

Fw: Monterey Corridor and GP Designation for Coyote Valley; Council Hearing Nov. 16, 2021 - No. 7

Gregory, Barbara <Barbara.Gregory@sanjoseca.gov>

Wed 11/10/2021 11:24 AM

To: Agendadesk <Agendadesk@sanjoseca.gov>

Thank You,

Barb Gregory



Analyst II

Office of the City Clerk

200 E Santa Clara St FL T-14

San Jose, C-A 95112

408-535-1272 Fax: 408-292-6207

e-mail: barbara.gregory@sanjoseca.gov

How is our service? Please take our short survey.

From: Norm Matteoni [REDACTED]

Sent: Wednesday, November 10, 2021 11:17 AM

To: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>

Cc: City Clerk <city.clerk@sanjoseca.gov>; Gerry De Young <gdeyoung@hnhca.com>; Ken Saso

[REDACTED]; Chris Marchese [REDACTED]; LEO CACITTI

[REDACTED] Sean H Hu [REDACTED]; Vic LoBue <[REDACTED]> Joe Filice <[REDACTED]> Loren Gundersen [REDACTED]

Subject: RE: Monterey Corridor and GP Designation for Coyote Valley; Council Hearing Nov. 16, 2021 - No. 7

[External Email]

Dear Mr. Mayor and Members of the Council:

In the Planning Department's package of recommendations for Coyote Valley, there is a proposed PD Zoning ordinance to allow Private Recreation uses along the eastside of the Monterey Corridor.

Adoption of the ordinance was what I understood to be the initial direction from Staff at the Commission hearing. (The Planning Commission took no action on the ordinance.)

The attached letter outlines why it cannot be adopted at the Nov. 16 City Council hearing on Coyote Valley.

Now, I hear that this is only intended as a *placeholder* – a preliminary draft of a concept to address the distinct character of properties along the Corridor. That is the right course and it needs to be part of a specific study.

Dear City Clerk:

Please make the attached letter part of the record for the hearing on Nov. 16.

Norm Matteoni



NORMAN E. MATTEONI

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From: Norm Matteoni

Sent: Tuesday, November 9, 2021 11:48 AM

To: 'mayoremail@sanjoseca.gov' <mayoremail@sanjoseca.gov>; 'district1@sanjoseca.gov' <district1@sanjoseca.gov>; 'District2@sanjoseca.gov' <District2@sanjoseca.gov>; 'district3@sanjoseca.gov' <district3@sanjoseca.gov>; 'district4@sanjoseca.gov' <district4@sanjoseca.gov>; 'district5@sanjoseca.gov' <district5@sanjoseca.gov>; 'district6@sanjoseca.gov' <district6@sanjoseca.gov>; 'district7@sanjoseca.gov' <district7@sanjoseca.gov>; 'district8@sanjoseca.gov' <district8@sanjoseca.gov>; 'district9@sanjoseca.gov' <district9@sanjoseca.gov>; 'district10@sanjoseca.gov' <district10@sanjoseca.gov>

Cc: 'city.clerk@Sanjoseca.gov' <city.clerk@Sanjoseca.gov>; 'Gerry De Young' <[REDACTED]>; 'Ken Saso' <kasaso@yahoo.com>; 'Chris Marchese' <[REDACTED]>; 'LEO CACITTI' <[REDACTED]>; 'Sean H Hu' <[REDACTED]>; 'Vic LoBue' <[REDACTED]>; 'Joe Filice' <[REDACTED]>; 'Loren Gundersen' <[REDACTED]>

Subject: RE: Monterey Corridor and GP Designation for Coyote Valley; Council Hearing Nov. 16, 2021 - No. 7

Dear Mr. Mayor and Members of the Council:

Please accept this letter regarding the proposed PD Zone for Private Recreation in Coyote Valley. I view this as an early example of treating the properties along the east side of Monterey Road in an equitable manner to recognize their distinct character. But I do not view it as the ultimate answer.

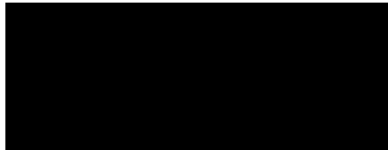
Dear City Clerk:

Please include this in the record for the hearing on November 16.

Norm Matteoni



NORMAN E. MATTEONI



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November 10, 2021

Norman E. Matteoni
Peggy M. O'Laughlin
Bradley M. Matteoni
Barton G. Hechtman
Gerry Houlihan

Hon. Mayor Sam Liccardo and Members of the San Jose City Council
San Jose City Hall
200 Santa Clara Street, 18th Floor
San Jose, CA 95113

Re: The Lands along the East Side of Monterey Road are of Distinct
Character from the Overall Coyote Valley – No. 8
November 16, 2021 Council Agenda

Dear Mr. Mayor and Members of the Council:

When the proposed PD Zoning Ordinance for Private Recreation was presented to the Commission, it appeared to be offered for recommendation for enactment by the City Council.

The Council cannot adopt this proposed ordinance at the hearing on November 16, 2021.

The document can only be considered a draft concept by staff as to the manner in which the east side of Monterey Corridor owner's properties can become part of a special area with appropriate uses and zoning controls for their properties.

Procedurally a Planned Development district can only be initiated by the City Council or a petition by all of the owners of the territory covered by the petition. SJ Zoning Code §20.120.500. Neither has occurred. The first the property owners saw of the proposed PD Zoning Ordinance was the week before the Planning Commission hearing of October 27, 2021.

I have in prior correspondence explained the proposal's deficiencies. Moreover, there are other requirements to define the planned development district which are identified in the zoning code and required of all privately initiated PD Rezoning. This potential PD Rezoning cannot be treated differently.

Hon. Mayor Sam Liccardo
and Members of the San Jose City Council

November 10, 2021
Page 2

Once such a district is established, any proposed development proceeds forward by a PD Permit application. That is determined at a Director's Hearing and may be appealed only to the Commission. The Council does not review PD permits. Therefore, the terms and conditions of such an ordinance must be clearly defined, or the interpretation of the loosely defined Developments Standards will be left with the Planning staff.

Any eventual Adoption of a PD Zoning requires public noticing in accordance with Council Policy #6-30 and hearing by the Planning Commission with its recommendation forwarded to the Council to be adopted at an additional public hearing, if it is ultimately the will of the Council.

Very truly yours,

A large black rectangular redaction box covers the signature area.

Norman E. Matteoni

NEM/jlc

Cc: City Clerk, City Attorney, Gerry De Young, Ken Saso, Chris Marchese, Leo Cacitti,
Sean Hu, Vic LoBue, Joe Filice, Loren Gunderson

Fw: SPUR Supports Staff Recommendations for Coyote Valley (Item 10.3 - Nov. 16th Council Meeting)

Gregory, Barbara <Barbara.Gregory@sanjoseca.gov>

Wed 11/10/2021 11:27 AM

To: Agendadesk <Agendadesk@sanjoseca.gov>

Thank You,

Barb Gregory  
Analyst II
Office of the City Clerk
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e-mail: barbara.gregory@sanjoseca.gov

How is our service? Please take our short survey.

From: Eli Zigas [REDACTED]
Sent: Wednesday, November 10, 2021 10:28 AM
To: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>
Cc: Gomez, David <David.Gomez@sanjoseca.gov>; Chapman, Helen <helen.chapman@sanjoseca.gov>; Tran, David <david.tran@sanjoseca.gov>; Brown, Stacey <Stacey.Brown@sanjoseca.gov>; Arreola, Kiara <Kiara.Arreola@sanjoseca.gov>; Groen, Mary Anne <maryanne.groen@sanjoseca.gov>; Kaspar, Nick <Nick.Kaspar@sanjoseca.gov>; McGarrity, Patrick <Patrick.McGarrity@sanjoseca.gov>; Hughes, Scott <scott.hughes@sanjoseca.gov>; Quevedo, Matthew <Matthew.Quevedo@sanjoseca.gov>; Mossing, Mackenzie <Mackenzie.Mossing@sanjoseca.gov>; Green, Scott <scott.green@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>; Fred Buzd [REDACTED]
Subject: Re: SPUR Supports Staff Recommendations for Coyote Valley (Item 10.3 - Nov. 16th Council Meeting)

[REDACTED]

[External Email]

Dear Mayor Liccardo and City Council Members:

Attached is the full letter I intended to send yesterday (yesterday's attachment only included the first page). My apologies for not catching that before sending the first time.

Sincerely,
Eli

Eli Zigas wrote on 11/9/21 8:37 PM:

Dear Mayor Liccardo and City Council Members:

On behalf of SPUR, we urge you to support the Planning Department's recommendations regarding Coyote Valley as outlined in their November 5th memo to the Council. These staff recommendations echo those of the Envision San José 2040 General Plan Four Year Review Task Force, which were finalized by the Task Force at their meeting on October 29, 2020.

You have an opportunity to help San José move from an outdated vision of sprawl development that would create an uninterrupted expanse of pavement, traffic, and buildings between San Jose and Morgan Hill to a vision that preserves the city's southern greenbelt and recommits to concentrating growth in the parts of the San José that are already urbanized. We urge you to reorient the City's vision so that it embraces building up, rather than out.

More details regarding our position are in the attached letter. Please let us know if we can answer any questions or get you any additional information regarding our thoughts on the future of land use in Coyote Valley.

Sincerely,

Fred Buzo and Eli Zigas

--

Eli Zigas (he • his)
Food and Agriculture Policy Director



--

Eli Zigas (he • his)
Food and Agriculture Policy Director





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November 9, 2021

Mayor Sam Liccardo and City Councilmembers
City of San José
200 E. Santa Clara St.
San José, CA 95113

Dear Mayor Liccardo and City Council Members:

On behalf of SPUR, we urge you to support the Planning Department's recommendations regarding Coyote Valley as outlined in their November 5th memo to the Council.¹ These staff recommendations echo those of the Envision San José 2040 General Plan Four Year Review Task Force, which were finalized by the Task Force at their meeting on October 29, 2020.²

You have an opportunity to help San José move from an outdated vision of sprawl development that would create an uninterrupted expanse of pavement, traffic, and buildings between San Jose and Morgan Hill to a vision that preserves the city's southern greenbelt and recommits to concentrating growth in the parts of the San José that are already urbanized. We urge you to reorient the City's vision so that it embraces building up, rather than out.

Many different strands of SPUR's research support the Task Force's recommendation that the General Plan should lead to a future for Coyote Valley as one of agriculture and open space rather than as a jobs center. In *Rethinking the Corporate Campus* (2017) and *The Urban Future of Work* (2012) we highlight the importance of locating jobs in accessible places that reduce drive-alone commuting, make more efficient use of land and reduce greenhouse gas emissions. In our report *Locally Nourished* (2013) we highlighted the value that agriculture brings in diversifying the region's economic base and its value as a land-use that reinforces growth toward infill, rather than sprawl. For San José, the sum of these recommendations translates into concentrating job growth in already existing urbanized areas, not planning for greenfield development at the southern border of the city.

City planning staff summed up this new vision for Coyote Valley well in their recommendations to the task force:

Coyote Valley is a unique asset to San Jose and should be preserved as a resource for the community that furthers the City's goals of environmental sustainability, enhancing open

¹ Christopher Burton, *Memorandum to City Council*, November 5, 2021:

<https://sanjose.legistar.com/View.ashx?M=F&ID=9944017&GUID=F4739B33-6F7E-4D21-9FF1-C630A5852521>

² Envision San José 2040 4-Year Review, "Task Force Meeting No. 9 Synopsis," October 29, 2020. See Motion #1, pages 9-11: <https://www.sanjoseca.gov/home/showpublisheddocument/66911/637408548044970000>

*space, supporting agriculture in the non-urban areas of the City, and protecting critical linkages for wildlife movement.*³

Unfortunately, on October 27, the Planning Commission voted 5-4 against the Task Force and Staff recommendations and encouraged the City Council to do likewise. Based on their questions and comments during the meeting, the majority of the Planning Commission seemed to either desire more information before endorsing the staff recommendations or felt that maintaining land values for existing property owners superseded the city's interest in achieving important environmental goals by protecting agricultural land, open space, and further encouraging the development of jobs and homes in the City's core rather than its periphery.

