

**FIRST AMENDMENT TO A
DRAFT
ENVIRONMENTAL IMPACT REPORT
EDENVALE REDEVELOPMENT PROJECT**



**Including Text Revisions, Comments and
Responses to Comments**

**Prepared by the
CITY OF SAN JOSE**

June 2000

604.02

TABLE OF CONTENTS

I.	Recipients of the Draft EIR	1
II.	Comments Received on the Draft EIR	3
III.	Revisions to the Text of the Draft EIR	4
IV.	Responses to Comments on the Draft EIR	13
A.	Responses to Letter from United States Department of the Interior	13
B.	Responses to Letter from U.S. Fish and Wildlife Service	13
C.	Responses to Letter from California Department of Toxic Substances Control	19
D.	Responses to Letter from California Department of Transportation	22
E.	Response to Letter from California Department of Fish and Game	26
F.	Response to Letter from California Department of Conservation	28
G.	Response to Letter from Santa Clara Valley Water District	29
H.	Response to Letter from Santa Clara County Open Space Authority	32
I.	Response to Letter from Santa Clara Valley Transportation Authority	38
J.	Response to Letter from Santa Clara County Historical Heritage Commission	42
K.	Response to Letter from Santa Clara County Department of Roads and Airports	47
L.	Response to Letter from Santa Clara County Department of Parks and Recreation	47
M.	Response to Letter from City of Gilroy	53
N.	Response to Letter from M. and A. Habeeb	55
O.	Response to Letter from Anne & Bader Kudsi	55
P.	Response to Letter from Sheppard, Mullin, Richter & Hampton	56
Q.	Response to Letter from Equinix	62
V.	Copies of Comment Letters	65

I. RECIPIENTS OF THE DRAFT EIR

The City of San Jose sent copies of the Draft EIR to the following:

Federal Government Agencies

United States Department of the Interior
National Park Service
Fish and Wildlife Service

State Government Agencies

State Clearinghouse (15 copies)
Department of Transportation
Department of Fish and Game

Regional Agencies

Santa Clara Valley Transportation Authority
Metropolitan Transportation Commission
Bay Area Air Quality Management District
Association of Bay Area Governments
Santa Clara Valley Water District
Regional Water Quality Control Board
Association of Monterey Bay Area Governments

County Government Agencies

Santa Clara County Department of Parks & Recreation
Santa Clara County Department of Roads & Airports
Santa Clara County Historical Heritage Commission
Santa Clara County Department of Planning
San Benito County Department of Planning
Monterey County Department of Planning

Local Government Agencies

San Jose Main Library
Santa Teresa Library
City of Gilroy Planning Director
City of Morgan Hill Community Development Director

Organizations

Sierra Club Loma Prieta Chapter
Guadalupe-Coyote Resource Conservation District
Audubon Society
Native Plant Society of Santa Clara Valley

Utilities

Great Oaks Water Company
Pacific Gas & Electric
San Jose Water Company

Companies and Individuals

San Jose Mercury News
Bader Kudsi
Marcos Getchell

II. COMMENTS RECEIVED ON THE DRAFT EIR

Copies of each of the following letters is attached to this First Amendment in Section V.

Federal Government Agencies

Response Required?

United States Department of the Interior
National Park Service
Fish and Wildlife Service

Yes
Yes

State Government Agencies

State Clearinghouse
Department of Toxic Substances Control
Department of Transportation
Department of Fish and Game
Department of Conservation

No
Yes
Yes
Yes
Yes

Regional Agencies

Santa Clara Valley Water District
Santa Clara County Open Space Authority
Santa Clara Valley Transportation Authority

Yes
Yes
Yes

County Government Agencies

County Historical Heritage Commission
Santa Clara County Parks and Recreation Department
Santa Clara County Department of Roads and Airports

Yes
Yes
Yes

Local Government Agencies

City of Gilroy

Yes

Individuals and Companies

M. and A. Habeeb
Anne and Bader Kudsi
Sheppard, Mullin, Richter & Hampton
Equinix

Yes
Yes
Yes
Yes

III. REVISIONS TO THE TEXT OF THE DRAFT EIR

The following revisions are to the text of the *Draft Environmental Impact Report Edenvale Redevelopment Project*, circulated by the City of San Jose in March 2000. Each revision includes a reference to the page number and section of the DEIR being revised. Additions to the text are underlined; deletions are shown ~~with strikeouts through the text~~.

Page

No. Revision

- 15 Section I. C. Description of the Proposed Project; Redevelopment Project Implementation Plan, REVISE the paragraph as shown:

**Redevelopment Project Implementation Plan
Mitigation and Monitoring Program**

In order to ensure the mitigation, reduction, and/or avoidance of a number of significant impacts to biological impacts and transportation facilities, and to accomplish other objectives, the Redevelopment Agency ~~is proposing to~~ will adopt ~~an implementation plan~~ mitigation and monitoring program that expresses the Agency's commitment to ensuring that both public agencies and private developers scarry out certain actions intended to mitigated, reduce, or avoid impacts to the environment. (See discussion in Sections II.B.(3), Mitigation Measures for Traffic Impacts, and II.F.(3), Mitigation Measures for Biological Resources Impacts.)

- 18 Section II. A. Regional Plans and Policies; **ADD** the following to the end of the section:

**National Park Services Plan for the
Juan Bautista de Anza Trail**

The Juan Bautista de Anza National Historic Trail commemorates the route taken by de Anza in 1775-76 when he led a group from Sonora Mexico to found a presidio and mission at San Francisco Bay. The official trail is 1,200 miles in length from Nogales, Arizona to San Francisco and includes a loop on the east side of San Francisco Bay. In the project vicinity, the de Anza trail stretches from the San Benito County line, traveling north along the western side of the Santa Clara Valley, to the San Mateo County line. Santa Teresa Boulevard is identified as a portion of the Juan Bautista de Anza National Historic Trail bicycle route. The Coyote Creek Regional Trail, located between the two segments of the project, is also identified as a trail alignment.

There are existing bicycle lanes along Santa Teresa Boulevard through the Redevelopment Project area. No changes to the bicycle lanes are proposed.

Consistency: The proposed Redevelopment Project would be consistent with the National Parks Services Plan for the Juan Bautista de Anza Trail.

48 Section III. B. Transportation and Circulation; Transportation Impacts, Impacts of the Area Development Policy, **REVISE** the first paragraph in the section as shown:

The planned gateway improvements and local improvements are designed to provide the additional traffic capacity needed to support development of the Edenvale Industrial Area. Design and construction of the gateway improvements will, however, require approximately three years to complete. If development in Edenvale occurs as projected, it is likely that traffic conditions at some locations will, during this interim period, degrade to levels below the acceptable City standard. In order to allow development to occur in Areas 1, 3 and 4 during the near term, the Edenvale Area Development Policy would be adopted, as allowed by the City's General Plan. The Policy would apply to Areas 1, 3 and 4 only. The amount of development anticipated in Area 2 ~~generally~~ does not require the gateway improvements. ~~The exception would be development of the vacant land owned by IBM. The remaining vacant properties in Area 2 can develop in conformance with the citywide LOS policy with the construction of the infrastructure identified in the Project Description for the Community Facilities District. In addition, development of~~ Should the vacant IBM property which is part of the vacant developable land in Figure 7 propose to develop prior to completion of the gateway improvements will require the westerly extension of Great Oaks Boulevard ~~would be necessary. Development of that vacant property prior to completion of the gateways, without an extension of Great Oaks Boulevard, is not addressed in this EIR.~~

56 3. Mitigation Measures for Traffic Impacts: **ADD** the following to the beginning of the section:

3. Mitigation Measures for Traffic Impacts

The following measures will be incorporated into the mitigation monitoring program adopted by the Redevelopment Agency Board, and will be required of all new development in the Edenvale Redevelopment Project area:

- Provide physical improvements, such as sidewalk improvements, landscaping and bicycle parking that would act as incentives for pedestrian and bicycle modes of travel.
- Connect each site with regional bikeway/pedestrian trail system. Provide employee showers and changing areas.
- Implement feasible travel demand management (TDM) measures, including a ride-matching program, guaranteed ride home programs, coordination with regional ridesharing organizations and transit incentives program.
- Provide on-site services for employees, such as a cafeteria, ATM machine and postal services.
- Provide or participate in shuttle bus service to regional transit centers and food service establishments/commercial areas at midday.

- Provide preferential parking for carpool/vanpool vehicles.

75 Section III. E. Hydrology and Flooding; 2. Hydrologic Impacts; Hydrology and Flooding, **REVISE** the fourth sentence in the first paragraph in this section as shown:

...Appendix E of this EIR. As described in the Project Description (Section I of this EIR), a ~~five-acre~~ two-acre detention basin will be built within the riparian corridor mitigation area, in Area 3, with a single outfall to Coyote Creek. The hydrology study....

REVISE the second paragraph in this section as shown:

For the anticipated level of development in Areas 1, 3, and 4, peak stormwater flow from a 10-year storm was estimated to be 851 cubic feet per second (cfs), and increase of ~~77~~ 83 percent. For the peak flow from a 100-year storm, the runoff was estimated to be ~~851~~ 1,703 cfs, an increase of ~~38~~ 42 percent.

76 **REVISE** the second paragraph on the page as shown:

With the construction of the ~~five-acre~~ two-acre three-foot deep detention area proposed along Coyote Creek in conjunction with the riparian habitat mitigation area, there will be no increase in flooding levels downstream from the project area.

95 Section III. F. Biological Resources; 3. Mitigation Measures for Biological Resources Impacts; Mitigation Measures Included in the Project; **REVISE** the last line of the second paragraph in this section as shown:

...and is shown on Figure ~~15~~ 14. A storm water detention pond is proposed in this same area.

98 **Special Status Wildlife**; Steelhead and Chinook Salmon, **ADD** the following after the first bullet point:

- A formal consultation with the U.S. Fish and Wildlife Service would be undertaken by the City of San Jose to obtain a biological opinion prior to construction to confirm that construction of an outfall structure as proposed will not jeopardize the continued existence of the species.

102 At the end of the section, prior to conclusions, **ADD** the following subsection:

- A Pre-demolition Survey will be done prior to the removal of buildings, particularly those with closed areas such as an attic space, or trees 12 inches or more in diameter at 4.5 feet above grade. If no active roosts are found, then no further action would be warranted. If a maternity roost is present, a qualified bat biologist would determine the extent of construction-free zones around active nurseries since these species are known to abandon young when disturbed.

The project will implement either an avoidance of the impact (e.g., redesign to avoid the loss of the building or tree occupied by the roost) or exclude bats prior to demolition. If an active nursery roost is located and the project cannot feasibly be redesigned to avoid removal of the occupied tree or structure, demolition of that tree or structure should commence before maternity colonies form (i.e., prior to March 1) or after young are volant (flying) (i.e., after July 31). The disturbance-free buffer zones described in Mitigation 1 will be observed during the maternity roost season (March 1 - July 31)

If a non-breeding bat hibernacula is found in a structure or tree scheduled to be razed, the individuals will be safely evicted, under the direction of a qualified bat biologist (as defined above), by opening the roosting area to allow air flow through the cavity. Demolition would then follow no less than the following day (i.e., there should be no less than one night between initial disturbance for air flow and the demolition). This action should allow bats to leave during dark hours, thus increasing their chance of finding new roosts with a minimum of potential predation during daylight. Trees with roosts that need to be removed should first be disturbed at dusk, just prior to removal that same evening, to allow bats to escape during the darker hours.

104 Section III. G. Cultural Resources; **REVISE** the two introductory paragraphs as shown:

Several potentially historic farmsteads are located within the proposed roadway alignments. Therefore, an historic evaluation report was performed for this project part of the Redevelopment Project by *Basin Research and Associates, Consulting Archaeologists*, in February 1999 which is in Appendix G of this EIR. An archaeological evaluation report was also prepared for the Hellyer Avenue extension but, because that report identifies specific resource sites, it is kept administratively confidential. A copy of the archaeological report is available for review in the office of the City Planning Division in City Hall during normal business hours.

Extensive research and testing has been done throughout the Edenvale Redevelopment area for prehistoric resources. The results of the comprehensive those evaluations are reflected in the FEIRs done for the *Edenvale Redevelopment Project* (June 1976) and the *Edenvale Redevelopment Project Area Expansion* (September 1979). Since certification of those FEIRs, All new development in New Edenvale must include monitoring for prehistoric resources as part of any construction activities in natural soils. Mitigation consistent with CEQA Guidelines §15126.4 is required of all public and private projects. While additional supplemental information has been generated over the years on the known sites in Edenvale, that information ~~No new information has been generated that would~~ does not change the conclusions of the 1976 and 1979 FEIRs that this entire area is archaeologically sensitive and all construction or excavation in natural soil must be monitored, and ~~† This issue is not further addressed in this EIR.~~

- 105 Section III. G. Cultural Resources; 2. Existing Setting; **REVISE** the discussion under the heading for 550 Piercy Road as shown:

The buildings on this property include a house and a tank house built in 1920 which may have been expanded in the 1930s. The house is single story with a side gable roof and a cross gable. Subsequent additions and remodeling have compromised the historic integrity of the house. The tank house is a typical example of its type, and is in a deteriorated condition. The house does not appear to be a sufficiently unique example of a ranch/farm house in this style to be eligible for the California Register under Criterion C. ~~Other more distinguished examples in this style survive in south San Jose.~~

- 106 Section III. G. Cultural Resources; **ADD** a new final section as shown:

† 3. Mitigation for Cultural Resources Impacts

- Although loss of the existing buildings at 484 Piercy Road and 550 Piercy Road were not identified as significant impacts, the City and Redevelopment Agency will offer the tank houses to Emma Prusch Park. (Less Than Significant Impact)

- 126 V. Cumulative Impacts; *Regional Housing Demand*: **ADD** the following after the second paragraph on the page:

Because the City of San Jose cannot control the supply of housing in other communities, and is actively pursuing infill housing on all suitable sites within its own urban service area, consistent with infrastructure capacity, there is no mitigation available to the City to reduce increased demand on the regional housing supply if the project is implemented as proposed.

- 127 **REVISE** the last paragraph on the page as shown:

Conclusion: Implementation of the project along with other foreseeable projects will result in significant unavoidable impacts to loss of agricultural land open space, transportation and circulation, air quality, regional housing demand, and vegetation and wildlife. There are no feasible mitigation measures identified as this time that would reduce these cumulative impacts to a less than significant level. (Significant Unavoidable Cumulative Impacts)

- Appendix E Hydrology Study, Pages 4, 5 and 6 : **REPLACE** pages with the following revised pages 4, 5 and 6.

APPENDIX E

REVISED PAGES 4, 5 AND 6

The following pages should replace the original pages 4, 5 and 6 in Appendix E, the Hydrology Report, of the DEIR.

Zoned condition was included at the request of city staff to evaluate the relative impacts of development in the Phase 1 versus Phase 3 assessment district areas.

The gross development areas for the four different development conditions are shown in Table 1. For the purposes of the hydrology model, the development areas were assumed to include 70 percent impervious area. This includes on-site improvements for buildings and paved areas, and off-site improvements for roadways. The No Development condition was assumed to have no impervious area, although there are or were existing roads and agricultural buildings prior to development. Therefore, the No Development condition flow rates may under estimate the pre-development conditions.

**Table 1
Development Areas
Study Area Sub-Basins**

Sub-Basin	No Development Condition (acres)	Existing Condition (acres)	Zoned Condition (acres)	Future Condition (acres)
1	0	47	110	110
2	0	39	72	72
3	0	60	130	283
4	0	0	0	64
5	0	70	78	78
Total	0	216	390	607

The estimated 10-year peak flow rates for the four development conditions are shown in Table 2. On a percentage basis, the estimated increases in peak flow rates vary due to the amount of development in each sub-basin, and the physical characteristics of the sub-basin. Sub-basin 1 would increase from 122 cfs to 205 cfs, an increase of 68 percent. This is due to both the impervious area from development, and the construction of the storm drain system, which allows the hillside runoff to reach Coyote Creek much faster with no attenuation due to overland flow in the lowland area.

The maximum increase due to development occurs in sub-basin 5. The 10-year peak flow rate would increase from 14 cfs with no development to 64 cfs with development, an increase of 360 percent. Sub-basin 5 has no upstream hillside area and includes the greatest percentage of

development. The increase is due to both the increase impervious area, and the construction of the drainage system that reduces attenuation due to overland flow.

For the entire study area, the 10-year peak flow rate would increase from 465 cfs to 851 cfs, an increase of 83 percent. The total peak flow for the study area was estimated by routing the individual sub-basin hydrographs to the downstream end of the study area at sub-basin 1. The sub-basin hydrographs were routed along Coyote Creek using the Muskingum routing procedure, assuming an average velocity based on the 10-year channel velocities from the City of San Jose Flood Insurance Study hydraulic model.

Table 2
10-Year Peak Flow Rates
Study Area Sub-Basins

Sub-Basin	No Development Condition Peak Flow (cfs)	Existing Condition Peak Flow (cfs)	Zoned Condition Peak Flow (cfs)	Future Condition Peak Flow (cfs)
1	122	152	205	205
2	117	143	155	155
3	153	214	261	325
4	58	58	58	102
5	14	60	64	64
Total	465	627	743	851

The estimated 100-year peak flow rates for the four development conditions are shown in Table 3. As with the 10-year estimates, the estimated increases in the 100-year peak flow rates vary due to the amount of development in each sub-basin, and the physical characteristics of the sub-basin. Sub-basin 1 would increase from 306 cfs to 397 cfs, an increase of 30 percent.

Again, the maximum increase due to development occurs in sub-basin 5. The 100-year peak flow rate would increase from 42 cfs with no development to 101 cfs with development, an increase of 140 percent.

For the entire study area, the 100-year peak flow rate would increase from 1192 cfs to 1703 cfs, an increase of 42 percent. In general, the percentage increase in the 100-year peak flow rates is

less than for the 10-year flood because the rainfalls are greater, which tends to saturate the soils and reduces the loss late in the storm.

The 10-year and 100-year runoff hydrographs for the total study area watershed for the four development conditions are shown in Figures 3 and 4.

Table 3
100-Year Peak Flow Rates
Study Area Sub-Basins

Sub-Basin	No Development Condition Peak Flow (cfs)	Existing Condition Peak Flow (cfs)	Zoned Condition Peak Flow (cfs)	Future Condition Peak Flow (cfs)
1	306	357	397	397
2	298	348	346	346
3	426	514	552	577
4	146	146	146	188
5	42	95	101	101
Total	1192	1419	1449	1703

Coyote Creek Flow Rates

The SCVWD has expressed concern that increased runoff from the project site may affect the flood flows and flood elevations in the Coyote Creek. The area of particular concern is the area downstream of Highway 280 near William Street where the existing channel has a capacity of approximately 6000 cfs. The 1997 flood event for was approximately 6200 cfs measured downstream of Anderson Reservoir. The flood event caused over banking at William Street and several homes were flooded. The SCVWD later acquired several of the homes with the highest flood risk to prevent repeated events in the future.

Due to the reservoirs upstream in the Coyote Creek watershed, the flood hydrograph at Highway 280 generally has two peaks for large flood events. For small flood events, similar to the 10-year flood, Anderson Reservoir generally does not spill significant flows over the spillway. The average reservoir level during the winter is below the spillway, which allows storage for runoff from the upper watershed. For large flood events, the runoff from the upper watershed is large

IV. RESPONSES TO COMMENTS ON THE DRAFT EIR

Each letter received on the Draft EIR is responded to separately below. The comments or questions within each letter are reproduced and then a response is provided. Complete copies of all of the letters are attached to this Amendment in Section V.

A. RESPONSES TO LETTER FROM UNITED STATES DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE, DATED MAY 8, 2000:

COMMENT 1: Thank you for the opportunity to comment on PP99-10-198 Edenvale Redevelopment Project Draft Environmental Impact Report (SCH96052098) [DEIR]. The National Park Service interest relates to the 1200-mile Juan Bautista de Anza National Historic Trail (Anza Trail), designated by the U.S. Congress in 1990 and selected as a National Millennium Trail in 1999 by Secretary of Transportation Rodney Slater and First Lady Hillary Rodham Clinton.

The historic corridor for the Anza Trail follows Santa Teresa Boulevard, which is recognized in the Countywide Trails Master Plan as the marked bicycle route for the Anza Trail. No mention is made in the DEIR of the Anza Trail or of improvements to bicycle use along Santa Teresa Boulevard. In addition, no mention is made of the cumulative impacts to traffic and recreational use of this project added to the Cisco Systems Coyote Valley Research Park planned just a few miles south on Santa Teresa Boulevard. Piecemeal planning when so much new use is projected is not acceptable.

RESPONSE 1: As shown on Figure 11 of the DEIR, there are existing bicycle lanes on both sides of Santa Teresa Boulevard through the project boundary which would be compatible with the planned uses for this stretch of the trail. No changes to the bicycle lanes are proposed. It is not anticipated that use of these bicycle lanes as a result of the proposed project, even taking into account their cumulative use by future development in Coyote Valley, will result in an adverse impact.

COMMENT 2: In the final EIR, please include a discussion of the historic significance of the Juan Bautista de Anza National Historic Trail and consideration, for safe bicycle use along Santa Teresa Boulevard. If you have any questions, you can contact me by telephone at 415/427-1438, by mail at the letterhead address, or by e-mail at meredith-kaplan@nps.gov.

RESPONSE 2: A discussion of the Juan Bautista de Anza Historic Trail has been added to the text of the EIR, please see *Section III. Revisions to the Text of the Draft EIR*.

B. RESPONSES TO LETTER FROM U.S. FISH AND WILDLIFE SERVICE, DATED MAY 10, 2000

COMMENT 1: Thank you for providing the Draft Environmental Impact Report (DEIR) for the proposed Edenvale Redevelopment Project for our review. These comments are to assist you with your environmental review of the project and are not intended to preclude further comments that the U. S. Fish and Wildlife Service (Service) may make at a later date under authority of the Fish and Wildlife Coordination Act or the Endangered Species Act of 1973, as amended (Act).

We believe that the DEIR fails to address potential direct or indirect effects of the proposed project on several federally listed threatened or endangered species: the threatened California red-legged frog (*Rana aurora draytonii*) (red-legged frog), the threatened bay checkerspot butterfly (*Euphydryas editha bayensis*), the endangered plants Metcalf Canyon jewelflower (*Streptanthus albidus* ssp. *albidus*), Santa Clara Valley dudleya (*Dudleya setchellii*), Coyote ceanothus (*Ceanothus ferrisiae*), and Tiburon paintbrush (*Castilleja affinis* ssp. *neglecta*), and the California tiger salamander (*Ambystoma californiense*), a candidate for federal listing.

RESPONSE 1: The City believes that the DEIR does adequately address the impacts to each of these species, as discussed specifically below.

COMMENT 2: Potential effects the DEIR does not address include the following:

1. The California red-legged frog inhabits portions of Coyote Creek, Metcalf Canyon, and at least one, perhaps several, tributary drainages to Coyote Creek on the east side of Highway 101 between Kirby Canyon and Metcalf Canyon. Recent research demonstrates that this species moves widely between breeding, sheltering and foraging habitat, often in straight lines using celestial navigation cues. Current patterns of the red-legged frog's distribution indicate that populations of the species often do not persist in urbanizing landscapes. The proposed project and associated urban development, including construction outside the immediate project footprint but cumulatively attributable to the project, are likely to obstruct movement patterns of the red-legged frogs, resulting in mortality and population declines that significantly adversely affects the species.

RESPONSE 2: The comment notes records of the frog in the region, all of which are upstream from the project. Historic records for the California red-legged frog in this reach of Coyote Creek (south San Jose to the Bay) are limited. A pre-1980 record (actual date of record is unknown) exists from Tennant Road Marsh, the southern boundary of the project in Coyote Creek. This is the only recorded siting for Coyote Creek within Santa Clara Valley. No other records (current or historic) occur for the lower reach of Coyote Creek. However, red-legged frogs have been found in several ponds and eastern tributaries to Coyote Creek (all are east of US 101) upstream from the Edenvale redevelopment project.

Despite the absence of records for red-legged frog, extensive surveys during the last few years have occurred in this part of Coyote Creek (by numerous consultants and the SCVWD) and they have all failed to detect RLFs in Coyote Creek itself. Regardless of the historic value of Coyote Creek for frogs (which is uncertain), California's human population has grown nearly 70% since 1970. This intense urbanization has limited the ability of the frog to re-establish (if it ever occurred in the lower reaches in numbers). Urbanization of the creeks of the valley floor have resulted in adverse changes for the frog. Since 1980, the Basking Ridge development and associated bridge and road improvements (downstream of the Tennant Road Marsh) and the Holiday Inn/commercial development have occurred in the vicinity of the Tennant Road marsh.

There is presently no empirical data available that supports what environmental cues red-legged frogs are using to navigate. There is speculation, but Dr. Mark Jennings (co-petitioner to list the frog and member

of the recovery team) is not personally aware of any study that has been designed to test the "celestial cues" hypothesis for the red-legged frog. In addition, most of the information cited to support extensive overland movements, comes from work done by Gary Feller at Pt. Reyes, which is a completely different environment with very different habitat values from Santa Clara Valley. Presently, Santa Clara Valley is highly urbanized, supports relatively little frog habitat, and the dry seasons are relatively warm and dry (mid-April to end of October). The vast majority of the remaining habitat in Santa Clara County occurs in the surrounding foothills and mountain ranges (i.e., Diablo Range and Santa Cruz Mountains). The red-legged frog populations noted by the comment, are all south of the site and all are constrained to drainages, ponds or Coyote Creek itself. While some movement between these populations (noted by the comment) would be expected during the wet season, since there are no records for Coyote Creek (historic or present) north of Tennant Marsh (south end of the site), it seems unlikely that frogs are moving with any regularity over the site.

It is unlikely that the project would block the movements of red-legged frogs, as there does not appear to be suitable habitat north of Tennant Marsh.

COMMENT 3: 2. Effects of contaminants in stormwater runoff and groundwater seepage from the project on red-legged frogs downstream of the site, particularly in Coyote Creek.

RESPONSE 3: Storm-water runoff from the project (parking lots, roads, etc.) will be drained via an existing outfall structure into Coyote Creek north of Silver Creek Valley Road. A new out-fall structure will be built south of Silver Creek Valley Road to handle hillside runoff. In addition, the project will comply with the requirements of the Regional Water Quality Control Board's NPDES program. As noted in response #2 (above), no red-legged frog sightings are known downstream from Tennant Road site (southern edge of the project). Therefore, the project is not expected to result in adverse impacts from storm water runoff and it not likely that the storm water runoff will adversely affect the frog.

COMMENT 4: 3. Effects of increased human population in the project vicinity resulting from new jobs at the project site. This population increase is likely to result in increased use of the Santa Clara County Motorcycle Park off Metcalf Road. This park has been identified as a significant source of erosional sediments in Metcalf Canyon and an ongoing threat to the red-legged frog population there. An increase of sedimentation in Metcalf Canyon would be a significant adverse effect on the species.

RESPONSE 4: The motorcycle park is an existing, permitted use. The proposed project is an industrial park development. While employees of the site might use the motorcycle park, there is no direct, known nexus between this increase in daytime workplace population and increased use of a regional recreational facility two miles away.

COMMENT 5: 4. Effects of the project on the potential for recovery of red-legged frog populations in Coyote Creek and the general vicinity.

RESPONSE 5: Build out of the project itself will have almost no affect on the recovery of the frog. There is no known frog habitat on site or downstream of the site.

COMMENT 6: 5. Any avoidance or minimization measures to be taken to protect the Santa Clara Valley dudleya.

RESPONSE 6: Only one parcel in Area 1 supports potentially suitable habitat for the dudleya. Page 97 of the DEIR describes the measures that will be taken to avoid or mitigate impacts to dudleya.

COMMENT 7: 6. Although the plan acknowledges significant unavoidable impacts to air quality, no analysis is provided of impacts of declining air quality on the listed and rare plants and wildlife living on serpentine soils in the project vicinity, notably on Tulare Hill, the Santa Teresa Hills, and the eastern ridge of the Santa Clara Valley ("Coyote Ridge"). All of these habitat areas were found to be essential to the continued survival and eventual recovery of the bay checkerspot butterfly and the four listed plants mentioned above in the Service's 1998 Recovery Plan for Serpentine Soil Species of the San Francisco Bay Area, which has previously been provided to your office. These species and numerous other special-status species specialize on and are virtually restricted to serpentine habitats, which are themselves rare and have special status with the State of California.

