FINAL ENVIRONMENTAL IMPACT REPORT

McKean Road Sports Complex

City File # GPT 01-10-02/PP 03-02-057

SCH # 2002112035

City of San Jose

Department of Planning, Building and Code Enforcement

801 N. First Street, Room 400

San Jose, CA 95110

November 18, 2004

MCKEAN ROAD
SPORTS COMPLEX EIR

TABLE OF CONTENTS

Introduction i

Agencies, Organizations and Individuals that Received the Draft EIR ii

List of Comment Letters Received iv

Comment Letters and Responses to Comments .....

Letter 1: California Department of Transportation 1
Letter 2: California Department of Fish and Game 5
Letter 3: Metropolitan Transportation Commission 7
Letter 4: Guadalupe-Coyote Resource Conservation District 13
Letter 5: County of Santa Clara (Parks and Recreation Department) 16
Letter 6: County of Santa Clara (Planning Office) 29
Letter 7: Santa Clara Valley Water District 33
Letter 8: County of Santa Clara (Roads and Airports Department) 36
Letter 9: Santa Clara Valley Transportation Authority (VTA) 41
Letter 10: County of Santa Clara (County Counsel) 46
Letter 11: Silicon Valley Bicycle Coalition 64
Letter 12: Bob Mack, Cycle California! Magazine 66
Letter 13: Mark A. Erickson, Attorney at Law 68
Letter 14: Brian A. Schmidt, Committee for Green Foothills 74
Letter 15: Shute, Mihaly & Weinberger LLP, Attorneys at Law 78
Letter 16: Alan Wachtel, HPV Transportation Consulting 200
Letter 17: Janet Paulson 205
Letter 18: Bob Boydston 207
Letter 19: David and Lisa Lischka 210
Letter 20: Douglas R. Turk 212
Letter 21: Steven Mielich 215
Letter 22: Rupert Brauch 217
Letter 23: Marvin Laurence 219
Letter 24: Jonathan Racine 221
Letter 25: Esther Snively 223

Letter 26: Evelyn Courtney 225
Letter 27: Jeanne Lichtenstein 230
Letter 28: Joe Combs 232
Letter 29: Lorraine Combs 238
Letter 30: Brad Gordon 241
Letter 31: Laura Gordon 244
Letter 32: Carol Hallett 246
Letter 33: Dave Hallett 249
Letter 34: Niki Lamb and Mark Bloome 251
Letter 35: Kevin and Susan Lamb 254
Letter 36: Tom Medica 258
Letter 37: Francis Ratliff 263
Letter 38: Denise Scott 265
Letter 39: Don Scott 268
Letter 40: Kathryn Tsai 271
Letter 41: Maurice and Leslie Adams 274
Letter 42: Robert J. Eltgroth 276
Letter 43: Robert L. Hughes 278
Letter 44: Brad Houser 287
Letter 45: Neil Kole 289
Letter 46: Roy Kole 291
Letter 47: George and Anna Stepanenko 297
Letter 48: Abubakar Eghan 333

Changes Made to the Draft EIR 335

List of Exhibits:

Exhibit I-7 Trail Routes 338
Exhibit II.E-4 Background Conditions Weekday PM Peak Hour Intersection Volumes 339

INTRODUCTION

This document, together with the Draft Environmental Impact Report (Draft EIR) for the McKean Road Sports Complex, constitutes the Final EIR for the proposed project. The Final EIR is an informational document prepared by the Lead Agency that must be reviewed and considered by the decision-making body before a decision can be made on the proposed project (CEQA Guideline Section 15090). The State California Environmental Quality Act (CEQA) Guidelines (Section 15132) specify that a Final EIR shall consist of the following:

- The Draft EIR or a revision of the Draft.
- Comments and recommendations received on the Draft EIR either verbatim or in a summary.
- A list of persons, organizations, and public agencies commenting on the Draft EIR.
- The responses of the Lead Agency to the significant environmental points raised in the review and consultation process.
- Any other information added by the lead Agency.

In accordance with Section 15088 of the State CEQA Guidelines, the City of San Jose, as the lead agency, has reviewed the comments received on the Draft EIR for the McKean Road Sports Complex and has prepared written responses to the comments received.

On August 13, 2004, the City of San Jose as the lead agency released for public review the Draft EIR for the McKean Road Sports Complex. The Draft EIR public review period ended on September 27, 2004.

Chapter 2 of the Final EIR consists of all of the written comments received on the Draft EIR and presents responses to significant environmental issues raised in the comments (as required by the State CEQA Guidelines Section 15132). The focus of the responses to comments is on the disposition of significant environmental issues that are raised in the comments, as specified by Section 15088(b) of the State CEQA Guidelines. Detailed responses are not provided to comments on the merits of the proposed project. However, when a comment is not directed to significant environmental issues, the responses indicate that the comment has been noted and that no further response is necessary.

Each comment letter has been reproduced and is followed by the responses to the comments in order of occurrence. For example, the response to the fourth comment of the second letter would be indicated as Response to Comment 2-4. In some instances, responses to comments may warrant modification of the text of the Draft EIR. In those cases, the text of the Draft EIR is revised and the changes are compiled in Chapter 3, Corrections and Revisions to the Draft EIR. The text deletions are shown in strikeout (~~strikeout~~) and additions are shown in bold underline (**bold underline**).

All documents referenced in the EIR are available for public review at the office of the Planning Division in the Department of Planning, Building, and Code Enforcement, 801 North First Street, Room 400, San José, California 95110, on weekdays during normal business hours.

AGENCIES, ORGANIZATIONS AND INDIVIDUALS THAT RECEIVED THE DRAFT EIR

The following is a list of agencies, organizations and individuals that received a copy of the Draft EIR.

Federal Agencies

U.S. Environmental Protection Agency, Region 9
U.S. Fish and Wildlife Service
Federal Highway Administration

State Agencies

California Department of Toxic Substances Control, District 2
California Office of Historic Preservation
California Department of Transportation (Caltrans), District 4
Office of Planning and Research, State Clearinghouse
Northwest (Archaeological) Information Center, Sonoma State University
California Department of Fish and Game
State Water Resources Control Board

Regional Agencies

Bay Area Air Quality Management District
Association of Bay Area Governments
San Francisco Bay Regional Water Quality Control Board, Region 2
Metropolitan Transportation Commission

Local Agencies

City of San José, Historic Landmarks Commission
City of San José, Redevelopment Agency
City of San José, Public Works Department
City of San José, Transportation Department
City of San José, Fire Department
City of San José Public Library, Main Library
City of San José Public Library, Santa Teresa Branch
County of Santa Clara, Historical Heritage Commission
County of Santa Clara, Planning Department
County of Santa Clara, Parks and Recreation Department
County of Santa Clara, Roads and Airports Department
Santa Clara Valley Transportation Agency
Santa Clara Valley Water District
San José State University, Main Library
Oak Grove School District
East Side Union High School District

Local Organizations and Individuals

Greenbelt Alliance

Guadalupe-Coyote Resource Conservation District
Preservation Action Council of San Jose
Shute, Mihaly & Weinberger
George & Anna Stepanenko

LIST OF COMMENT LETTERS RECEIVED

The written comments received on the Draft EIR during the 45-day public review period and the responses to those comments are provided in this section. Each comment letter is reproduced in its entirety including any attachments and is followed by responses to the substantive comments raised on the Draft EIR.

Table II-1 indicates the number designation for each comment letter received, the author of the comment letter and the comment letter date.

Table II-1
Written Comments Received on the Draft EIR

Letter	Commentor	Date
	State Agencies	
1	Timothy C. Sable, District Branch Chief California Department of Transportation	9/17/04
2	Robert W. Floerke California Department of Fish and Game	9/24/04
	Local Agencies	
3	Evelyn Baker, Associate Transportation Planner Metropolitan Transportation Commission	8/23/04
4	Gary Molle, President Guadalupe-Coyote Resource Conservation District	8/30/04
5	Kelly Gibson, Park Planner County of Santa Clara Environmental Resources Agency, Parks and Recreation Department	9/20/04
6	Rob Eastwood, Planner County of Santa Clara Environmental Resources Agency, Planning Office	9/27/04
7	Colleen Haggery, P.E., Assistant Civil Engineer Santa Clara Valley Water District	9/27/04
8	William R. Lee County of Santa Clara Roads and Airports Department	9/27/04
9	Roy Molseed, Senior Environmental Planner Santa Clara Valley Transportation Authority (VTA)	9/27/04
10	Ann Miller Ravel County of Santa Clara County Counsel	9/27/04
	Private Organizations	
11	Silicon Valley Bicycle Coalition	9/13/04

12	Bob Mack, Publisher, Cycle California! Magazine	9/22/04
13	Mark A. Erickson Attorney at Law	9/27/04
14	Brian A. Schmidt, Legislative Advocate Committee for Green Foothills	9/27/04
15	Shute, Mihaly & Weinberger LLP Attorneys at Law	9/27/04
16	Alan Wachtel, HPV Transportation Consulting	9/27/04
	Individuals	
17	Janet Paulson	8/20/04
18	Bob Boydston	8/20/04
19	David and Lisa Lischka	8/23/04
20	Douglas R. Turk 20417 Hunters Hill Road San Jose, CA 95120	9/16/04
21	Steven Mielich	9/20/04
22	Rupert Brauch	9/21/04
23	Marvin Laurence	9/21/04
24	Jonathan Racine	9/21/04
25	Esther Snively	9/21/04
26	Evelyn Courtney	9/22/04
27	Jeanne Lichtenstein	9/24/04
28	Joe Combs	9/26/04
29	Lorraine Combs	9/26/04
30	Brad Gordon	9/26/04
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34	Niki Lamb / Mark Bloome	9/26/04
35	Kevin and Susan Lamb	9/26/04
36	Tom Medica	9/26/04
37	Francis Ratliff	9/26/04
38	Denise Scott	9/26/04

39	Don Scott	9/26/04
40	Kathryn Tsai	9/26/04
41	Maurice & Leslie Adams	9/27/04
42	Robert J. Eltgroth	9/27/04
43	Robert L. Hughes	9/27/04
44	Brad Houser	9/27/04
45	Neil Kole	9/27/04
46	Roy Kole	9/27/04
47	George & Anna Stepanenko	9/27/04
48	Abubakar Eghan	9/28/04

COMMENT LETTERS AND RESPONSES TO COMMENTS

DEPARTMENT OF TRANSPORTATION
P. O. BOX 23660
OAKLAND, CA 94623-0660
(510) 286-5505
(800) 735-2929 TTY

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CITY OF SAN JOSE
PLANNING DEPARTMENT

Flex your power!
Be energy efficient!

September 17, 2004

SCL-GEN
SCL000155
SCH 2002112035

Ms. Janis Moore
City of San José
801 North First Street
San José, CA 95110-1795

Dear Ms. Moore:

McKean Road Sports Complex / General Plan Text Amendment - Draft Environmental Impact Report (DEIR) Volume 1 & Technical Appendices (TA) – Volume II

Thank you for including the California Department of Transportation (Department) in the environmental review process for the proposed plan. We have reviewed the DEIR and TA and have the following comments to offer:

Forecasting

- Page 102, "...Exhibit II. E-4 illustrates forecast background weekday p.m. peak hour..." On page 103, this statement does not match Exhibit II.E-4. Please reconcile. **1-1**
- Page 103, In Exhibit II.E-4, traffic volume needs to be balanced. **1-2**
- Page 106, Description of the Project on this page is different from Volume II (Page 3). Does the project propose a total of 569 parking spaces or 650? In addition, is the project area 35.4 acres or 41.5 acres as stated in the Notice of Preparation in Volume II? Please clarify and correct. **1-3**
- Page 108, according to Table 5 (page 16 Appendix E), total weekday peak hour trip generation (4-6 PM) for soccer season should be 360 in and 360 out, so that the total trips generated should be 720. Please revise Table II.E-5 accordingly. **1-4**
- Page 110, Exhibit II.E-6, traffic volume needs to be balanced. **1-5**
- Page 112, Exhibit II.E-7, traffic volume needs to be balanced. **1-6**

- Page 113, Table II.E-6, LOS (level of service) for the intersection of Almaden Expressway and Blossom Hill Road will change from E to F due to the proposed project. This is a significant impact, which requires traffic impact mitigation. **1-7**

- South of Almaden Road, Almaden Expressway is a two-lane divided roadway with a raised median (Page 96). The proposed project may overload traffic on this section even though McKean Road will be widened. Please provide mitigation as appropriate. **1-8**

- Page 117, Mitigation Measures and Conclusion need to be revised due to the significant impact on intersection of Almaden Expressway/Blossom Hill (LOS changes from E to F). **1-9**

- Page 119, Exhibit II.E-10, traffic volume needs to be balanced. **1-10**

- Page 121, Exhibit II.E-11, traffic volume needs to be balanced. **1-11**

- Why was the year 2007 used as a forecast year for the traffic analysis? Please explain. **1-12**

Additional comments, if any, from our Highway Operations Branch will be forwarded as soon as they are received.

Should you require further information or have any questions regarding this letter, please call José L. Olveda of my staff at (510) 286-5535.

Sincerely,

Timothy C. Sable

TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

c: Scott Morgan (State Clearinghouse)

"Caltrans improves mobility across California"

Timothy C. Sable
California Department of Transportation
Letter dated September 17, 2004; Received September 22, 2004

1-1 In response to the commentor's statement, Exhibit II.E-4 has been revised. The revised exhibit is included in Chapter 3 of this report.

1-2 The Level of Service (LOS) traffic calculations are based on actual traffic counts with no adjustment made consistent with City policies and practices.

1-3 The project description from page 3 of the Notice of Preparation (NOP) found in Volume II of the Draft EIR included 650 parking spaces on a 41.5-acre site. The project description identified in the Draft EIR that circulated on August 12, 2004 proposes a total of 569 parking spaces on a 34.5-acre project site. Since the time the NOP was circulated on November 7, 2002 the project was reduced in size. No corrections to the NOP or Draft EIR are required.

1-4 The LOS calculations are based on the highest four consecutive 15-minute segments within the peak 4:30 to 6:30 p.m. travel period, consistent with City policies and practices.

1-5 Please refer to Response to Comment 1-2.

1-6 Please refer to Response to Comment 1-2.

1-7 The commentor's statement that the traffic Level of Service (LOS) at the Almaden Expressway/Blossom Hill Road intersection is LOS E is incorrect. As identified on Page 113, Table II.E-6, the Almaden Expressway/Blossom Hill Road intersection is projected to be LOS F for both the background and project scenario. Because the increase in the average critical delay and the change in the volume to capacity ratio with the addition of project traffic to the background traffic volumes would not exceed the one percent or four second delay significance threshold, a significant traffic impact would not result under typical City analysis, policies and practice.

1-8 Mitigation measures are implemented when the City's transportation policy identifies a significant impact. No significant impact was identified per the City's Policy.

1-9 Please refer to Response to Comment 1-7.

1-10 Please refer to Response to Comment 1-2.

1-11 Please refer to Response to Comment 1-2.

1-12 The traffic analysis used 2007 as the forecast year because the proposed project is anticipated to be completed in 2007.

State of California – The Resources Agency
DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
(707) 944-5500

ARNOLD SCHWARZENEGGER, Governor

RECEIVED
SEP 27 2004
CITY OF SAN JOSE
PLANNING DEPARTMENT

September 24, 2004

Janis Moore
City of San Jose
801 North First Street, Room 400
San Jose, CA 95110

Dear Ms. Moore:

McKean Road Sports Complex
San Jose, Santa Clara County
SCH 2002112035

The Department of Fish and Game (DFG) has reviewed the document for the subject project. We do not have specific comments regarding the proposed project and its effects on biological resources. Please be advised this project may result in changes to fish and wildlife resources as described in the California Code of Regulations, Title 14, Section 753.5(d)(1)(A)-(G)[1]. Therefore, a de minimis determination is not appropriate, and an environmental filing fee as required under Fish and Game Code Section 711.4(d) should be paid to the Santa Clara County Clerk on or before filing of the Notice of Determination for this project. 2-1

If you have any questions, please contact Dave Johnston, Environmental Scientist, at (831) 475-9065; or Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

Sincerely,

For Robert W. Floerke
Regional Manager
Central Coast Region

cc: State Clearinghouse

[1] http://ccr.oal.ca.gov/. Find California Code of Regulations, Title 14 Natural Resources, Division 1, Section 753

Robert W. Floerke
California Department of Fish and Game
Letter dated September 24, 2004; Received September 27, 2004

2-1 The commentor's statements regarding the proposed McKean Road Sports Complex project are noted, however the comment does not raise any new environmental issues, therefore, no response is required. Notice of Determination fees will be filed upon approval of the project.

METROPOLITAN
TRANSPORTATION
COMMISSION

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August 23, 2004

Janis Moore
Department of Planning, Building & Code Enforcement
801 North 1st Street, Room 400
San Jose, CA 95100-1795

Re: Recirculated Draft EIR for McKean Road Sports Complex (SCH #2002112035)

Dear Ms. Moore:

This letter sets forth Metropolitan Transportation Commission's (MTC) staff comments on the transportation analysis included in the draft EIR for the McKean Road Sports Complex project.

Of particular concern is the omission of trail, bicycle, and/or sidewalk linkages to/from the project site. The majority of the target population for the proposed youth sports field are not likely to have drivers licenses. Young people without access to a private vehicle are left with the option of walking, biking, or taking transit to get around. (It does not appear that the site is currently well served by transit.) The draft EIR indicates that the lack of bike/pedestrian access improvements, in combination with the increase in vehicular traffic along McKean Rd., is expected to create a significant traffic safety impact for pedestrians and bicyclists.

The draft EIR suggests that there is no feasible mitigation measure that would reduce this impact to a less-than-significant level. The only project-level mitigation measure proposed is to mandate that the site operator and the City of San Jose require all parents sign an agreement that (1) restricts their children from riding bicycles or walking to the site, and (2) acknowledges that any attempt by youth to access the site by foot or by bike is in fact grounds for expulsion form the recreational league. 3-1

The development of a youth recreational facility that actually *punishes* youth for accessing the site by bike or by foot is illogical.

It is not clear why providing essential bike and pedestrian access improvements has been determined to be infeasible. We urge the City to consider providing the necessary bicycle and pedestrian improvements that would be necessary to access the facility safely from the nearest residential neighborhoods.

Thank you for the opportunity to comment on the draft EIR. If you have any questions, please call or email me at (510) 464-7753 or ebaker@mtc.ca.gov.

Sincerely,

AUG 2 4 2004

Evelyn Baker
Associate Transportation Planner

J:\Section\Planning\Baker\CEQA\SAN JOSE - McKean Rd Sports Complex comments.doc

Evelyn Baker
Metropolitan Transportation Commission
Letter dated August 23, 2004; Received August 24, 2004

3-1 **McKean Road Bicycle and Pedestrian Safety**. This Comment and numerous other commentors raised concerns regarding bicycle, pedestrian and equestrian safety on McKean Road and argued the City should provide safe bicycle and pedestrian access improvements to the proposed project site, as well as bicycle parking facilities. Commentors felt the Draft EIR lacks information to support a conclusion that construction of improvements on McKean Road to accommodate bicycles or pedestrians is too expensive for the project to implement.

Commentors felt project traffic would create a dangerous condition on McKean Road and requested a detailed accident analysis. Commentors felt a proposed parental agreement in AYA league registration materials and City field use applications prohibiting children from riding bicycles or walking to the project site is not a viable mitigation is unenforceable. Commentors also disagreed with the Draft EIR's conclusion that there are no feasible mitigation measures for safety impacts.

The City's Responses to the comments are as follows:

McKean Road Bike and Pedestrian Access. Access to the site is provided by McKean Road. As noted by commentors, pedestrians and bicyclists currently use McKean Road, and some persons traveling to and from the proposed sports facility on McKean Road would be expected via bike and foot traffic. On page 115, the Draft EIR states that "Given the nature of the proposed use, it is foreseeable that users of the project site may attempt to walk or ride a bicycle to and from the proposed project, despite the fact that no trail, bicycle or sidewalk linkages are provided to encourage or facilitate such movement. Increased project vehicle traffic along McKean Road could also pose a hazard to existing pedestrians and bicyclists who currently use McKean Road."

The Draft EIR was prepared with the assumption that the project would not include plans to extend bicycle lanes or sidewalks along McKean Road from Harry Road, the closest existing bicycle/pedestrian facilities, to the project site, a distance of approximately 1.5 miles. This was based on the fact that neither the City of San Jose nor the County of Santa Clara currently has plans to widen McKean Road to add such facilities. The initial conceptual plans do not include bike-parking facilities. The decision to provide bike lanes and/or sidewalks on McKean Road, as well as bike parking at the sports facility, is anticipated to be made by the City Council in the context of a master plan for a specific sports complex design and would be coordinated with the County insofar as McKean Road is a County road.

What follows is information that may be considered as part of the Council's decision to be made regarding potential bike and pedestrian facilities on McKean Road. As noted above, the portion of McKean Road between Harry Road and the project site is approximately 1.5 miles in length. Current paved roadway widths along this stretch of road vary between 27.5 and 32.5 feet. Striped, paved shoulders on both sides of the road vary from one to four feet. Various portions of the roadway have drainage ditches of between one and three feet in depth immediately adjacent to the pavement edge on one or both sides. Currently, automobile travel lanes on McKean Road are approximately 13 feet in width. An additional two to ten feet (approximately eight feet, on average) would be needed to accommodate bike lanes. Based on the current 50-foot McKean Road right-of-way, it is possible to install a four-foot bike lane along both sides of McKean Road. Because bicyclists must travel in the same direction as motorists, bike lanes would be required on both sides of the street. The existing drainage ditches would need to be relocated and reconstructed.

Unlike bike lanes, sidewalks can accommodate two-way traffic. Therefore, sidewalks would be necessary only on one side of the street. Five feet of additional right-of-way would need to be acquired to construct sidewalks. Because the project site is on the north side of McKean Road, sidewalks would be appropriate along that side of the road. Sidewalks must be a minimum of 4.5 feet wide, although wider sidewalks would be preferred.

The total cost for the bicycle lane and sidewalk improvements from Harry Road to the project site, approximately 1.5 miles, could be in the range of approximately $750,000 to $1,000,000, not including the as yet unknown, potentially significant cost of right-of-way acquisition and utility relocation. Any such improvements would be subject to coordination with the County because McKean Road is a County roadway.

Comments from Santa Clara County Parks and Recreation Department contained in Draft EIR Comment letter No. 5 indicate that a future planned bicycle lane route, Sub-regional Trail S-6 (West Valley Trail), is located on this portion of McKean Road. In the same letter, the County has indicated they do not expect the project to complete the proposed trail in this area as a part of this project. The County does recommend that roadway improvements along the project frontage be constructed with adequate room to accommodate a future bike lane.

The conformance of a project to the General Plan is addressed as the overall conformance of the project to the entire body of major strategies, goals and policies contained in the General Plan, and not on an individual or policy-by-policy basis. Please also refer to Response to Comment 10-5. Each project is evaluated to assess, or balance, those policies supported and furthered by the project and those not supported. The project, if implemented without bike lanes,

sidewalks, and bike parking, would not be consistent with San Jose 2020 General Plan Transportation policies Nos. 19, 20, 36 and 50, listed below:

Transportation

- No. 19 (Pedestrian Facilities): The City should encourage walking, bicycling, and public transportation as preferred modes of transportation.
- No. 20 (Pedestrian Facilities) Pedestrian safety and access should be given priority over automotive movement.
- No. 50 (Bicycling): The City should develop a safe, direct, and well-maintained transportation bicycle network linking residences, employment centers, schools, parks and transit facilities and should provide bicycling as a an alternate mode of transportation for commuting as well as for recreation.
- No. 36 (Parking): Bicycle parking facilities should be provided at all public off-street parking sites.

Restricting Project Bike and Pedestrian Trips on McKean Road. Page 117 of the Draft EIR includes a proposed partial mitigation for pedestrian/bicycle safety impacts consisting of a parental agreement in AYA league registration materials and City field use applications prohibiting children from riding bicycles or walking to the project site. Further analysis by City Staff has determined that state law provides that bicyclists may ride on roadways even if no bike lane exists. Therefore, the City will not prohibit lawful use of public street right-of-way by pedestrians and bicyclists. A private organization, such as AYA, may include such a restriction in the registration requirements for their organization, and they have indicated their intent to do so if the project is approved and they utilize the site. However, such a restriction would not apply to general use of the facility by other members of the public who are not AYA members. As noted in the Draft EIR, implementation of such a proposed measure by AYA would not reduce the potential safety impact to a less than significant level.

Section II. Environmental Setting, Impacts and Mitigation Measures, E. Transportation, Mitigation Measures on page 117 is revised as follows:

> *Project Operational Measure for Pedestrian/Bicycle Safety Impact*
> AYA has indicated that if the project is approved and AYA is selected to operate and maintain the facility on behalf of the City, that AYA would implement the following project operational measure to reduce potential accidents between vehicles and pedestrians/bicyclists on McKean Road:
>
> > "AYA proposes to include in all league registration materials and field use applications a requirement that parents sign an agreement form that restricts their children from riding

bicycles or walking to the site for league events and a warning of expulsion from the league for violating the condition of this private agreement."

McKean Road Accident Analysis. On page 111, the Draft EIR summarizes accident data from the City of San Jose and Santa Clara County. Based on that information, a conclusion is reached that the section of McKean Road between Harry Road and Bailey Avenue is not an unusually unsafe condition. As requested by commentors, the City has conducted additional analysis of accident data on McKean Road. The results of that analysis, presented below, indicate that McKean Road currently does not experience a higher-than-average accident rate for a street in that setting, given traffic volumes, roadway conditions and geometry, and speed limit, further substantiating the conclusions of the Draft EIR.

The City has no adopted policies or procedures for analyzing accident data and has chosen to employ CalTrans methodology, considered the industry standard. The methodology examines accidents occurring over a 3-year period on a defined stretch of roadway (1.32 miles) for comparison to a similar, representative segment within the jurisdiction. The County does not have an average accident rate available but relies on a comparison of like segments and then compares the segment with the state average.

The San Jose Departments of Transportation and Public Works staff obtained the necessary information required to perform the calculations. To summarize the results, within the 3-year period from 1999-2001 (most current data at this time) along the 1.32-mile length of McKean Road between Harry Road and Schillingsburg Avenue, there were 10 accidents identified. Three of the 10 were single-vehicle accidents. Four of the 10 accidents did not involve fatality or injury. Of these 4 non-injury accidents, one was due to unsafe speed, two involved collision with a fixed object, and the 4th occurred within the intersection of McKean and Fortini Roads and was due to improper turning from the side street.

The six accidents involving injury included one driving under the influence, one head-on collision, two rear-end collisions, one collision with a fixed object, and one involving a bicyclist due to unsafe speed. None of these accidents occurred within the intersections of the cross streets.

In summary, there were only two accidents reported along McKean Road that may conceivably relate to existing design, one involving a bicyclist and one due to improper turning from the side street. In all 10 cases, the accident cause appears to be random with no clear patterns and does not imply an unusually hazardous roadway condition. Based on the analysis of the accident data, traffic volumes were not a significant factor. Overall, the accident and fatality plus injury rates for the McKean Road study segment between Harry Road and

Schillingsburg Avenue is 1.0 average accident rate per million vehicle-miles traveled (MVM) and 0.6 average fatality plus injury rate per million vehicle-miles traveled and is comparable to, and slightly less than, the state average accident and fatality plus injury rates of 1.19 average accident rate per million vehicle-miles traveled (MVM) and 0.65 average fatality plus injury rate per million vehicle-miles traveled. (See attached Table 15-21). Therefore, the Draft EIR conclusion that the section of McKean Road between Harry Road and Bailey Avenue is not an unusually unsafe condition is supported by the additional analysis performed.

GUADALUPE - COYOTE
RESOURCE CONSERVATION DISTRICT
888 NORTH FIRST STREET RM. 204, SAN JOSE, CA 95112-6314
OFFICE (408) 288-5888 FAX (408) 993-8728 email: gcrcd@pacbell.net

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SEP 14 2004
CITY OF SAN JOSE
PLANNING DEPARTMENT

August 30, 2004

Ms. Janis Moore
Dept. of Planning, Building and Code Enforcement
801 N. First Street, Room 400
San Jose, CA 95110-4576

Subject: RECIRCULATED DRAFT ENVIRONMENTAL IMPACT REPORT FOR MCKEAN ROAD SPORTS COMPLEX (SCH # 2002112035) (FILE NO. GPT01-10-02/PP03-02-057)

Dear Ms. Moore:

Thank you for the opportunity to comment on the McKean Road Sports Complex on McKean Road.

We do not agree the City of San Jose should change the General Plan Text Amendment to allow this project. The current land use designation is Open Space Reserve. A General Plan change to Planned Residential Community and an expansion of the Urban Service Area before the specific plan becomes effective is a precedent for unplanned growth. **4-1**

The DEIR states there are Significant and Unavoidable Impacts associated with Water Supply i.e. "If excessive drawdown occurs, groundwater pumping shall be reduced accordingly." Please describe what the City regards as an excessive drawdown. What figures or percentage would be considered excessive to the baseline figure? Please describe the aquifer capacity in this area. We believe this is information required by CEQA for better a description of cumulative impacts. The Fish and Game Code forbids any dry up of streams. It is not enough to state that pumping will stop if the stream adjacent to the project dries up, there must be downstream protections of the stream as well. We believe this DEIR does not adequately discuss needed stream protections. **4-2**

There are no mitigation measures identified that would reduce significant impacts to private well water supplies. We believe this DEIR is inadequate. We intend to oppose this project with all means at our disposal. **4-3**

Sincerely,

Gary Molle

Gary Molle, President

Gary Molle, President
Guadalupe-Coyote Resource Conservation District
Letter dated August 30, 2004; Received September 14, 2004

4-1 The proposed project is an amendment to the text of the San Jose 2020 General Plan to modify the South Almaden Valley Urban Reserve (SAVUR) designation to allow certain limited, interim recreational uses on public property on a case-by-case basis until implementation of a Specific Plan. There is no proposed change to a Planned Residential Community or expansion of the Urban Service Area included in the proposed General Plan amendment.

4-2 The commentor requests clarification regarding the definition of excessive drawdown, as described in the Water Supply mitigation measure on page 92 of the Draft EIR. As described in Appendix D, Section 6.0 of the Draft EIR, a trigger level of 3½ feet below a defined background water level[1] was recommended in order to avoid over pumping of the aquifer. Water levels in the two on-site monitoring wells would be required to be recorded using dataloggers. The water level data from these devices would be downloaded bi-monthly. If drawdown of the water table approaches the trigger level as a result of groundwater pumping, the datalogger would be downloaded weekly. If the background water level is reduced below the 3½-foot trigger level, groundwater pumping at the site would be required to cease. Groundwater pumping would not be allowed to recommence until the groundwater levels in the two monitoring wells recover by at least ½ a foot above the trigger level.

The commentor requests that the aquifer capacity in this area be described. For information regarding the capacity of the local aquifer, the commentor is referred to the Environmental Setting discussion at the beginning of the Draft EIR Water Supply section and the Effects on Water Budget discussion commencing on page 84 of the Draft EIR.

The commentor states that the Draft EIR does not adequately discuss needed stream protections. However, the intent of the mitigation measures identified on page 92 of the Draft EIR is to ensure reductions in groundwater pumping commensurate with a lowering of the stream flow in Arroyo Calero Creek. For example, if the discharge from Calero Reservoir were reduced by 50% below the threshold level of 3 cubic feet per second (cfs), onsite pumping would have to be reduced by 50%. This reduction in onsite groundwater pumping would minimize any impacts the project would have on stream flows within Arroyo Calero Creek during drought conditions.

For further discussion of the effects of groundwater pumping on Arroyo Calero Creek, the commentor is referred to Responses to Comments 15-17 and 15-103.

[1] The generalized low water level observed in the piezometers installed onsite shall be used to determine the "background" water level.

4-3 The commentor states that there are no mitigation measures identified in the Draft EIR that would reduce significant impacts to private well water supplies. As stated in the Draft EIR, drawdown in offsite wells at a distance of 2,000 feet would range from 0.5 to 2 feet, depending upon the distance measured from the well, with pumping of 70 gallons per minute. The Draft EIR concluded on page 89 that this magnitude of drawdown should not affect the water supply for most neighboring wells completed in the alluvium, unless the wells are being pumped at their maximum yield. The Draft EIR concluded that the significant water supply impact anticipated with project implementation would be that the capacity of the two project wells would not be adequate to meet the site's irrigation demands. The lack of adequate water in the onsite wells was identified in the Draft EIR as a significant and unavoidable impact. Mitigation measures were identified on page 92 of the Draft EIR to minimize the proposed project's impacts on available groundwater. The implementation of these mitigation measures would reduce the proposed project's demands on the larger water basin, which would minimize drawdown in offsite private wells. Because the identified mitigation measures would not reduce this impact to a less-than-significant level, it would remain significant and unavoidable.

The Draft EIR also identified alternatives to the proposed project that are intended to minimize the proposed project's impacts on groundwater resources. The commentor is referred to the detailed discussion of these alternatives included in Section III - Alternatives to the Proposed Project of the Draft EIR.

The commentor's statement in opposition to the proposed McKean Road Sports Complex project is noted.

County of Santa Clara

Environmental Resources Agency
Parks and Recreation Department

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September 20, 2004

SEP 2 4 2004

Ms. Janis Moore
City of San Jose
Department of Planning, Building, and Code Enforcement
801 North First Street, room 400
San Jose, CA 95110

Dear Ms. Moore,

The Santa Clara County Parks and Recreation Department (Parks Department) is in receipt of the second Draft Environmental Impact Report (EIR) for a General Plan text amendment and associated permits to allow interim sports field uses in the South Almaden Valley Urban Reserve.

First of all, I would like to point out that the Parks Department sent a response to the Notice of Preparation, and the first Draft EIR in December 2002 and June 2003, respectively, however, very few of the comments contained in the letters seem to be addressed in the second Draft EIR text. I have enclosed a copy of the original letters for your records (Attachments A & B). Our comments regarding the second Draft EIR are as follows:

In Section F of the Project Description: Consistency with Adopted Plans and Policies: The proposed project is not consistent with the Trails Element of the 1995 Santa Clara County General Plan. While the County General Plan is listed in the second Draft EIR, the Trails Element of the County General Plan is not. There are three proposed trail routes outlined in the Trails Element that are located adjacent to the subject parcels. Sub-Regional Trail Route S6 (*West Valley Trail*) is along McKean Road and is directly adjacent to the proposed project. Two regional trails (sharing one alignment) are located on the northern edge of the subject parcels, but are not directly adjacent to the proposed athletic fields. The trails are R1-A (*Juan Bautista de Anza National Historic Trail*) and R5-C (*Bay Area Ridge Trail- El Sombroso*). All three proposed trails are designated for bicycle, pedestrian, and equestrian use. **5-1**

While the Parks Department is not requesting the completion of the S6 trail route as part of this project, it should take into account this future bicycle/trail route and should be reflected as such in the EIR. Furthermore, the EIR should acknowledge the need to build a spur trail as part of the project to connect the proposed athletic fields with the partially-completed regional trail routes located along the project parcels' northern boundary.

In Section F of the Project Description: Consistency with Adopted Plans and Policies: On page 17, it states that the most relevant goals and policies of the San Jose 2020 General Plan are (listed below). However, there are several goals and policies that are relevant to the project that are not listed and should be discussed in the EIR. These include the following:

- *Trails and Pathways Policy # 2: When new development occurs adjacent to a designated Trails and Pathways Corridor, the City should encourage the developer to install and maintain the trail.* 5-2

The Parks Department believes that the developer should construct a trail on the subject parcel that connects the sports complex to the regional trail corridor located along the northern edge of the project parcels. While a continuous paved path does not currently connect the Los Alamitos Creek Trail and Santa Teresa Park in this corridor, a volunteer dirt trail does exist and is maintained by County Parks Staff. Based on the Trails and Pathways Policy #2, the City should encourage the building of a trail on the subject parcels as part of the project.

- *Trails and Pathways Policy # 6: The incorporation of trails and pathways into lanes used for public and utility purposes is encouraged.*

The Parks Department is not requesting the completion of Sub-Regional Trail Route S-6 along McKean Road as part of this project, however it should take into account the future route location and should be reflected as such in the EIR. Based on Trails and Pathways Policy #6, the City should encourage the future incorporation of this bicycle/trail route along McKean Road.

5-3

- *Transportation Policy (Pedestrian Facilities) # 19: The City should encourage walking, bicycling, and public transportation as preferred modes of transportation.*
- *Transportation Policy (Pedestrian Facilities) # 20: Pedestrian safety and access should be given priority over automobile movement.*
- *Transportation Policy (Bicycling) # 50: The City should develop a safe, direct, and well-maintained transportation bicycle network linking residences, employment centers, schools, parks and transit facilities and should promote bicycling as an alternative mode of transportation for commuting as well as for recreation.*
- *Transportation Policy (Parking) # 36: Bicycle parking facilities should be provided at all public off-street parking sites.*

Due to the fact that there is a trail corridor located directly adjacent to the project parcels, the project should encourage, not discourage, alternative modes of transportation to the future recreational site. Due to the athletic nature of the participants and spectators of the sporting events, users are likely to prefer to walk or ride a bike to practice and/or games, and could potentially reduce the traffic impacts on McKean Road and the need for parking spaces within the complex. By providing a safe trail connection to and along the northern edge of the project parcels, users have an alternative to riding or walking along McKean Road. The City should encourage pedestrian and bicycle access to the sports complex on public trails and provide bicycle parking facilities at the sports complex. 5-4

In Section E: Transportation: On page 99, it states that "no existing pedestrian or bicycle linkages to and from the project site currently exist." This is not true. The Stile Ranch Trail and associated staging area are located northeast of the project parcels along San Vincente Avenue, and link to the IBM lands and Santa Teresa County Park to the north and northeast of the subject parcels (Attachment C). Although the trail does not connect directly to the proposed developed area, it is located approximately 600 feet from the subject parcels and is accessible via San Vincente Avenue (which runs along the northern edge of the subject parcels). Additionally, a dirt volunteer trail currently exists and is being used along the northern boundary of the site between the Stile Ranch trailhead and westward towards the Los Alamitos Creek Trail that is noted as being 1/3-mile from the project site (Attachment C). Neither the Stile Ranch Trail nor the dirt volunteer trail, which is currently maintained by County staff, is mentioned in the text. These trails should be referenced in the EIR. **5-5**

On page 107, is states "as part of the proposed project, McKean Road would be widened...to add a northbound acceleration/merge lane", however it does not state that the acceleration lane will be constructed to accommodate a future bike lane (i.e. Sub-Regional Trail Route S6). While the Parks Department is not requesting the completion of Sub-Regional Trail Route S-6 along McKean Road as part of this project, if new improvements to the road will be made as part of this project, they should include improvements to accommodate a future bike lane along McKean Road and it should be reflected as such in the EIR. This includes paving as much of the shoulder as required to locate a future bike lane, as well as appropriate setback of roadside vegetation. **5-6**

On page 111, again it states that no existing pedestrian or bicycle linkages to and from the project site currently exist or are planned. As stated above, the Stile Ranch Trail and a dirt volunteer trail linking Stile Ranch to the Los Alamitos Creek Trail do exist and are located along the northern boundary of the subject parcels. In fact, the County Parks Department had a work crew clear vegetation along the dirt pathway last year to facilitate safer passage along that segment of trail. While neither the County nor City Parks Departments have funding set aside to pave this trail in the next fiscal year, there are plans to pave it in the future as part of the implementation of the 1995 Countywide Trails Master Plan. This should be stated in the EIR. **5-7**

On page 117, it states "the project would not be expected to generate substantial demand for bicycle or pedestrian access due to the nature of the proposed activities on the site." The Parks Department disagrees with this statement. Due to the athletic nature of the proposed uses, it is likely many sports complex users would in fact actually prefer to walk or ride a bicycle to the fields for practice and/or games. If a trail connection was provided to the northern boundary of the project parcels, league participants as well as spectators could ride or walk safely to the fields from several nearby neighborhoods. This additional access point to the sports complex would provide a safe alternative to users or spectators who may have otherwise chosen to ride or walk along McKean Road. While requiring a signed agreement to restrict walking or biking to the site may work as a safety mitigation measure to league participants, it would not prevent spectators from riding or walking to the site. If no alternative trail access is provided to the north of the sports fields, certain users (certain spectators) will have no choice but to use McKean Road to access the site. Providing access to the proposed sports fields from the northern property boundary would therefore provide a safe alternative for all users of the complex, including league participants *and* spectators. **5-8**

In Section H: Biological Resources: On page 171, it states "the project would include a perimeter chain link fence that would restrict access (and) vehicle access and circulation areas would be limited to the McKean Road side of the site." Installation of such a chain link fence would prohibit access to the trails along the northern boundary of the site. The Parks Department would like to see an access trail built from the sports fields to the public trails north of the property for pedestrian and bicycle access, without having to pass through a chain link fence. Public access should be maintained and encouraged in the northern section of the project parcels. If a chain link fence is erected around the perimeter of the project, a publicly-accessible (unlocked) gate should be installed to provide access to the trails along the northern boundary of the site. **5-9**

In Section J: Aesthetics/ Visual Resources: On page 185, it states that Santa Teresa County Park is approximately one mile from the project site, but is actually only 500 feet northeast from the subject parcels (Attachment C). On page 190, it states that the nearest trail is approximately ¼ mile from the site. Actually, this trail is approximately 600 feet from the site (Attachment C). Due to the close proximity to this trail there will be a significant visual impact from the proposed athletic fields and associated parking lots. **5-10**

The Parks Department appreciates the opportunity to respond to this second Draft EIR, and looks forward to reviewing the Final EIR when it becomes available. If you have any questions regarding the above noted comments, feel free to contact me at (408) 355-2230 or via email at Kelly.Gibson@prk.sccgov.org

Sincerely,

Kelly Gibson

Kelly Gibson
Park Planner

Attachment A: NOP Letter, dated December 10, 2002
Attachment B: Draft EIR Letter, dated June 12, 2003
Attachment C: Map of Trails and Parklands in Project Vicinity

cc: Mark Frederick, Santa Clara County Parks and Recreation Department
Lisa Killough, Santa Clara County Parks and Recreation Department

County of Santa Clara
Environmental Resources Agency
Parks and Recreation Department
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June 12, 2003

ATTACHMENT A

Ms. Janis Moore
City of San Jose
Department of Planning, Building, and Code Enforcement
801 North First Street, room 400
San Jose, CA 95110

Dear Ms. Moore,

The Santa Clara County Parks and Recreation Department (Parks Department) is in receipt of the Draft Environmental Impact Report (EIR) for a General Plan text amendment and associated permits to allow interim sports field uses in the South Almaden Valley Urban Reserve.

First of all, I would like to point out that the Parks Department sent a response to the Notice of Preparation of this Draft EIR in December 2002, however, none of the comments contained in the letter seem to be addressed in the Draft EIR text. I have enclosed a copy of the original letter for your records (Attachment A). Our comments regarding the Draft EIR are as follows:

In Section F: Consistency with Adopted Plans and Policies: The proposed project is not consistent with the Trails Element of the 1995 Santa Clara County General Plan (County General Plan). While the County General Plan is listed in the Draft EIR, the Trails Element of the County General Plan is not. There are three trails outlined in the Trails Element of the County General Plan that are located on the subject parcels. Sub-Regional Trail Route S6 (*West Valley Trail*) is along McKean Road and is directly adjacent to the proposed project (Attachment B). Per the **Countywide Trails Master Plan Update**, this trail route is designated as an "on-street bicycle route with parallel trail; route within the road right-of-way" for hiking, on-road bicycle, and equestrian use. While the Parks Department is not requesting the completion of this trail as part of this project, it should take into account this future bicycle/trail route and should be reflected as such in the EIR.

Two regional trails (sharing one alignment) are located on the northern edge of the subject parcels, but are not directly adjacent to the proposed athletic fields (Attachment B). The trails are R1-A (*Juan Bautista de Anza National Historic Trail*) and R5-C (*Bay Area Ridge Trail- El Sombroso*) and are designated for off-road bicycle, equestrian, and pedestrian use. These two trails are partially completed and link neighboring parcels and the proposed project with Santa Teresa County Park. There may be a need or desire in the future to complete these trails and provide public access from the proposed project to these trails. This should be noted in the EIR.

In Section E: Transportation: On page 93, it states that "there are currently no bicycle paths, sidewalks, or trails that provide direct access to the project site." This is not true. The Stiles Ranch Trail and associated staging area is located northeast of the project parcels along San

Vincente Avenue, and links to the IBM lands and Santa Teresa County Park to the north and northeast of the subject parcels. Although the trail does not connect directly to the proposed developed area, it is located approximately 600 feet from the subject parcels and is accessible via San Vincente Avenue. Additionally, a volunteer trail exists between the trailhead to the Stiles Ranch Trail and westward towards the Los Alamitos Creek Trail that is noted as being 1/3-mile from the project site (Attachment C).

Exhibit II.E-8: Trail Locations: This map does not show the Countywide Trails Master Plan Update routes (the Trails Element of the County General Plan, see Attachment B), nor the Stiles Ranch Trail (see Attachment C), nor the volunteer trail between the Stiles Ranch Trail and Los Alamitos Creek Trail (see Attachment C).

In Section E: Transportation: On page 112, it states that the project will include the construction of a westbound acceleration lane, however it does not state that the acceleration lane will be constructed to accommodate a future bike lane (i.e. Sub-Regional Trail Route S6). If new improvements to the road will be made as part of this project, they should include improvements to accommodate a future bike lane along McKean Road.

In Section E: Transportation: On page 114, it states that the project will not build a trail in the northern part of the project site since it will not connect to any off-site trails. However, the Stiles Ranch Trail is located north of the subject parcels approximately 600 feet away (via San Vincent Avenue) and therefore development of a trail on the subject parcels would, in fact, connect to an existing off-site trail.

In Section J: Aesthetics/ Visual Resources: On page 171, it states that "the distance between the project site and the regional parks in the vicinity" is one mile to the north, south, and east. This statement is incorrect. Santa Teresa County Park is approximately 500 feet northeast from the subject parcels. Almaden Quicksilver County Park is approximately 0.75 miles to the southwest and Calero County Park is approximately one mile to the east. Due to the close proximity to these regional parks, there will be a visual impact from the proposed athletic fields.

The Parks Department appreciates the opportunity to respond to this Draft EIR, and looks forward to reviewing the Final EIR when it becomes available. If you have any questions regarding the above noted comments, feel free to contact me at (408) 355-2230 or via EMAIL at Kelly.Gibson@mail.prk.co.santa-clara.ca.us.

Sincerely,

Kelly Gibson

Kelly Gibson
Park Planner

Attachment A: NOP Letter, dated December 10, 2002
Attachment B: Map- Countywide Trails Master Plan Routes
Attachment C: Map- Vicinity Map with Trails

cc: Mark Frederick, Santa Clara County Parks and Recreation Department
Yves Zsutty, City of San Jose, Parks, Recreation and Neighborhood Services

County of Santa Clara

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December 10, 2002

ATTACHMENT B

Ms. Janis Moore
City of San Jose
Department of Planning, Building, and Code Enforcement
801 North First Street, room 400
San Jose, CA 95110

Dear Ms. Moore,

The Santa Clara County Parks and Recreation Department (Parks Department) is in receipt of the Notice of Preparation of a Draft Environmental Impact Report (EIR) for a General Plan text amendment and associated permits to allow interim sports field uses in the South Almaden Valley Urban Reserve.

The Parks Department would like to note that there are three trails outlined in the Trails Element of the 1995 Santa Clara County General Plan that are located on the subject parcels. Sub-Regional Trail Route S6 (West Valley Trail) is along McKean Road and is directly adjacent to the proposed project. Per the **Countywide Trails Master Plan Update**, this trail route is designated as an "on-street bicycle route with parallel trail; route within the road right-of-way" for hiking, on-road bicycle, and equestrian use. The sports complex project should take into account this future bicycle/trail route.

Please note that two regional trails (sharing one alignment) are located on the northern edge of the subject parcels, but are not directly adjacent to the proposed athletic fields. The trails are R1-A (Juan Bautista de Anza National Historic Trail) and R5-C (Bay Area Ridge Trail- El Sombroso) and are designated for off-road bicycle, equestrian, and pedestrian use. These two trails are partially completed and link neighboring parcels and the proposed project with Santa Teresa County Park. There may be a need or desire in the future to complete these trails and provide public access from the proposed project to these trails.

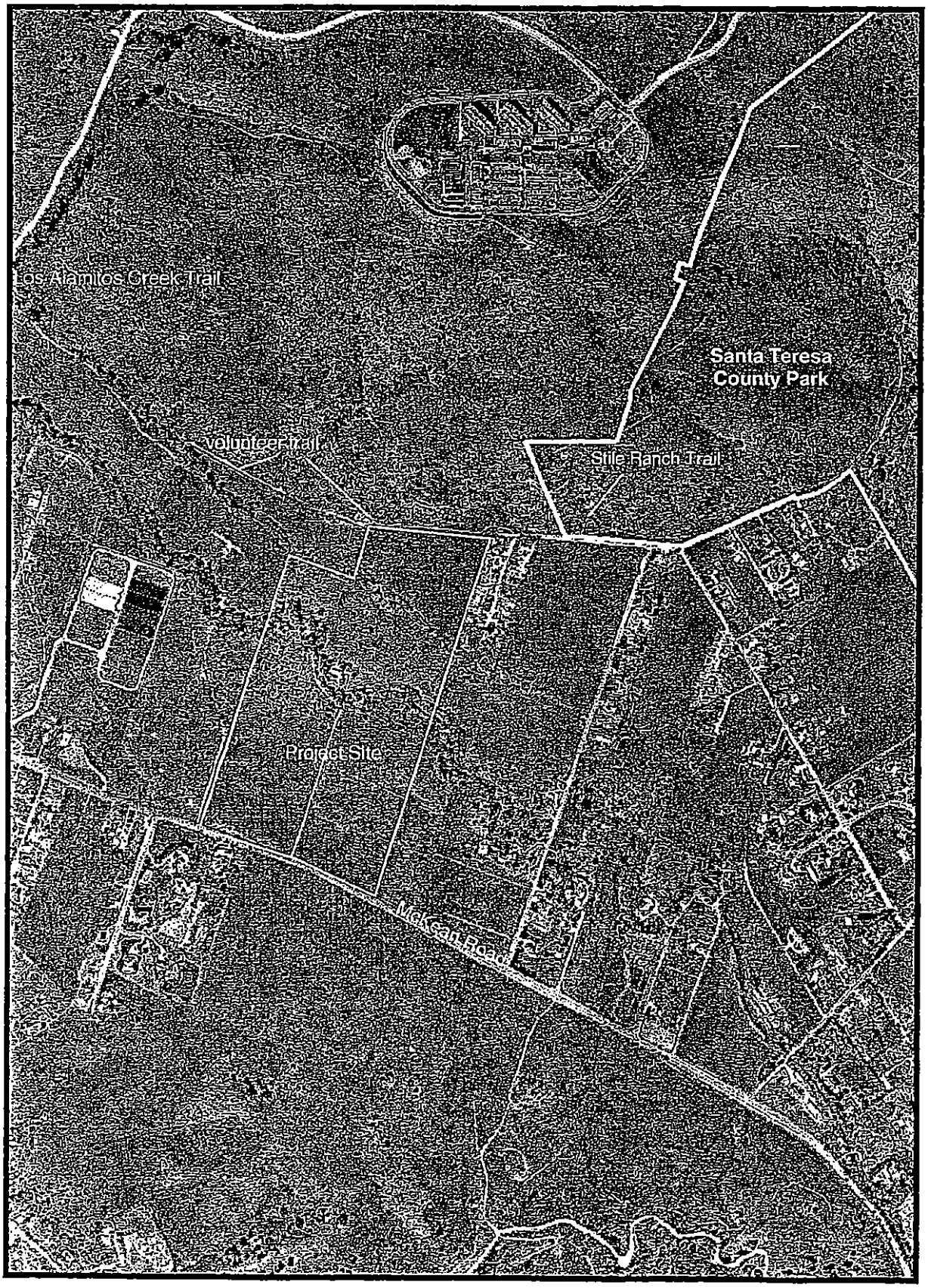
The Parks Department appreciates the opportunity to respond to this NOP, and look forward to reviewing the Draft EIR when it becomes available. If you have any questions regarding the above noted comments, feel free to contact me at (408) 355-2230 or via EMAIL at Kelly.Gibson@mail.prk.co.santa-clara.ca.us.

Sincerely,

Kelly Gibson

Kelly Gibson
Park Planner

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
Acting County Executive: Peter Kutras, Jr.



ATTACHMENT C

Map: Vicinity Badlands and Trails

0 550 1,100 2,200 Feet

Kelly Gibson, Park Planner
County of Santa Clara, Environmental Resources Agency
Parks and Recreation Department
Letter dated September 20, 2004; Received September 24, 2004

5-1 The commentor identifies trail routes that are included in the Santa Clara County General Plan. A new Exhibit No. I-7 is included in Chapter I.F. Consistency With Agency Plans and Policies of this document identifies the location of the trails to which the commentor references.

The comment that the existing trails are either directly adjacent to the "project parcels" or within several hundred feet is not accurate. The project site consists of the 35.4-acre portion of the 77-acre San Jose Unified School District (School District) property. The project site is the southerly portion of the property, approximately 1,500 feet from San Vicente Avenue and the trail routes that extend along that route. The project site is approximately 1,500 feet from the "volunteer dirt trail" and approximately 2,000 feet from the Stile Ranch trailhead. The creation of a "spur trail" from the project site to the existing trail route to the northeast would require the approval of the San Jose Unified School District for use of the portion of the property between the project site and San Vicente Road and the construction of two bridges over Santa Teresa Creek at two different locations.

The trail is considered by the County of Santa Clara to be a "volunteer" or unimproved dirt trail through private property. A volunteer trail typically refers to a pathway that trail users create over time with continued use. According to the commentor, the County has on occasion maintained this volunteer dirt trail and plans to pave it in the future as part of the implementation of the 1995 Countywide Trails Master Plan. Please refer to Section III of this document for revisions to the Draft EIR text. The volunteer dirt trail extends from the Stile Ranch Trailhead westerly towards the terminus of the existing Calero Creek Trail and over which the City holds an easement for purposes of trail access between the Stile Ranch Trailhead and Arroyo Calero Creek. This volunteer dirt trail is a component of the Bay Area Ridge Trail and provides a connection between the Stile Ranch Trail and the Calero Creek Trail. Portions of this route receive some maintenance by County Park's staff.