These arguments, as the four Commissioners who voted in support of the original recommendations noted, are not compelling. The City Council must stand by the work of the Task Force and Planning staff and support the original recommendations made after months of work and deliberation.

Furthermore, we commend both the staff and the Task Force members for going beyond just articulating a new vision and providing ten clear, actionable recommendations for the North, Mid, and Southern Coyote Valley areas.⁴ The coordination with the County's upcoming zoning updates is an especially welcome example of how to take strong action to protect a greenbelt that crosses two jurisdictions.

We urge you to embrace all of the staff and Task Force recommendations. They will go a long way in changing both the regulatory framework and the assumptions of the real estate market so that San José can truly refocus its plans for growth inward, rather than outward.

Sincerely,



Fred Buzo
San José Director

Eli Zigas
Food and Agriculture
Policy Director

³ *Memorandum to Envision San José 2040 Task Force*, October 22, regarding "October 29, 2020 Task Force Meeting," pg. 4: <https://www.sanjoseca.gov/home/showdocument?id=65782>

⁴ *Ibid*, pages 17-18

Fw: Santa Clara LAFCO Comment Letter on Agenda Item 10.3 (November 16, 2021 San Jose City Council Meeting)

Gregory, Barbara <Barbara.Gregory@sanjoseca.gov>

Wed 11/10/2021 11:38 AM

To: Agendadesk <Agendadesk@sanjoseca.gov>

Thank You,

Barb Gregory



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e-mail: barbara.gregory@sanjoseca.gov

How is our service? Please take our short survey.

From: Noel, Dunia [REDACTED]
Sent: Tuesday, November 9, 2021 6:49 PM
To: City Clerk <city.clerk@sanjoseca.gov>
Subject: Santa Clara LAFCO Comment Letter on Agenda Item 10.3 (November 16, 2021 San Jose City Council Meeting)



[External Email]

Hello Office of the City Clerk (City of San Jose):
Please provide the attached Santa Clara LAFCO comment letter to the Honorable Mayor Liccardo and City Council for their consideration re: Agenda Item 10.3 (Coyote Valley - San Jose General Plan Amendments) on the November 16, 2021 City Council Meeting Agenda. Thank you.
-Dunia Noel

Dunia Noel, AICP
Assistant Executive Officer
Local Agency Formation Commission of Santa Clara County (LAFCO)

[REDACTED]
777 North First Street, Suite 410
San Jose, CA 95112
Twitter: [@SantaClaraLAFCO](https://twitter.com/SantaClaraLAFCO)

www.SantaClaraLAFCO.org

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**Local Agency
Formation Commission
of Santa Clara County**

777 North First Street
Suite 410
San Jose, CA 95112

SantaClaraLAFCO.org

Commissioners

Rich Constantine
Susan Ellenberg
Sergio Jimenez
Yoriko Kishimoto
Gary Kremen
Mike Wasserman
Susan Vicklund Wilson

Alternate Commissioners

Helen Chapman
Cindy Chavez
Matt Mahan
Russ Melton
Terry Trumbull

Executive Officer
Neelima Palacherla

November 9, 2021

VIA E-MAIL [city.clerk@sanjoseca.gov]

Hon. Mayor Liccardo and City Council
c/o Office of the City Clerk
City of San Jose
200 E. Santa Clara St.
San Jose, CA 95113

**RE: November 16, 2021 San Jose City Council Meeting – Agenda Item 10.3:
FILE NO. GPT21-002, GP21-012, C21-031, PDC21-033 & PP21-012
(Changes to the General Plan Land Use Transportation Diagram, Zoning
Map and Municipal Code for properties within North, Mid- and South
Coyote Valley associated with the Envision San José 2040 General Plan
Four-Year Review.)**

Dear Honorable Mayor Liccardo and City Council,

Thank you for providing the Local Agency Formation Commission (LAFCO) of Santa Clara with an opportunity to review and provide comments on City staff recommendations on the long-term future of Coyote Valley. It is our understanding that you will consider these recommendations at your November 16, 2021 City Council Meeting.

Santa Clara LAFCO is a state mandated independent local agency established to regulate the boundaries of cities and special districts in Santa Clara County. Our mission is to promote sustainable growth and good governance in the county by preserving agricultural lands and open space, curbing urban sprawl, and encouraging efficient delivery of services.

Coyote Valley is a unique and special place in Santa Clara County. In 2019, LAFCO staff from counties across the state visited Coyote Valley as part of a LAFCO mobile workshop on how preservation of open space and agricultural lands and revitalization of the downtown go hand in hand in building climate and economic resilience. The group learned how preservation of Coyote Valley can optimize agricultural operations on the urban edge, improve wildlife resilience, and positively impact water resources.

Santa Clara LAFCO is in support of staff recommendations on the long-term future of Coyote Valley – North, Mid and South Coyote Valley. We agree with staff’s recommendation to not support urban development in the Mid-Coyote Valley Urban Reserve even beyond 2040. We also agree that at some point in the future, it would

be appropriate for the City to request an urban service area amendment to exclude lands not planned for urban development and services. We urge you to approve staff recommendations, which will help prevent sprawl, promote efficient service provision, ensure more efficient use of existing services in urbanized areas, protect open space and agricultural lands, and help minimize climate change risks consistent with the goals of the regional Sustainable Communities Strategies – Plan Bay Area 2040.

Thank you again for providing us with the opportunity to comment on this important matter. If you have any questions regarding these comments, please contact Dunia Noel, Assistant Executive Officer, at dunia.noel@ceo.sccgov.org.

Sincerely,



Neelima Palacherla
LAFCO Executive Officer

Cc: LAFCO Members

Fw: SCVOSA comment letter re Nov 16 2021 Agenda Item 10.3 Coyote Valley Proposed General Plan Amendments

Gregory, Barbara <Barbara.Gregory@sanjoseca.gov>

Wed 11/10/2021 5:00 PM

To: Agendadesk <Agendadesk@sanjoseca.gov>

Thank You,

Barb Gregory



Analyst II
Office of the City Clerk
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San Jose, C-A 95112
408-535-1272 Fax: 408-292-6207
e-mail: barbara.gregory@sanjoseca.gov

How is our service? Please take our short survey.

From: Marc Landgraf [REDACTED]

Sent: Wednesday, November 10, 2021 3:47 PM

To: City Clerk <city.clerk@sanjoseca.gov>

Cc: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; Andrea Mackenzie <amackenzie@openspaceauthority.org>

Subject: SCVOSA comment letter re Nov 16 2021 Agenda Item 10.3 Coyote Valley Proposed General Plan Amendments



[External Email]

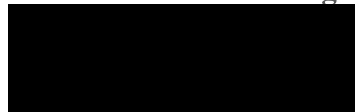
Dear Clerk Taber,

Please find attached, comments from the Santa Clara Valley Open Space Authority regarding Item 10.3 on the Tuesday, November 16, 2021 City Council agenda regarding Coyote Valley Proposed General Plan Amendments.

Thank you very much,

Marc

Marc Landgraf (he/him/his)
External Affairs Manager



Tune in to [Discovering Coyote Valley](#) to connect with the past, present, and future of a Coyote Valley for ALL - and learn how to make your voice heard!



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Andrea Mackenzie, General Manager
Alex Kennett, District 1
Mike Flaughar, District 2
Helen Chapman, District 3
Dorsey Moore, District 4
Shay Franco-Clausen, District 5
Mike Potter, District 6
Kalvin Gill, District 7

November 10, 2021

San José Mayor & City Council
City of San José
200 E. Santa Clara Street
San José, CA 95113

Re: SUPPORT General Plan Amendments in Coyote Valley as Recommended by Staff and the General Plan Task Force

Dear Honorable Mayor and City Council:

On behalf of the Santa Clara Valley Open Space Authority, I write to **express strong support for the recommendations for Coyote Valley made by Staff and the General Plan Task Force.**

The Open Space Authority is a public, independent special district created by the California State Legislature in 1993 to conserve the natural environment, support agriculture, and connect people to nature by protecting open spaces, natural areas, and working farms and ranches for future generations.

The Authority applauds the Council's ongoing leadership and the hard work of City staff over the past two-plus years that have made this General Plan Four-Year Review such a robust, well-informed, and publicly engaging process.

The Authority urges the Council to take the following actions:

1. **Implement the recommendations for Coyote Valley passed by the General Plan Task Force.** During Meeting #9 on October 29, 2020, the Task Force recommended to change the land use designation of properties in North Coyote Valley to Agriculture, to continue to explore a credits program to further support conservation actions in Coyote Valley, and to facilitate development in already-urbanized areas of San José.
2. Remove the Mid-Coyote Valley Urban Reserve designation.
3. Move the Urban Service Area boundary north consistent with the proposed General Plan land use changes in North Coyote Valley.
4. Change the land use designation and zoning consistently throughout Coyote Valley for compatibility with the conservation vision and public investment, without making individual allowances for parcels, except where other uses already exist, such as on the Gavilan College campus.
5. Create and apply a Coyote Valley Agriculture Overlay in North, Mid- and South Coyote Valley that is compatible with an Agriculture land use designation, as this will encourage investment in agriculture, further enhancing the long-term sustainability of agriculture throughout Coyote Valley.
6. Continue to engage in the Coyote Valley Conservation Areas Master Plan (CVCAMP) to implement the Coyote Valley Vision, Measure T and inform potential economic development opportunities, in North and Mid-Coyote Valley.
7. Consider establishment of a Farmland Security Zone to provide tax benefits for landowners who stay in agriculture.

Coyote Valley's Community-Serving Benefits and Natural Infrastructure

Coyote Valley offers unparalleled opportunities to preserve a natural infrastructure landscape, in close proximity to urban San José, that delivers a host of climate and health benefits to City residents:

- Flood protection provided by natural floodplains and surrounding areas that reduce the likelihood, severity, and extent of downstream flooding, helping to buffer communities from increasingly intense storm events.
- Preserving the floodplain and connected riparian areas and wetlands allows aquifers to recharge to help alleviate drought and improves water quality.
- Protection and enhancement of wildlife connectivity and irreplaceable connected habitat for plants and wildlife, linking the Santa Cruz Mountains and Diablo Range, and allowing for adaptation to climate change.
- Open space and trails, connected to transit to provide equitable access to nature-based outdoor education, and opportunities for exercise that promote health and wellness.
- Local farms and ranches, including opportunities for agri-tourism destinations like Spina Farms, bolster local food security, protect Santa Clara Valley's cultural heritage, and benefit the environment and quality of life throughout the region.
- Prevention of greenhouse gas-inducing sprawl and Vehicle Miles Traveled (VMT) by redirecting growth to downtown San José
- Opportunities for significant carbon sequestration over time through large-scale restoration and carbon farming.

Agriculture in Coyote Valley is Alive and Well

Underinvestment in agriculture and agricultural infrastructure in North Coyote Valley has contributed to perceptions that agriculture is no longer feasible there, but this is not the case. There is demonstrable demand for long-term access to land throughout Coyote Valley, from farmers operating there successfully already, as well as from farmers in other regions.

Soils in Coyote Valley are excellent for farming, water availability is more reliable than in many locations in the State that are farmed, there is close proximity to markets in Silicon Valley for sale of fresh produce, and a local workforce is available as well. In fact, there are many examples of farms operating sustainably in Coyote Valley, selling to local supermarkets and restaurants, and often producing specialty crops that are in demand with the rich cultural diversity of Silicon Valley.

Farming throughout the State of California is changing as the agricultural industry adjusts to impacts from climate change and other factors. With technical assistance and funding support from State and local governments, farmers are transitioning to a sustainable agriculture paradigm that builds soil health, sequesters carbon, conserves water, and is more resilient to climate change. Agriculture in Coyote Valley is undergoing such a transition as well, and while there will always be challenges for farmers, the potential is great for small-scale farms that distribute locally and help build a more resilient future for their own operations as well as for nearby communities that benefit from increased food security and from the natural infrastructure that farms provide.

