

# The McCarthy Ranch



January 18, 2008

John Stufflebean  
City of San Jose  
200 E. Santa Clara Street  
10<sup>th</sup> Floor  
San Jose, CA 95113

Dear Mr. Stufflebean:

This is to memorialize our meeting of December 20, 2007. We discussed a proposal to rezone our approximately 59 acres of land in Milpitas on the east side of the Plant to mixed use using the Smart Growth approach. The property is currently zoned for non-residential uses pursuant to a Settlement Agreement with the City of San Jose, et al. dated April 17, 1998.

Any development at the McCarthy property involving rezoning will likely take at least 18 to 24 months to complete. We therefore believe it necessary to begin the rezoning process as soon as possible, to do so however, will require a modification or suspension of the Settlement Agreement. While we are aware of your concern for the timing of our proposal, since the Plant is in the process of finalizing the scope of work for its consultants for the proposed Master Plan, we request that you advance the land use element of the Master Plan to the first phase. It is essential to complete the land use phase so that policy decisions for future development the Plant's buffer lands may be timely made. The Plant apparently will be looking at three odor reduction mitigation alternates that range from the alternate of moving the sludge drying beds operations from the Coyote Creek area to the more complex mechanical dewatering or green house covering alternatives. We may be of assistance to the Plant in identifying and evaluating alternatives that could reduce odors significantly.

We also discussed the changes in the environmental climate because of the improvements already made at the Plant, i.e., the changes in the hauling operations at the residual sludge management facilities and other odor/mitigation measures resulting in practically no odor complaints in the past two years. We are confident that the odor concerns for residential development on our land that formed the basis for the Settlement Agreement should not now be an issue.

Matt -

# The McCarthy Ranch



September 21, 2007

Mr. John Stufflebean  
Environmental Services Department  
200 E. Santa Clara Street 10<sup>th</sup> Floor  
San Jose, CA 95113

Re: APN's: 22-30-048, 22-30-039, 22-30-038, 22-30-037, and 22-29-036, 22-29-035

Dear Mr. Stufflebean,

On April 17, 1998, a Settlement Agreement between the City of San Jose, City of Milpitas, Santa Clara Audubon Society, the International Disposal Corporation of California (BFI) and McCarthy Trust (McCarthy) was entered into regarding litigation concerns on an approximately 226 acres of land (plat map enclosed) located in the City of Milpitas. As a condition of this Agreement, the property was zoned Non Residential and the City of San Jose purchased six acres of McCarthy's land on the opposite side of the San Jose/Santa Clara Water Pollution Control Plant (Plant) to be used as open space to buffer against odors issues.

Currently, McCarthy is working with the City of Milpitas, using the Smart Growth Concept, to provide much needed housing along the transit corridor as required by the Association of Bay Area Government. (ABAG) This will necessitate a zoning change on the subject property to a mixed use, consisting of housing, retail, commercial and industrial park and a mitigation of the odor issues.

The Plant is requesting proposals from engineering consultants to develop a master plan that will guide the facilities, operations, staffing and land use for the next 30 years. The scope of work includes improving odor control of the residual sludge management facilities through new technology and changes in the method of operations at the facility. Hauling directly from the windrows instead of the stockpiles had already significantly reduced odors at the facility.

McCarthy has had preliminary discussion with the City of San Jose and City of Milpitas on the issue of rezoning the subject property and received their mutual support. The next step is support from the Treatment Plant Advisory Committee (TPAC). I would like the opportunity for my consultants, Jerry Strangis and Patrick Kwok, to meet with you and your staff to present the scope of our proposal. I look forward to your response.

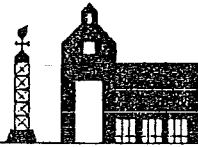
Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Joe McCarthy', is written over the typed name.

Joe McCarthy

Cc: Mayor Chuck Reed

# The McCarthy Ranch



February 25, 2008

John Stufflebean  
City of San Jose  
200 E. Santa Clara Street  
10<sup>th</sup> Floor  
San Jose, CA 95113

Hand Delivered

Dear Mr. Stufflebean:

This is to memorialize our meeting of December 20, 2007. We discussed a proposal to rezone our approximately 59 acres of land in Milpitas on the east side of the Plant to mixed use using the Smart Growth approach. The property is currently zoned for non-residential uses pursuant to a Settlement Agreement with the City of San Jose, et al. dated April 17, 1998.