The volunteer dirt trail exists adjacent to the northerly boundary of the 77-acre School District property. Planning staff walked along this trail during the Spring and Summer of 2004 at which times it appeared to be too poorly maintained for bicycle use, even during the dry season, and too poorly maintained for pedestrian use during the rainy season. The trail appears to be used extensively by equestrians.

San Jose Parks, Recreation and Neighborhood Services (PRNS) Staff have estimated the cost to complete a paved trail from the terminus of the Calero

Creek Trail at Harry Road to the project site, including construction of two bridges, as approximately $1.7 to $2.0 million. However, as noted in the comment, neither the City nor County have funding identified to pave the volunteer dirt trail to the northeast of the project site, however, it is included in the future implementation of the County Trails Master Plan.

Regarding the consistency of the proposed project with the County General Plan Trails and Pathways Element, please refer to Response to Comment 10-2.

5-2 The commentor states that San Jose 2020 General Plan Trails and Pathways Policy #2 applies to the proposed project because it is located adjacent to a designated trail. The nearest trail is the volunteer dirt trail, a component of the Bay Area Ridge Trail, which is located approximately 1,500 feet to the northeast of the proposed sports field site. Although the City plans to lease the 35.4-acre subject site, the City would not have access to, nor control of, the remaining 41.6-acre School District property north of the subject site, which is adjacent to the trail (except for access to the Caglia well). Therefore, Policy #2 would not apply to the proposed project.

5-3 Please refer to Response to Comment 3-1.

5-4 Please refer to Responses to Comments 3-1, 5-1 and 5-2.

5-5 Please refer to Responses to Comments 3-1, 5-1, 5-2, 5-7, 5-9 and 5-10. In addition, the Stile Ranch Trail and volunteer dirt trail are near the facility but not directly accessible due to the Santa Teresa Creek and intervening School District property. Construction of two pedestrian bridges over this creek would be required as would paving of the volunteer dirt trail in order to provide a year-round, all-weather trail that would link the Bay Area Ridge Trail, which connects with the Calero Creek trail north of Harry Road. Additional bridges would be required to cross Santa Teresa Creek at two separate locations to access the subject site. This trail connection would only serve daylight uses as the trail is closed after sunset. Additional environmental review would be required to implement such a trail connection as it is not addressed in this EIR document.

5-6 Please refer to Response to Comment 3-1.

5-7 The commentor's statements regarding the proposed McKean Road Sports Complex project are noted. Please refer to Response to Comment 3-1. In addition, trails currently exist in the vicinity of the proposed project site, although access to these trails is not direct due to lack of bridge crossings as described above.

The EIR is correct in stating that no existing pedestrian or bicycle linkages currently exist or are planned to or from the proposed 35.4-acre sports field site.

The volunteer dirt trail is located over 1,500 feet from the 35-4-acre proposed sports field site across two creeks, Arroyo Calero Creek and Santa Teresa Creek. Arroyo Calero Creek flows year round and Santa Teresa Creek may be a seasonal drainage. Thu, there is no direct access to the subject site due to lack of bridge crossings over Santa Teresa Creek. Preliminary cost estimates by City staff estimate the cost of such a connecting trail, including two bridges, to be between approximately 1.7 and 2.0 million dollars. The City plans to lease the 35.4-acre subject site for sports field uses; however, the City will not have access to, nor control of, the remaining 41.6-acre School District property north of the subject site, which is adjacent to the volunteer dirt trail (except for access to the Caglia well). Since the City does not have control over the remaining School District property, it would not be able to make trail improvements through that property unless authorized by the San Jose Unified School District.. Such improvements have not been analyzed and are not the subject of this EIR and would therefore require additional environmental review.

5-8 The opinion of the commentor is noted. Please refer to Responses to Comments 3-1, 5-1 and 5-7. In addition, access to the facility from existing trails is limited due to the lack of bridge crossings over Santa Teresa Creek. Additionally, the trails close after sunset so usage would be restricted.

5-9 Please refer to Responses to Comments 5-1 and 5-7. If future trail access were made possible, this site could be served and a gate could be installed in the proposed chain link fencing to accommodate pedestrian and bicycle traffic from the nearby trail system. However, public access to trails adjacent to the site would not be necessary when this facility is closed, as this facility does not provide a link to other trails in the region. Therefore, gates would be locked when the facility is not in use.

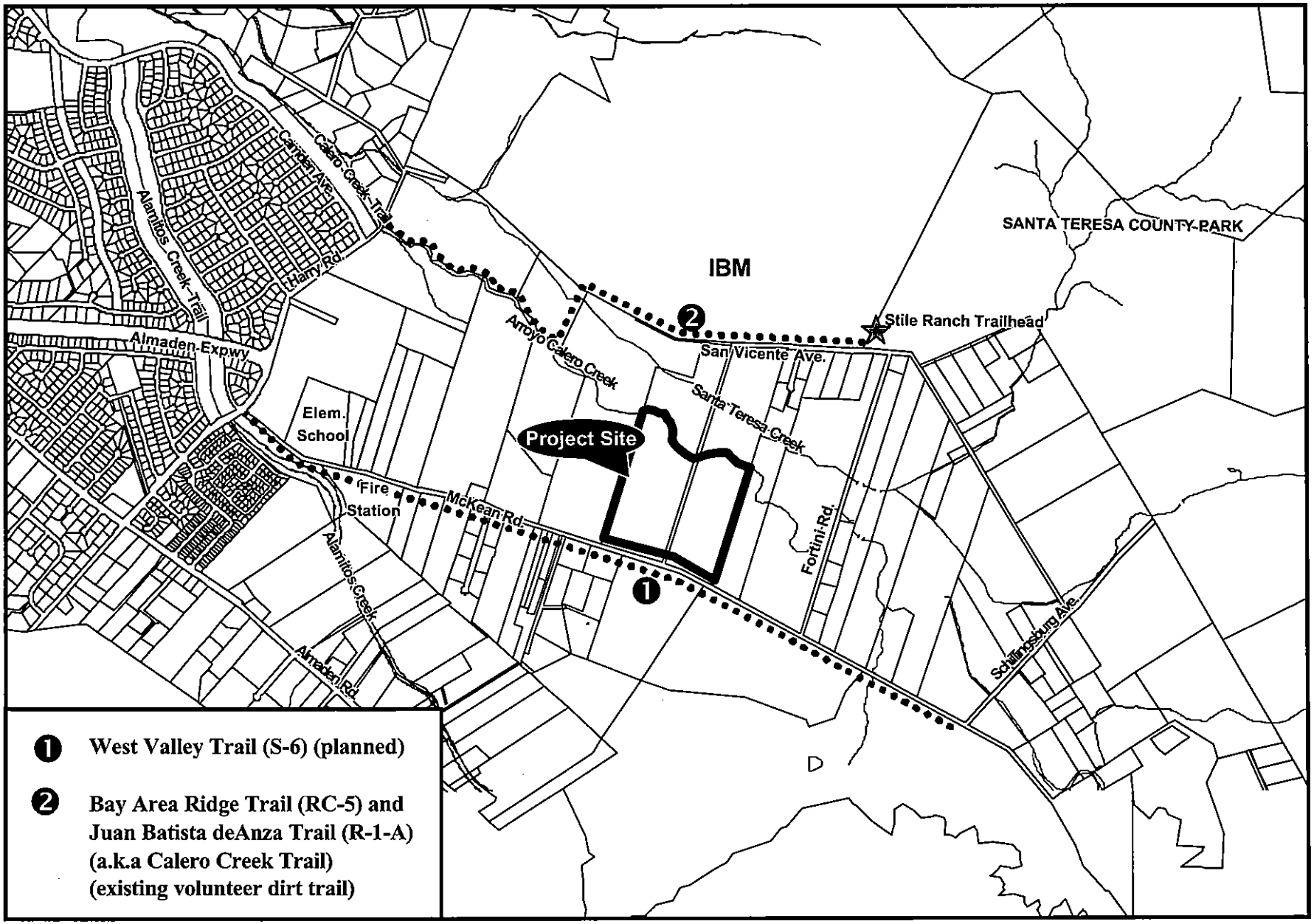
5-10 Please refer to Responses to Comments 5-1 and 5-2. The commentor appears to have misconstrued the location of the project site. The distances described in the comment letter are measured from the 77-acre School District property and should be measured from the 35.4-acre project lease area as shown on Exhibit I-3 in the Draft EIR. In response to the commentor's statement regarding the location of Santa Teresa County Park, the following statement on pages 185 of the Draft EIR is hereby revised as follows:

> Three regional County parks are located adjacent to the SAVUR in the vicinity of the site: Santa Teresa County Park, located approximately ~~one mile~~ **500 feet** to the northeast of the 77-acre School District property and approximately 2,000 feet from the proposed sports complex project site.

In response to the commentor's statement regarding the location of the nearest trail, the following statement on pages 190 of the Draft EIR is hereby revised as follows:

> The nearest trail that has a direct view of the site is located approximately ~~¼ mile~~ **2,000 feet** to the northeast in Santa Teresa Park.

As identified in Section II.J (Aesthetics/Visual Resources) of the Draft EIR, the proposed project would substantially degrade the local visual environment. No feasible mitigation measures are available that would reduce impacts related to the changes of visual character to less-than-significant levels. Therefore, the project if implemented would result in a significant and unavoidable visual impact.



Scale 1" = 1,500'

McKEAN ROAD SPORTS COMPLEX

Trail Routes

Exhibit I-7

County of Santa Clara

Environmental Resources Agency
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
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September 27, 2004

Ms. Janis Moore
Department of Planning, Building, & Code Enforcement
City of San Jose
San Jose CA 95110-1795

Subject: Comments on the Revised Draft Environmental Impact Report for the Mckean Road Sports Complex (SCH# 2002112035)

Dear Ms. Moore,

Please accept the following brief comments from the Santa Clara County Planning Office with respect to the Draft EIR:

Biology

The EIR states that the project site does not provide habitat for the California Tiger Salamander or the Western Burrowing Owl. Please demonstrate that the surveys and analysis used to support this conclusion meet adopted U.S. Fish & Wildlife (USFW) and California Department of Fish & Game (DFG) protocols. DFG protocols call for 3 years of surveys to determine if "occupied" Burrowing Owl habitat exists and USFW protocols call for 2 years of drift net fence studies to determine if California Tiger Salamander aestivation habitat exists. **6-1**

Water Supply

Discuss secondary effects with respect to impacts to the local aquifer and lowering of the groundwater table. Discuss how the project will impact potable water supply for local residences and necessary irrigation water for nearby agricultural operations. If water is not available to local residents and agriculture, what is the result? **6-2**

Cumulative Impacts

Delete the Chinese Church of Christ from your list of cumulative projects and make corresponding changes. The use permit for this facility has not been acted on and will soon expire. In addition, the property is being sold and the new owner has applied for permits for a single family residence. **6-3**

Alternatives

The EIR makes clear that Alternatives B2 and B3 would meet the project objectives while reducing at least one significant impact (Water Supply) to a less than significant level. There is no evidence in the record that either of these alternatives is infeasible. As **6-4**

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall, Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

such, it appears that findings ruling these alternatives infeasible cannot be made at project adoption (per CEQA Guidelines section 15091).. 6-4

Thank you for providing the opportunity to review and comment on the Draft EIR, we look forward to receiving the Final EIR. Should you have any questions, please feel free to contact me at (408) 299-5972.

Sincerely,

Rob Eastwood
Planner, County of Santa Clara

Cc:
Michael Lopez, Interim Director of Planning
Lizanne Reynolds, Esq., County Counsel
Rachel Gibson, Board of Supervisors Office, District One

Rob Eastwood, Planner
County of Santa Clara, Environmental Resources Agency
Planning Office
Letter dated September 27, 2004; Received September 27, 2004

6-1 The commentor indicates that the Draft EIR states that the project site does not provide habitat for the California tiger salamander or the burrowing owls. However, the Draft EIR clearly states on pages 172 and 176, respectively, that the project site provides marginal habitat for California tiger salamander and nesting and foraging habitat for burrowing owls. As the commentor states, the purpose of the surveys is to determine whether occupied burrowing owl habitat or California tiger salamander aestivation habitat exists on the proposed site. Because the Draft EIR assumes that habitat for these species exists on the site, conducting multi-year surveys to justify the absence of these species is not necessary. The Draft EIR concludes that the impacts on California tiger salamander and burrowing owls anticipated with project implementation would be considered significant and mitigation measures have been identified to reduce these impacts to a less-than-significant level. For a detailed discussion of the protocol-level surveys conducted for the proposed project, the commentor is referred to the Biological Resources Reports included as Appendix H to the Draft EIR. The commentor is also referred to Comment Letter #2 from the California Department of Fish and Game provided after that agencies review of the Draft EIR, which does not question the biological conclusions of the Draft EIR.

6-2 Please refer to Responses to Comments 4-2 and 4-3. The commentor requests that secondary effects with respect to impacts to the local aquifer and lowering of the groundwater table be discussed. The proposed project is not anticipated to adversely affect the local aquifer or significantly lower the groundwater table in the region because the water supply for the onsite wells is primarily influenced by stream flows within Arroyo Calero Creek. For a detailed discussion of this interaction between the site wells and Arroyo Calero Creek, the commentor is referred to Section II.D Water Supply of the Draft EIR.

6-3 The commentor states that the Chinese Church project should be deleted from the list of cumulative projects analyzed in the EIR because the use permit will soon expire and the new owners are apparently not pursuing the development of the church. At the time the Draft EIR was circulated the County use permit entitlement for the church was valid. It remains valid until such time as it expires or another project is built. The City of San Jose includes all approved and approved but not yet built projects in its environmental analysis, since they are considered to be reasonably foreseeable projects, consistent with the requirements of CEQA. Therefore, the church project was required to be included in the Draft EIR to be in conformance with CEQA.

Please refer to Responses to Comments 4-2 and 4-3 regarding water supply.

6-4 The commentor's statements regarding Alternatives B2 and B3 are noted. If the City decides to approve either the proposed project or one of the project alternatives, findings will have to be made substantiating the decision. At that time, evidence in the administrative record regarding the feasibility or infeasibility of the project alternatives will be presented.

Santa Clara Valley Water District

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AN EQUAL OPPORTUNITY EMPLOYER

File: 11490
Calero Creek

X-Fac: Santa Teresa Creek
Almaden Valley Pipeline

September 27, 2004

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

Subject: Recirculated Draft Environmental Impact Report for McKean Road Sports Complex

Dear Ms. Moore:

The Santa Clara Valley Water District (District) has reviewed the recirculated Draft Environmental Impact Report (EIR) for the McKean Road Sports Complex dated August 2004 and received by the District on August 16, 2004.

Based on our review of the above documents, we have the following comments:

1. On page 11, the last sentence in paragraph 3 should be corrected to indicate that the parcel (Assessor's Parcel No. 701-33-002), located west of the project site that is currently used for sludge drying beds, is owned by the District, not the San Jose Water Company as stated in the document. **7-1**

2. On page 92, the first mitigation measure for water supply impacts is monitoring water levels in the observations wells for excessive drawdown of the local aquifer and reducing pumping as necessary. In order for this mitigation measure to be effective, the term "excessive" needs to be defined and a plan developed that defines this trigger; who will be responsible for monitoring the wells and determining when this trigger has been reached; and how the pumping at the site will be modified to mitigate for the impacts. An example of a trigger to modify the groundwater pumping may be the historical groundwater elevation(s) in the basin. **7-2**

3. Please note that all construction proposed as part of this project within 50 feet of the top of bank of Calero Creek or adjacent to the District's Almaden Valley Pipeline and easement, located along McKean Road at the northwest corner of the site, will require a District permit. **7-3**

The mission of the Santa Clara Valley Water District is a healthy, safe and enhanced quality of living in Santa Clara County through watershed

4. The projected 79 acre-feet/year of water required for irrigation of the project is based on 80 percent of reference evapotranspiration (ETo) for an average year. In order to achieve this, several items will be required that will need to be documented:

   a. Design of an efficient irrigation system.

   b. Installation of the designed system. Many times the system installed is not what was designed. 7-4

   c. Continual maintenance of the entire system, from fine-tuning (*i.e.*, adjustment of sprinkler heads) to following a monthly water budget based on local ETo will be necessary.

4. The District is interested in receiving a copy of the long-term surface water and groundwater monitoring plan when available and copies of the data obtained as part of the monitoring program. 7-5

5. This project should incorporate all reasonable measures to protect groundwater quality throughout the construction and operation of the proposed facility. These measures should ensure that all materials used in the construction of the facilities, equipment used at the facility, and maintenance performed at the facility are protective of the groundwater resource. 7-6

Please forward a copy of the final EIR when available for our files.

If you have any questions or need further information, you can reach me at (408) 265-2607, extension 2322.

Sincerely,

Colleen Haggerty, P. E.
Assistant Civil Engineer
Community Projects Review Unit

cc: S. Tippets, V. Stephens, D. Chesterman, B. Ahmadi, R. Piemo, J. De La Piedra, J. Micko, M. Richardson, C. Haggerty, File (2)

ch:lm
0924c-pl.doc

Colleen Haggerty, P.E., Assistant Civil Engineer
Santa Clara Valley Water District
Letter dated September 27, 2004; Received September 27, 2004

7-1 In response to the commentor's statement regarding the parcel located west of the project site, the following statement on page 11 of the Draft EIR is hereby revised as follows:

> The only other publicly-owned properties in the SAVUR include two parcels along McKean Road that are developed with fire stations, and property west of the site owned by the ~~San Jose Water Company, a public utility~~ Santa Clara Valley Water District, currently being used for sludge drying beds.

7-2 Please refer to Responses to Comments 4-2, 15-17 and 15-103.

7-3 The commentor states that all construction proposed as part of the project within 50 feet of the top of bank of Arroyo Calero Creek or adjacent to the District's Almaden Valley Pipeline and easement would require a District permit to be obtained. The City will comply with these requirements if the proposed project is approved.

7-4 The commentor identifies specific items that will need to be documented in order to achieve adequate irrigation at the site, assuming 80 percent of evapotranspiration for an average year. The mitigation measure on page 92 of the Draft EIR that requires implementation of a detailed water management program is intended to ensure that an efficient irrigation system is designed and installed at the site and that proper maintenance of the system occurs throughout its useful life.

7-5 The commentor states the District's interest in receiving a copy of the long-term surface water and groundwater monitoring plan when available and copies of the data obtained as part of the monitoring program. If the proposed project is approved, the City will forward the requested materials to the District.

7-6 The commentor states that all reasonable groundwater quality protection measures should be incorporated throughout construction and operation of the proposed facility. For a detailed list of water quality protection mitigation measures that would be required with project implementation, the commentor is referred to pages 58 through 60 of the Draft EIR.

County of Santa Clara
Roads and Airports Department
Land Development and Permits
101 Skyport Drive
San Jose, California 95110-1302
(408) 573-2460 FAX (408) 441-0275

September 27, 2004

Ms. Janis Moore
Department of Planning, Building & Code Enforcement
City of San Jose
801 North First Street, Rm.400
San Jose, California 95110-1795

Subject: Recirculated Draft Environmental Impact Report (DEIR) for McKean Road Sports Complex (SCH # 2002112035)
File No.GPT01-10-20/PP03-02-057

Dear Ms. Moore,

We have reviewed the recirculated DEIR (dated August 2004) enclosed in your letter dated August 12, 2004 and we have the following comments which incorporate and supercedes our previous comments (response to Notice of Preparation dated 12/06/02 and comments on DEIR dated 06/12/03):

A) Road Right-of-Way Dedication:

1. The property (APN 701-34-001 & 701-35-001) has a frontage along McKean Road which is subject to the dedication policy based on the Future Width Line Study (not to exceed 67 feet half street) in accordance with Official Plan Line (OPL), Book No.4, 46-57. **8-1**
2. Dedicate a 30 foot minimum return radius in right of way on both corners of Mckean Road and San Vicente Avenue. **8-2**
3. All right-of-way dedication shall be curvilinear. The dedication must be completed prior to the issuance of the building permit. **8-3**
4. San Vicente Avenue is not a County maintained road and shall be labeled as a private road on the site plan. The following note shall be placed on the plan or map: Roadways designated as not County Maintained Roads as shown upon this map/plan will not be eligible for County maintenance until the roadways are improved (at no cost to the County) to public maintenance road standards approved by the Board of Supervisors and in effect at such time that the roadways are considered for acceptance into the County's Road System. **8-4**

B) Transportation/Traffic Impact Report:

1. We would like to know why the previously proposed single access point (ingress/egress) to the site was changed to two separate points for ingress and egress. **8-5**
2. The proposed two driveway circulation requires the majority of traffic (southbound) to **8-6**

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss
County Executive: Peter Kutras, Jr.

pass the northerly exit driveway in order to enter the site at the southerly ingress driveway. Traffic violations and hazard may arise if Drivers enter the site using the exit driveway. As shown on the conceptual site plan (Exhibit I-5) the left turning outbound traffic does not have an acceleration/refuge lane. This potentially significant operational safety hazard impact should be mitigated by adding an acceleration/refuge lane at this location, since the southbound through lane on McKean Road should not be impeded or impacted at any time by southbound traffic exiting the site. 8-6

3. As mentioned in the DEIR, requiring a player's parents to sign an agreement that restricts their children from riding bicycles or walking to the site as related to the bicycle/pedestrian issue is NOT a mitigation measure. The agreement will be difficult, if not impossible, to enforce and does NOT indemnify the County. 8-7
4. A pedestrian/ bicycle access alternative to the site needs to be evaluated and considered as a project mitigation. The DEIR's conclusion that there are no feasible mitigation measures is conclusory and does not comply with CEQA. The pedestrian / bicycle access alternative should consider both use of existing road rights of way and other off-road alternatives. 8-8
5. The DEIR's assessment of the project's parking needs appears to be insufficient. Detailed assessment needs to be made for adequate parking on site. No overflow parking is allowed within the right of way of McKean Road. 8-9
6. The DEIR fails to address this project's cumulative traffic impact on McKean Road in relation to the future additional traffic impact from the Coyote Valley development. The DEIR should be revised to incorporate this analysis. 8-10

C) Interim Road Improvements:

1. Please show on plan with construction details and demonstrate by drainage calculations prepared by a registered civil engineer that the surface runoff from the site is carried to an acceptable outfall of adequate capacity, and if any drainage is proposed to outfall to road right of way, show the surface runoff is in compliance with the Regional Water Quality Control Board (RWQCB) orders relating to National Pollutant Discharge Elimination System (NPDES). 8-11
2. Please provide geometry/striping plans of the proposed interim road improvement. 8-12
3. The design of the acceleration and deceleration lanes shall be per Caltrans Standard. 8-13
4. The left turn pocket shall be designed to accommodate the maximum number of vehicle (storage) at peak periods. 8-14
5. The road widening shall include a minimum 16 feet outside lane and 3 feet aggregate base shoulder. 8-15
6. Chain link fence with vines shall be placed outside of the Official Plan Line (OPL). 8-16
7. Please submit the complete interim road improvement plans for County's review and approval. 8-17
8. A County encroachment permit must be obtained for any work within the County's road right-of-way. 8-18
9. For your reference, the ultimate section of McKean Road will be in accordance with the current Santa Clara County Roads and Airports Department's Standard Detail A1. 8-19

Should you have any questions please contact me at (408) 573-2487.

Sincerely

William R Lee
Project Manager

cc: MJM, DEC, MLG, MA/SK, CTP, Lizanne Reynolds, File

William R. Lee
County of Santa Clara, Roads and Airports
Letter dated September 27, 2004; Received September 27, 2004

8-1 Nothing in the comment questions the analysis or conclusions or suggests any inadequacies in the Draft EIR. The proposed project is considered an interim outdoor recreational use. Specific details on the roadway right of way dedication and improvements would be coordinated with the School District (the property owner) and the County, as appropriate, in the event the project is approved. Please also refer to Responses to Comments 3-1 and 5-1 through 5-10.

8-2 Please refer to Response to Comment 8-1.

8-3 Please refer to Response to Comment 8-1.

8-4 The commentor's statements regarding San Vicente Avenue not being a County maintained road are noted. If the proposed project is approved, a detailed site plan will be prepared by the City that includes the roadway designations that the commentor requests.

8-5 The ingress/egress was redesigned to create an access and circulation plan that allowed for ample on-site stacking, on-site drop-off and pick-up and safe ingress and egress from the site.

8-6 The boundary of the Almaden Youth Association encompasses neighborhoods north of the project site. The traffic study identifies that 95% of user trips would originate from the north of the project site. Traffic from south of the project site would be negligible, therefore, demand for southbound left-turns would be minimal. A left-turn southbound acceleration refuge lane would therefore not be warranted.

8-7 The City concurs that agreements with parents that restricts pedestrian and bicycle access to the site is not mitigation. Please refer to Response to Comment 3-1 for additional discussion on bicycle and pedestrian issues. Furthermore, the comment regarding indemnification is not an environmental issue.

8-8 Please refer to Responses to Comments 3-1 and 5-1.

8-9 The project proposes a maximum of 569 parking spaces (475 regular spaces and 94 overflow spaces). Parking calculations may seem high in comparison to the maximum utilization of the site because additional parking is being provided to allow for "turnover" between games. An over supply of parking is being provided to ensure that parking spaces are available to cars as players arrive and depart between games in order to limit waiting times for parking spaces, to

avoid traffic jams in the parking lot and to prevent backup traffic on McKean Road. Maximum utilization figures were based on simultaneous use of all six fields, which would not always be the case. That would represent two teams on each field with team size approximately 15 players, plus coaches, plus approximately two spectators per player, times 6 fields, which yields approximately 550 people. Furthermore, it is common that participants carpool to sports activities.

8-10 The Draft EIR reports a cumulative growth scenario using a 1.2 percent growth factor, consistent with the Santa Clara Valley Transportation Authority (VTA) future growth scenario and a potential for cumulative impact with the development of the Coyote Valley Specific Plan in conformance with the requirements of CEQA. Since no specific traffic data is available yet for the Coyote Valley Specific Plan, the growth factor was used to approximate the traffic anticipated from Coyote Valley development. The EIR provides sufficient information and an adequate assessment of traffic impacts, both in the project and the cumulative case. In addition, the background traffic analysis prepared for the proposed project assumes projected traffic from all approved projects, including the approved Planned Development Zoning for the Coyote Valley Research Park (Cisco) project in Coyote Valley. Please also refer to Response to Comment 14-3 for additional discussion on Coyote Valley traffic.

8-11 As discussed in the Hydrology and Water Quality section of the Draft EIR, the project proposes that all the onsite flows be diverted into retention basins to be situated throughout the site. These basins would have the capacity to hold flow from a 2-year 24-hour storm event. Once the basins are filled, the flow from watersheds D, I, J, L and M would drain into Arroyo Calero Creek, and the remaining watersheds would drain westward, as they do in the existing condition, eventually flowing into Arroyo Calero Creek (see Exhibit II.C-3 Hydrology Map - Project Conditions on page 49 of the Draft EIR). These retention basins would minimize the anticipated increased flow associated with project implementation and would not drain to McKean Road.

In compliance with NPDES Permit requirements, the preparation of a final drainage plan would be required prior to site construction activities. The drainage plan would be required to contain detailed drainage calculations for surface runoff and outfall facilities and would require review and approval by the Santa Clara Valley Water District (SCVWD). If the proposed project is approved, the requested materials will be forwarded to the County of Santa Clara, Roads and Airports Department.

8-12 Plans for the purpose of the Draft EIR are conceptual only. Actual improvements will be forwarded to the County for their review and approval during the implementation process. The commentor's statements regarding the proposed McKean Road Sports Complex project are noted, however the comment does not raise any new environmental issues.

8-13 Please refer to Response to Comment 8-12.

8-14 Please refer to Response to Comment 8-12.

8-15 Please refer to Response to Comment 8-12.

8-16 The commentor's statements regarding the proposed McKean Road Sports Complex project are noted, however the comment does not raise any new environmental issues; therefore, no response is required.

8-17 Please refer to Response to Comment 8-12.

8-18 Please refer to Response to Comment 8-12.

8-19 Please refer to Response to Comment 8-12.

SANTA CLARA
Valley Transportation Authority

September 27, 2004

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

Attention: Janis Moore

Subject: City File No. GPT01-10-02 / McKean Road Sports Complex RDEIR

Dear Ms. Moore:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Recirculated Draft EIR to allow sports field uses on 35 acres on the north side of McKean Road, along both sides of San Vicente Avenue. We have the following comments.

On-Site Planning and Design

Parking

Although the DEIR mentions a proposal for 569 parking spaces for the project on page 106, there is no supporting analysis provided in the DEIR or TIA showing how the proposed number of parking spaces was derived. A worst-case scenario represented by back-to-back soccer games on all six fields and no carpooling as represented in Table 18 of the TIA yields a parking demand of just over 400 vehicles. In reality, there likely will be some amount of carpooling. Please provide the analysis that yielded 569 parking spaces. 9-1

Transportation System Planning and Design

Community Design and Transportation Best Practices

Both the City of San Jose and the County of Santa Clara have adopted the *Community Design and Transportation Best Practice Principles* as policy, of which *Principle 7: Create a multimodal transportation system* reads in part:

> "...The county's best response to congestion is to offer residents and workers the option to walk, bike, or take transit to their destinations. Provision of viable transportation alternatives is not about destroying the automobile; rather it is about balancing the needs of automobile movement with the needs of other modes. A multimodal transportation system consists of an interconnected bicycle network, continuous pedestrian ways and a comprehensive transit network..." 9-2

The City and the County would also be violating their own adopted policies, if bike/pedestrian access is not provided for this project.

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Bicycle/Pedestrian/Transit Access

VTA completely disagrees with the proposed project-level mitigation to require parents to sign an agreement form that restricts their children from riding bikes or walking to the site as a measure to address potential accidents between vehicles and pedestrians/bicycles due to the lack of adequate bicycle and pedestrian access to the site. The lack of bicycle/pedestrian access is a significant, but not unavoidable impact. VTA strongly urges that the City and the developer extend Arroyo Calero trail from its current terminus at Harry Road to San Vicente Ave and connect to the project site. The attractiveness of a community-based youth sports facility such as the McKean Road Sports Complex is dependent on how well it is connected to the community. Having the sports complex accessible only by automobile detracts greatly from the facility. 9-3

Besides lack of access for pedestrians and bicyclists, the proposed project also would lack access by transit. The nearest bus service, Route 13, goes by McKean Road/Harry Road. For a transit user, the final leg from the Route 13 bus stop to the project site would be a one-mile trip along McKean Road without sidewalks or bicycle lanes. The developer should make a fair-share contribution towards, at minimum, a sidewalk along McKean Road to the project site.

Transportation Demand Management

VTA suggests that a Transportation Demand Management component be included this project by having the site-operator operate a carpool-match list for participants. League registration materials should include a car-pool registration sheet. 9-4

Trip Generation

The TIA on page 16 documents the weekday sports seasons as "soccer and softball activities from mid-August through October, and ...baseball and softball from February through June." However, Table 5 for the soccer season only shows trips associated with soccer activities and not softball activities, and Table 6 for the baseball season shows trips for all three sports. Please explain this apparent discrepancy between the trip generation tables and the description of overlapping sporting activities. 9-5

The TIA on page 31 documents the weekend sports seasons as "soccer and softball activities from mid-August through October, and ...baseball and softball from February through June." However, Table 18 for the soccer season only shows trips associated with soccer activities and not softball activities, and Table 19 for the baseball season shows trips for baseball and soccer even though the text mentions softball as the overlapping sport. Please explain this apparent discrepancy between the trip generation tables and the description of overlapping sporting activities. 9-6

Also, Table 18 in the TIA shows 17 players per team for soccer, while Tables 5, 6 and 19 show the number of players assumed per team as 15. Please explain this discrepancy. 9-7

Traffic Improvements

On page 107 of the DEIR, it mentions, "...As part of the proposed project, McKean Road would be widened in accordance with the City of San Jose and the County of Santa Clara standards to add both a northbound deceleration/right-turn lane and a southbound left-turn lane at the inbound project site access location." If there are enough resources (ROW and funding) for automobile traffic improvements, there should be commensurate resources for bicycle/pedestrian access improvements. 9-8

Site Access Queuing Analysis

The queuing analysis should be conducted for the conditions represented in Table 18 of the TIA where there are back-to-back soccer matches. It is suggested that the left turn pocket into the project site should be able to accommodate more than the seven vehicles noted on page 27 of the TIA. The queuing analysis in the TIA assumes that the traffic volumes are spread over one hour; however, traffic associated with the soccer games would take place over a much shorter time. Given that McKean Road is a narrow two-lane roadway, the pocket lengths should be increased to decrease further the likelihood that left turn queues will block through traffic on McKean Road. 9-9

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

Roy Molseed
Senior Environmental Planner

RM:rm

cc: Ebrahim Sohrabi, San Jose Public Works Department
Samantha Swan, VTA

Roy Molseed
Santa Clara Valley Transportation Authority
Letter dated September 27, 2004; Received September 27, 2004

9-1 Please refer to Response to Comment 8-9.

9-2 Please refer to Responses to Comments 3-1 and 5-1.

9-3 Please refer to Responses to Comments 3-1, 5-1 through 5-10 and 8-7 .

9-4 The City agrees with the suggestion made by the Santa Clara Valley Transportation Authority (VTA) that a TDM component be included in the project by requiring the implementation of a carpool match list to reduce the likelihood that sports field participants would walk or bike to the facility. The following text is hereby added to the project description on page seven of the Draft EIR:

> The site operator shall implement a Transportation Demand Management (TDM) program that includes the development and use of a carpool match list in order to reduce the likelihood that sports field participants walk or bike to the facility.

9-5 The baseball and softball season would occur between February and June. All of the baseball and softball fields are assumed to be used during this period. Also during this period, one soccer field is anticipated to be used for soccer activities. The soccer season would occur from mid-August through October. No baseball or softball activities would be anticipated during this period. Therefore, the second sentence of the second paragraph on page 108 of the Draft EIR is hereby revised as follows:

> The sports complex proposes to generate project traffic associated with soccer ~~and softball~~ activities from mid-August through October, and project traffic associated with baseball and softball activities from February through June.

In addition, the reference to the soccer and softball activities occurring from mid-August through October on pages 16 and 31 of the Traffic Impact Analysis is hereby revised as above.

9-6 Please refer to Response to Comment 9-5.

9-7 Trip generation and team sizes vary on a day-to-day basis and the report represents a typical scenario. Most teams have 15 players, many often have less. The size of the team, whether it consists of 15 or 17 members, would have a negligible effect on project traffic and would typically be less than the worst-

case assumptions used in the traffic analysis. In addition, coaches have children on the teams and often provide other team members with transportation.

9-8 Please refer to Response to Comment 3-1.

9-9 The commentor assumes the analysis was spread over a one-hour period; however, the analysis was performed assuming a 15-minute arrival time. This calculation conforms to the Highway Capacity Manual (HCM) methodology, the standard adhered to by most jurisdictions. This is a County road, therefore, the final pocket design would be required to be consistent with County standards and the final design would be subject to County approval.

OFFICE OF THE COUNTY COUNSEL
COUNTY OF SANTA CLARA

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Ann Miller Ravel
COUNTY COUNSEL

Martin H. Dodd
SPECIAL ASSISTANT COUNTY COUNSEL

Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

September 27, 2004

VIA FACSIMILE (408-277-3250) AND HAND DELIVERY

City of San Jose
Department of Planning, Building and Code Enforcement
c/o Janis Moore
801 N. First Street, Room 400
San Jose, CA 95110-1795

Re: **Comments on Recirculated DEIR for McKean Road Sports Complex (SCH #2002112035)**

Dear Ms. Moore:

We submit the following comments on the Recirculated Draft EIR for the McKean Road Sports Complex ("DEIR") on behalf of the County of Santa Clara. While the County generally supports providing opportunities for youth sports, the proposed project site is inappropriate for this use. Locating this urban-scale use in the South Almaden Valley would conflict with numerous County and City General Plan policies and cause significant, unavoidable impacts to several resources, including agriculture and groundwater supplies. The DEIR also fails to adequately explain why this project is a "public" project exempt from County land use regulation. 10-1

Inadequate Information re "Public" Nature of Project

The DEIR does not provide sufficient information to allow the public to determine whether the Sports Complex is truly a "public" project exempt from County zoning and building regulations or whether the City is merely serving as a conduit for the Almaden Youth Association ("AYA") to avoid County land use regulations. The DEIR states: 10-2

> "It is anticipated that AYA would provide significant funding for the development of the facility, and then enter into arrangements with the City to operate and maintain the facility for use by the youth sports leagues in the Almaden Valley, as well as the general public." (DEIR, p. 1.)

"It is anticipated that AYA would have the ability to reserve the facility for the operation of its youth sports programs. City-sponsored use of the facility would be consistent with AYA uses . . . . However, no City-sponsored sports uses would be scheduled at the site during AYA tournaments." (*Ibid.*)

10-2

"The maximum utilization of the facility, as described by the AYA . . . ." (DEIR, p. 11.)

The City needs to provide more information to demonstrate why it has concluded that the Sports Complex is a "public" project exempt from County zoning and building regulations.[1] Among other things, the City should describe its relationship with AYA in more detail and provide a copy of the proposed operation and maintenance agreement.

<u>Nonconformance with Land Use Plans and Policies</u>

The "Consistency with Adopted Plans and Policies" section of the DEIR (I.F) is flawed in several respects.

The DEIR states that the project would conform with the "intent" of the Greenline/Urban Growth Boundary Major Strategy because the project would be "low intensity." (DEIR, p. 17.) The County disagrees strongly with this assertion. The Sports Complex will have 6 soccer fields, 2 softball fields, 4 baseball fields, 569 parking spaces, and associated support facilities. (DEIR, Ex. I-5.) The DEIR states that the facility could attract up to 650 people. (DEIR, p. 11; *see also* p. 31 ("The proposed project would introduce an active recreation use into a rural area . . . .").) By any measure, this is an *urban*-scale use. As such, it is an inappropriate use for the South Almaden Valley Urban Reserve area ("SAVUR") until certain triggers are met and the City expands its urban service area to encompass the site.[2]

10-3

The City acknowledges that the triggers for urban development in the SAVUR have not been met. While this admission should be dispositive, the City atttempts to circumvent this restriction. The DEIR goes to extreme lengths to explain why the urban-scale Sports Complex is appropriate for the area and to explain why the General Plan amendment crafted by the City purports to allow the Sports Complex to avoid the carefully drawn constraints in the City's own General Plan. Unfortunately, all of this is done at the expense of the environment in and around Almaden Valley.

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[1] The DEIR misconstrues the statements of former County Planning Director Ann Draper. Ms. Draper did not "acknowledge[] that the proposed project qualifies as a City public project . . ." (DEIR, p. 15.) Rather, Ms. Draper stated: "The City of San Jose has determined that this is a City-sponsored public project." (DEIR, Appx. K (March 29, 2004 Letter from Ann Draper to Stephen Haase).)

[2] San Jose 2020 General Plan Text (as of July 15, 2004) (hereafter, "City General Plan"), p. 223.

An example of the DEIR's convoluted analysis is the conclusion that the proposed General Plan amendment will alleviate the project's General Plan nonconformance because the amendment will allow only "Limited outdoor public recreation uses such as trails and sports fields, which do not require extension of permanent urban infrastructure or improvements . . . ." (DEIR, p. 7.) Yet the DEIR also concludes that the Sports Complex will cause significant, unavoidable impacts to groundwater resources because it will rely on groundwater wells for its massive irrigation demands. The sheer number of recreational fields and facilities to be constructed and the large numbers of cars and people to regularly visit the facility cannot be considered "limited" under any reasonable definition of that term. 10-3

Likewise, the DEIR states that the project will comply with the Growth Management Major Strategy – the purpose of which is to shield the City's budget from increased service demands[3] – because it "would minimize impacts on public services by not allowing any permanent infrastructure improvements." (DEIR, p. 17.) The level of water required by the Sports Complex and the significant impacts to groundwater resources demonstrate that this project needs public services.

The County strongly objects to the City's attempt to protect its finances at the expense of the environment and the local residents and farmers whose groundwater supplies will be depleted by this project. It defies credibility for the City to claim that the Sports Complex complies with the General Plan because it will not be served by public infrastructure when the project's water demand is so great that it will significantly impact groundwater supplies. Certainly this is not what the City Council had in mind when it adopted these General plan policies. It is also an affront to the policies underlying CEQA. (Pub. Res. Code §§ 21000, 21001.) 10-4

The DEIR is also inadequate because it fails to explain how the Sports Complex will conform with Parks and Recreation Policy 5, which states that "development of public and private recreational uses in rural and hillside areas should be low intensity and sensitive to . . . water resources." (DEIR, pp. 17-18.) Similarly absent is any explanation of how the project will comply with Water Policy 2, which provides: "Water resources should be utilized in a manner which does not deplete the supply of surface or groundwater . . ." (DEIR, p. 22.) 10-5

The DEIR also fails to analyze the project's consistency with the "Agricultural Lands and Prime Soils Goal" of the City General Plan, which provides: "Avoid the *premature conversion* of agricultural lands to urban uses." (City General Plan, p. 122.) This goal dovetails with the City's goals for the SAVUR, which call for preservation of the area until certain development triggers are met. (*Id.*, pp. 222-223.) These triggers have not been met. Therefore, the conversion of this land from agricultural use is premature and conflicts with the City's General Plan. 10-6

[3] City General Plan, p. 44; DEIR, p. 17.

Inadequate Analysis of Land Use/Agriculture Impacts

The Land Use section of the DEIR (II.A) fails to analyze the project's potentially significant land use impacts with respect to the third significance criterion: "Conflict with existing zoning for agricultural use, or a Williamson Act contract." (DEIR, p. 28.) The project site is in the unincorporated area; thus, the relevant zoning for purposes of this criterion is the County's zoning. The County has zoned the property A-20ac-sr (Exclusive Agriculture, 20-acre minimum lot size, scenic road combining district). The purpose of the Exclusive Agriculture zoning designation is to preserve agricultural lands. (County of Santa Clara Ordinance Code, Zoning Ordinance § 2.20.010.) Recreational playgrounds and sports fields are only allowed in this zoning district if certain criteria are met, including a finding that the land is of marginal quality for agricultural purposes. (*Id.*, §§ 2.20.020, 4.10.270(B)(1).) The project site is in active agricultural use and has been for decades; hence, the site clearly fails to meet this criterion. 10-7

Even if we assume, for argument's sake, that the City has properly characterized the Sports Complex as a "public" project exempt from County zoning regulations, this does not alter the fact that the project would conflict with the property's existing zoning. Thus, based on the significance criteria in the DEIR, the project would have a significant land use impact. This significant impact was not identified. Therefore, the DEIR is legally inadequate and should be revised and recirculated for public comment.

The project site is designated prime farmland and has been in active agricultural use for many years. (DEIR, pp. 1, 27-28.) Existing land uses are primarily agricultural fields, pasture lands and rural residential development. (DEIR, pp. 27, 63.) While the DEIR acknowledges that the Sports Complex will likely result in permanent conversion of the project site to non-agricultural use, it fails to analyze the likely adverse impacts to surrounding agricultural lands in the area. It is well-recognized that one of the biggest threats to the continued viability of agriculture is the encroachment of "uses that increase the density of the permanent or temporary human population of the agricultural area." (Government Code § 51220.5.) Agriculture often involves the use of pesticides and herbicides, and the generation of noise and dust.[4] Bringing hundreds of school-age children into an area that is in active agricultural production could lead to increased complaints and eventually the cessation of agricultural operations on other properties in the area. The fragmentation of agricultural lands also reduces agricultural viability. (*E.g.*, Santa Clara County General Plan, p. O-35.) The project's impacts on local groundwater supplies could also reduce the viability of these surrounding agricultural lands.[5] 10-8

The DEIR fails to adequately analyze these potential significant impacts and is therefore legally

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[4] *See, e.g.*, County of Santa Clara Ordinance Code § B29-4.

[5] *See* DEIR p. 63 ("Surrounding land uses consist primarily of agricultural fields, pasturelands and rural

inadequate. It should be revised and recirculated for public comment. 10-8

Inadequate Analysis of Hydrology and Surface Water Quality Impacts

The Hydrology and Water Quality section of the DEIR (II.C) sets forth about twelve significance thresholds. (DEIR, pp. 46, 48.) But the DEIR fails to analyze the project's impacts with respect to each of these thresholds. Instead, the DEIR provides a cursory impact analysis that does not adequately explain whether the project will exceed each of the significance thresholds. Thus, the DEIR fails as an informational document because it does not adequately inform the public and agency decision makers whether the project will have significant environmental impacts. 10-9

The DEIR also fails to adequately explain its conclusions that hydrology impacts will be mitigated to less-than-significant levels. For example, the DEIR states that the project will cause a 10% increase in runoff during a 100-year storm event. (DEIR, p. 51.) The DEIR also states that these flows will be diverted into retention basins throughout the site, but that these basins will only be sized to hold a 2-year, 24-hour storm event. (DEIR, p. 52.) Once these basins are full (which presumably will occur during 3-year, 4-year, 5-year, etc. storm events), the additional runoff will drain into Arroyo Calero. (DEIR, pp. 51-52.) Hence, it is apparent that runoff from the project would exceed at least two of the significance thresholds in the DEIR,[6] and that the retention basins will not adequately mitigate this impact. Yet the DEIR concludes that "the resulting increase in runoff from the site would be minimized and less-than significant impacts would be anticipated." (DEIR, p. 52.) This conclusion is not supported by the analysis in the DEIR and is inconsistent with the significant thresholds. 10-10

The DEIR's discussion of how the retention basins will mitigate groundwater water quality impacts is equally confusing. The DEIR acknowledges that the retention basins will not meet the Santa Clara Valley Water District's ("SCVWD's") standard for minimum depth to groundwater (DEIR, p. 56.), but suggests that the low permeability of the on-site soils will prevent stormwater from entering the groundwater table. (*Ibid.*) However, one of the mitigation measures for protecting stormwater quality is to "show[] retention basins constructed to increase the infiltration capacity of the native soils by incorporating vegetative planting." (DEIR, p. 59.) The DEIR should be revised to explain this apparent inconsistency.

The Hydrology section of the DEIR also fails to address the potential impacts on groundwater quality from runoff entering Arroyo Calero. The DEIR acknowledges that runoff that cannot be 10-11

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[6] The exceeded significance thresholds include the following:

* Proposed project would result in increased impervious surfaces and associated increased runoff.
* Proposed project would substantially alter the existing drainage patterns of the site, or area or substantially increase the runoff flow rates of volumes; or would result in flooding, on or off site. (DEIR, p. 48.)

contained in the retention basins will drain into Arroyo Calero. (DEIR, pp. 51-52.) But it fails to incorporate into this analysis the "high degree of connection between the [groundwater] aquifer and Arroyo Calero." (DEIR, p. 73.) This high degree of interconnection indicates that excess runoff, which will be contaminated with pollutants, could quickly and easily enter the groundwater aquifer. No mention of this is made in the Hydrology and Water Quality section of the DEIR. The DEIR should be revised to adequately identify and analyze this impact. 10-12

The Sports Complex will have 569 parking spots filled with cars that "are a major source of stormwater runoff pollutants."[7] The project will also likely use significant quantities of pesticides and herbicides to keep the playing fields in top condition. The project will also increase runoff in a recognized flood plain, necessitating retention basins, which will only contain some of the runoff. The runoff that is retained in the basins could introduce stormwater pollutants into the groundwater because depths to groundwater on the site are so low. These intractable problems further demonstrate that this is an inappropriate location for the Sports Complex. 10-13

Moreover, there has been no demonstration that AYA, the proposed operator of the facility, has the necessary skills or expertise to implement a project of this environmental complexity. For example, as the DEIR recognizes, Integrated Pest and Vegetation Management practices are an evolving method. (DEIR, p. 59 (mitigation measure for stormwater quality impacts).) Considerable skill, expertise and diligence are needed to properly implement these practices. According to AYA's website, it is an association formed by Almaden residents to build playing fields in the Almaden Valley.[8] There is no doubt that these residents are well-meaning; but there is no evidence that they have the necessary skills to implement such complex mitigation measures or the financial resources to hire qualified personnel to do so. According to news reports, AYA could not even afford to pay for the DEIR. 10-14

The DEIR concludes that the Sports Complex will have a significant, unavoidable impact to water supply because the two on-site wells would not have enough water to supply the project's irrigation demands. (DEIR, p. 89.) However, the DEIR fails to conclude whether the project "[w]ould substantially deplete groundwater supplies or interfere substantially with groundwater recharge . . . ." (DEIR, p. 82.) This is the threshold of significance by which the project's impacts are to be measured. (*Ibid.*) Instead, the analysis focuses on whether there is enough water to serve the project. It ignores the potential impacts (direct and indirect) to the surrounding residents, farmers and environment. For example, will the depletion of groundwater supplies lead to the premature extension of urban services to this area and, consequently, the premature urban development of these lands? These gaps make the DEIR deficient as an informational document. The DEIR should be revised to include these analyses. 10-15

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[7] DEIR, p. 55.

[8] Source: www.almadenyouth.com ("About us" link), Sept. 21, 2004.

Unmitigated Transportation Impacts

Attached are comments from the County Roads and Airports Department. Those comments identify several inadequacies of the DEIR and should be responded to separately. **10-15**

Insufficient Evidence to Support Biological Impact Conclusions

The DEIR concludes that the project site may contain California tiger salamander ("CTS") habitat, which is a potentially significant impact. (DEIR, p. 173.) The site is within 0.43 miles of a known CTS breeding pond and contains possible aestivation habitat. However, the proposed mitigation only addresses the potential loss of individual CTS during construction. (DEIR, p. 180.) The EIR fails to explain how this mitigation will mitigate the loss of CTS habitat impact to less-than-significant levels.[9] **10-16**

The DEIR takes the same approach with respect to the burrowing owl. (DEIR, pp. 177, 180.) The DEIR acknowledges that the site may be burrowing owl habitat, but the mitigation is aimed at avoiding impacts to individual owls present during construction. (DEIR, p. 180.) The DEIR fails to explain how the proposed mitigation will reduce the potential loss of owl habitat impact to less-than-significant levels.[10] **10-17**

Inadequate Alternatives Analysis

The City's rationale for finding an alternative project site infeasible is legally deficient. A project proponent is not allowed to artificially confine the range of available alternatives. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736.) The criteria the City established for alternate sites are unduly narrow (*e.g.*, the site must be at least 25-35 acres). While AYA may prefer to have all 6 soccer fields, 2 softball fields, and 4 baseball fields at one location, this is not a necessity. The City currently operates many sports fields at many different locations. The City claims this is a public project. Case law indicates that analysis of alternative sites is even more important for public projects than private projects. (*See, e.g., Laurel Heights Improvement Ass'n v. Regents of the University of California* (1988) 47 Cal.3d 376, 403; *Stand Tall on Principles v. Shasta Union* **10-18**

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[9] It should be noted that survey protocols established by the California Department of Fish & Game (1995) call for three years of protocol surveys before a determination can be made that a site does not contain the California tiger salamander. (http://ventura.fws.gov/es/protocols.html.) According to the EIR, only 2 years of surveys have occurred.

[10] Survey protocols for the California tiger salamander established by the California Department of Fish and Game and the U.S. Fish & Wildlife Service (2003) state that, for project sites with suitable upland habitat within 1.2 miles of a known breeding pond, a two year drift fence study must be conducted to determine if aestivation habitat exists on site. (*See* www.dfg.ca.gov/hcpb/species/ stds_gdl/bird_sg/burowlmit.pdf (look under "Occupied Burrowing Owl Habitat").)

High School District (1991) 235 Cal.App.3d 772.)

The City's rationale for excluding lands within the Coyote Planning Area as alternative sites is puzzling. The purported reason for excluding these lands is because Coyote Valley has an "Urban Reserve" designation and a specific plan is in process. (DEIR, p. 212.) These are the precise triggers that apply to the project site, which is in the SAVUR. (City General Plan, pp. 222-223.) Although the City has determined that the time is right to develop Coyote Valley, no such determination has been made for the SAVUR. The City's reasons for dismissing the Coyote Valley site as infeasible are, therefore, the very reasons that the Coyote Valley is a much more appropriate location for the Soccer Complex than the SAVUR. 10-18

The DEIR finds alternative B1 to be aesthetically objectionable based on the assumption that one large water tank would be used to store 100,000 gallons of water. (DEIR, p. 215.) Water storage of this capacity could alternately be placed in a 15-foot high by 34-foot wide tank, or in several tanks of smaller capacity. Water tanks are typically required for residential and other uses in rural areas to meet County Fire Marshal standards. These tanks do not necessarily cause significant visual impacts, particularly if they are appropriately sited and screened. 10-19

Conclusion

The DEIR for the Sports Complex is inadequate as a CEQA document. It should be revised to remedy the inadequacies described above and recirculated for public comment.

We urge the City to consider these comments when evaluating whether to proceed with the Sports Complex. Please contact me if you have any questions about these comments.

Very truly yours,

ANN MILLER RAVEL
County Counsel

c: Board of Supervisors
Peter Kutras, Jr.
San Jose City Council
Richard Doyle

Ann Miller Ravel
County of Santa Clara, County Counsel
Letter dated September 27, 2004; Received September 27, 2004

10-1 The comment does not provide specific information as to which General Plan policies are in conflict with the proposed project. The Draft EIR identifies the impacts from loss of prime farmland and groundwater supply depletion as significant and unavoidable. Regarding the explanation of why this project is a "public project" and exempt from County land use regulation, please refer to Response to Comment 10-2. Please refer to Responses to Comments 4-2 and 4-3 regarding water supply.

10-2 The City of San Jose has entered into a Memorandum of Understanding with the San Jose Unified School District that contemplates consideration of a future lease of the project site by the City from the San Jose Unified School District for sports field use, subject to completion of the Environmental Impact Report. If the proposed lease is approved, the City, in coordination with the Almaden Youth Association (AYA), would develop for City Council consideration, a Master Plan for the development of the proposed sports fields project on behalf of the City. The fact that the City would be the lessee under the proposed lease of this site and would operate the site (through contractual arrangements with a non-profit entity), that the proposed use of the site as a sports complex would be considered to be a traditional City parks function, and that the site would be open to public reservation and use when league events are not scheduled, together demonstrate the public nature of the proposed project.

No evidence is presented in the letter to indicate that the project is not a public project. The content of the proposed operations and maintenance agreement is not relevant to the analysis of the environmental impacts of the proposed project. Preparation of the operations agreement is premature pending completion of environmental review and consideration of General Plan amendments related to the proposed project. If this EIR is certified, the proposed General Plan amendment is approved, and the lease is ultimately approved, the operations and maintenance agreement would be brought forward for consideration by the City Council and would become available for public review.