Deposition of excess nitrogen from air pollution, in particular, poses a significant threat to these species and their habitats (e.g., S. B. Weiss, December 1999, "Cars, cows, and checkerspot butterflies: Nitrogen deposition and management of nutrient-poor grasslands for a threatened species," Conservation Biology vol. 13, pp. 1476-1486). The air pollution impacts of the plan are cumulative to existing impacts from San Jose and Bay Area pollution, and to the proposed impacts of the adjacent Calpine Metcalf Energy Center project and must be analyzed as such. The Service believes that existing impacts of excess nitrogen from air pollution already have a significant impact and that cumulative increases in pollution-derived nitrogen deposition due to the proposed project would seriously threaten these listed and rare species and rare serpentine habitats.

RESPONSE 7: The S. B. Weiss December 1999 article raises the concept that nitrogen deposition associated with air pollution, when coupled with the removal of well managed cattle grazing from grassland serpentine soils, could adversely affect native forbs. There are many assumptions made in the S. B. Weiss article, as well as omitted or unexplained information, that render it highly speculative. An example of the unverified assumptions is that the forms of nitrogen from air pollution would have an affect similar to that from adding nitrogen-phosphorus-potassium slow-release fertilizer at concentrations of 10 to 20 greater than the amounts the article calculates could be attributed from air pollution emissions.

The article also fails to take into account (or mention) that there is a long term reduction trend in the total amount of oxides of nitrogen from air pollution as shown in the table below. The table is for the entire Bay Area air basin and takes into account all sources, both vehicular and non-vehicular. If nitrogen deposition from air pollution were responsible for changes in the serpentine grassland, then these changes should be diminishing with the reductions of nitrogen air pollution.

Table A †
Bay Area Baseline* Emission Inventory Projections: 1990 - 2003
Planning Inventory (Tons/Day)**

Source Category	Oxides of Nitrogen ¹				
	1990	1994	1997	2000	2003
Industrial/Commercial Processes/Facilities					
Petroleum Refining Facilities	12	9	9	9	10
Chemical Manufacturing Facilities	2	2	2	2	2
Other Industrial/Commercial Processes/Facilities	2	1	1	1	1
Combustion - Stationary Sources					
Fuel Combustion	139	152	136	95	69
Burning of Waste Material	1	1	1	1	1
ERC Banking (Current)	7	7	7	7	7
Subtotal (District Jurisdiction)	163	173	157	117	91
Combustion - Mobile Sources					
On-Road Motor Vehicles (ARB Jurisdiction)	408	347	295	255	210
Off-Highway Mobile Sources (ARB/Federal Juris.)	148	148	156	161	166
Aircraft (Federal Jurisdiction)	24	24	23	22	23
Consumer Solvents and Other Sources	0	0	0	0	0
Grand Total	743	692	632	555	491

† Table is based on information in the *Clean Air 1997* plan.

* Inventory and projections assume implementation of all control measures adopted as of Dec. 31, 1996.

** Anthropogenic or man-made emissions do not include 300 tpd of reactive organic emissions from natural sources.

COMMENT 8: 7. Highway 101 widening, on/off ramp modifications, and new interchanges associated with or cumulative to the project described in the DEIR are likely to require consultation of the Federal Highway Authority--or the California Department of Transportation as their representative--with the Service under section 7 of the Act. We request that the City of San Jose coordinate with us and provide available information about the Hellyer Avenue/TJS 101

¹ Oxides of nitrogen (nitric oxide and/or nitrogen dioxide), NOx as NO2, for summer operating day.

interchange project, the Blossom Hill Road/US 101 interchange project and other associated roadway projects cumulative to the Edenvale Redevelopment Project.

RESPONSE 8: The City will work with and through CalTrans on all of the relevant permitting for improvements to US 101.

COMMENT 9: 8. The Service does not concur that potential impacts to the California tiger salamander (salamander) are less than significant. Salamanders use ground squirrel burrows and other holes as estivation habitat outside the breeding season. Construction may destroy this habitat and cut off migration routes for adult salamanders returning to breeding areas. H.T. Harvey and Associates documented extensive ground squirrel burrows in the project area. Although the nearest known breeding site is 5 miles from the project area, other breeding sites may occur nearby.

RESPONSE 9: The closest known populations of the tiger salamander are 1.0 miles north of the northern part of Edenvale, and 1.5 to 2.0 miles from the southern boundary. There are no breeding ponds within Edenvale and, therefore, it is highly unlikely that tiger salamanders from these other known locales would estivate on the Edenvale site.

COMMENT 10: 9. Page 2 of the DEIR describes the project as the buildout of the 7.88 million square feet of industrial space. Construction will occur in Planning Subareas 1 through 4. However, the total square footage for these areas is 9.60 million square feet. The final EIR should clarify this apparent discrepancy.

RESPONSE 10: It is not clear upon what this comment is based. The 7.88 million square feet is the correct total, based upon the following numbers listed on page 2 of the DEIR:

Area 1	1.78 million square feet
Area 3	2.85 million square feet
Area 4	0.17 million square feet
Subtotal for New Edenvale	4.8 million square feet
Area 2	3.08 million square feet
Subtotal for Old Edenvale	3.08 million square feet
Total square footage:	7.88 million square feet

COMMENT 11: We also have the following recommendations and questions about the design of the proposed project:

We recommend that the City specifically contact the National Marine Fisheries Service and the California Department of Fish and Game for an assessment of possible effects of the project on protected fish species. The DEIR may have failed to address the effects of the proposed plan on water quality for these and other aquatic species in Coyote Creek.

RESPONSE 11: The City and Agency staff have met with National Marine Fisheries Services staff biologist Brian Mulvey, and has discussed the project with CDFG biologist Margaret Roper. It is the intent of the City to work with all of the

appropriate resource agencies to ensure that the project avoids and minimizes impacts to all special-status species and compensates for significant impacts.

COMMENT 12: Construction of a road less than 100 feet from the City's riparian setback may necessitate additional flood control work by the Santa Clara Valley Water District in Coyote Creek. We suggest that the proposed road be relocated outside the riparian setback area and this reach of Coyote Creek and its riparian area be protected by a conservation easement or other means as a permanent natural preserve and managed to provide habitat for native species such as the California tiger salamander, burrowing owl, western pond turtle, anadromous fish, and neotropical migrant bird species. Coyote Creek should be restored to its natural potential as anadromous fish spawning habitat. Existing riprap and other channelization should be removed.

RESPONSE 12: The encroachment into the 100 foot buffer does not reduce the amount of riparian habitat at all. The proposed alignment of Hellyer Avenue, which is designed to minimize safety impacts, does not fully meet the setback from the existing riparian habitat identified in the City's policy. The reduction of the buffer occurs where the riparian habitat is at its widest along this stretch of Coyote Creek. The resultant impact from coming closer than 100 feet to the existing riparian habitat is identified in the DEIR as an impact, and mitigation is proposed for that impact. The roadway will come within 100 feet of the riparian habitat in three areas, causing a total reduction in the buffer area of 1.91 acres (1.1 acres occurring between 75-100 ft.). Given the various constraints, and the mitigation (2.75 acres of riparian planting adjacent to Coyote Creek in the same general area) being provided to off-set this impact, the City believes that the project has respected the sensitive nature of the creek habitat.

As required by CEQA, the DEIR also identifies alternatives to the proposed project that would avoid encroachment into the setback from the riparian habitat of Coyote Creek.

The recommendation in this comment is acknowledged.

C. RESPONSES TO LETTER FROM CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL, DATED APRIL 18, 2000:

COMMENT 1: Thank you for the opportunity to comment on draft Environmental Impact Report for Edenvale Redevelopment Project (SCH # 96052098). As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a resource agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project to address the California Environmental Quality Act (CEQA) adequately addresses any required remediation activities which may be required to address any hazardous substances release.

The historical research indicated that portions of the project have been used for agricultural uses. Based on past experiences, pesticides, herbicides or fungicides may have been released. We strongly recommend that sampling be conducted to determine whether levels are above acceptable

residential standards which will need to be addressed in the CEQA compliance document. If hazardous substances have been released, they will need to be addressed as part of this project.

RESPONSE 1: It should be noted in this context that much of the area within the Edenvale Redevelopment Project area has not been cultivated for field or row crops due to the terrain and soil conditions; agricultural activities in those areas was generally limited to grazing. Most of the remaining agricultural activities are cattle and horse grazing. Generally, the sources of soil contamination in Santa Clara County resulting from historic agricultural use has been found in association with orchards, row crops, and greenhouses. There have been orchards on some of the properties within the Redevelopment area, and those sites will be tested and mitigation will be required if appropriate. On those sites for which development has been previously approved, even sites used historically for orchards, high levels of contamination from agricultural chemicals have not been found.

COMMENT 2: For example, if the remediation activities include the need for soil excavation, the CEQA document should include: (1) an assessment of air impacts and health impacts associated with the excavation activities (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of upset should be there an accident at the Site. If levels are above residential levels, land use restrictions may be required.

DTSC recommends the following soil sampling actions at potential industrial development previously used for agriculture:

Soil Sampling

When little is known about a site other than it was used for agriculture, it is assumed that the land was farmed in a uniform manner. Each field of the same crop is assumed to have been watered, fertilized, and treated with pesticides to the same degree across the field. Therefore contaminant levels are expected to be similar at any given location within the field. Most agricultural soil is considered to be in an aerobic state (exceptions include rice fields, and pesticides that are relatively stable under aerobic conditions are the targets for sampling. When near-surface conditions exist that establish anaerobic soil over an extended time, then an aerobically stable pesticides should be considered as targets.

Sample in at least 8 locations with each location made up of a composite of five subsamples if allowed by the criteria for compositing discussed below.

The sampling pattern should be a triangular grid with the starting point randomly selected. Each location should be sampled at the surface (zero to six inches). For better coverage, the surface sample may be a composite of subsamples, not to exceed 10 subsamples. The subsamples should be individually and uniformly split prior to compositing, The split of each subsample should be retained in case analysis is warranted from the composite results. Compositing shall not be performed to reduce the sampling frequency suggested above, but to provide a more representative picture of the soil, To this end, subsamples should be spaced over 10 feet apart.

Compositing should only be done when the reporting limit (quantifiable level) for the method does not exceed the U.S. EPA Region IX Preliminary Remedial Goals (PRG) of an analyte divided by the

number of subsamples in the composite. When the result of a composite sample exceeds the PRG divided by the number of subsamples for an analyte, the subsamples must be analyzed individually for the analyte. Sites, greater than 10 acres in size that cannot composite due to this limitation, will need to increase the number of locations sampled to, compensate for the loss of coverage provided by the compositing but need not exceed 20 samples. [For example, a 30-acre site sampled at eight locations with five subsamples at each location will gather a total of 40 subsamples. If, due to detection limits, the number of subsamples composited is limited to four, then 32 subsamples would have been gathered. By taking an additional two locations, the number of subsamples will again return to 40.]

At specific locations, where it is likely that pesticide storage, preparation, or equipment rinsing took place, sampling should be performed at the surface (zero to six inches) and subsurface (~two'). Subsurface sampling may also be indicated when the terrain has been regraded or fill brought in. Low lying swales, ponded areas, or marsh where sediment runoff may have collected should be additionally sampled with subsurface samples analyzed for pesticides that are stable under anaerobic conditions when their use is suspected [i.e., ametryn, cyromazine, thiabendazole].

Analytical Methods

When the land is under active agricultural practices, the farmer/rancher must be interviewed to determine the types and amounts of pesticides recently used. The County Agricultural Commission should be consulted to determine if any restricted pesticides were used on the property in the last three years. Analysis should be performed for the most persistent pesticides used. In addition, analysis for organochlorine pesticides and heavy metals should be performed.

Each sample should be analyzed for organochlorine pesticides (method 8081A), triazine herbicides (6141A with NPD), organophosphorus pesticides (8141A), and chlorinated herbicides (8151A). In addition, ametaiscan (601OBor6O2O) should be performed and, when crops may have been planted with treated seed, an analysis for mercury (7471A) run.

The above analyses will detect most of the longest lived, most toxic, or most used pesticides & herbicides. Many fertilizers contain heavy metals as do some fungicides. Mercury compounds have been used to treat seed to improve germination by limiting fungal attack. Additional scans should be employed where knowledge of the site indicates other contaminants may be present.

Quality Control

Quality control procedures specified in U.S. EPA SW-846 guidance must be followed.

Reporting

The logic the consultants used in selecting the samples needs to be explained. As more knowledge is available about a site, the sampling effort can become more focused and efficient in providing the necessary information. The quality of the data must be documented to give assurance that the data is valid and appropriate for the included use. This will avoid having to repeat the sampling and analysis, and will allow for review of the decisions made. The National Functional Guidelines are used by EPA to evaluate CLP data and is a well recognized protocol. Data may be qualified using alternative procedures as long as the protocol is described or referenced.

The report should provide the rationale for selecting the locations, depths, and analytical methods.

The laboratory data package must include a summary of the quality control sample results: blanks, matrix spike/matrix spike duplicate, surrogate recoveries, laboratory control samples, etc., as specified by the method. The laboratory should provide a narrative stating whether the quality control was met and listing any discrepancies. The data must be qualified in accordance with the National Functional Guidelines (EPA-54OR-94-012 and -013).

Data Interpretation

Analysis should be initially compared to PRGS, and lead results to Lead Spread. It may be appropriate to compare metal results that exceed PRGs with background levels (use local background levels as a first comparison). This may result in the need to take background samples. Because agricultural activities cover large areas of ground, background sampling locations must be carefully selected and evaluated. The Preliminary Endangerment Assessment Guidance Manual should be used for final evaluation of the site.

If you have any questions regarding this issue, please call me at (510) 640-3843 or Karen Toth of my staff at (510) 640-3833.

RESPONSE 2: The recommendations from DTSC on the sampling and mitigation protocols are acknowledged and will be communicated to prospective developers prior to issuance of development entitlements. None of the project area is proposed for development with residential uses. If contamination is found to exceed acceptable levels for industrial uses on any of the development sites, preparation of a testing and mitigation program will be required consistent with ongoing City policy and practice, and in conformance with local, State and Federal laws and regulations.

D. RESPONSES TO LETTER FROM CALIFORNIA DEPARTMENT OF TRANSPORTATION, DATED MAY 4, 2000:

COMMENT 1: Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Edenvale Redevelopment Project. We have examined the above-referenced document and offer the following comments:

- For your information, Caltrans plans to meter all on-ramps on State Route (SR) 85 and US 101 in the project area that have not yet been equipped with metering lights.

RESPONSE 1: The information is acknowledged. Since this comment does not speak to the information in the EIR, no response is necessary.

COMMENT 2: As discussed in the DEIR, the proposed Edenvale Redevelopment Project is anticipated to add traffic to the State highway system, namely US 101, SR 85 and SR 82. In addition to increasing storage capacity on the local streets approaching the freeway on-ramps, as discussed in the DEIR, mitigation measures such as ramp widening will be necessary. Please see attached for our recommended improvements. Some of the improvements may already be proposed in the DEIR.

RESPONSE 2: Ramp widening is identified in the DEIR for locations that would experience significant project impacts. The following ramps would be widened as project mitigation or as a City-sponsored interchange project: 101 southbound off-ramp to Hellyer, 101 northbound off-ramp to Silver Creek Valley Road, 101 northbound off-ramp to Silicon Valley Boulevard, 85 northbound on-ramp from Cottle Road, 85 southbound off-ramp to Bernal Road. In addition, traffic signals will be added to the following ramp intersections: 101/Hellyer (W), 101/Hellyer (E), 101/Silicon Valley Boulevard, 85/Great Oaks (S), 85/Great Oaks (N).

The project was shown to have an impact at only one freeway segment: US101 south of SR85. The necessary improvement on that freeway segment is widening. One of the Measure A/B projects is widening US101 from Bernal to Cochrane, so the necessary improvement is funded. The Santa Clara Valley Transportation Authority is now working on designs and other steps toward implementation.

It appears from these comments and the attached list of improvements that there is a plan to add ramp metering with HOV bypass to all of the interchanges in the Edenvale area. It also appears that the ramp widening is intended is to provide necessary storage for ramp metering and to provide room for the HOV bypass lanes. It is not clear what nexus there would be to have this Edenvale Redevelopment project assist with implementation of the ramp metering plan. It is possible that ramp metering could reduce some of the congestion on US101 south of SR85, but ramp metering may also result in traffic diversion to other routes, thereby simply moving the congestion to another location.

COMMENT 3: Analyses for freeway segments and ramps and/or weaving (if applicable) should be conducted for all scenarios to show the impacts the development would have on State transportation facilities.

RESPONSE 3: Project impacts on freeway segments were analyzed and included in the DEIR. The impacts to ramp junction intersections were also analyzed. The attached table (on the following page) have been prepared using traffic data from the DEIR to show project impacts to the ramps themselves. During the PM peak hour, all ramps are expected to have adequate capacity. During the AM peak hour, some ramps are projected to have more traffic demand than capacity. This is primarily the effect of ramp metering, which significantly reduces ramp capacity. Ramps projected to be over capacity in the morning are the northbound 85 on-ramp (diagonal) from Cottle Road, the northbound 101 on-ramp (loop) from Bernal Road, and the northbound 101 on-ramp (loop) from Blossom Hill Road. None of these ramps would have any traffic added by the project. Nevertheless, at the 101/Silicon Valley Road interchange, an improvement that is proposed by the project is to add a left-turn lane such that eastbound traffic could use either the loop ramp or the diagonal ramp to access northbound US101.

Volume to Capacity Analysis of Edenvale Area Freeway Ramps (PM Peak Hour)

Ramp Segment	Ramp Type	Number of Lanes	Metered ¹	Capacity of SOV		Project Conditions			V/C Ratio (SOV Lanes)
				lane(s) ² (pcph)	Total Volume (pcph)	HOV Volume ³ (pcph)	SOV Volume (pcph)	SOV Volume (pcph)	
Route 85 Ramps									
SB off-ramp to Bernal Rd	Diagonal	1-SOV	--	2200	926	0	926	0.42	
SB on-ramp from Bernal Rd	Diagonal	1-SOV	No	2200	1148	0	1148	0.52	
NB on-ramp from EB Bernal Rd	* Loop	1-SOV	No	2000	309	0	309	0.15	
NB on-ramp from WB Bernal Rd	* Diagonal	1-HOV 1-SOV	No	2200	1229	184	1045	0.47	
NB on-ramp from Great Oaks Blvd	Diagonal	1-HOV 1-SOV	No	2200	1646	247	1399	0.64	
SB off-ramp to Great Oaks Blvd	Diagonal	1-SOV	--	2200	535	0	535	0.24	
NB off-ramp to NB Cottle Rd	* Diagonal	1-SOV	--	2200	99	0	99	0.05	
NB on-ramp from Cottle Rd	Diagonal	1-HOV 2-SOV	No	4400	2824	424	2400	0.55	
NB off-ramp to SB Cottle Rd	* Loop	1-SOV	--	2000	82	0	82	0.04	
SB off-ramp to Cottle Rd	Diagonal	2-SOV	--	4400	1897	0	1897	0.43	
SB on-ramp from SB Cottle Rd	Loop	1-SOV	No	2000	179	0	179	0.09	
SB on-ramp from NB Cottle Rd	* Diagonal	1-SOV	No	2200	114	0	114	0.05	
Route 101 Ramps									
NB off-ramp to Silicon Valley Blvd	Diagonal	1-SOV	--	2200	380	0	380	0.17	
NB on-ramp from EB Silicon Valley Blvd	* Loop	1-HOV 1-SOV	No	2000	1568	235	1333	0.67	
NB on-ramp from WB Silicon Valley Blvd	* Diagonal	1-SOV	No	2200	505	0	505	0.23	
SB off-ramp to Bernal Rd	Diagonal	2-SOV	--	4400	1039	0	1039	0.24	
NB off-ramp to Silver Creek Valley Rd	Diagonal	1-SOV	--	2200	877	0	877	0.40	
NB on-ramp from EB Blossom Hill Rd	* Loop	2-SOV	No	3800	1389	0	1389	0.37	
NB on-ramp from WB Silver Creek Valley Rd	* Diagonal	1-HOV 1-SOV	No	2200	499	75	424	0.19	
SB off-ramp to Blossom Hill Rd	Diagonal	1-SOV	--	2200	1614	0	1614	0.73	
SB on-ramp from WB Blossom Hill Rd	* Loop	1-SOV	No	2000	431	0	431	0.22	
SB on-ramp from EB Blossom Hill Rd	* Diagonal	1-SOV	No	2200	132	0	132	0.06	
NB off-ramp to Hellyer Av	Diagonal	1-SOV	--	2200	125	0	125	0.06	
NB on-ramp from Hellyer Av	Loop	2-SOV	No	3800	1150	0	1150	0.30	
SB off-ramp to Hellyer Av	Diagonal	1-SOV	--	2200	452	0	452	0.21	
SB on-ramp from Hellyer Av	Loop	1-SOV	No	2000	140	0	140	0.07	

* Approved trips were not recorded at these locations, therefore, total volume is existing + project trips.

1 Ramp meters allow a maximum total of 900 passenger cars per hour to enter the freeway main line.

2 Source: Table 5-6, p 5-14 of 1994 Highway Capacity Manual.

3 HOV volume assumed to be 15% of total volume.

COMMENT 4: To be consistent with the traffic volume used in the intersection analysis for the project condition, the volume used in the freeway segment analysis for the project condition should include traffic generated from approved but not yet constructed development projects.

RESPONSE 4: According to the CMP technical procedures, the freeway analysis does not include traffic from approved, but not yet built, projects. The technical procedures were adhered to in the preparation of the Edenvale DEIR. From a practical standpoint, it would be very difficult to include approved trips in the freeway analysis. Since freeways are regional facilities, traffic from all projects throughout the county and beyond would need to be accounted for. In addition, the Edenvale DEIR states that the project would have a significant impact on the freeway system. The inclusion of approved development projects in the analysis would not change the finding of significant impact.

COMMENT 5: On Page 42, Appendix B, it is indicated that the intersection of US 101 and Silver Creek Valley Road would not be significantly impacted by the project because the average vehicle delay under project conditions would be better than background conditions. Critical movement delay should be considered instead of average vehicle delay because significant intersection impacts as defined by the City of San Jose (pages 26-27) refer to critical movement delay, not average vehicle delay.

RESPONSE 5: According to the both the CMP and City of San Jose technical procedures, the level of service description of an intersection's operation is based on the average vehicle delay. This measurement includes all movements at an intersection (usually 12 movements) and represents the average experience of motorists using the intersection. It is the one measurement most consistent with the Highway Capacity Manual. The technical procedures consider the critical movement delay only when determining whether the project would have a significant traffic impact: a significant impact is defined as an increase of 4 seconds or more in critical movement delay.

The purpose in having adopted technical procedures that have been agreed to by all of the jurisdictions in Santa Clara County is that a consistent methodology is used in all analyses of local and regional intersections, minimizing the misunderstanding and confusion in communicating information about traffic congestion.

COMMENT 6: The DEIR also indicates that if this intersection degrades to a level of service F, a deficiency plan will need to be prepared. However, it is not stated in the DEIR who will monitor the conditions at this intersection. In addition, who will administer the deficiency plan? How will the monitoring and any necessary improvement to the intersection be financed?

RESPONSE 6: This intersection is a CMP intersection. Thus, annual monitoring is required. The monitoring is the responsibility of the City of San Jose.

COMMENT 7: In addition, any work or traffic control proposed within the State right-of-way (ROW) will need an encroachment permit. To apply for an encroachment permit, the applicant will need to submit a completed application form, final environmental documentation, and five (5) sets of plans (in metric units) which also show State ROW, to the following address:

G.J. Battaglini, District Office Chief
Office of Permits
Caltrans, District 4
P. O. Box 23660
Oakland, CA 94623-0660

RESPONSE 7: All work on Caltrans facilities will be done in conformance with appropriate permits.

E. RESPONSE TO LETTER FROM CALIFORNIA DEPARTMENT OF FISH AND GAME, DATED MAY 4, 2000:

COMMENT 1: Department of Fish and Game personnel have reviewed the DEIR for the Edenvale Redevelopment project. The project would allow construction of approximately 7.88 million square feet of industrial development in southeastern San Jose. We have the following comments.

1. Reconnaissance-level surveys were done in February of this year, but protocol-level surveys in appropriate season have yet to be done for a number of sensitive species that may be by the project, including the burrowing owl (*Athene cunicularia*), bay checkerspot butterfly (*Euphydryas editha bayensis*), and several sensitive serpentine-related plant species. Because it is the stated intent of this EIR to serve as a project-level, as well as a programmatic-level document, all surveys need to be completed and appropriate mitigation determined prior to certification.

RESPONSE 1: Appropriate mitigation is identified in the DEIR for each of the species mentioned in this comment, should they be found on any site. The DEIR proposes that protocol level surveys will be done when development is actually proposed on a specific property. The surveys will therefore accurately reflect conditions at the time development occurs. Surveys done too far in advance of development would not preclude sensitive species from moving onto a development site. In any event, protocol level surveys should be done immediately prior to issuance of development permits.

COMMENT 2: 2. It is stated that potential habitat for the California tiger salamander (CTS)(*Ambystoma californiense*) does not exist on the project site. However, it is stated that there is a small amount of seasonal drainage or wetland in Area 1. Unless the deficiency of this site for CTS habitat can be explained, potential impacts to this sensitive species need to be addressed.

RESPONSE 2: The seasonal drainage on site does not support suitable breeding habitat (an area that ponds at least 4 months of the year) for the CTS. It is a small drainage that runs parallel Silver Creek Valley Road and stops just short of a recently completed office complex. Not only does this drainage does not support suitable breeding habitat for CTS, Silver Creek Valley Road, (and a recently constructed building) effectively separates it from the remainder of the Edenvale project area. (Also please see response to comment 8 from the U.S. Fish and Wildlife Service, subsection B, above.)

COMMENT 3: 3. The U. S. Fish and Wildlife Service (USFWS) needs to be consulted regarding potential impacts to the Federally-listed California red-legged frog (*Rana aurora*

draytonii), and the National Marine Fisheries Service (NMFS) needs to be contacted regarding impacts to steelhead (*Oncorhynchus mykiss*) and Chinook salmon (*Oncorhynchus tshawytscha*).

RESPONSE 3: The DEIR states on page 100 that USFWS will be consulted regarding impacts to red-legged frog. Agency staff have already conferred with the National Marine Fisheries Service (Brian Mulvey) on impacts to steelhead and Chinook salmon, and have discussed the project in general with Margaret Roper of the State Department of Fish and Game and with Curt McCasland of USFWS.

COMMENT 4: 4. If impacts to roosting habitat of either the pallid bat (*Antrozous pallidus*) or Townsend's big-eared bat (*Corynorhinus townsendii*) will occur, compensatory habitat needs to be provided, as well as the mitigation measures described in the DEIR.

RESPONSE 4: Roosting habitat for two special-status bat species could exist on the site in buildings that would be removed for the project. The impact would not be to the habitat itself, as displaced bats are expected to find suitable roosting sites in the largely undeveloped foothills to the east, but to disturbing an active colony.

A more detailed description of proposed mitigation is included in the text revisions in Section III of this Amendment.

COMMENT 5: 5. The project, as described, would significantly encroach into a 100-foot buffer zone along Coyote Creek. Because high value riparian habitat has largely been eliminated from Santa Clara Valley, we do not believe that planting additional riparian vegetation elsewhere along the creek will compensate for intrusion into the buffer. The project should be reconfigured to avoid any development within 100 feet of the banks or riparian vegetation of Coyote Creek or other drainages.

RESPONSE 5: The encroachment into the 100 foot buffer does not reduce the amount of riparian habitat at all. The DEIR concludes that the proposed alignment of Hellyer Avenue, which is designed to minimize safety impacts, does not provide sufficient setback from the existing riparian habitat and impacts the riparian habitat. The reduction of the buffer occurs where the riparian habitat is at its widest along this stretch of Coyote Creek. The resultant impact from coming closer than 100 feet to the existing riparian habitat is identified in the DEIR as an impact, and mitigation is proposed for that impact.

The DEIR also identifies two alternatives to the proposed project that would avoid encroachment into the setback from the riparian habitat of Coyote Creek. The recommendation in this comment is acknowledged.