According to the County Agriculture Commissioner's most recent Economic Report, production value per acre over the past 30 years has increased steadily, despite the reduction in number of acres farmed. The report continues "The increasing value per irrigated acre is driven by a shift toward higher value crops, increases in productivity, new technologies, and more efficient farming practices. The value per irrigated acre has never been higher. The proximity to Silicon Valley tech firms provides opportunities for new innovation in precision agriculture technologies."

Clearly, there is so much potential for agriculture in Coyote Valley given its favorable weather, unique soils and water resources, and access to markets, that potential should not be extinguished, but embraced, with the opportunity preserved for our residents' food security, economic opportunity, and cultural richness. With substantial support from the California Department of Conservation and other partners, the Open Space Authority has invested and will continue to invest in agricultural conservation projects in the Coyote Valley to help realize its full economic and environmental potential.

The Global, State, and Regional Context for Climate Action

According to the Intergovernmental Panel on Climate Change (IPCC) Special Report on Climate Change and Land (Aug, 2019) land is a critical resource in the fight against climate change. "Sustainable land management can contribute to reducing the negative impacts of multiple stressors, including climate change, on ecosystems and societies."

State support for protection in Coyote Valley of agriculture, floodplains, and other resources as climate resilient infrastructure has never been stronger. \$15 billion was allocated in the current state budget for climate resilience. AB 948 became law in 2019 and established Coyote Valley as a landscape of statewide significance. Multiple state grants for agricultural and natural land protection have already been received for Coyote Valley projects, totaling tens of millions of dollars. Further, the state's multiple climate frameworks, including the Natural and Working Lands Climate Smart Strategy, 30x30, and the 2022 Air Resources Board Scoping Plan to reduce greenhouse gases, all provide very relevant context – and likelihood of additional state funding - for the urgency of addressing climate change through local action to protect the climate resilience infrastructure in Coyote Valley.

The County of Santa Clara is developing a Climate Change Overlay Zone for Mid- and South Coyote Valley that restricts development to that which supports agricultural operations. The Overlay would be an important step in implementation of the Santa Clara Valley Agricultural Plan, adopted by the County in 2018, which has been the source of many other innovative programs that advance the productivity and sustainability of agriculture in the region.

San José's Visionary Climate Leadership

Yet, even in the context of these significant climate actions by state and county leaders, the prescient leadership of the City of San José has been extraordinary in its vision and execution, as demonstrated by the following actions:

- In February 2018, the **San José City Council adopted a Vehicle Miles Traveled (VMT) metric for determining transportation impacts** of development projects, replacing the prior Level of Service (LOS) method, and being one of the first in the State to do so [confirm].
- In November 2018, **San José voters overwhelmingly passed Measure T**, a \$650M infrastructure bond, which included an unprecedented, forward-thinking \$50M for protection of *natural* infrastructure, such as in Coyote Valley. This led to a partnership with POST and the Open Space Authority to conserve almost 1,000 acres in North Coyote Valley to help protect communities from drought and flood, protect water quality, preserve a critical wildlife linkage, provide a future for peri-urban agriculture, and set the stage for equitable public access to the outdoors.
- Also in 2018, the City adopted its **Climate Smart San José** plan that charts a course for meeting ambitious climate goals through energy, water, transportation, local jobs, and now, natural and working lands.
- In 2019, San José adopted a **Climate Emergency Declaration** that spurred a number of reforms to combat climate change.
- Exploration of a precedent-setting **environmental credits program** that could attract corporate investment in nature-based solutions to address climate change.
- In August of this year, the City Council approved the **reallocation of all the remaining 35,000 jobs** from North Coyote Valley to downtown San José. This action alone will result in an estimated 10 million fewer miles driven each year, reducing emissions by 14,000 MTCO_{2e}. As well, locating jobs where people have access to housing, transit, and other services provides a much more equitable outcome than if jobs were located away from services.
- On November 8, 2021, San José set an aggressive target of achieving **net zero carbon emissions by 2030**.

- And now, San José is considering **amendments to its General Plan** that align with these bold climate steps, to preserve and restore the vital natural infrastructure we still have available to us, and direct growth to areas already urbanized.

On November 8th, the City Council approved a resolution at the Climate Smart Study Session to achieve net zero emissions by 2030. San José is showing exemplary leadership at a time when, during COP26 in Scotland the last two weeks, countries are struggling to get the world back on track. However, the City cannot get to its net zero goal without protection of its natural and working lands, given that urbanized lands produce 70x more greenhouse gases than rural lands.

The preservation, restoration, and enhancement of natural and working lands play a critical role in meeting climate change goals, both by reducing travel emissions associated with sprawl development patterns, and through the storage of carbon. By 2030, early analysis indicates that restoration of the Coyote Valley could sequester up to 14% of San José's 2019 annual CO2 emissions. This grows over time with appropriate management of soils to the point that by the year 2150, the Coyote Valley could sequester more than 5 times the City's total annual emissions.

Proposed Development in Coyote Valley

A large warehouse, comprising over 2 million square feet with more than 500 truck bays, has been proposed within a site identified in 2018 by City Ordinance as "immitigable" for Vehicle Miles Traveled (VMT). This site is located at the corner of Bailey Ave and Santa Teresa Blvd, and is home to the tremendously popular Spina Farms. Development proposals in North Coyote Valley of this magnitude, in an area surrounded by conservation lands, are simply antithetical to the City's expressed intentions. It is imperative that the City's actions reflect the commendable intentions expressed by leaders to seek pathways towards climate neutrality and climate resilience.

In addition to the impacts from the constant flow of trucks through this sensitive landscape, the warehouse itself would negatively impact wildlife movement and would force stormwater into detention basins or downstream rather than where it should be, recharging the aquifer. Overall, it would prevent the City from realizing its vision for a place-based, community serving, economically thriving landscape in which it has already invested so heavily.

The proposed development project is demonstrative of what could happen if a decision on staff-recommended General Plan amendments is delayed. **The time is now for City leaders to follow through on the bold climate actions they have already taken** to benefit all residents, especially those most vulnerable to the impacts of climate change.

Investing in Our Future

The \$46 million that the City of San José has invested to protect the natural infrastructure in Coyote Valley has been leveraged to bring in over twice that amount from state, local, non-profit and foundation sources for a total investment of \$150 million to date. San José, the Open Space Authority, and POST have now protected 1,437 acres of productive agricultural lands, natural floodplain, wetlands, and wildlife habitat in Coyote Valley (please see attached map for Coyote Valley lands protected). Allowing development in the North and Mid Coyote Valley at this point would undermine this significant public and private investment in our community's future.

The Coyote Valley Conservation Areas Master Planning (CVCAMP) is set to get underway early in 2022. This robust planning effort, a joint effort of the Open Space Authority, Peninsula Open Space Trust and City of San José, will seek significant community and stakeholder input throughout the years-long process, and will cover a breadth of topics, including wildlife connectivity, water resources, agriculture, and equitable public access. It will also explore the economic development context for the greater AB 948 Coyote Valley Conservation Program Area, including future land uses and economic development concepts along Monterey Road that are compatible with agricultural and natural infrastructure conservation priorities.

The master planning for the Coyote Valley Conservation Areas will take time to unfold. However, the existential emergency of climate change demands urgent action. We can't know when the next storms will come, how extreme they might be, nor what other climate-exacerbated events will threaten our communities. The myriad climate buffering benefits the lands in Coyote Valley provide – including as a buffer to drought, floods, and wildfire – must be secured through Council action without delay.

The Open Space Authority is eager to continue its productive partnership with the City to preserve a brighter climate future for our residents. We stand ready to work with additional landowners on a fair outcome for all and would welcome conversations about the benefits of conservation transactions.

Thank you for the opportunity to provide these comments. The Authority greatly values the ongoing partnership with the City of San José as, together, we implement a community-serving and climate resilient path forward for the future of Coyote Valley and residents of San José.

Sincerely,



Andrea Mackenzie
General Manager

Cc: Santa Clara Valley Open Space Authority Board of Directors



View of Coyote Valley looking southwest. Protected Coyote Valley properties are shown in green.

Fw: Proposed Changes to General Plan Designation, City Council Meeting Nov 16, 2021, Item 10.3

Gregory, Barbara <Barbara.Gregory@sanjoseca.gov>

Wed 11/10/2021 5:01 PM

To: Agendadesk <Agendadesk@sanjoseca.gov>

Thank You,

Barb Gregory



Analyst II
Office of the City Clerk
200 E Santa Clara St FL T-14
San Jose, C-A 95112
408-535-1272 Fax: 408-292-6207
e-mail: barbara.gregory@sanjoseca.gov

How is our service? Please take our short survey.

From: pete1792@ [REDACTED]
Sent: Wednesday, November 10, 2021 1:43 PM
To: City Clerk <city.clerk@sanjoseca.gov>
Subject: FW: Proposed Changes to General Plan Designation, City Council Meeting Nov 16, 2021, Item 10.3



[External Email]

Left you off this email by mistake, please see below and attached.

Peter Benson

From: pete1792@ [REDACTED]
Sent: Wednesday, November 10, 2021 1:31 PM
To: mayoremail@sanjoseca.gov; district1@sanjoseca.gov; district2@sanjoseca.gov; district3@sanjoseca.gov; district4@sanjoseca.gov; district5@sanjoseca.gov; district6@sanjoseca.gov; district7@sanjoseca.gov; district8@sanjoseca.gov; district9@sanjoseca.gov; district10@sanjoseca.gov
Cc: Robert.Rivera@sanjoseca.gov; Chris.Burton@sanjoseca.gov; michael.brilliot@sanjoseca.gov
Subject: Proposed Changes to General Plan Designation, City Council Meeting Nov 16, 2021, Item 10.3

Honorable Mayor Liccardo, Vice Mayor Jones, and Councilmembers:

Our family has owned property in North Coyote Valley for over 50 years. We actually lived on the property for the first 40 years of ownership.

Request that you review the attached letter as you consider staff's recommendation to downgrade our current land use designation to Ag

Thank you in advance for your consideration,

Peter Benson
For Benson Family Members

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Peter Benson
Benson family – Two Oaks Property

November 10, 2021

San Jose City Council
Via E-mail: To all Councilmembers

RE: **November 16, 2021 City Council Meeting**

Files Nos. GP21-012, GPT21-002, C21-031, PDC21-033, and PP21-012

Dear Honorable Mayor Liccardo and Honorable City Council Members,

We own property located in North Coyote Valley (APN 712-01-010). Together with the adjoining Lester and Foster lands, these parcels total approximately 126 acres and are located near the corner of Santa Teresa Blvd. and Bailey Ave. On behalf of my family members, we are writing you to ask that the Industrial Park designation of the general plan remain unchanged.

As we approach this City Council hearing, it is looking like an end result was identified (open space), and the Planning Department in concert with open space advocates aligned strategies and political pressures to achieve this end result at the expense of us the landowners. If the end goal is open space, as agricultural is not a viable option, then the city should compensate the landowners in an equitable and fair manner, or approve currently allowed development. Up to this point, there has been an appearance of unfairness and unjust treatment of NCV landowners and their property rights.

Following is a summary of key points and observations:

1. Our history and current status

Our family purchased the property over 50 years ago as annexation efforts were underway to address planned growth beyond existing City boundaries. During that effort, zoning appropriate for the planned growth was established. As we waited for market demand to bring development to the area, the property was leased to local farming operations. When packing and processing facilities in San Jose and Santa Clara moved their operations to the Central Valley, the viability of farming quickly evaporated. Today, when faced with the lack of local packing and processing facilities, a lack of local farming infrastructure, and labor issues, farming is not a practical or realistic option in North Coyote Valley. Studies by two legitimate experts on the subject have submitted lengthy reports with supporting documentation attesting to this.

We offered these reports as contrast to unsubstantiated statements and claims by various opponents to development and our property rights.

These properties are in contract with Crow Holding Industrial (CHI) for an industrial project, which is consistent with the current Industrial Park designation of the General Plan. These properties are unlike the rest of North Coyote Valley as they are not in flood plains, do not have active wildlife crossings like the ones documented to the north of us, and are ready for development with utilities and infrastructure in place and we have a willing and ready user for the property.