Regarding the commentor's Footnote 1 referenced in this comment, relevant information was omitted. The second sentence of the second paragraph under the Local Plans, Goals and Policies heading on page 15 of the Draft EIR, is hereby revised as follows to address this omission:

However, the County Director of Planning has also made the following statement in a letter dated March 29, 2004 and included in Appendix K, "The City of San Jose has determined that this is a City-sponsored public project. Cities and counties are generally immune from each other's zoning and building

regulations with respect to public projects (Gov. Code section 53090, 53091.) The County will not challenge the City's characterization of this project as a public project."

City staff has indicated that County staff had been in attendance during early discussions regarding this proposed project and County land use approvals were originally contemplated and on file with the County. When all parties appeared to concur that the proposed project constituted a City of San Jose public project, not subject to County land use jurisdiction, County representatives decided to stop attending project meetings. The decision to apply the San Jose 2020 General Plan Goals and Policies to guide implementation of the proposed project is consistent with the determination that the proposed project would constitute a City public project.

10-3 The commentor's statements regarding the proposed McKean Road Sports Complex project are noted. The City disagrees with the County's assertion that the proposed project is an "urban scale" use. While it is not certain what the commentor means by the phrase "urban scale", it is the City's position that the proposed project would not constitute a traditional urban use, insofar as this interim project is intended at the outset to be a temporary use and would not be reliant on urban services or infrastructure.

The County's disagreement with the Draft EIR conclusion that the project conforms with the intent of the Greenline/Urban Growth Boundary Major Strategy is noted. The Draft EIR (page 17) states that the project conforms to the intent of the Greenline/Urban Growth Boundary Major Strategy as the proposed sports field facility would be an interim outdoor recreational use with no permanent structures or extension of urban infrastructure. The project is consistent with this strategy because it is located inside the Greenline/Urban Growth Boundary. As proposed for amendment to the General Plan, the project is an interim use with no extension of City services or infrastructure. The City recognizes the proposed General Plan text amendment is needed to allow the proposed interim sports field project within the SAVUR. It is not necessary for the project to await the fulfillment of the SAVUR triggers since it is not an urban project nor is intended to be the ultimate long-term use of the property. The proposed General Plan text amendment would allow the proposed interim sports fields project within the SAVUR, subject to the restrictions contained therein.

The water storage tank evaluated in the Draft EIR alternative was based on a typical tank size that would accommodate 100,000 gallons of water. Since it is not known with any certainty what exact tank size would be used should this alternative be selected, the Draft EIR evaluated this average or typical tank size, as a worse case.

10-4 The opinion of the commentor is noted. Since urban services are not being extended to the site, the project is consistent with the Growth Management Major Strategy. Please refer to the Project Description section of the Draft EIR beginning on page 1 and the Water Supply section beginning on page 61 for a full discussion of the project and groundwater supply issues. Please also refer to Responses to Comments 4-2 and 4-3 regarding water supply. Nowhere has the County presented evidence nor is it certain what is meant by the commentor's allegation that the project has been developed in a manner to protect City finances at the expense of the environment or what the City Council had in mind when they adopted this Major Strategy.

10-5 Please refer to Responses to Comments 4-2 and 4-3. In addition, the conformance of a project to the General Plan is addressed as the overall conformance of the project to the entire body of major strategies, goals and policies contained in the General Plan, and not on an individual line-by-line or policy-by-policy basis. Each project is evaluated to assess, or balance, those policies supported and furthered by the project and those not supported. The Draft EIR concludes that the proposed project would have a significant, unavoidable impact on groundwater supplies. The Draft EIR identifies a range of alternatives, some of which would reduce the projects' impact on groundwater supply to less than significant. The purpose of the Draft EIR is to present an analysis of the potential impacts of the proposed project and a reasonable range of alternatives. The Draft EIR does not include a recommendation of either the proposed project or one of the alternatives.

10-6 As noted in Response to Comment 10-8 below, the Draft EIR concludes that the loss of Prime Farmland while likely, would not necessarily be irreversible; nevertheless, it is considered permanent and would therefore be a significant and unavoidable impact. The conformance of a project to the General Plan is addressed as the overall or substantial conformance of the project to the body of major strategies, goals and policies contained in the Plan, and not on an individual policy-by-policy basis. Each project is evaluated to assess the balance of those policies supported by the project and those not supported.

10-7 CEQA allows a jurisdiction to choose a standard for assessing a project's potential impacts. In coordination with County of Santa Clara staff (please refer to Response to Comment 10-2), the City chose the City General Plan as the standard for evaluation of this public project. Based on this, comparison of the City's proposed public project to the County Zoning Ordinance is not required and does not result in a significant land use impact.

10-8 The commentor states that while the Draft EIR acknowledges that the proposed project would likely result in the permanent conversion of the project site to non-agricultural use, it fails to analyze the likely adverse impacts to surrounding agricultural lands in the area. As discussed on page 30 in the Land Use section of the Draft EIR, the issue of the long-term, irreversible conversion of farmland

was addressed by the San Jose City Council during the adoption of the San Jose 2020 General Plan in 1994. The San Jose 2020 General Plan designates the site and surrounding properties as the South Almaden Valley Urban Reserve (SAVUR). This land use designation indicates that a future planned residential community with supporting commercial services and public facilities would be developed in the area. In certifying the San Jose 2020 General Plan EIR, the City determined that this future urban development on Prime Farmland would result in a significant impact, which could not be feasibly reduced to a less-than-significant level. In addition, a Statement of Overriding Considerations was adopted by the City, which states:

> *"The prime agricultural land classification is common to much of the remaining vacant land within San Jose's Sphere of Influence. Preservation of this agricultural land would preclude the City from carrying out the major strategies of the General Plan, including the Growth Management Strategy, which provides for orderly urban development. The benefits of the San Jose 2020 General Plan outweigh the significant impacts on agricultural land associated with implementation of the plan."*

While the proposed project is not the ultimate urban use contemplated under the SAVUR for which a significant and unavoidable impact has already been identified by the City of San Jose, the project would allow outdoor public recreation land uses with limited infrastructure improvements and no permanent structures, and would be considered less intensive than the residential or school site development generally anticipated for the site at the time the General Plan was adopted in 1994. A recreational use of this nature would not physically preclude the conversion of the site back to agricultural uses; however, because of the anticipated future demand for sports fields, it is assumed that the site could continue to be leased for the proposed facility's use until the Specific Plan[2] is approved and implemented. Therefore, the conversion of Prime Farmland soils anticipated with implementation of this proposed interim project would be considered permanent and is identified as a significant and unavoidable impact with regard to the loss of Prime Farmland.

Additionally, visual observations made by City staff revealed that very little existing agricultural pursuits are presently occurring in the project area, except for the occasional parcel used for small orchards, the grazing of livestock and the growing of barley hay. The type of land use prevalent in the project area would more closely resemble rural residential or ranchette-type development more than agricultural, based on staff's observations. Therefore the fragmentation of agricultural land uses in the area is not anticipated or likely as a result of this interim project.

[2] A Specific Plan is required in the General Plan for future urban development in an Urban Reserve area.

Agricultural contamination is usually associated with agricultural row crops and greenhouses, none of which exist in the area. The pasturing of horses and the growing of barley hay are not typically associated with a significant use of pesticides or other contaminants. If the site was subject to pesticide or other contamination from agricultural or other uses on adjacent properties, evidence of such pesticides would have seeped onto the property. Based upon soil sampling, no evidence of such contamination was found nor was any evidence of such contamination on the site submitted by the commentor. The commentors' assertions are therefore speculative. The commentor has raised no new information regarding the presence or severity of significant impacts in this comment that have not already been adequately addressed or that that would warrant recirculation of the Draft EIR.

With respect to impacts to local groundwater supplies associated with the proposed project, the commentor is referred to the Responses to Comments 4-2 and 4-3.

10-9 The commentor states that the Draft EIR fails as an informational document because it does not adequately inform the public and agency decision makers whether the project will have significant environmental impacts and does not specifically address each of the significance thresholds identified in the Hydrology and Water Quality section. The focus of the analysis in the Hydrology and Water Quality section of the Draft EIR is on whether the proposed project would adversely affect stormwater runoff, cause flooding, or degrade water quality. All of the significance thresholds identified on page 48 of the Draft EIR are focused on these three issues, with the exception of one significance threshold addressing impacts to aquatic wetland or riparian habitat. This issue is addressed separately in the Biological Resources section of the Draft EIR commencing on page 165. The impact analysis presented in the Hydrology and Water Quality section clearly addresses these three issues and identifies the significant impacts that would be anticipated with project implementation.

10-10 The commentor states that the Draft EIR fails to adequately explain its hydrology impact conclusions. As stated on page 51 of the Draft EIR, the difference between the average existing storm water runoff flow and the proposed project conditions is an increase of approximately 10 percent during the 100-year storm event. However, the 100-year flow rate in Arroyo Calero Creek is 1,300 cfs. In the existing condition hydrology analysis, 36 cfs or 2.8% of the total flow in Arroyo Calero Creek originates from the project site. In the proposed condition analysis, 39 cfs or 3% of the total flow in Arroyo Calero Creek originates from the project site. The increase of 3 cfs would result in a 0.2 percent increase in the flow in Arroyo Calero Creek, which was determined to be a less-than-significant change in storm water flow. To support this conclusion, hydraulic models for Arroyo Calero Creek were run during preparation of the Draft EIR using the increased flow rate of 1303 cfs and no

impacts to flow velocities and depths were identified in the creek. The average flow velocity would remain at 3.8 cfs and water surface elevations would range between 342.9 and 355.1 feet above mean sea level, the same water surface elevations predicted with a flow rate of 1300 cfs. For more information regarding the storm water calculations prepared for the proposed project, the commentor is referred to Appendix C, Hydrologic Analysis, of the Draft EIR.

The commentor's statements regarding conclusions reached in the Draft EIR concerning impacts associated with groundwater quality are noted. As stated in the Draft EIR, the retention basins would not meet the standard guidelines for minimum depth to groundwater as stated in Attachment III-3 to the Santa Clara Valley Urban Runoff Pollution Prevention Program's "C.3 Stormwater Handbook" dated May 20, 2004. Per the C.3 Stormwater Handbook, any infiltration devices that do not meet the standards would have to be reviewed by the Santa Clara Valley Water District.

This issue of groundwater separation for infiltration devices was studied extensively in Fresno by the U.S. Geologic Survey in a publication entitled, "Potential for Chemical Transport Beneath a Storm Water Runoff Retention Basin for an Industrial Catchment in Fresno," 1995, Water Resources Investigation 93-4140. The report notes that the Nationwide Urban Runoff Program (NURP) Study found constituents trapped "within the first few centimeters of sediment." The reports own study findings show contaminants were trapped within the first 4 cm of soil material. The findings of these studies indicate that the potential for groundwater contamination from the project site is minimal.

If the proposed project is approved, review of the site plans by the Santa Clara Valley Water District would be required prior to any construction activities to ensure that the retention ponds meet the water quality protection objectives of the Stormwater Handbook. Should the Santa Clara Valley Water District require alternative on-site Best Management Practices, several feasible onsite options are available, including but not limited to, vegetative biostrips, vegetative swales, detention basins and/or sand filters.

10-11 The commentor's statements regarding conclusions reached in the Draft EIR concerning impacts associated with groundwater quality and connectivity to Arroyo Calero Creek are noted. As discussed in Response to Comment 10-10, compliance with the requirements of the Stormwater Handbook, in addition to implementation of the water quality mitigation measures identified in the Hydrology and Water Quality section of the Draft EIR, would ensure that the water quality in Arroyo Calero Creek and underlying groundwater would not be adversely affected. In fact, due to vegetative planting over the majority of the site and the construction of permeable parking areas, it is expected that total suspended solids (TSS) leaving the site in surface water flow would be reduced

when compared to current agricultural uses. Reduction of TSS would also likely result in the reduction of associated heavy metals within Arroyo Calero Creek.

10-12 The Draft EIR Section II C Hydrology and Water Quality and Appendix C provide an analysis of potential impacts to water quality including impact from parked cars, pesticides, herbicides, etc. Mitigation measures are identified on page 58. The commentor's statements regarding conclusions reached in the Draft EIR concerning impacts associated with stormwater quality and groundwater quality are noted. The comment does not raise any new environmental issues that have not already been adequately addressed in the McKean Road Sports Complex EIR; therefore, no response is necessary. Please also refer to Responses to Comments 10-10 and 10-11.

10-13 The commentor's statements regarding whether or not Almaden Youth Association has the necessary skills to implement the proposed mitigation measures or the financial resources to hire qualified personnel to do so are noted. The proposed project is being considered for implementation by the City of San Jose as a City project. The City would enter into a lease with the San Jose Unified School District for the site and into an Agreement with the Almaden Youth Association to operate and maintain the facility; but the City would ultimately be responsible for its use and compliance with any mitigation requirements.

10-14 The commentor states that the potential impacts to available water supply for the surrounding residents, farmers and environment have not been adequately addressed. As stated in the Draft EIR, drawdown in offsite wells at a distance of 2,000 feet would range from 0.5 to 2 feet, depending upon the distance measured from the well, with pumping of 70 gallons per minute. The Draft EIR concluded on page 89 that this magnitude of drawdown should not affect most neighboring wells completed in the alluvium, unless the wells are being pumped at their maximum yield. The Draft EIR concluded that the significant water supply impact anticipated with project implementation would be that the capacity of the two project wells would not be adequate to meet the site's irrigation demands. The lack of adequate water in the onsite wells was identified in the Draft EIR as a significant and unavoidable impact. Mitigation measures were identified on page 92 of the Draft EIR to minimize the proposed project's impacts on available groundwater. The implementation of these mitigation measures would reduce the proposed project's demands on the larger water basin, which would minimize drawdown in offsite private wells. Because the identified mitigation measures would not reduce this impact to a less-than-significant level, it would remain significant and unavoidable.

The Draft EIR also identified alternatives to the proposed project that are intended to minimize the proposed project's impacts on groundwater resources. The commentor is referred to the detailed discussion of these alternatives included in Section III - Alternatives to the Proposed Project of the Draft EIR.

Regarding the commentor's last statement regarding the depletion of groundwater resources, the proposed project is not anticipated to substantially deplete offsite groundwater supplies. Also, the City of San Jose 2020 General Plan includes development restrictions for areas located within the SAVUR that would dictate the pace of future urban development. Therefore, the proposed project is not expected to lead to the premature extension of urban services or premature development of the area. Please also refer to Responses to Comments 4-2 and 4-3 regarding water supply.

10-15 Please refer to Responses to Comments 1-1 and 8-1 through 8-19.

10-16 As noted by the commentor, the Draft EIR states that the project site contains a small amount of marginal quality aestivation habitat for California tiger salamander and is within 0.43 miles of a pond that has been used by salamanders for breeding. Because a known salamander population occurs within 0.5 miles of the site and no barrier exists that would inhibit immigration, individuals from this breeding population could conceivably occupy the site. Any salamanders aestivating on the site at the time of construction of the project could be adversely affected by the ground-altering activities such as vegetation removal and grading.

It should be noted, however, that on-site biological surveys conducted by H.T. Harvey to date have failed to detect California tiger salamanders and their herpetologist judged the habitat to be of poor quality and likely unoccupied by this species. Accordingly, no impacts are anticipated on California tiger salamanders with project development. Discussions between H.T. Harvey and the CDFG subsequent to the surveys resulted in concurrence with this assessment by the CDFG. Nevertheless, because the site has the potential to be used for aestivation by California tiger salamanders that migrate from the pond located to the southeast, the Draft EIR concluded that project construction could result in the take of this species.

Correspondingly, the mitigation measure identified in the Draft EIR for the potential take of California tiger salamander states that prior to project construction, a qualified biologist shall conduct preconstruction surveys of existing burrows on the site to determine if salamanders are using the site for aestivation purposes. If no salamanders are identified on the site during preconstruction surveys, a report documenting this conclusion shall be submitted to the City, CDFG and USFWS and no further mitigation will be necessary. If, however, it is determined that California tiger salamanders are present on the project site, the feasibility of relocating the juvenile and adult salamanders to protected habitat in the region shall be explored through consultation with the CDFG and USFWS and measures required by CDFG and/or USFWS shall be implemented.

The Draft EIR does not include mitigation for loss of habitat due to project construction because the site was determined to be of poor quality and likely unoccupied by California tiger salamanders. The commentor is also referred to Comment Letter #2 from the California Department of Fish and Game, which does not question the biological conclusions of the Draft EIR.

10-17 As noted by the commentor, the Draft EIR states that the project site was found to be consistent with potential, albeit marginal, nesting habitat for owls. Although no burrowing owls were observed on the site, there is the potential that burrowing owls could occupy the site when construction activities commence on the site. The potential disturbance of burrowing owl foraging and nesting habitat with project implementation would be considered a significant impact.

To address this potential impact, the Draft EIR includes mitigation that is designed to avoid the take of a burrowing owl species. A preconstruction survey shall be completed in conformance with appropriate CDFG protocols, by a qualified ornithologist, no more than 30 days prior to the start of construction. Surveys should cover any potential habitat within 250 feet of the project area. If no burrowing owls were located during these surveys, then no additional action would be warranted. However, if breeding or resident owls are located on or immediately adjacent to the site, the mitigation measures identified on pages 180-181 of the Draft EIR shall be implemented by a qualified ornithologist. The commentor is also referred to Comment Letter #2 from the California Department of Fish and Game, which does not question the biological conclusions of the Draft EIR.

The Draft EIR does not include mitigation for loss of habitat due to project construction because the site was determined to be of marginal quality.

10-18 Please refer to Responses to Comments 10-1, 10-2, 15-6 and 15-42. In addition, multiple smaller fields. Implementation of the project does not require the fulfillment of the "trigger" criteria and the formation of a SAVUR Specific Plan. Approval of the proposed General Plan text amendment would revise the General Plan to allow the proposed sports field complex as an interim recreational use on public property within the SAVUR. A review of the case law cited found no evidence that public projects are measured against a different (more important) standard for analysis of alternatives than private projects.

The commentor suggests the DEIR should have considered an alternate location in Coyote Valley. However, as described on pg. 212 of the DEIR, one of the criteria used to determine the feasibility of potential alternative sites was that the site should be within or near (within one mile of) the Almaden Planning Area of San Jose, and the Coyote Valley does not meet this criteria.

10-19 The commentor concludes that the placement of water tanks at the project site would not necessarily cause significant visual impacts, particularly if they are

appropriately sited and screened. The commentor's opinions regarding the visual impacts associated with water tanks are noted; however, because visual impacts tend to be subjective, the analysis in the Draft EIR conservatively assumed that the placement of large water tanks at the project site would potentially result in significant adverse visual impacts.

Silicon Valley Bicycle Coalition

Promoting the bicycle for everyday use

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September 13, 2004

SUBJECT: COMMENT ON DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE MCKEAN ROAD SPORTS COMPLEX (SCH #2002112035)

(FILE NO. GPT01-10-02/PP03-02-057).

The Silicon Valley Bicycle Coalition (SVBC) would like to take this opportunity to comment on the Draft EIR for the proposed McKean Road Sports Complex. In particular, the SVBC would like to address Section E, Transportation, and the mitigation measure which states:

"The site operator (AYA) and the City of San Jose shall include in all league registration materials and field use applications a requirement that parents sign an agreement form that restricts their children from riding bicycles or walking to the site and includes a warning of expulsion from the league for violating the conditions of the agreement."

Request 1. The SVBC requests that the mitigation measure requiring registration to preclude bicycling or walking be removed from the Final EIR. It would appear that this mitigation measure is inconsistent with the following San Jose 2020 General Plan goals and policies.

1. Parks and Recreation Goal. The San Jose General Plan states that parks should be "easily accessible to residents." As the mitigation measure prevents children from bicycling or walking, this measure prevents those whose parents are unable or unwilling to drive them from participating in this recreation. With the Alamitos Creek and Arroyo Calera Creek Multi-Purpose Trails located nearby, the children ought to have the option of bicycling or walking to the facility. **11-1**

2. Urban Design Goal. One of the main tenets of good urban design is encouraging and/or providing for transportation alternatives. The General Plan states, "The City should encourage walking, bicycling, and public transportation as preferred modes of transportation." Forbidding bicycling or walking violates this urban design goal. **11-2**

Silicon Valley Bicycle Coalition
Letter dated September 13, 2004; Received September 27, 2004

11-1 Please refer to Responses to Comments 3-1 and 5-1 through 5-10. In addition, the Draft EIR has been revised to delete as a mitigation measure monitored by the City the proposed agreement with parents to restrict children from bicycling or walking to the Project site. The proposed future site operator may, and has indicated that it intends to, choose to incorporate this procedure as part of their standard operating procedure. Removal of this measure does not change the conclusion of the Draft EIR that the pedestrian/bicycle safety impacts of the proposed project will remain significant and unavoidable.

11-2 Please refer to Response to Comment 11-1. In addition, the General Plan contains many policies that promote alternative modes of transportation, including the Bicycle Network, Scenic Routes and Pathways and the Pedestrian Priority Areas. However, due to the infeasibility of providing off-site trail connections to the site (please refer to Responses to Comments 3-1 and 5-1 through 5-10) and the narrow existing right-of–way on McKean Road, the Draft EIR concludes that the proposed project could have a significant and unavoidable impact on bicyclists and pedestrians using McKean Road. Please refer to Response to Comment 10-5 regarding the project's conformance to the General Plan.

-----Original Message-----
From: Bob Mack [mailto:BMack@CycleCalifornia.com]
Sent: Wednesday, September 22, 2004 5:09 PM
To: janis.moore@sanjoseca.gov
Subject: McKean Road Sports Complex

Hello Ms. Moore,

I am writing to request a change in the plans for the Mckean Road Sports Complex. The idea that a youth sports complex would ban bicycles and/or walking is ridiculous. The problems with McKean Road safety should be addressed by making Mckean Road safe for cycling and walking.

Creating adequate sidewalks and bike lanes will solve the problems. Banning bicycling and walking will only leave many children unable to use this public facility. Many children who's parents do not own a car, only have one car, or are working when their children need to go the facility MUST be able to ride a bike or walk. 12-1

Please change the plans to fix the road, not ban biking and walking.

Thank you,

Bob

--
Bob Mack
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ph: 408-924-0270
fax:; 408-292-3005
toll free: 888-292-5323
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Bob Mack
Cycle! California Magazine
E-mail dated September 22, 2004

12-1 Please refer to Response to Comment 3-1.

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September 27, 2004

VIA EMAIL janis.moore@sanjoseca.gov
Janis Moore, Environmental Project Manager
Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA.

Re: Draft Environmental Impact Report for McKeen Road Sports Complex

Dear Ms. Moore:

As a resident of the South Almaden Valley Urban Reserve who strongly objects to the construction of the proposed sports complex, I offer the following comments, which should be included in the Final EIR.

TRAFFIC SAFETY: This I believe is the most significant impact of the proposed project as it affects the entire Almaden Valley, and outside of the area to the Highway 85 Almaden Expressway area. Traffic volume is already a significant problem on Almaden Expressway from South Almaden Valley to the Highway 85 area, and it will be significantly impacted by this project. **13-1**

With respect to the South Almaden Valley Urban Reserve (SAVUR), McKean Road clearly cannot handle a substantial increase a traffic. Residents on Hunter's Hill Road and off Whispering Oaks Drive already, at times, have difficulty entering McKean Road. In the alternatives to be considered in mitigation of the adverse impacts of the traffic on McKean Road, the report should address the possibility of the following alternatives: **13-2**

a. Extension of Almaden Expressway: In order to alleviate traffic problems on McKean Road, in particular from existing residences, the Catholic Church, two fire stations, and a school, the proposal should consider an extension of Almaden

Expressway to some point south of Whispering Oaks Drive.

b. Improvements to McKean Road: The report should address consideration of expanding McKean Road to four lanes, or a divided highway status.

c. Stop lights or stop signs: The impact of the expanded traffic on the residents in the Hunter's Hill and Whispering Oaks neighborhoods can be mitigated through the consideration of putting in stop lights and/or stop signs at Whispering Oaks Drive and Hunter's Hill Road. Other alternatives would be turning lanes. 13-2

d. In all alternatives there should be appropriate pedestrian and bicycle sidewalks or paths that continue from Harry Road to some point past the McKeen Road sports complex entry/exit areas.

RECREATIONAL AND BICYCLE USE OF MCKEAN ROAD: The report does not consider the existing recreational use of McKean Road, primarily by bicycle riders, who number in the hundreds, and perhaps thousands on weekends during good weather. McKean Road is also used for several marathon, half-marathon, and other bicycle and running events. McKean Road is used heavily on weekends by recreational motorcycle riders, sports car and vintage car club enthusiasts, and others who enjoy the rural atmosphere and the lower traffic level than on city streets. McKean Road is home to the Santa Clara County Horseman's Association. Adults and children ride their horses next to McKean Road for access to nearby equestrian trails.

The sports complex will create a substantial danger to existing bicycle riders. Although the proponents of the project suggest the only possible bicycle riders will be sports participants riding bicycles to and from sports events, and that this can be prevented from having parents and participants sign some sort of waiver, the reality is that the greatest danger is to those who already use McKean Road for bicycle riding. 13-3

McKean Road is used by pedestrian and bicycle riders, including children attending Leland High School and Brett Hart Middle School. The increased traffic will create a substantial danger and perhaps prevent travel by those who already use bicycles as transportation to and from SAVUR to the Almaden Valley. As stated above, the increased traffic will present a substantial danger to those who use McKean Road for recreational bicycle riding and racing, and may rule the road out for such use by some participants.

An alternative is to construct bicycle and pedestrian sidewalks next to McKean Road.

PARKING AT THE FACILITY: The proposed parking area for the level of sports fields proposed is wholly inadequate. Where will excess vehicles park? Are the surrounding neighborhoods expected to provide parking? Will people be parking on the side of McKean Road? 13-4

FIELD MAINTENANCE AND TRASH REMOVAL: The EIR does not address the issue of maintenance, in particular the removal and prevention of trash. Neighbors in the T.J. Martin area have complained about trash problems in their neighborhood. If you go to any local sports fields you will find that a tremendous amount of food wrappers and other trash is left to blow around the neighborhood. Who will be responsible for taking care of this issue, if the City is not going to take responsibility? These issues are not addressed adequately in the EIR. 13-5

AESTHETICS: The EIR talks about a "three foot berm" with landscaping. If the project goes forward, why does the report not consider a much higher berm, and/or high elevation sound wall. The residential areas surrounding the complex will be subjected to a tremendous amount of noise, including constant whistle blowing during soccer games. This might be mitigated with appropriate sound prevention efforts, in particular a much higher berm, sound wall, and the planting of mature trees. 13-6

CITY OF SAN JOSE RELATIONSHIP TO ALMADEN VALLEY YOUTH ATHLETIC LEAGUES: The EIR does not address the issue of responsibility for maintenance and compliance with rules and regulations. The report merely assumes that somehow the users of the facility will maintain it and see that rules are complied with with respect to hours of use, days of use, trash collection, use of whistles during practice times, and so on. Unfortunately the history of the existing soccer leagues demonstrates that promises are made, and promises are not kept. One can only look at the recent experience and articles in the newspapers concerning the abuse of residents in the T.J. Martin neighborhood that are subjected to people blocking their driveways, trash throughout the neighborhood, coaches not obeying rules with respect to whistle blowing, verbal harassment, and so on. This is something that the neighborhoods surrounding the proposed sports complex will have to deal with, and the report does not address mitigation of these factors. The report should address the requirement of the City having San Jose police officers on site during all events, or otherwise appoint some sort of park rangers or other public officials having the duty of enforcement of rules by those using the facility. The EIR is wholly inadequate on this issue. Proponents of the new facility complain about the lack of maintenance at the existing facilities. What makes them think that this facility will be any different? It will only be a matter of time before the sports fields are infested with gophers and ground squirrels, which will require eradication, or subject the users to risk of injury from significant damage to the fields. 13-7

CONCLUSION: Although the EIR in many respects accurately reports on significant unavoidable impacts of the proposed project that cannot be mitigated, it fails to address some of the alternatives referred to in this letter. Further, it fails to recognize some of the unavoidable impacts, particularly to residents in SAVUR. 13-8

The report in it of itself suggests that the project should not go forward. However, if the City wishes to consider this project the city should have a supplemental EIR prepared that address issues that are not adequately presented in the current EIR.

This project is far too big and does not belong in the proposed location. It should wait until the South Almaden Valley Urban Reserve is properly developed with new roads, water, sewers, and other planning that reasonably should be done before imposing such a huge project in a rural/residential area. 13-8

Respectfully submitted,

MARK A. ERICKSON

Mark A. Erickson
Attorney At Law
Letter dated September 27, 2004

13-1 The opinion of the commentor is noted; however, the majority of existing traffic from current/existing area sports fields' users already exists on Almaden Expressway, as Almaden Youth Association members travel to the existing fields throughout the Almaden Valley area (refer to Exhibit 10 of Appendix E of the Draft EIR Traffic Impact Analysis). If the project were approved, this traffic would now be redirected to the project site.

13-2 Field observations indicated that excessive speed and not traffic volume is the biggest problem along McKean Road. The posted speed limit is 40mph and vehicles using this commute route typically exceed the speed limit; however, that is a traffic enforcement issue, not a CEQA issue.

The measured Average Daily Traffic (ADT) along McKean Road in the area was reported to be 6,253 Vehicles Per Day (VPD), well within the acceptable volume for a standard two lane rural collector. Typical volume of traffic for a standard two-lane rural collector is 15,000 VPD. Therefore, traffic capacity-enhancing improvements such as those mentioned in the comment are not warranted along this portion of McKean Road. In response to part d. of the comment, please refer to Response to Comment 3-1.

13-3 Please refer to Response to Comment 3-1.

13-4 Please refer to Response to Comment 8-9.

13-5 For a discussion of solid waste collection and disposal services at the site, please refer to the Pubic Services, Utilities and Service Systems section of the Draft EIR. In terms of regular collection and trash removal from the site, the City would be responsible for establishing a contract with a provider of solid waste services if the Project is approved. The City may require AYA to establish and maintain such services at the site for the City through an operation and maintenance agreement. In addition, fencing that would surround the sports field facilities would act to impede trash from migrating offsite. Please also refer to Response to Comment 13-7.

13-6 The commentor questions why the proposed project doesn't consider the construction of a higher berm or sound wall along McKean Road to minimize noise levels for residents. The proposed berm along McKean Road has been designed to allow visibility from the road as a security measure. The ability for law enforcement personnel and community members to easily view the site from McKean Road was identified during the design process as an effective means for ensuring that unwanted activities are not occurring at the site. The construction of a higher berm or sound wall would obstruct direct views of the site from

McKean Road. For a discussion of the anticipated noise impacts associated with project implementation, the commentor is referred to the Noise section of the Draft EIR commencing on page 149.

13-7 The responsibility for maintenance and operations of the facility would be that of the City. It is anticipated that the City may negotiate and propose an operations and maintenance agreement with AYA for AYA to maintain and operate the facility on behalf of the City. The maintenance and operations obligations would be defined in that agreement with AYA. . Although the agreement is not yet drafted and has not yet been negotiated, typical use agreements with non-profit organizations and leagues that operate and maintain City park facilities on behalf of City include provisions for hours of use, maintenance schedules, trash collection, and the conditions of default. The operations and maintenance agreement would be made public at the time of consideration of the agreement by the City Council.

Overuse of sports fields located within neighborhood parks surrounded by residential homes has been the source of various complaints by residents. The development of the Almaden Youth Association/McKean Sports Park would allow the City's Department of Parks, Recreation and Neighborhood Services to limit programmed use of some sports fields currently located within neighborhood parks. The result would be that more sports fields in neighborhood park settings could be open for use as casual pick-up fields.

The Police enforce park rules and regulations at the request of residents or the Department of Parks, Recreation and Neighborhood Services. Residents should call the Police if they see any violation of the law at any time in San José parks or in their communities.

13-8 The commentor's opinion and statement of opposition to the proposed McKean Road Sports Complex project are noted. The Draft EIR identifies a range of alternatives, some of which would reduce the project's impacts to less-than-significant levels. The purpose of the Draft EIR is to present an analysis of the potential impacts of the proposed project and a reasonable range of alternatives. The Draft EIR does not include a recommendation of either the proposed project or one of the alternatives. The comment letter does not raise any new environmental issues.

COMMITTEE FOR
GREEN FOOTHILLS

September 27, 2004

Members of the San Jose Planning Commission
Department of Planning
Building and Code Enforcement
City of San Jose
801 N. First St., Rm 400
San Jose CA 95110-1795

Fax (408) 277-3250

Dear Members of the Planning Commission;

The Committee for Green Foothills submits these comments regarding the August 2004 Recirculated Draft Environmental Impact Report for the McKean Road Sports Complex. CGF supports the comments submitted on behalf of the South Almaden Valley Rural Alliance (SAVRA) regarding the RDEIR. SAVRA's comments point out numerous flaws in the RDEIR that make it an inadequate basis for proceeding with the Sports Complex. We wish to emphasize the following points:

- Characterizing the Sports Complex as an "interim" use when it will be used for a minimum of 20 years disguises the long-term nature of the facility. The "interim" characterization is hiding a decision that aids the permanent development of the entire area. Any such decision to permanently develop Almaden Valley should be made openly, with full consideration of the consequences. 14-1

- The terms "open space" and "569-car parking lot" are not synonymous. Intensive, developed recreation is generally incompatible with open space and should be avoided in areas like Almaden Valley where open space still exists. 14-2

- The City asserts that the "Coyote Valley Master Plan" (presumably the Coyote Valley Specific Plan) does not currently provide sufficient information to accurately project traffic counts from Coyote Valley development. RDEIR at 225. In fact, the City's CVSP traffic consultants have been working for nearly a year on describing traffic impacts. While they have not made their results public, their data is in City's possession or in the possession of the City's agents, so their data must be incorporated into the cumulative impacts analysis for the Sports Complex. The City should at least be able to project a minimum level of increased traffic, which would be more accurate than its refusal in the RDEIR to describe the impact as anything more than "cumulative." 14-3

- The growth-inducing impacts are not analyzed adequately, and the true threat of bringing sprawl to Almaden Valley is both real and a sufficient reason for rejecting this project. Converting farmland and adding traffic will exacerbate existing pressure to stop farming in the area. This attempt to provide large-scale urban recreation without urban services will immediately create pressure to provide those services and extend them elsewhere. As with the "interim" designation, the City is hiding from itself and from the public the true effect of what it is doing – the permanent alteration of Almaden Valley. Any suggestion that this 20-year project will not have permanent effects is disingenuous. If the City wants to develop Almaden Valley, the Planning Commission and the public deserve to see an overall plan and determine whether the development plan is advisable. 14-4

Simply put, this massive urban project does not belong in its rural area. As just one example, the project threatens to permanently expel children for the crime of walking or bicycling to the sports complex, instead of 14-5

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being driven to the area. RDEIR at 117. The concept of smart growth involves encouraging bicycling and walking. For this project to go to the opposite extreme only shows it to be the opposite of smart growth. Heavily-used facilities belong in population centers, not on their far outskirts. Dispersing a massive project like this into smaller urban parks (something that is not adequately considered in the RDEIR) would be a far better choice that fulfills the same mission as the Sports Complex without its impacts. 14-5

Please contact us if you have any questions.

Sincerely,

Brian A. Schmidt
Legislative Advocate, Santa Clara County

Brian A. Schmidt
Committee For Green Foothills
Letter dated September 27, 2004

14-1 The commenter supports the comments submitted on behalf of SAVRA (comment letter number 15), and wishes to highlight some of those comments. Therefore, where appropriate, cross reference is made to responses to Comment Letter Number 15. Page 1 of the EIR, A. Overview of the Project, second paragraph states that "the City Council approved a Memorandum of Understanding (MOU) with the District that allows the City to negotiate a lease for a 35.4-acre portion of the 77-acre property for a period of up to 20 years in order to establish youth sports fields." The MOU includes a draft potential lease agreement, which lease contains four, five-year renewable periods. Page 2 of the EIR, C. Project Description, first paragraph, states that "an interim use is defined in this document as the continued use of the site for sports fields until the School District needs the land for school purposes." The proposed General Plan text amendment does not "aid the permanent development of the entire area". The proposed text amendment limits new uses in the SAVUR to "certain, limited interim recreational uses on public property, restricts the extension of urban infrastructure such as storm and sanitary sewers and underground water lines to serve future recreational uses, and specifies that any such uses "do not alter the application of the Urban Reserve 'triggers' nor the specific planning process" as stated in the General Plan. As described above, the proposed project does not represent a decision to permanently develop the Almaden Valley. The process to consider this change has included the preparation of a Draft EIR and has included at least five community meetings. The future decision on the sports fields project would include City Council review and consideration of a Master Plan for the facility before a project could be developed.

14-2 The environmental impacts associated with construction of the project parking have been disclosed in the Draft EIR. The commentor is referred to Section II C Hydrology and Water Quality for a complete discussion of the water quality analysis. The remainder of the comment is the opinion of the author and does not raise any substantive environmental issues. Please also refer to Response to Comment 8-9 for additional discussion on the proposed parking lot.

14-3 The Coyote Valley Specific Plan is currently running long-range forecasts for a variety of scenarios. Consultants have been working with the City of San Jose Department of Transportation to review long-term transportation issues as they relate to the freeways. Without a project description, traffic projections for local streets and arterials are not available at this time. It is important to note that approximately one-half (½) of the traffic volume projected from the Coyote Valley Specific Plan would be replacing the currently approved Coyote Valley Research Park (Cisco) included in the background of the Almaden Youth Association project scenario.

Draft EIR page 225, Cumulative Impacts, second paragraph, references to the Coyote Valley Master Plan are corrected to refer to the Coyote Valley Specific Plan.

14-4 The Draft EIR provides an adequate analysis of growth inducing impacts. As discussed beginning on page 232 of the Draft EIR, a project is regarded as growth-inducing if it "could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth." Examples of growth-inducing actions include developing service capabilities in areas previously not served, extending transportation routes into previously undeveloped areas, establishing major new employment opportunities, or expansion of a major wastewater treatment plant.

The project consists of an interim use of land for outdoor recreation uses (serving existing area resident needs) until such time as the development of the specific plan for the SAVUR occurs. No permanent development or infrastructure is proposed as part of the project. The project includes limited structural components, none of which would be growth inducing. The proposed project would not require the installation of infrastructure or extension of municipal services or systems. Road improvements required by the project would be minimal and limited to those necessary to serve the proposed project. Employment generation would be negligible and the proposed project would not encourage the development of housing, nor result in the removal of any housing. The proposed project would, therefore, not result in any significant growth inducing impacts.

14-5 The commentor's opinion and statement of opposition to the proposed McKean Road Sports Complex project are noted; however, since this comment does not raise any new environmental issues, no additional response is required. Please also refer to Responses to Comments 3-1, 4-3, 6-4, 15-15, 15-51, 30-5 and 47-46 for discussion of alternatives.

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September 27, 2004

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PLANNING DEPARTMENT

Janis Moore
Department of Planning, Building & Code Enforcement
City of San Jose
801 N. First Street, Room 400
San Jose, CA 95110-1795

Re: Recirculated Draft Environmental Impact Report for McKean Road Sports Complex, City File Number GPT01-10-02/PP03-02-057, State Clearinghouse Number 2002112035

Dear Ms. Moore:

We submit this letter on behalf of the South Almaden Valley Rural Alliance ("SAVRA" or "Alliance") regarding the August 2004 Recirculated Draft Environmental Impact Report ("RDEIR") for the McKean Road Sports Complex ("Project"). The RDEIR, which is a revised version of the May 2003 DEIR for the Project, does not comply with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 et seq., and the CEQA Guidelines, California Code of Regulations, title 14, § 15000 et seq. ("CEQA Guidelines"). As set forth below, the RDEIR contains numerous inadequacies and omissions that render it insufficient as an environmental review document.[1] **15-1**

Attached to this letter and incorporated herein are comments concerning the RDEIR from expert consultants: Bruce Abelli-Amen (hydrologist), Tom Brohard (traffic **15-2**

[1] This letter does not address the violations of State Planning and Zoning Law implicated by the Project. These issues will be raised in a separate letter to the Planning Commission and City Council.

engineer), and Diane Renshaw (biologist). See Exhibit 1 (Abelli-Amen Letter); Exhibit 2 (Brohard Letter); and Exhibit 3 (Renshaw Letter). 15-2

The August 2004 RDEIR remains inadequate and subject to a number of the same deficiencies as its predecessor (the May 2003 DEIR), including an inadequate description of the Project. Significantly, the RDEIR ignores the fact that a portion of the Project is built within the riparian "setback." Moreover, the RDEIR continues to insist on characterizing this Project as an "interim use," despite the fact that the use is proposed to continue for at least 20 years. 15-3

The RDEIR fails to adequately analyze the Project's inconsistency with land use plans, including the Santa Clara County General Plan and the City's own General Plan. Among other failings in this regard, the RDEIR fails to analyze fully the section of the County General Plan related to rural unincorporated areas and greatly distorts the meaning of the County's use of the term "open space" so as to include the Project's landscape-altering and intensive uses: sports fields and a massive parking lot. 15-4

The RDEIR fails to provide an adequate analysis of both the Project's impacts and cumulative impacts, particularly with respect to water supply, transportation, public health and safety, biological resources, and loss of agricultural lands. In many instances, the RDEIR fails to provide facts to support its conclusion that no significant impacts on the environment will result; in other instances, the RDEIR concludes that a significant unavoidable impact will result but then fails to identify and analyze feasible and effective mitigation measures that would mitigate the impact. Notably, the RDEIR's proposed mitigation for public safety issues, including those directly impacting children, is seriously deficient. 15-5

Finally, the RDEIR's discussion of alternatives is inadequate because it fails to analyze an alternative that would provide the same number of sports facilities spread over several sites within the Almaden Valley and fails to provide sufficient information to allow for meaningful evaluation and comparison with the proposed Project. 15-6

CEQA requires that an EIR provide the analysis and detail about environmental impacts that is necessary to enable decision-makers to make intelligent decisions in light of the environmental consequences of their actions. See CEQA Guidelines § 15151; King County Farm Bureau v. City of Hanford, 221 Cal.App.3d 692 (1990). This requirement cannot be met unless the EIR adequately describes the project 15-7

and its environmental impacts. County of Inyo v. City of Los Angeles, 71 Cal.App.3d 185, 199 (1977).

The EIR is also the "primary means" of ensuring that public agencies "take all action necessary to protect, rehabilitate, and enhance" the environment. Laurel Heights Improvement Ass'n v. Regents of the University of California, 47 Cal.3d 376, 392 (1988). Thus, CEQA incorporates a substantive requirement that the lead agency adopt feasible mitigation measures or alternatives that can substantially lessen the project's significant environmental impacts. Pub. Resources Code § 21002; CEQA Guidelines § 15002(a)(3). Finally, the EIR is a "document of accountability," intended to demonstrate to the public that the agency has considered the environmental implications of its action. Laurel Heights, 47 Cal.3d at 392. 15-7

The City's RDEIR does not comply with CEQA's requirements or satisfy CEQA's objectives: (1) the RDEIR fails provide sufficient information about the Project's impacts to enable informed decision-making by the City; (2) the RDEIR fails to satisfy CEQA's substantive mitigation requirement; and (3) the RDEIR fails to demonstrate to the public that the City has fully grappled with the environmental implications the Project.

BACKGROUND AND PROJECT CONTEXT

The proposed McKean Road Sports Complex is a 35-acre sports facility, including six soccer fields, six ball fields, a children's play area, batting cages and bleachers, concession trailers (placed on concrete building pads), portable restroom facilities, maintenance and storage facilities, and parking for up to 569 vehicles, all surrounded by an 8-foot tall chain-link fence. RDEIR at 7-10.

The sports facility would be built on part of a 77-acre property located on McKean Road, between Fortini Road and Whispering Oaks Drive and owned by the San Jose Unified School District. The site is located outside of the City's urban service area and is in the unincorporated area of Santa Clara County. The site is designated Open Space Reserve in the County General Plan. It and surrounding properties consist of agricultural land; currently, the site is farmed in barley. Three County parks exist within the vicinity of the site. The Arroyo Calero, a perennial stream, runs through the property. The City has pre-planned the area as an urban reserve, the South Almaden Valley Urban Reserve ("SAVUR"), but, again, the site is outside of the City's urban service area. 15-8

The proposed facility would be operated by the Almaden Youth Association ("AYA"), a private organization. The AYA proposes to use the facility for weekday practices and weekend games. RDEIR at 1. The facility will also be used for an unspecified number of City-sponsored sport events. Id. The RDEIR estimates that "maximum utilization" of the site would occur during weekend soccer tournament with as many as 650 people in attendance. RDEIR at 11. Given the fact that parking spaces have been proposed for over 569 cars (each transporting more than one person), this "maximum utilization" seems unrealistically low. 15-8

The Project also includes a proposed amendment to the City's General Plan. RDEIR at 7. The City's General Plan, which has provisions concerning this un-incorporated area of the County, presently does not allow for a sports complex on this site. The City's proposed amendment to its General Plan, which would allow for certain recreational uses on public land in the SAVUR – as "interim uses" – creates numerous internal inconsistencies in the City's General Plan concerning the land use policies and objectives in this area.

ANALYSIS

I. THE RDEIR'S PROJECT DESCRIPTION IS INADEQUATE.

The RDEIR is flawed from the outset because it rests on an incomplete description of the Project. The RDEIR's description of the Project does not adequately address Project features that have the potential to result in significant impacts. These omissions skew the RDEIR's analysis of Project impacts and, thus, undercut the validity of the entire document. 15-9

A. The RDEIR Mischaracterizes the Riparian "Setback."

The RDEIR calls for construction of a 3- to 4-inch water pipe extending from the existing Caglia well south to the Project site, presumably through the riparian "setback." The impacts of constructing this pipe are not analyzed. If the water pipe will be constructed within the 150-foot riparian "setback" zone, then this fact must be clearly stated in the RDEIR and the impacts of disturbing riparian habitat and constructing the pipe within the riparian "setback" must be addressed in the relevant impact sections of the RDEIR, including the biological resources, water quality, and hydrology sections. 15-10

B. The RDEIR Mischaracterizes the Project as an "Interim Use."

The RDEIR's repeated characterization of the Project as an "interim use," (see e.g., RDEIR at 1), mischaracterizes the nature and time-frame of the Project. The Project would convert farmland into an intensive-use sports complex, with parking for over 560 cars, for the next 20 years. Twenty years is not an "interim use." Such a description makes it seem as if the turf, the grading and filling, the paved parking lot, the concrete pads for concession stands, and the bleachers and fencing and landscaping could be removed at any moment and the site returned to barley fields. This is not the case.

Furthermore, the RDEIR misleadingly implies that the potential impacts related to the loss of agricultural land on the site can be characterized as "interim" because the site is likely to be developed at some point – possibly as a school or as an urban use – in the future. The RDEIR states that "the proposed project is not the ultimate urban use contemplated under the SAVUR (South Almaden Valley Urban Reserve)" and that the land use proposed by this Project "would be considered less intensive than the residential or school site development generally anticipated for the site." RDEIR at 30. The RDEIR analyzes the Project's impacts in relation to what the Project site may become in the future and not in relation to what it is currently – openspace/farmland and a riparian corridor. The fact that the site is designated as an urban reserve and that a school or urban uses may occur in the future does not mean that the Project, as proposed, will not have significant impacts on the community. 15-11

Under well-settled law, an EIR must analyze a project's effect on the existing environment, not the project's relationship to what may be envisioned for the site at some point in the future. See, e.g., Environmental Planning and Information Council v. County of El Dorado, 131 Cal.App.3d 350, 358 (1982) (EPIC). As the EPIC court explained, comparing the project with what a plan may envision for the future (rather than the current environmental setting) "can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts which would result." Id. The RDEIR's characterization of the Project as an "interim use" distorts the full impact of the Project and thus violates CEQA.

II. The RDEIR Does Not Adequately Analyze the Project's Consistency with Land Use Plans.

The RDEIR fails to analyze the Project's blatant inconsistency with the Santa Clara County General Plan. See RDEIR at 15. The County General Plan 15-12

designates the site as Open Space Reserve. Presently, the site and surrounding properties consist of agricultural land. The site is currently farmed in barley. The RDEIR notes that the County Planning Director has determined that the Project is not consistent with the County General Plan (see id.) but the RDEIR fails to analyze, or consider any mitigation for, this inconsistency, in violation of CEQA.

15-12

Similarly, the RDEIR also fails to analyze the numerous internal inconsistencies created in the City's own General Plan as a result of the proposed general plan amendment included in this Project. RDEIR at 7. The City's General Plan presently designates this area as an urban reserve and does not allow for a sports complex on this site. The City's proposed amendment to its General Plan, which would allow for certain recreational uses on public land throughout the SAVUR – as "interim uses" – creates numerous internal inconsistencies in the City's General Plan concerning the land use policies and objectives in the SAVUR. CEQA requires analysis of the land use inconsistencies created by the Project.

III. The RDEIR's Analysis of Environmental Impacts Is Inadequate.

The fundamental purpose of an EIR is to "inform the public and responsible officials of the environmental consequences of their decisions before they are made." Laurel Heights Improvement Assn. v. Regents of the University of California, 6 Cal.4th 1112, 1123 (1988). To do so, an EIR must contain facts and analysis, not merely an agency's conclusions. Citizens of Goleta Valley v. Board of Supervisors, 52 Cal.3d 553, 568 (1990). In order to fulfill CEQA's informational goal, an EIR must lay bare a project's significant environmental impacts. In many instances, as detailed below, the RDEIR fails to adequately disclose and analyze the Project's impacts, particularly in the areas of water supply, water quality, biological resources, agricultural resources, traffic, noise and public health and safety.

15-13

A. The RDEIR Fails To Analyze or Adequately Mitigate Impacts to Water Supply, Water Quality, and Public Health.

1. Water Supply

CEQA and California case law require that an EIR analyze impacts to water supply, and, more specifically, determine the source and availability of water for a project in light of the project's own use and other users of the same water resource. Stanislaus Natural Heritage Project v. County of Stanislaus, 48 Cal.App.4th 182, 195-196 (1996).

15-14

Failure to secure adequate water supplies for a project prior to approval "defeat[s] a fundamental purpose of CEQA: to 'inform the public and responsible officials of the environmental consequences of their decisions before they are made.'" Id. at 195 (citation omitted). Moreover, it is not acceptable under CEQA to determine that an impact is significant and unavoidable, without detailed analysis of the impact and adequate investigation of mitigation measures. CEQA Guidelines §§ 15126.2, 15126.4. The RDEIR fails to meet these standards, and as such, must not be certified under CEQA. 15-14

The RDEIR's analysis of water supply is thoroughly flawed: it fails to grapple with the admitted water shortage for this Project. Although the RDEIR admits "the [water use] model indicates that the aquifer cannot sustain the extraction rate of 79-acre feet/year required to meet the project water demand," (RDEIR at Appendix D) the RDEIR fails to identify alternative sources of water to serve the Project and fails to identify mitigation to address the shortage. The long-term extraction plan proposed for the Project is infeasible and simply cannot meet the estimated water demand for the Project. Moreover, the RDEIR demonstrates that a water shortage will occur every year for this Project in the months of June, July, August, and September. RDEIR at 83-84. Moreover, the water shortage will be exacerbated in conditions of drought. RDEIR at 89. The RDEIR provides no solution to these problems. For a detailed explanation of the water shortage for this Project, see Exhibit 1 at pages 1-4 (Abelli-Amen Letter). SAVRA respectfully requests that the City respond separately to each of the points raised in the Abelli-Amen Letter. 15-15

Additionally, the RDEIR fails to analyze the Project impacts to existing wells and groundwater users. See Exhibit 1 at p.4. Despite the Project's plan to use already scarce groundwater to irrigate 12 sports fields, the RDEIR fails to adequately address the environmental impact this usage might have. See id. Long-term residents of the area have experienced their wells going dry on numerous occasions in the past during extended dry periods. See id. at pp. 4-5. The RDEIR does not address this issue. The preparers of the RDEIR have made no attempt to address the historic reliability of the local aquifer by interviewing and documenting the experience of the local long-term residents. Such documentation is glaringly absent from the RDEIR. The RDEIR must include such information as it is critical to understanding the existing groundwater supply conditions. See id. 15-16

2. Water Quality and Local Stream Flows

The RDEIR does not adequately address potential impacts to streamflow in Calero Creek. Pumping from the existing and proposed wells at the rate proposed by the Project will reduce flows in Calero Creek, resulting in impacts to the water quality of the creek and water supply to area residents. The water supply technical report for the RDEIR estimates that this reduction would amount to "a few tenths of a cubic foot per second." RDEIR, Appendix D, p. 24. The technical report also indicates that "if this poses a problem, it is possible that the Santa Clara Valley Water District ("SCVWD") can increase the release from Calero Reservoir." DEIR, Appendix D, p. 24.

15-17

This cursory approach to the analysis of local stream flow poses a myriad of problems and violates CEQA. The RDEIR must analyze the likelihood that such withdrawals will "pose a problem" and must define performance standards to address the problem. The RDEIR must discuss whether the SCVWD would indeed be able to maintain higher release rates. The RDEIR must consider what the impacts will be if the SCVWD cannot increase releases from Calero Reservoir. The RDEIR must analyze the impacts of reduced flows on water quality in the creek. The RDEIR's analysis of water quality and local stream flows fails to provide needed information to decision-makers and violates CEQA.

3. Inadequate Mitigation for Water Supply and Water Quality Impacts.

Another troubling aspect of the RDEIR is that, despite its acknowledgment that the Project's impacts to water supply would be significant and unavoidable, the RDEIR does not explore feasible mitigation measures. For example, while the RDEIR clearly establishes that the water supply for the Project is directly tied to flows in Calero Creek and that summer flows in the creek are, in turn, dependent on releases from Calero Reservoir, the RDEIR fails to analyze a scenario where current releases from the Reservoir are suspended during times of drought. Analysis of these drought conditions is critical because during such low- or no- flow conditions in Calero Creek, the wells supplying water to the Project would quickly be pumped dry, and the Project may have virtually no water available for an extended period. In fact, the model presented in the RDEIR estimates that in drought conditions the two wells would produce only 35 gpm in July, a mere 31% of the Project's water demand. See Exhibit 4 at p. 3.