COMMENT 6: It is indicated in the DEIR that the "No Gateway Improvements" alternative would have fewer impacts on Coyote Creek, serpentine grasslands, and other sensitive biotic resources than the proposed project. We, therefore, recommend that this alternative be chosen over the proposed project which will have significant unmitigated impacts.

RESPONSE 6: That alternative is identified in the DEIR as environmentally superior to the proposed project. The recommendation is acknowledged.

F. RESPONSE TO LETTER FROM CALIFORNIA DEPARTMENT OF CONSERVATION, DATED MAY 15, 2000:

COMMENT 1: The Department of Conservation's Division of Land Resources Protection (Division) has reviewed the referenced DEIR. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act. We offer the following comments for your consideration.

The DEIR notes that the original Edenvale Redevelopment Plan EIR was prepared in 1979 and a supplemental EIR was prepared in 1996. The document currently proposed addresses development of vacant land within the original redevelopment plan area as well as new infrastructure to serve the development that has occurred since 1996. Unless the issues noted below have been addressed in prior documents, they should be addressed in the Final EIR for this project.

Mitigation for Loss of Agricultural Land

The DEIR notes that the proposed development would result in a significant unmitigated loss of 451 acres of agricultural land and open space. Farmland conversion impacts can be at least partially mitigated. Mitigation measures, including any identified in the City's General Plan or other documents referenced in the DEIR should be discussed in the Final EIR. Measures or project alternatives that should be considered include avoidance, project configurations that make more efficient use of lands in order to lessen project impacts on farmland, and conservation easements. The latter mitigation measure would involve the purchase of conservation easements, or alternately the donation of mitigation fees for the later purchase of conservation easement, to protect farmland acreage elsewhere for land converted by the project. The City of Davis in Yolo County, for example, uses a 1:1 mitigation ratio, protecting one acre of equivalent quality farmland with a conservation easement for each acre converted.

RESPONSE 1: While the measures described might avoid the loss of additional farmland, purchase of conservation easements that protect farmland elsewhere does not avoid or reduce the impact from loss of the farmland due to the project. Avoidance, which is assumed to mean that the land does not develop as proposed, would be inconsistent with the project goals and with the City's General Plan. Even the "No Project" alternative (page 129 of the DEIR) would result in the loss of agricultural land because this privately owned property is already zoned and designated for urban uses. Reconfiguration to "lessen project impacts on farmland" would probably not be feasible for the project area. The entire project area is privately owned and divided into multiple parcels. To create small enclaves of agricultural activities interspersed with industrial development is unlikely to prove viable for long term agricultural use and could result in land use compatibility impacts that would adversely impact farmers.

COMMENT 2: Williamson Act Lands

The DEIR does not indicate whether the redevelopment project area includes, or is adjacent to agricultural preserves and lands under Williamson Act contract. If these lands will be impacted by the project, the following information should be included.

- A map detailing the location of agricultural preserves, the number of acres, and type of land in each preserve (e.g., prime or non-prime), and areas within each agricultural preserve under Williamson Act contract.
- A discussion of the impacts of the project on agricultural preserves and lands under contract.
- A discussion of proposed uses for lands that will remain under Williamson Act contract if other than agriculture or natural open space. Land uses proposed for Williamson Act contracted land must meet compatibility principles identified in Government Code Sections 51238 - 51238.3. Otherwise, contract termination must occur prior to the initiation of the land use.
- It should be noted that any public acquisition of lands under Williamson Act contract for public purposes requires notice of the Department of Conservation, and the making of specified findings (Government Code Sections 51291-51292).

RESPONSE 2: There are lands within the Redevelopment Project area boundary that are under Williamson Act contracts and properties that are adjacent to the Redevelopment Project. Prior to development occurring on those properties, the contracts will be canceled in conformance with the applicable regulations and the contracts themselves.

COMMENT 3: Although the original redevelopment plan area was approved in 1979, it should be noted that Health and Safety Code Section 33321.5 (as amended by Chapter 617 of 1996) now specifically prohibits the inclusion of agricultural land and open-space land that is enforceably restricted in redevelopment areas. In addition, no more than two acres of any agricultural land, restricted or not can be included in redevelopment areas unless specific findings are made by the redevelopment agency.

Thank you for the opportunity to comment on the DEIR. If you have questions on our comments, or require technical information or assistance, please contact the Division of Land Resource Protection at 801 K Street, MS 13-71, Sacramento, CA 95814; or, phone (916) 324-0850, You may also call me at (916) 445-0816.

RESPONSE 3: As this comment notes, the Redevelopment Plan was approved in 1979 and it is not, therefore, subject to restrictions adopted after that time.

G. RESPONSE TO LETTER FROM SANTA CLARA VALLEY WATER DISTRICT, DATED MAY 11, 2000:

COMMENT 1: The Santa Clara Valley Water District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the subject project, received on March 31, 2000. The District has the following comments:

HYDROLOGY AND FLOODING

The first paragraph under the heading "Hydrology and Flooding" on page 75 states a five-acre detention basin will be built within the riparian corridor mitigation area, in Area 3." However, Appendix E in the Hydrology Report (Report), states that the recommended detention basin will be approximately 2 acres. This should be clarified in the Environmental Impact Report (EIR). This same inconsistency is in paragraph 2 of page 76.

RESPONSE 1: The reference in the text of the DEIR is corrected in Section III. Revisions to the Text of the Draft EIR, in this Amendment. The proposed detention basin will be approximately two acres in size, as stated in the Project Description on page 15 of the DEIR.

COMMENT 2: The last paragraph of page 76 states that the peak flow (851 cubic feet per second) during the 100-year storm for Areas 1, 3, and 4 is the same as the 10-year storm. This error should be corrected. Furthermore, while this 10-year peak flow rate is the same as shown in Table 2 of the Report, it does not match flow rates that are given in the text on pages 5 and 6 of the Report nor does it match the hydrographs shown in Figures 3 and 4 of the Report. The hydrographs and the text also do not match the numbers in Table 3 of the Report. The EIR should clarify these inconsistencies.

RESPONSE 2: The hydrographs and tables in Appendix E are correct. The text revisions in Section III of this amendment include corrections to the text on page 76 and to the text of Appendix E.

COMMENT 3: The Report should state who will be responsible for the maintenance of the detention basin and the flap gate at the proposed outfall.

RESPONSE 3: The public storm drain system, detention basin and outfall will be owned and maintained by the City.

COMMENT 4: The final design of the detention basin will need to be reviewed by the District.

RESPONSE 4: All of the flood control system that connects to District facilities will be reviewed with the District.

COMMENT 5: The Report should discuss the fact that the proposed detention basin is designed to mitigate for potential increases in flooding on Coyote Creek, and that the increase in impervious surfaces due to development may induce local flooding within the project site.

RESPONSE 5: As stated in the DEIR and in Appendix E, the detention basin will be designed to reduce potential increases in Coyote Creek flow rates. The City's policy requires a ten-year storm drain system and safe overflow path for the 100 year storm drain excess. For the proposed project, the overflow will accumulate in the streets and parking lots, consistent with City policy.

COMMENT 6: Figures 7, 8, and 9 of the Report show a proposed outfall located at the Berg site. It was the District's understanding that there would be one proposed outfall which would be located at the detention site. Please clarify the total number of proposed outfalls for the project.

RESPONSE 6: There is one proposed outfall. The outfall locations on Figures 7, 8 and 9 of Appendix E are identified as alternatives that were evaluated as part of the technical review process. The recommended plan discussed in Appendix E is the detention basin location discussed in the DEIR text and identified as being within the riparian habitat mitigation area shown on Figure 14. Text has been added to clarify that only one outfall is proposed.

COMMENT 7: The EIR should discuss what measures will be taken to mitigate for the increased runoff due to development in the portion of the project located within the Canoas Creek watershed.

RESPONSE 7: No specific measures are proposed. Constraints in the downstream storm drain system will limit increases in runoff to Canoas Creek during peak events.

COMMENT 8: WATER QUALITY

The design of the site should incorporate water quality mitigation measures such as those found in "Start at the Source, Design Guidance Manual for Stormwater Quality Protection," prepared for the Bay Area Stormwater Management Agencies Association. Additional information may be found in the Santa Clara Valley Urban Runoff Pollution Prevention Program's (Program) "Parking Lot Best Management Practices (BMPs) Manual." The post-construction water quality mitigation measures, such as swales and catch basin filters, shown on page 78 of the DEIR are a few of the many measures which could be incorporated into the design of the site.

District Ordinance 83-2, Section 6.1, prohibits the pollution of water supplies of the District. To prevent pollutants, including sediments, from reaching Coyote Creek, follow the Program's recommended BMPs for construction activities, as contained in "Blueprint for a Clean Bay" and the "California Storm Water Construction BMPs Handbook." Another excellent source of construction BMPs is the "Erosion and Sediment Control Field Manual" prepared by the California Regional Water Quality Control Board, San Francisco Bay Region. It should be noted that while the construction BMPs, such as hay bales and silt fences, listed on page 77 of the DEIR may be suitable on some sites (usually flat sites), they are not suitable for others. Each site must be treated separately for erosion and sediment control.

RESPONSE 8: The discussion of water quality mitigation measures for both construction and post-construction conditions reflect the City's intent that all new construction, public and private, will comply with the Regional Board's NPDES requirements and with the City's own policies for reducing nonpoint source pollution. The BMPs identified in the DEIR are examples and minimum requirements of what will be required all of new development in the area.

COMMENT 9: The mitigation measures on page 97 for the removal of ordinance trees include replacement of the trees with native species. These native species should be trees grown from local parent stock, preferably from within the same watershed.

RESPONSE 9: The text on page 97 is referring to trees that may be removed from development sites. The City acknowledges that trees from local stock may be preferable, but usually does not limit the source of replacement plantings within private development.

H. RESPONSE TO LETTER FROM SANTA CLARA COUNTY OPEN SPACE AUTHORITY, DATED MAY 11, 2000:

COMMENT 1: The Santa Clara County Open Space Authority (Authority) appreciates the opportunity to review the Draft Environmental Impact Report for the Edenvale Redevelopment Project Area. The Authority's mission is to preserve, protect and manage, for the use and enjoyment of all people, a well-balanced system of urban and non-urban areas of outstanding scenic, recreational and agricultural importance. The Authority's Five Year Plan gives priority to preserve lands that are vulnerable to imminent development, lands that are accessible to and benefit a diversity of people and lands that satisfy acquisition criteria which include Agricultural Preservation. Therefore, the Edenvale Redevelopment Project area ranks high for the Authority's preservation priorities.

The Authority is interested in exploring the opportunities to pursue open space preservation presented in the environmental review of the proposed project. The Authority believes that the proposed project presents an opportunity to preserve open space and agricultural lands in Santa Clara County that could off-set the loss of such lands that would be caused by the Edenvale Redevelopment Project.

We have reviewed the DEIR for the proposed project and have assessed its adequacy to the California Environmental Quality Act (CEQA) for its considerations of mitigation measures for the losses of open space and agricultural land. We find the DEIR is inadequate in this respect. Accordingly, we focus our comments on providing suggestions for feasible mitigation measures that the City of San Jose should consider.

Background

The proposed project, Edenvale Redevelopment Project is projected to include the construction of approximately 7.88 million square feet of additional industrial uses. The project would implement infrastructure to support buildout of the project area and related activities under the approved Edenvale Redevelopment Plan. The project would convert approximately 451 acres of prime agricultural land and visual open space to urban uses. Further a loss of over 2,000 acres of prime farmland would be a result from full buildout of the Edenvale Redevelopment Project.

RESPONSE 1: The basis for identifying the loss of 2,000 acres of prime farmland is not clear in this statement. The entire Edenvale Redevelopment Project area is approximately 2,000 acres, but most of that land has been developed over the last 25 years. The 451 acres is the remaining vacant, developable land, as shown on Figure 7.

COMMENT 2: The proposed project would contribute to and accelerate the rapid growth and escalating property values in the area by converting hundreds of acres of existing open space and agricultural lands to urban development, thus, increasing the demand for open space.

Permanent protection of designated open space areas has thus become an urgent need in the few years since the formation of the Authority.

The city of San Jose recognizes open space as a valuable environmental resource. The City's General Plan acknowledges the Importance of open space protection when it established the Greenline Strategy:

The Greenline is a strategy to define the ultimate perimeter of urbanization in San Jose. The greenline is intended to develop clearer identity for San Jose by defining where the City begins and ends and to preserve valuable open space resources... The key elements of the Greenline are the hillsides, the baylands and the rural/agricultural area in the south Coyote Valley area. These multiple lands are all valuable and productive but not for urbanization. The open space lands preserved under the Greenline Strategy serves as environmental preserves for the protection of wildlife habitat, watersheds, and natural ecosystems. Open Space lands also serve recreational purposes ranging from nature trails and bikeways to playgrounds and golfcourses... The hillsides are the most extensive and visually prominent features addressed as part of the Greenline Strategy. Planned uses in the hillside include valuable watershed, wildlife habitat areas and rangelands for agriculture and grazing. In addition, the Bay Area Ridge Trail is envisioned to run along the ridges of the hillsides that surround the City.

The City's General Plan acknowledges the importance of permanent protection of the open space lands beyond the Greenline and recognizes the Authority's role in this effort:

The Hillside and Greenbelt Assessment Study, completed in 1986, encourages the creation of a permanent green line. The study emphasizes the purchase of as much open space land as the public is willing to support. In 1992 the Santa Clara County Open Space Authority was approved by the State Legislature.

Both the city and the Authority have identified areas within and surrounding the Coyote Ridge area as high priority for open space preservation. The City specifically recommended that the Authority make the preservation of the Coyote foothills a priority.

Fortunately, growing evidence suggests that open space conservation is not an expense, but a worthwhile investment that produces great economic benefits. Open space is a major attraction for employees, residents and visitors, and recreate. As the Trust for Public Land explains:

Too often we hear that communities cannot afford to grow smart by conserving open space. But accumulating evidence indicates that open space conservation is not an expense but an investment that produces important economic benefits. Some of this evidence come from academic studies and economic analysis. Other evidence is from first hand experience of community leaders and government officials who have found that open space protection does not "cost" but "pays".

New development planned for the Edenvale area South County would particularly benefit from the permanent conservation of surrounding hillsides and the south Valley greenbelt. Protection of these lands will have widespread benefit for residents and visitors of the area, including spectacular views, recreational opportunities, and agricultural uses. Given their location near a proposed trail corridor, some of these lands could be used as part of the Bay Area Ridge Trail Project, which seeks to establish a continuous trail system that circles the San Francisco Bay and links the main ridges that rise up from the bay.

RESPONSE 2: It is not clear which land is referred as "some of these lands could be used as part of the Bay Area Ridge Trail Project". Since the project is located entirely below the 15% slope line, it is assumed that the comment is not stating that the Redevelopment Project would be a suitable location for the Ridge Trail.

This comment primarily restates existing policies and, since it does not raise issues about the environmental analysis in the DEIR, no further response is required.

COMMENT 3: The City should thus take the unique opportunity presented by the proposed project to invest in the protection of open space lands through effective mitigation measures and programs. As set forth in detail below, the DEIR for the proposed project should be revised to consider the wide variety of options available to the City.

The DEIR Must Consider Feasible Mitigation Measures to Reduce the Project's Impact on Agricultural lands and Open Space Loss

The DEIR fails to identify measures to mitigate the proposed project's significant impact on the agricultural land. The DEIR finds the loss of open space caused by the conversion of approximately 451 acres of prime agricultural land to industrial development by the build out of the Edenvale Redevelopment Project to be significant, unavoidable impact. However, this conclusion is based on the assumption that no mitigation measures are available to reduce the loss of open space and loss of agricultural land. Contrary to CEQA's mandate, the DEIR simply fails to consider any mitigation measures. Yet, a variety of feasible measures exist that could reduce the proposed projects significant impacts on agricultural land and open space.

Feasible Mitigation Measures Exist to Reduce the Proposed Project's Significant Impact on Agricultural and Open Space Loss

The DEIR's failure to consider mitigation for the loss of open space and agricultural lands is particularly striking given the wide variety and number of successful programs that exist to address this issue. Mitigation is defined by the CEQA Guidelines to include:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitation, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

CEQA Guidelines 15370

RESPONSE 3: The Urban Growth Boundary and other General Plan policies referred to in the previous comment reflect the City of San Jose's longstanding strategy for protecting and maintaining open space that benefits the residents of San Jose. The General Plan policies include maintenance of a clearly delineated border between urban and non-urban land uses (the UGB), including adherence to the 15% slope line adjacent to the foothills, preservation of the baylands adjacent to San Francisco Bay, and preservation of the Coyote Greenbelt between San Jose and Morgan Hill. Within the urban envelope, the City has designated park lands, creeks, and private open space.

The proposed project is fully consistent with the City's General Plan policies for protecting open space. While the development of the remaining vacant parcels within the Redevelopment Project boundary will result in the loss of some existing open space, as acknowledged in the DEIR, this will be also be offset by the long term protected open space along the Coyote Creek and in the adjacent foothills. The loss of this area for productive agriculture has long been acknowledged by the City in the EIRs prepared for its General Plan updates in 1994, 1984, and 1975.

The types of mitigation described in the comment and taken from the CEQA Guidelines are appropriate for most of the environmental impacts of development. They are not effective for mitigating loss of open space and/or agricultural land, however. The first two types of mitigation listed, avoiding the action or limiting the magnitude of the project, would mean either not developing this land or developing only part of it. Since the project is a redevelopment plan that *encourages* development, not developing the land is inherently inconsistent with the project goals. The DEIR does identify two alternatives to the project proposed (pages 130 and 131) that would result in less of the vacant land being developed and lesser impacts from loss of open space and agricultural land. The City Council may, at its discretion, approve some version of one or the other of these alternatives.

The third type of mitigation listed in this comment (repair, rehabilitation or restoration), would not apply to open space and agricultural impacts, since once development occurs, the land is no longer open space and cannot be effectively farmed. Likewise, the fourth type of mitigation, preservation or maintenance during the life of the project, would not create either new open space or farmland.

The final category of mitigation is "replacing or providing substitute resources or environments". There is no known way to create new open space or farmland except by demolishing existing development and/or rehabilitating degraded agricultural land. Neither approach is considered feasible or desirable for lands in the vicinity of the proposed project.

COMMENT 4: The proposed project impacts on agricultural and open space lands can be compensated for by the implementation of programs that provide for such lands in other location that reduce the impact over time by preservation of such lands. As the Bay Area Conservancy Program notes specifically with respect to Santa Clara County, "restoration and protection can be accomplished through the proper design of new developments and through mitigation requirements." The American Farmland Trust has identified a number of such mitigation measures for farmland conversion, including:

- Requiring that remaining farmland, or an equal or greater amount of farmland be place under Williamson Act contract.
- Requiring a conservation easement to be place on remaining or alternate farmland.
- Requiring that new agricultural land to be brought into production.
- Requiring a per-acre mitigation fee on development projects to be used for the acquisition of development rights on farmland in another location.

While also protecting farmland, conservation easements are also effective mechanisms for preserving habitat, water quality, viewshed and community open space buffers.

RESPONSE 4: As the last sentence of this comment implies, conservation easements can be useful mitigation for growth inducement and an effective method for protecting existing farmland and/or open space from conversion. Conservation easements, Williamson Act contracts, and in-lieu fees do not compensate, however, for the loss of farmland and/or open space to urban development.

The City of San Jose has designated significant amounts of open space and agricultural land within its Sphere of Influence for non-urban land uses. The City has created a system of General Plan goals and policies to protect those open space and farm lands from development, and has rigorously adhered to and defended those basic policies for over 25 years. Much of the eastern border of the Edenvale Redevelopment Project area is the City of San Jose's Urban Service Area boundary, its Urban Growth Boundary, and the 15% slope line. On the other side of that line is a significant quantity of open space that has been protected by the City's General Plan policies for over 25 years, and is not anticipated to develop with urban uses during the City's General Plan horizon.

COMMENT 5: In addition to these general forms of mitigation, there are numerous examples of communities that have required land dedications and/or fees for purchase of land to compensate for the loss of open space and agricultural lands as mitigation for significant impact. Many communities with similar open space provisions in their general plans also require new projects which contribute to the loss of open space and agricultural lands, as well as to the growing need for open space to mitigate for those impacts.

Thus, among the feasible mitigation measure the DEIR here fails to include which are capable of reducing or eliminating project related impacts are the following:

- Clustering of the development to protection site agricultural lands and provide permanent protection of those lands through an appropriate instrument (e.g. dedication of lands to a Land Trust an/or multiple party holders of easements or other acceptable means of ensuring permanence.)
- Payment of a mitigation fee to an appropriate conservation organization for purchase of mitigation lands.
- Purchase in fee title or conservation easement of comparable open space and agricultural land in the area (e.g. Coyote Ridge) and permanent protection of that land through a dedication to an appropriate open space conservation entity.

To provide an adequate assessment of mitigation, the DEIR must consider the measures described above for their feasibility and efficacy in reducing the impacts on agricultural and open space lands caused by the project. Adoption of these mitigation measures would clearly minimize the proposed project's impact on agricultural and open space lands both within the project area itself and through agricultural and open space preservation elsewhere.

RESPONSE 5: As stated in response to the previous comment, none of these methods would effectively reduce or avoid the loss of open space and agricultural land resulting from the proposed project. The City of San Jose has already provided in its adopted General Plan for “agricultural and open space preservation elsewhere”. The City does not consider random preservation of small pieces of open space within a designated redevelopment project area to be an effective form of mitigation, nor does it consider purchase of conservation easements that protect farmland elsewhere to reduce the impact from the loss of farmland due to the project.

COMMENT 6: The DEIR Must Consider Feasible Mitigation Measures to Reduce Cumulative Impacts on Agricultural and Open Space Lands.

In addition to its significant project specific impact of converting approximately 451 acres of agricultural land to urban uses, the proposed project’s contributes to a significant cumulative impact on agricultural open space lands. The proposed project in conjunction with other pending development such as the Coyote Valley Research Park and North Coyote Valley buildout, would convert thousands of acres of agricultural and visual open space to urban uses.

The DEIR further finds that there are no measures other than avoidance that would reduce the loss of over 2,000 acres of prime farmland which would result from full buildout. And while the City of San Jose can condition future projects to include open space uses within future development, there are no measures that would fully reduce the loss of approximately 2,000 acres of open space.

Such illusory mitigation is inadequate under CEQA. An EIR must examine “reasonable, feasible options for mitigating or avoiding the projects contribution to any significant environmental effects.” CEQA guidelines under 15130(b)(2)(3). With respect to the mitigation of cumulative Impacts, the CEQA Guidelines recognized that the adoption of ordinances or regulations may be most appropriate 15130(c).

RESPONSE 6: This comment and the previous ones are suggesting that San Jose secure some portion of the project site as open space, in conflict with its adopted General Plan, or not approve the development provided for in the General Plan for the last 25 years.

As stated in response to the two previous comments, the City’s adopted General Plan designates thousands of acres in San Jose’s Sphere of Influence for non-urban uses. In addition to the hillsides, the General Plan includes policies to preserve and protect the Coyote Greenbelt, the baylands north of Alviso, the local and regional parks (including the Don Edwards National Wildlife Refuge, Alum Rock Park, the Coyote Creek Park Chain, Kelley Park, etc.). The Redevelopment Plan for Edenvale was adopted in the 1970’s. This EIR updates the environmental circumstances in conformance with CEQA. No changes in the Redevelopment Plan are proposed.

There is no mitigation known to the City of San Jose that would effectively mitigate the loss of agricultural land and open space that will result from implementation of the project as proposed. Certainly, piecemeal preservation of small pockets of open space and/or farmland interspersed at random within urban developments would not offset such impacts. The cumulative impacts

of developing the urban uses designated on San Jose's General Plan, including Coyote Valley, are impacts anticipated and identified in the EIR certified in 1994 for the last General Plan update. Part of the considerations which the City took into account in approving urban development for the project site was that this industrial development would clearly mark the limit of urbanization on the Valley floor at this point, protecting the hillsides above it from future encroachment.

COMMENT 7: **Conclusion:** The proposed project presents a unique opportunity for the City of San Jose to develop effective policies and programs to preserve valuable open space and agricultural lands in its planning area and beyond. The DEIR as currently drafted is inadequate to provide the meaningful consideration of feasible mitigation measures to reduce the significant environmental impacts of the project. The Authority therefore urges the City to revise its DEIR to include consideration of the measures presented in these comments.

RESPONSE 7: The City of San Jose *has* developed "effective policies and programs to preserve valuable open space and agricultural lands in its planning area and beyond." Those policies and programs are embedded in the City's General Plan, and include development of industrial park uses at this southerly location to encourage a reverse commute on existing roadways from existing residential neighborhoods within the existing urban envelope.

I. RESPONSE TO LETTER FROM SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, DATED MAY 11, 2000:

COMMENT 1: Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft Environmental Impact Report (DEIR) for the Edenvale Redevelopment Project, which is located in southern San Jose in the vicinity of the Highway 101 and Route 85 interchanges, north of Santa Teresa Boulevard, and east of Cottle Road. The proposed project supports the construction of approximately 7.88 million square feet of additional industrial uses through the adoption of the following:

- Area Development Policy that would allow development to proceed in advance of completion of roadway improvements necessary to meet the City's Level of Service Policy in the area east of US 101.
- Improvement District to construct roadways and other improvements for the area south of Silver Creek Valley Road and east of Coyote Creek.
- Community Facilities District for certain vacant properties in the area west of US 101.

Due to the magnitude of the transportation and land use impacts resulting from the advancement of development before the completion of gateway and roadway improvements, VTA has the following comments on the adequacy of the DEIR.

Land Use Impacts

The addition of approximately 7.88 million feet of new employment uses is likely exacerbate the current housing shortage in Silicon Valley. VTA considers the growing jobs/housing imbalance to be a potentially significant impact resulting in more commuters traveling farther distances to find

affordable housing. As a result, VTA recommends that the DEIR consider mitigation measures to increase the supply of affordable housing.

RESPONSE 1: The development of jobs in Edenvale is a specific planning response to the existing imbalance of jobs and housing in Santa Clara County, specifically, jobs in the north and housing in the south. The location of an industrial redevelopment area in Edenvale was approved by the City of San Jose over 20 years ago to create a “reverse commute” that encourages more efficient use of a regional transportation system that traditionally carries commute traffic north in the morning and south in the evening. The largest concentration of housing in Santa Clara County, including a significant percentage of the County’s most affordable housing, is planned for development over the next ten years, are in south-central and southeastern San Jose.

In addition to setting aside 20 percent of all tax increment revenue from the City’s merged redevelopment projects for the development of low to moderate income affordable housing, the San Jose Redevelopment Agency provides financial assistance for housing redevelopment projects.

While San Jose cannot ensure that housing planned and built in San Jose is reserved for people working in San Jose, there is a sufficient supply of new housing planned for in San Jose’s Urban Service Area to accommodate the number of new jobs anticipated in San Jose through the General Plan horizon year. To the extent that higher density housing is generally more affordable than lower densities in Santa Clara County, San Jose is also planning for the greatest percentage of affordable housing in the County.

COMMENT 2: Transportation Impacts

Access Across US101

The San Jose 2020 General Plan's Land Use/Transportation Diagram indicates an interchange at Branham Lane and US101. However, the DEIR does not include this roadway project in the list of roadway improvements. VTA supports a Branham Lane overcrossing (not specifically an interchange) designed as a two-lane structure with an emphasis on bicycle/pedestrian safety, aesthetics and access. An overcrossing here would provide an alternate travel route for those living near the Edenvale area and reduce impacts at US101 interchanges in this area. As a result, we request that this transportation project be analyzed as a planned improvement in the DEIR.

RESPONSE 2: The DEIR does discuss the construction of a Branham Lane connection across U.S. 101 as an alternative to the proposed project (see page 180 of the DEIR). This alternative was identified as reducing some of the land use compatibility impacts of adding traffic to Hellyer Avenue.

COMMENT 3: *Transportation Demand Management*

In addition, VTA requests that the DEIR describe the district-wide Transportation Demand Management efforts that will be incorporated in the project to both mitigate the project's auto impacts and to provide employees with transportation alternatives. Such TDM programs can include:

Eco Pass

Shuttle connections to/from Blossom Hill Caltrain and Santa Teresa/Cottle LRT Stations

Subsidies for Caltrain and light rail operations (to be paid by improvement districts)

A parking permitting system, in which employees are directly charged to park at the employment site

A parking cash-out program, in which employees receive direct financial incentive not to drive to work alone

Preferentially located carpool parking

A carpool matching program

Bicycle lockers and racks for long-term and visitor bicycle parking

Showers and clothes lockers for bicycle commuters

RESPONSE 3: Many of these mitigation measures are identified in the Air Quality section of the DEIR (on page 65) as measures which could be required of new developments as they are proposed. Many of the design features, including carpool parking, bicycle lockers and showers, are routinely required of all new industrial development in San Jose. The Redevelopment Agency staff is presently coordinating with VTA, current occupants, property owners and prospective developers to implement a shuttle program connecting New Edenvale to the LRT, CalTrain and regional bus transfer stations.

