assessment District (No. 91-209SJ Aborn-Murillo) was formed to provide a cost-sharing plan to finance and construct the extensive infrastructure network enhancements necessary to facilitate the planned and potential dwelling units identified by the San José 2020 General Plan and the Evergreen Specific Plan. In 1998 the Benefit Assessment District was augmented and updated through the formation of Community Facilities District No. 4 as a result of changes to the laws governing special districts. The Assessment District remains in effect along with the Community Facilities District.

A minor modification was made to the EDP Ordinance in August, 1998 to refine the traffic analysis methodology in order to facilitate small-scale, non-residential development. Following this modification, transportation methodology was no longer based upon screenline intersections.

#### **Evergreen-East Hills Vision Strategy Planning Process.**

In 2003 several Evergreen area property owners/developers agreed to fund a cooperative, comprehensive land use and transportation planning effort rather than pursue individual General Plan amendments and modification to the Evergreen Development Policy in a piecemeal fashion. The property owners/developers represent the properties known as Arcadia, Pleasant Hills Golf Course, Campus Industrial (Berg, IDS, and Legacy) and Evergreen Valley College, which were referred to collectively as the "opportunity sites." The Evergreen-East Hills Vision Strategy (EEHVS) proposed development of on the opportunity sites with six development scenarios. Five of the scenarios included development on all of the opportunity sites, including the conversion of campus industrial land to residential development. Of the largest development scenario proposed, included up to 5,700 residential units, 500,000 square feet of commercial retail, and 75,000 square feet of office development. The EEHVS development scenarios also included a residential pool of 700 units for development on properties which were not part of the four opportunity sites.

The EEHVS began in August 2003 with the formation of a task force, which was reconfigured in June 2005, to have broader community representation. The task force adopted a set of Guiding Principles for the purpose of creating a community-based plan that balanced new housing and

non-residential development in infill locations with the construction of transportation improvements and community amenities (i.e., a “three legged stool”). This unique balancing act was intended to improve the overall quality of life in and around Evergreen.

On May 15, 2007, the City Council considered the EEHVS and decided to defer any decision on conversion to residential development of the industrial properties (Berg, IDS, and Legacy, while directing Staff to update the current traffic policy for a much more limited level of development than proposed by the EEHVS.

### **Early Council Direction on the Evergreen-East Hills Development Policy**

On June 26, 2007, the City Council approved the criteria for the update of the existing traffic policy for the Evergreen-East Hills area. These criteria included:

- 1) Limiting residential development to a pool of 500 units;
- 2) Allowing only 35 residential units on any one property unless the development incorporates affordable housing, historic preservation, or mixed use components; and
- 3) Allowing 500,000 square feet of new commercial retail and 75,000 square feet of new office development.

## **ANALYSIS**

### **Components of the Proposed Draft Evergreen-East Hills Development Policy**

The proposed Draft Evergreen-East Hills Development Policy (attached to this staff report) includes criteria in regards to the following: 1) Transportation Level of Service; 2) Small and large residential projects; 3) Evaluation of traffic for “other” land uses; 4) Anti-Clustering; 5) Prioritization of Residential Projects; and 6) Any future amendments to the EEHDP

#### *Transportation Level of Service*

The Evergreen-East Hills area has historically had a distinct Transportation Level of Service policy, which is has a very stringent level of significant impact criteria. Compared to the Citywide Level of Service Policy (Council Policy 5-3), which sets the Transportation Level of Service D as acceptable Level of Service, an impact in the Evergreen-East Hills area is considered significant for residential projects if the Level of Service at an intersection degrades a single letter grade. In other words, an intersection degrading from Level of Service A to Level of Service B would be considered a significant impact in the Evergreen-East Hills area, but would be considered acceptable in many other areas of the City which are evaluated under the Citywide Level of Service Policy.

The challenge of the proposed update to the existing Evergreen-East Hills Policy is to allow increased capacity within the Policy for a pulse of development that then does not also allow development beyond the capacity defined by the City Council. As a result, the proposed update to the EEHDP does not substantively change the existing significance impact criteria as specified

in the current Policy. A minor change to the phrasing of the existing significance impact criteria has been proposed to enable new traffic analysis software, which is used in all other areas of the city, to be used.

Given that measurement of significant impact is very stringent in the EEHDP, there are instances under the existing Policy, where proposed mitigations for roadway improvements are required but those improvements have other impacts which may conflict with other City of San Jose priorities. The proposed EEHDP includes instances where mitigations for roadway improvements are exempt because the mitigations themselves pose undesirable conflicts with other modes of travel or the biotic environment. These exemptions may only occur when the level of increased traffic is not considered a significant impact in the Citywide Level of Service Policy.