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15-18

The RDEIR considers no mitigation for these conditions. Instead, the RDEIR continues to assert, as did the May 2003 DEIR, that if impacts to water supply occur (i.e., Project-caused drawdown of the aquifer adversely affects adjacent wells), the pumping rate will be reduced or pumping will be halted. This is exactly the problem addressed in Stanislaus, wherein the court found that an EIR's failure to ensure water supplies for all phases of the project being approved was fatal under CEQA. Stanislaus, 48 Cal.App.4th at 195-196. For this reason alone, the RDEIR cannot be certified under CEQA. The RDEIR must consider actual mitigation, with performance standards and specific measures, for the predicted water shortage resulting from this Project in both non-drought and drought conditions. 15-18

Finally, impacts to water quality have not been adequately addressed or mitigated. As discussed in Exhibit 1, the Project could result in significant amounts of mercury-laden runoff. See Exhibit 1 at pp. 9-10. This impact was not addressed in the 2003 DEIR and is not addressed in the RDEIR. Furthermore, the RDEIR fails to address the public health issues associated with the proposed long-term use of portable restroom facilities for this Project. 15-19

B. The RDEIR Fails To Analyze or Mitigate the Project's Traffic Impacts.

Among the most significant impacts of the proposed Project are those related to traffic congestion and traffic safety, in particular. The most egregious deficiencies in the RDEIR's transportation analysis are discussed below and in Exhibit 2 (Tom Brohard's September 21, 2004 letter on the RDEIR). Many, if not all, of the issues raised in our June 17, 2003 letter on the DEIR (as well as Tom Brohard's June 12, 2003 letter, attached to Exhibit 2 and incorporated herein) are not resolved by the RDEIR. Of paramount importance is the increased threat to public safety resulting from this Project, which would attract children, other pedestrians, and bicyclists to a regional recreational facility proposed to be located on a high-speed, narrow, two-lane undivided roadway. Additionally, the RDEIR fails to accurately analyze traffic generated by the Project. The RDEIR underestimates baseline conditions (apparently measuring baseline on a teacher-in-service day instead of a typical school day) and underestimates trips generated by the Project (including trips by team members and team coaches). See Exhibit 2 at pp. 1-4. 15-20

The RDEIR fails to adequately identify the existing public safety risk to pedestrians, bicyclists and motorists along McKean Road, let alone analyze the increased risk that would result from the Project. The stretch of McKean Road between Harry Road and Country View Drive appears to experience an excessive number of accidents. 15-21

RDEIR at 114. The threat caused by this roadway is compounded by the fact that it is a narrow two-lane undivided roadway, with no shoulders or left turn lanes and a speed limit of 40 mph. Id. at 97. Although the RDEIR asserts that the roadway and its intersections do not pose "unsafe conditions," the document lacks appropriate evidentiary support for this conclusion. Instead, the document simply identifies the number of accidents that have occurred at intersections and roadway segments along McKean and then states that based on "Caltrans Accident Data Criteria," the City has concluded that an unsafe condition is not found to occur. This approach violates CEQA, which requires agencies to provide adequate support for their conclusions. Citizens of Goleta Valley v. Board of Supervisors, 52 Cal.3d 553, 568 (1990) (an EIR must contain facts and analysis, not merely an agency's conclusions). 15-21

The RDEIR never identifies or otherwise explains how the RDEIR authors used the Caltrans' criteria to conclude that the roadway operates in a safe manner. Nor, as the Brohard Letter points out, does the RDEIR or the accompanying Traffic Impact Analysis ("TIA") include an appropriate intersection or midblock accident analysis. See Exhibit 2 at pp. 4-6. As Mr. Brohard states, a standard analysis would have identified the number of accidents per million vehicles passing through the intersection or per million vehicles miles traveled and then compared these statistics to other County roadways to determine if McKean is more unsafe than the average country roadway. See id. In addition, a standard arterial accident analysis would have provided information on the cause or nature of these accidents, such as the type of collision, traveling direction(s), time of day, day of week, severity, and primary collision factors. It is only with this statistical information that the City can determine whether McKean Road currently experiences a higher-than-average accident rate. See id. 15-22

While the RDEIR discusses, though insufficiently, the existing safety situation on McKean Road, it completely fails to analyze the increased risk associated with the sports complex. Indeed, the document simply asserts that "it is foreseeable that users of the project site may attempt to walk or ride a bicycle to and from the proposed project" and "increased project vehicle traffic along McKean Road could also pose a hazard to existing pedestrians and bicyclists who currently use McKean Road." RDEIR at 115. These self-evident ruminations do not substitute for proper engineering analysis. Again, the RDEIR should have analyzed what effect the additional 360 p.m. peak hour trips will have on roadway safety, and evaluated the risk posed by attracting children and other pedestrians and bicyclists to this new sports complex. Given the public recreational nature of this Project, coupled with the RDEIR's own acknowledgment that users of the 15-23

sports complex may attempt to walk and ride to the play fields, the RDEIR must address this very significant risk to public safety.

Attached to the Brohard Letter is a typical traffic accident analysis prepared for two study area intersections in Houston, Texas. See Exhibit 2, Attachment *Traffic Accident Analysis – Westheimer at Chimney Rock and Westheimer at Dunvale*, Houston-Galveston Area Council, December 2002 ("*Houston Accident Analysis*"). The purpose of the *Houston Accident Analysis* was to identify existing safety problems at two study intersections and implement safety and operational improvements that would reduce the frequency and severity of traffic collisions. This is the type of comprehensive study that must be prepared for McKean Road. The EIR traffic analysis should be revised to include such an analysis. 15-23

Rather than identify feasible mitigation measures to eliminate or minimize the admittedly significant impacts relating to pedestrian and bicycle safety, the RDEIR simply asserts that McKean Road improvements would be too extensive for the Project to bear alone and, therefore, no feasible mitigation measures are available. RDEIR at 115. Here too, the document lacks any evidentiary support for its conclusion, in violation of CEQA. Had the City undertaken the necessary analysis to understand the nature of the accidents on McKean Road, it would have been able to: (1) understand whether the accidents are preventable; (2) identify improvements to avoid preventable crashes; (3) identify the costs associated with required improvements; and (4) prepare a cost/benefit analysis (i.e., the ratio of the expected cost of the reduction in crashes to the cost of constructing the proposed improvement). In the absence of such a study, the EIR cannot conclude that public safety impacts are significant and unavoidable. See Exhibit 2 at pp. 4-6. 15-24

Finally, the RDEIR proposes seriously deficient "mitigation" to address the risks to children presented by traffic conditions and lack of access associated with this Project. The RDEIR proposes as mitigation for these risks that the AYA require parents to sign an agreement indicating that they will not allow their children to access the site for AYA events by walking or riding bicycles. RDEIR at xi. It is ridiculous to expect compliance with this mitigation. See Exhibit 2 at pp. 7-8. Moreover, the measure does not even address situations where children not associated with organized events are attracted to the site (to sports fields or the play area). More than a year has passed since the preparation of the previous draft EIR, and the City has yet to address the critical issue of safe access to this site–a fact which violates CEQA and sound planning principles. 15-25

C. The RDEIR Fails To Identify, Analyze or Mitigate Impacts to Biological Resources.

The RDEIR concludes that the Project would not have a significant impact on sensitive biological resources in riparian and aquatic habitats or to wildlife and plant communities associated with those habitats. This conclusion is not supported by analysis or evidence. In fact, evidence in the RDEIR indicates that the Project will impact riparian and aquatic habitats in the vicinity of the Project site.

The RDEIR states that the Project wells have a "strong hydraulic connection to the streams." RDEIR at 84. Given the hydraulic connection between the proposed Project's wells and the flow in Calero Creek, the RDEIR must analyze the indirect impacts of the Project's groundwater withdrawals on flow in the Calero Creek and on species using the creek and riparian areas for habitat. The RDEIR fails entirely to address this issue of indirect impacts on riparian and aquatic habitats and species. See Exhibit 3 (Renshaw Letter) at pp. 1-2. The RDEIR fails to discuss the impacts of the Project's water withdrawals on special status species, including steelhead trout, Coho salmon, California red-legged frog, Western pond turtle, and birds and bats associated with riparian habitat. 15-26

Additionally, in its discussion of special status species, the RDEIR claims that "protocol-level field surveys were conducted between July 2003 and May 2004," suggesting that the surveys conducted were consistent with draft protocols in use by the U.S. Fish & Wildlife Service ("USFWS") and the California Department of Fish & Game ("CDFG"). However, the surveys performed for California tiger salamander ("CTS"), California red-legged frog ("CRLF"), and burrowing owl described in the RDEIR (Volume II, Appendix H) do not appear to follow the agency protocols. See Exhibit 3 at pp. 2-4. For example, two site assessments were conducted for CTS, one in August 2003 and one in May 2004. At the time of the first site assessment, the November 2002 USFWS and CDFG protocols for CTS would have been in effect. At the time of the subsequent site visits in early 2004, a more current protocol (October, 2003) was being recommended by USFWS and CDFG. The site assessment do not appear to comply with either the 2002 or the 2003 CTS protocols. See id. 15-27

Both the CTS protocols call for an initial site assessment to include photographs, survey times and dates, names of evaluators, a description of site assessment methods used, a list of CTS localities, and maps of sites showing the habitats. This report is to be sent to the appropriate USFWS field office and the appropriate CDFG regional

office before initiating field surveys. Based on the information contained in the report submitted to CDFG and USFWS, these agencies make recommendations as to the appropriateness of field surveys. The letter report in Appendix H of the RDEIR includes some, but not all, of the requested information, and there is no documentation that any report was ever provided to USFWS or to CDFG, or that any recommendations regarding CTS surveys at the site were received by the biological consultant from the resource agencies. See id. 15-27

The RDEIR provides no supporting documentation to show that these surveys were conducted according to protocols established by the resource agencies. As a result, the RDEIR lacks adequate support for the conclusion that there will be no impacts to sensitive species.

Moreover, as a result of the RDEIR's failure to adequately analyze impacts to riparian and aquatic habitats and species, the document also fails to identify appropriate feasible mitigation measures. The mitigation measures proposed in the RDEIR for sensitive species are simply policies out of the City's general plan that lack the specificity required to address the Project's impacts. Moreover, the proposed mitigation measures fail to meet CEQA's requirements because they contain no performance standards or criteria and their effectiveness cannot be determined. See Exhibit 3 at pp. 4-6. The inadequacy of the mitigation proposed for CTS, burrowing owls, and several fish species are discussed in Exhibit 3. See id. 15-28

D. The RDEIR Fails To Analyze or Mitigate Impacts Related to Loss of Agricultural Land.

The RDEIR reports that implementation of the Project would convert 35 acres of Prime Farmland to non-agricultural use, yet the document proposes no mitigation. RDEIR at 31. While this impact will likely remain significant even after mitigation, the RDEIR must still address feasible mitigation measures to lessen the severity of the impact.

CEQA requires that agencies "mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." Pub. Resources Code § 21002.1(b). Mitigation of a project's significant environmental impacts is one of the "most important" functions of CEQA. Sierra Club v. Gilroy City Council, 222 Cal.App.3d 30, 41 (1990). Therefore, it is the "policy of the state that public agencies should not approve projects as proposed if there are feasible 15-29

alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." Pub. Resources Code § 21002; Laurel Heights Improvement Ass'n v. Regents of the University of California, 47 Cal.3d 376, 400-401 (1988). Moreover, CEQA imposes a duty to mitigate significant effects on the environment to the extent feasible, even if the potential impacts remain significant and unavoidable. Pub. Resources Code §§ 21002, 21002.1; CEQA Guidelines §§ 15126.2(b), 15126.4.

In this case, the RDEIR does not propose any measures to mitigate for the loss of Prime Farmland, but instead summarily concludes that no feasible mitigation is available. This is simply not correct. Feasible mitigation could include a conversion fee, set- aside of other agricultural land, or obtaining an easement on other prime agricultural land to prevent its conversion to non-agricultural use. Agricultural easements permanently restrict the use of land for more intensive purposes and are widely used to reduce the impacts of development on agricultural land. Such easements are usually administered by land trusts or government agencies.

CEQA Guidelines section 15370 specifically identifies the above-described mitigation measures as examples of feasible mitigation. Of particular relevance to the agricultural easement at issue here, feasible mitigation includes "[c]ompensating for the impact by replacing or providing substitute resources or environments." CEQA Guidelines § 15370. Although agricultural easements do not eliminate the impact caused by the direct loss of land, a single development can lead to pressure for other development, thus exacerbating the direct impact of the Project. Agricultural easements reduce the pressure for further conversion of other lands to non-agricultural uses, even though they do not save the land to be developed by the proposed project. 15-29

The purchase of an agricultural easement is especially appropriate where, as here, the preservation of farmland is both a City and County objective. The City's General Plan specifically expresses: (1) the City's goal to "avoid the *premature* conversion of agricultural lands to urban uses," and (2) the City's policy that "preservation of agricultural lands and prime soils in non-urban areas should be fostered in order to retain the aquifer recharge capacity of these lands." City of San Jose General Plan at 112 (emphasis added). The RDEIR should identify other agricultural land in the Project vicinity that would be appropriate for an agricultural easement. Because the DEIR does not even address this potential mitigation measure, it cannot be ruled out as infeasible.

IV. The RDEIR Fails To Analyze Cumulative Impacts Adequately.

The RDEIR fails to analyze cumulative impacts as required by CEQA. CEQA requires that a project's cumulative impacts be discussed when "the incremental effect is cumulatively considerable." CEQA Guidelines § 15130. The term "cumulatively considerable" means "that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." CEQA Guideline § 15065(c). Specifically, CEQA Guidelines section 15355 defines cumulative impacts as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." The individual effects may be changes resulting from a single project or a number of separate projects. The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. A legally adequate cumulative impacts analysis views a particular project over time and must consider cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time. 15-30

The requirement of a cumulative impacts analysis of a project's regional impacts is considered a "vital provision" of CEQA. Bozung v. Local Agency Formation Commission, 13 Cal.3d 263, 283 (1975). Moreover, an EIR must examine not only the anticipated cumulative impacts, but also reasonable options for mitigating or avoiding the project's contribution to significant cumulative impacts. CEQA Guidelines § 15130(b)(3). The RDEIR does not meet these requirements. 15-31

The analysis of cumulative impacts in the RDEIR is cursory and superficial. An EIR must include objective measurements of a cumulative impact when such data are available or can be produced by further study and are necessary to ensure disclosure of the impact. See Kings County Farm Bureau v. City of Hanford, 221 Cal.App.3d 692, 729 (1990). The RDEIR fails to analyze adequately a number of cumulative impacts, including impacts to hydrology, water quality and water supply, traffic, and biological resources. 15-32

The RDEIR's treatment of cumulative traffic impacts contains several flaws and unsubstantiated assumptions. For example, the document identifies two large-scale projects: the North Coyote Valley Research Park ("Research Park")/Cisco Systems Project and the Coyote Valley Specific Plan ("Specific Plan") in its list of cumulative 15-33

projects. RDEIR at 221. The former would result in the development of 6.6 million square feet of research and development use, while the latter would allow for the development of 25,000 housing units. Id. at 102. In the analysis of project-specific traffic impacts, the RDEIR asserts that trips for the approved but not yet built Research Park are included in the background transportation analysis. In the cumulative traffic analysis, however, the RDEIR asserts that sufficient information on the Coyote Valley Master Plan ("CVMP")[2] has not been developed to accurately forecast the expected traffic generation. It is not clear that the RDEIR authors properly analyzed cumulative traffic conditions because it is not clear what projects were included in the analysis. 15-33

The flaws in the cumulative traffic analysis extend beyond the unclear assumptions identified above. The RDEIR uses the year 2007 for its cumulative impact analysis. However, because the Project use will last at least 20 years and because the Research Park and Specific Plan will build out in the next 10-20 years, the cumulative analysis should be for a year later than 2007. RDEIR at 225. By selecting 2007 as the cumulative forecast year, the cumulative traffic analysis has excluded a significant portion of the cumulative traffic conditions. Moreover, the RDEIR applies the 1.2 per year growth factor only through the year 2007. Clearly, the growth factor must be applied through 2015 or 2020. The cumulative traffic analysis must be revised to fully analyze the effects of the probable future development in the area. See Exhibit 2 at p. 8. 15-34

Despite the flaws described above, the RDEIR correctly acknowledges that the intersection of Almaden Expressway and Camden Avenue would be significantly impacted under "cumulative conditions." RDEIR at 228. The document goes on to conclude, however, that because the Project's contribution to this significant cumulative impact (3%) is not considerable, the Project's cumulative impact is not significant. Id. at 230. Even if the RDEIR's premise here were true (it is not), the conclusion would not follow under CEQA. Even a minor contribution to a cumulatively significant impact is, by definition, a significant impact under CEQA. See Kings County Farm Bureau v. City of Hanford, 221 Cal.App.3d 692 (1990). Moreover, the RDEIR's approach trivializes the impact of the Project in light of the severe traffic congestion plaguing this intersection. The RDEIR cannot conclude that the cumulative impact to traffic is less than significant, and the RDEIR must consider mitigation for this impact. 15-35

[2] It is unclear whether the CVMP refers to the Research Park, the Specific Plan, or both.

V. The RDEIR Fails To Analyze Growth-Inducing Impacts Adequately.

The RDEIR also fails to adequately analyze the growth-inducing potential of this Project. CEQA requires that an EIR include a "detailed statement" setting forth the growth-inducing impacts of the proposed project. See Pub. Res. Code § 21100(b)(5); City of Antioch v. City Council of Pittsburg, 187 Cal.App.3d 1325, 1337 (1986). The statement must "[d]iscuss the ways in which the proposed project could foster economic growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment." CEQA Guidelines § 15126.2(d). It must also discuss how a project may "encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively" or "remove obstacles to population growth." Id. 15-36

The RDEIR's growth-inducing impacts section implies that the Project is a temporary use (RDEIR at 232); however, this use is projected to last for up to 20 years (RDEIR at 1). Because the RDEIR characterizes the Project as "interim," it concludes erroneously that the Project will require little infrastructure expansion and cause no growth. However, merely because the Project omits needed components, such as expanded water service or roadway improvements, it does not follow that the Project will not induce growth. Instead, it indicates that the Project description is incomplete. The fact is that needed components of this Project, which would induce growth, are simply not included in the RDEIR. As discussed above, the Project's failure to provide necessary services and infrastructure improvements is not a virtue, but rather points to the inappropriateness of this use at this location.

Furthermore, the RDEIR fails to consider the precedent that would be set by this Project. Specifically, the Project proposes to convert 35 acres of prime agricultural land into intensive recreational use and create significant traffic pressures on what is currently a rural road. The scale of this facility is not in keeping with the rural character of the site and surrounding area, but instead expands urban infrastructure (in the form of an urban park) to a rural, agricultural area. Overall, the RDEIR provides no evidence that this Project will not induce growth to adjacent undeveloped parcels. 15-37

VI. The RDEIR Both Fails To Identify Feasible Mitigation Measures and Relies on Inadequate Mitigation Measures.

CEQA requires that mitigation measures be identified and analyzed. "The purpose of an environmental impact report is . . . to list ways in which the significant 15-38

effects of such a project might be minimized . . . ." Pub. Resources Code § 21061. The California Supreme Court has described the mitigation and alternative sections of the EIR as the "core" of the document. Citizens of Goleta Valley v. Board of Supervisors, 52 Cal.3d 553 (1990). The RDEIR's identification and analysis of mitigation measures is thoroughly inadequate for the reasons detailed in the sections above and in the following discussion.

An EIR is inadequate if it fails to suggest mitigation measures, or if its suggested mitigation measures are so undefined that it is impossible to evaluate their effectiveness. See San Franciscans for Reasonable Growth v. City and County of San Francisco, 151 Cal.App.3d 61, 79 (1984). Moreover, an EIR may not use the inadequacy of its impacts review to avoid mitigation: "The agency should not be allowed to hide behind its own failure to collect data." Sundstrom v. County of Mendocino, 202 Cal.App.3d 296, 361 (1988). Nor may the agency use vague mitigation measures to avoid disclosing impacts. See Stanislaus Natural Heritage Project, 48 Cal.App.4th at 195. Lastly, the formulation of mitigation measures may not properly be deferred until after Project approval; rather, "[m]itigation measures must be fully enforceable through permit conditions, agreements, or legally binding instruments." CEQA Guidelines § 15126.4(a). 15-38

The RDEIR does meet CEQA's requirements regarding impact mitigation. The RDEIR attempts to defer discussion and development of suitable mitigation measures until an ill-defined later date and, most egregiously, abandons development of suitable mitigation for a significant public safety impact.

The RDEIR impermissibly concludes that many of the Project's significant and unavoidable environmental impacts cannot be mitigated. The RDEIR violates CEQA by deferring critical analyses of project impacts and necessary mitigation. The RDEIR's consideration of mitigation is also inadequate because it fails to identify several feasible measures that could reduce or eliminate identified significant impacts. Finally, the RDEIR fails to propose specific mitigation measures or performance standards for proposed mitigation measures. See supra Part III.A. (concerning hydrology mitigation measures), Part III.B. (concerning traffic and public safety mitigation measures), and Part III.C. (concerning biology mitigation measures); Part III.D. (concerning agricultural mitigation measures); see also Exhibits 1, 2, 3. For example, while the RDEIR states that noise from the Project is a significant unavoidable impact, the RDEIR does not analyze feasible mitigation measures, such as traffic measures or hours of operation restrictions, that would lessen impacts. 15-39

The RDEIR's treatment of mitigation measures in its traffic section is particularly egregious and bears special noting. As mitigation for the admittedly significant impacts to pedestrian and bicyclist safety along McKean Road and for the lack of consistency with the City's General Plan policies regarding trail and bicycle path, the RDEIR proposes that parents be required to sign a waiver stating that their children will not ride bikes or walk to the Project. RDEIR at 117. This is ridiculous. Not only does this do nothing to mitigate the impact to pedestrian safety (i.e., it does not make McKean Road any safer), but is also infeasible and fails to address the impact to other pedestrian and bicycle users of McKean Road. The RDEIR must consider a trail or bike lane to the site. The suggestion that nothing more can be done to improve safety is erroneous and unacceptable given the risks posed by the site. 15-40

VII. The RDEIR Does Not Adequately Discuss Alternatives to the Proposed Project.

The alternatives section of the RDEIR describes three alternatives to the proposed Project, but this section falls far short of the standard set by CEQA. An EIR must analyze a reasonable range of alternatives to the project, or to the location of the project, that would feasibly attain most of the basic objectives while avoiding or substantially lessening the project's significant impacts. See Pub. Resources Code § 21100(b)(4); CEQA Guidelines § 15126.6(a); Citizens for Quality Growth v. City of Mount Shasta, 198 Cal.App.3d 433, 443-45 (1988). As stated in Laurel Heights; "[w]ithout meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process . . . [Courts will not] countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed as to the consequences of action by their public officials." 47 Cal.3d 376, 404 (1988). The RDEIR's discussion of alternatives fails to meet these standards. 15-41

First, the RDEIR fails to analyze an alternative location for the Project because a review of the City's vacant land inventory found no suitable sites that were 25 acres or larger. The RDEIR, like the 2003 DEIR before it, does not include analysis of an alternative that would break the Project into a few playing fields at multiple locations. The RDEIR indicates that the major use of the Project would be for weekday practices and weekend games. There is no reason why all of these playing field need to be in one location as opposed to spread out over two or more locations. Given the vacant parcels described in the RDEIR, it appears that there are several vacant parcels available that the City has summarily decided not to analyze. The phased approach, the overlapping fields 15-42

concept, and the five-acre facility proposal (see RDEIR at 217) should all be examined in the context of potential sites within the City. Also, an alternative that examines dividing the among two or more locations should be included in any revised document for the proposed Project. 15-42

Moreover, the RDEIR improperly determines that vacant areas in the Coyote Planning Area to the east of Almaden Valley are not currently available for consideration as an alternative location despite the fact that the document concedes this area "contains significant vacant area." The only explanation provided for this determination is that the San Jose General Plan designation for the area is Urban Reserve and that the Coyote Valley Specific Plan process is in progress. The RDEIR, however, fails to explain how this situation differs from that in the SAVUR area, which did not keep the City from proposing the sports complex facility here. 15-43

VIII. The Project Must Be Denied Or the RDEIR Must Be Revised and Recirculated.

Because of the defects identified in this letter, the RDEIR cannot properly form the basis of a final EIR. CEQA and the CEQA Guidelines require recirculation of a draft EIR where, as here, the document is so fundamentally inadequate in nature that meaningful public review and comment are precluded. See CEQA Guidelines § 15088.5. 15-44

CONCLUSION

For the reasons set forth above, SAVRA respectfully requests that the City take no action to approve the Project until a legally adequate EIR for the Project is prepared.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

Rachel B. Hooper

Carmen J. Borg
Urban Planner

Exhibit 1: Letter from Baseline Environmental Consulting (Bruce Abelli-Amen)
Exhibit 2: Letter from Tom Brohard & Associates (and attachments)
Exhibit 3: Letter from Diane Renshaw

cc: Nancy La Scola, SAVRA
Don Scott, SAVRA
Don Gage, Santa Clara Board of Supervisors, LAFCO
Stephen Haase, San Jose Planning Director
Ron Eddow, Senior Planner, San Jose Planning Department
State Water Resources Control Board
Regional Water Quality Control Board
Santa Clara Valley Water District
Dave Johnston, California Department of Fish and Game
U.S. Fish & Wildlife Service
National Marine Fisheries Service

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BASELINE

ENVIRONMENTAL CONSULTING

22 September 2004
Y3291

Ms. Rachel Hooper
Shute, Mihaly, and Weinberger
396 Hayes Street
San Francisco, CA 94102

Subject: **McKean Road Sports Complex Draft Environmental Impact Report (Recirculated August 2004)**

Dear Ms. Hooper:

At your request, BASELINE has reviewed the Hydrology and Water Quality and Water Supply portions (and the related technical appendices) of the August 2004 McKean Road Sports Complex Draft Environmental Impact Report (DEIR). Following are our comments on the documents.

WATER SUPPLY

The long-term groundwater extraction plan proposed by the project is infeasible because it does not meet the estimated demands of the project itself, as stated in the DEIR:

> *The proposed project's irrigation demands would be in excess of the available capacity of the two project wells. This condition would be exacerbated during times of drought. Because the identified mitigation measures would not reduce this impact to a less-than-significant level, it would remain significant and unavoidable."* (DEIR page 92, final paragraph), and

15-45

> *"The model indicates that the aquifer cannot sustain the extraction rate of 79-acre feet/year required to meet the project water demand."* (DEIR, Appendix D, page 23)

The DEIR also does not include adequate mitigation to safeguard the environment and neighboring community from severe impact. The DEIR does not address whether or not the applicant has the legal rights to use this water (the field studies indicate that the source is water flowing in Calero Creek). In addition, the proposed groundwater extraction plan appears to be in direct conflict with City of San Jose General Plan policies. These four main water supply issues are discussed further below.

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Inadequate Water Supply to Meet Project Demands

The analysis presented in the DEIR clearly states that the proposed water supply plan is inadequate to meet the needs of the project. It is important to note that this water shortage is predicted to occur every year during the months of June, July, August and September and to be worsened under drought conditions or when Calero Reservoir releases are suspended.

Annual Shortages (Occurring Every Year)

Turf grass requires a certain amount of irrigation water to maintain a green appearance and a healthy thatch layer that sustains the continually renewing green growth. The DEIR has estimated the irrigation demand for the proposed project. Table II.D-4 of the DEIR (page 83) provides the estimated water demand of the project on a monthly basis both in acre-feet per month and gallons per minute. Appropriately, the DEIR identifies the dry summer months as having the highest irrigation demand (due to the lack of rainfall and high temperatures). The following table is an excerpt from Table II.D-4:

15-46

Month	Project Irrigation Demand (Years 1-3) gallons/minute
January	0.0
February	0.0
March	16.9
April	31.5
May	69.9
June	99.8
July	112.9
August	102.2
September	85.1
October	43.4
November	22.6
December	0.0

The aquifer studies conducted to support the DEIR analysis indicate that the sustained

pumping rate of the Caglia well and the new proposed well would be 70 gallons per minute (gpm). Based on review of the table presented above, this indicates that the water supply provided by the two wells (70 gpm) would not meet the project's irrigation demand during the months of June, July, August, and September each and every year. In fact, it would probably not be possible for the two wells to meet the irrigation demand during these summer months, even under the best conditions. Since the limitation is the pumping rate of the wells, even during wet years with above average rainfall, the wells could not pump more than 70 gpm. The DEIR offers no explanation as to where the additional water supply would be acquired to serve the proposed project. 15-46

Shortages During Droughts

As stated in the DEIR, Calero creek "provides the primary source of water for the wells" (DEIR page 86, second paragraph). Therefore, the reliability of the water supply for the proposed project is directly tied to the reliability of flow in the creek. Review of the average daily streamflow data for Alamitos Creek table (DEIR page 80) indicates that periods of no flow in the creek have repeatedly occurred over the past 30 years. It appears from this graph that for the period between 1983 and 1994 that flows were infrequent in the creek. It is clear that the summer flows in Calero creek are directly tied to releases from Calero Reservoir. The DEIR states that since 1995 the SCVWD has maintained consistently higher streamflow during summer months under an agreement with the Department of Fish and Game to protect fish populations. As stated in the DEIR, "an exception to this obligation could occur during a drought when water would not be available for release from Calero Reservoir." (DEIR Appendix D, page 12)

The mathematical model prepared as part of the DEIR indicates that both the Caglia well and the new proposed well "could not sustain this high pumping rate (70 gpm) and pumped dry" (DEIR page 89, second paragraph) if the creek flow was suspended. The DEIR does not describe the likelihood that releases from the reservoir would be suspended, but that event is foreseeable and must be analyzed in the DEIR. The DEIR must analyze the conditions under which reservoir releases would be suspended and the frequency of suspended releases during the life of the project. 15-47

These are important issues to be addressed because during these low or no flow conditions in Calero Creek, the wells would quickly be pumped dry and the proposed project facility may have virtually no irrigation water available for an extended period. In fact, the model estimates that in drought conditions the two wells would produce only 35 gpm, and a mere 31% of the project demand in July. The technical report recommends that a contingency plan be developed to respond to expected drought conditions (DEIR Appendix D, page 24). However, the only mitigation offered in the DEIR states that in the event of a drought, the

City "shall reduce irrigation at the site" (DEIR page 92). This does not represent adequate mitigation. 15-47

Permitting and Availability of Water Supply

The DEIR does not sufficiently address the regulatory issues associated with utilization of water resources in this area. Limitations associated with permitting and water rights may further restrict the amount of water available and render the water supply plan for the project even more inadequate than stated in the DEIR. Questions that remain unanswered by the DEIR include:

- Does the City have the necessary approvals or authority to utilize water pumped from the wells? 15-48
- Has the City reached an agreement with the Santa Clara Valley Water District or another party/entity to supply the water needed for the project?
- Would the project affect water rights in the area?

The DEIR must address these issues to evaluate the feasibility of the water supply plan for the project.

Inadequate Mitigation to Protect Environment and Community

The project proposes to introduce a new land use into a relatively small hydrologic basin with scarce groundwater resources that would increase total consumption of groundwater by approximately 93 percent over existing conditions. Under existing conditions, total annual groundwater extraction from the basin by the existing users has averaged about 85 acre-feet over the past few years (DEIR, Exhibit II.D-10). The proposed project would extract an estimated additional 79 acre-feet per year for the first three years. It is estimated in the DEIR that after five years the project water demand would drop to about 70 acre-feet per year (still an increase of 70 acre-feet per year over the existing condition), representing a long-term water extraction increase of 82 percent. 15-49

Based on our discussions with the long-term residents of the area, their wells have gone dry on numerous occasions in the past during extended dry periods. The DEIR does not address this issue. Apparently, the preparers of the DEIR have not made an effort to characterize the historic reliability of the local aquifer by interviewing and documenting the experience of the local long-term residents. This information is critical to understanding the existing groundwater supply conditions and it is absent from the DEIR. Implementation of the proposed project would dramatically increase the demand on the scarce groundwater resource

with the potential of placing unreasonable hardship on long-term residents of the area that rely on groundwater as their only water supply.

Based on a review of the information provided in the DEIR and associated technical studies, it has been established that the most important single mechanism of recharge to the local aquifer is the flow in Calero Creek. As discussed above, the DEIR acknowledges that the wells that would supply water to the project site would mostly pump water from the underflow of the creek. This process would essentially "starve" the surrounding aquifer of that important recharge. As is demonstrated on Exhibits II.D-8, page 79 and II.D-10, page 81 of the DEIR), it has taken many years of conservation and reduced pumping rates of water users in the area for the aquifer to recover from low groundwater levels. The DEIR reasonably supposes that the recovering groundwater levels "reflect shifting land use away from irrigated agriculture" (DEIR, Appendix D, page 13) in the area. The implementation of this project, which represents a large-scale irrigation project, would almost certainly reverse the recent trend of groundwater level recovery and send water levels back down, increasing the frequency at which local wells go dry.

The mathematical model prepared for the DEIR indicates that at a distance of 2,000 feet from the pumping wells, the lowering of the groundwater table would range from 0.5 to 2.0 feet and that this "should not cause problems for most neighboring wells completed in alluvium, unless the wells are being pumped at their maximum yield" (DEIR page 89, 3rd paragraph). This conclusion raises several concerns. 15-49

In our opinion, the readers of the DEIR and decision-makers associated with this project should heed the warning in the supporting technical report that "the results of the modeling effort should be taken as very approximate, reflecting the order of magnitude of the aquifer's response to pumping rather than precise values" (DEIR Appendix D, page 23). If one order-of-magnitude is considered the expected error, consider the following: one order-of-magnitude is a factor of ten. Therefore, an error of one order of magnitude on the hydraulic conductivity could result in an increase in the estimated drawdown by a factor of ten. For example, the model-estimated drawdown at a distance of 2,000 feet from the pumping well is 0.5-2.0 feet. An order of magnitude error could result in actual drawdown of 5.0-20.0 feet. It should be noted that there are numerous wells within a 2,000-foot radius that would likely become inoperable if a drawdown in the range of 5.0 -20.0 feet were to occur. As stated in the DEIR, the aquifer being analyzed is only 17 feet thick (DEIR page 75, 1st paragraph). A potential range of groundwater table lowering of 5.0 to 20.0 feet in a 17-foot thick aquifer represents a significant impact.

Even if the model accurately predicts the actual amount of water table lowering, the preparers of the DEIR do not support their conclusion that a lowering of 0.5 to 2.0 feet "should not cause problems." Apparently, no effort was made to determine whether any of the

neighboring wells are operating near their maximum yield. Guessing that these wells are not operating near their maximum yield does not represent adequate analysis.

In addition, the model simulation appears to underpredict what the actual pumping rates are likely to be during operation of the project and therefore underpredicts the drawdown impact on local wells. It appears that the model assumes an annual total extraction of 49 acre-feet/year, which "is limited by what the aquifer will yield during the highest water demand month in July" (DEIR Appendix D, page 20). It appears, though the DEIR is unclear on this point, that this total volume of water is then allocated to each month according to that month's percentage of the actual water need. This methodology underestimates what the actual water use would likely be when the attainable pumping rate (70 gpm) is greater than the model allocation for that month. This underestimation of pumping assumed by the model must be corrected to more accurately predict the expected drawdown at the local wells in the area. 15-49

Undetermined Impacts to Calero Creek

The DEIR states that the irrigation demand for the project is 79 acre-feet per year for the first three years. The long-term demand is about 70 acre-feet per year. All water would be supplied from the Caglia well and one other well yet to be installed. The Caglia well is located approximately 75 feet from the top of the bank of Arroyo Calero. The proposed new well would be a similar distance from the creek. Based on the proximity of the well to the creek and the results of the field studies conducted for the DEIR, it is clear that the Caglia well is in direct hydraulic connection with the underflow of the creek (the same would likely be true for the new well).

Pumping from these wells at the rate proposed by the project will reduce flows in Calero Creek. The water supply technical report for the DEIR estimates that this reduction would be "a few tenths of a cubic foot per second" (DEIR, Appendix D, page 24). The technical report also indicates that "if this poses a problem, it is possible that the SCVWD can increase the release from Calero Reservoir" (DEIR, Appendix D, page 24). 15-50

Questions that remain unanswered by the DEIR include:

- How it would be determined whether a "problem" was occurring?
- Would the SCVWD would be able to maintain higher release rates?
- What would be the impacts on downstream biological resources associated with the reduced downstream flows?

Conflict with General Plan Policy

The DEIR lists four City of San Jose General Plan Policies that pertain to water resources (DEIR pages 58 and 92) and then appears to ignore them completely.

Water Resources Policy 2 states that:

> *"Water resources should be utilized in a manner which does not deplete the supply of surface or groundwater, and efforts to conserve and reclaim water supplies, both local and imported, should be encouraged."*

The proposed project would deplete both surface and groundwater in an area of historic shortages that is only recently recovering to a sustainable condition. As is demonstrated on Exhibits II.D-8, page 79 and II.D-10, page 81 of the DEIR), it has taken many years of conservation and reduced pumping rates of water users in the area for the aquifer to recover from low groundwater levels. The implementation of this project, which represents a large-scale irrigation project, would almost certainly reverse the recent trend of groundwater level recovery and send water levels back down, increasing the frequency at which local wells go dry. It should be noted that local wells that go dry would be those owned by the rural residential population, the people that have dramatically reduced their pumping rates and increased their conservation efforts over the past decade. 15-51

Water Resources Policy 3 states:

> *"The City should encourage the Santa Clara Valley Water District to restrict public access and recreational uses on land adjacent to rivers, creeks, freshwater wetlands, and other significant water courses when water quality could be degraded."*

The project clearly violates this policy since the project represents an intensive recreational use that would bring hundreds of people and automobiles to major groundwater recharge area next to a creek.

Water Resources Policy 5 states that:

> *"The city should protect groundwater recharge areas, particularly creeks and riparian corridors."*

As is demonstrated in the DEIR and supporting technical reports, the creek is the main recharge mechanism of the local aquifer. The proposed project would not only intercept much of this recharge, it would introduce new pollutant sources to a the recharge area that

would likely impact groundwater quality (the water quality issue is discussed further under "Water Quality" below). 15-51

Inadequate Mitigation Provided

Even though the DEIR identifies impacts to water supply to be significant and unavoidable, the mitigation proposed in the DEIR is inadequate and not implementable.

- The DEIR states that the City "shall continually monitor water levels at the site" (DEIR page 92, 1st bullet item under project-level mitigation). As a practical matter, this is not possible (even with automated data collection equipment) and the actual frequency of monitoring should be stated. The measure continues to state that the monitoring would be used to determine if "excess drawdown of the local aquifer could adversely affect adjacent wells in the area." The mitigation measure does not include a measurable performance standard so the measure for "excess drawdown" would be based on subjective opinions. Who would decide what is excessive? What would that decision be based upon? The measure continues to state that "if excessive drawdown occurs, groundwater pumping shall be reduced accordingly." Again this is subjective. What does accordingly mean? How much of a reduction? What level of groundwater table reduction is acceptable? 51-52

- The DEIR states that the City shall reduce irrigation at the site to ensure that "adequate" streamflow in Calero Creek is maintained (DEIR page 92, 2nd bullet item under project-level mitigation). How is "adequate" determined?

WATER QUALITY

Vulnerability of Aquifer to Contamination

When evaluating an aquifer's vulnerability to contamination from uses at the surface there are several factors to consider. As listed in the National Research Council's book entitled *Ground Water Vulnerability Assessment* (1993), the following should be considered when determining whether an aquifer has low or high vulnerability:

- The nature of the unsaturated zone (i.e. whether it is thick or thin, composed of coarse- or fine-grained deposits); 15-53
- Whether there are any confining layers (i.e. clays or other low permeability layers) present between the surface and the groundwater resource that could slow the infiltration of pollutants;
- The nature of the aquifer itself (i.e. whether it is composed of coarse- or fine-grained deposits);

- Local recharge rate and location of recharge;
- The land use at the surface and the types of pollutants used.

15-53

Based on comparing the list above with the information provided in the DEIR and associated technical reports, the aquifer at the site would be highly vulnerable to contamination.

When evaluated for each factor listed above, the proposed project site indicates high vulnerability to aquifer contamination. The unsaturated zone is thin and composed of coarse-grained deposits (the most vulnerable situation), there are no confining units that could protect the aquifer from pollutants, the aquifer is thin and shallow (whcih makes it neared to potential pollutant sources at the surface), the site is a major recharge area (pollutants at the surface migrate quickly into the aquifer), and the proposed use includes application of fertilizer and pesticides (a new pollutant source). In addition, urban pollutants would be concentrated in specific locations (retention basins) to be infiltrated into the subsurface. As stated in the DEIR, the depth to groundwater is about nine feet below the surface (DEIR page 56, final paragraph) and therefore the Santa Clara Valley Water District- required 10-foot depth between the bottom of an infiltration structure (the proposed detention basins) and the groundwater level could not be satisfied by the project. 15-54

Also, the SCVWD and State regulations[1] require a 50-foot sanitary seal on new groundwater supply wells (because of the vulnerability of wells to surface contamination). However, since the aquifer at the site is so shallow, the proposed new well could not meet the seal requirement. 15-55

It is unusual in urbanized areas for water users to rely on groundwater this shallow as a primary water supply because this uppermost zone is so vulnerable to contamination from the surface. The increase in the intensity of the proposed use will increase pollutant loading in the area. The DEIR does not provide adequate mitigation to protect this vulnerable groundwater resource from contamination. 15-56

Mobilization of Mercury

Mercury was mined historically in California and widely used for gold recovery at mines until about 1970. Mercury from historic mercury mines or gold mines has entered a number of watersheds in California. In some watershed environments this mercury may enter the food chain and become a health hazard to animals and humans. The project site is located within the Guadalupe River Watershed, one of the primary historic mercury mining regions in California. The Guadalupe River (and its tributaries) and Calero Reservoir (located upstream of Arroyo Calero) are listed as "impaired" for mercury on the State's 303(d) list 15-57

[1] California Department of Water Resources, 1991, California Well Standards, Bulletin 74-90, June.

under the Clean Water Act. The DEIR failed to discuss the ramifications to a project proposing development adjacent to an impaired waterway. The DEIR did not discuss mercury at all.

According to the Regional Water Quality Control Board, "100 mg/kg mercury is a reasonable estimate for the concentration in soil from lands within the historic mining district."[2] Based on the work completed to date by the Regional Board, it appears that mercury waste deposits are most likely to be found below the reservoirs (the project site is below Calero Reservoir) and in the upper portions of Guadalupe and Alamitos Creeks.[3] Elevated levels of mercury are expected to be found in creek sediments and overbank deposits. Approximately one-third of the project site is located within the 100-year floodplain, and therefore has likely received mercury-laden overbank deposits. Since the project would require extensive grading near Arroyo Calero, it is likely that mercury-laden sediments will be disturbed and mobilized into runoff from the site, further impacting an impaired waterway. **15-57**

GROUND SUBSIDENCE

Long-term dewatering of the aquifer could result in permanent compression of the aquifer materials (resulting in a loss of storage capacity) and ground subsidence at the surface. Between 1934 and 1967, areas of the Santa Clara Valley experienced up to eight feet of subsidence caused by groundwater pumping.[4] Subsidence could cause damage to utility lines and structures. Subsidence was not discussed in the DEIR. **15-58**

CUMULATIVE IMPACTS

In general, the DEIR cumulative analysis of hydrology, water quality, and water supply is extremely brief and does not address many of the challenging issues raised in this letter. The DEIR correctly identifies impacts to the local groundwater supply as significant and unavoidable. However, the DEIR does not analyze (or even mention) potential impacts to groundwater users upstream and downstream of the local groundwater basin or the potential for increased mercury loading of Arroyo Calero and the Guadalupe River. **15-59**

In addition, portions of the project site and areas upstream and downstream are susceptible to flooding along Arroyo Calero and Santa Teresa Creek (and Alamitos Creek downstream). **15-60**

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[2] EOA, Inc., 2000, "Guadalupe River Mercury TMDL Workgroup's Recommended Interim Sampling and Monitoring Plan." draft -San Francisco Bay Regional Water Quality Control Board and the Santa Clara Valley Water District.

[3] Ibid

[4] US Geological Survey. 1999. Land Subsidence in the United States. USGS Circular 1182.

The hydrologic analysis in the DEIR indicates that peak flows from the site would increase by 10 percent during the 100-year flood event (DEIR page 51). It is almost certain that increasing peak flows would increase flood level elevations downstream and/or upstream of the project site, incrementally exacerbating the existing flooding problems. The DEIR improperly dismisses this increase in discharge as less than significant even though this increase will incrementally affect flows up- and down-stream. 15-60

Should you have any questions regarding our comments, please do not hesitate to contact us at your convenience.

Sincerely,

Bruce Abelli-Amen
Senior Hydrogeologist
Cert. Hydrogeologist No. 96

BRUCE ABELLI-AMEN
Yane Nordhav FOR
Principal

BAA/YN/ae

Tom Brohard and Associates

September 21, 2004

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SUBJECT: Evaluation of the Traffic and Circulation Analysis for the Proposed McKean Road Sports Complex in Santa Clara County

Dear Ms. Hooper:

Tom Brohard and Associates previously reviewed the traffic sections of the May 2003 Draft Environmental Impact Report (Draft EIR) and the March 2003 Traffic Impact Analysis (TIA) prepared for the McKean Road Sports Field Complex in Santa Clara County. Our June 12, 2003 report pointed out numerous omissions, flawed assumptions and other errors within these documents. Both the Draft EIR and the TIA have been revised and are now being recirculated due to significant public comments received regarding the May 2003 Draft EIR.

As requested, Tom Brohard and Associates has reviewed the traffic sections of the August 2004 Recirculated Draft EIR and the August 2004 Traffic Impact Analysis (TIA). In sum, the Recirculated Draft EIR and the August 2004 TIA do not respond to the issues raised in our June 12, 2003 report. These documents continue to contain flawed assumptions and other errors. As a result, the Recirculated Draft EIR, like the May 2003 Draft EIR, fails to properly and adequately identify, analyze, and mitigate the traffic impacts that would result from construction and operation of the McKean Road Sports Complex. **15-61**

Because many, if not all, of the issues raised in our June 2003 report remain unaddressed, we have enclosed that report and again request that the City address these issues. Our current review focuses on trip generation forecasts, traffic safety issues associated with pedestrians and bicyclists, mitigation for pedestrians and bicyclists, and the cumulative traffic analysis.

1) <u>Weekday PM Peak Hour Trip Generation Forecasts Remain Understated</u> – Our June 2003 report indicated trip generation forecasts showed activities occurring on the site during hours of darkness, directly contrary to assertions in the Draft EIR that there would be no night time activities and no illumination of the playing fields. Our 2003 report also indicated that the DEIR had underestimated trip generation because it had underestimated the number of players on a team and omitted trips by team coaches. As discussed below, the Recirculated Draft EIR has not addressed this important trip generation issue. **15-62**

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a) Weekday PM Peak Hour Trips Will Double With Schedule Shift - Page 172 of the May 2003 Draft EIR indicated the sports complex project did not propose any lighting for illumination of the playing fields and there would be no night time activities. However, Appendix D to the traffic study, which presented the applicant's trip generation data, clearly showed activities occurring during hours of darkness. As examples, weekday soccer practices were scheduled until 8:00 PM through October and Little League and softball practices and games were scheduled to last until 7:30 P.M. in February and March.

The Project Description (beginning on Page 2 of the August 2004 Recirculated Draft EIR) does not indicate that the sports field would be illuminated. The description of the Site Utilization beginning on Page 10 states "The soccer fields would be used primarily for organized weekday practices and weekend games during the soccer season (August through November annually), and the baseball and softball fields would be used primarily for organized weekday afternoon practices and games, and weekend games between March and June of each year."

Appendix C to the August 2004 TIA provides back up for peak hour project trip generation data based upon information obtained from the applicant. This information shows two weekday soccer practices, the first from 4:30 to 6:00 PM and the second from 6:30 to 8:00 PM. At the bottom of the page, the peak hour trip generation of full usage of the six soccer fields is shown as 180 trips in and 180 trips out between 4:45 and 5:45 PM. Table 5 on Page 16 of the TIA summarizes arriving and departing weekday trips associated with the two soccer practices from 4:30 to 6:00 PM and from 6:30 to 8:00 PM. **15-63**

During the soccer season from August through November, daylight hours shorten and sunsets occurs earlier. Sunset occurs around 8:00 PM in early August, at about 7:00 PM in mid-September, and around 6:00 PM in mid-October. Daylight savings time ends on the last Sunday in October, at which point sunset would occur around 5:00 PM starting in November.

Assuming soccer practices end at dusk, then the schedule for usage of fields at the sports complex must change as the days grow shorter. If two rounds of practices occur on all six fields in mid-September when the sun sets at 7:00 PM, then practices must be moved forward by one hour to finish before dark. With fewer daylight hours, the first practice must occur from 3:30 to 5:00 PM and the second practice must occur from 5:30 to 7:00 PM.

The PM peak hour trip generation for weekday soccer will double to 360 trips in and 360 trips out during the PM peak hour when the practice times are shifted forward by one hour as illustrated above. Parents will drive to **15-64**

the site, pick up children who attended the first practice, and leave the site. A second group of parents will drive to the site, drop off children attending the second practice, and leave the site. With only 30 minutes separating the two practices at the sports complex, parents of children in the first and second practices will arrive and depart within one hour and all pick ups and drop offs will occur during the PM peak traffic hour of the adjacent roadway system.

Appendix C of the TIA contains information, together with corresponding calculations, provided by the applicant regarding practices and games from March through June. Table 6 (on Page 17 of the TIA) summarizes the weekday trips during this season as including soccer practices from 4:30 to 6:00 PM and from 6:30 to 8:00 PM, softball practices from 5:00 to 7:30 PM, and baseball games from 4:30 to 7:00 PM. The proposed hours for soccer practice, softball practice, and baseball games must be changed to correspond to available daylight hours. This rescheduling will result in shifting the schedule to earlier times at the beginning of the season, especially before daylight savings time begins on the first Sunday in April. Revisions to the schedule will lead to substantially increased PM peak hour traffic volumes and impacts than have been forecast from weekday soccer, baseball, and softball usage from March through June. **15-64**

b) Additional Trips Associated With Each Team Will Occur – In our July 2003 report, we pointed out that there could be as many as 18 players on a team according to a July 2003 flyer for the Almaden Valley YSL. We also commented that the Draft EIR had not included in its trip generation rates, trips associated with team coaches. Neither the Recirculated Draft EIR nor TIA has corrected these issues.

Appendix C of the revised TIA assumes 15 players per soccer team. Trips are forecast by multiplying 15 players per team times two teams per field times six fields, for a total of 180 trips to and 180 trips from the sports complex for each soccer practice. However, teams may include up to 18 players and teams will likely have two coaches each, bringing the total per team to 20, not 15 as used in the TIA. Correcting the number of players per team would result in 36 additional trips to and 36 additional trips from the site at both the beginning and end of each practice. Correcting for two coaches per team would result in an additional 24 arriving trips at the beginning of each practice and 24 additional departing trips at the end of each practice. **15-65**

In order to accurately identify the traffic impacts that would occur with the Sports Complex, the Recirculated Draft EIR should do the following:

- Identify the necessary rescheduling of practices to accommodate daylight hours on weekdays throughout both seasons. This will likely

result in twice as many PM peak hour weekday trips as forecast in the TIA.

- Adjust the trip generation forecasts in a manner which acknowledges that teams have 18 players and two coaches. This correction would increase the number of PM peak hour weekday trips. **15-65**

- Distribute these increased trips to roadways and intersections, identify the corresponding significant traffic impacts, and develop corresponding mitigation measures.

2) Traffic Safety Along McKean Road Has Not Been Adequately Addressed – Page xi of the Recirculated Draft EIR states "Accident data does not indicate that substantial numbers of pedestrian and bicycle accidents have occurred along McKean Road in the past." This conclusion is based upon the flawed "Roadway Accident Analysis" on Pages 27 and 28 of the TIA as well as upon incomplete accident data included in Appendix F to the TIA. Page 27 of the TIA states "According to accident data provided by the County staff, during 1999-2001 less than five accidents occurred at the same location within a twelve month period. Therefore, using the Caltrans Accident Data Criteria utilized by the City, an unsafe condition is not found to occur at any of these locations."

The TIA incorrectly mixed the Caltrans' criteria, which is used to identify a potential high accident intersection, with an evaluation of midblock accidents on McKean Road. It is inappropriate to evaluate an intersection's accident rate together with midblock accidents. The evaluation of the midblock accidents along McKean Road should exclude all collisions within an intersection such as left turn or broadside as well as rear end collisions on the approaches to an intersection. All other collisions such as those involving a single vehicle, occurring at a driveway, or at any other location away from an intersection should be evaluated as midblock collisions. The Recirculated Draft EIR should have undertaken both an intersection accident analysis and a midblock accident analysis, two separate and distinct studies. **15-66**

a) Intersection Accident Analysis - To initially determine if an intersection is experiencing a higher than average number of collisions, a threshold of 5 collisions in 12 months is commonly used. If there are more than 5 accidents during the 12 month period, the agency would identify the traffic volumes at each intersection leg and would calculate the accident rate per million vehicles passing through the intersection. The calculated accident rate for the study intersection is then compared to the average accident rate being experienced at other locations with the same type of traffic control (e.g., traffic signal, four-way STOP, or two-way STOP) within the jurisdiction. If the intersection accident rate is higher than average, then

additional factors are evaluated in the detailed intersection accident study (e.g., type of collision, traveling direction(s), time of day, day of week, severity, and primary collision factors). The Recirculated Draft EIR should have included a sufficiently detailed intersection accident analysis.

b) Midblock Accident Analysis - To analyze midblock accidents, the Recirculated Draft EIR should have identified the accident rate per million vehicle miles traveled to determine if the roadway segment is experiencing a higher than average accident rate. The number of collisions within the study timeframe, the daily traffic volume, and the length of the roadway segment are all components in determining the accident rate per million vehicle miles traveled. The type of roadway segment (two lane, four lane undivided, four lane divided, or six lane divided), adjacent development (rural, residential, or commercial), and the posted speed limit must be identified in order to accurately compare collision rates. The midblock accident rate is then compared to the average accident rate for similar roadway segments within the jurisdiction. If the midblock accident rate is higher than the average for the agency, then many other factors must be evaluated such as the location of the collisions, the type of collisions, directions involved in the collisions, the time of day, the day of week, severity, and primary collision factors. The Recirculated Draft EIR should have included a sufficiently detailed midblock accident analysis. **15-66**

The accident data in the TIA and Recirculated Draft EIR is flawed and does not provide the basis for concluding that McKean Road does not experience an elevated accident rate. Examples of these flaws are described below:

- The TIA contains accident data which covers a distance of four miles; a four mile segment is too long to provide meaningful analysis of the collision history adjacent to the proposed sports complex. Accidents occurring several miles from the proposed project have no bearing on the accident history adjacent to the project. Only the accident history from Harry Road to Schillingsburg Avenue should be studied to determine the midblock collision rate near the sports complex.