Language has been added to the EIR text to clarify the City and Agency's intention of requiring these various TDM measures to reduce both traffic and air quality impacts.

COMMENT 4: *Improvements to Bicycle Facilities*

The DEIR includes a strategic plan for roadway improvements, to be partially funded by the Improvement District and the Community Facilities District to reduce traffic impacts associated with built-out of the Edenvale Redevelopment Area.

VTA requests that the DEIR discuss the bicycle projects to be included in the list of funded improvements as a traffic mitigation measure. In particular, a portion of the Coyote Creek Trail traverses the project area. The City has submitted improvement projects to this bicycle trail as part of the VTP 2020 planning process. VTA requests that these improvements, as well as improvements which better connect the new development to the bicycle trail, be evaluated for their effectiveness to reduce auto traffic in the project area.

RESPONSE 4: The traffic study conservatively assumed the worst case and fully mitigated the long term vehicle traffic impacts on city streets. The trip generation rate included in the traffic study does not include non-vehicular mode. While the City will work with VTA and County Parks on the creation of bicycle links where appropriate, their effectiveness for traffic mitigation would be

considered too speculative to use as the basis of land use planning decisions at this time.

COMMENT 5: *Pedestrian, Bicycle, Vehicle Access and Circulation*

When specific projects are proposed for specific sites, VTA recommends that the City require an evaluation of the adequacy of access and circulation for pedestrians, bicyclists, and vehicles.

RESPONSE 5: Such analyses are routinely included in the City's review of all new development proposals in San Jose and will be required for future development in the Edenvale Redevelopment Plan project area.

COMMENT 6: *Denser Street Network*

VTA notes that this area currently lacks a sufficiently dense street network to provide multimodal access to the proposed development. As currently proposed, the few streets in the area would bear the full burden of traffic, causing, as the DEIR indicates, significant auto impacts on intersections. VTA requests that the DEIR include an assessment of the effect of a denser street network on reducing the levels of auto traffic on any one street. A denser street network could include streets designed strictly to move auto traffic, as well as streets designed to better accommodate bicycles, pedestrians, or transit. Such a network could, by providing access to new development on multiple routes as well as multiple modes, reduce the impacts of auto traffic on any one street.

RESPONSE 6: The planned land use for this area (industrial park) does not require a denser street network, due to the size of the parcels. In addition, the geography and physical features which constrain the New Edenvale area do not lend themselves to a grid street pattern.

COMMENT 7: *Clustering Development Around Transit Stations*

The DEIR states that the 7.88 million square feet of development will be spread out over the entire Edenvale area at a Floor-Area Ratio (FAR) of 0.35 to 0.40. This density is neither high enough to support transit, nor is it low enough to prevent significant traffic impacts, as demonstrated by the DEIR.

VTA strongly requests that the DEIR consider the concentration of development in Planning Areas 2, 3, and 4 as a traffic mitigation measure. These areas are more accessible to nearby transit stations, and therefore more effectively served by transit, either by providing walk-access or shuttle-access to the stations. By clustering the highest densities of future development around transit stations in the area, particularly the Santa Teresa LRT Station, traffic impacts could be minimized by providing convenient alternatives to the automobile.

RESPONSE 7: Clustering development is a very difficult goal to achieve in a planning area that is configured like the Edenvale Redevelopment Project area and whose shape is constrained by the foothills, a creek, a major freeway and existing residential neighborhoods. It would also be inappropriate to deprive existing property owners in Planning Area 1 of development rights. The City is committed to encouraging private development to design for easy access to transit, where transit is available. New development in Planning Area 2 will be required to supply safe and accessible pedestrian walkways that give easy

access to the LRT station. As discussion in response to Comment 3 above, the Agency staff is presently coordinating the establishment and ongoing funding for a shuttle to serve all of the Edenvale Redevelopment Project area.

COMMENT 8: *Mixed Use*

VTA also requests that the DEIR evaluate the incorporation of mixed use development in the project area as a possible traffic mitigation measure. Single-use employment districts, without supporting commercial uses, create environments in which employees cannot access lunch or convenience services without a car. Fine-grain mixing of walk and transit-accessible commercial uses allows and encourages employees to commute by various transit alternatives.

RESPONSE 8: The Edenvale Redevelopment Project area is already developed with mixed uses. Extensive commercial development has been built on Bernal Road southwest of Monterey Highway and east of Santa Teresa. The commercial uses there include restaurants, groceries, and other retail and service uses.

J. RESPONSE TO LETTER FROM SANTA CLARA COUNTY HISTORICAL HERITAGE COMMISSION, DATED APRIL 15, 2000:

COMMENT 1: Thank you so much for the notice and opportunity to comment upon the proposed Edenvale Redevelopment. Please provide all future reports and referrals to our Commission. Please refer this matter to the Historic Landmarks Commission of San Jose for their review.

RESPONSE 1: This is a procedural statement that does not speak to the EIR or the adequacy of the environmental review. No response is required.

COMMENT 2: 1. FARMSTEADS

Of particular interest are the two sets of farmsteads identified in Appendix G, Cultural Resources. Although it is agreed that just being an old house does not make a building historically significant, the DEIR overlooks the importance of two of the few remaining farmsteads in San Jose,

Some of the comments in the evaluations are outside the scope of a CEQA review and erroneously place a subjective weight to the scoring. For instance, regarding the John Branham Ogier House at 550 Piercy Road, the DEIR concludes, "Other more distinguished examples of this style [of house] survive in South San Jose." (DEIR Vol, 1, page 105) This should not devalue the historic merit of the Branham Ogier House. If this overbroad comparative analysis were the criteria under CEQA, very few historic resource houses would require public review and comment (because only the 'best' example of each style of house in the Bay area would qualify).

RESPONSE 2: The discussion in the DEIR (page 105) is referring to the likelihood that this building could be found eligible for listing under criterion C on the California Register of Historical Resources. That criterion is:

“Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values”

The discussion in the DEIR was intended to reflect the conclusion of the professional consultant who prepared the analysis in Appendix G, that the house at 550 Piercy Road did not meet this criterion. The language in the EIR text is revised in Section III Revisions to the Text of the Draft EIR, to state that conclusion more clearly.

It is standard practice in preparing historic building evaluations to compare different properties to determine which are “the strongest representatives” of a particular historic context. An historic context, (such as “agricultural history in Santa Clara County”) is the “...patterns, themes, or trends in history by [which] a specific occurrence, property, or site is understood and its meaning (and ultimately its significance) is made clear” (see *National Register Bulletin 15*, pages 7 and 9). The best representatives of properties associated with a particular significant historic context are most likely eligible for the California Register.

COMMENT 3: It is not the architectural style that makes these farmsteads significant, but rather the fact they are intact surviving common examples of working farms. The California Register and the National Trust Mainstreet Program recognize commonplace buildings as those worthy of inclusion because they tell the story of real people contributing to a real era. Certainly the farmhouses and tank houses are “associated with patterns of events that have made a significant contribution to the broad patterns of local history” (Criteria A) because they represent the farming/orchard community upon which the local economy once boomed, and in turn converted the state-wide economics of California. These few original intact farmsteads in our Valley represent an era of local and State history. Modifications, simple add-ons, wear and tear, and being old do not “compromise” the historic significance of these structures, as your DEIR appendix G states (page 7). Oftentimes add-ons and wear is the state of historically significant buildings, which, in this case, accurately reflects farming/orchard needs. Moreover, if a certain context is sought (orchards 1990-1930) then the buildings can be easily brought to this context by the removal of a few add-ons,

RESPONSE 3: Under the California Register regulations, an historical resource “must be significant” under Criterion 1 (association with events that have made a significant contribution to broad patterns of history), not simply be “associated” with this criterion [Title 14, Chapter 11.5, §4852(5)b]. Further, “integrity” is defined in the California Register regulations as “...the authenticity of an historical resource’s physical identity evidenced by the survival of characteristics that existed during the resource’s period of significance” [Title 14, Chapter 11.5, §4852(5)c]. Modern alterations do compromise the integrity of an historic building. Based on these criteria, 484 and 550 Piercy Road do not appear to be significant as the best examples of early 20th century farm complexes in San Jose that retain a high level of historic integrity.

The evaluation in Appendix G also makes the point that the historic integrity of these remaining structures is further reduced by the fact that the outlying farm buildings that were part of the original farm complexes are either gone

or badly deteriorated. They are not “intact surviving common examples of working farms”.

The analyses of the historic importance of these buildings were prepared by recognized professionals in the field, including both an architectural historian and an historian with significant local experience in historic preservation in Santa Clara County. It was their joint professional opinion that the buildings as they currently exist were not important or meaningful representatives of local events or broad patterns of history, nor did they embody distinct architectural or artistic characteristics.

COMMENT 4: The dating of the buildings, particularly the Emilio Pezzolo House at 484 Piercy Road, is questionable. The main part of the house appears to pre-date 1906 which the DEIR identifies as the date of construction.

RESPONSE 4: The discussion in Appendix G traces the subdivision of the Piercy Ranch property and subsequent sale of portions of the land. The site of the Pezzolo House is within the property boundary for which a subdivision map was recorded in 1906. The first sale of a lot in that subdivision was also in 1906. Emilio Pezzolo arrived in Santa Clara County from Italy in 1906, and subsequently bought Lot 10 in that subdivision. The historic consultants therefore concluded that the Emilio Pezzolo House was constructed in approximately 1906.

COMMENT 5: The scoring of resources and categorization as “Structures of Merit” rather than “Landmark” also presents an approach that is contrary to California law under CEQA. A building need not be a landmark before it gives rise to a finding that demolition causes “Significant Unavoidable Impact.” The City’s assumption that if a building is not a “landmark” (or eligible as a landmark) then it is not a historic resource leads the agency to erroneously conclude “Implementation of the infrastructure proposed as part of the project would not result in a significant loss of historic structures. (Less Than Significant Impact)”

RESPONSES 5: The CEQA Guidelines acknowledge that a building may be found to be an historical resource, even though it is not listed in, or eligible for listing in the State, national or local registers, and gives lead agencies discretion in determining those resources. [§15064.5(a)(4)]

CEQA does not, however, preclude a Lead Agency from concluding that a building which is *not* eligible for landmark status is also not a significant historic resource. CEQA does not preclude a local government from allowing for a category of structures that are less than landmark status, but still retain some vestiges of cultural value, and it does not preclude a Lead Agency from determining which category of cultural resources conforms to the definition of historic resource used in CEQA Guidelines §15064.5. The City of San Jose routinely defines its own classification of “landmark” to coincide with the meaning of the term “historical resource” in §15064.5. The DEIR relied on the opinion of qualified professional historic consultants in concluding that these particular buildings were not historical resources whose loss would be a significant impact under CEQA.

COMMENT 6: The recommendations of the DEIR (photography before demolition) are contrary to the goals and policies of the San Jose General Plan which identifies "preservation as a key consideration in the development review process."

RESPONSE 6: It is not clear to what this comment refers. The DEIR does not include recommendations, and the text of the DEIR does not refer to photography before demolition. The historical consultant, in the report in Appendix G, does recommend that the evaluation report and forms be provided to an historical archive. The report also discusses the General Plan policy that "preservation should be a key consideration in the development review process" (page 8 of Appendix G).

The General Plan does not preclude documentation of older buildings or other cultural resources, however, such documentation would not be considered a viable alternative to preservation. Neither does the DEIR allege that documentation would be sufficient mitigation to reduce the loss of a significant historic resource to a less than significant level.

COMMENT 7: 2. TANKHOUSES and WATERTOWER

The two tank houses, one of which is still a water tower, are very hard to find in this area. Regardless of their uniqueness, they would still be historic resources whose proposed demolition would certainly lead to a finding of "significant impact" under CEQA. It is unusual your DEIR would conclude they are not historically significant, given the common practice of tank house historic evaluation throughout the local region as well as the State. When the annexed Mosby Ranch was proposed for development, the City and County negotiated a plan whereby the developer was to save the tank house. The historic resource was to be dismantled, trucked to the City's Emma Prusch Memorial Park and Farm, and restored for children's education and enjoyment. This did not happen and lawsuits were filed. With assistance, perhaps Prusch Park would be interested in one of these tank houses. Please consider this or a similar alternative as possible mitigation measures.

RESPONSE 7: Although the historic analysis upon which the conclusions in the DEIR were based did not conclude that the two tank houses were significant historical resources, the City and Agency are not precluded from considering efforts to save the two structures. The possibility of such an offer is included in the text revisions in Section III of this Amendment.

COMMENT 8: 3. ARCHAEOLOGICALLY SENSITIVE AREA

The general proposed project area is known for major indigenous Indian cemeteries. Three significant burial grounds are located within or just outside your project planning areas. State Registered SCL-125 is near the southern terminus of Cottle Road, The second cemetery is at the "Holiday Inn site" at Highway 101 and Bernal Road-Silicon Halley Boulevard. The third cemetery, known as the "Two Wolves site," is on the south-east intersection of Highway 101 and Bernal Road-Silicon Valley Boulevard. The latter is among the largest and oldest Muwekma Ohlone burial sites found in California. There are many other listed archaeological sites in this area, including those found at Santa Teresa Golf Course and Santa Teresa Mobile Home Park.

There is a high probability of locating significant archaeological finds within your proposed project area, should there be shallow excavation for utilities, foundations, and road improvements. CEQA

requires identification of these existing resources, identification of potentially unknown resources, an archaeology plan, an indigenous Indian internment/relocation plan, and mitigation measures. CEQA also requires the lead agency to check for such resources when preparing a DEIR,

Your reliance upon 1976 and 1979 evaluations for archaeological resources is in violation of CEQA for three reasons: 1) staleness of reports are recognized as a factor of noncompliance, 2) they are part of a general master redevelopment plan that are incongruous to the proposed project, and 3) new evidence of archaeological resources in this area have been found since 1976 and 1979. The DEIR does not give adequate notice to the public for review and comment.

RESPONSE 8: While there has been extensive construction work throughout the Redevelopment project area since 1979, including numerous archaeological investigations, no evidence was found of new prehistoric sites not documented in the 1976 and 1979 evaluations. There has been supplemental work done on many of those sites, including clarification of boundaries, degree of significance, etc. The extraordinarily extensive archaeological work done for the 1976 and 1979 EIRs still represents a comprehensive and accurate overview of prehistoric resources throughout the Redevelopment Project area. The conclusions reached in the previous EIRs, that the entire project area is highly sensitive for subsurface archaeological resources, are still valid.

The statement in the DEIR that all new development must include monitoring was an oversimplification of the City's procedural requirements for new development in Edenvale. Additional language is provided in the text revisions in Section III of this Amendment to more accurately represent the process for protecting prehistoric resources in this area.

The meaning of the statement that the Redevelopment Plan is incongruous to the proposed project is not clear. The Redevelopment Plan is not proposed for amendment or change at this time, and is still generally the same as that addressed in the previous EIRs.

COMMENT 9: 4. NATIONAL TRAIL

The National Juan Bautista de Anza Historic Trail runs through this area, roughly aligned with Highway 101. The EIR should identify this resource, potential impacts of the proposed project, and possible mitigation measures. Department of the Interior National Park Superintendent Meredith Kaplan (415-427-1438 or email meredith_kaplan@nps.gov) can be contacted to identify the alignment of the Trail and whether the proposed project will impact the route. City Parks, County Parks and regional trail agencies and organizations can also identify the path.

We appreciate your request for comments on this proposed project. If we can be of any assistance to the City or the property owners, please do not hesitate to contact us.

RESPONSE 9: A letter was received from the National Park Service addressing the historic trail (see Subsection IV.A of this Amendment). Language has been added to the text addressing project conformance with the trail alignment (see Section III. Revisions to the Text of the Draft EIR).

K. RESPONSE TO LETTER FROM SANTA CLARA COUNTY DEPARTMENT OF ROADS AND AIRPORTS, DATED MAY 2,2000:

COMMENT 1: We have reviewed the DEIR for the subject project and have the following comments.

1. The project should mitigate construction impacts to Hellyer Avenue. The pavement should be repaired and resurfaced due to the impact of construction equipment traffic.

RESPONSE 1: This is an operational issue which will be addressed by the City in formulating the construction plans for the work on Hellyer Avenue.

COMMENT 2: 2. Capitol Expressway should be included in the Traffic Impact Report.

RESPONSE 2: The criterion for including regional roadways in the traffic analysis was whether the project would be anticipated to generate at least ten vehicles per lane per hour on the roadway. Capitol Expressway did not fall within that criterion.

L. RESPONSE TO LETTER FROM SANTA CLARA COUNTY DEPARTMENT OF PARKS AND RECREATION, DATED MAY 11, 2000:

COMMENT 1: The Santa Clara County Parks & Recreation Department is in receipt of the Draft Environmental Impact Report (DEIR) for the Edenvale Redevelopment Project. County Parks had previously responded to the Notice of Preparation (NOP) for the subject project in November 1999. In our previous correspondence, we indicated the importance of: (1) inclusion of alternative transportation, (2) access to public parkland, (3) improvements to Hellyer Avenue/Hellyer Avenue Extension. After review of the DEIR and project as proposed, the Parks Department reiterates the same concerns with the additional comments as follows:

Inclusion of Alternative Transportation

As County Parks had previously cited in our response to the NOP,

Provisions for a variety of alternative transportation methods, including construction of bike and pedestrian related facilities, access to bikeways, light rail, Caltrain., etc. to meet traffic service, congestion management, and air quality standards for the City of San Jose should be included in the project.

As indicated on page 35 of the DEIR, "there is no existing transit service to the New Edenvale area." It is not clear in the DEIR as to how future transit services and transit connections will occur within the New Edenvale Redevelopment Area. In addition, the Existing Transit Facilities Map (Figure 10) should indicate some of the alternative transportation modes for future employers/employees working at the new industrial campus sites of the New Edenvale area, as proposed in the mitigation measures (pages 65-66).

RESPONSE 1: Page 55 of the DEIR describes how transit service will be facilitated in the Redevelopment Project area, including provision of shuttle service and accommodation of bus service.

COMMENT 2: *Providing Connectivity to Existing County and City Bikeways on Improved Streets within Improvement District*

County Parks recommends the DEIR further address connections to existing and future bikeways and access to bike/pedestrian-related facilities that would encourage nonmotorized commutes and reduce the number of motorized vehicular trips on surface streets. It is apparent that the existing bike lanes within the Coyote Creek Parkway chain and countywide bikeways, as shown in Figure 1 1, will provide highly attractive recreational and environmental awareness benefits for commuter bicyclists traveling to/from the major employment centers within the New Edenvale Redevelopment Area.

RESPONSE 2: As shown in the DEIR bike paths exist in the area along Coyote Creek and along Silver Creek Valley Road, which are in Edenvale Areas 1 and 3. Bike lanes exist along Santa Teresa Boulevard in Area 2. To our knowledge there are no planned bicycle facilities in the area beyond what exists. Connections between the Edenvale industrial area and the existing bicycle facilities are actually quite good. The bike path along Coyote Creek connects directly with Hellyer Avenue, Blossom Hill Road, and Silicon Valley Boulevard. These provide access into Areas 1, 3, and 4. The bike path along Silver Creek Valley Road provides direct access into Areas 1 and 3. The bike lanes along Santa Teresa Boulevard provide direct access to Area 2. While Santa Teresa Boulevard north of Cottle Road does not have bike lanes, the curb lane is sufficiently wide to safely accommodate bikes. This is also true of Monterey Highway, Blossom Hill Road, Hellyer Avenue, Bernal Road and most other existing streets in the area.

COMMENT 3: At this time and the time of future development, we highly recommend the City of San Jose to accommodate, wherever feasible, new bicycle lanes in the project area and increase the connectivity of our Countywide Bikeways system. Given adequate roadway right of ways, future bicycle connections should be designated and incorporated on streets proposed for infrastructure improvements within the Improvement District of the southerly portion of the New Edenvale Redevelopment Area (e.g. Silver Creek Valley Road, Hellyer Avenue Extension, Piercy Road, etc.). As noted on page 13, street improvements include all the needed infrastructure improvements (e.g. curb, gutter, sidewalk, driveways, wheelchair ramps, storm sewer mains and laterals, landscaping, etc.) though, without any provision for bicycle lanes.

RESPONSE 3: The City of San Jose accommodates bicycles by providing an extra-wide curb lane in their standard street cross-sections. The standard four-lane cross-section has a minimum curb-lane width of 21 feet, and the standard six-lane cross-section has a minimum curb-lane width of 20 to 22 feet. These lane widths can safely accommodate bicycles and are designed also to accommodate buses and emergency parking. All new streets within the Edenvale area will be built to the City of San Jose standard street widths.

COMMENT 4: Furthermore, east-west connections from the said project area to the existing city bike lanes on Santa Teresa Boulevard and Cottle Road in the Old Edenvale area should also be addressed in the DEIR and at the time of future development. In sum, the implementation of the Edenvale Redevelopment Project should continue to be consistent with the goals and policies of the County's Bikeways Map and the County's Congestion Management Plan Bicycle Network Plan and policies.

RESPONSE 4: The major cross-streets available to get from new Edenvale across US101 to Old Edenvale are Blossom Hill Road and Bernal Road. Both roads are built to the standard city cross-section and can safely accommodate bikes in the curb lanes. Blossom Hill Road will be widened where it crosses US101 as part of the Edenvale infrastructure improvements. The widening project will be designed to accommodate bicycles.

Since Blossom Hill Road and Bernal Road are both major arterials, they are, obviously, busy streets. Bicyclists seeking to cross US101 on a less busy street can use Coyote Road or can use the Coyote Creek bike path. The bike path crosses under US101 near Hellyer Avenue to the north and near Metcalf Road to the south.

COMMENT 5: Access to Public Parkland

As noted in the DEIR, the Coyote Creek County Park and Hellyer Park are the closest recreational and open space amenities to the residential neighborhood surrounding the New Edenvale area of the subject project area. Access to these public parklands ought to be preserved and provided in locations that do not currently allow for the neighborhood residents and County parks visitors to reach these amenities.

RESPONSE 5: The proposed development does not reduce the amount of public access to the County parks from what is currently available. To the extent that a new frontage road is created by a segment of the Hellyer Avenue extension north of Silicon Valley Boulevard, the project will improve access to the creek.

COMMENT 6: However, as stated on page 23, the following conclusion provides no public access alternatives:

The proposed project does not include a frontage road south of Silver Creek Valley Road between Silver Creek Valley Road and the Piercy/Hellyer intersection and is, therefore not in conformance with Council Policy 8-3.

Council Policy 8-3 was adopted by City of San Jose City Council with the sole purpose of providing maximum access for the public to parks and open spaces. This policy is also in conformance with San Jose's General Plan Community Development Urban Design policies. Apparently, the lack of a frontage road for a distance of approximately 3,600 feet measured along the creek right of way would be inconsistent with Council and General Plan policies at this specified location. Furthermore, County Parks recommends that the frontage road on the easterly side of Coyote Creek in this area include provisions for a multi-use trail with connections to the regional trail on the westerly side of the creek.

RESPONSE 6: It is not accurate to state that Council Policy 8-3 was adopted for the "sole" purpose of providing maximum access to parks and open spaces. The text of the adopted policy states as its purpose that public parks and similar public open spaces require adjacent public streets in order to insure public safety and convenience and provide maximum "exposure of the public facility to the public". This adopted Council Policy is intended to support the General Plan policy intended to maximize public access to park lands, maximize scenic views, and provide security for both the park and adjacent development (see page 21 of the DEIR).

The DEIR identifies the extent to which the proposed project does not conform to Council Policy 8-3 on pages 22 and 23.

COMMENT 7: Improvements to Hellyer Avenue/Hellyer Avenue Extension

Serious consideration regarding the Traffic and Circulation, Air Quality, Land Use, Vegetation, and Trails concerns ought to be given to the improvements and extension proposed for Hellyer Avenue. Although County Parks does not oppose the improvements or extension of Hellyer Avenue, we are very concerned about the potentially significant impacts the proposed roadway construction and proposed mitigation area will have on Coyote Creek and our County Park lands. Furthermore, we are also sensitive to the impacts the proposed Hellyer Avenue extension will have on the surrounding single-family residential neighborhood, churches, and elementary school.

(a) Traffic and Circulation at the 101/Hellyer Avenue Interchange

County Parks is aware that the City of San Jose is conducting a separate off-site traffic mitigation study for the Edenvale Redevelopment Area, coordinating with CALTRANS and County Roads & Airport Department. The northern segment of the Hellyer Ave roadway will be under consideration for proposed improvements in the Route 101/Hellyer Avenue Interchange project. Although Hellyer Ave west of the U.S. 101 interchange is not part of the Edenvale Redevelopment Project Area, proposed offsite traffic mitigation will inevitably cause direct traffic and circulation impacts on our park access and our park visitors at Hellyer County Park.

As a result, County Parks believes that access to our County park facilities and parking as well as the safety of our Park visitors on Hellyer Avenue, whether traveling on the pedestrian/bicycle bridge over Coyote Creek or on the vehicular roadway, will be compromised with the significant increase in project-related traffic from the Interchange project and the Edenvale Redevelopment project. Currently, the Hellyer Ave exit experiences significant traffic congestion and back-up at the highway interchange during peak weekend and holiday usage times. By not proposing mitigation measures to address the impacts that the additional increase in traffic will have at the 101 Highway/Hellyer Ave interchange, the DEIR is also inadequately addressing the potentially significant land use impacts to our County park.

RESPONSE 7: There is no separate study of traffic mitigation for the Edenvale Redevelopment Project area, other than the study included in this DEIR.

The DEIR identifies significant impacts to the neighborhood along Hellyer Avenue west of the Hellyer Avenue/101 interchange on page 30. The DEIR also discusses the only measures that were identified to reduce the impacts to the Hellyer Avenue neighborhood on page 33, which measures are not proposed at this time. The DEIR evaluates an alternative, the Branham Lane Connection (on page 130) that would also reduce the impacts on Hellyer Avenue.

The DEIR found (on page 30) that the park-related activities, including the park entrance on Hellyer Avenue, would not be significantly impacted by project traffic because (1) the existing stop sign will be retained, (2) the pedestrian/ bicycle bridge over Coyote Creek is separate from the vehicle travel way, and (3) park pedestrian access, including access from the parking lot to the picnic facilities, is under the roadway bridge. The entrance to Hellyer County Park is off Hellyer Avenue about 1,000 feet west of the

101/Hellyer interchange. The amount of traffic added to Hellyer Avenue, west of 101, as a result of the development of Edenvale is estimated to be 2,000 vehicles per day. This amount of traffic increase is not expected to measurably affect the ability to use the park entrances. Moreover, the peak traffic generation for the Edenvale Industrial Area will be weekdays during the morning and afternoon peak hours. During these hours park usage is very low. Most of the Edenvale businesses will be closed on weekends and holidays when park usage peaks.

With regard to the planned 101/Hellyer interchange improvements, it could be argued that these will actually increase park accessibility because they will eliminate the interchange congestion that occurs today or would occur in the future.

The DEIR cannot “propose” mitigation measures that are not proposed by the project. It can only identify what mitigation measures might reduce the project’s impacts, and whether or not those mitigations are incorporated into the project. Since the DEIR includes both mitigation measures that are not proposed and an alternative to reduce the significant impacts, it is not deficient under CEQA.

COMMENT 8: ***(b) Noise/Air Quality***

As noted on page 30,

The increased traffic from the project as proposed will result in a significant deterioration in the residential character of Hellyer Avenue west of U.S. 101.

In addition to the increased noise that will be generated from the project-related traffic (currently projected to be at an 25% increase), the significant annoyance that vehicular exhaust and dust will pose to the existing residences and our park users has not been addressed adequately in the DEIR. Alternative solutions to noise/air quality impacts, in addition to the sound wall proposal as noted on page 71, should be investigated and included in the possible mitigation measures.

RESPONSE 8: The only mitigations which the City was able to identify are discussed in the DEIR (pages 33, 71-73).