#### *Small and Large Residential Projects*

The residential capacity is proposed to be increased in the EEDHP area by 500 residential units which are to be in a development pool and not assigned to any property in particular. Residential projects may draw down from the residential pool of 500 units. The City Council in its action on June 26, 2007 directed an update to the EEHDP to enable development predominantly for small projects of 35 units in size or fewer. The City Council also directed that large residential projects of 36 units or more could only occur if they included affordable housing, mixed use, or historic preservation.

The Draft Policy defines a small project as any project which proposes to draw 35 or fewer residential units from the residential pool. A large project is any project which proposes to draw more than 35 units from the residential pool. In the event that a project has existing allocation or entitlements prior to drawing from the residential pool, only the number of units that draw from the residential pool shall be applied to the small and large project criteria specified below. For example, if a project has 30 units of existing allocation or entitlements in conformance with the Original Evergreen Development Policy and proposes to use eight additional units from the residential pool, the project's total size would be 38 units, but it would be considered a small project because it is only drawing eight units from the residential pool.

The Draft Policy provides a process for allocations for large residential developments if they meet affordable housing, mixed use, and/or historic preservation criteria. In particular, the Draft Policy includes deep affordability requirements for projects to be defined as affordable. The specific affordability requirements were recommended by the Housing Department and discussed at outreach meetings. In the event that a citywide affordable housing policy is adopted, the affordable housing requirements for projects over 35 units in size or greater shall be either the citywide policy requirements or the requirements specified in the proposed EEHDP. Appendix C of the Draft Policy includes criteria for any large mixed use projects. The Historic Preservation criteria (see Appendix D of the Draft Policy) for large residential projects were discussed at two Historic Landmarks Commission Hearings on April 2, 2008 and May 7, 2008. The Commission endorsed these criteria.

In response to community concern that large projects in the EEHDP area could take up much of the 500 residential development pool, the Draft Policy includes a small project reservation and a large project cap, so that 70% of the residential pool (350 units) is reserved for small projects and no more than 30% of the residential pool (150 units) can be utilized for all of the large projects combined. As stated above, small and large residential projects are defined as having 35 units or fewer or more than 35 residential units respectively.

#### *Evaluation of Traffic for "Other" Land Uses*

The Draft policy also includes criteria for proposed development that does not fit traditional forms of commercial, office, or residential uses. For these proposals, the number of peak AM/PM trips generated per square footage or dwelling unit must be calculated using a trip generation equivalency. The trip generation equivalency will equate the number of AM/PM peak trips from the development proposal to an amount of square footage for commercial or office uses or a number of dwelling units for residential use. For projects that have a mix or hybrid of uses, the trip generation equivalency will equate a combination of commercial or office square footage and dwelling units. The determined equivalent amount of commercial and office square footage or number of dwelling units would need to draw from the appropriate traffic development pool category or categories (commercial, office, and/or residential) approved through this Policy.

Given that these "other land use" proposals must draw from the development pool, the proposals must comply with the provisions of this Policy that are applicable to the development pool. For example, any proposal that would draw more than 35 units from the residential development pool based on trip generation equivalency, would need to meet the criteria for large projects as outlined in the Implementation section of this Policy.

#### *Anti-Clustering for Residential Development*

Clustering residential development to leave large portions of a site vacant for future development was a practice that occurred in the Evergreen-East Hills area when sites had some residential traffic allocation, but not as much as a developer desired. The allocation of development capacity through the land use approval process on sites in the EEHDP area should occur only if the proposed residential development fully utilizes the proposed project site consistent with the designation on the General Plan Land Use/Transportation Diagram, General Plan text, and other applicable policies (e.g., Riparian Corridor Policy). If a site is unable to fully develop consistent with the General Plan Land Use/Transportation Diagram designation, General Plan text, and in accordance with the criteria set in this policy, then the site is ineligible to draw from the residential pool.

*Prioritization of Residential Projects*

In the event that there are more applications filed for residential development in the Policy area than the 500 unit residential pool allows, projects on file will be evaluated and prioritized by Planning staff for their conformance to the following congestion reduction goals:

Proximity to Mass Transit - Any projects located within 2,000 feet of existing or planned light rail or bus stops. Projects should also include enhanced provisions for bicycle parking and pedestrian connections on-site.