- Appendix F to the TIA contains a summary of the reported traffic collisions from January 1, 1995 through December 31, 2001 on McKean Road from Harry Road to Bailey Avenue. This data, provided by the County of Santa Clara for only that portion of McKean Road within their jurisdiction, indicates a total of 51 collisions during the seven year period. Some of this reported data is miles away from the proposed sports complex or occurred many years ago, and cannot be used to quantify the recent accident history immediately adjacent to the proposed project.

- Appendix F contains a separate summary listing of traffic accidents reported within the City of San Jose on McKean Road between Harry Road and Bailey Road between April 30, 1999 and April 30, 2004. This data, provided by the City of San Jose for only that portion of McKean Road within their jurisdiction, indicates a total of 43 collisions during the five year period. Some of this reported data is miles away from the proposed sports complex, and cannot be used to quantify the accident history immediately adjacent to the proposed project.

- Different reporting periods were used by the two agencies The same reporting time period must be used.

- The TIA does not include any information about the number and type of accidents that have occurred on McKean Road within during the last three years. The TIA must be updated to include this information.

Based on this faulty data, the TIA cannot conclude that an unsafe condition does not exist adjacent to the project site without obtaining additional data from the County and performing additional study as described above. Moreover, as discussed above, it is only with comprehensive intersection and midblock accident evaluations can the City identify the existing safety of McKean Road's operation. Once this baseline information has been established, the City must then identify and analyze the increase in the potential accident rate resulting from construction and operation of the sports complex. **15-66**

Conditions on McKean Road adjacent to the sports complex will change significantly once the complex is fully operational. As the Recirculated Draft EIR itself documents, traffic volume on McKean Road will increase substantially during certain weekday and weekend hours before and after various practices and games. In addition, as discussed above, the Recirculated Draft EIR has understated the extent of the traffic impact. Most importantly, and as acknowledged in the TIA, a number of children will walk or ride their bicycles on McKean Road to access the sports complex. The existing pedestrian and bicycle volumes along this stretch of McKean Road must be counted, and the pedestrian and bicycle volumes anticipated from the project must be added to these existing volumes. After the project traffic, pedestrian volumes, and bicycle volumes are properly identified, then future midblock accident rates can be forecast and included in the TIA.

3) Mitigation Measures Must Be Developed for Bicyclists/Pedestrians – Our June 2003 report, as well as the Santa Clara Valley Transportation Authority's September 2002 and December 2002 letters, expressed concern about the failure to extend the planned multi-use path along Arroyo Calero Creek to provide safe access to the site. We stated that every effort should be made to **15-67**

provide an off-road connection to the sports complex, especially since its purpose is to serve children. As stated previously, if an off-road connection is not provided, children may either walk or ride their bicycles along McKean Road, a high speed rural roadway with narrow shoulders. We also pointed out that, according to the traffic study for the nearby Chinese Church in Christ, 33 bicyclists were observed on McKean Road during a one hour period on a Sunday at midday. We requested that the City study the feasibility and cost of providing bicycle lanes and sidewalks along McKean Road to safely accommodate projected bicycle and pedestrian demand.

The August 2004 TIA now indicates that funding is not available from either the City of San Jose or from the County of Santa Clara to extend the off street trails to the project site or to construct bicycle lanes or sidewalks along McKean Road. Page 15 of the TIA recognizes a significant traffic safety issue and states "Given the nature of the proposed project use, it is likely users of the project site may attempt to walk or ride a bicycle to and from the proposed project despite the fact that no trail, bicycle, or sidewalk linkages are provided to encourage or facilitate such movement." Page 15 continues by indicating "Therefore, a significant impact is expected to occur for pedestrians and bicyclists with the development of the project. Since McKean Road improvements would be too extensive for the project to bear alone, no feasible mitigation measures are available to address this significant impact to pedestrians and bicyclists." **15-67**

While funding may not be available from the City or the County at this time, the project will generate additional bicycle and pedestrian traffic on McKean Road as acknowledged on Page 15 of the TIA. It is highly undesirable and unsafe to attract young children to the proposed sports complex on McKean Road, having them walk or ride bicycles on a facility described on Page 7 of the TIA as "... a narrow two lane undivided roadway with no shoulder or left turn channelization" and "The posted speed limit along McKean Road is 40 mph."

The TIA does not include any estimate of costs to provide the necessary extension of either the off street multi use trail or of providing bicycle lanes and sidewalks on McKean Road. The TIA cannot conclude that improvements "... would be too extensive for the project to bear alone" without providing the scope of the improvements and supporting cost estimates for public review.

Page xi of the Recirculated Draft EIR recommends project level mitigation that includes "... a requirement that parents sign an agreement form that restricts their children from riding bicycles or walking to the site and includes a warning of expulsion from the league for violating conditions of the agreement." It is extremely unrealistic to expect compliance with this proposed measure which is totally contrary to several policies in the City of San Jose 2020 General Plan. As initially stated in our June 2003 report, every

effort should be made to provide a safe and convenient pathway and route for children to use to access the sports complex. **15-67**

4) Cumulative Traffic Analysis Remains Incomplete – Our June 2003 report indicated that the weekday PM peak hour trips associated with the approved projects in the area had not been identified, the "interim" use and horizon year were inconsistent, and a low annual growth rate was used. None of these issues are addressed in the August 2004 TIA. Our previous comments are reiterated below: **15-68**

   a) Approved Projects Not Identified – Exhibit 8 in the traffic study identifies weekday PM peak hour traffic from approved projects in the area. However, the locations of the approved projects as well as the individual project traffic volumes have not been identified in the Draft EIR or in the traffic study. Without a list of approved projects, it is impossible to determine if trips associated with these projects (e.g., expansion of the library and community center with its two story parking structure, the new Chinese Church in Christ, or full occupancy of the new 14 Challenger School classrooms) have been included in the analysis of cumulative traffic impacts. **15-69**

   b) "Interim" Use and Horizon Year Are Inconsistent – The Draft EIR indicates the sports complex is an interim use but does not define this terminology. Page 1 of the Draft EIR indicates the property will likely be leased for 20 years, considerably beyond what is normally considered as "interim." Rather than perform the analysis of expected traffic conditions in 2007, the traffic study should have examined traffic conditions in 2010 for consistency with the City's traffic model as well as in 2020 with build out of the City's General Plan. **15-70**

   c) Low Annual Growth Rate Used For 2007 Analysis - The Draft EIR indicates the sports complex will be completed and ready for use in 2004. The traffic study evaluates conditions at various intersections in 2007 by applying an annual growth factor of 1.2% per year on top of the approved projects analysis conducted for opening day in 2004. This is a very low annual growth rate in comparison with other traffic studies in the immediate area, and it should be increased to at least 3.6% as was used on Page 4 of the analysis of cumulative conditions in the May 1999 Chinese Church in Christ Traffic Study. **15-71**

In conclusion, the Recirculated Draft EIR for the McKean Road Sports Complex and the supporting TIA do not adequately or properly address the traffic impacts that will result from the proposed project. As indicated above, these documents omit analysis of important traffic issues and contain numerous errors. Significant additional work is needed to evaluate current conditions, to properly forecast the **15-72**

traffic volumes, to assess the traffic impacts of the project, and to develop appropriate and adequate mitigation of the traffic on the impacted streets in the area. Revising the Recirculated Draft EIR to address the concerns expressed in this report, particularly those involving trip generation, will likely result in disclosure of additional significant traffic impacts that require further mitigation to reach the level of insignificance. **15-72**

If you have questions regarding our comments, please call me at your convenience.

Respectfully submitted,

Tom Brohard and Associates

Tom Brohard

Tom Brohard, PE
Principal

Enclosure

Tom Brohard and Associates

June 12, 2003

Rachel Hooper, Attorney at Law
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SUBJECT: Evaluation of the Traffic and Circulation Analysis for the Proposed McKean Road Sports Field Complex in Santa Clara County

Dear Ms. Hooper:

Tom Brohard and Associates reviewed the traffic analysis in the May 2003 Draft Environmental Impact Report (EIR) prepared for the McKean Road Sports Field Complex in Santa Clara County. Our efforts focused on the review of the traffic portions of the Draft EIR and the March 18, 2003 McKean Road Sports Complex Traffic Impact Analysis prepared by RBF Consulting. Recent photos of the site and study intersections were reviewed and compared to the descriptions in the traffic analysis. Traffic studies associated with recently proposed nearby projects were also reviewed and compared to the traffic study for the proposed project.

According to the Draft EIR, the proposed project includes development of up to 12 baseball/softball/soccer fields on about 35 acres of property owned by the San Jose Unified School District on McKean Road south of Harry Road in the unincorporated area of Santa Clara County. The proposal would also include up to three portable concession buildings, four batting cages, a maintenance yard, a play lot for children, restrooms, and parking for up to 569 vehicles. **15-73**

The traffic study and the Draft EIR omit analysis of many key traffic issues and these documents contain numerous flawed assumptions and other errors. As a result, the Draft EIR fails to properly and adequately identify the traffic impacts of the McKean Road Sports Field Complex. In turn, this leads to inadequate mitigation of the traffic impacts that can be expected if the Draft EIR were approved and the project constructed. The following summarizes the significant findings of our review of the documents for the McKean Road Sports Field Complex proposed in Santa Clara County.

I. Omissions from the Draft EIR Traffic Study

The May 2003 Draft EIR does not address many significant issues associated with the sports complex project including project traffic impacts at major intersections and at the State Route 85 Freeway Interchange, weekend midday trips associated with approved projects, trips associated with other usage of the sports complex, internal circulation and pedestrian issues on site, and construction traffic. These and the other issues described below must be studied, evaluated, and added to a revised Draft EIR and the supporting traffic study: **15-74**

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A. Major Intersections Not Studied – While the Draft EIR evaluates traffic impacts at several major intersections, it does not include traffic counts or any analysis of project impacts at these significant intersections:

1. Almaden Expressway at the State Route 85 Freeway Interchange as was requested by Caltrans in their December 5, 2002 letter in response to the Notice of Preparation (NOP.)
2. Almaden Expressway at Winfield Boulevard and at Redmond Avenue between Coleman Road and Camden Avenue. Exhibit 7 shows a significant change of 700 vehicles in each direction during the weekend midday peak hour on the Almaden Expressway between Coleman Road and Camden Avenue. The two major intersections above on the Almaden Expressway should be studied and evaluated as part of the traffic study. 15-74
3. Harry Road at McKean Road is indicated as a study intersection on Exhibit 4 and it is described in the text on Page 9. However, the lane configuration is omitted from Exhibit 5 and no peak hour analysis or level of service calculations were performed at this important intersection in the traffic study.
4. Almaden Road and McKean Road will experience traffic from the proposed project. Analysis of this intersection was also erroneously omitted from the traffic study and the Draft EIR.

B. Approved Projects Not Identified – Exhibit 8 in the traffic study identifies weekday PM peak hour traffic from approved projects in the area. However, the locations of the approved projects as well as the individual project traffic volumes have not been identified in the Draft EIR or in the traffic study. Without a listing of approved projects, it is impossible to determine if trips associated with approved projects in the area, such as the expansion of the library and community center with its two story parking structure, the new Chinese Church in Christ, or full occupancy of the new 14 Challenger School classrooms, are included in the analysis of cumulative impacts. 15-75

C. Incorrect Weekend Midday Traffic Volumes From Approved Projects - Traffic volumes shown on Exhibit 10 for the weekend midday peak hour for the existing conditions plus the approved projects are identical to those shown in Exhibit 7 which depicts only the existing weekend midday peak hour traffic volumes. While the text on Page 10 of the traffic study indicates that no weekend midday approved project trip information is available, the study of the sports complex should have developed and analyzed traffic projections from the approved projects. 15-76

D. Other Usage of Sports Complex Not Evaluated – Page 10 of the Draft EIR indicates there will also be general public use of the sports complex. Additionally, Page 96 of the Draft EIR indicates the City of 15-77

San Jose may reserve the entire facility between five and ten days each year for City events. The owners, the San Jose Unified School District, may also use the sports complex property for other uses. The traffic study and the Draft EIR do not contain any analysis whatsoever of potential traffic impacts associated with general public use, usage by the City of San Jose for special City events, or other usage by the school district. Trip generation for these additional uses must be developed and added to the corrected analysis of the sports complex as described later in this report. 15-77

E. Internal Circulation and Pedestrian Issues Not Addressed – The site plan shown on Exhibit I-5 of the Draft EIR indicates 475 parking spaces will be provided adjacent to the baseball and softball fields and overflow parking for 94 cars will be provided on the opposite side of the access roadway adjacent to the six soccer fields. There are no facilities for pedestrian crossings of the main access roadway from the main parking area to and from the soccer fields. Furthermore, no drop off facilities for children have been provided or recommended adjacent to the soccer fields or adjacent to the baseball and softball fields. The lack of drop off areas, together with inadequate turnaround provisions at the end of the access roadway, will result in parents either circulating through a portion of the parking area and dropping children off in the aisles or making undesirable three point turns at various points along the access roadway. Finally, it is unclear how the overflow parking area will be regulated to serve only its intended purpose. 15-78

F. Construction Traffic Not Addressed – The Draft EIR does not indicate whether the project involves a balanced cut and fill operation on site or whether import or export of soil will be required. The Draft EIR does not address any of the impacts of trucks associated with dirt hauling to or from the site, or bringing materials to this location. Further, the Draft EIR does not address any of the traffic impacts potentially associated with construction workers traveling to or from the site. 15-79

G. Impacts to Nearby Challenger School Not Addressed – Potential traffic impacts to Challenger School located just north of the sports complex have not been addressed in the traffic study or in the Draft EIR. The increase in traffic in front of the school associated with the sports complex must be evaluated at their driveway where sight distance is limited by a curve on McKean Road. 15-80

H. Emergency Vehicle Access Not Addressed – McKean Road provides the only access to and from the sports complex. During previous emergencies, access to portions of the area along McKean Road has been available only by helicopter. The adequacy of McKean Road, the narrow two lane single access roadway serving the Sports Complex, 15-81

needs to be evaluated regarding emergency vehicle access associated with fire, medical, or other emergencies with the additional traffic generated by the various uses at the proposed project. 15-81

I. Impacts to Equestrian Traffic Not Addressed – Potential impacts to equestrians on McKean Road have not been identified or addressed in the traffic study or the Draft EIR for the proposed Sports Complex project.

II. Faulty Methodology

The Draft EIR employs faulty methodology in several areas of analysis including incorrect assumptions regarding sports field usage at night, failure to analyze the "worst case" trips associated with full usage of the site, use of low trip generation assumptions, the use of incorrect baseline traffic counts, errors in level of service analysis, and improper design of the main project access. These items and the others described below must be studied and necessary revisions made to the Draft EIR and the supporting traffic study: 15-82

A. Incorrect Assumptions Regarding Sports Field Usage At Night – Page 172 of the Draft EIR indicates the sports complex project does not propose any lighting for illumination of the playing fields and there will be no night time activities. However, Appendix D to the traffic study, which presents trip generation data from the applicant, clearly shows activities occurring during hours of darkness. As examples, weekday soccer practices are scheduled until 8 PM through October after it is dark and games on tournament Saturdays in October, November and December are scheduled until 6:15 PM after it is dark. Little league and softball practices and games in February and March last until 7:30 PM also after dark. Assuming games and practices will end at dusk, then the schedule for, and the corresponding trips associated with, usage of fields at the sports complex must be revised. Rescheduling might result in shifting the entire schedule to earlier times or moving games to other days. Revisions to the schedule will lead to different peak hour and daily traffic impacts forecast from the proposed project. 15-83

B. "Worst Case" Sports Complex Usage Has Not Been Analyzed - The project description indicates six soccer fields, six baseball/softball, and four batting cages will be provided as part of the McKean Road Sports Field Complex. However, Appendix D to the traffic study, while labeled as "Worst Case Maximum Use," does not assume full utilization of the various sports fields. As examples, weekday practices and Saturday games for soccer are based on only four of the six fields in use at any time. While spring soccer practices and games begin with tryouts in February, the trip generation for soccer in the traffic study is based on August through November only. The report also assumes that 15-84

weekday little league and softball practices do not fully utilize the six fields that are being proposed. No trips have been forecast for separate usage of the four batting cages by others not already on site. As prepared, the number of trips associated with full usage of the sports complex during either season has not been properly estimated or evaluated. Additionally, the trip generation summaries on Pages 12 and 13 do not include supporting calculations that show how the peak hour and daily trips match the material in the traffic study appendix. 15-84

C. Trip Generation Assumptions Are Low – In addition to the issues and the resulting underestimation of trips described above, the trip generation assumptions contain additional errors which understate the traffic impacts as follows:

1. No trips associated with team coaches.
2. No trips associated with spectators at practices, games, or tournaments.
3. No detail or justification for the carpooling assumptions used.
4. Failure to properly consider current scheduling of soccer games every 1 hour and 20 minutes.
5. No consideration of summer camps now being offered.
6. Underestimates the number of players on a team. July 2003 Almaden Valley YSL Camp flyer indicates 10-18 players/team.

15-85

D. Incorrect Baseline Traffic Volumes Used In The Traffic Study – The NOP for the Draft EIR for the McKean Road Sports Fields Complex is dated November 7, 2002. Traffic data provided by the City in the appendix to the traffic study was compiled in June 2002 and additional traffic counts for the traffic study were made in July 2002. The California Environmental Quality Act (CEQA) requires that baseline conditions be evaluated as they exist at the time of the NOP. With traffic data and counts made several months prior to the NOP during the summer, the actual traffic conditions at the time of the NOP were not properly evaluated. 15-86

E. Level Of Service Incorrectly Analyzed – Calculations of the level of service in the appendix and summarized in various tables throughout the traffic study and the Draft EIR contain the following errors that must be corrected to properly reflect intersection geometry and conditions:

1. The traffic signal at Almaden Road/O'Grady Drive operates with split phasing as described in the text on Page 9 of the traffic study. However, the level of service calculations do not properly account for the existing signal operation with traffic on Almaden Road moving at a different time than traffic on O'Grady Drive during weekdays and on weekends. 15-87

2. For the weekday PM peak hour, the configuration of the westbound lanes is incorrect at the intersection of the Almaden Expressway and Blossom Hill Road.
3. The existing plus approved projects analysis shows two eastbound left turn lanes at the Almaden Expressway and Harry Road. Page 11 of the traffic study indicates the Coyote Valley Residential Project Traffic Impact Study "identified the need" for the additional left turn lane but it does not indicate if that project is required to construct the extra lane or when it will occur. 15-88

F. Incorrect Weekday PM Peak Trips From Approved Projects – Exhibit 8 at the beginning of the cumulative analysis in the traffic study shows traffic volumes from other approved projects during the weekday PM peak hour. The Almaden Expressway at Harry Road indicates 600 left turns and 278 right turns from approved projects but Exhibit 8 shows only 69 trips at the adjacent O'Grady Drive/Almaden Road intersection. It appears the significant volume of trips associated with approved projects have been omitted from all upstream intersections along the Almaden Expressway back to the freeway interchange. Similarly, traffic volume projections on the Almaden Expressway at Coleman Road appear low based upon the number of new trips shown at the adjacent intersection of Blossom Hill Road. The weekday PM peak hour traffic volumes from approved projects do not flow, or match up, correctly from intersection to intersection as they should. 15-89

G. Improper Design of Main Project Access on McKean Road – The single vehicular access to the sports complex has been inadequately designed for the existing prevailing speeds on McKean Road. Components of the design shown on the site plan on Exhibit I-5 provide two 150' long turning lanes with 90' long reverse bay tapers when entering the turning lanes. In addition, a 150' long acceleration lane for right turns out of the sports complex is shown. While these components are adequate for a design speed of 30 to 35 mph, a design speed of 50 mph should have been used on McKean Road based on its existing 40 mph posted speed limit. As currently proposed, the main access intersection does not provide sufficiently long turning lanes to accommodate storage for turning vehicles or for proper deceleration out of the single through lanes. The 150' long acceleration lane is also inadequate to properly and safely merge with traffic. Additionally, measures should be taken at this new intersection to provide at least 480' of sight distance at the project access point. 15-90

H. Trip Distribution Ignores Almaden Road – Almaden Road provides a direct link between the Almaden Expressway and McKean Road and convenient access to and from the sports complex. Exhibit 11 in the traffic study erroneously assigns all 70% of the project traffic directly 15-91

through the intersection on the Almaden Expressway. Furthermore, 10% of the traffic to and from the sports complex at this intersection has been assigned from Almaden Road to the Almaden Expressway, an indirect and circuitous route. The trip distribution along Almaden Road must be revised to reflect the attractiveness of this route and additional study must be made of the realistic traffic impacts at intersections such as Almaden Road/McKean Road along this route. 15-91

III. Insufficient Analysis

The study does not include sufficient analysis and detail in several areas including inconsistencies between the purported "interim" use and the City's General Plan, a very low annual traffic growth rate, incomplete study of the need for traffic signals at McKean Road and Harry Road, an incomplete analysis of bicycle issues and impacts, and review of the amount of on site parking. These items described below must be studied and necessary revisions made to the Draft EIR and the supporting traffic study:

A. "Interim" Use and Horizon Year Are Inconsistent – The Draft EIR indicates the sports complex is an interim use but does not define this terminology. Page 1 of the Draft EIR indicates the property will likely be leased for 20 years, considerably beyond what is normally considered as "interim." Rather than perform the analysis of expected traffic conditions in 2007, the traffic study should have examined traffic conditions in 2010 for consistency with the City's traffic model as well as in 2020 with build out of the City's General Plan. 15-92

B. Low Annual Growth Rate Used For 2007 Analysis - The Draft EIR indicates the sports complex will be completed and ready for use in 2004. The traffic study evaluates conditions at various intersections in 2007 by applying an annual growth factor of 1.2% per year on top of the approved projects analysis conducted for opening day in 2004. This is a very low annual growth rate in comparison with other traffic studies in the immediate area, and it should be increased to at least 3.6% as was used on Page 4 of the analysis of cumulative conditions in the May 1999 Chinese Church in Christ Traffic Study. 15-93

C. Traffic Signals at McKean Road/Harry Road Needs Further Study – The traffic signal evaluation of McKean Road at Harry Road in the traffic study's appendix considers only the peak hour, one of the enclosed eleven criteria from the Caltrans Traffic Manual. In addition to the failure to gather turning movement counts and conduct a complete analysis of the other ten criteria to properly determine the need for traffic signals, the one warrant evaluated incorrectly indicates McKean Road has only a single approach lane when it actually has two lanes. As a result, existing traffic volumes at this intersection do not exceed 15-94

the PM peak hour criteria on weekdays for a traffic signal installation. With the many necessary corrections pointed out in this letter and the corresponding increases in project generated trips, the peak hour warrant will likely be exceeded during weekdays with the addition of trips to and from the sports complex project. A complete evaluation of the guidelines (warrants) for traffic signal installation at McKean Road and Harry Road needs to be conducted and added to the Draft EIR. 15-94

D. Bicycle Issues And Impacts Not Thoroughly Evaluated – In their December 12, 2002 letter in response to the NOP, the Santa Clara Valley Transportation Authority reiterated their September 9, 2002 comments regarding bicycle impacts that were developed during review of an early draft traffic report for the project. These significant comments, reiterated below, were not addressed at all in the traffic study and were inadequately and incompletely addressed within the Draft EIR:

1. Include a multi-use path along Arroyo Calero Creek to provide safe access to the site.
2. Provide openings or gates where any trails or future streets will connect with the site.
3. Provide bicycle parking spaces for visitors.

15-95

With the proximity of the nearby planned trail along the Arroyo Calero Creek and with the sports complex designed to serve children, every effort should be made to provide the off road connection. If this trail is not provided, some children will either walk or ride their bicycles along McKean Road, a high speed rural roadway with narrow shoulders. According to Page 2 of the traffic study for the recently approved Chinese Church in Christ, 33 bicyclists were observed on McKean Road during a one hour long midday observation on a Sunday. The feasibility and costs of providing bicycle lanes and sidewalks along McKean Road to accommodate existing users and those expected to be generated by the sports complex project should be investigated and studied in further detail before dismissing them as "infeasible."

E. On Site Parking May Be Inadequate – There are a number of issues and concerns regarding the overall number of trips expected to be generated by the proposed sports complex. Appropriate on site parking is directly related to the number of vehicle trips for the sports complex and its true "worst case" usage. Parking off site along McKean Road is extremely undesirable but could occur if the on site parking is fully utilized during tournaments or other special events. The number of parking spaces to be provided and their locations on site must be studied in further detail once the project trips are properly identified. 15-96

IV. Inadequate Mitigation Measures

The traffic mitigation measure as proposed is unrealistic and "fair share" costs are not provided. These and the other issue described below must be studied and necessary revisions made to the Draft EIR and the supporting traffic study:

A. Mitigation Measure Is Unrealistic – Page 115 of the Draft EIR recommends project level mitigation that includes "a requirement that parents sign an agreement that restricts children from riding bicycles or walking to the site, and includes a warning of expulsion for violating conditions of the agreement." It is extremely unrealistic to expect compliance with this proposed measure which is totally contrary to several policies in the City of San Jose 2020 General Plan. Instead, every effort should be made to provide a safe and convenient pathway and route for children to use to access the sports complex. 15-97

B. Traffic Signal At McKean Road/Harry Road May Be Needed – As discussed earlier in this report, the analysis in the traffic study of the need for traffic signals at McKean Road/Harry Road is incorrect and incomplete. When a proper study of this intersection is accomplished in response to these comments, trips associated with the proposed sports complex may generate the need for this traffic signal which is not warranted under existing PM peak weekday traffic volumes. If this is confirmed with the additional study, then the sports complex should be required to install this traffic signal as a part of the project. 15-98

C. "Fair Share" Cost Estimates Are Not Provided – It is conventional for municipalities to charge developers of projects a proportionate "fair share" of necessary improvement costs based upon their contribution to the traffic volumes at an intersection or along a street segment. Correcting the traffic study by revising the trip generation rates and trip distribution assignments will significantly increase projected traffic volumes. As a result, traffic at the various intersections will be even more congested than forecast in the traffic study. This means that the project share of weekday PM and weekend midday peak hour traffic volumes will greatly increase. The inaccuracy of the traffic forecast and trip assignments may impact the level of service, possibly requiring further traffic improvements. In addition, the "fair share" cost of the pedestrian and bicycle connection to the sports complex as well as the traffic signal on McKean Road at Harry Road must be calculated. 15-99

In conclusion, the Draft EIR for the McKean Road Sports Field Complex and the supporting traffic study by RBF Consulting do not adequately or properly address the traffic impacts that will result from the proposed project. As indicated above, these documents omit analysis of important traffic issues and contain many 15-100

errors. Significant additional work is needed to evaluate current conditions, to properly forecast the traffic volumes, to assess the traffic impacts of the project, and to develop appropriate and adequate mitigation of the traffic on the impacted streets in the area. Revising the Draft EIR to address the concerns expressed in this report, particularly those involving trip generation, will likely result in disclosure of additional significant traffic impacts that require further mitigation to reach the level of insignificance. 15-100

If you have questions regarding our comments, please call me at your convenience.

Respectfully submitted,

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Principal

Enclosures

TRAFFIC ACCIDENT ANALYSIS

Westheimer at Chimney Rock
and
Westheimer at Dunvale

Prepared for

Houston-Galveston Area Council

15-101

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December 2002

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The preparation of this document was financed in part through grants from the U.S. Department of Transportation under Section 112 of the 1973 Federal Aid Highway Act and Section 8(d) of the Federal Transit Act of 1964, as amended. The contents of this document do not necessarily reflect the official views or policy of the Federal Highway Administration, U.S. Department of Transportation, Texas Department of Transportation, Houston-Galveston Area Council, Harris County, or City of Houston. Acceptance of this report does not in any way constitute a commitment on the part of any of the above agencies to participate in any development depicted therein nor does it indicate that the proposed development is environmentally acceptable in accordance with appropriate public laws.

ACKNOWLEDGEMENTS

The authors acknowledge with deep appreciation the assistance received from individuals contacted during the course of data collection and report development. Especially helpful were Mr. Jerry Bobo, H-GAC Program Manager; Dr. Ned Levine, H-GAC Transportation Program Coordinator; and Mr. Ilyas Choudry, H-GAC Senior Transportation Engineer. The insights and experience of the H-GAC staff provided the authors with an understanding of the problems and challenges facing H-GAC in managing area planning, congestion management, and safety activities. Also, Mr. Gary Schatz, P.E., City of Houston Senior Engineer, provided valuable assistance in obtaining crash data information.

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TABLE OF CONTENTS

SECTION 1 INTRODUCTION 1-1
1.1 Study Objective and Scope 1-1
1.2 Study Methodology 1-2

SECTION 2 DATA COLLECTION 2-1
2.1 Field Investigation 2-1
2.2 Traffic Crash Data 2-1
2.3 Traffic Counts and Signal Timing Plans 2-3

SECTION 3 EXISTING CONDITIONS 3-1
3.1 Westheimer at Chimney Rock 3-1
3.2 Westheimer at Dunvale 3-3

SECTION 4 SAFETY ANALYSIS 4-1
4.1 Hazard Reduction Analysis 4-1
4.2 Benefit Cost Analysis 4-3
4.3 Analyses Results 4-5
4.3.1 Westheimer at Chimney Rock 4-5
4.3.2 Westheimer at Dunvale 4-9

SECTION 5 SUMMARY 5-1

APPENDICES

APPENDIX A – EXHIBITS

APPENDIX B – COLLISION DIAGRAMS

APPENDIX C – TXDOT HAZARD ELIMINATION PROGRAM

APPENDIX D – DPS ACCIDENT DATA

APPENDIX E – EXISTING SIGNAL TIMING DATA

APPENDIX F – PHOTOGRAPHS

SECTION 1

INTRODUCTION

H-GAC plans to develop a Transportation Safety and Hazard Elimination Program for the Houston-Galveston region to enhance traffic safety on roadways throughout the area. The program would identify and implement safety and operational improvements that would reduce the frequency and severity of traffic collisions. To assist in developing the safety program, H-GAC initiated a pilot study for crash data collection and analysis. This report documents the methodology and results of the pilot study.

1.1 Study Objective and Scope

The objective of this pilot study is to demonstrate the methodology employed to conduct a traffic crash analysis. This type of analysis is necessary to identify safety problems and propose cost-effective countermeasures for a specific roadway location. The H-GAC Long-Range Planning Group identified two high-risk crash intersections to be investigated in this pilot study, Westheimer at Chimney Rock and Westheimer at Dunvale, in Houston, Texas. A location map is presented in Appendix A as Exhibit A1.

The scope of this study included the following tasks:

1. **Intersection Descriptions.** This task included description of the two study intersections, preparation of the existing condition layouts and photographs from all directions.

2. **Data Collection.** For the two study intersections, data collection included obtaining traffic crash data from the City of Houston and H-GAC; and gathering any existing traffic volume data and traffic signal timing plans from the City of Houston.

3. **Collision Diagrams.** This task included detailed review of the crash data and development of collision diagrams for each of the two intersections depicting the type, severity and frequency of crashes.

4. **Hazard Reduction Analysis and Recommendations.** The analysis and recommendations task included an evaluation of crash patterns and recommendations for improvements to correct various types of crashes.

5. **Cost Estimation.** This task included the preliminary cost estimation of the recommended improvements.

6. **Benefit Cost Analysis.** This task involved the benefit cost analysis for each preventable crash type following the guidelines stipulated for the Hazard Elimination Program of the Texas Department of Transportation (TxDOT).

1.2 Study Methodology

The procedure used to conduct the traffic crash analyses is listed below:

1. Review the existing conditions through field visits and observations.
2. Gather recent crash data from different agencies in the region.
3. Prepare an existing condition layout of the intersection.
4. Study individual accident reports, if available, and summarize collisions on a collision diagram.
5. Review all collisions with regard to type and severity, and determine patterns or changes in collision types.
6. Identify improvements or modifications to correct particular types of crashes.
7. Perform a benefit cost analysis of potential improvements.

SECTION 2

DATA COLLECTION

Data collected for the study intersections included the roadway and intersection geometry, traffic crash data, traffic count data, and the existing traffic signal timing plans. The following sections summarize the data collection activities.

2.1 Field Investigation

A field investigation was conducted at the two study intersections on September 17, 2002 to gather existing conditions information including the intersection geometry, lane use, traffic signals and intersection related signing, pavement markings, pavement type, and adjacent land use. Photographs were taken of all traffic control devices and the intersection approaches. During the field investigation, observations of traffic were made at the intersections to identify and examine potential safety problems.

2.2 Traffic Crash Data

Traffic crash data for the study intersections was gathered for the previous three year period. This type of data is the most critical information necessary to perform a traffic safety review of an intersection. Often, accurate and reliable crash data are difficult to obtain. However, there are several means available to gather this type of data, either through state and/or local officials.

A brief discussion of the accident reporting process in the State of Texas is provided for background purposes. The Texas Transportation Code (Section 550.062) governs this process, which requires law enforcement agencies to report traffic crashes to the Texas Department of Public Safety (DPS) when the crash is investigated by a law enforcement

officer and results in injury or death of a person or damage to the property of any one person to the apparent extent of $500 or more. Local law enforcement and DPS officers forward accident reports to the DPS central office where the crash information is coded into a statewide database. These coded data are available upon request to DPS. However, there is a typical delay of at least 18 months before the crash data are available. Accident reports can also be requested and obtained from DPS when coded information is not adequate. However, more recent accident reports can be obtained from local officials.

For the purposes of this study, data were obtained from both City of Houston and DPS. In order to conduct a thorough analysis of recent crash trends, it was necessary to obtain accident reports directly from the City of Houston Police Department (HPD). Upon request, HPD provided accident reports for crashes that have occurred within the last two years at the study intersections. The City of Houston Public Works and Engineering Department provided assistance in acquiring this data.

Like many law enforcement agencies, HPD maintains a computer database in which all reported traffic crashes are recorded. The database system primarily serves the purpose of locating an accident report for an individual involved in a collision. The accident reports are logged by date, driver's name, and location, i.e., block number and street name. When data are needed for a particular location, as is the case in an intersection crash analysis, it is important to provide accurate block numbers and street names. Also, the search request must include various versions of street names, if they exist. The HPD search results provides a listing of crashes that have occurred at the location requested. Using the search results, the specific accident reports for the study intersections were retrieved and provided for the analysis.

As part of H-GAC's effort to monitor crash trends throughout the area, H-GAC previously obtained Year 1998 and 1999 coded crash data from DPS. These data were provided by H-GAC for the analysis.

2.3 Traffic Counts and Signal Timing Plans

Traffic count and existing signal timing plan data are useful in the analysis and in the evaluation of future improvements and modifications. Traffic volume data for the study intersections were requested from the City of Houston for the past three years. The only applicable volume information available included 24 hour traffic volume counts taken in both directions on Westheimer near the study intersections in 1999. These data were provided by the City of Houston Traffic Management and Maintenance Branch. The traffic volumes on Westheimer were 60,689 vehicles per day west of Chimney Rock, 49,871 vehicles per day east of Chimney Rock, and 64,034 vehicles per day east of Dunvale. No turning movement data at these intersections were available. The existing signal timing plans for the study intersections were obtained from the City of Houston and are provided in Appendix E.

SECTION 3

EXISTING CONDITIONS

The existing conditions at the study intersections are described in this section.

3.1 Westheimer at Chimney Rock

The intersection of Westheimer and Chimney Rock is located approximately 1.2 miles west of the West Loop Freeway (IH-610) in west Houston, Texas (see Appendix A – Exhibit A1). The existing intersection layout is shown in Appendix A as Exhibit A2. Also, photographs of the intersection are provided in Appendix F.

Westheimer is an eight-lane east-west roadway serving as a principal arterial between downtown and the west Houston area. The roadway has asphalt pavement with curb and gutter drainage, 12 feet travel lanes, and a concrete raised median. There is no vertical curvature alignment along Westheimer. Both the eastbound and westbound approaches of Westheimer have straight horizontal alignment. The posted speed limit on Westheimer is 35 miles per hour. The land use along Westheimer within the study area is predominately commercial. Several driveways are located near the intersection that provides access to these businesses.

Chimney Rock within the study area is a four-lane boulevard that is aligned in a north-south direction. Chimney Rock has concrete pavement with curb and gutter drainage, 12 feet travel lanes, and a raised median. There is no vertical curvature alignment along Chimney Rock. The northbound approach to the intersection has straight horizontal alignment. However, the southbound approach has a slight horizontal curvature. The posted speed limit on Chimney Rock within the study area is 35 miles per hour. The land

use adjacent to Chimney Rock north of Westheimer is primarily residential, while south of Westheimer the land use consists of commercial retail developments.

At the time of the field investigation, Westheimer had recently been overlaid with asphalt pavement. The asphalt pavement in the center of Westheimer had been milled, but the asphalt had yet to be applied in this area, leaving a slight drop-off in the middle of the Chimney Rock at Westheimer intersection. During the field visit, it was observed that traffic slowed considerably while crossing the intersection on Chimney Rock which caused poor traffic operations and potential rear end collisions. Because of the recent overlay, the pavement condition on Westheimer was observed to be in excellent condition. The pavement along Chimney Rock appeared to be in good condition, although there was some degradation of pavement on the northbound intersection approach at the stop line where vehicles routinely stop. The concrete handicap ramps on the southwest corner were observed to be cracked and unsmooth. The caved-in concrete appeared to be caused by heavy vehicles turning from Westheimer to Chimney Rock.

The intersection is controlled by a semi-actuated traffic signal which operates within a coordinated traffic signal system along Westheimer. The traffic signal is a span-wire design application with strain pole installation. The traffic control provides for protected left turn phasing on all approaches with separate left turn bays. The left turns from Westheimer are prohibited by signage during peak weekday traffic periods. The details of the intersection geometry, traffic and pedestrian signals, pavement markings, and signs are shown on the intersection layout (see Appendix A -Exhibit A2).

The signal heads were observed to be in fair condition. Several overhead lane designation and prohibition signs were observed to be faded and in poor condition. Pavement markings on Westheimer consist of reflective striping that was recently installed on the new asphalt overlay and therefore, appeared to be in excellent condition. The pavement markings on Chimney Rock also consist of reflective striping. The lane

designation markings and the pedestrian crosswalks and stop lines on the Chimney Rock approaches were observed to be in poor condition. A bus stop shelter on the southwest corner of the intersection was observed to marginally restrict sight distance for northbound traffic on Chimney Rock looking toward the west from the stop line. This sight distance is necessary when motorists desire to make a right turn on a red signal. The visibility restriction was evidenced by the observation that motorists drove considerably forward across the stop line near the outside travel lane of Westheimer to see traffic on Westheimer.

3.2 Westheimer at Dunvale

The intersection of Westheimer and Dunvale is located approximately 3.4 miles west of the West Loop Freeway (IH-610) in west Houston, Texas (see Appendix A – Exhibit A1). The existing intersection layout is shown in Appendix A as Exhibit A3 and photographs of the intersection are provided in Appendix F.

Westheimer is an eight-lane east-west roadway serving as a principal arterial between downtown and the west Houston area. The roadway within the study area has asphalt pavement with curb and gutter drainage, 12 feet travel lanes, and a concrete raised median. There is no vertical curvature alignment along Westheimer. Both the eastbound and westbound approaches of Westheimer have straight horizontal alignment. The posted speed limit on Westheimer is 35 miles per hour. The land use along Westheimer within the study area is predominately commercial. Several driveways are located near the intersection providing access to these businesses.

Dunvale is a four-lane undivided roadway that intersects Westheimer on the south side of the intersection. On the north side of the intersection, a three-lane driveway providing access to a K-Mart Super Center forms the fourth approach to the intersection. Dunvale and the K-Mart driveway have concrete pavement with curb and gutter drainage. There

is no vertical curvature alignment along Dunvale. Both the northbound and southbound approaches to the intersection have straight horizontal alignment. The posted speed limit on Dunvale within the study area is 30 miles per hour. The land use along Dunvale south of Westheimer is primarily professional offices and multi-family residential. North of Westheimer is commercial retail development.

At the time of the field investigation, Westheimer had recently been overlaid with asphalt pavement. The asphalt pavement in the center of Westheimer had been milled, but the asphalt had yet to be applied in this area, leaving a slight drop-off in the middle of the Dunvale at Westheimer intersection. During the field visit, it was observed that traffic slowed considerably while crossing the intersection on Dunvale which caused poor traffic operations and potential rear end collisions. The pavement condition on Westheimer was observed to be in excellent condition. The pavement along Dunvale appeared to be in good condition.

The intersection of Westheimer and Dunvale is controlled by a semi-actuated traffic signal which operates within a coordinated traffic signal system. The traffic signal is a span-wire design application with strain pole installation. The traffic control provides for protected left turn phasing and separate left turn bays for eastbound and westbound directions. The signal operates with split phasing for the northbound and southbound directions. This phasing pattern provides protected movements for each direction separately, thus allowing their respective left turns to operate along with the corresponding through movement. Split phasing is necessary due to the lack of left turn bays on these approaches. The details of the intersection geometry, traffic and pedestrian signals, pavement markings, and signs are shown on the intersection layout (refer to Appendix A - Exhibit A3).

The signal heads were observed to be in good condition. Pavement markings on Westheimer consist of reflective striping that was recently installed on the new asphalt

overlay and thus, were in excellent condition. The pavement markings on Dunvale consist of reflective striping and raised pavement markers. These markings and the pedestrian crosswalks and stop lines on the Dunvale and K-Mart driveway approaches were observed to be in poor condition. Minor sight distance restrictions were observed for northbound and southbound traffic. A bus stop shelter and utility poles on the southwest corner and the traffic signal cabinet and utility poles on the northeast corner restrict visibility. The sight distance is needed by motorists making a right turn on a red signal. These motorists must drive forward near the outside travel lane of Westheimer in order to see Westheimer traffic.

SECTION 4

SAFETY ANALYSIS

This section describes the hazard reduction analysis, benefit cost analysis and results of the safety evaluation conducted at the two study intersections.

4.1 Hazard Reduction Analysis

The first step in this process is to study the crash data and summarize the crashes in collision diagrams. For the study intersections, the traffic accident reports obtained from HPD for the most recent two year period were reviewed and the crashes were plotted graphically on collision diagrams. These diagrams are shown in Appendix B as Exhibits B1 through B6.

The benefit cost analysis guidelines provided in TxDOT's *Traffic Operations Manual Traffic Accident Information and Hazard Elimination Program Volume* generally require three years of crash data (1). The DPS data obtained for the years 1998 and 1999 from H-GAC were decoded using the *DPS Master Accident Decoding Manual* (2). This decoded data is summarized in Appendix D as Tables D1 and D2. DPS data provides general information regarding crashes that have occurred at the study intersection, but it does not provide specific details about crash location, driver behavior, and some other pertinent factors. When accident reports are not available, the DPS data can be used almost as effectively for the analysis. The evaluation of crashes using the reports furnished by HPD was deemed most appropriate for this study given the detailed information that they contain.

The next step is to review accident reports in detail, looking for crash patterns, and identify crashes that are correctable. This step required a thorough investigation of the

crash data. The specific types of collisions and possible contributing factors were analyzed. Each report was reviewed to determine the root cause of the crash and whether the crash could have been prevented by an improvement at the intersection. Although there were a substantial number of crashes at the study intersections, many were considered not correctable. These include crashes that were caused by driver inattention, speeding, or other non-intersection related factors. However, a portion of the crashes were attributed to intersection related factors such as driver confusion of lane assignments, slow speed for turning maneuvers due to minimal intersection curb radii, and poor signal visibility. These crashes were considered preventable by certain corrective measures. These corrective measures are outlined in this report.

The next step is to identify proposed improvements to correct each preventable crash type. The *Traffic Operations Manual Traffic Accident Information and Hazard Elimination Program Volume* guidelines provide corrective measures, called "work codes", which are grouped into the following five categories (1):

- Signing and Signals
- Roadside Obstacles and Barriers
- Resurfacing and Roadway Lighting
- Pavement Markings
- Roadway Work

The work codes, descriptions, and definitions are provided in "*Appendix B Hazard Elimination Program Work Codes*" of the *Traffic Operations Manual Traffic Accident Information and Hazard Elimination Program Volume* (1). For a given preventable crash, a corrective measure (i.e., work code) was selected from the listed improvements. The associated preventable crashes were categorized by severity (i.e., Fatal and Incapacitating, Other Injury, and Property Damage Only) and the respective crashes were quantified for use in the benefit cost analyses.

The final step is to estimate the cost of the proposed improvements. Preliminary construction cost estimates were completed for each of the proposed improvements at the study intersections. These estimated costs were used in the benefit cost analysis.

4.2 Benefit Cost Analysis

The benefit cost analysis methodology employed in this study directly follows the guidelines provided in TxDOT's *Traffic Operations Manual Traffic Accident Information and Hazard Elimination Program Volume* (1). The benefit cost formula, known as the Safety Improvement Index (SII), is simply the ratio of the expected cost of the reduction in crashes to the cost of constructing the proposed improvement. "*Section 4 Using the Safety Improvement Index*" of the *Traffic Operations Manual Traffic Accident Information and Hazard Elimination Program Volume* is provided in Appendix C for reference of the SII formula and the associated parameters (1). Adjustment factors are incorporated into the SII to allow more benefit for growth in traffic, reduction in maintenance costs, and long service lives over which construction costs can be amortized. H-GAC's projected annual traffic growth rate for the Houston metropolitan area of approximately 1.9 percent was used as the growth factor in this analysis.

The percentage reduction factor for a given corrective measure (i.e., work code) is a primary parameter in the benefit cost analysis. This factor is the percentage reduction in costs or severity that can be expected as a result of the improvement. A percentage reduction factor was selected for the associated work code from "*Appendix B Hazard Elimination Program Work Codes*" of the *Traffic Operations Manual Traffic Accident Information and Hazard Elimination Program Volume* (1). In addition, the service life for the given improvement was selected from "*Appendix C Hazard Elimination Program Service Lives*" of the *Traffic Operations Manual Traffic Accident Information and Hazard Elimination Program Volume* (1).

The estimated cost of crashes is critical to the benefit cost analysis. The average cost of each type of crash is determined by TxDOT each year for use in the analysis. The cost estimates are based on National Safety Council (NSC) cost figures. The NSC provides annual comprehensive costs, which include economic costs (i.e., wage and productivity loses, medical expenses, administrative expenses, and motor vehicle damage) and a measure of the lost quality of life associated with deaths and injuries. The NSC categorizes the comprehensive costs into five levels of crash severity: fatality, incapacitating injury, non-incapacitating injury, possible injury, and no injury (3). It appears that TxDOT groups the cost estimates for fatality and incapacitating injury together and the cost estimates of non-incapacitating and possible injury together and determines average costs for three categories. This study used the cost data furnished by TxDOT Traffic Operation Division for 2002 as follows:

- Costs of fatal and/or incapacitating injury crashes: $252,000 per crash
- Costs of non-incapacitating and/or possible injury crashes: $17,600 per crash
- Costs of property-damage-only (PDO) crashes: $1,969 per crash

SII results greater than or equal to 1.0 are considered cost effective. According to the guidelines, the SII was designed to compare projects and establish project priorities. The guidelines caution against using the SII results as a measure for independent projects. Having all the variable information analyzed and compiled, the SII was calculated for each of the proposed improvements and the results are presented in the following section.

4.3 Analyses Results

For the two study intersections, the results of the analyses are given below.

4.3.1 Westheimer at Chimney Rock

The crashes that have occurred at the Westheimer and Chimney Rock intersection for the most recent two year period are graphically represented in collision diagrams shown in Appendix B as Exhibits B1 through B3. Fifty-eight (58) crashes were reported at the intersection. Of these, there were 41 rear-end, 9 side-swipe, 4 right-angle, 2 left turn, and 2 pedestrian-involved crashes. The data indicates that the dominant crash type at this intersection was rear-end crashes, i.e., a vehicle stopped for traffic is struck from behind by a following vehicle. Another crash type evident at the intersection was side-swipe crashes, i.e., a vehicle in one lane is struck in the side by another vehicle traveling in the same direction. In addition, right-angle crashes, where a vehicle in the intersection is struck broadside by another vehicle, and left turn crashes, where a vehicle is hit while turning across traffic, occurred at the intersection.

As explained previously, there were a number of crashes that were not considered correctable due to contributing factors non-related to the intersection design. For example, many of the rear-end crashes were caused by driver inattention, speeding, and heavy traffic congestion. The detailed review of accident reports identified 16 traffic crashes that would be preventable by corrective measures.

The number and severity of preventable crashes; the suggested improvements with associated TxDOT work codes, percentage reduction factors, service lives, and preliminary cost estimates; and the benefit cost ratios (SII) are summarized in Table 4-1 for Westheimer at Chimney Rock. The corrective measures (i.e., work codes) selected from "*Appendix B Hazard Elimination Program Work Codes*" of the *Traffic Operations*

Table 4-1. Hazard Reduction and Benefit Cost Analysis for Westheimer at Chimney Rock

TxDOT Work Code	Corrective Measure	Description	Number of Preventable Accidents				Reduction Factor (Percent)	Project Service Life (Years)	Annual Maintenance Savings	Estimated Project Benefit	Estimated Project Cost	Benefit Cost Ratio (SII)
			Total	Fatal and/or Incapacitating	Non-Incapacitating and/or Possible Injury	Property Damage Only						
108	Improve Traffic Signals	Upgrading existing signal that includes but not limited to providing 12" LED signal heads, 4-section left turn signals, overhead lane use signs, replacing pedestrian heads & push buttons and controller.	9	0	3	6	22	10	$2,000	$383,600	$60,000	6.39
401	Install Pavement Markings	Restriping the entire intersection within certain limits to provide reflective pavement markings and markers. Includes but not limited to stop bars, crosswalks, lane lines, turn lane striping etc.	3	0	0	3	20	2	$0	$2,100	$4,000	0.53
520	Lengthen Left Turn Lane	Northbound left turn lane improvements. Possible changes include but not limited to increasing the storage length of the dual left turn bay, geometry improvements for better transition, etc.	1	0	0	1	40	10	$0	$16,600	$20,000	0.83
524	Increase Turning Radius	Increase existing intersection curb radii at the northeast and southwest corners to reduce the incidence of vehicles slowing down on Westheimer while turning onto Chimney Rock.	3	0	1	2	10	10	$0	$45,400	$8,000	5.67

Manual Traffic Accident Information and Hazard Elimination Program Volume to mitigate preventable crashes at this intersection were identified as improve traffic signals, install pavement markings, lengthen left turn lane, and increase curb radii.

Of the total of 16 crashes that were considered preventable, 9 were determined to be susceptible to correction by an improved traffic signal or signal operation. These 9 crashes, listed under TxDOT work code 108, were primarily right angle or rear end crashes (6 and 2 respectively). The crash patterns indicate that most of them occurred during the dawn or dusk hours when visibility of signal heads along Westheimer are affected due to the sun's glare. Signal improvements that include LED signals and backplates can alleviate this problem. Another factor observed based on existing signal timing is the use of shorter yellow clearance times for all signal phases at this location that is below the current standard City of Houston guidelines. Revising these values could also possibly reduce the incidence of crashes. The suggested upgrades to the existing signal include 12" LED signal heads, overhead lane use signs, backplates, and pedestrian heads and push buttons. These improvements would provide better signal visibility and enhance the driver's ability to see signal indications, especially along Westheimer, which is an east-west roadway having substantial sun glare in the morning and afternoon. The upgrade of the existing signal would cost approximately $60,000 and have an annual maintenance savings of an estimated $2,000 in electrical and operation costs. The benefit cost ratio for these improvements is 6.39.

Of the 3 crashes that occurred, listed under TxDOT work code 401, two of them were due to dual left turns from Westheimer. Hence provision of clearly defined cat-tracks to demarcate the paths for these turning vehicles would reduce the probability for these type of crashes. The only other crash listed under this code could have been avoided with better pavement markings at this intersection. Re-striping the intersection to provide reflective pavement markings and markers would be expected to mitigate the side-swipe crashes that occur because the driver is unsure of the proper lane use at the intersection

and therefore, makes abrupt lane changes. Striping improvements at this intersection would cost approximately $4,000. Although the improvement has a low construction cost, the fact that there were only a few preventable crashes and the severity of these crashes was minor (i.e., property damage only) resulted in a low benefit cost ratio of 0.53.

One crash listed under work code 520, was due to inadequate storage length for the northbound left turn lane. An improvement to lengthen the northbound left turn lane at the intersection may reduce rear-end crashes by providing additional storage space for left turning traffic and mitigate the potential for the traffic to spill out into the through traffic lanes. The construction cost for this improvement is estimated to be approximately $20,000. The resulting benefit cost ratio is 0.83.

Of the 3 crashes that occurred, listed under TxDOT work code 524, two were due to vehicles being rear ended while making a right turn from eastbound Westheimer to Chimney Rock and the other occurred near the northeast corner due to a right turning vehicles not staying in the right lane while making the maneuver. The corrective measure would be to increase the curb radii at the northeast and southwest corners of the intersection. Increasing the curb radius at these corners would facilitate easier right turn maneuvers, thereby reducing the probability for similar crashes. The cost to construct the longer radii is an estimated $8,000. The benefit cost analysis resulted in a benefit cost ratio of 5.67.

In summary, an upgrade to the traffic signal provides the best benefit cost ratio among the possible improvements. Increasing the curb radii also provides a good benefit cost ratio. These measures should be considered to mitigate traffic crashes at the Westheimer and Chimney Rock intersection.

4.3.2 Westheimer at Dunvale

The crash experience at the Westheimer and Dunvale intersection for the most recent two year period is shown on collision diagrams in Exhibits B4 through B6 of Appendix B. A total of 73 crashes were reported at the intersection. Of these, there were 60 rear-end, 7 side-swipe, 4 right-angle, 1 left turn, and 1 pedestrian-involved crashes. The major type of crash at this intersection was clearly rear-end crashes, i.e., a vehicle stopped for traffic is struck from behind by a following vehicle. Side-swipe crashes, i.e., when a vehicle in one lane is struck in the side by another vehicle traveling in the same direction, was the next dominant type of crash. In addition, several right-angle crashes, where a vehicle in the intersection is struck broadside by another vehicle, and left turn crashes, where a vehicle is hit while turning across traffic, occurred at the intersection.

Many of the rear-end crashes were caused by other contributing factors not associated with the intersection design. It appears that driver inattention and traffic congestion caused the majority of these crashes. The accident report analysis found 30 traffic crashes that were determined to be preventable by corrective measures.