COMMENT 9: ***c) Land Use***

In accordance with the City of San Jose's 2020 General Plan and Riparian Corridor policies, Santa Clara County General Plan (1995-2010) and Open Space Preservation Program and Policies (1987), we also concur with the goals of the Open Space Authority's Five Year Plan to preserve the riparian corridors of our valley floor, agricultural lands, greenbelts, and regionally significant trails, which are some of their open space conservation goals. We also encourage the DEIR to incorporate Resource Conservation programs with the Edenvale Redevelopment Project.

RESPONSE 9: The proposed project does not reduce or otherwise compromise any of the riparian corridors, agricultural preserves, or the Greenbelt designated in the City’s adopted General Plan. The proposed project does not include land above the 15% slope line or outside either the Urban Service Area or Urban Growth Boundary. The project is, therefore, fully consistent with the open space goals and policies of the City’s General Plan.

It is not clear from this comment what “Resource Conservation programs” are referenced, or how they should be incorporated with the Redevelopment Project. No further response is possible.

COMMENT 10: ***(d) Vegetation***

As Coyote Creek Riparian Area is a County-designated natural habitat area with its locally unique natural community of Sycamore and Willow species, the DEIR should address the specific riparian mitigation plans for the proposed mitigation area adjacent our County park lands, located south of Piercy Road.

RESPONSE 10: The specific location and size of the mitigation area are discussed on page 95 of the DEIR, and illustrated in Figure 14. The specific design of the habitat mitigation area has not yet been created, but, as stated on page 95, will include “native riparian trees, shrubs and ground cover” planted over a minimum 2.75 acre area.

COMMENT 11: ***(e) Trails in Coyote Creek County Park***

County Parks believe the DEIR has not adequately addressed the impacts to our existing County trails, bike paths, and equestrian paths between Silver Creek Valley Boulevard and Silicon Valley Boulevard. As a result, proposed mitigation measures related to trail impacts have not been addressed in the DEIR. We are particularly concerned about the proposed Hellyer Ave extension south of Piercy Road, where it encroaches within 15 to 20 feet of the Coyote Creek riparian corridor. In addition, County Parks would need specific information about the direct impacts of the proposed storm drain and outfall being located within riparian corridor. These activities may have potentially significant impact on the trails within Coyote Creek Park.

RESPONSE 11: The proposed Hellyer Avenue extension immediately north of Silicon Valley Boulevard will be approximately 150 feet from the existing equestrian trail. This is immediately opposite the existing terminus of Basking Ridge Road. It is not anticipated that the roadway will have any physical impacts on the trail use.

The construction of the storm drain and outfall will not cause any disruption to the use or design of the existing trail. The equestrian trail does not reach the outfall location, and the other trail is on the other side of the creek.

COMMENT 12: It is expected that as anticipated future development takes place between Piercy Road and Coyote Creek, the existing trail segments between Silver Creek Valley Boulevard and Silicon Valley Boulevard will become a major recreational attraction and gain increased use as an alternative transportation mode. County Parks feels that minor trail improvements and connections to trails could be made in conjunction with the construction of the Hellyer Ave extension and proposed mitigation area, that would ultimately benefit all future users of the trail.

RESPONSE 12: This recommendation will be taken into account in the City’s review of individual development proposals, and in conformance with the City’s Riparian Corridor Policy Study goals to minimize intrusions into the riparian corridor.

M. RESPONSE TO LETTER FROM CITY OF GILROY, DATED MAY 11, 2000:

COMMENT 1: Thank you for the opportunity to comment on the Edenvale Redevelopment Project Draft EIR. The City of Gilroy has the following comments on this document:

1. The EIR should analyze this project's impact on regional housing demand. Many cities in this region have a jobs/housing imbalance, because many workers cannot afford to live in the cities where they work and are therefore forced to commute from distant cities that do not receive the economic benefits of a large job base. It is likely that the Project's employees will seek housing in jurisdictions south and east of San Jose (e.g. Morgan Hill, Gilroy, Hollister, Salinas, and Los Banos), thereby causing a further imbalance to these communities' jobs and housing mix. The Project EIR should specifically address how it will mitigate the housing needs of future Project employees without impacting the jobs/housing balance of other jurisdictions in the region.

RESPONSE 1: The largest supply of housing in the region, including the largest supply of affordable housing, is north and northeast of the project site. While some employees in the Edenvale Redevelopment Project will choose to live in communities south of San Jose, most of the housing available to them will be to the north, in San Jose, Milpitas, and Alameda County. During the next ten to twenty years, the City of San Jose estimates that approximately 50,000 more dwelling units will be developed within its existing Urban Service Area.

There are various influences that determine where people live, including the relative importance to each individual of commute time, housing cost, and choices about life styles and housing type. The choices individuals make between these various priorities will determine where people live. Some of the people who will work in Edenvale will live in Gilroy and other communities to the south, as reflected in the trip distribution included in the traffic report (see response to comment 4, below). The project will, therefore, contribute incrementally to pressure on the regional housing supply, as discussed in the Cumulative Impacts section, on page 127 of the DEIR.

Since San Jose already supplies most of the housing in the area, and has adopted General Plan policies to increase the housing supply as much as is compatible with infrastructure capacity (see General Plan Housing Major Strategy and General Plan policies relating to the Intensification Corridors), there are no known additional methods available to the City to substantively increase housing supply.

COMMENT 2: 2. The EIR should include as a project alternative a reduced scale project that includes housing. This alternative would reduce air quality impacts, traffic impacts, and impacts to the region's housing shortage.

RESPONSE 2: This assumption, that "infill" housing built as part of an industrial project is always environmentally beneficial, is not always correct. The location and existence of the Edenvale Redevelopment Project are the results of a long term City of San Jose strategy for creating a "reverse commute" – to encourage residents living in south and east San Jose to drive south instead of

north to work. Since most of the housing in the County is planned for the east and southeast parts of the County, jobs in Edenvale have been planned to allow commuters to use the regional transportation infrastructure, but to travel in a direction that is different from prevailing trends. To place housing here, in the same general location as the largest single concentration of existing and planned housing in the County, would be to reinforce the existing travel patterns and exacerbate existing traffic congestion and both local and regional air pollution.

COMMENT 3: 3. The EIR should include an analysis of using transit-oriented development and mixed-use development as a way to reduce the Project's traffic and air quality impacts.

RESPONSE 3: The Edenvale Redevelopment Project is a mixed use development. Extensive commercial and service uses have already been developed in Old Edenvale along Bernal Road. The existence of the Edenvale Redevelopment Project was also a factor in selecting the southerly terminus of the first LRT line in Santa Clara County, which is near IBM in Old Edenvale. The land configuration of New Edenvale, a slim strip of property between Coyote Creek and the foothills, limits the City's ability to encourage clustering development. The City and Redevelopment Agency are working with property owners, existing businesses, and VTA to provide shuttle service connecting to the LRT and CalTrain.

COMMENT 4: 4. The City of Gilroy anticipates a significant number of Project trips south of the Project site. The amount of information provided in the EIR is not sufficient to determine whether the analysis adequately reviewed traffic impacts to the south. The document should be revised to include numerical trip distribution and trip assignments, and then it should be re-circulated for an additional 45-day review period. Potential impacts at the following locations should be included in the analysis:

- A. Highway 152 east of Highway 101
- B. Highway 101 south of Gilroy
- C. Highway 25 east of Highway 101
- D. The Highway 101/25 interchange
- E. Highway 101 Southbound off/on at Tenth Street
- F. Highway 101 Northbound off/on at Tenth Street/Highway 152
- G. The need for the Buena Vista Interchange at Highway 101 (This interchange serves the only hospital in South Santa Clara County)

RESPONSE 4: The project is estimated to generate about 10,000 trips during the peak hours. About 15% of these trips would be oriented to and from the south beyond the City of San Jose borders. This calculates to 1,500 peak-hour trips. Destinations for these trips to the south include Morgan Hill, San Martin, Gilroy, Los Banos, Hollister, Salinas, and cities in Monterey County. Of the 1,500 trips oriented to the south, the percentage expected to come from Gilroy is estimated to be 30%. This calculates to 450 trips during the peak hour. It would be overly speculative to estimate where in Gilroy these trips would come from. Since there are many streets in Gilroy, including four freeway interchanges with US101, the added traffic volume to any one street

is likely to be negligible. Also, a lot of traffic already is generated by Gilroy residents working in San Jose. To a certain extent, the provision of jobs in Edenvale, which is closer to Gilroy than current San Jose job centers, will merely intercept cars that are already on the road.

N. RESPONSE TO UNDATED LETTER FROM M. & A. HABEEB:

COMMENT 1: Until transportation improvements are made, no project should be approved. Traffic and public transportation is a big problem. We trust you take these comments seriously.

RESPONSE 1: This comment reflects the letter writers' belief that the proposed Area Development Policy should not be adopted. Conformance with the existing City LOS Policy would delay development until the transportation improvements are complete. This opinion on the project does not raise any issues about the environmental impacts or the analysis in the EIR. No response is required.

O. RESPONSE TO LETTER FROM ANNE & BADER KUDSI, DATED MAY 11, 2000:

COMMENT 1: We thank you for sending us a copy of the DEIR and we appreciate the opportunity to comment on the DEIR and the significant environmental effect of this project and the adequacy of the DEIR. We have reviewed the report to the best of our ability and below are our comments:

First I would like to comment on the Summary of Environmental Impact and Mitigation Measures and then I will comment on individual items that are in the main body of the report. As a background of our eligibility to comment on the report I would like to mention that I am a mechanical engineer and my wife, Anne, is a schoolteacher and we have been residing in our house on Piercy Road since summer of 1978.

1. Comments on the summary

Summary Page (vi)

Since the delay in the completion of the gateway improvements of Blossom HiU/U.S.101/Silver Creek Valley Road are very likely to occur and the impact will be significant and unavoidable then the mitigation policy should be to delay development in the area until the completion of the gateway improvements of Blossom Hill/U.S.101/Silver Creek Valley Road.

RESPONSE 1: This comment reflects the letter writers' belief that the proposed Area Development Policy should not be adopted. Conformance with the existing City LOS Policy would delay development until the transportation improvements are complete. The DEIR does describe significant near-term traffic impacts that will occur during the interim period until the gateway improvements are complete.

COMMENT 2: Summary Page (vii), Third item

Mitigation calls for enforcement of the speed limits and limiting grading during high wind and covering all stockpiled material. These mitigations are not always being followed at the construction site at the present time. How is the City of San Jose going to insure compliance with the stated mitigations? The area experiences high wind on a regular basis especially during the hot summer days. If this mitigation is to be followed a definition of high wind that can be measured is required.

RESPONSE 2: The Department of Public Works is responsible for enforcing the City's grading ordinance. Complaints about grading should be made to (408) 277-5161.

COMMENT 3: Summary Page (xi), Fourth item

The statement " Currently no Burrowing Owls are known to occupy the project area, although they have occurred in the past". This statement is questionable. Locating and observing burrowing owls is not an easy task since owls are active at night. When we first moved to Piercy Road and prior to the construction of Silver Creek Valley Road we observed several owls. Even after the city lights were installed we have seen few owls in the past three years in the New Edenvale Section 3. We do not know if they are burrowing owls or other species of owls since we are not trained to spot owls. It is necessary to conduct a thorough examination of the area by an ornithologist prior to making such a statement. We do agree with the statement that, " There is currently no mitigation identified that would effectively mitigate the loss of habitat should the project proceed as proposed".

RESPONSE 3: The text of the DEIR identifies the presence in the project area of Barn Owls, Great Horned Owls, and Western Screech Owls (page 86). To date, surveys of property in the Edenvale Redevelopment area have not found Burrowing Owls, however. Because there is suitable habitat within the project, the DEIR concluded that development may have a significant impact on the Burrowing Owl and its habitat.

P. RESPONSE TO LETTER FROM SHEPPARD, MULLIN, RICHTER & HAMPTON, DATED MAY 11, 2000:

COMMENT 1: Our clients, the owners of Young Ranch and the Richmond Ranch, submit the following comments on the March 2000 DEIR.

A. Vague project description. The project description is not set forth understandably. It requires studying the prior projects for which EIRs were certified (i.e., in 1976 for the original Edenvale Redevelopment project area, in 1979 for an expansion of the project area, and in 1996 to reflect various changed conditions related to biology, traffic and hazardous materials), as well as significant interpretation in order for the reader to understand what new circumstances or proposed actions are being evaluated.

RESPONSE 1: This comment is incorrect. It is not necessary to study previous documents to determine what is the description of the project evaluated in this DEIR. The DEIR identifies quite specifically the geographic boundaries of the project (described in text on page 1, and illustrated in Figures 2 and 3), and describes and illustrates which vacant land is anticipated to accommodate the amount

of new development analyzed (Figure 7 and bottom of page 2). In addition, the DEIR describes the infrastructure which is proposed to serve that new development (pages 11-15), the anticipated financing mechanisms for the major infrastructure components (pages 13 and 14), and the single major policy modification that will be necessary for the development to proceed as proposed.

COMMENT 2: For example, the Description of the Proposed Project (page 10) has sections for these actions: "Area Development Policy," "Gateway Improvements," "Formation of an Improvement District," "Community Facilities District," "Riparian Open Space/Drainage Basin," and "Redevelopment Project Implementation Plan." Yet the succeeding sections do not match those topics: there is no discussion of the Redevelopment Project Implementation Plan, and the sections often seem to include much of the same information that is repeated elsewhere. Also, the project description in the DEIR does not match that provided in the Notice of Preparation ("NOP"), which included a "Stormwater Detention Facility" and did not include "Gateway Improvements" or the revised redevelopment project implementation plan. The DEIR should include the topics promised by the NOP, or at least explain why they are not there.

RESPONSE 2: There is no requirement in CEQA that the impact and mitigation sections of an EIR be artificially segregated based on financing mechanisms or individual components of a larger project. In fact, using such a format could artificially understate project impacts, or be misleading as to their significance. In fact, the CEQA Guidelines emphasize that "All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation." [§15126]

It is incorrect that there is "no discussion of the Redevelopment Project Implementation Plan" after the project description. The text states, on page 95, that the plan will be adopted to ensure mitigation for biological resources, which is the same purpose stated for the plan in the Project Description section on page 15.

There is no requirement in CEQA that a Notice of Preparation identify each physical improvement implemented by the project. Because an NOP is sent before the EIR is prepared, there may be various infrastructure components or other mitigation measures that are identified prior to circulation of the EIR and added to the project description. This comment also chooses to ignore the description on page 15 of the "Riparian Open Space/Drainage Basin, which clearly includes the "stormwater detention facility" described in the NOP.

COMMENT 3: Finally, the DEIR should contain a concise statement of what the new circumstances and proposed actions are, how they differ from those authorized by the redevelopment project already approved, which specific regulatory implementation will be taken (e.g., whether the general plan or redevelopment plan will be amended).

RESPONSE 3: It is unclear as to what basis the letter writer has for alleging that these elements should be present in an EIR. The EIR is not a supplement nor does it tier off any previously prepared environmental documents. This DEIR states quite clearly (on pages 15 and 16) what are the objectives of the

Edenvale Redevelopment Plan, and lists the anticipated uses of this EIR. Since there is no amendment to either the General Plan or the Redevelopment Plan proposed, neither action is listed. (CEQA does not require that an EIR list actions not proposed.)

COMMENT 3: B. Confusing use of prior EIRS. The DEIR does not explicitly describe how it relates back to or "tiers off" of the prior EIRS. Although it states the City's view that the course and rate of development, traffic impacts and infrastructure improvement needs are substantially different than the conditions evaluated in the prior CEQA documents, therefore requiring a subsequent EIR under § 15162 of the CEQA Guidelines, it does not explain how those circumstances are different.

In addition, the DEIR does not summarize or even characterize the impacts and mitigation measures in the prior EIRS. As a result, the reader cannot evaluate whether all of the impacts of the project are being evaluated accurately or whether the proposed mitigation measures would be effective.

RESPONSE 3: The Preface of the DEIR states explicitly that this is a "subsequent EIR" under §15162 of the CEQA Guidelines (page i), and that the changed conditions include the need for new infrastructure improvements, changed street alignments, and greater traffic congestion. "Tiering" is defined by the CEQA guidelines as "using the analysis of general matters contained in a broader EIR". [§15162(a)] This DEIR does not tier off of any prior EIR. It is a freestanding EIR that evaluates all of the anticipated impacts from developing the remaining developable land in the Edenvale Redevelopment area.

It is not clear as to why this comment assumes that the DEIR should summarize impacts and mitigation measures from prior EIRs, or why it assumes that doing so would allow the reader to determine if the analysis in the current EIR is accurate. Such a large amount of historical information would make the document more difficult to read and could appear to be a deliberate attempt to understate the importance of the current EIR by making the impacts appear to be a foregone conclusion.

COMMENT 4: C. Area Development Policy. In general, the concept of the Area Development Policy ("Policy") seems to be a way to avoid proper planning and thorough environmental review because it allows a certain amount of development to proceed ahead of infrastructure improvements. Although the DEIR refers to the General Plan provisions for area development policies, it does not indicate how such policies must be adopted (and the General Plan section on area development policies at page 129 is silent on procedural matters). How would the Policy be adopted? Is an amendment to the General Plan necessary or contemplated?

RESPONSE 4: The letter writer's opinion about the purpose of Area Development Policies is acknowledged, but it does not speak to the adequacy of the environmental review in the DEIR. As stated in the General Plan, in Level of Service Policy #5, Area Development Policies are adopted by the City Council, and must be initiated during an Annual Review of the General Plan. This Area Development Policy was initiated by the City Council during the 1999 Annual Review process.

COMMENT 5: The DEIR only vaguely describes the Policy: it would be better if it were reproduced in its entirety. Moreover, the full potential allowed by the Policy should be analyzed: the DEIR states on page 11 that the Policy allows development to a level beyond 4.8 million square feet, but then it admits that it did not study beyond that level. The reader is left with the impression that the Policy is still in the process of being formed. As a result it may be premature to approve the Policy, considering that its adoption will irrevocably commit the City to development.

RESPONSE 5: As clearly stated on page 10 of the DEIR, the text of the Area Development Policy was included in Appendix A of the DEIR.

The DEIR does not state that the Area Development Policy allows development beyond 4.8 million square feet; it states that the Policy allows *for* development beyond that amount, if additional traffic capacity is created. The Policy does not place a ceiling on how much development could occur in New Edenvale, but it only provides infrastructure for 4.8 million square feet. Likewise, this DEIR evaluates the impacts of 4.8 million square feet. As stated on page 11 of the DEIR, it is possible that “behavioral changes or transit improvements or other unforeseen factors may result in less traffic and/or traffic congestion than is assumed” in the DEIR. Since those factors are, by definition “unforeseen”, neither the DEIR nor the Policy can evaluate them.

COMMENT 6: Also troubling is the fact that the DEIR recognizes that many of the infrastructure improvements that will need to be made to support the development require further approvals from other agencies. For example, the Gateway Improvements are critical to the traffic mitigation measures, yet Caltrans must approve those improvements because they affect the state highway system. However, the DEIR provides no alternatives in the event Caltrans does not approve of the improvements. Has the City considered such alternatives?

RESPONSE 6: The DEIR states, on page 11, that delays in approvals by another agency (including Caltrans) will mean that the increment of development identified in the Policy as being dependant on that action will not be allowed to proceed. If Caltrans declines to approve the infrastructure, the City and Redevelopment Agency would be required to prepare subsequent environmental documents, in compliance with CEQA, in order for the development in New Edenvale to proceed.

COMMENT 7: Similarly, most of the infrastructure will be funded by an improvement district and a community facilities district that are yet to be established. The DEIR does not explore whether the assessment districts will raise revenue to complete the infrastructure improvements. Are revenue projections available?

RESPONSE 7: There is no requirement that a CEQA document explore an assessment district’s revenue projections.

COMMENT 8: D. Housing impacts. There is no discussion of the project-related housing impacts, despite the fact that the SEIR acknowledges that 23,000 new jobs will be created through the buildout of the redevelopment project area. The DEIR does not even assert whether all of those 23,000 jobs will be attributable to the development that is yet to occur as opposed to those already created in the redevelopment project area. Without that information, it is impossible to

analyze the housing-related impacts of the "project" being analyzed by the DEIR, which are likely to be substantial both in the general housing market and with respect to the supply of affordable housing units.

RESPONSE 8: As stated in the discussion of conformance with the City's adopted General Plan, the development of industrial park uses in the Edenvale Redevelopment Project area has been planned by the City to better balance its ratio of jobs to housing. The project is located within a short distance of the greatest concentration of existing and planned housing in Santa Clara County. In addition to existing housing stock, the approved General Plan anticipates development of more than 50,000 more dwelling units within the next 10 to 20 years.

In conformance with State Redevelopment law, 20% of the tax increment which accrues from the combined Redevelopment projects in San Jose is used to subsidize affordable housing throughout the City. The average density of new housing developed in San Jose in recent years has been 22.8 dus/acre; this is a relevant statistic because the most affordable housing in Santa Clara County, at the present time, is generally found in higher density projects.

The Edenvale Redevelopment Project was created by the City to encourage a "reverse commute" by placing jobs nearer existing and planned housing, but south of most of the residential neighborhoods. Since most commuters in the County travel from housing in the south to jobs in the north, these planned jobs will encourage commuting that uses underutilized transportation capacity in regional infrastructure.

COMMENT 9: E. Cumulative impacts. This section is deficient in failing to consider the cumulative housing impacts and the impacts of future foreseeable development. The section begins (see pages 126-7) by recognizing that various projects (including the Coyote Valley Research Park and the North Coyote Valley buildout) will contribute to potentially significant cumulative effects. Then it summarizes the potentially significant cumulative impacts in the areas of Transportation, Air Quality, Loss of Farmland and Open Space, Vegetation and Wildlife, Regional Housing Demand and Flooding. Regarding housing, this section provides only the following passage:

Buildout of Edenvale will provide approximately 23,000 jobs which will result in increased demand for housing. Although housing units outnumber jobs in the City of San Jose, on a regional level there is a shortage of housing units. The provision of 23,000 jobs would result in a significant demand for additional housing within the City of San Jose and surrounding communities (Morgan Hill, Gilroy, Monterey, San Benito County).

The cumulative impacts section does not discuss housing further, and does not address the effect that the project may have in creating pressure to build sooner than anticipated in the urban reserve areas. It does not provide for housing mitigation or explain why such mitigation is not necessary or feasible (although it does do so for the other listed categories of potentially significant cumulative impacts).

RESPONSE 9: Since the City of San Jose has been unable to identify environmentally acceptable measures for increasing housing beyond those measures already

being implemented, the DEIR concludes that the impact of completion of the Edenvale Redevelopment Project will contribute to significant unavoidable impacts on regional housing demand.

COMMENT 10: In addition, this section contains insufficient consideration of foreseeable future projects required by CEQA Guideline 15130. The SEIR mentions several potential projects with a fair amount of specificity, but does not attempt to analyze them: (i) IBM property development and possible extension of Great Oaks Boulevard (p. 54); (ii) enumerated roadway improvements on pages 55-56; (iii) future development of the part of Area I (north of Branham Lane East) which could result in impacts to riparian habitat; (iv) future development in Areas 1 and 3 (page 102); and (v) the possible presence or absence of special status plants within Area 1 (page 103). These sections should be expanded with all available information about potential development.

RESPONSE 10: This comment is apparently based on the mistaken assumption that specific development listed in this DEIR is not part of the project. These are not “foreseeable future projects”, these are part of the proposed development discussed in the Project Description section and shown on Figure 7. As is appropriate for an environmental impact report that is both program and project level, some of the development and improvements are known in relatively specific detail, but much is not known about the specific design of individual components of the redevelopment of this area. What is known includes the following:

- (i) Industrial park development on the IBM property and the extension of Great Oaks Boulevard are both assumed to occur. In the fact, the DEIR states quite specifically that development of the IBM property *without* the extension of Great Oaks Boulevard is “not addressed in this EIR”. This DEIR evaluates a buildout of the Edenvale Redevelopment Project in which the IBM property (part of the developable land shown on Figure 7 of the DEIR) is assumed to develop, and Great Oaks Boulevard is assumed to be extended.
- (ii) The roadway improvements listed on pages 55 and 56 are listed in this DEIR because they are part of the proposed project and the DEIR is identifying the extent to which “acquisition of additional right-of-way” will be needed. This is within the section entitled “Secondary Impacts from Roadway Improvements”, which states that building a number of roadway improvements, as the project proposes to do, will have some impacts on the physical environment.
- (iii) It is not clear to what this comment refers. Anticipated development in Area 1 is shown on Figure 7, and its impacts to riparian habitat are discussed in Section III.F. of the DEIR.
- (iv) The reference cited to future development in Areas 1 and 3 is to the specific development shown in Figure 7.
- (v) The purpose of this part of the comment is not clear. No response is possible.

COMMENT 11: E. Growth inducing impacts. The SEIR contains a cursory and conclusory section on growth inducing impacts (see page 133). Among other things, it asserts that approved development in Edenvale does not "create a new precedent for growth or expansion outside the urban area," and that development will contribute toward a "reverse commute" which will take advantage of underutilized transportation capacity. Those statements should be explained. Nor does it address housing issues or the effect that the project may have in creating pressure to build sooner than anticipated in the urban reserve areas.

RESPONSE 11: The explanation for the two statements quoted are provided below.

"create a new precedent for growth or expansion outside the urban area" – The proposed new development is within San Jose's existing Urban Service Area (USA) and Urban Growth Boundary (UGB). All of the proposed private development is below the 15% slope line, and the new major infrastructure proposed does not create opportunity for significant additional development to be approved beyond the USA or UGB, either by including significant excess capacity beyond what is needed for the proposed development or by extending right up to the edge of the urban envelope.

"reverse commute" – By further encouraging the location of jobs near and generally south of the City's largest concentration and number of existing and planned housing units, the proposed implementation of this Redevelopment Project will encourage commuters to drive in a direction that is generally different than the prevailing commute direction in Santa Clara County.

The proposed project does not effect any of the triggers required for development in the urban reserve areas except to the extent that improving the City's jobs/housing balance may incrementally improve the City's financial stability.

Q. RESPONSE TO LETTER FROM EQUINIX, DATED MAY 15, 2000:

COMMENT 1: As a party in acquisition discussions with IBM concerning IBM's 79 acres of vacant land at its Cottle Road campus, and a potential future employer in the Old Edenvale area, Equinix appreciates the opportunity to review the Draft Environmental Impact Report for the Edenvale Redevelopment Project (Draft EIR). We offer the following comments on the Draft EIR for the City of San Jose's consideration.

Founded in 1998, Equinix builds and operates Internet Business Exchange (IBX) facilities that are the catalyst for the possibilities of infinite Internet business growth and development. Equinix is currently undergoing major expansion and is in need of facilities to house its rapidly growing job force and to meet its equipment demands. Thus, we are pursuing the expansion of our facilities into South San Jose, and anticipate providing hundreds of jobs in Old Edenvale creating potential future opportunities for economic development, sustained employment growth and technological innovation. We hope that the City of San Jose shares in a similar vision for Old Edenvale.

We realize that such a vision sometimes comes with a price. Thus, we have reviewed the Draft EIR in order to understand the nature and extent of the costs of development in Old Edenvale. Our

comments are intended to seek clarification of the environmental impact analysis and the corresponding development costs identified in the EIR.

Description of the Proposed Project. The Draft EIR has evaluated development of the vacant parcels in Old Edenvale with up to 30.8 million square feet of industrial uses. As the City of San Jose Redevelopment Agency and Planning Department are aware, we are currently negotiating with IBM for the purchase of approximately 79 developable acres of IBM vacant land at the Cottle Road campus. It is anticipated that this vacant land may be developed with approximately 1.4 million square feet of industrial park uses, and has been included in the entire 3.08 million square feet planned for Old Edenvale. It is our understanding that development of the 1.4 million square feet may be phased such that the initial phase of development may exceed the allowable floor area ratio (FAR), but the overall FAR for the entire 79 acres of developable area could be averaged to comply with the allowable FAR.

RESPONSE 1: In the context of a Planned Development Rezoning, the City can evaluate a density average over the entire 79 acres.