2. Task Force

Recently, we watched a task force produce a recommendation to change the designation of our property to agriculture. Contrary to typical efforts of this type, there was no outreach to us as property owners to ascertain farming viability and our concerns as land owners. Concurrent with the task force process and perhaps in concert with it, City Planning staff had prepared their recommendations, which were adopted by the task force. Once again there was no outreach by planning until we were able to attend a meeting sponsored by a neighboring ownership group in Mid Coyote Valley. At this meeting it was understood that planning had already arrived at their recommendation to redesignate our property to agriculture. We note that several task force members who did not support the recommended outcome had raised concerns regarding fairness, lack of outreach, and compromising of property rights.

3. Planning Commission

At the recent planning commission hearing, several landowners were able to present facts related to our properties and assert arguments as to why our properties in NCV should not be downgraded to agriculture. Like the dissenting members of the Task Force, the Planning Commission did not support the Task Force recommendation while citing concerns over fairness, lack of outreach, property rights, and viability of agriculture in NCV.

4. County of Santa Clara

We have listened to representatives from the County of Santa Clara who are supporting an agricultural overlay in Mid and South Coyote Valley. By extension it has been suggested that the same logic is somehow applicable to NCV. Our neighboring land owners to the south of us would agree that the basis and assumptions presented by the County are out of touch with current realities and have misrepresented the idea that boutique farming operations can flourish in a for profit unsubsidized agribusiness environment. We note that members of the Planning Commission also questioned the validity and applicability of the County presentation.

5. Land and Jobs

With regard to the proposed development of our properties, it is our understanding that there are no other similar parcels of this size in San Jose that can accommodate the proposed use and create jobs and improved commutes for both workers and transport of goods. Further, this development as proposed will increase and support blue collar jobs in contrast to the primarily white-collar jobs associated with tech and other current development.

We appreciate your consideration of the matters noted above.

Sincerely,



Peter Benson
For Benson Family

cc: Robert Rivera, Planning Project Manager
Michael Brilliot, Deputy Director of Planning
Chris Burton, Director of Planning, Building and Code Enforcement

Fw: Proposed Change to General Plan Designation of Property in North Coyote Valley Owned by Lee Lester/Bailey, LLC

Gregory, Barbara <Barbara.Gregory@sanjoseca.gov>

Wed 11/10/2021 5:03 PM

To: Agendadesk <Agendadesk@sanjoseca.gov>

Thank You,

Barb Gregory  
Analyst II
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San Jose, C-A 95112
408-535-1272 Fax: 408-292-6207
e-mail: barbara.gregory@sanjoseca.gov

How is our service? Please take our short survey.

From: Farb, Sam L. [REDACTED]

Sent: Wednesday, November 10, 2021 12:26 PM

To: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>

Cc: City Clerk <city.clerk@sanjoseca.gov>; Rivera, Robert <robert.rivera@sanjoseca.gov>; Brilliot, Michael <Michael.Brilliot@sanjoseca.gov>; Burton, Chris <Christopher.Burton@sanjoseca.gov>; [REDACTED]

Subject: Proposed Change to General Plan Designation of Property in North Coyote Valley Owned by Lee Lester/Bailey, LLC

[External Email]

Dear Honorable Mayor Liccardo, Vice-Mayor Jones and Councilmembers:

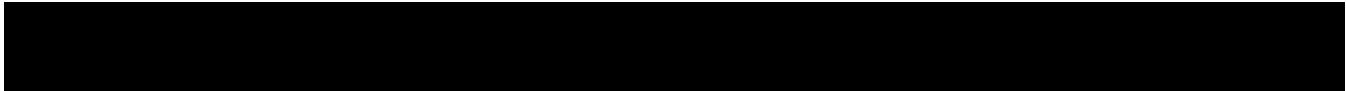
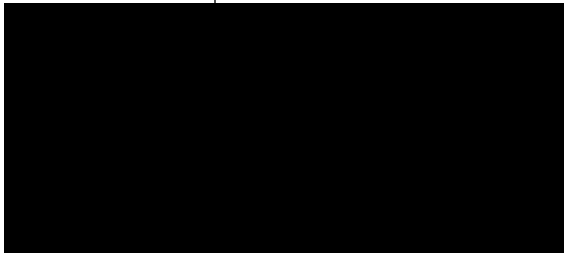
My firm, Berliner Cohen LLC, represents Linda L. Lester and her entity, Lee Lester/Bailey, LLC. Attached is a letter that we would like you to consider when you meet to discuss the City Planning Staff's recommendations to redesignate the General Plan classification for the real property owned by Lee

Lester/Bailey, LLC along Bailey Road from “Industrial Park” to “Agriculture”. You should have already received a copy of the report by Dr. Daniel Sumner which concluded that agriculture use of the subject property is not financially or economically viable. Please let me know if you did not receive the agricultural report prepared by Dr. Sumner, as I can e-mail a copy to you. If you do vote to change the General Plan designation of the real property owned by Lee Lester/Bailey, LLC in North Coyote Valley, then my client must be compensated for the fair market value of the property.

We appreciate your consideration of this matter.

Sam

Sam L. Farb | Partner



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November 10, 2021

VIA EMAIL

Hon. Mayor Liccardo, Vice-Mayor Jones and City Councilmembers
City of San Jose
200 E. Santa Clara Street
Tower, 3rd Floor
San Jose, CA 95113

Re: November 16, 2021 – General Plan 4-year Review Public Hearing
City File Nos. GP21-012, GPT21-002, C21-031, PDC21-033 and PP21-012
North Coyote Valley Properties

Dear Mayor Liccardo, Vice-Mayor Jones and City Councilmembers:

This letter is simply about FAIRNESS.

Unconstitutional Taking of Property

I, as the sole member of Lee Lester/Bailey LLC, own an undivided fifty percent (50%) interest in approximately 42.74 acres of land located near the corner of Bailey Avenue and Santa Teresa Boulevard in San Jose (APNs: 712-01-011 and 712-01-012) (the "Property"). This Property was acquired by my father and my uncle in 1969, has been in our family for over fifty years and it was always intended by my father and uncle (and by me following my father's death) that such Property would be developed at the appropriate time.

The City planning staff has recommended that the General Plan designation for the subject Property be changed from "Industrial Park" to "Agriculture", despite the fact that agriculture use of the subject Property is not economically viable (as more fully discussed below). Converting the designation of the Property from Industrial Park to Agriculture would constitute a regulatory taking of our Property. The Property would be left with no economically beneficial or productive use and would be inversely condemned. If the public wants to "preserve" the Property (and other properties in North Coyote Valley), then it needs to pay us (the land owners) the fair market value for them. To not compensate us for the fair market value of our properties is simply UNFAIR and unconstitutional. A majority of the Planning Commissioners understood this and that is in large part why they voted not to adopt the City planning staff and Task Force's recommendation to down grade our Property to "Agriculture".

Agriculture is Not an Economically Viable Use of the Property

I, along with my cousin, and the Foster and Benson families together own approximately 126 acres of land in North Coyote Valley (the "NCV Properties") and previously submitted to the City a copy of a report titled "The Economic Viability and Financial Feasibility of the Continued Agricultural Use of the North Coyote Valley Properties in the City of San Jose" by Dr. Daniel A. Sumner. Dr. Sumner is the Frank H. Buck, Jr. Distinguished Professor in the Department of Agricultural and Resource Economics at the University of California, Davis. In preparing this report, Dr. Sumner took the time to interview Gary Tognetti, the

operator of the current tenant of the NCV Properties, B&T Farms. He also interviewed John Spina, who had previously farmed the NCV Properties before abandoning the effort. Dr. Sumner also took into account that another prior farming tenant, Uesugi Farms, went out of business in 2018. As stated on p. 22 of the report, Dr. Sumner's conclusion is that **"agricultural production is not economically viable or financially feasible on the NCV Properties."** On October 20, 2021 my attorney, Sam Farb, and I participated in a ZOOM call with Mayor Sam Liccardo and certain members of his staff and during that call, my attorney asked Mayor Liccardo whether he had received or reviewed Dr. Sumner's report and the Mayor responded that he did not need to read such a report to know that agricultural use of the NCV Properties is not economically viable. If agricultural use of the NCV Properties is admittedly not economically viable, then why is the City planning staff pushing this use?

Dr. Sumner's report notes that Tenants that have undertaken agricultural production on the NCV Properties have not succeeded. Farming costs have risen substantially, including labor, utilities, fuel and irrigation. Agriculture requires nearby adjunctive services in order to be productive and sustainable (e.g., processing, packaging and distribution), but none of these services are available in reasonable proximity to the NCV Properties. The City planning staff apparently did not interview the current tenant of the NCV Properties or that last two prior tenants of the Property or it would have found out that farming of the Property is not economically viable. The City planning staff has looked for subjective information from interviews with farmers outside of North Coyote Valley to support its position but has produced no financial analysis to show that agricultural use of NCV Properties is economically viable. The City planning staff has given little or no consideration to the climate impact of farming. There has been no consideration of the impact to groundwater as it relates to pumping for irrigation. There has been no consideration of nitrate contamination of the aquifer resulting from nitrogen from fertilizers used in farming. There has been no consideration of the impact of having to truck produce to the Salinas Valley, which is where the packing sheds and agriculture infrastructure is located. There has not been any consideration by City planning staff of where the labor force will be located or its impact on commuting, as farming labor is not located near the NCV Properties. The owners of the NCV Properties have been subsidizing the farming tenants for many years with an eye toward being able to develop the NCV Properties at the appropriate time. Now is the appropriate time, as an industrial development project is on the City's drawing board.

Our Property and the Foster and Benson Properties Are Unique and Ready for Development

The Property, together with adjoining real property in North Coyote Valley owned by the Foster and Benson families, and which total approximately 126 acres in the aggregate, have been under contract for sale with Crow Holding Industrial ("CHI") for nearly two years and CHI has submitted preliminary plans to the City for development of an industrial project, which is consistent with the current Industrial Park designation of the General Plan. CHI is committed to creating an industrial development project that will provide thousands of jobs for San Jose. This industrial development project, if approved by the City, will provide the City with millions of dollars in tax revenue to support environmental goals of the City and various environmental groups. Our Property, together with the adjoining real property referred to above, is ideal for industrial development because:

- It is served with direct access to US-101 via the Bailey interchange which was constructed at great expense
- All utilities needed for development are already in place, including access to additional electrical power from the nearby PG&E facility
- It has frontage along the rail line

- There is demand for this type of use. CHI has indicated that it has an end user who desires to lease and operate facilities on the Property and adjacent properties referred to above and such end user's project would generate thousands of jobs and millions of dollars of revenue for San Jose.

Additionally, the Property:

- Is not located in the FEMA flood plain
- Is not part of animal migration corridors, as documented in studies by the Open Space Authority and the California Department of Fish and Wildlife
- Is not a significant habitat for plants and animals that are rare, endangered, or of regional significance, as documented by an independent biological assessment report
- Is not part of the Hydrological Connection Area or the Proposed Linkage Restoration Area

Balance the Goals of Stakeholders

The creation of the Envision San Jose 2040 General Plan was a very involved process that included more than 5,000 people participating in 55 public meetings. The Envision San Jose GP2040 Task Force and members of the community strongly advocated for land use planning that promotes *economic development, is fiscally responsible, is environmentally sustainable, and makes prudent use of existing and planned transit facilities and other infrastructure*. The plan considered and balanced a number of perspectives. It is time for the City to now balance those perspectives and create a win-win for the property owners, the City and environmental groups that have argued our Property should be down graded to Agriculture.

There has been an overly simplified view that development is bad and agriculture is good. Development of the NCV Properties can be accomplished at the same time as environmental goals are satisfied. Development of the NCV Properties will not impact wildlife goals or water quality and development of the NCV Properties will require environmental review that will objectively analyze these and other environmental issues. Development of the NCV Properties will create a source of millions of dollars for the investments needed to satisfy the environmental goals of the City and environmental groups. Industrial development of the NCV Properties will give the City an opportunity to impose conditions that would result in a project that is sensitive to the environmental, aesthetically appealing and will blend in well with the environs. Not to be overlooked is the fact that development of the NCV Properties will create jobs; jobs that are extremely important to the economic growth of our community. This is an opportunity for the City to create thousands of jobs by approving industrial development of the NCV Properties and at the same using tax revenue that will be generated from industrial development to support and meet environmental needs and goals.