Proximity to Community Services - Any projects located with ¼ mile from community services such as schools, libraries, and commercial areas.

In the event that some residential applications must be denied or reduced because the total proposed residential units of the combined applications exceed the 500 residential pool, development applications on file that meet one or more of the goals above shall be given consideration for approval before projects that do not meet any of the goals.

*Future Amendments to the EEHDP*

The Draft Policy defines the only circumstances for when the City Council may consider future amendments to the Evergreen-East Hills Development Policy. In order for an Amendment to the EEHDP, one of the following three circumstances must be realized:

(1) A "bona fide" plan for financing transportation improvements and amenities identified in the EEHVS process is prepared and offered private party. This plan shall be considered bona fide if it is accompanied with binding agreement that provides full funding for, or identifies a realistic and certain means to fund the entire Highway 101 corridor project and all other traffic infrastructure required within the policy area and "fair share" funding of the items recommended in the amenities list identified through the Evergreen-East Hills Vision Strategy (see Appendix G of the Draft Policy); or

(2) The full establishment of 11,600 jobs on properties planned for Campus Industrial uses in the EEHDP area has been achieved; or

(3) An establishment of jobs on properties planned for Campus Industrial in accordance with a phasing plan below (see Draft Policy for Phasing Plan) is also accompanied by a plan offered by a private party which provides or identifies a realistic and certain means to fund transportation improvement priorities and community amenities which were identified in the EEHVS amenities list. The phasing plan shall allow housing to be phased in with the occurrence of jobs; however the total housing units shall not exceed a total of 3,900 residential units. The initial 500 units which are allowed within the EEHDP shall also be included in the total of 3,900 units.

### **Need for a Revised Evergreen Development Policy**

The primary purpose of the updated Evergreen-East Hills Development Policy is to replace the original Evergreen Development Policy, as amended, to specifically allow a limited increase in development in the Evergreen-East Hills area. The Evergreen-East Hills Development Policy becomes the new policy framework for a limited amount of new residential, commercial, and office development within the EEHDP area. As explained in greater detail in the transportation section above, the existing transportation level of significance threshold in the existing Policy is very stringent and it essentially precludes additional development in the Policy area. There is very limited development capacity left under the existing Evergreen Development Policy. Specifically, there are only 446 units of existing residential allocation which have not been built in the existing Evergreen Development Policy. 217 of the 446 units of existing residential allocation are located on the Arcadia Property.

The last minor revision to the Evergreen Development Policy occurred in 1998, with the last substantial update occurring in 1995 to allow the Evergreen Specific Plan. For over ten years, small property owners without allocation were precluded from residential development if they did not have existing allocation because even a small amount of development would create significant level of service impacts because of the very stringent threshold for significant transportation impacts in the Evergreen Development Policy. Although the proposed EEHDP does not change substantively the thresholds of significance for transportation impacts, the Draft Supplemental Environmental Impact Report, if certified, will allow environmental clearance for limited additional traffic capacity in the area, which would be hurdle for individual, small property owners to achieve on their own.

The EEDHP is intended to promote the long-term vitality of the Evergreen-East Hills area by linking together limited new development with supporting transportation infrastructure. In exchange for enabling more development capacity, the proposed Policy provides a mechanism to require commensurate traffic impact fees in order to construct transportation system investments.

### **Consistency with the San José 2020 General Plan Major Strategies, Goals, and Policies**

The Evergreen East Hills Development Policy furthers the following three Major Strategies of the San Jose 2020 General Plan: Growth Management, Economic Development, and Urban Conservation/Preservation

#### *Growth Management Major Strategy*

The Growth Management Major Strategy includes policies that guide new development to infill locations to make efficient use of existing infrastructure, minimizing the impact on services provided by the City. This Strategy incorporates the City's Urban Service Area Boundary (UGB), the ultimate limit of urban development and the Urban Service Area Boundary, limits the provision of City services. The Strategy also states that new development is expected to pay for the infrastructure required to support it. The proposed update to the EEHDP allowing additional residential, commercial, and industrial development in the area would be consistent with this



Strategy in that it allows for additional development within an already developed portion of the City. In addition, the proposed Policy requires a Traffic Impact Fee to be paid by development benefiting from the increased development capacity in the EEHDP area to pay for roadway improvements. These roadway improvements will bring the Transportation Level of Service to intersections, with few exceptions, back to the pre-project Level of Service. Given that the proposed policy will also allow additional capacity for 500,000 square feet of commercial retail and 75,000 square feet of office development, this will also help to correct the jobs/housing balance issue in the Evergreen-East Hills area, as it is predominantly residential, with much commuter traffic leaving the area in peak morning periods for jobs sources outside, and returning in the evening area.