The number and severity of preventable crashes; the suggested improvements with associated TxDOT work codes, percentage reduction factors, service lives, and preliminary cost estimates; and the benefit cost ratios (SII) are summarized in Table 4-2 for Westheimer at Dunvale. The corrective measures (i.e., work codes) selected from "*Appendix B Hazard Elimination Program Work Codes*" of the *Traffic Operations Manual Traffic Accident Information and Hazard Elimination Program Volume* to mitigate preventable crashes at the Westheimer and Dunvale intersection were identified as improve traffic signals, install pavement markings, add left turn lanes, and increase curb radius.

Table 4-2. Hazard Reduction and Benefit Cost Analysis for Westheimer at Dunvale

TxDOT Work Code	Corrective Measure	Description	Number of Preventable Accidents				Reduction Factor (Percent)	Project Service Life (Years)	Annual Maintenance Savings	Estimated Project Benefit	Estimated Project Cost	Benefit Cost Ratio (SII)
			Total	Fatal and/or Incapacitating	Non-incapacitating and/or Possible Injury	Property Damage Only						
108	Improve Traffic Signals	Upgrading existing signal that includes but not limited to providing 12" LED signals, 4-section left turn signals, overhead lane use & protected phasing signs, replacing ped heads, controller, etc.	15	0	3	12	22	10	$2,000	$438,300	$50,000	8.77
401	Install Pavement Markings	Restriping the entire intersection within certain limits to provide reflective pavement markings and markers. Includes but not limited to stop bars, crosswalks, lane lines, turn lane striping etc.	8	1	1	6	20	2	$0	$101,300	$4,000	25.32
519	Add Left Turn Lane	Reassign lane use for northbound and southbound approaches to provide left turn only lanes with shared thru + right lanes. Includes striping, advance lane use & overhead signs, signal retiming etc.	6	0	1	5	40	6	$0	$104,200	$4,500	23.16
524	Increase Turning Radius	Increase existing intersection curb radius at the southwest corner to reduce the incidence of vehicles slowing down on Westheimer while turning onto Dunvale	1	0	0	1	10	10	$0	$4,100	$4,000	1.03

Of the total of 30 crashes that were considered preventable at this location, 15 were determined to be susceptible to correction by an improved traffic signal or signal operation. These 15 crashes, listed under TxDOT work code 108, were primarily rear end or right angle crashes (10 and 4 respectively). The crash patterns indicate that most of them occurred during the dawn or dusk hours when visibility of signal heads along Westheimer are affected due to the sun's glare. Signal improvements that include LED signals and backplates can alleviate this problem. Another factor observed based on existing signal timing is the use of shorter yellow clearance times for traffic on Westheimer that is below the current standard City of Houston guidelines. Revising these values could also possibly reduce the incidence of crashes, especially right angle crashes. An upgrade to the existing signal should include providing 12" LED signal heads, overhead lane use signs, backplates, and pedestrian heads and push buttons. The upgrade of this existing signal would cost approximately $50,000 with annual maintenance savings of an estimated $2,000 in electrical and operations costs. The preventable crashes included injury crashes as well as property damage only crashes. These factors resulted in a benefit cost ratio of 8.77.

Of the 8 preventable crashes that occurred, listed under TxDOT work code 401, most of them occurred due to inadequate striping on Dunvale, with 6 of them being side swipes. Lane use pavement markings are completely lacking on the southbound approach. The installation of reflective pavement markings and markers to show appropriate lane use would mitigate side-swipe crashes that occur when the driver is unsure of the proper lane use at the intersection and makes sudden lane changes. One of the preventable crashes involved a pedestrian, and re-striping the crosswalks along with improved pedestrian signals could reduce the chances for a similar crash. Re-striping the pavement markings at this intersection would cost approximately $4,000. Since a large number of crashes identified could be mitigated with this corrective measure, the benefits far outweigh the costs; hence, a benefit cost ratio of 25.32.

About 6 preventable crashes, listed under TxDOT work code 519, occurred due to motorist confusion based on existing lane assignment along Dunvale. The predominant type of crashes observed were side swipes due to motorists making abrupt lane changes when they approach the intersection. The reassignment of lane use for the northbound and southbound approaches to provide left turn only lanes with shared thru plus right lanes is one possible corrective measure to mitigate crashes. This measure can be achieved with pavement striping, advance lane use signing, and signal timing modifications. It has a relatively low construction cost of $4,500. The benefit cost ratio is 23.16.

The one preventable crash listed under TxDOT work code 524, was due to a vehicle being rear ended while making a right turn from eastbound Westheimer on to Dunvale. Increasing the curb radius at the southwest corner of the Westheimer and Dunvale intersection would be a corrective measure. This improvement would reduce the incidence of vehicles slowing down on Westheimer while turning onto Dunvale. The cost to construct the larger radii is an estimated $4,000. The benefit cost analysis resulted in a benefit cost ratio of 1.03.

In summary, the corrective measure that would provide the greatest safety benefit at the Westheimer and Dunvale intersection is to install pavement markings. This improvement has the best benefit cost ratio among the possible improvements. However, all of the improvements had benefit cost ratios greater than one and should be considered.

SECTION 5

SUMMARY

This report summarizes traffic crash data, hazard reduction analysis and benefit cost analysis for two study intersections, Westheimer at Chimney Rock and Westheimer at Dunvale. The information presented in this report will assist H-GAC in the development of a Transportation Safety and Hazard Elimination Program for the Houston-Galveston region to improve traffic safety on roadways throughout the area.

The objective of this study was to demonstrate the methodology to investigate high risk crash locations for safety improvements. The two study intersections were evaluated based on crash experience with specific improvements identified. Future safety investigations can utilize the methodology established in this study. This will provide H-GAC and their participating agencies with a consistent and reliable approach to improve public safety.

REFERENCES

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September 24, 2004

Ms. Rachel Hooper
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San Francisco, CA 94102

Dear Ms. Hooper,

I have reviewed the Draft Environmental Impact Report (DEIR) for the McKean Road Sports Complex prepared for the City of San Jose by RBF Consulting and I have found a number of deficiencies in the biological analysis that make the document incomplete and inadequate with regard to the California Environmental Quality Act (CEQA). Of primary concern is the DEIR assertion that there would be no significant impacts to riparian habitat or to wildlife species associated with this sensitive habitat type, even though the water supply analysis in this same DEIR concludes that the project would result in significant, unmitigable impacts associated with groundwater withdrawals. Also troubling is the fact that this DEIR represents that protocol-level surveys have been performed for a number of listed or sensitive wildlife species, when in fact the surveys that were conducted do not appear to meet the specific requirements of the trustee agencies (California Department of Fish and Game, CDFG, and the US Fish and Wildlife Service, USFWS). Mitigation measures recommended for potential impacts to listed species are similarly suspect, since there is no evidence that they were developed in cooperation with the trustee agencies. **15-102**

Riparian impacts

Section H, Biological Resources, of the DEIR describes two sensitive biotic habitats directly adjacent to the site's northern boundary: valley oak riparian woodland, and aquatic habitat, and acknowledges that these sensitive habitats are likely used by a wide variety of wildlife species, including migratory songbirds, birds of prey, sensitive bat species, and special status steelhead (FT), California red-legged frog (FT, CSC), western pond turtle (CSC), coho salmon (FT, CE) and chinook salmon (FC, CSC) (p. 166-168). On page 170, under Project Impacts: Thresholds of Significance, the DEIR states that "...an impact to biological resources is considered significant if the project would...have a substantial adverse effect on any wetland or riparian habitat or other sensitive natural community...[and] either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species...[and/or] interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites...". **15-103**

The DEIR concludes that there would be no direct impacts to riparian or aquatic habitats or to wildlife or sensitive native plant communities (valley oak) associated with those habitats because the project would observe a setback from the creek corridor. The DEIR also concludes that there could potentially be significant impacts to water quality in Arroyo Calero, but that these impacts could be avoided by implementation of best management practices. These conclusions are supported by documentation presented elsewhere in the DEIR. However, the Biological Resources analysis goes on to assert that the potential reduction in streamflow associated with anticipated project groundwater withdrawals would be "negligible" and would not adversely affect fish populations (p. 178); potential indirect impacts on riparian habitat and wildlife that might occur with groundwater depletion are not discussed. This conclusion that groundwater pumping would not have any deleterious effects on local or regional biological resources does not appear to be supported by information presented in the DEIR Water Supply section.

The Water Supply discussion points out that the existing wells have a "strong hydraulic connection" to the Arroyo, and that the stream in fact provides the primary source of water for the wells (p. 85-86). The Water Supply analysis concludes that "the capacity of the two project wells (the existing well, and one proposed new well) would not be adequate to meet the site's irrigation demands" and that the pumping of groundwater to meet the irrigation demands would constitute a significant and unavoidable impact. No meaningful or feasible mitigation is proposed to offset this significant, unavoidable impact. **15-103**

The conclusion in the Biological Resources section that there would be no significant impact to the aquatic habitat or to the riparian habitat at the project site is not only not supported by by the conclusion of the Water Supply analysis, but appears to be directly contradicted by it. While it may be difficult to quantify indirect effects associated with fluctuating and attenuated water supply, an anticipated change in streamflow of this magnitude requires some discussion and explanation. The conclusions of the Biological Resources section that there would be no indirect impacts on riparian and aquatic habitat and wildlife glosses over the primary conclusion of the Water Supply section, and does not provide a meaningful discussion or adequate information to support the contention that indirect impacts would be less than significant. Failure to provide the information needed to support this conclusion falls short of meeting the CEQA requirement of full disclosure.

Sensitive Species Surveys

Although the DEIR states that "...protocol-level field surveys were conducted between July 2003 and May 2004.." the surveys that are described and documented in the following section and in Volume II, Appendix H do not appear to follow the specific recommendations of those protocols.

<u>California tiger salamander (CTS)</u> (Federal listed as Threatened, California State Species of Special Concern) **15-104**

The DEIR and the supporting letter report contained in Appendix H state that a site assessment for CTS was conducted, consistent with draft protocols in use by USFWS and CDFG, dated November 8, 2002. At the time of the first site assessment (August 5, 2003)

the November 2002 protocols for CTS would have been in effect; however, at the time of the subsequent site visits in early 2004 and the writing of the report letter (May, 2004), a more current protocol (October, 2003) was being recommended by USFWS and CDFG. Nonetheless, neither the site assessment nor the subsequent analysis detailed in Appendix H and summarized in the DEIR (p. 172-173) appear to meet the recommended procedures of either the 2002 or the 2003 CTS protocols. Both CTS protocols call for an initial site assessment of the proposed project area; these assessments are to include photographs, survey times and dates, names of evaluators, a description of site assessment methods used, a list of CTS localities, and maps of sites showing the habitats; this report is to be sent to the appropriate USFWS field office and the appropriate CDFG regional office before initiating field surveys. Based on the information contained in the report, CDFG and USFWS will provide recommendations as to the appropriateness of the field surveys. Surveys should not be initiated until recommended by the Service and the Department. While the letter report included in Appendix H does include some of the requested information, there is no documentation that any report was ever provided to USFWS or to CDFG, or that any recommendations regarding CTS surveys at the site were received by the biological consultant from those trustee agencies. 15-104

Because there is no supporting documentation that these surveys were conducted in cooperation with the trustee agencies, the public has no reassurance that the negative findings of the surveys and the DEIR conclusion that there will be no impacts to sensitive listed species are valid. Only if the guidance is followed completely will the assessment and site survey results be considered valid by USFWS and CDFG. The DEIR is inaccurate and misleading when it asserts that protocol surveys for CTS consistent with agency requirements were conducted.

California red-legged frog (CRLF) (Federal listed as Threatened, California State Species of Special Concern)

On page 174, the DEIR states that "...surveys [for CRLF] were conducted according to the USFWS protocol, entitled *Guidance on Site Assessment and Field Surveys for California Red-legged Frogs* (February 18, 1997)...". However, the first step of the recommended CRLF assessment is the preparation of a preliminary report to the USFWS, similar to that discussed above under the CTS assessment. Based upon the findings of the preliminary report, the USFWS will determine how CRLF should be addressed at the site. The USFWS protocols specify that that agency may question the results of any field surveys if the appropriate field office was not contacted prior to the survey being conducted. There is nothing presented in the DEIR or in Appendix H to document that a report was prepared, or that the USFWS was contacted in any way for survey or mitigation recommendations. Representing that the survey was conducted according to recommended protocols is inaccurate and misleading. 15-105

In addition, the DEIR conclusion that project implementation would have less than significant impacts on CRLF is questionable, given the proposed water withdrawals and likely impacts on the riparian and aquatic habitat along Arroyo Calero, a potential CRLF dispersal corridor.

Burrowing owl (BO) (California State Species of Special Concern)

While the burrowing owl does not have any federal listing status, it is a California Species of Concern, and survey protocols have been in place and recommended by CDFG since 1993. As with the protocols discussed above under CTS and CRLF, the BO protocol requires a report to be prepared for CDFG, giving the results of the various phases of the habitat assessment and burrow survey. Although the DEIR states that "protocol-level surveys were conducted in accordance with the California Department of Fish and Game, [sic] to confirm with certainty whether nesting burrowing owls occupied the site," there is no evidence in the DEIR that any follow-up report was ever prepared or submitted to CDFG, or that there was any coordination with any representative in the Department, or with any other burrowing owl specialist. Without this follow-up report and agency coordination, the protocol requirements are not met, and the assertion that a "protocol-level survey" was conducted is misleading and inaccurate. 15-106

Mitigation Measures

Program-level mitigations (p. 179)

None of these program-level "mitigation" measures for species of concern are valid mitigations for the proposed project, and are out of place in this DEIR. They simply regurgitate General Plan policies and fail to meet CEQA requirements because they do not address project-specific impacts; they contain no specifications for implementing the mitigation measures; they contain no standards or goals or success criteria; their feasibility cannot be determined; and there are no contingencies or remediation proposed in case the mitigations should fail. They create a misleading impression that they will be effective in reducing project-related impacts.

As an example, if the recommendations made under *Species of Concern: Policy 1* were to be rephrased as a valid mitigation measure, the project applicant, not the City, would be required to acquire some quantified acreage or a particular property to protect specific sensitive species, which would be identified and discussed. The acquired property would be encumbered with an easement or a management agreement, or placed in public ownership or other arrangement to preserve the sensitive species habitat. A management plan might be required to determine how the habitat values would be monitored and taken care of. 15-107 Educational and research uses could be covered under the managment plan, or as part of an easement agreement, or some other arrangement. The person or organization responsible for implementing (acquiring and funding) the mitigation measure would be clearly specified, and the habitat preservation goals would be clearly stated, and a performance bond would be required.

Interestingly, the recommendations made in *Water Resources: Policy 3* would appear to prohibit, not mitigate, this proposed project. The proposed project has the potential to degrade the adjacent creek through introduced pollutants (fertilizers, herbicides and pesticides, petroleum products) and through increased water extraction; this mitigation proposes that the Santa Clara Valley Water District should restrict public access to the site and restrict recreational uses there as well. Since the proposed project is intended to increase public access for intensive, intentional recreational use, it presumably would be prohibited by this proposed mitigation measure. Presenting this measure as a potential mitigation for project impacts is clearly inappropriate and confusing.

Project-level mitigation: California tiger salamander

The DEIR (p. 179-180) recommends a number of mitigation measures, but none of these have been developed in coordination with either CDFG or USFWS, and may not be acceptable to those agencies. Furthermore, the mitigation specifies that a biological monitor "with appropriate permits from CDFG and USFWS (incidental take permits pursuant to Section 2081 of the State Endangered Species Act, and Section 7 or Section 10 of the Federal Endangered Species Act, respectively) shall be on site...". A federal scientific collecting permit is valid only if the project itself holds a Section 7 or a Section 10 permit. A Section 7 permit requires some federal nexus (US COE permit, federal funding, other federal agency involvement); a Section 10 permit requires the preparation of a Habitat Conservation Plan (HCP). In the case of a project that is primarily concerned with scientific research or habitat enhancement (but not as a mitigation measure), then a Section 10(a)(1)(A) permit may apply without additional federal permits. There is no discussion in the DEIR of the process by which a Section 7 or a Section 10 permit would be obtained, or the timeline involved. Preparation of an HCP typically takes several years. **15-108**

Because there is no supporting documentation that these mitigations were developed in cooperation with the trustee agencies, the public has no reassurance that they will be effective or considered to be valid by the agencies with jurisdiction over CTS.

Project-level mitigation: Burrowing owls

The first bulleted mitigation measure (p. 180) discusses preconstruction survey for burrowing owl in conformance with "Federal and State regulations regarding the protection of raptors," but does not clarify what these regulations are. There is a separate and specific set of burrowing owl survey protocols that is unrelated to the protection of raptors. Raptorial birds are protected by other measures, particularly the California Fish and Game Code, Section 3503-3503.5. This proposed mitigation is confused and unclear, and should be restated or corrected. **15-109**

As discussed above, there is no supporting documentation that the survey results and conclusions of the burrowing owl survey were ever reviewed with CDFG, or that these subsequent mitigations were developed in cooperation with CDFG; consequently, the public has no reassurance that they will be effective or considered by CDFG or other burrowing owl experts to be valid mitigation for specific project impacts.

Project-level mitigation: Chinook salmon, coho salmon, and steelhead

The DEIR mentions only water quality impacts, which can be addressed by implementation of best management practices as recommended in this mitigation (p. 181). However, there is no recognition of potential impacts to these aquatic species that could occur with the anticipated groundwater withdrawals, and no corresponding recommended mitigation. The Water Supply section found that the existing stream is the primary source of groundwater at the site, and that the proposed groundwater extraction would exceed the production capacity **15-110**

of the existing and the proposed on-site wells, creating a significant, unavoidable, and unmitigable impact. Extraction of groundwater at the site would result in an equivalent extraction of riparian flows, with potentially significant, unavoidable, and unmitigable impacts.

Reduction or elimination of flows in the creek could have a significant adverse impact not only on the steelhead and the coho, but also on California red-legged frog, western pond turtle, and birds and bats associated with riparian habitat. Severity of impacts would depend on the timing of significant drawdown, and on the amount of water stored in Calero Reservoir that would be available for release into Arroyo Calero. Steelhead and coho salmon are under the jurisdiction of National Marine Fisheries Service (NMFS), in the National Oceanic and Atmospheric Administration, Department of Commerce. Potential impacts to steelhead and coho should be evaluated and mitigations developed in consultation with NMFS. **15-110**

Cumulative impacts

To comply with the requirements of CEQA, an EIR must address any cumulative impacts that might result from the proposed project. As defined by CEQA (Section 15355), a cumulative impact is one created when the expected impacts of the project evaluated in the EIR are added to the existing and future impacts of other projects in the area. At present, domestic and agricultural uses withdraw water from the same groundwater lens that the project will impact. These existing uses are not likely to disappear, and it is reasonable to assume that they will increase, as domestic demand increases in the water basin. The cumulative impact of the project combined with existing and expected future water demand in the water basin can be expected to have significant adverse impacts on streamflow in Arroyo Calero, riparian and aquatic habitat downstream, sensitive wildlife, and the human inhabitants downstream and elsewhere in the water basin. The DEIR contains no discussion of cumulative impacts and fails to meet this basic requirement of CEQA. **15-111**

Please feel free to contact me if you have any questions on the above material, or if you would like additional information.

Sincerely yours,

Diane L. Renshaw
Consulting Ecologist

Certified Senior Ecologist, Ecological Society of America

REFERENCES

California Burrowing Owl Consortium. 1993. Burrowing Owl survey and mitigation guidelines.

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PERSONS CONSULTED

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KEY TO ABBREVIATIONS:

FC – Candidate species for federal listing
FT – Federal listed as Threatened
CE – California listed as Endangered
CSC – California State Species of Special Concern
FSC – Federal Species of Special Concern

Rachel B. Hooper and Carmen J. Borg
Shute, Mihaly & Weinberger LLP
Attorneys At Law
Letter dated September 27, 2004; Received September 27, 2004

15-1 The comment states the opinion of the author. No response is required.

15-2 This comment identifies no specific concern with the Draft EIR. No response is required.

15-3 Regarding the portion of the proposed project within the Riparian Setback, please refer to Response to Comment 15-10. Regarding the Project Description and the description of the project as an interim use, please refer to Response to Comment 14-1.

15-4 The commentor states that the Draft EIR fails to analyze the Project's consistency with the Santa Clara County General Plan. For a discussion of the applicability of the County General Plan to the Project site, the commentor is referred to page 15 of the Draft EIR. Please also refer to Response to Comment 10-2.

15-5 The opinion of the commentor is noted. The commentor states that the Draft EIR fails to provide an adequate analysis of both the project's individual and cumulative impacts, fails to provide facts to support its conclusions and fails to identify feasible mitigation measures. The commentor does not identify specific examples in the Draft EIR where the analysis is inadequate other than stating that inadequate analysis is provided for water supply, transportation, public health and safety, biological resources, and loss of agricultural resources. Without identifying where specifically the analysis is inadequate, a detailed response cannot be provided. Therefore, no additional response is necessary. Please also refer to Responses to Comments 4-2 and 4-3 regarding water supply.

15-6 Please refer to Response to Comment 10-18. The commentor states that the Draft EIR fails to analyze an alternative that would provide the same number of sports facilities spread over several sites within the Almaden Valley. However, as described on page 213 of the Draft EIR, the expansion of existing sports fields was considered as a project alternative. The expansion of existing sports fields would have the effect of spreading the proposed project's fields over several sites.

The Draft EIR concluded that this alternative would be considered infeasible because the existing fields are generally located within existing established residential areas, which would constrain their expansion. Locating the proposed sports fields over multiple, vacant parcels that are not contiguous was considered infeasible for a number of reasons. These include:

- The need to provide irrigation infrastructure at multiple sites;
- The potential to have adverse environmental impacts in multiple locations (e.g., high noise, adverse visual impacts);
- The difficulty of managing, maintaining and equipping multiple sites;
- The inability of multiple small sites to meet the operational demands of the local youth sports leagues, such as the need for duplicate common facilities - restrooms, snack shacks etc.;
- The need to transport equipment back and forth between multiple sites, and;
- The need to purchase duplicate maintenance equipment and storage units.
- There is a cost savings benefit to having a consolidated facility that the Department of Parks, Recreation and Neighborhood Services supports and regularly implements wherever possible.

City staff reviewed the Vacant Land Inventory looking for vacant lands in the Almaden Valley Planning Area of five (5) acres or more in size. Only three (3) sites were found of approximately five (5) acres or more in size. One site was a privately owned parcel of approximately five acres in size that is developed with a single-family residence. A second vacant property was identified as being owned by the SCVWD, which consisted primarily of a creek and extensive riparian vegetation, which would not be a viable site due to its orientation to the creek and riparian setback issues. The third property is a hilltop park of approximately five acres that is located within and serves a Planned Development residential neighborhood. The development of a sports field complex on a steep hilltop site would be physically impracticable due to the need for a large, flat area and potentially significant drainage issues. Please also refer to Response to Comment 36-10 for additional discussion on alternative sites.

15-7 The commentor's statements in the first two paragraphs of the comment are noted and the City of San Jose agrees with the commentor's identification of CEQA requirements and processes. The City disagrees with the commentor's opinion on the adequacy of the Draft EIR, as stated in the third paragraph. The comment does not identify any specific environmental deficiencies in the Draft EIR. The City believes the Draft EIR was prepared in compliance with CEQA.

15-8 Please refer to Response to Comment 8-9 for responses concerning parking. In addition, the comment that the City's proposed General Plan amendment "...creates numerous inconsistencies in the City's General Plan concerning the land use policies and objectives in this area" does not identify any specific references to the Draft EIR. Therefore no response is necessary.

15-9 The commentor's opinion on the adequacy of the Draft EIR is noted. The Draft EIR contains a full description of the proposed project, beginning on page 1.

The comment does not identify any specific environmental deficiencies in the Draft EIR.

15-10 As noted by the commentor, the proposed project includes the construction of a 3- to 4-inch underground water pipe from the Caglia well approximately 400 feet south to the site. The Draft EIR Biological Resources analysis with respect to the pipe identifies that its installation would require trenching through the abandoned orchard, which would ultimately not limit or obstruct wildlife movement across the project site from the creek corridor to McKean Road. In addition, because the pipe would be placed underground and the one foot-wide trench would naturally re-vegetate after the pipe's installation, its installation would not significantly disturb the existing orchard habitat.

The City of San Jose's Riparian Corridor Policy, which requires a minimum setback of 100 feet from the outside edge of the canopy of the riparian vegetation, is designed to ensure that projects do not pose direct impacts to the aquatic habitat, perimeter wetlands and riparian habitat areas within a creek corridor. To conform to this policy the proposed sports field complex would be setback from the top of the creek bank of Arroyo Calero Creek consistent with the buffer requirements. Additionally, based on this proposed setback, the design features that restrict access, and the limitations on the site's scheduled use, the Biological Resources analysis in the Draft EIR determined that the increase in human activity on the site would not be expected to adversely affect wildlife species within the riparian corridor.

15-11 Regarding the description of the project as an interim use, please refer to Response to Comment 14-1. The proposed General Plan text amendment specifies that any improvements constructed to support limited, interim recreational uses " must be modified or removed from the site in the future, in conformance with the requirements of the South Almaden Valley Urban Reserve (SAVUR) Specific Plan." The comment that the future removal of site improvements is infeasible is the author's opinion and not supported by evidence. A response is not required.

The Draft EIR does not imply that the potential impacts related to the loss of agricultural lands can be characterized as "interim". The Draft EIR, A. Land Use, Potential Impacts, Prime Farmland, page 30, second paragraph, states that the proposed recreational uses "would not physically preclude the conversion of the site back to agricultural uses; however, because of the anticipated future demand for sports fields, it is assumed that the site would continue to be leased for the proposed facility's use until the Specific Plan is approved and implemented. Therefore, conversion of Prime Farmland soils anticipated with project implementation would be considered permanent and would result in a significant and unavoidable impact."

The Draft EIR analyzes the potential environmental impacts of both the proposed General Plan text amendment and the proposed sports fields project. The General Plan amendment modifies the text of the South Almaden Valley Urban Reserve (SAVUR) to allow interim, limited recreational uses on public property. The Draft EIR analyzes the potential environmental impacts of this change to the current allowed uses in the SAVUR. The Draft EIR also analyzes the full range of potential environmental impacts of changing the current open space and agricultural uses on the site to the proposed sports fields complex. The Draft EIR does not conclude that the project, as proposed, will not have significant impacts on the community. Per above, the Draft EIR analyzes the full range of potential environmental impacts of changing the current uses on the site to the proposed sports fields complex. Therefore, the Draft EIR does not "distort" the full impact of the project.

15-12 Please refer to Response to Comment 10-7. The City is the lead agency for the proposed public project of the City and has consistently analyzed the project proposal pursuant to applicable standards in and utilized by the City. The comment states that the proposed General Plan amendment creates internal inconsistencies in the City's General Plan regarding land use policies and objectives but does not identify any specific issues requiring a response.

15-13 The commentor's opinion on the adequacy of the Draft EIR is noted, however, the comment does not identify any specific environmental deficiencies in the Draft EIR; therefore no response is required.

15-14 Please refer to Responses to Comments 4-2 and 4-3. In response to the commentor's statement that failure to secure adequate water supplies for a project "prior" to project approval defeats the fundamental purpose of CEQA, it is noted that, to date, neither the School District, the City, nor AYA have taken any action constituting approval of a project under CEQA. The City and the School District are negotiating use of the Caglia well and the location of potential future well sites to serve the project, if it is ultimately approved. However, no agreements have been reached in advance of completing environmental analysis of the project. No project approvals will be issued prior to securing adequate water supply for a project.

In addition, as noted by the commentor, a fundamental purpose of the CEQA process is to inform the public and responsible officials of the environmental consequences of a proposed project. In order to conform to this objective of CEQA, and to use the issue water supply as an example, the Draft EIR indicated that the project's water demands would be in excess of the available water that could be pumped from the two project wells, which would result in a significant and unavoidable impact. Because alternative water supplies are not available to meet the site's irrigation water demands, the Draft EIR also identifies alternative project designs that would avoid or substantially lessen one or more of the significant effects of the project. In the case of Alternatives B2 and B3, impacts

to water supply would be reduced to a less-than-significant level. For a detailed discussion of water supply impacts and project alternatives, the commentor is referred to Sections II.D and III of the Draft EIR, respectively.

With respect to the determination of a significant and unavoidable water supply impact and associated mitigation measures, the EIR utilized a groundwater report entitled *Potential Impacts of Ground Water Extraction For Irrigation at the McKean Road Sports Complex,* Lowney Associates (July 2004). In this document, and as reflected in Section II.D Water Supply of the Draft EIR, the potential impacts of groundwater extraction for irrigation at the project site and needed mitigation measures were investigated. For further review of the document, the commentor is referred to Appendix D of the Draft EIR.

15-15 Please refer to Responses to Comments 4-2 and 4-3. In addition, the commentor's statements regarding the water supply analysis are noted. The computer model used to evaluate the effect of groundwater pumping on the aquifer determined that the capacity of the two project wells would not be adequate to meet the site's irrigation needs. Because of this lack of adequate water and that alternative sources of water are not available to serve the site, this was identified as a significant and unavoidable impact.

Mitigation measures were identified on page 92 of the Draft EIR to minimize the proposed project's impacts on available groundwater. The implementation of these mitigation measures would reduce the proposed project's demands on the larger water basin, thereby diminishing the water shortage. However, as the identified mitigation measures would not reduce this impact to a less-than-significant level, it would remain significant and unavoidable.

The Draft EIR also identified alternatives to the proposed project that address this issue of water shortage. Because of the limitation of available water to serve the project and the potential effect the project could have on the water supply to offsite wells in the area, alternatives B2 and B3 were designed to substantially lessen the effect the project would have on available water supply. Alternative B2 would allow only 5 acres of the total 20 acres of natural turf, which would be irrigated. Alternative B3 would initially allow only 5 acres of the total 20 acres to be of natural turf which would be irrigated, with monitoring of water supply to occur and subsequent increases in natural turf installation as water supply permits. Under both alternative project scenarios, potential water supply impacts would be reduced to less-than-significant levels. For a detailed discussion of Alternatives B2 and B3, please refer to pages 216-218 of the Draft EIR.

With respect to periods of drought, the commentor is directed to pages 86 and 89 of the Draft EIR, in which an analysis is provided of a scenario where current releases from Calero Reservoir are suspended during times of drought. To determine the effect drought conditions would have on project pumping, a

scenario of no creek flow was analyzed using the computer model. The two simulated site wells could not sustain the rate of pumping previously modeled under normal project conditions (Table II.D-5) and could only sustain a rate of about half that amount over a period of drought conditions. Exhibit II.D-15 shows the hydrograph corresponding to monitoring well Z-1 for the simulations with the pumping rate reduced to one third of the previously modeled rate. The maximum drawdown for the two monitoring wells is estimated at 5.47 and 5.92 feet. Please also refer to Responses to Comments 15-45 through 15-48 and 15-51.

To address this issue, during periods of drought when discharge from Calero Reservoir is below 3 cfs, irrigation at the site will be reduced. The reduction shall correspond to the availability of water within Arroyo Calero Creek with no pumping allowed if Arroyo Calero Creek is dry adjacent to the project site.

15-16 Please refer to Responses to Comments 4-2 and 4-3.

15-17 The commentor's statements regarding potential impacts to stream flow in Arroyo Calero Creek due to pumping of groundwater are noted. As stated on page 69 of the Draft EIR, stream flow measurements were taken during the pumping test in Arroyo Calero Creek for the express purpose of evaluating whether or not the groundwater extraction would have an impact on the creek. The discharge was evaluated by taking stream flow measurements at multiple times and developing rating curves that could be used to convert stream depth to discharge rate. Stream depth was measured continuously both upstream and downstream of the site using pressure transducers and dataloggers.

The results of groundwater pumping, which represented a rate of approximately 5% of the stream flow passing the site at that time, indicated that no decrease in stream flow was detected in the downstream pressure transducers and dataloggers in Arroyo Calero Creek.

In addition, while it is anticipated that groundwater extraction from the project wells would increase induced inflow from Arroyo Calero Creek to the aquifer and reduce outflows from the aquifer to the creek during the summer months when proposed pumping would be greatest and natural recharge at a minimum, the net decrease in stream flow was identified as being a few tenths of a cubic foot per second (cfs). This analysis represents a worst-case scenario decrease of 6% during the highest water demand month of July, assuming flows within Arroyo Calero Creek of only 2 cfs. However, flows within Arroyo Calero Creek during the summer are typically much higher than 2 cfs due to an obligation by the SCVWD, under an agreement with the Department of Fish and Game, to maintain sufficient flow in the stream to protect fish populations. As stated on page 178 of the Draft EIR, the worst-case predicted reduction in stream flow would be within the normal operating range of the SCVWD. Therefore, the

project was identified as having a negligible reduction in stream flow within Arroyo Calero Creek.

The commentor summarizes the statement in Appendix D of the Draft EIR (page 24) that states that if the reduction in stream flow poses a problem, it is possible that the SCVWD can increase the release from Calero Reservoir. However, the analysis included in the Hydrology and Water Quality section of the Draft EIR assumes that releases from Calero Reservoir would not be increased by the SCVWD to offset reduced flows associated with site irrigation.

In addition, mitigation measures have been identified on page 92 of the Draft EIR that would minimize the project's effects on water levels in Arroyo Calero Creek. These mitigation measures require the preparation of a water management program that would include daily monitoring of releases from Calero Reservoir into Arroyo Calero Creek. The mitigation requires that during periods of drought when discharge from Calero Reservoir is below 3 cfs, the City is required to reduce irrigation at the project site. The reduction is required to correspond to the availability of water within Arroyo Calero Creek with no pumping allowed if the creek runs dry.

15-18 Please refer to Responses to Comments 4-2, 4-3 and 15-15, and to 28-1.

15-19 The commentor's statements regarding the potential for water quality impacts due to mercury and portable restroom use are noted. As identified in the Draft EIR commencing on page 58, mitigation measures have been identified to control erosion during site construction activities. The implementation of these mitigation measures, in combination with the setback from the riparian corridor, would minimize the transport of any naturally occurring mercury into Arroyo Calero Creek. During site operations, due to vegetative planting over the majority of the site and the construction of permeable parking areas, it is expected that total suspended solids (TSS) leaving the site in surface water flow would be reduced when compared to current agricultural uses. Reduction of TSS would also likely result in the reduction of heavy metals including any naturally occurring mercury on the site. Water quality impacts to Arroyo Calero Creek due to construction activities on the site will be addressed in the Stormwater Pollution Prevention Plan (SWPPP) as part of the proposed development. The NPDES Construction General Permit requires that the SWPPP develop a program to address any existing site pollutants (including mercury) as well as any additional pollutants that may be introduced to the site during construction activities.

With respect to portable restroom facilities for the project, as stated on page 59 of the Draft EIR, portable restroom facilities shall be located outside of the 100-year floodplain footprint and shall be anchored in place in order to minimize the potential for flood waters to become contaminated during major storm events.

15-20 The commentor incorrectly identifies the proposed project as a regional facility. It is intended to be used and is designed as a local facility, intended to serve the Almaden Valley youth. Please refer to Response to Comment 3-1.

Additionally, traffic count data collection is typically performed Tuesdays through Thursdays to avoid skewed data due to Monday and Friday variations in traffic. Typically, data is reviewed by the City of San Jose Department of Transportation for consistency with historical traffic data. The new traffic count data was reviewed by the Department of Transportation and was found to be consistent with historical data. Trip generation rates for the proposed project were based on current Almaden Youth Association operations. It is important to note that the Institute of Transportation Engineers Trip Generation, Seventh Edition recently published, estimates that a six-field soccer complex would generate approximately 131 p.m. peak hour trips and 167 Saturday peak hour trips, well below the estimate based on current league operations. The traffic analysis does not, therefore, underestimate baseline conditions nor does it underestimate trips generated by the project. The EIR traffic analysis is consistent with CEQA requirements and standard traffic engineering practice.

15-21 The City has no adopted policies or procedures for analyzing accident data. However, industry standard appears to be methodology used by the California Department of Transportation (CalTrans). The methodology examines accidents occurring over a 3-year period on a determined stretch of roadway and compares it to a similar segment within the jurisdiction. The County does not have an average accident rate available but relies on a comparison of like segments and then compares the segment with the state average. The Departments of Transportation and Public Works staff obtained the necessary information required to perform the calculations. To summarize the results, within the 3-year period from 1999-2001 along McKean Road between Harry Road and Schillingsburg Avenue, there were ten accidents identified. Three were single-vehicle accidents. Out of the ten, four did not involve fatality or injury. One was due to unsafe speed, the other two involved collisions with a fixed object, and only one occurred within the intersection of McKean Road and Fortini and was due to improper turning from the side street. The six accidents involving injury included one driving under the influence, one head-on collision, two rear end collisions, one collision with a fixed object, and one involving a bicyclist due to unsafe speed. None of these accidents occurred within the intersections of the cross streets.

In summary, there were only two accidents reported along McKean Road that may be related to existing design, one involving a bicyclist and one due to improper turning from the side street. In all cases, the causes of the accidents were random with no clear patterns and do not imply a hazardous roadway condition. Overall, for the McKean Road study segment between Harry Road and Schillingsburg Avenue, the average accident rate is 1.0 per million vehicle miles traveled (MVM) and the fatality plus injury rate is 0.6 per million vehicle-

miles traveled (MVM), and is comparable to, and slightly less than, the State average accident and fatality plus injury rates of 1.19 per million vehicle-miles traveled (MVM) and 0.65 per million vehicle-miles traveled (See attached Table 15-21). Please also refer to Response to Comment 3-1 for additional information on pedestrian and bicycle issues.

15-22 Please refer to Response to Comment 15-21.

15-23 Based on the analysis of the accident data, traffic volumes were not a significant factor. Please also refer to Responses to Comments 3-1 and 15-21.

15-24 Based on the three-year accident data, the analysis did not identify a pattern and the incidents of collision appear to be random. Please also refer to Responses to Comments 3-1 and 15-21.

15-25 Please refer to Responses to Comments 3-1 and 15-21.

15-26 The commentor draws their statements from the comment letter sent by Diane L. Renshaw to Shute, Mihaly & Weinberger regarding the Biological Resources section of the Draft EIR. For a discussion of this issue, please refer to Response to Comment 15-103.

15-27 The commentor draws their statements from the comment letter sent by Diane L. Renshaw to Shute, Mihaly & Weinberger regarding the Biological Resources section of the Draft EIR. For a discussion of this issue, please refer to Responses to Comments 15-104 through 15-106.

15-28 The commentor draws their statements from the comment letter sent by Diane L. Renshaw to Shute, Mihaly & Weinberger regarding the Biological Resources section of the Draft EIR. For a discussion of this issue, please refer to Responses to Comments 15-107 through 15-111.

15-29 Please refer to Response to Comment 10-8. In addition, the City does not have an agricultural lands preservation or conversion program or other mechanism for charging agricultural lands conversion fees.

15-30 The opinion of the commentor is noted. Please refer to Responses to Comments 47-9 and 47-35. The commentor states that the Draft EIR fails to provide an adequate analysis of cumulative impacts.

State CEQA Guidelines Section 15130 requires that an EIR include a discussion of cumulative impacts "...when the project's incremental effect is cumulatively considerable, as defined in Section 15065(c)." Cumulatively considerable effects are those "...incremental effects of an individual project when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." CEQA Guidelines Section 15065(c)

states that a lead agency need not consider an incremental effect as "cumulatively considerable" but does need to briefly describe its basis for concluding the incremental effect is not cumulatively considerable.

The City of San Jose has identified past, present, and probable future projects that, when considered with the effects of the proposed project, may result in cumulative effects. The Draft EIR evaluates the cumulative impacts of those projects identified in Table IV-I with respect to the areas of Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hydrology and Surface Water Quality, Land Use, Noise, Public Services, Recreation, Transportation/Traffic (including Pedestrian and Bicycle Traffic Safety) and Water Supply.

The Draft EIR complies with CEQA by providing a cumulative analysis that addresses the potential impacts of the proposed project when considered in combination with other reasonably foreseeable future projects, including approved, but not yet built projects, pending projects, and other reasonably foreseeable future projects.

15-31 The Draft EIR reports a cumulative growth scenario and a potential for cumulative impact with the development of the Coyote Valley Specific Plan in conformance with the requirements of CEQA. In addition, the background traffic scenario contains projected traffic from the currently approved Coyote Valley Research Park (Cisco).

15-32 The commentor's statements regarding the analysis of cumulative impacts in the Draft EIR are noted. The discussion of cumulative impacts must reflect their severity and likelihood of occurring, but need not be as detailed as the discussion of a project's direct effects. Cumulative projects are identified in Table IV-1 of the Draft EIR. When considered with the effects of the project, significant and unavoidable cumulative impacts related to land use (lost of prime farmlands), water supply, aesthetics and pedestrian/bicycle traffic safety were identified. All other cumulative impacts associated with the proposed project would be considered less than significant. The commentor alleges inadequacies in the cumulative impacts analysis in such a conclusory, non-specific fashion, that a more specific response is not possible.

15-33 There are two distinct large-scale projects, the approved Coyote Valley Research Park (Cisco) and the future Coyote Valley Specific Plan. The Coyote Valley Research Park (Cisco) is an approved Planned Development rezoning project to allow industrial park uses. The vehicle trips associated with that project were included in the background traffic for the McKean Road Sports Complex Draft EIR.

The Coyote Valley Specific Plan is still in the early planning stage and therefore no specifics on future project mix or trip generation is available at this time. In

the absence of any quantitative data, the Coyote Valley Specific Plan could only be included in the Draft EIR as a qualitative discussion under the cumulative scenario.

The City normally uses the "list approach" for analyzing cumulative impacts, however, in the absence of any pending projects in the area, a 1.2 percent growth factor was used in estimating cumulative traffic. This is an acceptable technique used to analyze cumulative traffic.

The traffic analysis for the project assumed the project would be completed in the year 2007. If the sports field project is approved, the trips associated with it would then be added into the background traffic and be included in all other traffic impact analyses prepared for the area. Once the project is built and occupied, those trips would appear in any future traffic counts for the area. At such time as the Coyote Valley Specific Plan traffic analysis is prepared, the McKean Road Sports Complex traffic will be included in that traffic analysis.

15-34 The EIR analysis assumed project completion in 2007, in conformance with VTA Guidelines, which requires traffic forecast projections to completion of project. The traffic analysis was based upon VTA requirements for expected growth and growth assumptions for the area, in accordance with CEQA. If approved, the Coyote Valley Specific Plan will include the McKean Road Sports field project in its background for traffic analysis.

15-35 The commentor misstates CEQA provisions and guidelines. A minor contribution to a cumulatively significant impact is **not** by definition a significant impact. A project's contribution to a significant cumulative impact must be cumulatively considerable in order to rise to a level of significance.

The near-term cumulative scenario under CMP Guidelines is for planning and informational purposes, and does not include an impact criteria. Applying the City of San Jose's impact criteria for near-term traffic (one percent critical volume to capacity ratio and four second delay), a significant cumulative impact would occur at the intersection of Almaden Expressway/Camden Avenue during the weekday p.m. peak hour, both with and without the project's trip contribution. The project's contribution to the significant cumulative impact at the intersection of Almaden Expressway and Camden Avenue would consist of nine (9) trips out of a total of 272 trips in the critical northbound left-turn movement. This averages to approximately one trip every 15 minutes. The project's contribution represents approximately 3% of the total projected trips for this turn movement and was deemed to be less than cumulatively considerable, therefore the Draft EIR concluded a less than significant cumulative traffic impact.

The commentor has provided no information explaining why the analysis regarding the Project's cumulatively inconsiderable contribution is inadequate or

why the Project's contribution should be considered cumulatively considerable. Under the commentor's statements, even 1 additional trip through this intersection would be deemed a significant impact in any event, which statement does not comport with interpretations of CEQA requirements that the "one additional molecule rule" is not the law: i.e., not any additional effect necessarily translates into a significant cumulative impact.

Please refer to Responses to Comments 8-10, 14-3, 15-30, 15-31 and 47-35.

15-36 Please refer to Responses to Comments 14-4 and 15-37for discussion of growth inducing impacts analysis. The commentor has not indicated in any way how the Project would induce growth or the manner in which the Project description is incomplete in a manner that conceals growth-inducing elements of the Project. These are mere, unsupported statements of the commentor and are noted. The Draft EIR states that the proposed project would not include the extension of municipal infrastructure typically identified with growth inducement, such as extension of sewer systems, connection to municipal water systems or construction of storm drain facilities. Minimal roadway improvements along the project site frontage necessary for safe access and turning movements would be installed. The only vehicles anticipated to rely upon the road improvements would be those that are bringing passengers into and/or away from the complex. Such minor frontage roadway improvements would not induce growth elsewhere in the Almaden Valley. The lack of proposed infrastructure extensions to serve the project does not make the project description incomplete. It simply means that such infrastructure is not a part of the proposed project.

15-37 The comment provides no evidence to indicate that the proposed project would induce growth on adjacent undeveloped parcels. The General Plan amendment, as proposed, defines the only property eligible for consideration of new interim outdoor recreation uses as parcels in public ownership (see proposed text amendment Draft EIR p. 7 – "public property"). There are no other publicly owned properties in the SAVUR to which the proposed General Plan text amendment would apply. The only other publicly owned properties in the SAVUR are the two existing fire stations (City of San Jose and California Department of Forestry) on McKean Road and one property owned by the San Jose Water Company used for sludge-drying beds. No urban infrastructure is being extended to or provided at the site. No existing City policies restricting urban (residential, commercial or industrial) growth or development are proposed for modification, deletion or weakening as a part of the proposed General Plan Amendment. The statement that the scale of the facility is not in keeping with the rural character of the site and surrounding area, but instead expands urban infrastructure, (in the form of an urban park) to a rural agricultural area" is the opinion of the author and a direct response is not required. However, this facility is not proposed to serve any future potential residents or support any potential future growth; the facility is intended to fill on

an interim basis only an existing need in the South Almaden area for sports fields to serve current local residents.

15-38 The commentor's opinion on the proposed McKean Road Sports Complex Draft EIR is noted. The commentor makes general statements about their opinion of the adequacy of the Draft EIR, but does not explain in what way the commentor considers the Draft EIR to be deficient; therefore no response is required.

15-39 The comment describes several general concerns regarding the Draft EIR and does not identify any specific issues concerning adequacy of the Draft EIR. The comment states that the Draft EIR does not analyze feasible mitigations for the significant and unavoidable noise impacts, including traffic measures and hours of operation, but does not suggest what those mitigation measures might be. The Draft EIR states that project-related roadway noise would be less than significant, therefore mitigation is not warranted. The project includes techniques to minimize operational noise impacts, including limiting operating hours to daytime hours and not installing an outdoor loudspeaker system.

15-40 Please refer to Response to Comment 3-1, regarding the bike waiver mitigation and a discussion regarding potential trail connections to the project site.

15-41 The commentor states that the Alternatives section of the Draft EIR falls short of the standard set by CEQA and further refined in the court case Laurel Heights Improvement Ass'n v. Regents of the University of California, 47 Cal3d 376, 392 (1988). The commentor further states that only three alternatives were identified for analysis in the Draft EIR. However, the Alternatives Section of the Draft EIR actually considered six separate alternatives. Two alternatives, including an Alternative Location and the Rehabilitation/Expanded Use of Existing Sports Fields Alternative, were considered but rejected as infeasible. Four other alternatives, including the No Project Alternative, an On-site Water Storage/Limited Use of Artificial Turf Alternative, a No On-site Water Storage/Use of Artificial Turf Alternative, and a Phased Development Alternative, were evaluated in detail. The commentor does not provide evidence indicating the inadequacy of the Alternatives analysis, therefore, no additional response is necessary.

15-42 Please refer to Response to Comment 15-6.

15-43 Please refer to Response to Comment 10-18.

15-44 The commentor's statements regarding the proposed McKean Road Sports Complex project EIR are noted, however the comment does not raise any new environmental issues; therefore, no response is required.

15-45 Please refer to Responses to Comments 4-2, 4-3, 15-15, 15-48, and 15-51.

15-46 Please refer to Response to Comment 15-15.

15-47 Please refer to Response to Comment 15-15.

15-48 Please refer to Responses to Comments 4-2 and 4-3. In addition, the City has been working closely with the SCVWD to provide an adequate groundwater supply analysis. The Draft EIR acknowledges that the project will need a well permit. The project proposes the use of groundwater, which would be available to the project subject to the terms of the lease between the City and the San Jose Unified School District. Should the project be approved and the lease executed, the proposed project could legally use groundwater. The project would not affect water rights in the area.

15-49 The commentor states that the Draft EIR does not address the historic reliability of the local aquifer. The Santa Clara Valley Water District (SCVWD) supplied detailed drillers' logs and historic annual pumping rates for the greater McKean Road area. Of the logs provided by the SCVWD, 66 logs were sufficiently legible and with sufficient location information to make a reasonable estimation of the well location. Of these, 50 logs had water level information that was usable. To protect the confidentiality of the well owners, their locations have not been identified in the Draft EIR. Nevertheless, the data provided on individual logs has been generalized in the technical analysis to represent locally averaged conditions within a given portion of the region. As for historic annual pumping in the area, SCVWD provided rates for 1989 through 2001. This data indicated that pumping was greater than current rates during the drought of the late 1980's and early 1990's, and that in recent years over 90% of users have pumped less than 1 acre-foot/year. In addition, anecdotal information was provided by citizens at a meeting on May 3, 2004 about wells occasionally running dry. The detailed well information provided by the SCVWD and the anecdotal information provided by local residents was used in describing the existing groundwater conditions and the historical context for water supply in the area.

In response to the project's effects on adjacent residential wells, based on the average thickness of the permeable sediments within the alluvial aquifer of 17 feet, neighboring wells completed in the alluvial aquifer have several tens of feet of available drawdown for pumping. For instance, at the Caglia well, the saturated thickness of the alluvial aquifer is about 45 ft, with the available drawdown being almost that much. The expected increased drawdown of a few tenths of a foot to a few feet at the closest wells would not make a significant difference in the ability of neighboring wells to supply water.

Because the amount of water extracted by pumping at the site would represent a small fraction (approximately 6 percent in worst-case conditions) of the flow in Arroyo Calero, it would not prevent the creek from continuing to recharge the

aquifer. Therefore, creek recharge would continue to provide water for local well users.

With respect to computer modeling error, the commentor states that an error of one order of magnitude on the hydraulic conductivity could result in an increase in the estimated drawdown by a factor of ten. However, because the seepage of the stream into the aquifer limits drawdown, a ten-fold reduction in hydraulic conductivity would not produce a ten-fold increase in drawdown at neighboring wells. As such, the magnitude of the drawdown is expected to be on the order of a few tenths of a foot to a few feet.

In terms of the computer model simulations of drawdown impacts due to groundwater pumping, the model predicts that the initially proposed annual extraction of 79 acre-feet cannot be met by the two proposed pumping wells. For this reason, a lower annual extraction rate of 49 acre-feet is used in the simulations since this is the maximum rate that the model predicts can be maintained by these two wells. In addition, given that two potential sources of recharge[3] are not incorporated in the model, the computer model is anticipated to provide a conservative estimate of drawdown impacts. Please also refer to Responses to Comments 4-2, 4-3, and 15-15.

15-50 Please refer to Responses to Comments 4-2, 4-3 and 15-17. Regarding the project's impacts on downstream biological resources, the Biological Resources section of the Draft EIR concluded that the worst-case reduction in stream flow within Arroyo Calero would be approximately 6%. The Draft EIR further concluded that this reduction in stream flow would not significantly affect biological resources within the creek. This conclusion was based on the fact that the diurnal fluctuation in stream flows within the creek would be greater that the anticipated reduction caused by the proposed project. Also, the worst-case reduction in stream flow would only occur when the maximum pumping of the two onsite wells was occurring and the stream flow was at its lowest. Because this situation would not be expected on a regular basis, the Biological Resources section of the Draft EIR concluded that no adverse impacts on wildlife or riparian/aquatic habitat would be anticipated

15-51 The comment states that " the proposed project would deplete <u>both</u> surface and groundwater in an area of historic shortages that is only recently recovering to a sustainable level." The Draft EIR concludes that the pumping of groundwater necessary to meet the project's irrigation water demands would be in excess of the capacity of the two project wells. The Draft EIR identifies mitigation measures that would lessen the potential impact on groundwater but would not reduce the impact to a less than significant level. The Draft EIR also identifies alternatives to the proposed project, including a reduced size and a phased

[3] The percolation to the water table of irrigation water applied to the playing fields and the drainage of retention basins proposed for the site would provide additional groundwater recharge. Both of which were not incorporated into the computer model.

development alternative, both incorporating the use of artificial turf, that reduce the impact to groundwater to a less than significant level.

The comment states that implementation of the proposed project "would almost certainly reverse the recent trend of groundwater level recovery and send water levels back down, increasing the frequency at which local wells go dry." No specific information is presented to support this claim. No response is required.

The comment states that the project violates San Jose 2020 General Plan Water Resources Policy 3, as follows: "The City should encourage the SCVWD to restrict public access and recreational uses on land adjacent to rivers, creeks, freshwater wetlands, and other significant water courses when water quality could be degraded." Please refer to Response to Comment 3-1.

The comment states that the project violates San Jose 2020 General Plan Water Quality Policy 5, as follows: "The City should protect groundwater recharge areas, particularly creeks and riparian corridors." The comment states that the proposed project would introduce new pollutant sources to a recharge area that would likely impact groundwater quality. The Draft EIR Section II C Hydrology and Water Quality and Appendix C provides an analysis of potential impacts to water quality including impact from parked cars, pesticides, herbicides, etc. Mitigation measures are identified on page 58. Please refer to Responses to Comments 10-10, 10-11 and 15-19 for additional discussion on water quality.

15-52 The commentor states that the mitigation proposed in the Draft EIR for water supply impacts is inadequate and cannot be implemented. The commentor specifically requests that the actual frequency of monitoring be stated. Water levels in the two on-site monitoring wells would be required to be recorded using dataloggers. The water level data from these devices would be downloaded bi-monthly. If drawdown of the water table approaches the trigger level as a result of groundwater pumping, the datalogger would be downloaded weekly. If the background water level is reduced below the 3½-foot trigger level, groundwater pumping at the site would be required to cease. Groundwater pumping would not be allowed to recommence until the groundwater levels in the two monitoring wells recover by at least ½ a foot above the trigger level.