Any development at the McCarthy property involving rezoning will likely take at least 18 to 24 months to complete. We therefore believe it necessary to begin the rezoning process as soon as possible, to do so however, will require a modification or suspension of the Settlement Agreement. While we are aware of your concern for the timing of our proposal, since the Plant is in the process of finalizing the scope of work for its consultants for the proposed Master Plan, we request that you advance the land use element of the Master Plan to the first phase. It is essential to complete the land use phase so that policy decisions for future development the Plant's buffer lands may be timely made. The Plant apparently will be looking at three odor reduction mitigation alternates that range from the alternate of moving the sludge drying beds operations from the Coyote Creek area to the more complex mechanical dewatering or green house covering alternatives. We may be of assistance to the Plant in identifying and evaluating alternatives that could reduce odors significantly.

We also discussed the changes in the environmental climate because of the improvements already made at the Plant, i.e., the changes in the hauling operations at the residual sludge management facilities and other odor/mitigation measures resulting in practically no odor complaints in the past two years. We are confident that the odor concerns for residential development on our land that formed the basis for the Settlement Agreement should not now be an issue.

Please agendaize this matter for the March 13, 2008 Treatment Plant Advisory Committee (TPAC) meeting. We are requesting that TPAC direct the ESD staff to work with us to explore the suspension or modification of the Settlement Agreement to allow mixed use development at our property. We request that staff then report its recommendations to TPAC in no later than three months.

Thank you very much for meeting with us. We are looking forward to working with you.

Sincerely,



Joe McCarthy  
The McCarthy Ranch

February 26, 2008

Mr. Joe McCarthy  
The McCarthy Ranch  
15425 Los Gatos Blvd, Suite 102  
Los Gatos, CA 95032-2541

SUBJECT: Property located adjacent to San Jose/Santa Clara Water Pollution Control Plant

Dear Mr. McCarthy:

In response to your letter of September 21, 2007; our meeting on December 20, 2007; and your subsequent letter dated January 18, 2008; I have discussed your request with City staff and the City Manager's office. While odor complaints related to Plant activities have decreased significantly over the past several years and while we will be willing to entertain land use changes in the future, we feel, as I discussed at our meeting in December, that it is premature to entertain any changes to the existing land ownership arrangements affecting your property at this time.

The Plant Master Plan process, scheduled to be complete by 2011, will include outreach to a multitude of stakeholders, including nearby landowners, City of Milpitas decision-makers, staff, residents, and businesses to notify them of the Master Plan process and to obtain input. As we discussed, the comprehensive plan will cover the facilities and land uses at the Plant, including an evaluation of the biosolids area. As this process is just beginning, we are not recommending discussions of either suspension or modification of the land use restrictions that the City holds on the subject property until this planning process is complete. Further, our consultants have confirmed that pushing land use decisions to the front end of the master plan process is inconsistent with the logical progression of the master planning process.

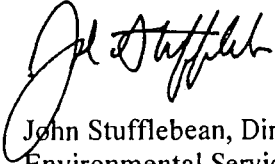
We will include your letters\*, as well as this response, under correspondence in the Treatment Plant Advisory Committee's (TPAC) March packet. You are welcome to attend this public meeting (March 13, 4:30 pm, San Jose City Hall room 1047.) However, this matter will not be agendized as an action item and TPAC will not be able to take action at the time. If TPAC wishes to have a further discussion of this matter, they will need to vote to request that staff agendize the matter for a future TPAC meeting.

Please note that TPAC cannot direct City staff to take any action on this matter, other than agendizing it for discussion, as TPAC is an advisory body to the San Jose City Council. Any further direction to staff would need to come from the City Manager or the Council.

Mr. Joe McCarthy  
Property located adjacent to San Jose/Santa Clara Water Pollution Control Plant  
February 26, 2008  
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If you have any questions, please contact me at 408-535-8560.

Sincerely,



John Stufflebean, Director  
Environmental Services Department

Copy: Deb Figone, City Manager  
Joe Horwedel, Planning Director

\* Since the TPAC will be seeing your letter of September 21, 2007, I wanted to include your clarification of the first sentence of the last paragraph. This sentence reads, "McCarthy has had preliminary discussion with the City of San Jose and City of Milpitas on the issue of rezoning the subject property and received their support." At our December meeting you acknowledged that this statement was not correct.