#### *Economic Development Major Strategy*

The Economic Development Major Strategy involves providing land for a diverse economic base, including office, research and development, professional offices (e.g., medical), and retail. Economic diversity provides jobs at various skill and wage levels. The proposed Policy would allow up to 500,000 square feet of commercial retail and 75,000 square feet of office development in the EEHDP area. It is anticipated that between approximately 300,000 and 344,000 square feet of commercial development could occur on the Arcadia property located at the south side of Quimby Road approximately 1,000 feet westerly of Capitol Expressway. The addition of commercial and office uses in the Evergreen-East Hills area allows these services to be accessible to Evergreen-East Hills residents. The additional commercial and office uses create a bigger sales tax base that benefits the city as a whole.

#### *Urban Conservation/Preservation Strategy*

The Urban Conservation/Preservation Strategy recognizes the value in protecting and enhancing San Jose's neighborhoods and historic buildings to promote community identity and pride. In particular, the proposed EEHDP furthers this strategy as it includes historic preservation criteria, which were recommended by the City's Historic Landmarks Commission, to protect existing cultural resources for large residential development projects. The unique ability to develop more than 35 residential units within the traffic policy area, given the limited development opportunities that will exist, is a significant incentive to support historic preservation in the Evergreen-East Hills Area.

The most significant known historic resources in the Evergreen-East Hills area include the Wehner Mansion, a City Landmark, located within the Villages development, and the 15.13 gross-acre Mirassou Winery site listed on the Historic Resources Inventory as a Candidate City Landmark on November 2, 2005. It is also likely the existing large lots in the EEHDP area may contain resources such as residences or accessory structures related to historic agricultural practices. The historic preservation criteria in the Draft Policy (see Appendix D) address the specific types and setting of cultural resources in the Policy area and will result in projects with verifiable historic preservation results.

### **FISCAL ANALYSIS/IMPLICATIONS**

The proposed EEHDP would include new infrastructure in the way of transportation investments (new traffic signals and intersection improvements, etc.) in order to off-set the impacts of new development in the Policy area. These roadway improvements will be funded through the payment of Traffic Impact Fees which will be required of any development that benefits from increased capacity created through the EEHDP.

The preliminary nexus study estimates the transportation impact fee for commercial retail located on the Arcadia development to be approximately \$10/square foot. The proposed traffic impact fee (TIF) will be finalized in advance of the Planning Commission hearing. The Department of Transportation has analyzed the overall mitigation costs for three large commercial developments that have been approved recently in San Jose which would comparable to large-scale commercial development on the Arcadia property. It was determined that the approximate \$10 per square foot of Traffic Impact Fee which is likely to be assessed to the Arcadia site, is in the range of what other commercial developments of similar scope have paid for traffic related improvements.

The City of San José Parkland Dedication Ordinance (PDO) (Chapter 19.38) and Park Impact Ordinance (PIO) are applicable to all residential developments in the EEHDP area. The City's PDO and PIO require residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project is required to conform to the PDO and PIO.

### **POLICY ALTERNATIVES**

**Recommendation Alternative #1:** Do not update the Evergreen-East Hills Development Policy.

**Pros:** The Evergreen-East Hills Development Policy will not be able to fund major transportation improvements such as the Highway 101 corridor project, which would provide more substantial traffic congestion relief for residents of the EEHDP. Although most of the affected intersections will mitigate all increased levels of traffic related to the EEHDP, to pre-project conditions; two intersections, as described in the Supplemental EIR, will have significant unavoidable traffic impacts which cannot be mitigated and four intersections will have decreased levels of service because the possible mitigation is proposed to be exempt from implementation due to the mitigation's conflict with other modes of travel and biological resources. The EEHDP will not provide traffic congestion improvements other than the mitigation of the proposed scope of development. The overall levels of congestion will continue.

**Cons:** If the proposed Evergreen-East Hills Development Policy is not approved, a variety of small residential properties that have development potential but no traffic allocation under the existing Evergreen Development Policy would not be able to develop. Similarly, substantial commercial retail and office development would also not be able to move forward. The addition of commercial retail and office development will bring services closer to Evergreen-East Hills

residents and increase the City's sales tax base. In addition, the developers and some members of the community would perceive the entire EEHVS and EEHDP processes as a waste of time and money. Based on Council direction on the proposed EEHDP on June 26, 2007, there is a community expectation that an updated Policy would move forward which would focus on allowing small residential developments and additional commercial development.