The City Council has a unique opportunity to bring landowners, developers, environmental and open space advocates together to create a win-win situation for all. Down grading the NCV Properties to Agriculture will not create this win-win situation and instead will simply result in an unconstitutional taking of the NCV Properties. Because agricultural use of the NCV Properties is not economically viable, changing the General Plan designation of the NCV Properties to Agriculture would compel the NCV Properties to become open space. This would really be an attempt to secure open space at landowner's expense and not good public policy.

I urge the City Council to not change the General Plan designation of the NCV Properties from Industrial Park to Agriculture and instead take the time to bring the stakeholders together to find a solution that creates a win-win for all.

Sincerely,



Linda L. Lester, Manager of Lee Lester/Bailey, LLC

cc: Robert Rivera (via email - Robert.Rivera@sanjoseca.gov)
Michael Brilliot (via email - Michael.Brilliot@sanjoseca.gov)
Chris Burton (via email - Chris.Burton@sanjoseca.gov)

Fw: Letter for 11/16/21 Council meeting

City Clerk <city.clerk@sanjoseca.gov>

Fri 11/12/2021 8:33 AM

To: Agendadesk <Agendadesk@sanjoseca.gov>

Office of the City Clerk | City of San José200 E. Santa Clara St., Tower 14th Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

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From: Tom Foster [REDACTED]**Sent:** Wednesday, November 10, 2021 5:51 PM**To:** The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>**Cc:** Brilliot, Michael <Michael.Brilliot@sanjoseca.gov>; Burton, Chris <Christopher.Burton@sanjoseca.gov>; Rivera, Robert <robert.rivera@sanjoseca.gov>**Subject:** Letter for 11/16/21 Council meeting

[External Email]

Hello Hon. Mayor, Vice-Mayor and City Councilmembers

Attached is a letter regarding item 10.3 on your 11/16/21 agenda. We request that you delay or reject the recommendation put before you to change the master plan designation and rezone our properties to agriculture.

I hope you will take the time to this letter, as I have not been allowed to participate in this process, other than 1-2 min sound bites in public meetings and my family is profoundly impacted by your decision.

Thank you

Tom Foster

pointb.



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Puget Sound Business Journal

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Tom Foster



November 9, 2021

San Jose City Council

Via E-mail: To all Councilmembers

RE: November 16, 2021 City Council Meeting
File Nos. GP21-012, GPT21-002, C21-031, PDC21-033, and PP21-012

Dear Honorable Mayor Liccardo, Vice-Mayor Jones and City Councilmembers,

On behalf of my family members, I am writing to ask that the Industrial Park (IP) designation of the General Plan remain unchanged for our properties. Please retain the IP zoning for our properties or delay the recommendation put before you by the City Planning staff and allow a negotiation to happen with all parties to find a better win-win solution.

Our request is based on the following:

1. **Agriculture is not a viable use** of our properties. Redesignating the properties to agriculture is unconstitutional. If the City wants to use our lands as open space to benefit the public, then we need to be compensated; if not compensated, we need to be allowed to develop it.
2. **Landowners have not been engaged in this process.** The City staff did not engage landowners in the review or in discussions on their recommendations until after the Task Force had made their recommendations. Additionally, landowners were not allowed to participate on the Task Force, even though there was a request to be involved.
3. **There is a solution that supports investment and is compatible with environmental goals**, but this solution has not been entertained or considered. Our properties are very different than other properties in the North Coyote Valley and from the land acquired from Brandenburg and Sobrato and should not be confused or conflated with them being appropriate for open space

I will expand on each of these three points to better explain our position.

First, by way of introduction, our family owns half of the Two Oaks property (APN 712-01-010) and all of the Ramelli property (APN 721-01-004). Together, these parcels total about 80 acres and are located near the corner of Santa Teresa Blvd. and Bailey Ave.

Both of these properties were purchased by my grandparents over 50 years ago as an investment. At that time, the properties had just become annexed into the City of San Jose and it was anticipated that they would be developed at the appropriate time.

These properties have been in contract to sell to Crow Holding Industrial (CHI) for nearly two years and CHI has submitted preliminary plans to the City for an industrial project, which is consistent with the current Industrial Park designation of the General Plan.

Regarding the first of my three points; **Agriculture is not a viable use**, I would like to communicate the following:

- To my knowledge **City Staff never interviewed any of the current farmers in North Coyote Valley (NCV) to understand their perspective on agriculture**. It's curious why the City Planning Staff wouldn't start by interviewing the people who are currently farming the land to better understand the real economics?
- We commissioned a **study by Dr. Daniel Sumner, who is a Distinguished Professor of Agricultural and Resource Economics at the University of California, Davis**. A copy of that report has been provided to the Council and it clearly concluded that **agriculture is not financially viable on our properties**. **The report is based on the extensive knowledge of an industry recognized expert, includes interviews of the current farmer and is backed-up by financial analysis and facts**.
- We had to commission this report because **City Staff did not conduct its own study by someone with credentials to provide objective analysis** and instead, they **only looked for subjective information from interviews with farmers outside the NCV that would support their position**. **There was no financial analysis to back-up the City Planning Staff's assertions**.
- City Planning Staff also **omitted that access to affordable water is also needed for viable farming** and there isn't a clear path for that access today in NCV.
- In the presentation that City Planning Staff gave to the San Jose Planning Commission on October 27, 2021, they stated the biggest issue limiting farming was lack of long-term access to farmland and lack of investment, particularly in wells for irrigation. I can tell you from my first-hand experience, that is not true for our properties. **There has been over \$30,000 invested in reconditioning wells, new electrical service and new pumps on our properties since 2016**. **We have had a very stable lease situation with farmers, which has allowed for mutual investment**. Still, the economics of our properties is such that the current farmer would not be able to continue to farm it if it was not for the revenue from the annual pumpkin patch. This fact would have been known if City Planning staff had interviewed the farmer.
- The City Attorney contended that rezoning our properties does not constitute a legal taking because there is still economic benefit from agriculture. All legal arguments aside, this statement is not true in our case. **Farming doesn't even cover our taxes. We get \$28,000 a year in farm rent for our properties and the taxes are \$42,031.48. Then take into account other normal business expenses, such as insurance, accounting, investment in wells and we are very much in the negative and have been operating in the negative for as long as I have been involved in managing the properties**. Agriculture has been only an interim use and our long-term investment has been reasonably based on our ability to ultimately use the property for the industrial uses that have been planned for our property for generations. **Rezoning us to agriculture would be a taking**.
- The City Planning staff contends that they would consider putting in place a **'credit' system to compensate landowners for rezoning our properties to agriculture, but this statement is disingenuous** because if it were true, the City Staff should have included the credit system as part of their recommendation, not as an afterthought that may or may not be adopted at some unknown time.
- **Additionally, some in the City contend it is okay to rezone us to agriculture because we have not developed the property. That line of thinking is flawed**. We haven't developed the

property because for a long while the General Plan was a Campus Development use and there wasn't market demand for that use. The General Plan was eventually changed to Industrial Park and there is a lot of demand for that use, as demonstrated by the fact that we are presently in contract with Crow Holding Industrial for an industrial use on our properties.

Regarding the second of my three points; **Owners have not been engaged**, I would like to communicate the following:

- The first community meeting arranged by City Planning Staff was on May 17, 2021. The first time **City Planning Staff met with us was on June 17, 2021 and it was at our request**, not because they had reached-out to us.
- The **Task Force had already met to discuss Coyote Valley on October 29, 2020**. The City talked with us months afterwards and only **after they were ready to put forward their recommendation to rezone our properties. To my knowledge, City Staff never met with or interviewed or involved any landowners in any conversations until after the Task Force meeting and they were ready to present their recommendations.**
- **No landowners were involved in the Task Force**, even though some had requested to be involved. Instead, the Task Force membership was hand-selected to include people who would represent a certain view, which would support the outcome the City Planning Staff had wanted to achieve. There wasn't broad community voice in the process and **landowners in particular were excluded, even though we have the biggest economic impact from the decision.**
- **I personally had less than six minutes of total time in the last 2 years to provide my input on this topic at meetings and in two of the meetings, I was limited to being allowed to speak for 1 minute.** There is no way to provide meaningful input in 1 or 2 minutes of public comment. The system has been inequitable and run in a manner to keep me from being able to provide my input, even though we have been landowners in the area for more than 50 years.
- **The City Planning Staff, on the other hand, had almost 1 hour of uninterrupted time just at the Planning Commission meeting on October 27, 2021 to present their opinion on the viability of agriculture.** They never mentioned the study by Dr. Sumner or even addressed any of the points raised in his report.
- Jared Hart, who had significant leadership in the review and the City's recommendation to rezone our properties to agriculture, is now employed by Midpeninsula Regional Open Space District. **How can that not be a conflict of interest?**

Regarding my third and final point; **Entertaining other solutions**, I would like to communicate the following:

- I believe in the environmental goals of protecting the valley and climate change is by far the most important issue of our era, and possibly of human existence.
- Some environmental groups, which are very powerful and well-funded, have put forward views and rhetoric that any development in the valley will be at odds with environmental goals, but this isn't true.
- Our properties are:

- Not located in the FEMA flood plain.
- Not part of animal migration corridors, as documented in studies by the Open Space Authority and the California Department of Fish and Wildlife.
- Not a significant habitat for plants and animals that are rare, endangered, or of regional significance, as documented by an independent biological assessment report.
- Not part of the Hydrological Connection Area or the Proposed Linkage Restoration Area, except for the existing installed drainage pipes, which will handle clean water.
- Therefore, development of our properties will not impact wildlife goals or water quality and any development plan would need to do a full Environmental Impact Report (EIR) to objectively satisfy these and other environmental issues.
- Agriculture, however, does have negative environmental impacts. The **Santa Clara Water** document in the package presented to the Planning Commission stated that the **main concern in Coyote Valley was nitrate contamination of the aquifer**. Nitrate contamination is a result of nitrogen from fertilizers used in farming. Additionally, pumping large quantities of water from those same aquifers for irrigation is not environmentally friendly, especially when groundwater tables are already low.
- Our properties are ideal for development because:
 - They are served with direct access to US-101 via the Bailey interchange which was constructed at great expense.
 - All utilities needed for development are already in place, including access to additional electrical power from the nearby PG&E facility.
 - They have frontage to the rail line.
 - There is demand for this type of use, CHI has an end user for it and the project would generate thousands of jobs and millions of dollars of revenue for San Jose.
- For wildlife to safely travel between the Santa Cruz Mountains and the Diablo Mountain Range, they need to cross railroad tracks, Monterey Road, and Highway 101. An estimated \$28m-\$57m of investment is still needed to create a safe environment for the animals to migrate between the ranges and without this investment the nearly \$100m spent to purchase the Brandenburg and Sobrato properties will not achieve their desired environmental goals.
- **The development of our properties isn't at odds to environmental goals.**
- **The development of our properties can be an important part of achieving those goals by:**
 - Creating a source of significant funds for the investments needed.
 - It is also an opportunity to create a showcase of green development that is sensitive to the environment and designed in a way to be appropriate and attractive.
 - The need for industrial development isn't going away. Jobs are an important part of our community too. The challenge is how do we meet these needs in a sustainable way that is supportive and sensitive to environmental needs and goals, especially as it relates to reducing carbon footprint, but also as it relates to wildlife habitat and migration corridors.

In conclusion, the creation of the Envision San Jose 2040 General Plan was a very involved process that included more than 5,000 people participating in 55 public meetings. The Envision San Jose GP2040 Task Force and members of the community strongly advocated for land use planning that promotes *economic development, is fiscally responsible, is environmentally sustainable, and makes prudent use of existing and planned transit facilities and other infrastructure*. The plan considered and balanced a number of perspectives.

I believe the majority of San Jose Planning Commission members were concerned that agriculture is not a viable use and I think they also recognized that landowners had been excluded from the discussion and solution. That's why they rejected the Planning Staff's recommendation, not because they aren't supportive of environmental goals. All the voices I heard during their 3.5 hour meeting were very supportive of environmental goals.