The commentor requests clarification regarding the definition of excessive drawdown, as described in the Water Supply mitigation measure on page 92 of the Draft EIR. As described in Appendix D, Section 6.0 of the Draft EIR, a trigger level of 3½ feet below a defined background water level[4] was recommended in order to avoid over pumping of the aquifer.

[4] The generalized low water level observed in the piezometers installed onsite shall be used to determine the "background" water level.

The commentor asks how "adequate" is determined in relation to stream flow in Arroyo Calero. The intent of the mitigation measures identified on page 92 of the Draft EIR are to ensure reductions in groundwater pumping commensurate with a lowering of the stream flow in Arroyo Calero. For example, if the discharge from Calero Reservoir were reduced by 50% below the threshold level of 3 cubic feet per second (cfs), onsite pumping would have to be reduced by 50%. This reduction in onsite groundwater pumping would minimize any impacts the project would have on stream flows within Calero Arroyo during drought conditions. Please also refer to Responses to Comments 4-2, 4-3, 15-15, and 28-1.

15-53 Please refer to Response to Comment 10-10.

15-54 Please refer to Response to Comment 10-10.

15-55 Please refer to Responses to Comments 4-2 and 4-3. The commentor states that the proposed new well would not meet the 50-foot sanitary seal requirement for new groundwater supply wells. This comment is consistent with the statement on page 24 of the Appendix D that states that a variance would be required for the new well so that it could be screened through a sufficiently long interval of coarse-grained, permeable material.

15-56 Please refer to Response to Comment 10-10.

15-57 Please refer to Response to Comment 15-19. The commentor's statements regarding the potential for water quality impacts due to mercury are noted. As identified in the Draft EIR commencing on page 58, mitigation measures have been identified to control erosion during site construction activities. The implementation of these mitigation measures, in combination with the setback from the riparian corridor, would minimize the transport of any naturally occurring mercury into Arroyo Calero. During site operations, due to vegetative planting over the majority of the site and the construction of permeable parking areas, it is expected that total suspended solids (TSS) leaving the site in surface water flow would be reduced when compared to current agricultural uses. Reduction of TSS would also likely result in the reduction of heavy metals including any naturally occurring mercury on the site. The mitigation measures on page 58 of the Draft EIR require the preparation of a Stormwater Pollution Prevention Plan (SWPPP) prior to project construction in order to ensure that Best Management Practices (BMPs) are implemented that would avoid or mitigate runoff pollutants at the construction site to the maximum extent practicable. The NPDES Construction General Permit requires that the SWPPP develop a program to address any existing site pollutants (including mercury) as well as any additional pollutants that may be introduced to the site during construction activities.

15-58 The commentor states that the long-term dewatering of the aquifer could result in permanent compression of the aquifer materials and ground subsidence at the surface. As noted in the document referenced by the commentor, the land subsidence experienced in the Santa Clara Valley due to groundwater withdrawal is closely related to the change in land and water use, particularly from the introduction of agriculture to the area in the 1800s. Substantial land subsidence occurred in the northern Santa Clara Valley as a result of the massive groundwater overdrafts. To help rectify this situation, the SCVWD built five storage dams on local streams to capture storm flows and increased imports of surface water. This permitted controlled releases to increase groundwater recharge through streambeds and lead to a substantial recovery of groundwater levels. As a result of SCVWD's efforts there has been little additional subsidence since 1969.

The SCVWD is currently managing the groundwater basin in a conservative fashion in order to avoid further subsidence. Their management strategy depends on continued availability of high-quality surface water from State and Federal projects that import water from massive diversion facilities in the southern part of the Sacramento-San Joaquin Delta. As described in the referenced USGS paper, these diversion facilities themselves are threatened by land subsidence within the Delta. Thus the prognosis for land subsidence in the Santa Clara Valley depends in part on subsidence rates and patterns in the Delta. Because much of California relies on large-scale interbasin water transfers, subsidence and water quality issues in many parts of the State are complexly interrelated.

In terms of the proposed projects influence on land subsidence in the area, a mitigation monitoring plan would be implemented if the project were approved. As part of this plan, the water table would be monitored in the vicinity of the project site to make sure the background water level does not dip below a "trigger level" of 3½ feet. In addition, to further avoid over pumping the aquifer, during periods of drought when discharge from Calero Reservoir is below 3 cfs, the City would be required to reduce irrigation at the site. The reduction would correspond to the availability of water within Arroyo Calero Creek with no pumping allowed if Arroyo Calero Creek is dry adjacent to the project site. Therefore, given that the project includes mitigation that would ensure long-term dewatering of the aquifer does not occur, land subsidence due to permanent compression of the aquifer is unlikely to occur.

15-59 The commentor states that the cumulative analysis of hydrology, water quality and water supply is extremely brief and does not address many of the challenging issues raised by the commentor. As stated on page 230 of the Draft EIR, only one cumulative project is located in close proximity to the site that could contribute to the hydrology, water quality and water supply impacts anticipated with project implementation. This project is the Chinese Church of Christ, which is not expected to have high water demands, substantially degrade

water quality, or adversely affect local hydrology. Therefore, the cumulative impacts anticipated with project implementation would not differ substantially from the project impacts explicitly described in Chapter II of the Draft EIR. Specifically regarding cumulative hydrology and water quality impacts, the project site is located in a watershed area separated from the majority of the cumulative projects in the region. Therefore, the Draft EIR concluded on page 223 that the project's contribution to cumulative hydrology and water quality effects would not be cumulatively considerable and less-than-significant cumulative impacts would result. Please also refer to Responses to Comments 4-2, 4-3, and 15-19.

15-60 The commentor states that the Draft EIR improperly dismisses a 10 percent increase in peak flows during the 100-year event and the effects of this increase on flows in Arroyo Calero upstream and downstream. As stated on page 51 of the Draft EIR, the difference between the average existing storm water runoff flow and the proposed project conditions is an increase of approximately 10 percent during the 100-year storm event. However, the 100-year flow rate in Arroyo Calero is 1,300 cfs. In the existing condition hydrology analysis, 36 cfs or 2.8% of the total flow in Arroyo Calero originates from the project site. In the proposed condition analysis, 39 cfs or 3% of the total flow in Arroyo Calero originates from the project site. The increase of 3 cfs would result in a 0.2 percent increase in the flow in Arroyo Calero, which was determined to be a less-than-significant change in storm water flow. To support this conclusion, hydraulic models for Arroyo Calero were run during preparation of the Draft EIR using the increased flow rate of 1,303 cfs and no impacts to flow velocities and depths were identified in the creek. The average flow velocity would remain at 3.8 cfs and water surface elevations would range between 342.9 and 355.1 feet above mean sea level, the same water surface elevations predicted with a flow rate of 1,300 cfs. Therefore, no change in upstream or downstream flooding would occur with project implementation. For more information regarding the storm water calculations prepared for the proposed project, the commentor is referred to Appendix C, Hydrologic Analysis of the Draft EIR.

15-61 This comment is a summary of the detailed comments found below in the comment letter. The Responses are found below.

15-62 Information on league activities was obtained from the currently existing Almaden Youth Association. The project is proposing no outdoor lighting, and so no league activities would occur during nighttime. Trip generation and team sizes vary on a day-to-day basis and the report represents a typical scenario. Most teams have 15 players maximum, many often have less. Minor variations in the size of teams, whether they consist of 15 or 17 members, would have a negligible effect on project traffic and would typically be less than the worst-case assumptions used in the traffic analysis. In addition, coaches have children on the teams and often provide other team members with transportation. It should be noted, the proposed league activities are already currently in existence

in the Almaden area and are part of the existing traffic experienced in the major roadways in the area, and would be redistributed as described in the DEIR once the league activities commence on the proposed project site. However, to be conservative, the analysis attempted to provide a worse case scenario, with the understanding that much of the project traffic is presently using area roadways to reach existing sports fields and appears within existing traffic counts.

15-63 According to the Almaden Youth Association, soccer practices are currently shortened during the darker months and lengthened during the lighter months, given available light conditions. The project is proposing no outdoor lighting, and so no league activities would occur during nighttime. AYA has indicated that the fields would not be large enough to double the number of players or teams playing or practicing simultaneously. The Traffic Impact Analysis analyzed a worst-case traffic scenario of practices occurring until 8:00 p.m., however, field use will be limited to daylight hours, year-round.

Typically hours of operation for schools do not coincide with the p.m. peak hour analyzed with this project. The proposed project would primarily add traffic to McKean Road after 4:00 p.m. or on weekends when schools are closed. Practices could not be shifted into to an earlier time of day while children are in school. During summer months, there would typically be two practice sessions daily during the week; the first round of soccer practices would typically occur between 4:30 and 5:30 p.m., and the second round would occur between 6:00 and 7:00 p.m. Because the peak hour was identified as 4:45 to 5:45 p.m., the vehicle trips generated by the second practice would not occur during the p.m. peak hour.

During the winter months, when less daylight is available, only one practice would typically occur. Therefore, the p.m. peak hour trip generation does not need to be doubled as the commentor suggests. The project does not include any outdoor lighting and no league activities would occur during nighttime.

The assumptions used in the traffic analysis are appropriate and the traffic analysis is within the appropriate level of accuracy. Therefore, the commentor's assertions that league activities would occur during night time and weekday PM peak hour trips would double are incorrect.

15-64 Please see Response to Comment 15-63.

15-65 Please refer to Response to Comment 15-62.

15-66 In response to the commentor's statements regarding traffic safety, City staff calculated the accident rate for the 1.32-mile segment of McKean Road, between Harry Road and Schillingsburg Avenue. A mid-block accident analysis was calculated. In addition, the Draft EIR includes accident data for two intersection along McKean Road (i.e., Harry Road and Bailey Road) for years

2002 through 2004 (page 113). The accident rate for the 1.32-mile segment of McKean Road between Harry Road and Schillingsburg Avenue was determined to be 1.00 and was based on a three-year accident history from 1999-2001. A more recent data set of accident reports is not available at this time. A summary of the type and cause of accidents is included in response 15-21. Please also refer to Response to Comment 3-1 for additional information on pedestrian and bicycle issues.

15-67 Please refer to Responses to Comments 3-1, 5-1, 5-2, 5-5, 5-7 and 5-10.

15-68 The Approved Trip Inventory (ATI) has been provided (see attached ATI sheets) and the 1.2 annual growth rate conforms to the requirements of the VTA Congestion Management Program, of which the City of San Jose is a member agency. The Traffic Impact Analysis contains a list of all approved projects including the Camden Community Center and the Coyote Valley Research Park (Cisco). Local intersection traffic counts were taken in March 2004 after completion of the Challenger School Expansion. The existing Challenger school traffic was included in the traffic data collected for the project and used for the background scenario. The cumulative traffic analysis fulfills the requirements of CEQA. Please also refer to Responses to Comments 8-10, 15-75, 15-80 and 47-35.

In addition, for the list of approved projects, the commentor is referred to Table IV-1 on page 221 of the Draft EIR. The vehicle trips generated from these projects were used to develop the background traffic conditions. To determine the cumulative traffic conditions, the 1.2% annual growth rate was added to the background conditions. The cumulative traffic analysis fulfills the requirements of CEQA.

15-69 Please refer to Response to Comment 15-68.

15-70 Please refer to Response to Comment 15-34.

15-71 Please refer to Response to Comment 8-10.

15-72 The Traffic Impact Analysis prepared for the proposed project is in conformance with the City's Transportation LOS Policy and the requirements of the VTA's Congestion Management Program. Please also refer to Responses to Comments 15-61 through 15-71 for responses to specific issues regarding traffic.

15-73 This comment summarizes issues raised in following comments and does not raise any specific separate issues with the content of the Draft EIR, therefore no additional response in required.

15-74 Information on league activities was obtained from the Almaden Youth Association. As such, all proposed league activities are currently in existence in

the Almaden area and are part of the existing traffic. However, to be conservative, the traffic analysis attempted to provide a worse case scenario understanding that much of the project traffic is actually being counted in existing traffic counts. Furthermore, the league boundary to the north is Blossom Hill Road, the boundary of the study area.

The change in volume is not due to project traffic but may be due to background projects at Camden/Almaden. Further, all of the intersections along Almaden Expressway between Harry Road and Route 85 inclusive were analyzed with this project.

Signal warrant studies for both unsignalized intersections of Harry Road/McKean Road and Almaden Road/McKean Road were included in the report consistent with all other traffic impact analyses prepared for the City of San Jose.

15-75 The Draft EIR Appendix E, Traffic Impact Analysis contains a list of all approved projects including the Camden Community Center and the Coyote Valley Research Park (Cisco). The City has no record of permits for an expansion of Challenger School; however, local intersection traffic counts were taken in March 2004 after completion of the Challenger Expansion.

15-76 Page 30 of Draft EIR Appendix E, Traffic Impact Analysis indicates the method used to derive weekend trips, which incorporates trips from approved projects. Exhibit 20 shows those derived volumes.

15-77 Traffic projections from City uses were not included because the scope of the uses is undetermined at this time. However, it was determined the project generated traffic from any future City use would not exceed the worst-case project scenario (soccer and ballfields) studied in the report. It is not anticipated that the School District would require use of the sports field complex if the proposed project and subsequent master plan and lease are approved. The School District's potential occasional use would not exceed the worst-case project scenario (soccer and ballfields) studied in the report.

15-78 The commentor's statements regarding internal circulation at the project site and pedestrian issues are noted. For a detailed discussion of circulation and pedestrian issues, the commentor is referred to page 106 in the Transportation section of the Draft EIR. As illustrated on Exhibit 2 Site Plan in the Traffic Impact Analysis in Appendix E of the Draft EIR, the ingress/egress was designed to create an access and circulation plan that allowed for ample on-site stacking, two on-site drop-off areas and safe egress from the site. Please also refer to Responses to Comments 3-1 and 5-1, 5-2, 5-5, 5-7, 5-9 and 5-10.

15-79 The commentor states that the Draft EIR does not address construction traffic impacts and does not address whether the proposed project involves a balanced

cut and fill operation. The temporary traffic generated during construction activities was identified during preparation of the Draft EIR as being substantially less than anticipated with the proposed project. Construction traffic would only occur during one summer construction season and would be limited to the delivery of equipment and materials to the site, construction worker trips and removal of equipment and waste materials once construction is completed. Employee trips would likely involve less than twenty vehicles accessing the site per day. Therefore, the construction traffic impacts would be substantially less than anticipated with the proposed project and would be considered less than significant.

Grading on the site is expected to be balanced, meaning that any grading cuts would be balanced with grading fill. Therefore, no soils would be delivered to or removed from the site.

15-80 The proposed McKean Road Sports Complex project is primarily an after-school park and therefore would add negligible traffic to McKean Road while the Challenger School is in operation. According to the Challenger School Principal Assistant, the peak activity periods for the school are 7:30 a.m. to 9:00 a.m. during the weekday morning, and 2:45 p.m. to 4:00 p.m. during the weekday afternoon. The proposed project would primarily add traffic to McKean Road after 4:00 p.m. or on weekends when the school is closed. The existing Challenger school traffic was included in the traffic data collected for the project and used for the background scenario. Typically hours of operation for schools do not coincide with the p.m. peak hour analyzed with this project.

15-81 As the commentor noted, McKean Road provides primary emergency vehicle access to the project site. It should also be noted that as McKean Road provides access to the site in two directions, if one direction of McKean Road is blocked, access for the project site could be accommodated in the opposite direction. In addition, two driveways would provide direct access for the project site at McKean Road for emergency vehicles to utilize. These driveways, as shown on the Conceptual Site Plan (see Exhibit I-5 of the Draft EIR), would be further refined during the Master Plan process in accordance with City of San Jose standards to provide adequate and efficient ingress to and egress from the site via McKean Road.

15-82 Please refer to Responses to Comments 3-1, 5-1, 5-2, 5-5, 5-7, 5-9 and 5-10. In addition, the commentor's statements regarding equestrian traffic are noted. It should be noted that McKean Road is not designed to accommodate equestrian users. As an alternative route for equestrians riding in the South Almaden Valley Urban Reserve and vicinity, the Bay Area Ridge Trail includes a designated route along the northerly side of Alamitos Creek that can be utilized by equestrian users. The project is not anticipated to attract equestrians.

15-83 The commentor's statements regarding project schedule assumptions are noted. The commentor is referred to the Traffic Impact Analysis (Appendix E of the Draft EIR), which identifies trips associated with the soccer and baseball seasons. Since the soccer season is forecast to generate more trips at the project site compared to the baseball season, the analysis conservatively assumes the worst-case soccer season conditions; i.e., baseball season traffic generation would have less of an impact on the study area circulation system than the soccer season. Given outdoor lighting is not proposed as part of the project, the analysis conservatively assumes games and practice sessions would finish as evening approached (dusk). As kids would be attending weekday practices and games after school time, sport activities may be cut short as it becomes dark and it is assumed that activities would not be rescheduled earlier in the weekday during normal school hours. Information on league activities was obtained from the currently existing Almaden Youth Association. At the time the report was written, the information used was the best available and the information provides a reasonable assumption for the purposes of analysis. Please also refer to Response to Comment 15-63.

15-84 The commentor states that the worst-case Sports Complex usage has not been analyzed. Regarding trips associated with the soccer and baseball seasons, the Traffic Impact Analysis identifies the trip generation assumptions using the worst-case of six soccer fields in simultaneous use over a four hour period during the weekday PM peak period. For weekends, the worst-case of six soccer fields in simultaneous use over an eight-hour period. As noted in Response to Comment 15-83, the analysis conservatively assumes the worst-case soccer season conditions; baseball season traffic generation would have less of an impact on the study area circulation system than the soccer season. To clarify a point raised by the commentor, baseball and soccer events would not be scheduled to occur concurrently. Additionally, use of the batting cages is planned for baseball/softball users who are already on the project site. Please refer to Response to Comment 8-9.

15-85 Trip generation was based on current Almaden Youth Association operations. Please refer to Responses to Comments 8-9, 15-20, and 15-62.

15-86 The City of San Jose traffic count data at all VTA Congestion Management Program (CMP) intersections conforms to the 2002 Annual Monitoring Report approved by the Valley Transportation Authority's Congestion Management Program. The City of San Jose is a member of the CMP so is required to use annual monitoring data. All other non-CMP intersections may use traffic count data collected during other time periods. The City used the CMP monitoring program for CMP intersections and counted all other non-CMP intersections. The City chose to use higher traffic count numbers, instead of more recent numbers, in order to analyze the worst-case traffic scenario. More recent count numbers are low, due to the current economic downturn, which has resulted in a downward trend in the counts; however, if the updated count data had been

used, the analysis would have resulted in a better traffic condition; that is, traffic LOS would have been improved.

15-87 Although it is not clear what is meant by the commentor's assertions, it is important to note that the Almaden Expressway/O'Grady intersection currently operates at LOS B and would continue to do so with the project; therefore, the proposed project would not result in a significant traffic impact at this intersection. The assumptions regarding the signal operations along Almaden Expressway are consistent with the assumptions made in the TIAs for other development projects and therefore the LOS analysis that was performed was adequate.

15-88 The commentor's statement that the configuration of the westbound lanes in the PM peak at Almaden Expressway/Blossom Hill Road is noted. The written description on page 8 of the Traffic Impact Analysis and the related exhibit are incorrect and are being corrected. All traffic calculations and resulting LOS are correctly described in the report.

In addition, the Coyote Valley Research Park (Cisco), not a residential project as indicated by the commentor, includes the installation of a traffic signal at Harry and McKean Road and the addition of a second left turn to eastbound Almaden Expressway approach at Harry Road. Please refer to Response to Comment 15-87.

15-89 The large traffic volumes identified in the approved trips inventory are primarily due to the Coyote Valley Research Park (Cisco) located at the 101/Bailey interchange and the volumes identified at Almaden Expressway/Harry Road are assumed to be distributed along Almaden Expressway neighborhoods.

15-90 Please refer to Responses to Comments 8-5 and 8-12. In addition, plans for the purpose of the EIR are conceptual only. Actual improvements will be forwarded to the County for their review and approval during the implementation process.

15-91 Trip distribution does not ignore Almaden Road. Please refer to page 124 of the Draft EIR and to Exhibits 12 and 22 of the Draft EIR Appendix for discussion of peak hour traffic assignment. Trip assignment and distribution is based on information obtained from the currently existing Almaden Youth Association. The information provides a reasonable assumption.

15-92 The Traffic Impact Analysis was prepared consistent with existing policies and practices. The EIR on page 2, defines an interim use as "the continued use of the site until the School District needs the land for school purposes." This is assumed to occur in conformance with the implementation of a Specific Plan for the SAVUR, consistent with the existing General Plan language regarding the SAVUR. The EIR analysis assumed project completion in 2007, in

conformance with VTA Guidelines, which requires traffic forecast projections to completion of project. Please also refer to Response to Comment 15-34 for additional response.

15-93 Due to the downturn in the economy during the past 5 years, an analysis of the traffic data collected indicates the highest traffic volumes collected in 1999 with volumes dropping yearly for the next four years. This analysis assumes modest growth in spite of the traffic data collected for the study intersections from the past four years. Please also refer to Response to Comment 8-10 .

15-94 The traffic signal warrant prepared for McKean/Harry focused on the peak hour warrant only and is consistent with warrants prepared for other development projects in the City of San Jose. Furthermore, a signal warrant study is one of many tools a jurisdiction may use to determine the need for signalization. Jurisdictions prioritize traffic signals based on neighborhood input, existing field conditions, and special circumstances. Please refer to Draft EIR, Section II. E Transportation, page 126 for additional discussion.

15-95 Please refer to Response to Comment 3-1.

15-96 The commentor's statements regarding the adequacy of proposed onsite parking are noted. For a discussion of on-site parking, the commentor is referred to page 107 in the Transportation section of the Draft EIR, which notes that adequate parking is planned for the project. Please also refer to Response to Comment 8-9. Regarding the worst-case project conditions, please refer to Responses to Comments 15-83 and 15-84.

15-97 Please refer to Responses to Comments 3-1, 5-1, 5-2, 5-5, 5-7, 5-9 and 5-10. In addition, the Draft EIR has been revised, as described in Response to Comment 3-1, to delete as a mitigation measure monitored by the City the proposed agreement with parents to restrict children from bicycling or walking to the Project site. The proposed future site operator may, and has indicated that it intends to, choose to incorporate this procedure as part of their standard operating procedure. Removal of this measure does not change the conclusion of the Draft EIR that the pedestrian/bicycle safety impacts of the proposed project will remain significant and unavoidable.

15-98 The Traffic Impact Analysis in Appendix E indicates the 11th warrant is met but the decision to install a traffic signal is based on other factors such as priority based on neighborhood input, existing field conditions, and other special circumstances. In this case, a signal is warranted, but does not appear to be a high priority since the streets in this rural area are not currently designed to accommodate traffic signals. The project has not proposed to install the signal but that does not preclude the decision-makers' (City Council) ability to decide to install a signal as they consider the project. Please refer to Draft EIR, Section II. E Transportation, page 126 for additional discussion.

15-99 The project would not result in any significant LOS impacts, therefore no off-site traffic improvements are required, and so the comment is not relevant. Please also refer to Responses to Comments 15-89 and 15-91.

15-100 The commentor provides a summary of the traffic comments provided by the commentor. For a response to these comments, please refer to Responses to Comments 15-72 through 15-99.

15-101 The commentor provides a sample traffic accident analysis, prepared in 2002 for the Houston-Galveston Area Council in Texas. However, nothing in the sample analysis directly addresses the proposed sports complex. For a discussion of the traffic accident analysis prepared for the project, please refer to Response to Comment 15-66.

15-102 The commentor summarizes their concerns regarding the Draft EIR. For a discussion of these concerns, please refer to Responses to Comments 15-103 through 15-111.

15-103 The commentor states that no meaningful mitigation for the significant and unavoidable water supply impacts anticipated with project implementation is provided in the Draft EIR. For a discussion of the water supply mitigation measures, the commentor is referred to page 92 of the Draft EIR.

The commentor further states that the conclusions of the Biological Resources section of the Draft EIR that there would be no indirect impacts on riparian and aquatic habitat and wildlife glosses over the primary conclusion of the Water Supply section. However, the primary conclusion of the Water Supply analysis is that the yield of the wells on the site would not be adequate to meet the water demands of the proposed project, so that the impact described is to the project itself. This conclusion does not contradict the conclusion of the Biological Resources section that a worst-case reduction in stream flow within Arroyo Calero Creek of approximately 6% associated with the pumping of the two proposed project wells would not significantly affect sensitive fish species within the creek. Also, because the diurnal fluctuation in stream flows within the creek would be greater that the anticipated reduction caused by the proposed project, no adverse impacts on wildlife or riparian/aquatic habitat would be anticipated. Please also refer to Responses to Comments 4-2, 4-3 and 15-17.

15-104 As the site contains potential aestivation habitat for juvenile and adult salamanders, in the form of a few, scattered active burrows located on-site, a site assessment was conducted. While no salamanders were observed, and all known local observations of California tiger salamanders are separated from the site by McKean Road, the subject site was found to contain a small amount of marginal quality aestivation habitat for California tiger salamanders. Because a known salamander population occurs within 0.5 miles of the site and McKean Road is

probably not a barrier that would inhibit all salamander migration, individuals from this breeding population could conceivably cross this large distance and occupy the site. The USFWS and CDFG therefore may assume the presence of California tiger salamanders or infer that a significant impact would occur if the site were developed. However, surveys conducted by H.T. Harvey to date have failed to detect California tiger salamanders and their herpetologist judged the habitat to be of poor quality and likely unoccupied by this species. Accordingly, no impacts are anticipated on California tiger salamanders with project development.

In subsequent discussions between H.T. Harvey and the CDFG[5] following the surveys, CDFG concurred with this assessment. Once the Draft EIR was completed, the document was distributed for review and comment from the public and other agencies, including CDFG. If CDFG found the analysis to be inadequate or identified a significant environmental effect not discussed in the Draft EIR, this review period provides the opportunity to make such claims. However, as indicated in Comment 2-1, CDFG does not have any specific comment regarding the proposed project and its effects on biological resources, and solely made a procedural note that an environmental filing fee is required to be paid before or at the time of filing a Notice of Determination (NOD) for the project

15-105 As discussed on page 174 of the Draft EIR, California red-legged frogs are known to occur within five miles of the site. Although the portion of Arroyo Calero Creek that runs adjacent to the site does not contain the deep pond areas necessary to be considered appropriate breeding habitat, frogs are likely to disburse along the creek. The small animal burrows existing in the ruderal, orchard and agricultural areas of the site provide potential breeding habitat.

To confirm the presence or absence of California red-legged frogs on the project site, four surveys were conducted during May 2004. No frogs were observed during the surveys and are assumed to not be permanent residents of this reach of Arroyo Calero Creek bordering the proposed project site, since the existing soil conditions and level of disturbance due to agricultural practices within the proposed area of development make it unlikely. Furthermore, the project's proposed riparian setback would provide protection for any frogs that may pass through or forage within the immediate vicinity of the creek corridor. Therefore, the Draft EIR concluded that project implementation would not be expected to adversely affect these species.

The commentor states that the Draft EIR's representation that the surveys for California red-legged frogs were conducted according to recommended protocols is inaccurate and misleading. However, the U.S. Fish and Wildlife Service (USFWS) document to which the commentor refers, *Guidance on Site*

[5] Telephone conversation between David Plumpton, Ph.D. of H.T. Harvey & Associates and David Johnston of CDFG, May 2004.

Assessment and Field Surveys for California Red-legged Frogs (February 18, 1997), specifically identifies the field survey methodology that is required to be performed during California red-legged frog surveys as follows:

1. Surveys should be conducted between May 1 and November 1. These sampling dates were selected because they allow surveys to be conducted with minimal disturbance of breeding frogs, eggs, or tadpoles during a period when frogs can be reliably detected.

2. All aquatic habitat identified during the site assessment should be surveyed four times, twice during the day and twice at night. Surveyors should wait at least twenty-four hours and possibly longer, to meet the environmental conditions described in section III(3) below, before repeating surveys at the same site.

3. Day-surveys should be conducted on clear, sunny days. Night-surveys should be conducted on warm, still nights between one hour after sunset and 12 midnight. Warm, still nights are preferable for surveying because the probability of observing frogs tends to decrease under cold, windy conditions. In some circumstances where safety issues preclude night-surveys, the Service can provide alternatives to the surveyor on a case-by-case basis to ensure that safe surveys are conducted.

4. Surveyors should work along the entire shore (either on the bank or in the water), visually scanning all shoreline areas in all aquatic habitats identified during the site assessment. This methodology should be applied to both day- and night-surveys. In the case of water bodies covered with floating vegetation such as duckweed, both the shoreline and surface of the water should be scanned. When wading, surveyors should take maximum care to avoid disturbing sediments, vegetation, and any visible larvae. When walking on the bank, surveyors should take care to not crush root balls, overhanging banks, and streamside vegetation that might provide shelter for frogs.

5. When conducting night-surveys for eye shine, flashlights and headlamps that use one 6-volt or four to six D-cell batteries are recommended. High-powered spotlights are prohibited to avoid harming frogs.

6. Although not required, photographs of frogs observed during field surveys may aid in verification of species identifications. Surveyors should limit photography to the extent necessary to document the presence of California red-legged frogs and should not attempt to photograph frogs if this is likely to disturb them.

The California red-legged frog surveys conducted on the site by H.T. Harvey & Associates were consistent with these field methodology protocols.

In addition, USFWS was contact by H.T. Harvey & Associates prior to the initiation of the field surveys in order to get approval for their survey methodology and approval of the herpetologist conducting the survey. Following completion of the survey, the results were sent to the Sacramento Fish and Wildlife office, consistent with the Guidance document requirements. H.T. Harvey & Associates also consulted with California Department of Fish and Game staff regarding the survey protocol for California red-legged frog prior to initiating the surveys.

Regarding potential impacts as a result of groundwater withdrawals, the commentor is referred to Responses to Comments 15-17 and 15-102.

15-106 As noted by the commentor, the DEIR states that "protocol-level surveys were conducted in accordance with the California Department of Fish and Game, to confirm with acceptable certainty whether nesting burrowing owls occupied the site". As discussed on page 176 of the Draft EIR, results of these surveys indicated that no signs of owl presence were found, nor were any owls seen during the surveys. Follow-up surveys were conducted, which determined that the burrowing owl habitat located on the site appeared to be marginal for burrowing owls, with only a few small ground squirrel burrows present along the margins of the property. Burrows were examined for any secondary evidence of burrowing owls and no sign of their presence was found, nor were any owls seen during these surveys. Thus, the site appeared to be unoccupied by nesting burrowing owls during 2003 and 2004.

CDFG does not request biological consultants to send in follow-up reports with negative conclusions. Had evidence of burrowing owls been found, follow-up consultation with CDFG staff would have occurred.

15-107 The City, having initiated the proposed General Plan Text Amendment and lessee for the subject portion of the School District property, is the project sponsor. As part of the project the City, in working with the School District and the Almaden Youth Association (Almaden Youth Association) to secure the site for development of the interim sports field facility, has initiated a General Plan Text Amendment that would allow the interim use on the property. Therefore, a discussion of San Jose General Plan Policies are included where appropriate in the environmental impact analysis and proposed mitigation measures. The commentor confuses program-level mitigation measures that relate to the application of the proposed Text Amendment to the South Almaden Valley Urban Reserve, and project-level mitigation measures that are applicable to the specific sports complex proposal on the subject site, which are more specific in terms of goals, success criteria, contingencies, implementation responsibility

and agency oversight. Not all program-level mitigation measures identified can be implemented for a given specific project.

15-108 The commentor speculates that the mitigation measures identified in the Biological Resources section of the Draft EIR may not be acceptable to the resource agencies. However, the commentor provides no evidence to support this statement. As stated in the mitigation measures on page 180 of the Draft EIR, mitigation for impacts to California tiger salamanders shall be implemented in consultation with California Department of Fish and Game and USFWS. Both of these agencies were consulted regarding the biological resource mitigation measures.

Regarding the endangered species permit process, USFWS has authority over projects that may affect the continued existence of a federally listed (Threatened or Endangered) species. Section 9 of federal Endangered Species Act (ESA) prohibits the take of federally listed species; take is defined under ESA, in part, as killing, harming, or harassment. Under federal regulations, take is further defined to include habitat modification or degradation where it actually results in death or injury to wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.

Section 7 of ESA outlines procedures for federal interagency cooperation to conserve federally listed species and designated critical habitat when a federal agency is involved in a project. Because no federal agency would be involved in project approval, this section does not apply to the proposed project.

For projects where federal action is not involved and take of a listed species may occur, the project proponent may seek to obtain incidental take under Section 10(a) of ESA. Section 10(a) of ESA allows USFWS to permit the incidental take of listed species if such take is accompanied by a Habitat Conservation Plan (HCP) that includes components to minimize and mitigate impacts associated with the take. The City would need to consult with USFWS to determine whether take would occur with project implementation and whether an HCP would be required for the proposed project.

Pursuant to the California Endangered Species Act (CESA) and Section 2081 of the Fish and Game Code, a permit from the California Department of Fish and Game is required for projects that could result in the take of a state-listed Threatened or Endangered species. Under CESA, "take" is defined as an activity that would directly or indirectly kill an individual of a species, but the definition does not include "harm" or "harass," as the federal act does. As a result, the threshold for a take under the CESA is higher than that under the ESA. The City would need to consult with the California Department of Fish and Game to determine whether a take permit would be required for the proposed project.

15-109 The commentor states that the mitigation measures identified for burrowing owls is confusing. However, the mitigation measure specifically states that preconstruction surveys shall be completed in conformance with appropriate protocols and by a qualified ornithologist. These surveys are required to be conducted no more than 30 days prior to the start of construction and are required to cover any potential habitat within 250 feet of the project area. For more information regarding the specifics of the burrowing owl mitigation, the commentor is referred to page 180 of the Draft EIR.

The commentor speculates that the mitigation measures identified for burrowing owls in the Biological Resources of the Draft EIR may not be acceptable to the resource agencies. However, the commentor provides no evidence to support this statement. As stated in the mitigation measures on page 180 of the Draft EIR, mitigation for impacts to burrowing owls shall be implemented in consultation with CDFG.

15-110 Please refer to Responses to Comments 4-2, 4-3, 15-17 and 15-103.

15-111 The commentor states that the Draft EIR contains no discussion of cumulative impacts and fails to meet this basic requirement of CEQA. For a discussion of the proposed project's cumulative biological resource and water supply impacts, the commentor is referred to pages 222 and 230 of the Draft EIR. As stated on page 222 of the Draft EIR, cumulative projects may result in impacts to biological resources during project construction or operation through the degradation or removal of habitat for wildlife species in the vicinity.

TABLE 15-21

		Segment		Number of Accident/Significance					Accident Rate/MVM		
No.	**Street Name**	**From**	**To**	Total	Fatal	Injury	F+I	Fatal	Injury	F+I	Total
	McKean	Harry	Schillingburg	10	0	6	6	0	0.60	0.60	1.00
	County Average			-	-	-	-	0.02	0.50	0.52	0.72
	State Average			-	-	-	-	-	-	0.65	1.19

TABLE 15-68

ATI PROJECT LISTING

1/7/04

Permit #	PW 3-#	Proj Engr	Proj Location	Project Description	Approved (1=Aprvd; 0=NonAprvd; 5=Future)	Use	# of Units	Sq Ft	% Built
COUNTYMEDCEN	0	TEAM 4	ALMA AV, CAPITOL EX, ROUTE 87, US101	FRANKLIN-MCKINLEY VALLEY HEALTH CENTER	1	COML	0	52000	0
EDENVALE1	0	TEAM 3	EAST OF 101, NORTH OF SILVER CREEK VALLEY RD	EDENVALE ZONE 1	1	IND	0	1E+06	32
EDENVALE2	0	TEAM 1	W/O 101, BOUNDED BY COTTLE RD, SANTA TERESA AND BERNAL	EDENVALE ZONE 2	1	IND	0	3E+06	0
EDENVALE3-4	0	TEAM 3	EAST OF 101, SOUTH OF SILVER CREEK VALLEY RD	EDENVALE ZONE 3&4	1	IND	0	3E+06	0
EDENVALE3-4POOL	0	TEAM 3	EAST OF 101, SOUTH OF SILVER CREEK VALLEY RD	EDENVALE AREA 3-4 POOL	1	IND	0	100000	16
H01-12-081	15418	TEAM 1	BLOSSOM HILL RD, E/O CHAMBERTIN	BLOSSOM HILL LIBRARY	1	COML	0	24200	0
NORTH COYOTE	0	TEAM 7	NORTH COYOTE VALLEY	NORTH COYOTE VALLEY CAMPUS INDUSTRIAL	1	IND	0	0	0
PDC01-10-096 SH	3462	TEAM 6	EVANS LANE	EVANS LANE AFFORDABLE HOUSING	1	RES	240	0	0
PDC02-032	11978	TEAM 6	RUSSO DRIVE (TERMINUS)	CHERRYVIEW RESIDENTIAL	1	RES	148	0	0
PDC02-040	15362	TEAM 4	TULLY RD (S/S), BTWN 10TH ST AND SENTER RD	FRANKLIN MCKINLEY HOUSING PROJECT	1	RES	561	0	0
PDC85-11-109	6552	TEAM 1	ALMADEN RD (W/S), S/S RAJKOVICH	CNTRY VIEW ESTATE	1	RES	381	0	90
PDC96-02-011	12196	TEAM 6	85 & ALMADEN EXP (NE/C)	ARCADIA	1	COML	0	350000	0
PDC97-07-043	10720	TEAM 6	CURTNER AV (S/S) OPP STONE	DAIRY HILL	1	RES	593	0	0

TABLE 15-68

ATI PROJECT LISTING

1/7/04

Permit #	PW 3-#	Proj Engr	Proj Location	Project Description	Approved (1=Aprvd; 0=NonAprvd; 5=Future)	Use	# of Units	Sq Ft	% Built
PDC99-06-053 SH	13970	TEAM 7	SANTA TERES BL (B/S), N/O BAILEY, S/O TULARE HILL	CISCO NORTH COYOTE VALLEY	1	IND	0	7E+06	0
PDC99-10-081	2682	TEAM 6	BLOSSOM HILL RD & SANTA TERESA BLVD (NW/C)	OAKRIDGE MALL EXPANSION	1	COML	0	252000	0
PDC99-10-083	14256	TEAM 6	HILLSDALE AV (N/S), OPP VISTA PARK DR	COMMUNICATIONS HILL	1	RES	756	0	0
PP02-10-309	10739	TEAM 6	CAMDEN AV & BOSE LN (SW/C)	ALMADEN CC AND BRANCH LIBRARY	1	COML	0	58000	0

-----Original Message-----
From: Wachtel@aol.com [mailto:Wachtel@aol.com]
Sent: Monday, September 27, 2004 11:26 AM
To: janis.moore@sanjoseca.gov
Subject: Comment on McKean Road sports complex EIR

Janis Moore
Environmental Project Manager
City of San Jose
janis.moore@sanjoseca.gov

Subject: Comment on DRAFT ENVIRONMENTAL IMPACT REPORT for McKEAN ROAD SPORTS COMPLEX (SCH No. 2002112035) (File No. GPT01-10-02/PP03-02-057)

I am writing to comment on the Draft EIR for the McKean Road sports complex. For reference, I am the government relations director of the California Association of Bicycling Organizations, the federation of California's bicycle clubs. From time to time I provide bicycle transportation planning and litigation consultation services. I am a member of the Institute of Transportation Engineers and have published several widely cited articles in ITE Journal. I also serve as chair of the California Bicycle Advisory Committee, appointed by the Director to advise Caltrans on bicycle matters, though I am not writing in that capacity.

I will confine my comments to bicycling matters, since that is the area in which I am knowledgeable. Most of them, however, would apply equally to walking.

I object vehemently to the following mandatory mitigation measure in the draft EIR for the McKean Road sport complex:

"The following mitigation measure shall be implemented to reduce potential accidents between vehicles and pedestrians/bicyclists on McKean Road:

The site operator (AYA) and the City of San Jose shall include in all league registration materials and field use applications a requirement that parents sign an agreement form that restricts their children from riding bicycles or walking to the site and includes a warning of expulsion from the league for violating the conditions of the agreement." (p. 117) **16-1**

The number of young children who would actually be affected by this restriction is probably negligible. But this "mitigation"--really exactly the opposite--is irrational, indefensible, and illegal, and it would constitute a pernicious precedent that cannot be allowed to stand. I must therefore request that it be removed from the EIR.

Possibly the consultants are not familiar with bicycling matters. Their list of references does not include the Caltrans Highway Design Manual, the VTA Bicycle Technical Guidelines (subtitled A Guide for Local Agencies in Santa Clara County), or the city staff responsible for nonmotorized issues. This would help to explain some of the statements in the EIR. **16-2**

The EIR notes neutrally that "Site access is provided via McKean Road and **16-3**

Almaden Expressway" (p. 106)." Yet it also repeats incessantly that:

"No existing pedestrian or bicycle linkages to and from the project site currently exist." (p. 99)

"No existing pedestrian or bicycle linkages to and from the project site currently exist or are planned as a result of the proposed project." (p. 111)

"Neither the City of San Jose nor the County of Santa Clara currently have funded plans or funded programs to extend either the Alamitos Creek Multi-Purpose Trail or the Arroyo Calero Creek Multi-Purpose Trail to the project site or to construct bike lanes or sidewalks along McKean Road that would facilitate either movement of pedestrians or bicyclists to and from the project site."
(p. 111)

"Given the nature of the proposed use, it is forseeable that users of the project site may attempt to walk or ride a bicycle to and from the proposed project, despite the fact that no trail, bicycle, or sidewalk linkages are provided to encourage or facilitate such movement." (p. 115)

And again on the same page:

"However, users of the project site may attempt to walk or ride a bicycle to and from the proposed project. In addition, increased project vehicle traffic along McKean Road could also pose a hazard to existing pedestrians and bicyclists who currently utilize McKean Road. Because the proposed project does not include the extension of trail, bicycle, and/or sidewalk linkages to/from the project site, a significant traffic safety impact is projected to occur for pedestrians and bicyclists." (p. 115) **16-3 Cont.**

And later:

"Although the project would not be expected to generate substantial demand for bicycle or pedestrian access due to the nature of the proposed activities on the site, the relatively remote location of the site, and the physical constraints of the McKean Road right-of-way, the facility could potentially generate some pedestrian or bicycle trips that would access the site by way of McKean Road. In addition, increased project vehicle traffic along McKean Road could also pose a hazard to existing pedestrians/bicyclists who currently use McKean Road. This would result in a significant safety impact on bicyclists and pedestrians using McKean Road. While it may be desirable to provide nonvehicular connections to the site, there is insufficient right-of-way available on McKean Road to make the necessary roadway improvements to construct sidewalks or bike lanes from Harry Road to the site." (p. 117)

These emphatic statements are completely erroneous. The road access is the bicycle access. Bicyclists do not require bike lanes, "linkages," or "nonvehicular connections" to "encourage or facilitate" travel. The Highway Design Manual states that "Most bicycle travel in the State now occurs on streets and highways without bikeway designations" (Index 1002.4(1)). According to the American Association of State and Highway and Transportation

Officials (AASHTO) Guide for the Development of Bicycle Facilities, which is the design standard used by the Federal Highway Administration and most states, "The majority of bicycling will take place on ordinary roads with no dedicated space for bicyclists. Bicyclists can be expected to ride on almost all roadways. . . ." (pp 1-2).

Yet the consultants imply that it would be a formidable or foolhardy task to bicycle on a road that lacks "linkages," and that one can only "attempt" to do so. In fact, McKean Road is a popular recreational route for club cyclists. **16-3 Cont.**

Of course, the abilities of young children are different from those of adults, but the EIR fails to recognize any distinction. It is not only children who will need to access the sports complex, but older siblings, parents, coaches, and spectators, some of whom might prefer to travel by bicycle. This situation is exactly the same as on every other street, where children are selectively regulated not by laws or arbitrary contracts, but by their parents.

Bicyclists are not responsible for the "significant and unavoidable" traffic safety impact that the consultants believe will occur--motor vehicles are responsible. It therefore seems surprising that:

"The 569 on-site parking spaces, 475 of which are contained in the proposed main parking lot on the south side of San Vicente Avenue and 94 of which are provided in the proposed overflow lot located on the north side of San Vicente Avenue, would be adequate to accommodate the planned recreational league uses of the site. Therefore, no further analysis of parking impacts is required for the proposed project." (p. 106)

Providing full capacity for parking serves as an incentive to maximize the number of vehicles. Yet at the same time the EIR proposes a mandatory "mitigation" that aggressively obstructs nonmotorized modes, the ones that suffer from the traffic impact and that can contribute to reducing it. This does not seem like a sensible approach.

Even if the sports complex were an entirely private project, an adhesive contract requiring users (or their parents on their behalf) to surrender a valuable right unrelated to activities on the site runs afoul of the Unruh Civil Rights Act (Civil Code secs. 51 et seq). The courts have interpreted this act very broadly to preclude all arbitrary discrimination by business establishments (e.g., Marina Point, Ltd. v. Wolfson (1982) 30 Cal.3d 721, and cases cited therein). There may also be questions about ADA compliance. **16-4**

But this is not a purely private project. The City of San Jose Planning Director, in a letter attached to the EIR as Appendix K, has determined that it is a city-sponsored public project. The law holds firmly that local authorities may not regulate bicycling on local streets except as expressly delegated by law, in a few special circumstances that do not apply here. This issue is thoroughly discussed in my article "Bicycles and the Law: The Case of California," published in 1995 in Environs, the Environmental Law and Policy Journal of the U.C. Davis Environmental Law Society. The relevant section is online at http://www.cvcbike.org/club/bikelaw.htm#_A._The_State (mirrored at http://www.vcbike.org/bikelaw/bikelaw.htm#_A._The_State).

The city has no authority to regulate or prohibit bicycling or walking on McKean Road. By adopting an EIR ordering the Almaden Youth Association to do so for certain users, it would be trying to circumvent the law by doing indirectly, through an agent, what it cannot lawfully do directly.

Moreover, if a bicyclist or pedestrian is injured on McKean Road, whether or not traveling to or from this site, the words "hazard" and "significant and unavoidable traffic safety impact," if the city adopts them in the EIR, will not stand it in good stead when it comes to discussing liability. If the city believes that a dangerous condition of public property exists on McKean Road, it has a duty to mitigate it, not to deny access to lawful users. **16-4 Cont.**

I therefore ask the city to make the following modifications to the EIR:

1. Remove all references to waivers of lawful rights.

2. Clarify the lawful and ordinary nature of nonmotorized travel on McKean Road.

3. Identify any dangerous condition of public property on McKean Road. **16-5**

4. Identify inexpensive mitigations or safety improvements, such as signage or edge and surface repair.

5. Provide incentives to carpool to the sports complex.

6. Provide bicycle parking at the sports complex.

Thank you for this opportunity to comment on the EIR.

Alan Wachtel
HPV Transportation Consulting
3446 Janice Way
Palo Alto, CA 94303
Wachtel@aol.com

Alan Wachtel
HPV Transportation Consulting
E-mail dated September 27, 2004

16-1 Please refer to Responses to Comments 3-1 and 11-1.

16-2 The commentor's statements are noted. No substantive environmental issues are raised by the commentor, therefore, no response is necessary. Please refer to Responses to Comments 3-1 and 5-1 through 5-10 for additional information.

16-3 Please refer to Responses to Comments 3-1 and 5-1 through 5-10.

16-4 Please refer to Responses to Comments 3-1, 8-9, 11-1, 15-96, and 43-5.

16-5 The commentor's request for several modifications to the EIR is noted. Please refer to Responses to Comments 3-1, 8-9, 9-4, and 11-1..

08/20/04

AUG 2 6 2004

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

I am writing to you regarding the proposed sports complex on McKean Road. I am told now that the EIR has been released, you are interested in public comments. My family lives in Almaden valley. We have three children ages 11, 9, and 6. I think it is very sad that we spent a lot of money to live in this area because it has a lot to offer our family, good schools, nice parks and hiking trails, the one thing it definitely lacks are sports fields for the many children involved in sports in our community. It is very pathetic that these children have to use borrowed fields such as parks and schools fields that are really not intended to be used as sports fields. Have you ever seen the sports complex in Pleasanton? The city provides beautiful soccer and baseball fields fo their children. Don't our children deserve that? We need to do it now while there is still a space available! I don't think you should worry about pedestrians/bicyclists too much, because the reality is everybody will be driving their kids to the sports fields. It is a shame that a small group of neighbors have made this project so difficult. I hope for the sake of our children in almaden valley, you will vote yes on the McKean sports complex! 17-1

Sincerely,

Janet Paulson
6474 McAbee Road
San Jose, CA 95120

Cc: Almaden Times Weekly

Janet Paulson
Letter dated August 20, 2004; Received August 26, 2004

17-1 The commentor's statements in support of the proposed project are noted. No substantive environmental issues are raised by the commentor; therefore, no response is necessary.

-----Original Message-----
From: bob boydston [mailto:boydnet@ix.netcom.com]
Sent: Friday, August 20, 2004 11:21 AM
To: Moore, Janis
Subject: McKean Road EIR response

Janis, a couple of points:

On page 77 of the old EIR, it is stated that, "the project would result in potentially significant adverse water supply impacts." and drought conditions would contribute to shortages throughout the groundwater sub-basin.

The new EIR on page 92, states that the two project wells would not have enough capacity to meet the project needs. This is an operational problem rather than an environmental problem. Of more interest is the effect of the irrigation on the surrounding water supply. On page 89 of the new EIR, a slightly weaker statement in made. It admits that a draw down of neighboring wells would occur, but most wells would not have problems, but it goes on to say that under drought conditions, the pumping at the site , "may contribute to problems with having adequate ground water across the sub-basin.". These statements of adverse water effects are weaker than the first EIR, but the problem still remains. Based on current project irrigation requirements, this AYA project is risky. **18-1**

What the first EIR failed to state was what the volume/capacity, (V/C), number for the McKean Road is and what the estimated change would be if the project were approved. This was called to the attention of the planning department at the time. The new EIR also omits this information. I would have to guess that volume of traffic exceeds the road capacity. The traffic condition of the two lane McKean Road is of more interest than the Almaden Expressway, which was studied intensely, all the way to the Route 85 interchange. **18-2**

You will notice that the traffic LOS as been modified to ease the requirements. The old EIR on page 82, shows the delay times for LOS E and F to be 40 to 60 sec. and 60 sec. up. The new EIR on page 95 shows E and F to be 55 to 80 sec. and 80 sec. up. Traffic is not going to feel any better, but projects will be easier to justify. This new LOS definition comes from the 2000 Highway Capacity Manual and is different because as one sees a stop light ahead, one slows down and then stops. When the light turns green the car accelerates to get up to speed. The old method counts only the stop time; the new methods adds the deceleration and acceleration times to the stop times. Under the old method, the LOS for the Camden/Almaden intersection is shown to be "F" on page 103 of the old EIR when already approved projects are included. The new EIR on page 95 shows the same intersection to be "E". The traffic has not improved. Using a new method of LOS causes unnecessary confusion. The LOS determination should have been the same for either method. It is recommended the for consistency purposes, only the stopped LOS table be used. **18-3**

The proposal to try a test section of 5 acres seems to be saying that the EIR simulation, which can portray a series of years and varying **18-4**

irrigation flows is faulty. To test the the conditions that the simulation can do, the five acre patch would have to be subjected to many years of weather cycles. Then what? What would this prove?

18-4 Cont.

Bob Boydston, President, AVCA

Bob Boydston
E-mail dated August 20, 2004

18-1 Please refer to Responses to Comments 4-2 and 4-3. The commentor summarizes the Water Supply analysis of the Draft EIR, noting that the proposed project's irrigation demands would be in excess of the available capacity of the two project wells. In addition, the computer simulation of groundwater determined that under drought conditions, the pumping at the site, compounded with reduced recharge and increased pumping from neighboring wells, may contribute to problems with having adequate ground water across the sub-basin. Because the identified mitigation measures would not reduce this impact to a less-than-significant level, it would remain significant and unavoidable.

The commentor's statement that the proposed McKean Road Sports Complex project is risky is noted.

18-2 The City's General Plan identifies land use and long-range forecasts for the purpose of sizing City streets. The volume to capacity (V/C) ratio only applies to signalized intersections, not roadway segments. Furthermore, the V/C is not the City's measure of impact for traffic. The City uses consistency with the Level of Service (LOS) Policy 5-3 as the measure of impact or threshold when evaluating a project's traffic impacts. The near-term analysis required for individual projects includes intersection LOS and is performed to determine conformance to the City's adopted LOS Policy, the City's measure of CEQA conformance.

18-3 The changes identified in the comment resulted from an update to the Traffix software to HCM 2000, which is a mandatory update that occurs every two years. Updating the Traffix software was a requirement of the VTA's Congestion Management Program and all member agencies were required to update. The update occurred during the year since the first version of the Draft EIR was prepared.

18-4 Please refer to Responses to Comments 4-2 and 4-3. In addition, as indicated by the commentor, the Draft EIR includes a project alterative that would involve the initial irrigation of five acres as described in the Alternatives section of the Draft EIR beginning on page 210, instead of the total 20 acres. The purpose of the project alternatives is to make sure the aquifer would be able to supply sufficient water to the site prior to expanding the number of sports fields. By starting with a smaller project, the response of the aquifer to the reduced pumping rate can be monitored over a period of two to three years, at which time it could be determined whether or not there is sufficient water supply for additional sports fields. The number of additional irrigated fields would be based on water availability during the peak month of July, when water demand is at its greatest.

Date: 8/23/04

AUG 2 6 2004

Regarding: Youth Sports Field Complex on Mckean Rd.
(SCH. No. 2002112035)
(File No. GPT01-10-02/PP03-02-057)

Attn: Dept. of Planning, Building and Code Enforcement

The purpose of this letter is to express our concerns over the proposed Youth Sports Field Complex on Mckean Rd. While providing recreational opportunities for our youth is generally a good idea, we feel that this location is not suitable. Our principle concern as residents of Mckean Rd., are traffic and traffic safety issues. Mckean Rd. is already dangerous due to excessive weekend traffic trying to escape to a country road. We have already had several near misses trying to get in and out of our driveway onto Mckean. Traffic (be it motorcycles, bicycles, or cars) is already very heavy on weekends, and this plan will only compound the problem. Imagine literally hundreds of additional vehicles funneling down this narrow road in a rush to make their kid's game in time. 19-1 19-2

We previously experienced similar circumstances while living across a busy street from a little league field for 7 years. There were numerous accidents related to the additional traffic, including one where I was rear-ended turning into my driveway.