**Recommendation Alternative #2:** Update the Evergreen-East Hills Development Policy and reduce the assigned Transportation Impact Fee for commercial retail development.

**Pros:** The reduced traffic impact fee for commercial retail development would create an incentive for such development in the Evergreen-East Hills area. The addition of commercial retail uses will bring services closer to Evergreen-East Hills residents and increase the City's sales tax base. The proposed EEDHP would allow increased capacity for 500,000 square feet of commercial retail development.

**Cons:** Large commercial retail projects pay a similar dollar amount per square footage of traffic-related improvements as the proposed TIF for commercial retail development in the EEHDP. There are commercial developments in the City of San Jose which have had less costly traffic mitigation improvements and those which have had more costly traffic mitigation improvements. Subsidizing the commercial retail TIF would mean that that City would need to fund the transportation improvements in some other manner, which may mean a reduction in General Fund to facilitate the decreased TIF. The TIF for residential development in the EEDHP cannot be increased to subsidize the commercial TIF as an impact fee can only be assessed at a level commensurate with its traffic impact.

### **PUBLIC OUTREACH**

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

Staff conducted three separate community meetings on March 17<sup>th</sup>, September 8<sup>th</sup>, and November 10<sup>th</sup> 2008 in the Evergreen-East Hills area to receive input on the formation of the draft Policy, to present the draft Policy and results of traffic analysis, and to present the revised draft Policy. Staff also presented the draft Policy to the Developer Roundtable on September 16<sup>th</sup> and to the Neighborhood Roundtable on September 12<sup>th</sup> and November 18<sup>th</sup>.

Staff has also met separately with community members and developers to receive feedback on the formation of the draft policy. Throughout staff's outreach, several concerns were raised about provisions of the draft EEHDP.

The table below summarizes the Community and Developer concerns which have been raised and the resolution of those issues through revisions to the Draft Policy.

Community/Developer Comment	Resolution
<p>The majority of units should go to small property owners. Do not let only large projects take up the 500 residential unit pool. A 50% reservation for small project is not enough.</p>	<p>The Draft EEDHP was revised so that there is a 70% reservation for small projects from the residential pool.</p>
<p>Clarify what constitutes "small" and "large" residential projects. What happens in the event that some properties have existing allocation?</p>	<p>The Draft EEHDP was revised to define large and small projects. The project size, in regards to meeting Policy requirements, for a residential development is based on how many units must be drawn from the EEHDP pool.</p>
<p>Is development intended to be approved based on the traffic analysis distribution? What happens if development is proposed that does not meet the traffic analysis distribution?</p>	<p>This distribution does not imply entitlements are guaranteed as shown given that projects still must to adhere to the city's ordinances, design guidelines, and the General Plan. If Public Works staff determines that the impacts could be different or more significant than what was previously analyzed, the applicant will be required to provide a new traffic analysis.</p>
<p>There should be prioritization or evaluation of projects based on how a project meets community priorities, not just "first come, first served."</p>	<p>In the event that there is more demand for residential development in the Policy area than the 500 residential pool allows for, projects on file shall be evaluated by Planning staff for their conformance to the congestion reduction goals of proximity to mass transit or community services. Development applications on file that meet one or more of the goals above shall be given consideration for approval before projects that do not meet any of the goals.</p>

<p>Mitigations that have impacts on biological resources and pedestrians should not be unilaterally exempt. We do not want those impacts to be considered "insignificant."</p>	<p>The thresholds for significant impacts have not been changed substantively. Those impacts are still considered significant, however mitigations can be exempt if they create conflicts with other modes of travel or biological resources and the level of service at an intersection is not considered a significant impact under the Citywide Level of Policy. In addition, all mitigations for any impacts will be studied and will not be considered unilaterally exempt.</p>
<p>A version of the Draft Policy requires a community room, riparian sensitive development, green building, or diverse housing types for "small" projects of 35 or fewer units in size. This is in excess of other City Requirements.</p>	<p>The Draft policy has been revised to remove such requirements for projects of 35 units in size or fewer.</p>

Staff also presented and received feedback and the recommendation of the historic preservation criteria for large residential projects in the draft Policy to the Historic Landmarks Commission on March 5<sup>th</sup> and April 2<sup>nd</sup> 2008.

This memorandum will be posted on the City's website to facilitate the public's ability to watch, attend and/or address the City Council at the meeting. Once this memorandum is made public, it will also be emailed to community members and interested parties.