Politics can sometimes be very divisive and polarizing, and in this instance, I think you have an opportunity to help bring parties together to create a better solution. **You have no downside in delaying your decision on this recommendation to see if a better solution can be developed that advances environmental goals and at the same time doesn't result in a non-viable solution that is an unconstitutional taking of property.**

Thank you for your time to read this letter. I hope you better understand our position and reach the conclusion that there is an opportunity to involve all parties to create a better solution.

Sincerely,

A solid black rectangular redaction box covering the signature of Tom Foster.

Tom Foster
on behalf of all Foster Family members

cc: Robert Rivera, Planning Project Manager
Michael Brilliot, Deputy Director of Planning
Chris Burton, Director of Planning, Building and Code Enforcement

Fw: Letter - 11/16 City Council Meeting, Item#10.3: General Plan Amendments in Coyote Valley

City Clerk <city.clerk@sanjoseca.gov>

Fri 11/12/2021 8:33 AM

To: Agendadesk <Agendadesk@sanjoseca.gov>

Office of the City Clerk | City of San José

200 E. Santa Clara St., Tower 14th Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

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From: Joshua Hugg <jhugg@openspace.org>

Sent: Thursday, November 11, 2021 8:57 AM

To: City Clerk <city.clerk@sanjoseca.gov>; The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>

Subject: Letter - 11/16 City Council Meeting, Item#10.3: General Plan Amendments in Coyote Valley

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[External Email]

Hello,

Please find attached the Midpeninsula Regional Open Space District's letter supporting agriculture and open space protections for Coyote Valley.

Thank you,
Josh

Joshua Hugg, MPA

Governmental Affairs Specialist

Midpeninsula Regional Open Space District

330 Distel Circle, Los Altos, CA 94022

P: [\(650\) 691-1200](tel:(650)691-1200)

www.openspace.org | twitter: [@MidpenOpenSpace](https://twitter.com/MidpenOpenSpace)

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Midpeninsula Regional
OpenSpace

Midpeninsula Regional Open Space District

GENERAL MANAGER
Ana M. Ruiz

BOARD OF DIRECTORS
Pete Siemens
Yoriko Kishimoto
Jed Cyr
Curt Riffle
Karen Holman
Larry Hassett
Zoe Kersteen-Tucker

November 11, 2021

San José Mayor and City Council
City of San Jose
200 E. Santa Clara St.
San José, CA 95113

Re: Item#10.3: General Plan Amendments in Coyote Valley as Recommended in General Plan Task Force Meeting #9 and in the Staff Recommendation - SUPPORT

Dear Honorable Mayor and City Council,

On behalf of the Board of Directors of the **Midpeninsula Regional Open Space District (Midpen)**, I write to express strong support for the recommendations for Coyote Valley made by the General Plan Task Force at Meeting #9, on October 29, 2020. Comprised of over 65,000 acres of acquired and protected open space on the San Francisco Peninsula, Midpen is one of the largest regional open space districts in California. Our braided mission is to acquire and preserve in perpetuity open space and agricultural land of regional significance, to protect and restore the natural environment, to preserve rural character and encourage viable agricultural use of land resources, and to provide opportunities for ecologically sensitive public enjoyment and education.

While Coyote Valley does not fall within Midpen boundaries, its lands connect to a larger landscape that supports the vitality of the natural and working lands of the region. Safe and effective wildlife movement for native animal species, whether in search of new mates, or more hospitable habitats as a result of climate change, is dependent on the long-term preservation of Coyote Valley as a key wildlife corridor. The critical wildlife connectivity role that Coyote Valley plays is highlighted in the passage of AB 948 (2019, Kalra) that designates Coyote Valley as a **landscape of statewide significance**.

After an exhaustive, two-plus year effort by city staff to generate data, studies, reports, and revisions as part of a robust, well-informed process, the recommendations they propose will serve the region in meeting its climate resilience goals far into the future.

Midpen urges the City Council to:


- 1) Implement the recommendations for Coyote Valley passed by the General Plan Task Force Meeting #9 on October 29, 2020, including changing the land use designation of properties in North Coyote Valley to Agriculture, continuing to explore a credits program to further support conservation actions in Coyote Valley, and directing new development in the already-urbanized areas of San Jose.
- 2) Remove the Mid-Coyote Valley Urban Reserve designation

- 3) Move the Urban Service Area boundary north consistent with the proposed General Plan land use changes in North Coyote Valley
- 4) Change the land use designation and zoning *consistently* throughout Coyote Valley for compatibility with the conservation vision and public investment, without making individual allowances for parcels, except where other uses already exist, such as on the Gavilan College campus.
- 5) Allow the Coyote Valley Conservation Areas Master Planning (CVCAMP) effort - soon to get underway – to inform potential economic development opportunities in North and Mid-Coyote Valley.
- 6) Consider the establishment of a Farmland Security Zone.

The just-released draft Natural and Working Lands Climate Smart Strategy, issued by the California Natural Resources Agency, states “*Nature-based solutions... protect and restore nature to deliver multiple outcomes, including addressing climate change, protecting public health, increasing equity, and protecting biodiversity.*” Given the urgency of mitigating and adapting to climate change to reduce harmful impacts, especially to our most vulnerable communities, we need to be taking bold, forward-thinking actions like those recommended by the General Plan Task Force. Protecting Coyote Valley’s natural and working lands are central to ensuring the long-term sustainability of Santa Clara County.

Thank you for the opportunity to provide these comments.

Sincerely,



Ana M. Ruiz
General Manager

cc:
Midpeninsula Regional Open Space District Board of Directors

Fw: Monterey Corridor and GP Designation for Coyote Valley; Council Hearing Nov. 16, 2021 - No. 9

City Clerk <city.clerk@sanjoseca.gov>

Fri 11/12/2021 8:34 AM

To: Agendadesk <Agendadesk@sanjoseca.gov>

Office of the City Clerk | City of San José

200 E. Santa Clara St., Tower 14th Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

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From: Norm Matteoni <[REDACTED]>

Sent: Thursday, November 11, 2021 11:25 AM

To: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>

Cc: City Clerk <city.clerk@sanjoseca.gov>; Gerry De Young <[REDACTED]>; Ken Saso

<[REDACTED]>; Chris Marchese <[REDACTED]>; LEO CACITTI

<[REDACTED]>; Sean H Hu <[REDACTED]>; Vic LoBue <[REDACTED]>; Joe

<[REDACTED]>; Loren Gundersen <[REDACTED]>

Subject: RE: Monterey Corridor and GP Designation for Coyote Valley; Council Hearing Nov. 16, 2021 - No. 9

[External Email]

Dear Mr. Mayor and Members of the Council:

This letter focuses on understanding what the proposed PD Zoning Ordinance for Private Recreation provides in the way of an opportunity for travel trailer parks and raises questions under the zoning code definition of whether such a use would qualify for any one of the properties on the eastside of Monterey Road.

Dear City Clerk:

Please make this part of the record before the council for the hearing on Nov. 16, Item 10.3.

Norm Matteoni



NORMAN E. MATTEONI



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November 11, 2021

Norman E. Matteoni
Peggy M. O'Laughlin
Bradley M. Matteoni
Barton G. Hechtman
Gerry Houlihan

Hon. Mayor Sam Liccardo and Members of the San Jose City Council
San Jose City Hall
200 Santa Clara Street, 18th Floor
San Jose, CA 95113

Re: The Lands along the East Side of Monterey Road are of Distinct
Character from the Overall Coyote Valley – No. 9
November 16, 2021 Council Agenda

Dear Mr. Mayor and Members of the Council:

The proposed PD Zoning for Private Recreation specifically allows travel trailer parks subject to the qualification of compatibility with the Coyote Creek Park Chain and maintaining 50% of the parcel in open space.

At the same time there is an existing R-MH zone that applies to the Coyote Creek Recreational Park, an RV park on Monterey Road. As you can see from the attached photograph, that development abuts the Coyote Creek Park Chain on the northerly segment and the southerly segment has a field to the east that is owned by the County of Santa Clara, presumably for Park Chain expansion. Thus, by precedent this type of use is compatible with the Park Chain. The northerly segment is new, having been approved only a few years ago. Moreover, the RV park does not have 50% of the site maintained in open space unless one counts pavement of driveways and spaces between RV units where cars are stored.

The difference between travel trailer parks and RV parks is subtle:

20.200.1300 - Travel Trailer Park.

"Travel trailer park" is any area or tract of land or a separate designated section within a mobile home park where one or more mobile home lots are rented or leased or held out for rent or lease to owners or users of recreational vehicles used for recreational or emergency occupancy.

20.200.970 - Recreational Vehicle.

"Recreational vehicle" is a vehicle, including motorhome, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy.

If a travel trailer park is a "separate" area, tract or section within a mobile home park, can it stand alone without a mobile home park? Second, does the proposed ordinance allow a commercial travel trailer rental business under the "held out for rent" provision? If the answer to these questions is no, the listing of that use as Private Recreation is a fictional use under the ordinance.

Very truly yours,



Norman E. Matteoni

NEM/jlc
Enc.

Cc: City Clerk, City Attorney, Gerry De Young, Ken Saso, Chris Marchese, Leo Cacitti, Sean Hu, Vic LoBue, Joe Filice, Loren Gunderson



Coyote Creek RV Park to be general planned as RMH.

Fw: Vote YES to Protect Coyote Valley

City Clerk <city.clerk@sanjoseca.gov>

Fri 11/12/2021 8:35 AM

To: Agendadesk <Agendadesk@sanjoseca.gov>

Office of the City Clerk | City of San José200 E. Santa Clara St., Tower 14th Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

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From: Carol Watts, President LWVSJSC <[REDACTED]>**Sent:** Thursday, November 11, 2021 11:23 AM**To:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>; Jones, Chappie <Chappie.Jones@sanjoseca.gov>; Cohen, David <David.Cohen@sanjoseca.gov>; Davis, Dev <dev.davis@sanjoseca.gov>; Carrasco, Magdalena <Magdalena.Carrasco@sanjoseca.gov>; Mahan, Matt <Matt.Mahan@sanjoseca.gov>; Esparza, Maya <Maya.Esparza@sanjoseca.gov>; Foley, Pam <Pam.Foley@sanjoseca.gov>; Peralez, Raul <Raul.Peralez@sanjoseca.gov>; Jimenez, Sergio <sergio.jimenez@sanjoseca.gov>; Arenas, Sylvia <sylvia.arenas@sanjoseca.gov>**Cc:** City Clerk <city.clerk@sanjoseca.gov>; vicki.alexander@lwvsjsc.org <vicki.alexander@lwvsjsc.org>**Subject:** Vote YES to Protect Coyote Valley

[External Email]

Attached please find a letter asking you to vote YES to approve the staff proposals in item 10.3 in order to better position San Jose to adapt to climate change and to become more sustainable. Please do so without any delays.

Thank you for representing all residents in our City.

Carol Watts, President, League of Women Voters of San Jose/Santa Clara

lwvsjsc.org

votersedge.org/ca

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P.O. Box 5374
San Jose, CA 95150
www.lwvsjsc.org
November 11, 2021

To: Mayor Liccardo, Vice Mayor Jones, and Councilmembers Jimenez, Peralez, Cohen, Carrasco, Davis, Esparza, Arenas, Foley, and Mahan
cc: San Jose City Clerk

Subject: **General Plan Land Use...within...Coyote Valley; Agenda #10.3**

The League of Women Voters of San Jose/Santa Clara strongly urges you to vote YES on November 16 on the five actions related to Coyote Valley that have been recommended by staff and the Envision San Jose 2040 General Plan Four-Year Review.

We applaud our city government for responding to the increasing impacts caused by climate change with a comprehensive strategy that includes the protection of Coyote Valley, policies of Climate Smart San Jose, and regional goals from the Santa Clara Valley Agriculture Plan. San Jose has wisely made significant investments in Coyote Valley in the last several years, and we ask you to **complete these investments by voting YES on further protections for Coyote Valley.**

The proposed General Plan and zoning changes will allow us to move forward with watershed and flood protection, aquifer recharge, wildlife stewardship and migration, and policies related to local, sustainable agriculture and VMT (vehicle miles traveled) to reduce and sequester greenhouse gas emissions. We also encourage you to develop the proposed climate resilience credit program to support further conservation in Coyote Valley.