COMMENT 2: Community Facilities District. The Draft EIR evaluates the formation of a Community Facilities District (CFD) for Old Edenvale. Equinix supports the formation of the CFD as an appropriate mechanism for funding the Old Edenvale traffic improvements. It is our understanding that the CFD traffic improvements do not need to be constructed prior to commencement of development in Old Edenvale provided that financial mechanisms are in place to assure their ultimate construction. This is critical to our ability to develop the site in accordance with our immediate facility needs. Please confirm whether the Great Oaks Boulevard extension is assumed as part of the future roadway network included in the CFD.

RESPONSE 2: The Community Facilities District must be established, with irreversible commitments by property owners for the financing of the identified infrastructure, before development dependant on that infrastructure is approved. In addition, the City's adopted Level of Service Policy requires that construction of mitigation improvements must be scheduled to occur no more than one year beyond occupancy of new development dependant on that mitigation. It was assumed that the Great Oaks extension would be funded entirely by IBM (as the adjacent property owner). The extension could be included in the CFD, but IBM's assessment would be increased accordingly to cover the full cost of the extension.

COMMENT 3: Great Oaks Boulevard Extension. We understand that the Great Oaks Boulevard Extension is assumed to be constructed and in place as part of the future roadway network for Old Edenvale. It also is our understanding that the Great Oaks Boulevard extension or some other access road may be needed to provide access to the IBM campus, and is not required as an off-site traffic mitigation measure.

RESPONSE 3: The primary reason for needing the Great Oaks extension is to provide access to the vacant IBM parcels. A secondary benefit of the extension is to provide relief to Cottle Road for IBM traffic, i.e., traffic from the existing IBM campus could use the 85/Great Oaks interchange rather than all using the 85/Cottle interchange. The road network required to support Edenvale development has been designed to include the Great Oaks extension. It is

important to note that full development of Area 2 without the Great Oaks extension has not been studied.

COMMENT 3: Please clarify the intent of the Area Development Policy analysis for Old Edenvale (Area 2). We reviewed the analysis on page 54 of Volume I of the Draft EIR and the analysis in the Appendix B traffic report in Volume II of the Draft EIR and noted the following consistency. Page 54 of Volume I states that development of the vacant IBM property prior to completion of the gateway improvements requires a westerly extension of Great Oaks Boulevard. Page 49 of appendix B in Volume II indicates that if development of the IBM orchard property occurs prior to the gateway improvements, no access to Cottle Road should be allowed.

In order to reconcile the inconsistency, we believe the analysis on page 54 of Volume I of the Draft EIR should be revised as follows:

“The Policy would apply to Areas 1, 3, and 4 only. The amount of development anticipated in Area 2 generally does not require the gateway improvements. The exception would be development of the vacant 35-acre orchard land currently owned by IBM. Should buildout of the vacant 35-acre IBM orchard property ~~propose to develop~~ by IBM, or a purchaser, occur prior to the completion of the gateway improvements, access to Cottle Road would not be permitted. ~~a westerly extension of Great Oaks Boulevard would be necessary~~ Possible alternative access may be provided by extending Great Oaks Boulevard as an access road from Highway 85 to the orchard property or by providing another access road into the site. ~~Development of that vacant property prior to completion of the gateways, without an extension of Great Oaks Boulevard, is not addressed in this EIR.~~”

RESPONSE 3: The EIR is not inconsistent regarding access to the vacant IBM project. The extension of Great Oaks Boulevard is necessary to provide adequate access for any development proposed on the 35-acre IBM property. The DEIR does not evaluate a scenario in which development occurs on that property without the extension of Great Oaks Boulevard, and such a proposal would require additional CEQA review. The language in the DEIR is clarified in Section III. Revisions to the Text of the Draft EIR.

COMMENT 4: Planning and environmental analysis related to Old Edenvale presents different, but less complex issues than New Edenvale. Old Edenvale provides opportunities for infill development that can be served by existing available infrastructure capacity. Although the impacts of buildout of all of Edenvale have been addressed in the Draft EIR, we believe the City should be able to proceed with the approval process and development of Old Edenvale and the CFD separate from the approval process for New Edenvale.

We appreciate the opportunity to comment on the Draft EIR and to participate in the future of Old Edenvale. We look forward to a strong partnership with the City of San Jose Redevelopment Agency throughout the Edenvale development process.

RESPONSE 4: To the extent that the approval process referred to in this comment is approval of the Community Facilities District and/or future private development on privately owned land in Old Edenvale, the processes are separate from the establishment of an Improvement District and approval of private development in New Edenvale. None of these processes can take place until after a Final EIR is found complete by the Redevelopment Agency, however.

V. COPIES OF COMMENT LETTERS

Complete copies of all of the comment letters received by the City of San Jose on the *Draft Environmental Impact Report Edenvale Redevelopment Project* are attached after this page.



Gray Davis
GOVERNOR

STATE OF CALIFORNIA

Governor's Office of Planning and Research
State Clearinghouse



Steve Nissen
ACTING DIRECTOR

May 16, 2000

Julie Caporgno
City of San Jose
San Jose, CA 95110-1795

Subject: Edenvale Redevelopment Plan
SCH#: 1996052098

Dear Julie Caporgno:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on May 15, 2000, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts
Senior Planner, State Clearinghouse

Enclosures
cc: Resources Agency

RECEIVED
MAY 19 2000

CITY OF SAN JOSE
PLANNING DEPARTMENT



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Pacific West Region
Pacific Great Basin Support Office
600 Harrison Street, Suite 600
San Francisco, California 94107-1372

D18(PGSO-PP)

May 8, 2000

Julie Caporgno, Senior Planner
City of San José
Department of Planning, Building and Code
801 North First Street
San José, California 95110-1795

RECEIVED
MAY 15 2000
CITY OF SAN JOSE
PLANNING DEPARTMENT

Dear Ms. Caporgno:

Thank you for the opportunity to comment on PP99-10-198 **Edenvale Redevelopment Project Draft Environmental Impact Report** (SCH96052098) [DEIR]. The National Park Service interest relates to the 1200-mile Juan Bautista de Anza National Historic Trail (Anza Trail), designated by the U.S. Congress in 1990 and selected as a National Millennium Trail in 1999 by Secretary of Transportation Rodney Slater and First Lady Hillary Rodham Clinton.

The historic corridor for the Anza Trail follows Santa Teresa Boulevard, which is recognized in the Countywide Trails Master Plan as the marked bicycle route for the Anza Trail. No mention is made in the DEIR of the Anza Trail or of improvements to bicycle use along Santa Teresa Boulevard. In addition, no mention is made of the cumulative impacts to traffic and recreational use of this project added to the Cisco Systems Coyote Valley Research Park planned just a few miles south on Santa Teresa Boulevard. Piecemeal planning when so much new use is projected is not acceptable.

In the final EIR, please include a discussion of the historic significance of the Juan Bautista de Anza National Historic Trail and consideration for safe bicycle use along Santa Teresa Boulevard. If you have any questions, you can contact me by telephone at 415/427-1438, by mail at the letterhead address, or by e-mail at meredith_kaplan@nps.gov.

Sincerely,

Meredith Kaplan, Superintendent
Juan Bautista de Anza National Historic Trail

Julie Caporgno
May 8, 2000
Page 2 of 2

cc: Ron Gonzales, Mayor of the City of San José
Mark Linder, Director, San José City Department of Parks, Recreation and
Neighborhood Services
Dave Mitchell, Planning Manager, San José City Department of Parks,
Recreation and Neighborhood Services
Joe Horwedel, Deputy Director, City of San José Department of Planning, Building, and
Code Enforcement
Paul Romero, Acting Director, Santa Clara County Environmental Resources
Agency
Paul Bernal, Amigos de Anza Santa Clara County
Phil Valdez, Amigos de Anza Santa Clara County

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United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

IN REPLY REFER TO
1-1-00-TA-1552

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MAY 22 2000

May 10, 2000

Julie Caporgno, Senior Planner
City of San Jose, Planning Department
801 North First Street, Room 400
San Jose, California 95110-1795

CITY OF SAN JOSE
PLANNING DEPARTMENT

Subject: Edenvale Redevelopment Project, San Jose, Santa Clara County, California, PP99-10-98, Draft Environmental Impact Report (SCH96052098)

Dear Ms. Caporgno:

Thank you for providing the Draft Environmental Impact Report (DEIR) for the proposed Edenvale Redevelopment Project for our review. These comments are to assist you with your environmental review of the project and are not intended to preclude further comments that the U. S. Fish and Wildlife Service (Service) may make at a later date under authority of the Fish and Wildlife Coordination Act or the Endangered Species Act of 1973, as amended (Act).

We believe that the DEIR fails to address potential direct or indirect effects of the proposed project on several federally listed threatened or endangered species: the threatened California red-legged frog (*Rana aurora draytonii*) (red-legged frog), the threatened bay checkerspot butterfly (*Euphydryas editha bayensis*), the endangered plants Metcalf Canyon jewelflower (*Streptanthus albidus* ssp. *albidus*), Santa Clara Valley dudleya (*Dudleya setchellii*), Coyote ceanothus (*Ceanothus ferrisiae*), and Tiburon paintbrush (*Castilleja affinis* ssp. *neglecta*), and the California tiger salamander (*Ambystoma californiense*), a candidate for federal listing.

Potential effects the DEIR does not address include the following:

1. The California red-legged frog inhabits portions of Coyote Creek, Metcalf Canyon, and at least one, perhaps several, tributary drainages to Coyote Creek on the east side of Highway 101 between Kirby Canyon and Metcalf Canyon. Recent research demonstrates that this species moves widely between breeding, sheltering and foraging habitat, often in straight lines using celestial navigation cues. Current patterns of the red-legged frog's

distribution indicate that populations of the species often do not persist in urbanizing landscapes. The proposed project and associated urban development, including construction outside the immediate project footprint but cumulatively attributable to the project, are likely to obstruct movement patterns of the red-legged frogs, resulting in mortality and population declines that significantly adversely affects the species.

2. Effects of contaminants in stormwater runoff and groundwater seepage from the project on red-legged frogs downstream of the site, particularly in Coyote Creek.
3. Effects of increased human population in the project vicinity resulting from new jobs at the project site. This population increase is likely to result in increased use of the Santa Clara County Motorcycle Park off Metcalf Road. This park has been identified as a significant source of erosional sediments in Metcalf Canyon and an ongoing threat to the red-legged frog population there. An increase of sedimentation in Metcalf Canyon would be a significant adverse effect on the species.
4. Effects of the project on the potential for recovery of red-legged frog populations in Coyote Creek and the general vicinity.
5. Any avoidance or minimization measures to be taken to protect the Santa Clara Valley dudleya.
6. Although the plan acknowledges significant unavoidable impacts to air quality, no analysis is provided of impacts of declining air quality on the listed and rare plants and wildlife living on serpentine soils in the project vicinity, notably on Tulare Hill, the Santa Teresa Hills, and the eastern ridge of the Santa Clara Valley ("Coyote Ridge"). All of these habitat areas were found to be essential to the continued survival and eventual recovery of the bay checkerspot butterfly and the four listed plants mentioned above in the Service's 1998 Recovery Plan for Serpentine Soil Species of the San Francisco Bay Area, which has previously been provided to your office. These species and numerous other special-status species specialize on and are virtually restricted to serpentine habitats, which are themselves rare and have special status with the State of California. Deposition of excess nitrogen from air pollution, in particular, poses a significant threat to these species and their habitats (*e.g.*, S. B. Weiss, December 1999, "Cars, cows, and checkerspot butterflies: Nitrogen deposition and management of nutrient-poor grasslands for a threatened species," *Conservation Biology* vol. 13, pp. 1476-1486). The air pollution impacts of the plan are cumulative to existing impacts from San Jose and Bay Area pollution, and to the proposed impacts of the adjacent Calpine Metcalf Energy Center project and must be analyzed as such. The Service believes that existing impacts of excess nitrogen from air pollution already have a significant impact and that

- cumulative increases in pollution-derived nitrogen deposition due to the proposed project would seriously threaten these listed and rare species and rare serpentine habitats.
7. Highway 101 widening, on/off ramp modifications, and new interchanges associated with or cumulative to the project described in the DEIR are likely to require consultation of the Federal Highway Authority--or the California Department of Transportation as their representative--with the Service under section 7 of the Act. We request that the City of San Jose coordinate with us and provide available information about the Hellyer Avenue/US 101 interchange project, the Blossom Hill Road/US 101 interchange project and other associated roadway projects cumulative to the Edenvale Redevelopment Project.
 8. The Service does not concur that potential impacts to the California tiger salamander (salamander) are less than significant. Salamanders use ground squirrel burrows and other holes as estivation habitat outside the breeding season. Construction may destroy this habitat and cut off migration routes for adult salamanders returning to breeding areas. H.T. Harvey and Associates documented extensive ground squirrel burrows in the project area. Although the nearest known breeding site is 5 miles from the project area, other breeding sites may occur nearby.
 9. Page 2 of the DEIR describes the project as the buildout of the 7.88 million square feet of industrial space. Construction will occur in Planning Subareas 1 through 4. However, the total square footage for these areas is 9.60 million square feet. The final EIR should clarify this apparent discrepancy.

We also have the following recommendations and questions about the design of the proposed project:

We recommend that the City specifically contact the National Marine Fisheries Service and the California Department of Fish and Game for an assessment of possible effects of the project on protected fish species. The DEIR may have failed to address the effects of the proposed plan on water quality for these and other aquatic species in Coyote Creek.

Construction of a road less than 100 feet from the City's riparian setback may necessitate additional flood control work by the Santa Clara Valley Water District in Coyote Creek. We suggest that the proposed road be relocated outside the riparian setback area and this reach of Coyote Creek and its riparian area be protected by a conservation easement or other means as a permanent natural preserve and managed to provide habitat for native species such as the California tiger salamander, burrowing owl, western pond turtle, anadromous fish, and neotropical migrant bird species. Coyote Creek should be restored to its natural potential as anadromous fish spawning habitat. Existing riprap and other channelization should be removed.

Julie Caporgno, Senior Planner

4

If you have questions regarding the Service's comments, please contact Cecilia Brown or Ken Sanchez at (916) 414-6625.

Sincerely,



Karen J. Miller
Chief, Endangered Species Division

cc: PARD (ES), Portland, OR
Bill Wong, Federal Highway Authority, Sacramento, CA
Chuck Morton, Caltrans, Oakland, CA
Calvin Fong, U.S. Army Corps of Engineers, San Francisco, CA
Gary Stern, NMFS, Santa Rosa, CA
Santa Clara County Planning Office, San Jose, CA
Carl Wilcox, CDFG, Yountville, CA
BAAQMD, San Francisco, CA



Department of Toxic Substances Control

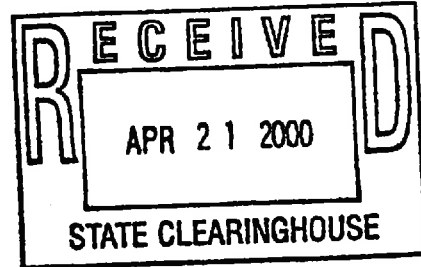


Winston H. Hickox
Secretary for
Environmental
Protection

April 18, 2000

Edwin F. Lowry, Director
700 Heinz Avenue, Bldg. F, Suite 200
Berkeley, California 94710-2721

*Clear
5/15/2000
e*



Gray Davis
Governor

Ms. Julie Caporgno
City of San Jose
801 North First Street
San Jose, California 95110-1795

Dear Ms. Caporgno:

Thank you for the opportunity to comment on draft Environmental Impact Report for Edenvale Redevelopment Project (SCH # 96052098). As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a resource agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project to address the California Environmental Quality Act (CEQA) adequately addresses any required remediation activities which may be required to address any hazardous substances release.

The historical research indicated that portions of the project have been used for agricultural uses. Based on past experiences, pesticides, herbicides or fungicides may have been released. We strongly recommend that sampling be conducted to determine whether levels are above acceptable residential standards which will need to be addressed in the CEQA compliance document. If hazardous substances have been released, they will need to be addressed as part of this project.

For example, if the remediation activities include the need for soil excavation, the CEQA document should include: (1) an assessment of air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of upset should be there an accident at the Site. If levels are above residential levels, land use restrictions may be required.

DTSC recommends the following soil sampling actions at potential industrial development previously used for agriculture:

Soil Sampling

When little is known about a site other than it was used for agriculture, it is assumed that the land was farmed in a uniform manner. Each field of the same crop is assumed to have been watered, fertilized, and treated with pesticides to the same degree across the field. Therefore contaminant levels are expected to be similar at any given location within the field. Most agricultural soil is considered to be in an aerobic state (exceptions include rice fields) and pesticides that are relatively stable under aerobic conditions are the targets for sampling. When near-surface conditions exist that establish anaerobic soil over an extended time, then anaerobically stable pesticides should be considered as targets.

- Sample in at least 8 locations with each location made up of a composite of five subsamples if allowed by the criteria for compositing discussed below.

The sampling pattern should be a triangular grid with the starting point randomly selected. Each location should be sampled at the surface (zero to six inches). For better coverage, the surface sample may be a composite of subsamples, not to exceed 10 subsamples. The subsamples should be individually and uniformly split prior to compositing. The split of each subsample should be retained in case analysis is warranted from the composite results. Compositing shall not be performed to reduce the sampling frequency suggested above, but to provide a more representative picture of the soil. To this end, subsamples should be spaced over 10 feet apart.

Compositing should only be done when the reporting limit (quantifiable level) for the method does not exceed the U.S. EPA Region IX Preliminary Remedial Goals (PRG) of an analyte divided by the number of subsamples in the composite. When the result of a composite sample exceeds the PRG divided by the number of subsamples for an analyte, the subsamples must be analyzed individually for the analyte. Sites, greater than 10 acres in size that cannot composite due to this limitation, will need to increase the number of locations sampled to compensate for the loss of coverage provided by the compositing but need not exceed 20 samples. [For example, a 30-acre site sampled at eight locations with five subsamples at each location will gather a total of 40 subsamples. If, due to detection limits, the number of subsamples composited is limited to four, then 32 subsamples would have been gathered. By taking an additional two locations, the number of subsamples will again return to 40.]

At specific locations, where it is likely that pesticide storage, preparation, or equipment rinsing took place, sampling should be performed at the surface (zero to six inches) and subsurface (~two'). Subsurface sampling may also be indicated when the terrain has been regraded or fill brought in. Low lying swales, ponded areas, or marsh where sediment runoff may have collected should be additionally sampled with subsurface

samples analyzed for pesticides that are stable under anaerobic conditions when their use is suspected [i.e., ametryn, cyromazine, thiabendazole].

Analytical Methods

When the land is under active agricultural practices, the farmer/rancher must be interviewed to determine the types and amounts of pesticides recently used. The County Agricultural Commission should be consulted to determine if any restricted pesticides were used on the property in the last three years. Analysis should be performed for the most persistent pesticides used. In addition, analysis for organochlorine pesticides and heavy metals should be performed.

- Each sample should be analyzed for organochlorine pesticides (method 8081A), triazine herbicides (8141A with NPD), organophosphorus pesticides (8141A), and chlorinated herbicides (8151A). In addition, a metal scan (6010B or 6020) should be performed and, when crops may have been planted with treated seed, an analysis for mercury (7471A) run.

The above analyses will detect most of the longest lived, most toxic, or most used pesticides & herbicides. Many fertilizers contain heavy metals as do some fungicides. Mercury compounds have been used to treat seed to improve germination by limiting fungal attack. Additional scans should be employed where knowledge of the site indicates other contaminants may be present.

Quality Control

- Quality control procedures specified in U.S. EPA SW-846 guidance must be followed.

Reporting

The logic the consultants used in selecting the samples needs to be explained. As more knowledge is available about a site, the sampling effort can become more focused and efficient in providing the necessary information. The quality of the data must be documented to give assurance that the data is valid and appropriate for the intended use. This will avoid having to repeat the sampling and analysis, and will allow for review of the decisions made. The National Functional Guidelines are used by EPA to evaluate CLP data and is a well recognized protocol. Data may be qualified using alternative procedures as long as the protocol is described or referenced.

- The report should provide the rationale for selecting the locations, depths, and analytical methods.

Ms. Julie Caporgno
April 18, 2000
Page 4

- The laboratory data package must include a summary of the quality control sample results: blanks, matrix spike/matrix spike duplicate, surrogate recoveries, laboratory control samples, etc. as specified by the method. The laboratory should provide a narrative stating whether the quality control was met and listing any discrepancies. The data must be qualified in accordance with the National Functional Guidelines (EPA-540R-94-012 and -013).

Data Interpretation

- Analysis should be initially compared to PRGs, and lead results to Lead Spread. It may be appropriate to compare metal results that exceed PRGs with background levels (use local background levels as a first comparison). This may result in the need to take background samples. Because agricultural activities cover large areas of ground, background sampling locations must be carefully selected and evaluated. The Preliminary Endangerment Assessment Guidance Manual should be used for final evaluation of the site.

If you have any questions regarding this issue, please call me at (510) 540-3843 or Karen Toth of my staff at (510) 540-3833.

Sincerely,



Barbara J. Cook, P.E., Chief
Northern California - Coastal Cleanup Operations Branch

Enclosures

cc: (without enclosures)

Governor's Office of Planning and Research
State Clearinghouse
1400 Tenth Street
Sacramento, California 95814

Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P. O. Box 806
Sacramento, California 95812-0806

DEPARTMENT OF TRANSPORTATION

P O BOX 23660
OAKLAND, CA 94623-0660
Tel: (510) 286-4444
Fax: (510) 286-5513
TDD (510) 286-4454



May 4, 2000

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CITY OF SAN JOSE
PLANNING DEPARTMENT

SCL-101-48.10
1996052098
SCL101298

Ms. Julie Caporgno
Department of Planning, Building
and Code Enforcement
801 North First Street, Room 400
San Jose, CA 95110-1795

Dear Ms. Caporgno:

Draft Environmental Impact Report (DEIR) for the Edenvale Redevelopment Project; City of San Jose

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Edenvale Redevelopment Project. We have examined the above-referenced document and offer the following comments:

- For your information, Caltrans plans to meter all on-ramps on State Route (SR) 85 and US 101 in the project area that have not yet been equipped with metering lights.
- As discussed in the DEIR, the proposed Edenvale Redevelopment Project is anticipated to add traffic to the State highway system, namely US 101, SR 85 and SR 82. In addition to increasing storage capacity on the local streets approaching the freeway on-ramps, as discussed in the DEIR, mitigation measures such as ramp widening will be necessary. Please see attached for our recommended improvements. Some of the improvements may already be proposed in the DEIR.
- Analyses for freeway segments and ramps and/or weaving (if applicable) should be conducted for all scenarios to show the impacts the development would have on State transportation facilities.
- To be consistent with the traffic volume used in the intersection analysis for the project condition, the volume used in the freeway segment analysis for the project condition should include traffic generated from approved but not yet constructed development projects.
- On Page 42, Appendix B, it is indicated that the intersection of US 101 and Silver Creek Valley Road would not be significantly impacted by the project because the average vehicle delay under project conditions would be better than background conditions. Critical movement delay should be considered instead of average vehicle delay because significant intersection impacts as defined by the City of San Jose (pages 26-27) refer to critical movement delay, not average vehicle delay.

The DEIR also indicates that if this intersection degrades to a level of service F, a deficiency plan will need to be prepared. However, it is not stated in the DEIR who will monitor the conditions at this intersection. In addition, who will administer the deficiency plan? How will the monitoring and any necessary improvement to the intersection be financed?


- In addition, any work or traffic control proposed within the State right-of-way (ROW) will need an encroachment permit. To apply for an encroachment permit, the applicant will need to submit a completed application form, final environmental documentation, and five (5) sets of plans (in metric units) which also show State ROW, to the following address:

G. J. Battaglini, District Office Chief
Office of Permits
Caltrans, District 4
P. O. Box 23660
Oakland, CA 94623-0660

Should you require further information or have any questions regarding this letter, please call Haiyan Zhang of my staff at (510) 622-1641.

Sincerely,

HARRY Y. YAHATA
District Director

By 

JEAN C. R. FINNEY
District Branch Chief
IGR/CEQA

Attachment

c: State Clearinghouse

Ramp Metering Improvements

Route 85

Dir.	Ramp	Type	Ramp Metering Configuration		
			Existing # Lanes	Additional Needs	Final # Lanes
NB	Bernal Road	Diagonal	1-HOV/1-SOV		1-HOV/1-SOV
NB	Great Oaks Blvd	Diagonal	1-HOV/1-SOV	1-SOV	1-HOV/2-SOV
NB	Cottle Road	Diagonal	1-HOV/1-SOV	1-SOV	1-HOV/2-SOV
SB	Cottle Road	Loop	1-SOV	1-HOV	1-HOV/1-SOV
SB	Cottle Road	Diagonal	1-SOV	1-HOV	1-HOV/1-SOV
SB	Bernal Road	Diagonal	1 lane Non-Metered	1-HOV/1-SOV	1-HOV/1-SOV

Route 101

Dir.	Ramp	Type	Ramp Metering Configuration		
			Existing # Lanes	Additional Needs	Final # Lanes
NB	Bernal Road	Loop	1-HOV/1-SOV		1-HOV/1-SOV
NB	Bernal Road	Diagonal	1-SOV	1-HOV/1-SOV	1-HOV/2-SOV
NB	Blossom Hill Road	Loop	2-SOV		2-SOV
NB	Blossom Hill Road	Diagonal	1-HOV/1-SOV	1-SOV	1-HOV/2-SOV
NB	Hellyer Ave	Loop	2-SOV		2-SOV
SB	Hellyer Ave	Loop	1-SOV	1-HOV	1-HOV/1-SOV
SB	Blossom Hill Road	Loop	1 lane Non-Metered	1-HOV/1-SOV	1-HOV/1-SOV
SB	Blossom Hill Road	Diagonal	1-SOV	1-HOV	1-HOV/1-SOV
SB	SB Route 85	Connector	1 lane Non-Metered	1-HOV/2-SOV	1-HOV/2-SOV

ATTACHMENT



State of California - The Resources Agency

DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>

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YOUNTVILLE, CALIFORNIA 94599
(707) 944-5500

GRAY DAVIS, Governor



May 4, 2000

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CITY OF SAN JOSE
PLANNING DEPARTMENT

Ms. Julie Caporgno
City of San Jose Planning
City Hall Annex, Room 400
801 North First Street
San Jose, California 95110-1795

Dear Ms. Caporgno:

Edenvale Redevelopment Project
Draft Environmental Impact Report (DEIR)
SCH Number 96052098, Santa Clara County

Department of Fish and Game personnel have reviewed the DEIR for the Edenvale Redevelopment project. The project would allow construction of approximately 7.88 million square feet of industrial development in southeastern San Jose. We have the following comments.

1. Reconnaissance-level surveys were done in February of this year, but protocol-level surveys in appropriate season have yet to be done for a number of sensitive species that may be impacted by the project, including the burrowing owl (*Athene cunicularia*), bay checkerspot butterfly (*Euphydryas editha bayensis*), and several sensitive serpentine-related plant species. Because it is the stated intent of this EIR to serve as a project-level, as well as a programmatic-level document, all surveys need to be completed and appropriate mitigation determined prior to certification.
2. It is stated that potential habitat for the California tiger salamander (CTS) (*Ambystoma californiense*) does not exist on the project site. However, it is stated that there is a small amount of seasonal drainage or wetland in Area I. Unless the deficiency of this site for CTS habitat can be explained, potential impacts to this sensitive species need to be addressed.
3. The U. S. Fish and Wildlife Service (USFWS) needs to be consulted regarding potential impacts to the Federally-listed California red-legged frog (*Rana aurora draytonii*), and the National Marine Fisheries Service (NMFS) needs to be contacted regarding impacts to steelhead (*Oncorhynchus mykiss*) and Chinook salmon (*Oncorhynchus tshawytscha*).

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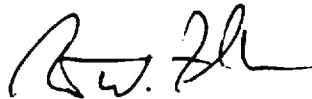
Ms. Julie Caporgno
May 4, 2000
Page Two

4. If impacts to roosting habitat of either the pallid bat (*Antrozous pallidus*) or Townsend's big-eared bat (*Corynorhinus townsendii*) will occur, compensatory habitat needs to be provided, as well as the mitigation measures described in the DEIR.
5. The project, as described, would significantly encroach into a 100-foot buffer zone along Coyote Creek. Because high value riparian habitat has largely been eliminated from Santa Clara Valley, we do not believe that planting additional riparian vegetation elsewhere along the creek will compensate for intrusion into the buffer. The project should be reconfigured to avoid any development within 100 feet of the banks or riparian vegetation of Coyote Creek or other drainages.