A hearing notice for the Planning Commission and City Council Hearing was published in the Mercury Newspaper and notices were emailed to the Evergreen-East Hills distribution list.

**COORDINATION**

The proposed Evergreen-East Hills Development Policy has been coordinated with the Departments of Transportation, Public Works, Housing, the Office of Economic Development, and the City Attorney's Office.

**CEQA**

Under separate covers, the Planning Commission received the Draft Supplemental Environmental Impact Report (SEIR), 1<sup>st</sup> Amendment to the SEIR, and Final EIR for the Evergreen-East Hills Vision Strategy Project. Those Commissioners who were not on the Planning Commission in December 2006, when the Final EIR for the Evergreen-East Hills

Vision Strategy was certified, were provided Compact Disks containing the Final EIR. The public can access these documents on the Environmental webpage of the Planning Division website (<http://www.sanjoseca.gov/planning/eir/eir.asp>).

The Draft Supplemental Environmental Impact Report (SEIR) has been prepared to evaluate the environmental impacts of the proposed Evergreen-East Hills Development Policy as described above. The California Environmental Quality Act (CEQA) requires the preparation of an EIR when "there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment" (CEQA Guidelines Section 15064). A Supplemental EIR was prepared because the traffic impacts evaluated with under the Evergreen-East Hills Vision Strategy EIR certified in December 2006 did not require substantial traffic mitigation due to the large package of transportation improvements that were originally proposed by the four Opportunity Site developers that were included in the project description as part of the base project.

Since the proposed Evergreen-East Hills Development Policy was limited in scope to traffic capacity, the analysis of impacts in this SEIR was limited to traffic, as well as traffic related noise and air quality. In addition, the contribution the proposed traffic allocation would make to global climate change was discussed in the document. In terms of CEQA, this means that the SEIR only provided CEQA clearance for the proposed traffic capacity, and traffic-related noise and air quality impacts. Subsequent analysis under CEQA is required for all specific project-related impacts, including those traffic impacts not evaluated under the Final EIR or the SEIR for this policy update, at the time the City receives a specific development proposal.

### **Traffic**

Using the thresholds of significance of the proposed Evergreen-East Hills Development Policy, the proposed project traffic would result in significant impacts at 14 intersections. Mitigation measures identified in the SEIR and proposed by the project would reduce project impacts at eight of the affected intersections. The proposed Evergreen-East Hills Development Policy proposes that four intersection impacts would be exempt from requiring mitigation, due to special circumstances. These intersections are: 1) Capitol Expressway and Nieman Boulevard; 2) San Felipe Road and Yerba Buena Road (North); 3) San Felipe Road and Delta Road; and 4) Evergreen Commons and Tully Road. At these four intersections, the improvement(s) necessary to restore traffic LOS to background conditions create undesirable conflicts with other modes of travel or create unacceptable impacts with biological resources.

Mitigation for the intersection of Capitol Expressway and Story Road is considered infeasible, due to right-of-way and relocation constraints. Project impacts at the intersection of Capitol Expressway and Story Road would remain significant and unavoidable, and a statement of overriding considerations is required. Mitigation for impacts at the intersection of White Road and Stevens Lane is considered infeasible, due to the right-of-way and relocation requirements of the identified mitigation. For this intersection impact a statement of overriding considerations is also required. Added traffic from the proposed project would result in a significant unavoidable

impact on nine directional freeway segments and a statement of overriding considerations is required for these freeway segments as well.


### Noise

Traffic generated by development that would be allowed under the proposed Evergreen-East Hills Development Policy would not result in any significant noise level increases over Background Conditions and mitigation is not required or proposed. Traffic noise generated by future development that would be allowed under the proposed Evergreen Development Policy Revision would not result in a significant long-term noise level increase. The noise impacts from specific development in the future would be evaluated at the time of development application.

### Air Quality

Development allowed by the proposed Ever green-East Hills Development Policy revision will result in increases in regional pollutants, such as particulates, that are in excess of the Bay Area Air Quality Management District thresholds, as described in further detail in the SEIR. Measures to reduce this impact are proposed, but the impact cannot be reduced to a less than-significant level.

The statement of overriding considerations of the significant unavoidable impacts resulting from the proposed project will be incorporated into the resolution that the City Council will be requested to consider and adopt.

  
JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions please contact Laurel Prevetti, Assistant Director, at (408) 535-7901.

### Attachments:

EEHDP Boundaries Map  
Letter from Richard Lambie  
Draft Evergreen-East Hills Development Policy