The League of Women Voters of the Bay Area, representing the 20 local Leagues in the nine Bay Area counties, strongly supported Plan Bay Area 2050 recently adopted by MTC/ABAG. One of Plan Bay Area's environmental strategies is to protect ecosystem-critical conservation lands. Coyote Valley continues to be designated as a "Priority Conservation Area" in our region's long-range strategic plan.

The League has strong positions on mitigating climate change and protecting our natural resources. We use these to inform our actions on Coyote Valley. We have been closely watching and studying Coyote Valley and its impact on our urban environment, and we encourage you to take this next step, **without delay**, to better position San Jose to adapt to climate change and to become more sustainable.

Sincerely yours,


Carol Watts, President, League of Women Voters of San Jose/Santa Clara
president@lwvsjsc.org - lwvsjsc.org

Fw: Agenda Item 10.3; November 16, 2021 City Council Meeting

City Clerk <city.clerk@sanjoseca.gov>

Fri 11/12/2021 8:35 AM

To: Agendadesk <Agendadesk@sanjoseca.gov>

Office of the City Clerk | City of San José200 E. Santa Clara St., Tower 14th Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

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From: Lynch, Jennifer <[REDACTED]>**Sent:** Thursday, November 11, 2021 1:50 PM**To:** The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>**Cc:** City Clerk <city.clerk@sanjoseca.gov>; Burton, Chris <Christopher.Burton@sanjoseca.gov>; Brilliot, Michael <Michael.Brilliot@sanjoseca.gov>; Frimann, Nora <nora.frimann@sanjoseca.gov>**Subject:** Agenda Item 10.3; November 16, 2021 City Council Meeting

[External Email]

Good afternoon,

Attached please find our comment letter regarding Agenda Item No. 10.3 (GP21-012, GPT21-002, C21-031, PDC21-033, PP21-012), on the November 16, 2021 City Council Agenda.

Best,

Jennifer Lynch

Associate

Manatt, Phelps & Phillips, LLP

Park Tower

695 Town Center Drive, 14th Floor

Costa Mesa, CA 92626

[REDACTED]
JLynch@manatt.com

manatt.com

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November 11, 2021

66541-030

BY E-MAIL

Hon Mayor Liccardo, Vice-Mayor Jones and City Councilmembers
City of San José
200 E. Santa Clara Street
Tower, 3rd Floor
San José, CA 95113

**Re: November 16, 2021 – Agenda Item 10.3
GP21-012, GPT21-002, C21-031, PDC21-033, PP21-012 – Changes to the
General Plan Land Use Transportation Diagram, Zoning Map and
Municipal Code for properties within North, Mid- and South Coyote Valley
associated with the Envision San Jose 2040 General Plan Four-Year Review**

Dear Mayor Liccardo, Vice-Mayor Jones and City Councilmembers:

We represent the owners of four parcels radically impacted by the proposed amendments to the *Envision San José 2040 General Plan* (“GP2040”). On behalf of our clients, we appreciate your consideration of the following comments on the *Addendum to the Envision San Jose 2040 General Plan Final Program Environmental Impact Report and Supplemental Program Environmental Impact Report* (“Addendum”) (SCH# 2009072096), dated October 2021 and released for public review on October 15, 2021. Adoption of the Addendum is proposed as part of Agenda Item No. 10.3, on the November 16, 2021, City Council Agenda. The Addendum is intended to serve as the City’s California Environmental Quality Act (“CEQA”) compliance document for several General Plan, Zoning Ordinance, and Municipal Code revisions.

At the outset, we must point out that an addendum to a previously certified environmental impact report is not the appropriate level of environmental review for the City’s sweeping proposed revisions to GP2040 and the accompanying suite of Zoning and Re-zoning Ordinances (together, “the project” or “proposed project”). The Addendum does not establish, by way of substantial evidence, that the proposed changes—which include changes to land use designations and the adoption of a wide-ranging set of new “Action Items” and implementation programs—will not result in new, different, or substantially more severe environmental impacts than those previously disclosed in earlier environmental review documents. As such, the environmental review completed for the proposed project does not meet the requirements of CEQA (Pub. Resources Code, §§ 21000 et seq) and the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15000 et seq.). As a result, the City cannot move forward with the project. For the reasons set

out below, we urge the City to comply with CEQA and prepare a procedurally proper and substantively adequate environmental impact report (“EIR”) before taking any affirmative action on the proposed project.¹

BACKGROUND

We represent the owners of four parcels totaling 126.5 acres located southwest of Monterey Road and Bailey Avenue in North Coyote Valley. The properties are identified as Assessor's Parcel Numbers 712-01-010, 712-01-011, 712-01-012, and 712-01-004 (“the NCV Properties”) and are owned by entities of the Lester, Benson, and Foster families. The NCV Properties are located inside both the City’s Urban Growth Boundary and Urban Service Area. Infrastructure investments of \$116 million have been made in the area of the NCV Properties, including the 101/Bailey Avenue interchange and the Bailey Avenue bridge over Monterey Road and the Union Pacific Railroad. The Bailey Avenue interchange and bridge provide direct access to the NCV Properties and support the reverse-commute traffic flow to and from the North Coyote Valley Employment Lands Growth Area.²

The NCV Properties are more than 40% of the acreage that the City itself has identified as the “Remaining Developable Parcels” in North Coyote Valley. The NCV Properties are presently designated “Industrial Park” in GP2040, and are a key component of the City’s long-planned employment lands. The City has acknowledged that demand for industrial uses in the City is high: “[I]ndustrial space vacancy rates are currently low in San José (approximately 2%) and demand is high.” (November 13, 2019 Progress Report, p. 37.) GP2040 includes policies aimed specifically at protecting industrial land uses in the City. (See, e.g., GP2040, Chapter 2, p. 4, Land Use and Employment Policy IE-1.1 [“To retain land capacity for employment uses in San Jose, protect and improve the quantity and quality of all land designated exclusively for industrial uses. . . .”], and Chapter 6, p. 4 [City’s land use policies “promote the fiscal sustainability of the City by protecting employment lands, particularly industrial lands. . . .”].)

The proposed project would re-designate the NCV Properties from “Industrial Park” to “Agriculture.” In total, the proposed project would remove 1,722 acres from the City’s Industrial land use designation, including the 314 acres of “Remaining Developable Parcels” in North Coyote Valley.

¹ We have previously urged the City to comply with CEQA and complete a full environmental review in past correspondence relating to the proposed amendments that are now before the City Council. See Letter from E. Burg to General Plan Task Force, dated July 20, 2020, and Letter from E. Burg to City Planning Commission, dated October 20, 2021.

² For additional background on the NCV Properties, please see Letter from E. Burg, submitted to the City Re: Agenda Item No. 10.3.

DETAILED COMMENTS ON THE PROPOSED PROJECT'S ENVIRONMENTAL REVIEW

The GP2040 was adopted ten years ago, on November 1, 2011. The potential environmental impacts anticipated to occur from implementation of the GP2040 were analyzed in the 2040 General Plan Final Program Environmental Impact Report (“FPEIR”), also certified in November 2011. Where an EIR has been certified for a project (here, the GP2040), subsequent environmental review, in the form of either a subsequent, supplemental or project EIR or negative declaration, is nonetheless required when any of the following circumstances occur:

- (1) Substantial changes are proposed in the project requiring major revisions to the previous EIR;
- (2) Substantial changes have occurred with respect to the circumstances under which the project is undertaken which will require major revisions to the previous EIR;
or
- (3) New information of substantial importance shows that the project will result in new or substantially more severe impacts than were shown in the previous EIR.

(State CEQA Guidelines [Cal. Code Regs., §§ 15000 et seq.], § 15162.) Only when none of these circumstances are present may a lead agency choose to forgo subsequent environmental review and prepare and adopt an addendum to a previously certified EIR. (State CEQA Guidelines, § 15164.)

The purpose of an addendum is to make “minor corrections” to previously certified EIRs. (*Save Our Heritage Org. v. City of San Diego* (2018) 28 Cal.App.5th 656, 664.) Addenda do not expand, supersede, or even supplement the prior environmental analysis upon which they rely—instead, they merely establish that the environmental review previously completed is still relevant and correct.

Public agency determinations as to the cause, effect, and significance of environmental impacts must be supported by substantial evidence. (Pub. Resources Code, § 21168.) A public agency abuses its discretion and fails to proceed in the manner required by law when its actions or decisions do not substantially comply with the requirements of CEQA. (Pub. Resources Code, §§ 21168, 21168.5.) Failure to comply with the basic substantive requirements of CEQA is necessarily prejudicial error, requiring the vacation of any approvals adopted in reliance upon the same. (*North Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.App.4th 647, 671.)

I. The Addendum's Project Description Fails To Fully And Accurately Describe All Relevant Components Of The Proposed Project, Undermining Both Informed Public Participation And Meaningful Environmental Review.

An accurate, complete, stable and finite project description is an indispensable prerequisite to any informative and legally sufficient environmental review. (State CEQA Guidelines, § 15124; *Washoe Meadows Community v. Department of Parks & Recreation* (2017) 17 Cal.App.5th 277, 287; *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192.) Without an accurate project description, informed environmental analysis and decisionmaking cannot occur. (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730 [“an accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity”]; *Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 533 [complete project description necessary to “ascertain the project’s environmentally significant effects”].) Whether an environmental review document fails to include the information necessary for an adequate analysis of an environmental issue is a question of law, and when reviewed by the courts, the courts do not defer to an agency’s determinations. (*Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102.)

Here, the Addendum fails to contain a project description sufficient to allow an adequate evaluation of the project’s potential environmental impacts. The proposed project is comprised of various amendments to the GP2040, as well as the adoption of three separate ordinances amending the City’s Zoning Ordinance and Municipal Code. The amendments to GP2040 alone result in significant land use designation changes to hundreds of acres within the City, but also include a seemingly endless menu of undefined, vague “Action Items” for “future consideration.” (See, e.g., Addendum, p. 10.) But a project description that fails to identify a specific proposed project is legally inadequate if it thwarts informed public participation and meaningful environmental review. (See *Washoe Meadows Community, supra*, 17 Cal.App.5th at p. 288.)

In the North Coyote Valley specifically, the Addendum’s project description identifies the suite of significant land use designation changes proposed, but then goes on to state that “the proposed project *could* result in adding the following Action Items to amend the General Plan for future consideration.” (Addendum, p. 10 [emphasis added].) The text goes on to then list seven different *possible* changes to the General Plan, including changes to the Urban Service Area boundary, creation of overlays that would encourage or require construction of industrial uses, updates to the Agriculture Zoning District to allow compatible commercial agriculture uses, consideration of appropriate non-residential uses along Monterey Road, and the establishment of a Farmland Security Zone. (Addendum, p. 10.) The issues with the Addendum identifying “possible” actions as part of the project are two-fold. First, because the project description states only that the project “could” include and implement these actions, there is no way for either the public, or the City Council, to understand how likely these actions are to be implemented, or

when, or by what process. Second, there are so few details provided about the “Action Items” there can be no meaningful analysis of their potential to impact the environment.

The project also includes adoption of new (and quite aggressive) vehicle miles travelled (“VMT”) reduction goals, and mode shift goals aimed at reducing single-rider car trips. (Addendum, p. 18.) The project description states that the “proposed project includes multiple actions to achieve the intended reductions in VMT and shifts in mode of transport” (Addendum, p. 18) but then goes on to provide almost no detail at all on these “multiple actions.” Instead, a sixteen item list is presented, listing “actions” as vague as implementation of “transportation focused actions” and development and implementation of “a citywide pedestrian plan” and “citywide transportation plan.” (Addendum, p. 18.) Others include undefined “long-term transportation projects and programs in the City’s Growth Areas” and “strategies to increase shared mobility options.” (Addendum, p. 19.) As with the North Coyote Valley “Action Items,” the project description does not provide enough detail to allow for meaningful environmental review.³

Equally concerning is the project description’s statement that the proposed project’s amendments to the City’s affordable housing policies will either be amended to require that projects replace at least 50% of any existing commercial space lost to a housing project, *or* the housing policies will be amended to eliminate any commercial requirement. The Addendum states that “[*both*] scenarios are included in this project description.” (Addendum, p. 20 [emphasis added].) Such an approach ignores CEQA’s requirement that a an EIR identify a concrete proposed project, rather than a range of alternative projects. (See *Washoe Meadows, supra*, at p. 288.)