It is indicated in the DEIR that the "No Gateway Improvements" alternative would have fewer impacts on Coyote Creek, serpentine grasslands, and other sensitive biotic resources than the proposed project. We, therefore, recommend that this alternative be chosen over the proposed project which will have significant unmitigated impacts.

Thank you for the opportunity to comment on this project. We request that subsequent documents related to the project be submitted to this Department for our review. If you have any questions regarding our comments, please contact Martha Schauss, Associate Wildlife Biologist, at (831) 623-4989; or Carl Wilcox, Habitat Conservation Manager, at (707) 944-5525.

Sincerely,



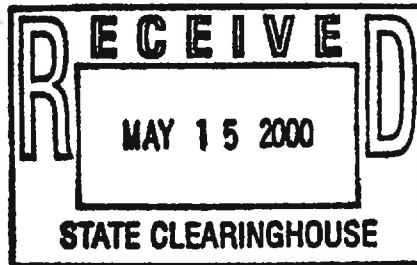
Robert W. Floerke
Regional Manager
Central Coast Region

cc: U. S. Fish and Wildlife Service
Sacramento Office

National Marine Fisheries Service
Santa Rosa

State of California

MEMORANDUM



The Resources Agency

To: Project Coordinator
Resources Agency

Date: May 15, 2000

Ms. Julie Caporgno, Senior Planner
Department of Planning, Building
and Code Enforcement
801 North First Street
San Jose, CA 95110-1795

Clear
5/15/00
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From: Department of Conservation
Office of Governmental and Environmental Relations

Subject: Draft Environmental Impact Report (DEIR) Edenvale Redevelopment Project
(PP99-10-198) - SCH# 1996052098

The Department of Conservation's Division of Land Resources Protection (Division) has reviewed the referenced DEIR. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act. We offer the following comments for your consideration.

The DEIR notes that the original Edenvale Redevelopment Plan EIR was prepared in 1979 and a supplemental EIR was prepared in 1996. The document currently proposed addresses development of vacant land within the original redevelopment plan area as well as new infrastructure to serve the development that has occurred since 1996. Unless the issues noted below have been addressed in prior documents, they should be addressed in the Final EIR for this project.

Mitigation for Loss of Agricultural Land

The DEIR notes that the proposed development would result in a significant unmitigated loss of 451 acres of agricultural land and open space. Farmland conversion impacts can be at least partially mitigated. Mitigation measures, including any identified in the City's General Plan or other documents referenced in the DEIR should be discussed in the Final EIR. Measures or project alternatives that should be considered include avoidance, project configurations that make more efficient use of lands in order to lessen project impacts on farmland, and conservation easements. The latter mitigation measure would involve the purchase of conservation easements, or alternately the donation of mitigation fees for the later purchase of conservation easement, to protect farmland acreage elsewhere for land converted by the project. The City of Davis in Yolo County, for example, uses a 1:1 mitigation ratio, protecting one acre of equivalent quality farmland with a conservation easement for each acre converted.



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May 11, 2000

CITY OF SAN JOSE
PLANNING DEPARTMENT

Ms. Julie Caporgno
Senior Planner
Department of Planning, Building,
and Code Enforcement
City of San Jose
801 North First Street
San Jose, CA 95110-1795

Dear Ms. Caporgno:

Subject: Edenvale Redevelopment Project

The Santa Clara Valley Water District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the subject project, received on March 31, 2000. The District has the following comments:

HYDROLOGY AND FLOODING

- The first paragraph under the heading "Hydrology and Flooding" on page 75 states "... a five-acre detention basin will be built within the riparian corridor mitigation area, in Area 3." However, Appendix E in the Hydrology Report (Report), states that the recommended detention basin will be approximately 2 acres. This should be clarified in the Environmental Impact Report (EIR). This same inconsistency is in paragraph 2 of page 76.
- The last paragraph of page 76 states that the peak flow (851 cubic feet per second) during the 100-year storm for Areas 1, 3, and 4 is the same as the 10-year storm. This error should be corrected. Furthermore, while this 10-year peak flow rate is the same as shown in Table 2 of the Report, it does not match flow rates that are given in the text on pages 5 and 6 of the Report nor does it match the hydrographs shown in Figures 3 and 4 of the Report. The hydrographs and the text also do not match the numbers in Table 3 of the Report. The EIR should clarify these inconsistencies.
- The Report should state who will be responsible for the maintenance of the detention basin and the flap gate at the proposed outfall.
- The final design of the detention basin will need to be reviewed by the District.
- The Report should discuss the fact that the proposed detention basin is designed to mitigate for potential increases in flooding on Coyote Creek, and that the increase in impervious surfaces due to development may induce local flooding within the project site.

- Figures 7, 8, and 9 of the Report show a proposed outfall located at the Berg site. It was the District's understanding that there would be one proposed outfall which would be located at the detention site. Please clarify the total number of proposed outfalls for the project.
- The EIR should discuss what measures will be taken to mitigate for the increased runoff due to development in the portion of the project located within the Canoas Creek watershed.

WATER QUALITY

- The design of the site should incorporate water quality mitigation measures such as those found in "Start at the Source, Design Guidance Manual for Stormwater Quality Protection," prepared for the Bay Area Stormwater Management Agencies Association. Additional information may be found in the Santa Clara Valley Urban Runoff Pollution Prevention Program's (Program) "Parking Lot Best Management Practices (BMPs) Manual." The post-construction water quality mitigation measures, such as swales and catch basin filters, shown on page 78 of the DEIR are a few of the many measures which could be incorporated into the design of the site.
- District Ordinance 83-2, Section 6.1, prohibits the pollution of water supplies of the District. To prevent pollutants, including sediments, from reaching Coyote Creek, follow the Program's recommended BMPs for construction activities, as contained in "Blueprint for a Clean Bay" and the "California Storm Water Construction BMPs Handbook." Another excellent source of construction BMPs is the "Erosion and Sediment Control Field Manual" prepared by the California Regional Water Quality Control Board, San Francisco Bay Region. It should be noted that while the construction BMPs, such as hay bales and silt fences, listed on page 77 of the DEIR may be suitable on some sites (usually flat sites), they are not suitable for others. Each site must be treated separately for erosion and sediment control.
- The mitigation measures on page 97 for the removal of ordinance trees include replacement of the trees with native species. These native species should be trees grown from local parent stock, preferably from within the same watershed.

Any questions may be referred to Ms. Yvonne Arroyo at (408) 265-2607, extension 2319.

Please reference District File Number 01723 on future correspondence regarding this matter.

Sincerely,



Sue A. Tippetts, P.E.
Engineering Unit Manager
Community Projects Review Unit



Santa Clara County
Open Space Authority

May 11, 2000

Board Members

Clysta E. Senev
 Director, District 3
 Chairperson

Clark Smith
 Director, District 6
 Vice-Chairperson

Johnne Baird
 Director, District 1

Bob McGuire
 Director, District 2

Garnetta J. Annable
 Director, District 4

Richard Forst
 Director, District 5

Janis Fraser-Juarez
 Director, District 7

General Manager
 Lloyd Wagstaff

Julie Caporgno
 City of San Jose
 City Hall Annex, Room 400
 801 North First Street
 San Jose, CA 95110-4576

**Re: Edenvale Redevelopment Project Area
 Draft Environmental Impact Report**

Dear Ms. Caporgno,

The Santa Clara County Open Space Authority (Authority) appreciates the opportunity to review the Draft Environmental Impact Report for the Edenvale Redevelopment Project Area. The Authority's mission is to preserve, protect and manage, for the use and enjoyment of all people, a well-balanced system of urban and non-urban areas of outstanding scenic, recreational and agricultural importance. The Authority's Five Year Plan gives priority to preserve lands that are vulnerable to imminent development, lands that are accessible to and benefit a diversity of people and lands that satisfy acquisition criteria which include Agricultural Preservation. Therefore, the Edenvale Redevelopment Project area ranks high for the Authority's preservation priorities.

The Authority is interested in exploring the opportunities to pursue open space preservation presented in the environmental review of the proposed project. The Authority believes that the proposed project presents an opportunity to preserve open space and agricultural lands in Santa Clara County that could off-set the loss of such lands that would be caused by the Edenvale Redevelopment Project.

We have reviewed the DEIR for the proposed project and have assessed its adequacy to the California Environmental Quality Act (CEQA) for its considerations of mitigation measures for the losses of open space and agricultural land. We find the DEIR is inadequate in this respect. Accordingly, we focus our comments on providing suggestions for feasible mitigation measures that the City of San Jose should consider.

Background

The proposed project, Edenvale Redevelopment Project is projected to include the construction of approximately 7.88 million square feet of additional industrial uses. The project would implement infrastructure to support the buildout of the project area and related activities under the approved Edenvale Redevelopment Plan. The project would convert approximately 451 acres of prime agricultural land and visual open space to urban uses. Further, a loss of over 2,000 acres of prime farmland would be a result from full buildout of the Edenvale Redevelopment Project.

The proposed project would contribute to and accelerate the rapid growth and escalating property values in the area by converting hundreds of acres of existing open space and agricultural lands to urban development, thus, increasing the demand for open space.

Permanent protection of designated open space areas has thus become an urgent need in the few years since the formation of the Authority.

The City of San Jose recognizes open space as a valuable environmental resource. The City's General Plan acknowledges the importance of open space protection when it established the Greenline Strategy:

The Greenline is a strategy to define the ultimate perimeter of urbanization in San Jose. The greenline is intended to develop clearer identity for San Jose by defining where the City begins and ends and to preserve valuable open space resources . . . The key elements of the Greenline are the hillsides, the baylands and the rural/agricultural area in the south Coyote Valley area. These multiple use lands are all valuable and productive but not for urbanization. The open space lands preserved under the Greenline Strategy serve as environmental preserves for the protection of wildlife habitat, watersheds, and natural ecosystems. Open Space lands also serve recreational purposes ranging from nature trails and bikeways to playgrounds and golf courses . . . The hillsides are the most extensive and visually prominent features addressed as part of the Greenline Strategy. Planned uses in the hillsides include valuable watershed, wildlife habitat areas and rangelands for agriculture and grazing. In addition, the Bay Area Ridge Trail is envisioned to run along the ridges of the hillsides that surround the City.

The City's General Plan acknowledges the importance of permanent protection of the open space lands beyond the Greenline and recognizes the Authority's role in this effort:

The Hillside and Greenbelt Assessment Study, completed in 1986, encourages the creation of a permanent green line. The study emphasizes the purchase of as much open space land as the public is willing to support. In 1992 the Santa Clara County Open Space Authority was approved by the State Legislature.

Both the City and the Authority have identified areas within and surrounding the Coyote Ridge area as high priority for open space preservation. The City specifically recommended that the Authority make the preservation of the Coyote foothills a priority.

Fortunately, growing evidence suggests that open space conservation is not an expense, but a worthwhile investment that produces great economic benefits. Open space is a major attraction for employees, residents and visitors because it increases the attractiveness of an area as a place to live, work, and recreate. As the Trust for Public Land explains:

Too often we hear that communities cannot afford to grow smart by conserving open space. But accumulating evidence indicates that open space conservation is not an expense but an investment that produces important economic benefits. Some of this evidence comes from academic studies and economic analysis. Other evidence is from firsthand experience of community leaders and government officials who have found that open space protection does not "cost" but "pays."

New development planned for the Edenvale area and South County would particularly benefit from the permanent conservation of surrounding hillsides and the south Valley greenbelt. Protection of these lands will have widespread benefit for residents and visitors of the area, including spectacular views, recreational opportunities, and

agricultural uses. Given their location near a proposed trail corridor, some of these lands could be used as part of the Bay Area Ridge Trail Project, which seeks to establish a continuous trail system that circles the San Francisco Bay and links the main ridges that rise up from the bay.

The City should thus take the unique opportunity presented by the proposed project to invest in the protection of open space lands through effective mitigation measures and programs. As set forth in detail below, the DEIR for the proposed project should be revised to consider the wide variety of options available to the City.

The DEIR Must Consider Feasible Mitigation Measures to Reduce the Project's Impact on Agricultural lands and Open Space Loss

The DEIR fails to identify measures to mitigate the proposed project's significant impact on the agricultural land. The DEIR finds the loss of open space caused by the conversion of approximately 451 acres of prime agricultural land to industrial development by the build out of the Edenvale Redevelopment Project to be significant, unavoidable impact. However, this conclusion is based on the assumption that no mitigation measures are available to reduce the loss of open space and loss of agricultural land. Contrary to CEQA's mandate, the DEIR simply fails to consider any mitigation measures. Yet, a variety of feasible measures exist that could reduce the proposed projects significant impacts on agricultural land and open space.

Feasible Mitigation Measures Exist to Reduce the Proposed Project's Significant Impact on Agricultural and Open Space Loss

The DEIR's failure to consider mitigation for the loss of open space and agricultural lands is particularly striking given the wide variety and number of successful programs that exist to address this issue. Mitigation is defined by the CEQA Guidelines to include:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitation, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

CEQA Guidelines 15370.

The proposed project impacts on agricultural and open space lands can be compensated for by the implementation of programs that provide for such lands in other location that reduce the impact over time by preservation of such lands. As the Bay Area Conservancy Program notes specifically with respect to Santa Clara County, "restoration and protection can be accomplished through the proper design of new developments and through mitigation requirements." The American Farmland Trust has identified a number of such mitigation measures for farmland conversion, including:

- Requiring that remaining farmland, or an equal or greater amount of farmland be placed under Williamson Act contract.

- Requiring a conservation easement to be placed on remaining or alternate farmland.
- Requiring that new agricultural land to be brought into production.
- Requiring a per-acre mitigation fee on development projects to be used for the acquisition of development rights on farmland in another location.

While also protecting farmland, conservation easements are also effective mechanisms for preserving habitat, water quality, viewshed and community open space buffers.

In addition to these general forms of mitigation, there are numerous examples of communities that have required land dedications and/or fees for purchase of land to compensate for the loss of open space and agricultural lands as mitigation for significant impact. Many communities with similar open space provisions in their general plans also require new projects which contribute to the loss of open space and agricultural lands, as well as to the growing need for open space to mitigate for those impacts.

Thus, among the feasible mitigation measures the DEIR here fails to include which are capable of reducing or eliminating project related impacts are the following:

- Clustering of the development to protect on site agricultural lands and provide permanent protection of those lands through an appropriate instrument (e.g. dedication of lands to a Land Trust and/or multiple party holders of easement or other acceptable means of ensuring permanence.)
- Payment of a mitigation fee to an appropriate conservation organization for purchase of mitigation lands.
- Purchase in fee title or conservation easement of comparable open space and agricultural land in the area (e.g. Coyote Ridge) and permanent protection of that land through a dedication to an appropriate open space conservation entity.

To provide an adequate assessment of mitigation, the DEIR must consider the measures described above for their feasibility and efficacy in reducing the impacts on agricultural and open space lands caused by the project. Adoption of these mitigation measures would clearly minimize the proposed project's impact on agricultural and open space lands both within the project area itself and through agricultural and open space preservation elsewhere.

The DEIR Must Consider Feasible Mitigation Measures to Reduce Cumulative Impacts on Agricultural and Open Space Lands.

In addition to its significant project specific impact of converting approximately 451 acres of agricultural land to urban uses, the proposed project's contributes to a significant cumulative impact on agricultural and open space lands. The proposed project in conjunction with other pending development such as the Coyote Valley Research Park and North Coyote Valley buildout, would convert thousands of acres of agricultural and visual open space to urban uses.

The DEIR further finds that there are no measures other than avoidance that would reduce the loss of over 2,000 acres of prime farmland which would result from full buildout. And while the City of San Jose can condition future projects to include open space uses within future development, there are no measures that would fully reduce the loss of approximately 2,000 acres of open space.

Such illusory mitigation is inadequate under CEQA. An EIR must examine "reasonable, feasible options for mitigating or avoiding the project's contribution to any significant environmental effects." CEQA guidelines under 15130(b)(2)(3). With respect to the mitigation of cumulative impacts, the CEQA Guidelines recognized that the adoption of ordinances or regulations may be most appropriate 15130(c).

Conclusion:

The proposed project presents a unique opportunity for the City of San Jose to develop effective policies and programs to preserve valuable open space and agricultural lands in its planning area and beyond. The DEIR as currently drafted is inadequate to provide the meaningful consideration of feasible mitigation measures to reduce the significant environmental impacts of the project. The Authority therefore urges the City to revise its DEIR to include consideration of the measures presented in these comments.

Thank you for the opportunity to review the DEIR for this project. If you have any questions, please call me at 408-224-7476, ext. 18.



Rachel Santos
Open Space Planner II



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May 11, 2000

CITY OF SAN JOSE
PLANNING DEPARTMENT

City of San Jose
Department of Planning, Building and Code Enforcement
801 North First Street
San Jose, CA 95110

Attention: Julie Caporgno, Senior Planner

Subject: File No.: PP99-10-198 / Edenvale Redevelopment Project DEIR

Dear Ms. Caporgno:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft Environmental Impact Report (DEIR) for the Edenvale Redevelopment Project, which is located in southern San Jose in the vicinity of the Highway 101 and Route 85 interchanges, north of Santa Teresa Boulevard, and east of Cottle Road. The proposed project supports the construction of approximately 7.88 million square feet of additional industrial uses through the adoption of the following:

- Area Development Policy that would allow development to proceed in advance of completion of roadway improvements necessary to meet the City's Level of Service Policy in the area east of US101.
- Improvement District to construct roadways and other improvements for the area south of Silver Creek Valley Road and east of Coyote Creek.
- Community Facilities District for certain vacant properties in the area west of US101.

Due to the magnitude of the transportation and land use impacts resulting from the advancement of development before the completion of gateway and roadway improvements, VTA has the following comments on the adequacy of the DEIR.

Land Use Impacts

The addition of approximately 7.88 million feet of new employment uses is likely exacerbate the current housing shortage in Silicon Valley. VTA considers the growing jobs/housing imbalance to be a potentially significant impact resulting in more commuters traveling farther distances to find affordable housing. As a result, VTA recommends that the DEIR consider mitigation measures to increase the supply of affordable housing.

Transportation Impacts

Access Across US101

The San Jose 2020 General Plan's Land Use/Transportation Diagram indicates an interchange at Branham Lane and US101. However, the DEIR does not include this roadway project in the list of roadway improvements. VTA supports a Branham Lane overcrossing (not specifically an interchange) designed as a two-lane structure with an emphasis on bicycle/pedestrian safety, aesthetics and access. An overcrossing here would provide an alternate travel route for those living near the Edenvale area and reduce impacts at US101 interchanges in this area. As a result, we request that this transportation project be analyzed as a planned improvement in the DEIR.

Transportation Demand Management

In addition, VTA requests that the DEIR describe the district-wide Transportation Demand Management efforts that will be incorporated in the project to both mitigate the project's auto impacts and to provide employees with transportation alternatives. Such TDM programs can include:

- Eco Pass
- Shuttle connections to/from Blossom Hill Caltrain and Santa Teresa/Cottle LRT Stations
- Subsidies for Caltrain and light rail operations (to be paid by improvement districts)
- A parking permitting system, in which employees are directly charged to park at the employment site
- A parking cash-out program, in which employees receive direct financial incentive not to drive to work alone
- Preferentially located carpool parking
- A carpool matching program
- Bicycle lockers and racks for long-term and visitor bicycle parking
- Showers and clothes lockers for bicycle commuters

Improvements to Bicycle Facilities

The DEIR includes a strategic plan for roadway improvements, to be partially funded by the Improvement District and the Community Facilities District to reduce traffic impacts associated with built-out of the Edenvale Redevelopment Area.

VTA requests that the DEIR discuss the bicycle projects to be included in the list of funded improvements as a traffic mitigation measure. In particular, a portion of the Coyote Creek Trail traverses the project area. The City has submitted improvement projects to this bicycle trail as part of the VTP 2020 planning process. VTA requests that these improvements, as well as improvements which better connect the new development to the bicycle trail, be evaluated for their effectiveness to reduce auto traffic in the project area.

Pedestrian, Bicycle, Vehicle Access and Circulation

When specific projects are proposed for specific sites, VTA recommends that the City require an evaluation of the adequacy of access and circulation for pedestrians, bicyclists, and vehicles.

Denser Street Network

VTA notes that this area currently lacks a sufficiently dense street network to provide multimodal access to the proposed development. As currently proposed, the few streets in the area would bear the full burden of traffic, causing, as the DEIR indicates, significant auto impacts on intersections. VTA requests that the DEIR include an assessment of the effect of a denser street network on reducing the levels of auto traffic on any one street. A denser street network could include streets designed strictly to move auto traffic, as well as streets designed to better accommodate bicycles, pedestrians, or transit. Such a network could, by providing access to new development on multiple routes as well as multiple modes, reduce the impacts of auto traffic on any one street.

Clustering Development Around Transit Stations

The DEIR states that the 7.88 million square feet of development will be spread out over the entire Edenvale area at a Floor-Area Ratio (FAR) of 0.35 to 0.40. This density is neither high enough to support transit, nor is it low enough to prevent significant traffic impacts, as demonstrated by the DEIR.

VTA strongly requests that the DEIR consider the concentration of development in Planning Areas 2, 3, and 4 as a traffic mitigation measure. These areas are more accessible to nearby transit stations, and therefore more effectively served by transit, either by providing walk-access or shuttle-access to the stations. By clustering the highest densities of future development around transit stations in the area, particularly the Santa Teresa LRT Station, traffic impacts could be minimized by providing convenient alternatives to the automobile.

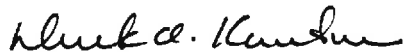
City of San Jose
May 11, 2000
Page 4

Mixed Use

VTa also requests that the DEIR evaluate the incorporation of mixed use development in the project area as a possible traffic mitigation measure. Single-use employment districts, without supporting commercial uses, create environments in which employees cannot access lunch or convenience services without a car. Fine-grain mixing of walk- and transit-accessible commercial uses allows and encourages employees to commute by various transit alternatives.

We appreciate the opportunity to review this project. If you have any questions, please call Christina Jaworski of my staff at (408) 321-5751.

Sincerely,



Derek A. Kantar
Environmental Program Manager

DAK:CTJ:kh

cc: James E. Pierson, Director, Planning and Development
Michael P. Evanhoe, Director, Congestion Management and Highway Programs
Roy Molseed, Senior Environmental Analyst
Timm Borden, San Jose Public Works Department

COUNTY OF SANTA CLARA
HISTORICAL HERITAGE COMMISSION
County Government Building
East Wing, 10th Floor
70 West Hedding Street
San Jose, CA 95110
408-299-4321

April 15, 2000

Julie Caporgno, Senior Planner
Planning Department
City Of San Jose
801 North First Street
San Jose, CA 95110

Re: PP 99-10-198
Proposed Edenvale Redevelopment DEIR

Dear Ms. Caporgno,

Thank you so much for the notice and opportunity to comment upon the proposed Edenvale Redevelopment. Please provide all future reports and referrals to our Commission. Please refer this matter to the Historic Landmarks Commission of San Jose for their review.

1. FARMSTEADS

Of particular interest are the two sets of farmsteads identified in Appendix G, Cultural Resources. Although it is agreed that just being an old house does not make a building historically significant, the DEIR overlooks the importance of two of the few remaining farmsteads in San Jose.

Some of the comments in the evaluations are outside the scope of a CEQA review and erroneously place a subjective weight to the scoring. For instance, regarding the John Branham Ogier House at 550 Piercy Road, the DEIR concludes, "Other more distinguished examples of this style [of house] survive in South San Jose." (DEIR Vol. 1, page 105) This should not devalue the historic merit of the Branham Ogier House. If this overbroad comparative analysis were the criteria under CEQA, very few historic resource houses would require public review and comment (because only the "best" example of each style of house in the Bay area would qualify).

It is not the architectural style that makes these farmsteads significant, but rather the fact they are intact surviving common examples of working farms. The California Register and the National Trust Mainstreet Program recognize commonplace buildings as those worthy of inclusion because they tell the story of real people contributing to a real era. Certainly the farmhouses and tank houses are "associated with patterns of events that have made a significant contribution to the broad patterns of local history" (Criteria A) because they represent the farming/orchard community upon which the local economy once boomed, and in turn converted the state-wide economics of California. These few original intact farmsteads in our Valley represent an era of local and State history. Modifications, simple add-ons, wear and tear, and being old do not "compromise" the historic significance of these structures, as your DEIR appendix G states (page 7). Oftentimes add-ons and wear is the state of historically significant buildings, which, in this case, accurately reflects farming/orchard needs. Moreover, if a certain context is sought (orchards 1890-1930) then the buildings can be easily brought to this context by the removal of a few add-ons.

The dating of the buildings, particularly the Emilio Pezzolo House at 484 Piercy Road, is questionable. The main part of the house appears to pre-date 1906 which the DEIR identifies as the date of construction.

The scoring of resources and categorization as "Structures of Merit" rather than "Landmarks" also presents an approach that is contrary to California law under CEQA. A building need not be a landmark before it gives rise to a finding that demolition causes "Significant Unavoidable Impact." The City's assumption that if a building is not a "landmark" (or eligible as a landmark) then it is not a historic resource leads the agency to erroneously conclude "Implementation of the infrastructure proposed as part of the project would not result in a significant loss of historic structures. (Less Than Significant Impact)"

The recommendations of the DEIR (photography before demolition) are contrary to the goals and policies of the San Jose General Plan which identifies "preservation as a key consideration in the development review process."

2. TANKHOUSES and WATERTOWER

The two tank houses, one of which is still a water tower, are very hard to find in this area. Regardless of their uniqueness, they would still be historic resources whose proposed demolition would certainly lead to a finding of "significant impact" under CEQA. It is unusual your DEIR would conclude they are not historically significant, given the common practice of tank house historic evaluation throughout the local region as well as the State. When the annexed Mosby Ranch was proposed for development, the City and County negotiated a plan whereby the developer was to save the tank house. The historic resource was to be dismantled, trucked to the City's Emma Prusch Memorial Park and Farm, and restored for children's education and enjoyment. This did not happen and lawsuits were filed. With assistance, perhaps Prusch Park would be interested in one of these tank houses. Please consider this or a similar alternative as possible mitigation measures.

3. ARCHAEOLOGICALLY SENSITIVE AREA

The general proposed project area is known for major indigenous Indian cemeteries. Three significant burial grounds are located within or just outside your project planning areas. State Registered SCL-125 is near the southern terminus of Cottle Road. The second cemetery is at the "Holiday Inn site" at Highway 101 and Bernal Road-Silicon Valley Boulevard. The third cemetery, known as the "Two Wolves site," is on the south-east intersection of Highway 101 and Bernal Road-Silicon Valley Boulevard. The latter is among the largest and oldest Muwekma Ohlone burial sites found in California. There are many other listed archaeological sites in this area, including those found at Santa Teresa Golf Course and Santa Teresa Mobile Home Park.

There is a high probability of locating significant archaeological finds within your proposed project area, should there be shallow excavation for utilities, foundations, and road improvements. CEQA requires identification of these existing resources, identification of potentially unknown resources, an archaeology plan, an indigenous Indian internment/relocation plan, and mitigation measures. CEQA also requires the lead agency to check for such resources when preparing a DEIR.

Your reliance upon 1976 and 1979 evaluations for archaeological resources is in violation of CEQA for three reasons: 1) staleness of reports are recognized as a factor of noncompliance, 2) they are part of a general master redevelopment plan that are incongruous to the proposed project, and 3) new evidence of archaeological resources in this area have been found since 1976 and 1979. The DEIR does not give adequate notice to the public for review and comment.

4. NATIONAL TRAIL

The National Juan Bautista de Anza Historic Trail runs through this area, roughly aligned with Highway 101. The EIR should identify this resource, potential impacts of the proposed project, and possible mitigation measures. Department of the Interior National Park Superintendent Meredith Kaplan (415-427-1438 or email meredith_kaplan@nps.gov) can be contacted to identify the alignment of the Trail and whether the proposed project will impact the route. City Parks, County Parks and regional trail agencies and organizations can also identify the path.

We appreciate your request for comments on this proposed project. If we can be of any assistance to the City or the property owners, please do not hesitate to contact us.

Sincerely,



Paul Bernal
Chair

cc: Historic Landmarks Commission

County of Santa Clara

Environmental Resources Agency
Parks and Recreation Department

298 Garden Hill Drive
Los Gatos, California 95032-7669
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MAY 11 2000

CITY OF SAN JOSE
PLANNING DEPARTMENT



May 11, 2000

Ms. Julie Caporgno, Senior Planner
City of San Jose
Department of Planning, Building and Code Enforcement
801 North First Street,
San Jose, CA 95110-1795

**SUBJECT: PP99-10-198 Edenvale Redevelopment Project DRAFT
ENVIRONMENTAL IMPACT REPORT (SCH96052098)**

Dear Ms. Caporgno:

The Santa Clara County Parks & Recreation Department is in receipt of the Draft Environmental Impact Report (DEIR) for the Edenvale Redevelopment Project. County Parks had previously responded to the Notice of Preparation (NOP) for the subject project in November 1999. In our previous correspondence, we indicated the importance of: (1) inclusion of alternative transportation, (2) access to public parkland, (3) improvements to Hellyer Avenue/Hellyer Avenue Extension. After review of the DEIR and project as proposed, the Parks Department reiterates the same concerns with the additional comments as follows:

Inclusion of Alternative Transportation

As County Parks had previously cited in our response to the NOP,

Provisions for a variety of alternative transportation methods, including construction of bike and pedestrian related facilities, access to bikeways, light rail, Caltrain, etc. to meet traffic service, congestion management, and air quality standards for the City of San Jose should be included in the project.

As indicated on page 35 of the DEIR, "there is no existing transit service to the New Edenvale area." It is not clear in the DEIR as to how future transit services and transit connections will occur within the New Edenvale Redevelopment Area. In addition, the Existing Transit Facilities Map (Figure 10) should indicate some of the alternative transportation modes for future employers/employees working at the new industrial campus sites of the New Edenvale area, as proposed in the mitigation measures (pages 65-66).



Providing Connectivity to Existing County and City Bikeways on Improved Streets within Improvement District

County Parks recommends the DEIR further address connections to existing and future bikeways and access to bike/pedestrian-related facilities that would encourage non-motorized commutes and reduce the number of motorized vehicular trips on surface streets. It is apparent that the existing bike lanes within the Coyote Creek Parkway chain and countywide bikeways, as shown in Figure 11, will provide highly attractive recreational and environmental awareness benefits for commuter bicyclists traveling to/from the major employment centers within the New Edenvale Redevelopment Area.

At this time and the time of future development, we highly recommend the City of San Jose to accommodate, wherever feasible, new bicycle lanes in the project area and increase the connectivity of our Countywide Bikeways system. Given adequate roadway right of ways, future bicycle connections should be designated and incorporated on streets proposed for infrastructure improvements within the Improvement District of the southerly portion of the New Edenvale Redevelopment Area (e.g. Silver Creek Valley Road, Hellyer Avenue Extension, Piercy Road, etc.). As noted on page 13, street improvements include all the needed infrastructure improvements (e.g. curb, gutter, sidewalk, driveways, wheelchair ramps, storm sewer mains and laterals, landscaping, etc.) though, without any provision for bicycle lanes.

Furthermore, east-west connections from the said project area to the existing city bike lanes on Santa Teresa Boulevard and Cottle Road in the Old Edenvale area should also be addressed in the DEIR and at the time of future development. In sum, the implementation of the Edenvale Redevelopment Project should continue to be consistent with the goals and policies of the County's Bikeways Map and the County's Congestion Management Plan Bicycle Network Plan and policies.

Access to Public Parkland

As noted in the DEIR, the Coyote Creek County Park and Hellyer Park are the closest recreational and open space amenities to the residential neighborhood surrounding the New Edenvale area of the subject project area. Access to these public parklands ought to be preserved and provided in locations that do not currently allow for the neighborhood residents and County parks visitors to reach these amenities.

However, as stated on page 23, the following conclusion provides no public access alternatives:

The proposed project does not include a frontage road south of Silver Creek Valley Road between Silver Creek Valley Road and the Piercy/Hellyer intersection and is, therefore not in conformance with Council Policy 8-3.

Council Policy 8-3 was adopted by City of San Jose City Council with the sole purpose of providing maximum access for the public to parks and open spaces. This policy is also in conformance with San Jose's General Plan Community Development Urban Design policies. Apparently, the lack of a frontage road for a distance of approximately 3,600 feet measured along the creek right of way would be inconsistent with Council and General Plan policies at this specified location. Furthermore, County Parks

recommends that the frontage road on the easterly side of Coyote Creek in this area include provisions for a multi-use trail with connections to the regional trail on the westerly side of the creek.

Improvements to Hellyer Avenue/Hellyer Avenue Extension

Serious consideration regarding the Traffic and Circulation, Air Quality, Land Use, Vegetation, and Trails concerns ought to be given to the improvements and extension proposed for Hellyer Avenue. Although County Parks does not oppose the improvements or extension of Hellyer Avenue, we are very concerned about the potentially significant impacts the proposed roadway construction and proposed mitigation area will have on Coyote Creek and our County Park lands. Furthermore, we are also sensitive to the impacts the proposed Hellyer Avenue extension will have on the surrounding single-family residential neighborhood, churches, and elementary school.

(a) Traffic and Circulation at the 101/Hellyer Avenue Interchange

County Parks is aware that the City of San Jose is conducting a separate off-site traffic mitigation study for the Edenvale Redevelopment Area, coordinating with CALTRANS and County Roads & Airport Department. The northern segment of the Hellyer Ave roadway will be under consideration for proposed improvements in the Route 101/Hellyer Avenue Interchange project. Although Hellyer Ave west of the U.S. 101 interchange is not part of the Edenvale Redevelopment Project Area, proposed offsite traffic mitigation will inevitably cause direct traffic and circulation impacts on our park access and our park visitors at Hellyer County Park.

As a result, County Parks believes that access to our County park facilities and parking as well as the safety of our Park visitors on Hellyer Avenue, whether traveling on the pedestrian/bicycle bridge over Coyote Creek or on the vehicular roadway, will be compromised with the significant increase in project-related traffic from the Interchange project *and* the Edenvale Redevelopment project. Currently, the Hellyer Ave exit experiences significant traffic congestion and back-up at the highway interchange during peak weekend and holiday usage times. By not proposing mitigation measures to address the impacts that the additional increase in traffic will have at the 101 Highway/Hellyer Ave interchange, the DEIR is also inadequately addressing the potentially significant land use impacts to our County park.

(b) Noise/Air Quality

As noted on page 30,

The increased traffic from the project as proposed will result in a significant deterioration in the residential character of Hellyer Avenue west of U.S. 101.

In addition to the increased noise that will be generated from the project-related traffic (currently projected to be at an 25% increase), the significant annoyance that vehicular exhaust and dust will pose to the existing residences and our park users has not been addressed adequately in the DEIR. Alternative solutions to noise/air quality impacts, in addition to the sound wall proposal as noted on page 71, should be investigated and included in the possible mitigation measures.

(c) Land Use

In accordance with the City of San Jose's 2020 General Plan and Riparian Corridor policies, Santa Clara County General Plan (1995-2010) and Open Space Preservation Program and Policies (1987), we also concur with the goals of the Open Space Authority's Five Year Plan to preserve the riparian corridors of our valley floor, agricultural lands, greenbelts, and regionally significant trails, which are some of their open space conservation goals. We also encourage the DEIR to incorporate Resource Conservation programs with the Edenvale Redevelopment Project.

(d) Vegetation

As Coyote Creek Riparian Area is a County-designated natural habitat area with its locally unique natural community of Sycamore and Willow species, the DEIR should address the specific riparian mitigation plans for the proposed mitigation area adjacent our County park lands, located south of Piercy Road.

(e) Trails in Coyote Creek County Park

County Parks believe the DEIR has not adequately addressed the impacts to our existing County trails, bike paths, and equestrian paths between Silver Creek Valley Boulevard and Silicon Valley Boulevard. As a result, proposed mitigation measures related to trail impacts have not been addressed in the DEIR. We are particularly concerned about the proposed Hellyer Ave extension south of Piercy Road, where it encroaches within 15 to 20 feet of the Coyote Creek riparian corridor. In addition, County Parks would need specific information about the direct impacts of the proposed storm drain and outfall being located within riparian corridor. These activities may have potentially significant impact on the trails within Coyote Creek Park.

It is expected that as anticipated future development takes place between Piercy Road and Coyote Creek, the existing trail segments between Silver Creek Valley Boulevard and Silicon Valley Boulevard will become a major recreational attraction and gain increased use as an alternative transportation mode. County Parks feels that minor trail improvements and connections to trails could be made in conjunction with the construction of the Hellyer Ave extension and proposed mitigation area, that would ultimately benefit all future users of the trail.

Santa Clara County Parks & Recreation appreciates the opportunity to respond to the DEIR in working with the City of San Jose. If you have any questions regarding the above noted comments, please contact me at (408) 358-3741 x152 or via email at Jane.mark@mail.prk.co.santa-clara.ca.us.

Sincerely,



Jane Mark
Park Planner

Cc: Lisa Killough, Deputy Director
Mark Frederick, Planning & Development Manager
File # PP99-10-198

County of Santa Clara

Roads and Airports Department
Land Development Services



101 Skyport Drive
San Jose, California 95110-1302

May 2, 2000

Mr. James R. Derryberry
Director of Planning
City of San Jose
801 North First Street, Rm 400
San Jose, CA 95110-1795

Subject : **Project Review – Edenvale Redevelopment Project - DEIR**
 Project Coordinator : Julie Caporgno

City File No. : PP99-10-198

Dear Mr. Derryberry,

We have reviewed the DEIR for the subject project and have the following comments.

1. The project should mitigate construction impacts to Hellyer Avenue. The pavement should be repaired and resurfaced due to the impact of construction equipment traffic.
2. Capitol Expressway should be included in the Traffic Impact Report.

Thank you for the opportunity to review and comment on this project. If you have any questions, please call me at (408) 573-2463.

Sincerely,

A handwritten signature in black ink that reads "Sean Quach".

Sean Quach
Project Engineer

cc : MA/SK
 DEC
 RVE
 Files

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City of Gilroy

COMMUNITY DEVELOPMENT DEPARTMENT

Norman S. Allen, P.E., Director

Planning Division	(408) 846-0440	FAX (408) 846-0429
Engineering Division	(408) 846-0450	FAX (408) 846-0429
Building, Life & Environmental Safety Division	(408) 846-0430	FAX (408) 846-0429
Housing & Community Development	(408) 846-0290	FAX (408) 846-0429

May 11, 2000

Julie Caporgno
Department of Planning, Building & Code Enforcement
801 North First Street, Room 400
San Jose, CA 95110-1795

Subject: Comments on the Edenvale Redevelopment Project Draft EIR

Dear Ms. Caporgno:

Thank you for the opportunity to comment on the Edenvale Redevelopment Project Draft EIR. The City of Gilroy has the following comments on this document:

1. The EIR should analyze this project's impact on regional housing demand. Many cities in this region have a jobs/housing imbalance, because many workers cannot afford to live in the cities where they work and are therefore forced to commute from distant cities that do not receive the economic benefits of a large job base. It is likely that the Project's employees will seek housing in jurisdictions south and east of San Jose (e.g. Morgan Hill, Gilroy, Hollister, Salinas, and Los Banos), thereby causing a further imbalance to these communities' jobs and housing mix. The Project EIR should specifically address how it will mitigate the housing needs of future Project employees without impacting the jobs/housing balance of other jurisdictions in the region.
2. The EIR should include as a project alternative a reduced scale project that includes housing. This alternative would reduce air quality impacts, traffic impacts, and impacts to the region's housing shortage.
3. The EIR should include an analysis of using transit-oriented development and mixed-use development as a way to reduce the Project's traffic and air quality impacts.
4. The City of Gilroy anticipates a significant number of Project trips south of the Project site. The amount of information provided in the EIR is not sufficient to determine whether the analysis adequately reviewed traffic impacts to the south. The document should be revised to include numerical trip distribution and trip assignments, and then it should be re-circulated for an additional 45-day review period. Potential impacts at the following locations should be included in the analysis:
 - A. Highway 152 east of Highway 101
 - B. Highway 101 south of Gilroy
 - C. Highway 25 east of Highway 101
 - D. The Highway 101/25 interchange
 - E. Highway 101 Southbound off/on at Tenth Street

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CITY OF SAN JOSE
PLANNING DEPARTMENT

- F. Highway 101 Northbound off/on at Tenth Street/Highway 152
- G. The need for the Buena Vista Interchange at Highway 101 (This interchange serves the only hospital in South Santa Clara County)

Again, thank you for including the City of Gilroy in the review of this EIR. Should you wish to discuss these issues further, please contact me at (408) 846-0440.

Respectfully,


Melissa Durkin
Planner II

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CITY OF SAN JOSE
PLANNING DEPARTMENT

Dear Director of Planning,

Until transportation
improvements are made, this
project should be approved.

Traffic and public transportation
is a big problem. We trust you
take these comments seriously.

Sincerely,

M & A Habeeb

Note concerning:

PP-10-198 EDENVALE REDEVELOPMENT PROJECT

7133 Avenida Rotella
SJ 95139

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MAY 11 2000

Anne and Bader Kudsi
451 Piercy Road, San Jose, CA 95138 – 1102
Phone: (408) 225 - 4266

CITY OF SAN JOSE
PLANNING DEPARTMENT

May 11, 2000

Ms. Julie Caporgno, Senior Planner
Department of Planning, Building and Code Enforcement
City of San Jose
City Hall Annex, Room 400
801 North First Street
San Jose, CA 95110 – 1795

Subject: Edenvale Redevelopment Project Area
Comments on the Draft of the Environmental Impact Report (DEIR)

Dear MS. Caporgno,

We thank you for sending us a copy of the DEIR and we appreciate the opportunity to comment on the DEIR and the significant environmental effect of this project and the adequacy of the DEIR. We have reviewed the report to the best of our ability and below are our comments:

First I would like to comment on the Summary of Environmental Impact and Mitigation Measures and then I will comment on individual items that are in the main body of the report. As a background of our eligibility to comment on the report I would like to mention that I am a mechanical engineer and my wife, Anne, is a schoolteacher and we have been residing in our house on Piercy Road since summer of 1978.

1. Comments on the summary

Summary Page (vi)

Since the delay in the completion of the gateway improvements of Blossom Hill/U.S.101/Silver Creek Valley Road are very likely to occur and the impact will be significant and unavoidable then the mitigation policy should be to delay development in the area until the completion of the gateway improvements of Blossom Hill/U.S.101/Silver Creek Valley Road.

Summary Page (vii), Third item

Mitigation calls for enforcement of the speed limits and limiting grading during high wind and covering all stockpiled material. These mitigations are not always being followed at the construction site at the present time. How is the City of San Jose going to insure compliance with the stated mitigations? The area experiences high wind on a

Ms. Julie Caporgno, Senior Planner, 2
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regular basis especially during the hot summer days. If this mitigation is to be followed a definition of high wind that can be measured is required.

Summary Page (xi), Fourth item

The statement "Currently no Burrowing Owls are known to occupy the project area, although they have occurred in the past". This statement is questionable. Locating and observing burrowing owls is not an easy task since owls are active at night. When we first moved to Piercy Road and prior to the construction of Silver Creek Valley Road we observed several owls. Even after the city lights were installed we have seen few owls in the past three years in the New Edenvale Section 3. We do not know if they are burrowing owls or other species of owls since we are not trained to spot owls. It is necessary to conduct a thorough examination of the area by an ornithologist prior to making such a statement. We do agree with the statement that, "There is currently no mitigation identified that would effectively mitigate the loss of habitat should the project proceed as proposed".

2. Comments on the main body of the report.

Pages 22 & 23. *Set back Exceptions*

What is the purpose of having a policy if every time the policy cannot be met a loophole is found and an exception is made! If the San Jose City Council did not pass the alignments of Hellyer Road in opposition to the Planning Commission's recommendation the three exceptions would not be necessary. A better solution should be looked into and implemented than making these three exceptions.

In conclusion, The DEIR will do very little and too late to mitigate the undesirable effects of the industrialization of the new Edenvale Area.

Would you please review our comments with regard to the DEIR and keep in mind that the objective of any development is to help improve the quality of life for the area in particular and the city of San Jose in general.

Sincerely,

Anne Kudsi
Bader Kudsi

Anne Kudsi and Bader Kudsi

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

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PLANNING DEPARTMENT

OUR FILE NUMBER

MVB-54188

WRITER'S DIRECT LINE

(415) 774-2984
jkarpiak@smrh.com

May 11, 2000

VIA HAND DELIVERY

Ms. Julie Caporgno
Department of Planning
Building and Code Enforcement
801 North First Street
San Jose, CA 95110-1795

RE: Draft Environmental Impact Report for the Edenvale Redevelopment Project (PP99-10-198) ("DEIR")

Dear Ms. Caporgno:

Our clients, the owners of Young Ranch and the Richmond Ranch, submit the following comments on the March 2000 DEIR.

A. Vague project description. The project description is not set forth understandably. It requires studying the prior projects for which EIRs were certified (i.e., in 1976 for the original Edenvale Redevelopment project area, in 1979 for an expansion of the project area, and in 1996 to reflect various changed conditions related to biology, traffic and hazardous materials), as well as significant interpretation in order for the reader to understand what new circumstances or proposed actions are being evaluated.

For example, the Description of the Proposed Project (page 10) has sections for these actions: "Area Development Policy," "Gateway Improvements," "Formation of an Improvement District," "Community Facilities District," "Riparian Open Space/Drainage Basin," and "Redevelopment Project Implementation Plan." Yet the succeeding sections do not match those topics: there is no discussion of the Redevelopment Project Implementation Plan, and the sections often seem to include much of the same information that is repeated elsewhere. Also, the project description in the DEIR does not match that provided in the Notice of Preparation ("NOP"), which

Ms. Julie Caporgno
May 11, 2000
Page 2

included a "Stormwater Detention Facility" and did not include "Gateway Improvements" or the revised redevelopment project implementation plan. The DEIR should include the topics promised by the NOP, or at least explain why they are not there.

Finally, the DEIR should contain a concise statement of what the new circumstances and proposed actions are, how they differ from those authorized by the redevelopment project already approved, which specific regulatory implementation actions will be taken (e.g., whether the general plan or redevelopment plan will be amended).

B. Confusing use of prior EIRs. The DEIR does not explicitly describe how it relates back to or "tiers off" of the prior EIRs. Although it states the City's view that the course and rate of development, traffic impacts and infrastructure improvement needs are substantially different than the conditions evaluated in the prior CEQA documents, therefore requiring a subsequent EIR under § 15162 of the CEQA Guidelines, it does not explain how those circumstances are different.

In addition, the DEIR does not summarize or even characterize the impacts and mitigation measures in the prior EIRs. As a result, the reader cannot evaluate whether all of the impacts of the project are being evaluated accurately or whether the proposed mitigation measures would be effective.

C. Area Development Policy. In general, the concept of the Area Development Policy ("Policy") seems to be a way to avoid proper planning and thorough environmental review because it allows a certain amount of development to proceed ahead of infrastructure improvements. Although the DEIR refers to the General Plan provisions for area development policies, it does not indicate how such policies must be adopted (and the General Plan section on area development policies at page 129 is silent on procedural matters). How would the Policy be adopted? Is an amendment to the General Plan necessary or contemplated?

The DEIR only vaguely describes the Policy: it would be better if it were reproduced in its entirety. Moreover, the full potential allowed by the Policy should be analyzed: the DEIR states on page 11 that the Policy allows development to a level beyond 4.8 million square feet, but then it admits that it did not study beyond that level. The reader is left with the impression that the Policy is still in the process of

Ms. Julie Caporgno

May 11, 2000

Page 3

being formed. As a result it may be premature to approve the Policy, considering that its adoption will irrevocably commit the City to development.

Also troubling is the fact that the DEIR recognizes that many of the infrastructure improvements that will need to be made to support the development require further approvals from other agencies. For example, the Gateway Improvements are critical to the traffic mitigation measures, yet Caltrans must approve those improvements because they affect the state highway system. However, the DEIR provides no alternatives in the event Caltrans does not approve of the improvements. Has the City considered such alternatives?

Similarly, most of the infrastructure will be funded by an improvement district and a community facilities district that are yet to be established. The DEIR does not explore whether the assessment districts will raise revenue to complete the infrastructure improvements. Are revenue projections available?

D. Housing impacts. There is no discussion of the project-related housing impacts, despite the fact that the SEIR acknowledges that 23,000 new jobs will be created through the buildout of the redevelopment project area. The DEIR does not even assert whether all of those 23,000 jobs will be attributable to the development that is yet to occur as opposed to those already created in the redevelopment project area. Without that information, it is impossible to analyze the housing-related impacts of the "project" being analyzed by the DEIR, which are likely to be substantial both in the general housing market and with respect to the supply of affordable housing units.

E. Cumulative impacts. This section is deficient in failing to consider the cumulative housing impacts and the impacts of future foreseeable development. The section begins (see pages 126-7) by recognizing that various projects (including the Coyote Valley Research Park and the North Coyote Valley buildout) will contribute to potentially significant cumulative effects. Then it summarizes the potentially significant cumulative impacts in the areas of Transportation, Air Quality, Loss of Farmland and Open Space, Vegetation and Wildlife, Regional Housing Demand and Flooding. Regarding housing, this section provides only the following passage:

Buildout of Edenvale will provide approximately 23,000 jobs which will result in increased demand for housing. Although housing units outnumber jobs in the City of San Jose, on a regional level there is a shortage of housing units. The provision of 23,000 jobs would result in a significant demand for additional

Ms. Julie Caporgno
May 11, 2000
Page 4

housing within the City of San Jose and surrounding communities (Morgan Hill, Gilroy, Monterey, San Benito County).

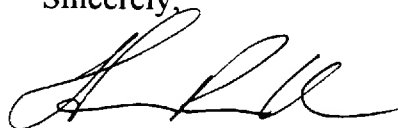
The cumulative impacts section does not discuss housing further, and does not address the effect that the project may have in creating pressure to build sooner than anticipated in the urban reserve areas. It does not provide for housing mitigation or explain why such mitigation is not necessary or feasible (although it does do so for the other listed categories of potentially significant cumulative impacts).

In addition, this section contains insufficient consideration of foreseeable future projects required by CEQA Guideline 15130. The SEIR mentions several potential projects with a fair amount of specificity, but does not attempt to analyze them: (i) IBM property development and possible extension of Great Oaks Boulevard (p. 54); (ii) enumerated roadway improvements on pages 55-56; (iii) future development of the part of Area 1 (north of Branham Lane East) which could result in impacts to riparian habitat; (iv) future development in Areas 1 and 3 (page 102); and (v) the possible presence or absence of special status plants within Area 1 (page 103). These sections should be expanded with all available information about potential development.

E. Growth inducing impacts. The SEIR contains a cursory and conclusory section on growth inducing impacts (see page 133). Among other things, it asserts that approved development in Edenvale does not "create a new precedent for growth or expansion outside the urban area," and that development will contribute toward a "reverse commute" which will take advantage of underutilized transportation capacity. Those statements should be explained. Nor does it address housing issues or the effect that the project may have in creating pressure to build sooner than anticipated in the urban reserve areas.

We appreciate the opportunity to provide comments on the DEIR and look forward to reviewing the City's responses and the final EIR.

Sincerely,



Theodore A. Russell

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP



Sent via facsimile and US Mail

May 15, 2000

Julie Caporgno
Senior Planner
San Jose Planning Department
801 N 1st Street, Room 400
San Jose, CA 95110-1704

Re: Draft Environmental Impact Report for the Edenvale
Redevelopment Project

Dear Ms. Caporgno:

As a party in acquisition discussions with IBM concerning IBM's 79 acres of vacant land at its Cottle Road campus, and a potential future employer in the Old Edenvale area, Equinix appreciates the opportunity to review the Draft Environmental Impact Report for the Edenvale Redevelopment Project (Draft EIR). We offer the following comments on the Draft EIR for the City of San Jose's consideration.

Founded in 1998, Equinix builds and operates Internet Business Exchange (IBX) facilities that are the catalyst for the possibilities of infinite Internet business growth and development. Equinix is currently undergoing a major expansion and is in need of facilities to house its rapidly growing job force and to meet its equipment demands. Thus, we are pursuing the expansion of our facilities into South San Jose, and anticipate providing hundreds of jobs in Old Edenvale creating potential future opportunities for economic development, sustained employment growth and technological innovation. We hope that the City of San Jose shares in a similar vision for Old Edenvale.

We realize that such a vision sometimes comes with a price. Thus, we have reviewed the Draft EIR in order to understand the nature and extent of the costs of development in Old Edenvale. Our comments are intended to seek clarification of the environmental impact analysis and the corresponding development costs identified in the EIR.

Description of the Proposed Project. The Draft EIR has evaluated development of the vacant parcels in Old Edenvale with up to 3.08 million square feet of industrial uses. As the City of San Jose Redevelopment Agency and Planning Department are aware, we are currently negotiating with IBM for the purchase of approximately 79 developable acres of IBM vacant land at the Cottle Road campus. It is anticipated that this vacant land may be developed with approximately 1.4 million square feet of



Ms. Julie Caporgno
May 15, 2000
Page 2

industrial park uses, and has been included in the entire 3.08 million square feet planned for Old Edenvale. It is our understanding that development of the 1.4 million square feet may be phased such that the initial phase of development may exceed the allowable floor area ratio (FAR), but the overall FAR for the entire 79 acres of developable area could be averaged to comply with the allowable FAR.

Community Facilities District. The Draft EIR evaluates the formation of a Community Facilities District (CFD) for Old Edenvale. Equinix supports the formation of the CFD as an appropriate mechanism for funding the Old Edenvale traffic improvements. It is our understanding that the CFD traffic improvements do not need to be constructed prior to commencement of development in Old Edenvale provided that financial mechanisms are in place to assure their ultimate construction. This is critical to our ability to develop the site in accordance with our immediate facility needs. Please confirm whether the Great Oaks Boulevard extension is assumed as part of the future roadway network included in the CFD.

Great Oaks Boulevard Extension. We understand that the Great Oaks Boulevard Extension is assumed to be constructed and in place as part of the future roadway network for Old Edenvale. It also is our understanding that the Great Oaks Boulevard extension or some other access road may be needed to provide access to the IBM campus, and is not required as an off-site traffic mitigation measure.

Please clarify the intent of the Area Development Policy analysis for Old Edenvale (Area 2). We reviewed the analysis on page 54 of Volume I of the Draft EIR and the analysis in the Appendix B traffic report in Volume II of the Draft EIR and noted the following inconsistency. Page 54 of Volume I states that development of the vacant IBM property prior to completion of the gateway improvements requires a westerly extension of Great Oaks Boulevard. Page 49 of Appendix B in Volume II indicates that if development of the IBM orchard property occurs prior to the gateway improvements, no access to Cottle Road should be allowed.

In order to reconcile the inconsistency, we believe the analysis on page 54 of Volume I of the Draft EIR should be revised as follows:

"The Policy would apply to Areas 1, 3 and 4 only. The amount of development anticipated in Area 2 generally does not require the gateway improvements. The exception would be development of the vacant 35 - acre orchard land currently owned by IBM. Should buildout of the vacant 35-acre IBM orchard property propose to develop by IBM, or a purchaser, occur prior to completion of the gateway improvements, access to Cottle Road would not be permitted. ~~a westerly extension of Great Oaks Boulevard would be necessary.~~ Possible alternative access

Ms. Julie Caporgno
May 15, 2000
Page 3

may be provided by extending Great Oaks Boulevard as an access road from Highway 85 to the orchard property or by providing another access road into the site. ~~Development of that vacant property prior to completion of the gateways, without an extension of Great Oaks Boulevard, is not addressed in this EIR.~~

Planning and environmental analysis related to Old Edenvale presents different, but less complex, issues than New Edenvale. Old Edenvale provides opportunities for infill development that can be served by existing available infrastructure capacity. Although the impacts of buildout of all of Edenvale have been addressed in the Draft EIR, we believe the City should be able to proceed with the approval process and development of Old Edenvale and the CFD separate from the approval process for New Edenvale.

We appreciate the opportunity to comment on the Draft EIR and to participate in the future of Old Edenvale. We look forward to a strong partnership with the City of San Jose and Redevelopment Agency throughout the Edenvale development process.

Very truly yours,



William E. Minkle
Director of Real Estate - Equinix, Inc.
(415) 768-2317

cc: Charlotte Powers, Councilmember District 2
John Weiss, Redevelopment Agency
Ru Weerakoon, Redevelopment Agency
Tim Steele, Office of Economic Development

bcc: William Murray, Esq.
Todd Regonini, Sares-Regis
David A. Gold, Esq.