While the Addendum concludes that no new significant impacts, or no increase in the severity of impacts previously disclosed in the FPEIR, will occur as a result of the myriad changes proposed by this project, this conclusion cannot be relied upon if neither the public, nor the City’s own decisionmakers, have a complete and concrete understanding of the entirety of the actions that will be set into motion as a result of the project’s approval. Here, because the Addendum’s project description is so vague and lacks so much substantive detail, the impacts determinations made for *each* resource area analyzed in the Addendum are unsupportable.

II. Failure To Consider The Impacts Of The “Action Items” Proposed In The GP2040 Amendments Constitutes Improper Piecemealing.

For purposes of environmental review, CEQA requires that “the whole of the action” be considered. (State CEQA Guidelines, § 15378(a); see also *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214.) A public agency may not divide a single project into smaller individual subprojects to avoid responsibility for

³ Further, none of these actions seem to be considered, at all, in the Addendum’s substantive analyses.

considering the environmental impact of the project as a whole. (*Orinda Association v. Board of Supervisors* (1986) 182 Cal.App.3d 1145, 1171.) This prohibition includes the splitting of environmental review of a General Plan from the environmental review of a General Plan's foreseeable and planned-for implementation actions to follow. (See, e.g., *Rural Landowners Association v. City Council* (1983) 143 Ca.App.3d 1013, 1024.)

The potential for the full suite of "Action Items" identified in the Project Description to result in new impacts is, for the most part, completely ignored in each of the substantive analysis sections of the Addendum. Instead, the Addendum focuses solely on how the proposed General Plan Amendments would "shift" the location of development within the City. If the City intends to analyze the potential impacts of the proposed "Action Items" to some future date, this constitutes improper piecemealing—the impacts of the entirety of what the City Council is being asked to approve must be considered, and disclosed, prior the City Council's decision to approve.

III. The Addendum Fails To Fully Consider And Disclose The Environmental Impacts Of The Proposed Project.

A. Air Quality

The Addendum admits that the proposed General Plan Amendments "would result in shifts in where planned development would occur within the City." (Addendum, p. 29.) The analysis goes on to conclude: "As a result, the only meaningful change in air quality impacts from the proposed General Plan Amendments would be related to the shift in vehicle trips and traffic which contribute to air quality emissions." (*Ibid.*) But vehicle trips and traffic are far from the *only* source of air emissions, and the location of air pollution emissions sources (and the increased concentration of emissions sources in a single location or area) *does* change the potential significance level of emissions-related impacts—facts that the Addendum wholly ignores.

One of the main components of the proposed project is to move industrial and other employment uses closer to the City's center. The Addendum's project description expressly describes two separate overlays that would encourage industrial development in commercial areas. (Addendum, p. 10 ["creating an overlay that would restrict office buildings in Industrial Park and/or Combined Industrial Commercial designated areas, unless they include manufacturing or logistics space" and "creating an industrial overlay allowing for new office construction only if the office building includes some manufacturing or logistics space".]) Moving industrial uses from North Coyote Valley to other areas of the City (either through the change in land use designations, or by way of the proposed overlays), and then incentivizing and/or requiring industrial uses be developed alongside or as part of office buildings, will have

an impact on the concentration of air emissions, and the potential for those emissions to impact sensitive receptors.⁴ The Addendum gives no consideration to this new potential impact at all.

Similarly, the proposed project proposes “Action Items” that would move the Urban Service Area boundary north, propose non-residential uses along Monterey Road, and updates to the Agricultural Zoning District to allow compatible commercial agriculture uses in Coyote Valley. The potential for these “Action Items” to increase the *concentration* of air emissions in certain parts of the City is not analyzed in any way.

Instead, the air emissions analysis of the Addendum focuses solely on VMT, determining that because the General Plan Amendments would allegedly decrease VMT citywide, this would result in an overall decrease in ROG and NOx emissions. (Addendum, p. 31.) To the extent that the analysis acknowledges that the proposed General Plan Amendments would result in “slower vehicle speeds on roadways” (presumably from increased traffic concentration in certain parts of the City), the “increased particulate matter from brake wear and roadway dust from vehicles... would be distributed along various roadways in the City and would not expose individual sensitive receptors to substantial pollutant concentrations.” (Addendum, p. 31.) But this is a conclusion, not an analysis, and such a conclusion defies reason—if the proposed General Plan Amendments increase traffic congestion on specific roadways, *sensitive receptors along those roadways* will be exposed to increased pollutant concentrations and a greater environmental impact than would occur without the proposed project. Similarly, if the proposed project increases the concentration of industrial uses in already developed areas of the City, and requires the “pairing” of industrial uses with office uses, these changes will similarly increase pollutant concentrations in specific locations, and increase the exposure of sensitive receptors at these locations. The Addendum fails to acknowledge or analyze these new potentially significant impacts, and contains no substantial evidence supporting its conclusion that such impacts will remain less than significant.⁵

For the same reasons, the Addendum’s analysis of new odor impacts is flawed. The Addendum concludes, without support, that the General Plan Amendments’ resulting “shifts in the locations of development... would not substantially result in changes in odor producing

⁴ Relatedly, removing hundreds of acres of land from the industrial land use designation has the potential to push industrial developments further out, to other locations in the County or region. No analysis is provided as to the potential for this to increase *regional* air emissions. The Addendum cannot reasonably limit the scope of its analysis to impacts that occur only within the City’s boundaries. If the proposed project has the potential to increase impacts elsewhere in the region, those impacts must be analyzed and disclosed as well.

⁵ Similarly, the Addendum fails to adequately analyze and disclose the proposed project’s potential to result in new impacts associated with hazards and hazardous materials. The Addendum admits that the proposed project “would shift the amount of planned growth in certain Growth Areas” but then concludes, without support, that because the project would not change any policies designed to reduce substantial risks from hazards or hazardous materials, no potential for new hazard-related impacts would occur. But again, the potential impacts of increasing the concentration of industrial uses, or pairing industrial uses with non-industrial uses, is wholly left out of the analysis. (See Addendum, pp. 47-49.)

facilities and would not result in new or more severe impacts resulting from odors or other emissions.” (Addendum, p. 31.) But again, if one of the main purposes of the proposed project is to move industrial development from North Coyote Valley to already developed areas of the City, let alone pair industrial development with office uses, these actions have the potential to result in more odor producing facilities located near new and more sensitive receptors. Relatedly, there is no analysis of the increased potential for agricultural-related odors. The Addendum fails to acknowledge or analyze these new potentially significant impacts, and contains no substantial evidence supporting its less than significant impact determination.

B. Biological Resources and Water Quality.

Despite the fact that one of the alleged objectives of the proposed General Plan Amendments is to facilitate agricultural uses in North Coyote Valley, the Addendum fails to acknowledge, let alone analyze, the impacts of increased agricultural activities on biological resources (Addendum, pp. 33-35) or hydrology and water quality (Addendum, pp. 50-52). Such impacts are a reasonable foreseeable consequence of the project and stem from increased pesticide or herbicide use, ground and surface water runoff and pollution relating to the same, secondary impacts to biological resources resulting from increased water use and groundwater pumping, incidental take of sensitive species through agricultural activities, the introduction of invasive species, or the provision of attractive or supportive habitat for non-native wildlife or predators. (*See* State CEQA Guidelines, § 15126.2(a) [analysis must identify and describe the significant indirect effects that will result from a project], § 15064(d)(2) [an indirect impact is a change in the environment that is not immediately related to the project but that is caused indirectly by the project].) Without this analysis, the Addendum’s conclusions that no new impacts to biological resources or water quality and hydrology would occur is unsupported.

C. Energy Use.

The Addendum concludes that because the proposed General Plan Amendments “would not change the assumptions of the numbers of jobs or residents in the City” no increased energy consumption would result. (Addendum, p. 39.) Further, the Addendum states that because the project “would result in an overall decrease in VMT within the City” energy consumption associated with vehicle travel would also be reduced. (Addendum, p. 39.) However, this reasoning fails as a basis for concluding the energy impacts of the project would not be significant on multiple grounds. First, the Addendum contains absolutely no analysis of VMT impacts outside of the boundary of the City resulting from the proposed project. The City’s geographical boundary has no substantive relevance to the scope of potential environmental impacts. Removing 314 acres of industrial-designated land has the potential to push industrial development to other locations within San Mateo County and the Bay Area as a whole. No substantial evidence or analysis is presented indicating that the City has considered the potential for this shift in development to result in energy inefficiencies. Therefore, the Addendum’s

conclusion that impacts associated with energy would be less than significant is not supported by substantial evidence.

D. Noise.

The Addendum admits that because the proposed project would result in increased development and traffic volumes in certain parts of the City, “certain areas... may see an increase in traffic-related noise due to an intensification of development.” (Addendum, p. 62.) But no further details are provided. Where does the City anticipate these increased traffic and development noise impacts would occur? How has the City determined such increases will be “slight”? Further, what noise impacts would be associated with the potential for more industrial uses being located in areas with other non-industrial land uses, such as commercial and office uses? Just because the prior FPEIR determined that noise impacts would be significant and unavoidable, the Addendum cannot rely on this determination to excuse its failure to reasonably quantify the admitted *increase* in this already significant impact. (See State CEQA Guidelines, § 15162 [subsequent environmental review required where changes in the project would result in a “substantial *increase* in the severity of previously identified significant effects” (emphasis added)].)

E. Physical Impacts Associated With Economic Infeasibility Of Agricultural Uses.

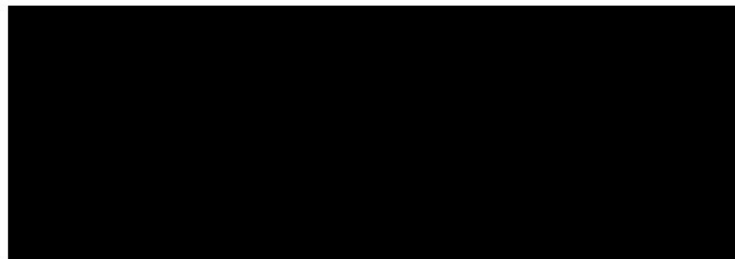
As detailed in other correspondence previously submitted to the City by our firm and others, there is no evidence in the record that agricultural uses are economically feasible in the North Coyote Valley area. While CEQA is not concerned with direct economic impacts, such as the impact of proposed projects on property values, CEQA *does* require that lead agencies analyze the potential for physical environmental changes that would arise from economic impacts. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1183, 1207 [when evidence suggests that a physical impact could occur, the lead agency must assess it, rather than “summarily dismissing the possibility” of urban decay as a social or economic effect outside the scope of CEQA].) In other words, if agricultural uses on the NCV Properties are infeasible, and the land remains vacant and unusable, the secondary environmental impacts associated with this blighted condition must be analyzed and disclosed. Such impacts could include, but are not limited to, increased illegal dumping, increased trash accumulation and graffiti, safety concerns associated with trespass, and aesthetic impacts associated with vacant and blighted property. The Addendum provides no substantial evidence supporting the economic feasibility of agricultural uses, and the record includes substantial evidence submitted by property owners and interested parties indicating that agricultural uses are *not* viable. Thus CEQA requires that the City analyze and disclose the potential for related physical changes and impacts associated with the same.

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As addressed above, the City has not yet fully analyzed and disclosed the potential for the proposed General Plan, Zoning Code and Municipal Code amendments to result in new or more severe environmental impacts than were disclosed ten years ago in the FPEIR. Failure to fulfill the requirements of CEQA precludes the City Council from approving the proposed project at this time.

Sincerely,



Jennifer J. Lynch

cc:

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