There are several horse owners who pull large trailers in and out of their driveways onto Mckean in this area as well. This combination of rural setting and rural pace will not be compatible with the frenzied pace of distracted "soccer moms" rushing to the kid's games. 19-3

Please do not go forward with this plan. This area is much more suited for light density residential, or any use that doesn't potentially introduce concentrated traffic swells on a road not designed to accommodate them. 19-4

Thanks for your attention to this matter.

Regards, David & Lisa Lischka
20100 Mckean Rd.
San Jose, Ca. 95120
408-927-7864

Lisa Lischka

Lisa Lischka
Letter dated August 23, 2004; Received August 26, 2004

19-1 The commentor's opinion and statement of opposition to the proposed McKean Road Sports Complex project are noted; however the comment does not raise any new environmental issues, therefore, no response is required. Please also refer to Response to Comment 3-1 for discussion on traffic safety.

19-2 Please refer to Response to Comment 19-1.

19-3 Please refer to Response to Comment 19-1.

19-4 Please refer to Response to Comment 19-1.

RECEIVED
SEP 2 0 2004
CITY OF SAN JOSE
PLANNING DEPARTMENT

September 16, 2004

Director of Planning, Building and Code Enforcement
801 North First Street, Room 400
San Jose, California 95110-1795

Re: DRAFT ENVIRONMENTAL IMPACT REPORT (SCH No. 2002112035)
(File No. GPT01-10-02/PP03-02-057)

To Whom It May Concern,

The South Almaden Urban Reserve was wisely created years ago in order to prevent unplanned growth until there was a need to develop the land in the Reserve. Now there are those who want to build a large sports complex right in the middle of this Reserve. Through political manipulation this proposed project has now been designated as a "Public Project" by the City of San Jose. This is not a public project and the use will not be "interim". In an attempt to create a more favorable position, a new Draft Environmental Impact Report was just completed. Much to the dismay of the proponents, the new report does not support the building of this complex. The report tries to put a positive spin on the "significant unavoidable impacts", however, any and all suggested mitigation measures are ludicrous and very self-serving to the proponents of this proposed project. 20-1 20-2

The water issue alone should provide adequate reason not to approve this project. Building it in phases and implementing a so called "detailed water management program" is ridiculous and when I read the mitigation measure to "continually monitor local microclimate conditions', I realized how truly desperate the proponents of this project really are. This report and mitigation measures is very biased in favor of the proponents. 20-3

When the transportation issue is evaluated this report and it's mitigation measures truly takes a giant leap into the realm of the bizarre. The report states that the posted speed limit on McKean is 40mph, when in reality most cars and motorcycles are going between 50-70 mph. You can't drive 40 mph on McKean and if you attempt to drive the speed limit you will have cars and motorcycles passing you over a double yellow line and the driver usually acknowledges you with his middle finger as he roars by you. The agreement that the parents will sign regarding their children that restricts their children from riding bicycles or walking to the site is ridiculous. What about the existing bicyclists and pedestrians? Who is going to protect them from the dangers of the increased traffic and cross-traffic? For an experience of a lifetime, try taking a bike ride or stroll on McKean Rd, especially at rush hour or on the weekend. This project is a lawsuit waiting to happen. 20-4 20-5

The noise issue will require the city to ignore or modify the General Plan Noise Policy Conformance. As there are no available mitigation measures, the impact would be considered significant and unavoidable. The City's noise policies should be followed, 20-6

not just set aside and ignored in order to approve a project that does not belong in the South Almaden Valley Urban Reserve. 20-6

The proposed sports field should not be approved and even the new and costly EIR clearly shows that. With the current budget problems that the City of San Jose and the San Jose Unified School District are facing, it is difficult to understand why Vice Mayor Pat Dando and the city of San Jose, have already spent so much of the taxpayers' money on a project that does not belong in the Reserve. Please do not approve this mistake. 20-7

Sincerely,

Douglas R. Turk
20417 Hunters Hill Rd
San Jose, Ca. 95120 (408) 997-2999

Douglas R. Turk
Letter dated September 16, 2004; Received September 20, 2004

20-1 In regards to the description of the proposed project as a public project, please refer to Response to Comment 10-2. In regards to the description of the proposed project as not being an interim use, please refer to Response to Comment 15-11. The remainder of the comment states the opinion of the author. No further response is required

20-2 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

20-3 The commentor's statements in opposition to the proposed project are noted; however the comment does not raise any new environmental issues, therefore, no response is required.

20-4 It is acknowledged that the speed limit is posted as 40mph and that some cars typically exceed the speed limit. This is a traffic enforcement issue, not a CEQA issue. Please refer to Responses to Comments 3-1 and 11-1 for additional information pertaining to bicycle/pedestrian safety.

20-5 Please refer to Response to Comment 3-1.

20-6 As noted by the commentor, the project would result in a significant noise impact as identified in the Draft EIR, for which there are no available mitigation measures.

20-7 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

-----Original Message-----
From: Steven Mielich [mailto:S.Mielich@mdl.com]
Sent: Monday, September 20, 2004 10:40 PM
To: 'janis.moore@sanjoseca.gov'
Subject: EIR - McKEAN ROAD SPORTS COMPLEX

ERI - McKEAN ROAD SPORTS COMPLEX

I have several concerns regarding the impact this new complex will have on existing traffic conditions on McKean Road. The existing condition of the road and the traffic conditions, especially on the weekends, make passage dangerous for cyclists. Adding additional load, both motorists and bicyclists, to the existing conditions will certainly raise the danger significantly especially with hundreds of vehicles entering and exiting the complex. **21-1**

I feel strongly that road conditions must to be improved as the existing situation is already at a boiling point. It is hard, if not impossible, to sit on the side of the road and observe what it is like to be a cyclist riding on McKean Road. If you are on a bike and travel on McKean it is obvious that it is dangerous as it is and adding additional load to the situation, without making improvements, could be disastrous. **21-2**

I understand that widening the road, adding a bike lane and a sidewalk may be cost prohibitive. But, a quality re-paving of the road, with attention to the quality and size of the shoulder will go a long way towards mitigating the danger.

Also, these considerations should not only apply to the stretch of McKean between Harry and the project site, but should also apply south of the project site to Bailey. It is my experience that this route is popular with motorists and is becoming increasingly popular. The stretch of McKean between the project site and Bailey Road appears to be absent from the EIR and I feel should be given equal attention. **21-3**

Thanks for your time and consideration,

Steven Mielich
325 Los Pinos Way
San Jose, CA 95119

Steven Mielich
E-mail dated September 20, 2004

21-1 Please refer to Response to Comment 3-1.

21-2 Please refer to Response to Comment 3-1.

21-3 Please refer to Response to Comment 3-1. Furthermore, the boundary of the Almaden Youth Association encompasses neighborhoods north of the project site. The traffic study identifies that 95% of user trips would originate from the north of the project site. Traffic from south of the project site would be negligible, therefore, traffic conditions south of the project site to Bailey Avenue are not expected to be negatively affected by the proposed project.

-----Original Message-----
From: Rupert Brauch [mailto:Rupert.Brauch@Sun.COM]
Sent: Tuesday, September 21, 2004 9:18 AM
To: janis.moore@sanjoseca.gov
Subject: comment regarding proposed McKean sports complex

Regrading the proposed sports complex on McKean road, I'm concerned about the additional traffic the complex would bring to the area. McKean is a rural road, and is a popular route for bicyclists due to its low traffic volume. If the road were not widened, the additional traffic would be a danger to cyclists, and could result in fatalities. **22-1**

Sincerely,
-Rupert Brauch

Rupert Brauch
E-mail dated September 21, 2004

22-1 Please refer to Response to Comment 3-1.

-----Original Message-----
From: DaMervclub107OD@aol.com [mailto:DaMervclub107OD@aol.com]
Sent: Tuesday, September 21, 2004 2:12 AM
To: janis.moore@sanjoseca.gov
Subject: McKean Road Sports Complex

To Whom It May Concern: I am concerned that a public sports facility will be developed that will by design be accessible only by automobile. It is wrong to permit access only to those possessed of privilige. It is further wrong that access is only to be permitted to those whose travel mode has the highest environmental impact. 23-1

As a bicyclist who sometimes uses McKean Road as a route this is most disturbing. My personal rights may be under attack by my city.

If this complex is to be built it must be accessible to all citizens.

Sincerely,
Marvin Laurence
damervclub107od@aol.com

Marvin Laurence
E-mail dated September 21, 2004

23-1 The commentor's opinion regarding the requirement that the site be accessible to all citizens of San Jose is noted. Please refer to Response to Comment 3-1.

-----Original Message-----
From: Jonathan Racine [mailto:jonathanracine@yahoo.com]
Sent: Tuesday, September 21, 2004 11:41 AM
To: Web Master
Subject: RE: Feedback from Website

Leah

McKEAN ROAD SPORTS COMPLEX

Jonathan

--- Web Master <CustomerService@sanjoseca.gov wrote:

Thanks for your comments. I need to understand what project your comments are about so that I can appropriately direct them to the correct people. Can you be specific about what project and environmental report you are referring to? As you can see, the following is the email I received.

Thanks,
Leah Ghedir
City of San Jose Customer Service Call Center
(408) 277-4000 - Work
(408) 277-2277 - Fax
http://www.sanjoseca.gov/
http://www.sanjoseca.gov/

-----Original Message-----
From: jonathanracine@yahoo.com
[mailto:jonathanracine@yahoo.com]
Sent: Monday, September 20, 2004 8:22 PM
To: Web.Master@sanjoseca.gov
Subject: Feedback from Website

Comments submitted via web Feedback form

Email = jonathanracine@yahoo.com
Subject = comment
Comments = San Jose shouldnt spending the money on this. Preserve the open space, we have already bulldozed enough land, and poured cement on it. Environmental report is vague, its doesnt show how the animals of this area will be forced to relocate. Consider that before building. Jonathan 24-1

Jonathan Racine
E-mail dated September 21, 2004

24-1 The commentor's statement in opposition to the proposed project is noted. The commentor is referred to the Biological Resources section of the Draft EIR for the biological resources impact analysis conducted for this project.

-----Original Message-----
From: Esther Snively [mailto:esnively@comcast.net]
Sent: Tuesday, September 21, 2004 9:41 AM
To: janis.moore@sanjoseca.gov
Cc: esnively@comcast.net
Subject: McKean Road Sports Complex

Dear Janis,

As a recreational bicyclist, I am extremely concerned about the proposed "Sports Complex" on McKean Road.

I and thousands of other bicyclists enjoy riding on McKean Road for an outing either to and from the reservoirs and southward to Morgan Hill. As you know, McKean Road is a two lane road with narrow to no shoulders. Vehicles using McKean Road tend to travel at high rate of speed. **25-1**

A sports complex operating along the route, just west of Fortini Road, would create a severe hazard in that numerous vehicles would be driving to and from the area. Many of drivers would be from distant areas and unfamiliar with the terrain and bicycle usage. I can imagine the danger to bicyclists trying to travel through the area under those conditions.

Are there plans to widen McKean Road to four lanes with ample bike lane provided BEFORE the proposed sports complex is built? Is a paved bicycle trail planned in conjunction with the sports complex so people can ride their bikes to and from a sporting event? **25-2**

If not, the impact of the increased traffic on McKean Road would be detrimental to the cycling community. I urge you to deny permission to construct the sports complex.

Very truly yours,

Esther Snively

1641 Knollwood Avenue

San Jose, California 95125

esnively@comcast.net

Esther Snively
E-mail dated September 21, 2004

25-1 Please refer to Response to Comment 3-1.

25-2 The commentor's opinion regarding the proposed project is noted. The decision to consider the approval of the project will be made by the City Council. Please also refer to Responses to Comments 3-1 and 5-1 through 5-10.

RECEIVED
SEP 22 2004
CITY OF SAN JOSE
PLANNING DEPARTMENT

File No. GPT01-10-02 PP03-02-057

To whom it may concern —
I am writing to you concerning the South McKean Rd Sports Complex. I am against it because of the water problems we have here. Low water has always been a problem out here. We are on a well & I feel that the Complex will draw too much under ground water and will be a problem for us. 26-1

We need this farmland to grow hay crops. Horses, cows & other hay eating animals need it, also this land is in the Valley Urban Reserve and McKean Rd is designated as a Scenic Rd. 26-2

The traffic is steadily increasing. The Complex will cause a major headache for cars, people & wild 26-3

2/

life. There is no public transportation, no walking space. The shoulders (road) are as narrow as 12 inches wide. What will happen on the weekends when the Church holds services Sat & Sunday? When the Horsemen's have events? Also the school? This is a very narrow 2 lane Rd without any turn offs. We have car accidents out here quite often. In the last 2 months 2 car accidents happened across from my home. Tell Ms. Wlando to come out here & look at the car skid marks from Harry Rd. to Bailey. We will have more traffic when the 101 - Santa Teresa - Bailey Ramp is completed. These skid marks are since the road was

26-3

3/

recently resurfaced.
What about the wildlife?
They need the creek and
a more quiet place. It will
disrupt their life, we are losing
too many species from building 26-4
in their space. We have already
lost some species out here.
Coyotes + Deer are disappearing
also small animals + birds.
Let us keep our Urban Sprawl.
There is bound to be many
car accidents at the Complex. If
there is a fatality accidents who
will be sued, County - City - or 26-5
School district?
Let us keep what little country
space we have left.

Sincerely
Evelyn Courtney
22450 McKean Rd. San Jose 95120

4

I am in favor of having places for our youth.
What is wrong with using the school fields that aren't used on the weekends?
What about the complex on Coyote Rd. (a short distance from here)?
We need more sensible planning!!

26-6

The city of Santa Clara, realizing there was huge demand for soccer fields, opened the 11.5-
Soccer Park earlier this year near Tasman Drive and Centennial Boulevard.

measure for city parks that voters overwhelmingly approved in 2000.

The $10 million Shady Oaks project on Coyote Road in south San Jose is now scheduled to open in 2008. It was first delayed by neighborhood objections. Now city officials say it's a shortage of operating money to schedule and maintain the fields, as the city struggles just to keep up existing parks.

But soccer fields pay for their own operations over time through fees and leases. The city should speed up construction. Then parents and players could raise money, or volunteer to help maintain the fields,
nue catches up with the costs.

Even if those fields get built, r
reation officials believe they'll fa
still-growing demand. And that's
The other half of Santa Clara Co
little or no better at keeping up.

Regardless of whether the Earl
here — and we hope they will —
of meeting the need for amateur
is just beginning. And it won't b
the people who care — players an
flex some muscle.

Evelyn Courtney
Letter received September 22, 2004

26-1 The commentor's statement in opposition to the proposed McKean Road Sports Complex project is noted. The commentor is referred to the Water Supply section of the Draft EIR and Response to Comment 28-1 for a discussion of the project's potential impact to the groundwater supply within the area. Please also refer to Responses to Comments 4-2 and 4-3.

26-2 The section of McKean Road between Calero Reservoir and Bailey Road is designated a Rural Scenic Corridor, as identified on page 20 of the Draft EIR; however, the section of McKean Road adjacent to the proposed project site is not so designated. Please also refer to Responses to Comments 10-8 and 15-29.

26-3 Please refer to Response to Comment 3-1.

26-4 The effects of the proposed project on wildlife are discussed in the Biological Resources section of the Draft EIR, on pages 170-181. The commentor is referred to the impact discussion included in this section of the Draft EIR for a detailed assessment of impacts to biological resources at and in the vicinity of the project site..

26-5 The commentor's statements regarding the proposed McKean Road Sports Complex project are noted; however the comment does not raise any new environmental issues, therefore, no response is required. Please refer to Response to Comment 3-1.

26-6 One of the project objectives identified in the Draft EIR on page 11 is "... to design the proposed facility for use by local youth sports leagues;" The local league in this area is the Almaden Youth Association. Coyote Road is well outside of the league boundary, therefore would not be suitable for Almaden Youth Association . Please also refer to Responses to Comments 10-18, 15-6 and 18-4, and 46-2.

-----Original Message-----
From: Dave Lichtenstein [mailto:advisor@jps.net]
Sent: Friday, September 24, 2004 10:40 PM
To: janis.moore@sanjoseca.gov
Cc: mayoremail@sanjoseca.gov
Subject: sports complex

Dear Ms. Moore,

I would like to go on record as being opposed to the McKean Road sports complex. Although I am the mother of an avid soccer player, the negatives of the complex far outweigh the positives. Of utmost concern to me is the added traffic that our local streets would incur and the danger it would pose to pedestrians, cyclists and equestrians on McKean Road. 27--1 In addition, watering fields with water needed for existing housing seems ethically wrong. 27-2 I would like to suggest that the city/school district do a better job of maintaining and improving existing fields in the area. If they are unsafe for our recreational athletes, they are unsafe for our school athletes. As a teacher in San Jose Unified School District, I am certain that there are better ways to spend the taxpayers' money than to help fund this complex and/or lease the property for 1 dollar/ year. 27-3 Shame on the district for squandering our money in such a way. Thank you for your concern.

Sincerely,

Jeanne Lichtenstein

Dave Lichtenstein
E-mail dated September 24, 2004

27-1 Please refer to Response to Comment 3-1.

27-2 The commentor's statement in opposition to the proposed McKean Road Sports Complex project is noted. The commentor is referred to the Water Supply section of the Draft EIR and Response to Comment 28-1 for a discussion of the project's potential impact to the groundwater supply within the area. Please also refer to Responses to Comments 4-2 and 4-3.

27-3 The comment states the opinion of the author and does not raise any specific issues regarding the adequacy of the Draft EIR. No response is required.

-----Original Message-----
From: Combs, Joe [mailto:JCombs@frk.com]
Sent: Sunday, September 26, 2004 9:38 PM
To: janis.moore@sanjoseca.gov
Subject: McKean Sports Complex Disaster

Environmental Project Manager, Janis Moore
Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

September 26, 2004

Dear Ms. Moore:

As a resident of the Urban Reserve I am concerned about your proposed sports complex on McKean Road. I saw your most recent DEIR (August 2004) on this project and I have the following comments to make:

First, the water issue. Your report indicates that the two wells on the project are insufficient to supply water to the project. It doesn't even take into account the drought months, when water is low. Since the only test I can see that you ran was following the rainy season, you have no idea what the wells will do during drought months. There has been no surveys or tests on the existing wells of the current residents who will be using the same water supply as the sports complex. Without a starting point, how will anyone know the impact the sports complex has on these wells? If the wells are ruined, who will be responsible? As for your mitigation, it would be incredibly irresponsible to continue spending money on a project that you must take a "wait and see if there is enough water" approach. Is that even legal? To leave a big question like that unanswered when you are recommending approval or disapproval. This is not a reasonable mitigation. If you cannot plan the entire project and project the water impacts for the entire project than you must reject it. **28-1**

Second, the noise. According to your report it exists, it isn't going away, it is above acceptable levels and there is no reasonable mitigation provided. **28-2**

Third - Traffic. Your estimates are low. Just taking the evening practice, which starts at 5:30, the peak of traffic for the residents in the area as they return home. You will have 180 kids (cars) arriving and 250 cars leaving (the 180 that have finished practice plus most of the arriving parents who will drop their kids off and leave again). This roadway can't handle that traffic. You will be deliberately creating an unbearable situation for the community. You will also make it impossible for residents living across from the park to exit their homes. Crossing the roadway to turn left will be impossible. Once again, mitigation is non-existent. **28-3**

Fourth - Safety. Your report fails to adequately describe the type and number of accidents that might occur. Your mitigation is non-existent. Claiming that you can't afford to mitigate the danger to children, residents, and visitors is not mitigation. "We don't have money to save lives so its significant and unavoidable that people will die" is an unbelievable approach **28-4**

to public projects.

One question I would like answered is: How can the San Jose Unified School District rent the land in question for $1 per year, when they are closing schools and dropping classes and teachers? It seems to me that they could utilize the land much better and put some much needed money into the school district at the same time! 28-5

You cannot, in any good conscience recommend that the council approve this EIR and move forward with this project.

Very truly yours,

Joe Combs
22503 San Vicente Ave.
San Jose, CA 95120

Joe Combs
E-mail dated September 26, 2004

28-1 Please refer to Responses to Comments 4-2 and 4-3. In addition, two groundwater monitoring wells and two observation wells were installed for the purposes of determining the hydraulic properties of the shallow aquifer and for long-term monitoring of groundwater levels. As described in the Draft EIR (pages 67-73), the pumping test performed on May 4 through 6, 2004, provided hydraulic information about the aquifer; this information was used as input parameters for computer modeling of the aquifer and groundwater flow at the site. SCVWD provided rainfall data from October 1959 to June 2000 and groundwater hydrographs for two wells monitored by SCVWD in the vicinity of the project site. Using this information, the hydrogeologic model developed for the aquifer enabled the determination of the proposed project's effect from irrigation demands on simulated groundwater flow at the site under varied conditions.

To evaluate the response of the aquifer to groundwater pumping under drought conditions, a scenario was run that simulated the 20-year period 1972 to 1991. This time period was chosen because it contained a relatively large number of drought years, including ten years during which rainfall was from 30% to 71% of the average for rain gage data. The results of this simulation indicate that maximum drawdown at monitoring wells, located approximately 1,000 feet from the Caglia well, ranged from 1.72 feet to 2.91 feet (refer to Exhibit II.D-13 of the Draft EIR).

Since the amount of drawdown observed was strongly influenced by recharge from the creek, another scenario was run involving the elimination of all creek flow for three and a half years (corresponding to the recharge months of April 1986 to September 1989, the most prolonged very dry period of the 20 years simulated). The groundwater levels over time, or hydrograph, for this scenario under present-day pumping rates, which is lower than pumping rates proposed with the project, shows that the cessation of creek flow lowers the water table (refer to Exhibit II.D-14 of the Draft EIR). Maximum drawdown at the two monitoring wells was estimated to be 2.82 feet and 3.29 feet. Water levels recovered rapidly once creek flow recommenced.

The scenario of no creek flow over the same time period was also run with projected pumping associated with irrigation water demands for the project. The Caglia well and simulated new well could not sustain the rate of pumping required to meet this demand, and pumped dry under this computer simulation scenario. The two wells could sustain a pumping rate with the Caglia and the new well pumping at one half of that simulated previously (one half of the maximum pumping rates, corresponding to years 1-3, in Table II.D-5). Exhibit II.D-15 of the Draft EIR presents the hydrograph corresponding to monitoring well Z-1 for this scenario with the pumping rates reduced to one third at the two

wells. The maximum drawdown for the two monitoring wells is estimated at 5.47 feet and 5.92 feet.

There are no active pumping wells within a 1,000-foot radius of the Caglia well. Wells off-site would experience less drawdown of the water table than would be experienced at the monitoring wells. The drawdown at off-site wells can be estimated from the drawdown contours in Exhibit II.D-11 of the Draft EIR. For example, drawdown at a distance of 2,000 feet would range from 2.0 feet to less than 0.5 feet, depending on the direction measured from the wells. This magnitude of drawdown should not affect the water supply for most neighboring wells completed in the alluvium, unless the wells are being pumped at their maximum yield. However, it is possible that under drought conditions, the pumping at the site, compounded with reduced recharge and increased pumping from neighboring wells, may contribute to problems with having adequate ground water across the sub-basin. During the previous drought in the late 1980s/early 1990s, pumping from the set of wells within the modeled region was more than twice as high as recently.

Mitigation measures have been identified to address water demands within the sub-basin during drought conditions. These mitigation measures are identified on page 92 of the Draft EIR and are intended to ensure that off-site water supply wells are not adversely affected. For instance, during periods of drought when discharge from Calero Reservoir is below 3 cfs, the City shall reduce irrigation at the site. The reduction shall correspond to the availability of water within Arroyo Calero Creek with no pumping allowed if Arroyo Calero Creek is dry adjacent to the project site.

In terms of site operations, the water supply analysis concluded that the two project wells (existing Caglia well plus proposed new well) would not be adequate to meet the site's irrigation demands. Furthermore, this condition would be exacerbated during periods of drought. Because the identified mitigation measure would not reduce this impact to a less-than-significant level and alternative water supplies are not available to meet the site's irrigation water demands, the lack of adequate water was identified in the Draft EIR as a significant and unavoidable impact.

The commentor's statement that approval of the proposed project cannot be justified based on the significant and unavoidable water supply impacts associated with irrigation water demands is noted.

Prior to making a decision to approve the proposed project for which an EIR has been certified which identifies one or more significant environmental effects, the lead agency is required to prepare written findings for each significant effect, accompanied by the rationale for each finding. The possible findings are:

(1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

CEQA requires the decision-making agency (City of San Jose) to balance the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable." When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the Final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

28-2 Please refer to Response to Comment 20-6. In addition, the commentor's statements regarding the Noise section of the Draft EIR are noted. With respect to the noise impacts identified in the Draft EIR, it should be clarified that noise impacts associated with construction activities would be considered significant; however, mitigation measures are identified to reduce these short-term noise levels to a less-than-significant level. The traffic generated by the proposed project would not generate noise levels in excess of City standards, therefore, this impact is considered less than significant. The operational noise levels generated by the project would exceed the City's General Plan Noise Policy standards at the property lines of the nearest adjacent residences. Because no feasible noise control measures are available to reduce these operational noise levels to below the City's standards, this impact would be considered significant and unavoidable.

28-3 Information on league activities was obtained from the currently existing Almaden Youth Association. At the time the report was written, the information used was the best available and City staff is satisfied the information provided was a reasonable assumption. Please refer to Responses to Comments 8-9, 15-20 and 15-85.

28-4 For information on existing accidents, please refer to Responses to Comments 3-1 and 5-1. In addition, it would be difficult to predict "the type and number of accidents that might occur."

28-5 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

-----Original Message-----
From: Lorraine Combs [mailto:lcombs@windermere.com]
Sent: Sunday, September 26, 2004 8:26 PM
To: Janis.moore@sanjoseca.gov
Subject: McKean Road Sports Complex

Environmental Project Manager, Janis Moore
September 26, 2004

Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

Dear Ms. Moore:

As a resident of the Urban Reserve I am concerned about your proposed sports complex on McKean Road. I saw your most recent DEIR (August 2004) on this project and I have the following comments to make:

First, the water issue. Your report indicates that the two wells on the project are insufficient to supply water to the project. It doesn't even take into account the drought months, when water is low. Since the only test I can see that you ran was following the rainy season, you have no idea what the wells will do during drought months. 29-1

The project impacts aside, your report barely considers the impact to the region. The heavy demand of water for this project could severely damage the aquifer and surrounding wells. Your contractor made no attempt to contact the area residents to discuss well issues that may exist in the area. As for your mitigation, it would be incredibly irresponsible to continue spending money on a project that you must take a "wait and see if there is enough water" approach. Is that even legal? Are we, the residents, supposed to put our lives on hold while we wait to see if there will be enough water for us to enjoy living in our own homes? If you dry up our water supply, then what is the plan in place to supply us with water and to compensate us for loss of livestock, gardens and value. To leave a big question like that unanswered when you are recommending approval or disapproval. This is not a reasonable mitigation. If you cannot plan the entire project and project the water impacts for the entire project then you must reject it. 29-2

Second, the noise. According to your report it exists, it isn't going away, it is above acceptable levels and there is no reasonable mitigation provided. 29-3

Third - Traffic. Your estimates are low. Just taking the evening practice, which starts at 5:30, the peak of traffic for the residents in the area as they return home. You will have 180 kids (cars) arriving and the cars leaving (the 180 that have finished practice plus most of the arriving parents who will drop their kids off and leave again). This roadway can't handle that traffic. You will be deliberately creating an unbearable situation for the community. You will also make it impossible for 29-4

residents living across from the park to exit their homes. Crossing the roadway to turn left will be impossible. Once again, mitigation is non-existent. **29-4 Cont.**

Fourth - Safety. Your report fails to adequately describe the type and number of accidents that might occur. Your mitigation is non-existent. Claiming that you can't afford to mitigate the danger to children, residents, and visitors is not mitigation. This road is used by Bikers, Cyclists, Equestrians and locals, did you expect that we too would be required to sign a waiver to say we would not use the road. Again, if you do not plan on doing this correctly with adequate infrastructure then it should not be done at all. **29-5**

You cannot, in any good conscience recommend that the council approve this EIR and move forward with this project.

Very truly yours,

Lorraine Combs
22503 San Vicente Avenue
San Jose, CA 95120
408-997-2234

Lorraine Combs
E-mail dated September 26, 2004

29-1 Please refer to Response to Comment 28-1.

29-2 Please refer to Response to Comment 28-1.

29-3 The commentor's statements regarding the proposed McKean Road Sports Complex project are noted, however the comment does not raise any new environmental issues, therefore, no response is required. Please refer to Responses to Comments 20-6 and 28-2 for addition information.

29-4 Please refer to Responses to Comments 8-9, 15-20, 15-85 and 28-3.

29-5 Please refer to Responses to Comments 3-1, 15-20 and 28-4.

-----Original Message-----
From: Brad Gordon [mailto:brad.gordon@redoaktech.com]
Sent: Sunday, September 26, 2004 11:05 AM
To: janis.moore@sanjoseca.gov
Subject: Input on EIR (SCH No. 2002112035) (File No. GPT01-10-02/PP03-02-057)

This is my input on the DRAFT ENVIRONMENTAL IMPACT REPORT for McKEAN ROAD SPORTS COMPLEX (SCH No. 2002112035) (File No. GPT01-10-02/PP03-02-057).

1. The EIR is very clear that the Noise level created by the sports fields will be in violation of city standards. It is described as a Significant and Unavoidable Impact with no feasible Mitigating Measures. If that is the case what would the process be to overrule this and allow the project to continue? In my opinion it does not matter if one person or 1000 are affected by this, the affect is felt just the same. In my opinion it does not matter if the noise is one decibel over the limit or one hundred, the affect is felt. In my opinion it does matter if other noise is already present (i.e. road noise from McKean), the affect from the additional and unusual noise will be felt. **30-1**

The proposed site for this project is within the Urban Reserve. This area is very quiet with a "country" feel to it. The people who purchased property here did so knowing it was protected under local laws, guidelines and policies. If the result of this project is noise pollution in an area that is designated to be protected you should expect law suites to be filed. As such, I believe it is the responsibility of the City to fully address this impact with the individual landowners who will be affected by this. This should be done via public meetings with special invitations to all who may be personally affected by this.

2. The Water Supply is also described as a Significant and Unavoidable Impact. The reason this is a problem is the testing done to date shows there is not enough ground water to support the existing needs of the local residents plus the needs of this project. The Mitigating Measures for this do not make sense. They are basically saying purchase equipment and build process for monitoring the problem. That begs the question - why bother testing in the first place? The answers derived from the tests are conclusive and decisive - there is not enough water for this project. Monitoring the problem is not the same as mitigating the problem. Mitigating means to alleviate or render less painful. As with Noise the result of ignoring this problem will be law suites. **30-2**

3. The changes to the Visual Characteristic are also described as Significant and Unavoidable Impact with No Mitigating Measures. It has been debated in the press that theses changes are insignificant because sports fields, while different, will be beautiful grass fields. What is missed in this argument is the fact that this is significantly different from what is currently in this area. More importantly is the fact that in addition to the fields will be portable toilets, driveways, parking lots, concession stands and the like. None of these are compatible with the existing environment. Again, the landowners in this area paid a premium for their homes based on the surrounding environment. That was done with the knowledge that the local governments have laws, policies and guidelines to protect their investment. Again, expect law suites if this Significant and Unavoidable Impact is felt **30-3**

by the surrounding community.

4. The EIR states the project is in violation of the Santa Clara County Plan. A technicality allows the City to claim it is a public works project and continue in spite of this violation. What process was used to ignore the County Policies and why? **30-4**

5. According to CEQA "If a project has a potentially significant impact, mitigation measures must be considered. If mitigation measures to reduce the impact to less than significant are not feasible due to economic, social, environmental, legal, or other conditions, the most feasible mitigation measures must be considered." This EIR contains multiple Significant and Unavoidable Impacts with no Mitigating Measures unless the project considers other alternatives. There are alternatives listed which would results in Mitigating Measures. Therefore, according to CEQA the project must use the alternative measures. **30-5**

6. San Jose City's Green Building Policy (adopted June 19, 2001) is clearly designed to help protect the environment. While the policy is centered on "buildings" it is obvious the intention is for development "that is healthier for the occupants and healthier for the environment". **30-6**

The EIR has several sections that identify violations of this policy. I suggest that in addition to other public policy review, the EIR be reviewed in the context of this City policy. Furthermore, any decisions that will override the intention of this policy should be clearly documented; including the process used, the individuals who make the decision, the input used, etc.

Brad Gordon
Whispering Oaks Drive
San Jose, CA

Brad Gordon
E-mail dated September 26, 2004

30-1 Please refer to Responses to Comments 13-6, 20-6 and 28-2.

30-2 Please refer to Responses to Comments 4-2, 4-3 and 28-1.

30-3 The commentor's statements in opposition to the proposed project are noted. As noted in the Aesthetics/Visual Resources section of the Draft EIR, the proposed project would degrade the local visual environment. No feasible mitigation measures are available that would reduce impacts related to the changes of visual character to less-than-significant levels. Therefore, the project if implemented would result in a significant and unavoidable visual impact.

30-4 Please refer to Responses to Comments 10-1 and 10-2.

30-5 The commentor states that the project as proposed in the Draft EIR would result in several significant unmitigated or unavoidable environmental impacts. As required by CEQA, the Draft EIR identifies a reasonable range of alternatives to the proposed project that are intended to minimize the proposed project's impacts on groundwater and other resources. Please refer to Draft EIR, Section III - Alternatives to the Proposed Project for a full discussion of these alternatives to the proposed project. The Draft EIR does not include a recommendation of either the proposed project or one of the alternatives. If the City decides to approve either the proposed project or one of the project alternatives, findings will have to be made substantiating the decision. At that time, evidence in the administrative record regarding the feasibility or infeasibility of the project alternatives will be presented.

30-6 The project does not propose the construction of any buildings on-site, therefore the City's Green Building Policy is not applicable.

-----Original Message-----
From: Laura Gordon [mailto:Laura@lglifecoach.com]
Sent: Monday, September 27, 2004 9:18 AM
To: janis.moore@sanjoseca.gov
Subject: McKean Rd. Sports Complex

Environmental Project Manager, Janis Moore
Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

September 26, 2004

Dear Ms. Moore:

The recent DEIR for the McKean Road Sports Complex is perfect. It shows that this project should not be done. Page after page it lists out serious and dangerous problems. For the most part the report says there are no mitigations to alleviate the serious issues. When mitigations are given they are ridiculous and provide no real hope that the seriousness of the problems will be solved. **31-1**

The water issue, of course, is unbelievable, but perhaps the scariest problem is the traffic and safety. To suggest that having the parents of the children sign waivers not to ride their bikes would mitigate the problem is staggering. **31-2** Perhaps the firm issuing the report doesn't know the history of the Almaden Valley Soccer league. First they promised to keep their league to 500 kids. They grew it to 2200. Then they promised to only play two games twice a week at TJ Martin. They tripled the games and started playing every day. And that's after signing an agreement. They promised to clean the fields up and then complained they couldn't be held accountable for every piece of trash. Obviously promises and signing agreements have no importance to this league and the waivers would be worthless. **31-3**

The waivers themselves do not even deal with the real problem. This is a community that has long been home to hikers, bikers, cyclists, and equestrians. Exposing them to this huge flow of traffic will greatly endanger their lives. Exposing them to a soccer parent whose child is late for his game and nothing and no one matters but getting that child there quickly will surely cause irreparable harm. **31-4**

Be responsible. Just say no to the sports fields. **31-5**

Very truly yours,

Laura Gordon
20545 Whispering Oaks Drive
San Jose, CA 95120

Laura Gordon
E-mail dated September 27, 2004

31-1 The commentor's statements in opposition to the proposed McKean Road Sports Complex project are noted. With respect to mitigation measures, as standard practice the EIR includes all measures that are considered to be ostensibly feasible, even though the ultimate determination of the feasibility is not made until the decision makers prepare Findings later in the project approval process (the commentor is referred to the Response to Comment 28-1 for a discussion of Findings).

31-2 Please refer to Response to Comment 3-1.

31-3 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

31-4 Please refer to Response to Comment 3-1.

31-5 The commentor's statement in opposition to the proposed McKean Road Sports Complex project is noted; however the comment does not raise any new environmental issues, therefore, no response is required.

-----Original Message-----
From: Carol Hallett [mailto:cahallett@earthlink.net]
Sent: Monday, September 27, 2004 10:09 AM
To: 'Moore, Janis'
Subject: DEIR response: File No. GPT01-10-02/PP03-02-057

Environmental Project Manager, Janis Moore
September 26, 2004

Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

Dear Ms. Moore:

As a resident of the Urban Reserve I am concerned about your proposed sports complex on McKean Road. I saw your most recent DEIR (August 2004) on this project and I have the following comments to make:

First, the water issue: Your report indicates that the two wells on the project are insufficient to supply water to the project. It doesn't even take into account the drought months, when water is low. Since the only test I can see that you ran was following the rainy season, you have no idea what the wells will do during drought months. **32-1**

The project impacts aside, your report barely considers the impact to the region. The heavy demand of water for this project could severely damage the aquifer and surrounding wells. Your contractor made no attempt to contact the area residents to discuss well issues that may exist in the area. As for your mitigation, it would be incredibly irresponsible to continue spending money on a project that you must take a "wait and see if there is enough water" approach. Is that even legal? To leave a big question like that unanswered when you are recommending approval or disapproval. This is not a reasonable mitigation. If you cannot plan the entire project and project the water impacts for the entire project than you must reject it. **32-2**

Second, the noise: According to your report it exists, it isn't going away, it is above acceptable levels and there is no reasonable mitigation provided. **32-3**

Third, the traffic: Your estimates are low. Just taking the evening practice, this starts at 5:30, the peak of traffic for the residents in the area as they return home. You will have 180 kids (cars) arriving and 250 cars leaving (the 180 that have finished practice plus most of the arriving parents who will drop their kids off and leave again). This roadway can't handle that traffic. You will be deliberately creating an unbearable situation for the community. You will also make it impossible for residents living across from the park to exit their homes. Crossing the roadway to turn left will be impossible. Once again, mitigation is non-existent. **32-4**

Fourth, safety: Your report fails to adequately describe the type and number of accidents that might occur. Your mitigation is non-existent. Claiming that you can't afford to mitigate the danger to children, residents, and visitors is not mitigation. "We don't have money to save lives so it's significant and unavoidable that people will die" is an unbelievable approach to public projects. 32-5

You cannot, in any good conscience recommend that the council approve this EIR and move forward with this project.

Very truly yours,

Carol Hallett
21550 Schillingsburg Ave
San Jose, CA 95120

Carol Hallett
E-mail dated September 27, 2004

32-1 Please refer to Responses to Comments 4-2, 4-3 and 28-1.

32-2 Please refer to Responses to Comments 4-2, 4-3 and 28-1.

32-3 Please refer to Responses to Comments 13-6, 20-6 and 28-2.

32-4 Please refer to Responses to Comments 8-9, 15-20, 15-85 and 28-3.

32-5 Please refer to Responses to Comments 3-1, 5-1, 15-20 and 15-85.

-----Original Message-----
From: Hallett, David W [mailto:david.w.hallett@lmco.com]
Sent: Monday, September 27, 2004 4:13 PM
To: janis.moore@sanjoseca.gov
Subject: Deir Sports complex

Environmental Project Manager, Janis Moore September 26, 2004
Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

Dear Ms. Moore:

The recent DEIR for the McKean Road Sports Complex is not acceptable as written. It lists many serious and dangerous problems with few lagitimate mitigations.When mitigations are given they are ridiculous and provide no real hope that the seriousness of the problems will be solved. **33-1**

The water issue is scary for those that rely 100% on well water. What recourse will they have if there well fails? **33-2**

To suggest that having the parents of the children sign waivers not to ride their bikes as a mitigation is absurd. This complex will become an attractive nuisance that will attract not only AYA children but non AYA children that might want to watch a Base Ball or Soccer game. **33-3**

The proposed site is not a good location. Sports fields should be located such that they provide safe access for children as well as adults. They should be dispersed such that they distribute the traffic load and not concentrate it at one location within the community. They should be located such that they promote bicycle access rather than cars only access. **33-4**

The Urban Reserve should be developed as specified by the general Plan. Development can only occur when the specified triggers are met and a specific plan is produced. This method of development will insure a good community that will provide a safe environment for all within Almaden. **33-5**

very truly yours,

Dave Hallett
21550 Schillingsburg Ave
San Jose Calif.

David W. Hallett
E-mail dated September 27, 2004

33-1 Please refer to Response to Comment 31-1.

33-2 Please refer to Responses to Comments 4-2, 4-3 and 28-1.

33-3 Please refer to Response to Comment 3-1.

33-4 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required. Please refer to Response to Comment 3-1 for additional information.

33-5 The comment states the opinion of the author and does not raise any new issues regarding the Draft EIR. Please refer to Response to Comment 10-3.

-----Original Message-----
From: Lamb, Niki [mailto:NLamb@cbnorcal.com]
Sent: Monday, September 27, 2004 8:12 AM
To: 'janis.moore@sanjoseca.gov'
Subject: proposed sports complex on McKean Rd.

Environmental Project Manager, Janis Moore
Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

September 26, 2004

Dear Ms. Moore:

As a resident of the Urban Reserve I am concerned about your proposed sports complex on McKean Road. I saw your most recent DEIR (August 2004) on this project and I have the following comments to make:

First, the water issue. Your report indicates that the two wells on the project are insufficient to supply water to the project. It doesn't even take into account the drought months, when water is low. Since the only test I can see that you ran was following the rainy season, you have no idea what the wells will do during drought months. **34-1**

The project impacts aside, your report barely considers the impact to the region. The heavy demand of water for this project could severely damage the aquifer and surrounding wells. Your contractor made no attempt to contact the area residents to discuss well issues that may exist in the area. As for your mitigation, it would be incredibly irresponsible to continue spending money on a project that you must take a "wait and see if there is enough water" approach. Is that even legal? To leave a big question like that unanswered when you are recommending approval or disapproval. This is not a reasonable mitigation. If you cannot plan the entire project and project the water impacts for the entire project than you must reject it. **34-2**

Second, the noise. According to your report it exists, it isn't going away, it is above acceptable levels and there is no reasonable mitigation provided. **34-3**

Third - Traffic. Your estimates are low. Just taking the evening practice, which starts at 5:30, the peak of traffic for the residents in the area as they return home. You will have 180 kids (cars) arriving and 250 cars leaving (the 180 that have finished practice plus most of the arriving parents who will drop their kids off and leave again). This roadway can't handle that traffic. You will be deliberately creating an unbearable situation for the community. You will also make it impossible for residents living across from the park to exit their homes. Crossing the roadway to turn left will be impossible. Once again, mitigation is non-existent. **34-4**

Fourth - Safety. Your report fails to adequately describe the type and number of accidents that might occur. Your mitigation is non-existent. Claiming that you can't afford to mitigate the danger to children, residents, and visitors is not mitigation. "We don't have money to save lives so its **34-5**

significant and unavoidable that people will die" is an unbelievable approach to public projects. **34-5 Cont.**

You cannot, in any good conscience recommend that the council approve this EIR and move forward with this project. **34-6**

Very truly yours,

Niki Lamb/ Mark Bloome
21641 Schillingsburg Avenue
San Jose, CA 95120

Niki Lamb
E-mail dated September 27, 2004

34-1 Please refer to Responses to Comments 4-2, 4-3 and 28-1.

34-2 Please refer to Responses to Comments 4-2, 4-3 and 28-1.

34-3 Please refer to Responses to Comments 13-6, 20-6 and 28-2.

34-4 Please refer to Responses to Comments 8-9, 15-20, 15-85 and 28-3.

34-5 Please refer to Responses to Comments 3-1, 5-1, 8-9, 15-20 and 15-85.

34-6 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

-----Original Message-----
From: Susan Lamb [mailto:horseshoecreekfarm@earthlink.net]
Sent: Sunday, September 26, 2004 9:15 PM
To: Janis Moore SJC
Subject: Public comments for you on the McKean Road Sports Complex DEIR from the Lambs on Fortini Rd.

21301 Fortini Road
San Jose, California 95120

September 26, 2004

Environmental Project Manager, Janis Moore
Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

Dear Ms. Moore:

I have reviewed the Draft EIR recently submitted on the McKean Road Sports Complex, and wonder how any responsible governing body could approve this project as it stands. It is clear from the report that this project is ill suited to the area. The infrastructure does not exist to support this type of development and the City, in an attempt to provide for the needs of the AYA, is trying to develop pre-maturely. **35-1**

This project does not qualify as city-owned property and therefore the City does not have the right to develop it outside the building ordinances or General Plan of the County. It also does not rise to the level of a "public project". The history of this project shows it to be a long-term goal of the AYA that was unable to qualify the project under proper guidelines. The City's involvement is an attempt by council members and district officials to circumvent the proper planning rules to benefit an organization of which they are or were involved. This smacks of special interest and conflict of interest. **35-2**

It is this desire on the part of certain individuals to sneak a project through that causes such a problem with the DEIR. It is obvious that water, noise and biological issues cannot be mitigated properly in the report. The mitigations presented are incomplete or ineffectual. Many times no mitigation is given, especially in regards to noise and water. Gary Rummelhoff, a former AYA board member, states that there are so few residents impacted that it should not matter. We bought land in the county so we could raise horses and farm in peace and get away from "Silicon Valley" previously known as the "Valley of Heart's Delight." We bought a piece of history in that our farm used to be a prune farm and about 20 of those original trees are still on our farm and produce the best prunes you tasted. We do not want to listen to children and their parents cheering them on every afternoon and all weekend. A noise survey was done on our property and it was determined that it is very quiet here. My horses will **35-3**

not be able to listen to me while giving voice commands during their regular training sessions, because the distraction from your proposed project will be too great. Can we play horse polo on those fields?? This is an agricultural community and horse polo fields would fit right in, don't you think? Of course, the gophers and ground squirrels will make too many holes for our horse's legs, so we wouldn't want that. How will the kids deal with all those holes and mounds of dirt that the rodents present on a daily basis? What will you do about the coyotes, bobcats, rattle snakes, and mountain lion that hunt on a regular basis in your project area for those rodents, not to mention the deer population? Don't forget the feral pigs that tear up the ground around here too! The farmers also discharge firearms in this area on a regular basis to protect their livestock from these predators. What will the kids and parents think when firearms start being discharged during games? Terrorist attacks? This is the country in the county, not the city! **35-3 Cont.**

There are reasons for the General Plans and for LAFCO, which regulates urban sprawl. A Sphere of Influence was established for this area that the City of San Jose agreed to certain plans and triggers that would prevent this area from imprudent development decisions. The residents of San Jose also passed a measure protecting this area from this type of chaotic approach, preserving it until such time as it could properly be developed. Only voter approval can change that directive. And yet - the City has taken up this project knowing full well that it violates those directives and agreements. **35-4**

The information generated by this report requires that your Commission reject this project. It also should require the Council to reject it too. **35-5**

Sincerely,

Kevin and Susan Lamb

KoSL

--- horseshoecreekfarm@earthlink.net
<mailto:horseshoecreekfarm@earthlink.net>
--- EarthLink: The #1 provider of the Real Internet.

Susan Lamb
E-mail dated September 26, 2004

35-1 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

35-2 In regards to the projects' conformance to County building ordinances and General Plan, please refer to Response to Comment 10-7. In regards to the description of the proposed project as a public project, please refer to Responses to Comments 10-1 and 10-2.

35-3 The commentor states that the mitigation measures presented in the Draft EIR are incomplete or ineffectual. The commentor does not provide any substantiation for this conclusion; therefore, no additional response is necessary. The commentor states her opposition to listening to children and their parents cheering them on every afternoon and all weekend. This comment is noted. The commentor questions whether horse polo could be played at the site. The project is proposed to accommodate youth sports activities; therefore, horse polo would not be permitted. The commentor questions what will be done about the wildlife that hunt in the area. The proposed project does not include any control of wildlife on the site. However, wildlife is not expected to be attracted to the site when sports activities are ongoing due to the number of people involved and the elevated noise levels. The commentor's concern regarding the use of firearms in the local area and the potential that children and parents might assume a terrorist attack is occurring is noted. However, this is speculation on the part of the commentor unrelated to analysis of potential environmental impact, and no further response is necessary.

The Draft EIR makes a good faith effort at disclosing impacts to water, noise, and biological resources and identifies mitigation measures where feasible. For a detailed discussion of environmental impacts related to water supply, noise and biological resources that are anticipated with project implementation, the commentor is referred to Sections II.D, II.G and II.H of the Draft EIR, respectively. Please also refer to Responses to Comments 4-2, 4-3, 6-2, 10-14, 15-14, 15-15, 15-48, 15-55, 15-103 and 28-1 for additional discussions on water supply; to Responses to Comments 13-6, 20-6, 28-2, 37-1, 37-4, 43-11 through 43-19, 47-27 and 47-35 for additional discussions on noise; and, to Responses to Comments 6-1, 15-10 and 26-4 for additional discussions on biological resources.

35-4 The project site is located within the City of San Jose's Sphere of Influence, as established by the Santa Clara County Local Agency Formation Commission (LAFCO). There are no "plans or triggers" established by LAFCO that effect the use of the project site. LAFCO policy states that land uses within a jurisdiction's sphere of influence should occur in conformance with the General Plan. The only voter-approved measure regarding land use was the initiative approved in support of the Greenline/Urban Growth Boundary. The project site

is within the Greenline/Urban Growth Boundary and, therefore, is not in conflict with the Greenline/Urban Growth Boundary policies of the General Plan.

35-5 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

Environmental Project Manager, Janis Moore
Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

September 26, 2004

Dear Ms. Moore:

In reviewing the Draft EIR recently submitted on the McKean Road Sports Complex, I wonder how any responsible governing body could approve this project as it stands. It is clear from the report that this project is ill suited to the area. The infrastructure does not exist to support this type of development and the City, in an attempt to provide for the needs of a private organization, is trying to develop pre-maturely. **36-1**

There are reasons for the General Plans and for LAFCO, which regulate urban sprawl. When the Sphere of Influence was established for this area the City of San Jose agreed to the plans and triggers that would prevent this area from imprudent development decisions. The residents of San Jose also passed a measure protecting this area from this type of chaotic approach, preserving it until such time as it could properly be developed. Only voter approval can change that directive. And yet – the City has taken up this project knowing full well that it violates those directives and agreements. **36-2**

This project does not qualify as city-owned property and therefore the City does not have the right to develop it outside the building ordinances or General Plan of the County. It also does not rise to the level of a "public project". The history of this project shows it to be a long-term goal of a private organization that was unable to qualify the project under proper guidelines. The City's involvement is an attempt by council members and district officials to circumvent the proper planning rules to benefit an organization of which they are or were involved. This smacks of special interest and conflict of interest. **36-3**

It is this desire on the part of certain individuals to sneak a project through that causes such a problem with the DEIR. It is obvious that traffic, safety, water, noise and biological issues cannot be mitigated properly in the report. When mitigations are presented they are incomplete or ineffectual. Many times no mitigation is given, especially in regards to safety. Placing the safety of children and residents in the hands of volunteer action on the part of citizens is possibly criminal or if it's not criminal it should be. **36-4**

The information generated by this report requires that your Commission reject this project. It also should require the Council to reject it too. **36-5**

Very truly yours

Tom Medica
21558 Schillingsburg Ave
San Jose, CA 95120

Commissioner of Planning
City of San Jose
800 N. First Street
San Jose, CA

Gentlemen:

Please note the following comments regarding the DEIR that you are currently circulating on the sports complex in the Urban Reserve: 36-6

Safety: The reports analysis on the potential accident and incident rate seems calculated to confuse. It uses different periods of evaluation for both City and County, and it applies the wrong standards in evaluating the different types of accidents. It also fails to address the added automobile and foot and bicycle traffic that the project will add. These additions will create a condition that will be conducive to accidents. Saying the City can't afford to fix a safety problem is not an appropriate mitigation. The only proper mitigation available in this situation is to avoid the action altogether. Do not increase traffic on the road. 36-7

Water: The report focuses on the inability of the wells on the property to provide enough water to maintain the project. It did nothing to properly research or address the impact to the region's water resources. It simply guesses that there will be a serious problem but it can't identify what, when or where the problem will occur. This falls short of the requirements of CEQA to provide sufficient information to make an informed decision on the project. 36-8

Alternatives: When considering the use of agricultural land for an urban project, the proponents must exhaust all urban sites before utilizing the agricultural land. I suspect this is why the report says there are no alternatives. Having alternatives would kill the project. In considering alternatives there are plenty of sites that might qualify if you divide up the field requirements. Smaller size projects could be built within the various communities they serve that would provide extra fields for sports. These smaller field sites would also prevent huge traffic problems, safety problems, and noise problems. By not considering these small site alternatives the report fails to provide adequate information for the public and the council to make adequate judgments. 36-9

There is a great alternative site. The 36.5 acres of IBM property that the city council deemed worthless by stopping their plans to build homes would be a perfect site. The homes would have generated revenue to the city, not created additional expenses. The land has city water and existing infrastructure and is in the domain of the city council. But you refused the housing project by a 10-1 vote. What was the main reason the council rejected the project? The main overriding issue was that the land must remain open space. I hope you use the same logic to vote against the Mckean sports complex. 36-10

Very truly yours

Tom Medica
21558 Schillingsburg Ave
San Jose, CA 95120

Environmental Project Manager, Janis Moore
Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

September 26, 2004

Dear Ms. Moore:

RE: McKean Road Sports Complex DEIR

The circulating report on the proposed Sports Complex defies every stated goal of the San Jose City Council for the last 10 years. Over and over again the Council has proposed to prevent just this type of development in the Urban Reserve. The General Plan and other stated goals of the City are in direct opposition to this proposed project. It is incredible to believe that the Council would have such low moral clarity as to set aside everything that they have worked to achieve in the way of open space protection, urban sprawl restriction, and smart urban growth, and do a project with such obvious impact to their worthy goals. **36-11**

This project will seriously impact an area that the Council has vowed to protect. Traffic, road condition, water reserves, and the safety of the residents are all at risk. It is clear from the report that these issues cannot be mitigated. It is clear from the report that the suggested mitigations are nothing more than surface attempts to get this project accepted. **36-12**

There is a great alternative site. The 36.5 acres of IBM property that the city council deemed worthless by stopping their plans to build homes would be a perfect site. The homes would have generated revenue to the city, not created additional expenses. The land has city water and existing infrastructure and is in the domain of the city council. But you refused the housing project by a 10-1 vote. What was the main reason the council rejected the project? The main overriding issue was that the land must remain open space. I hope you use the same logic to vote against the McKean sports complex, it to is open space. **36-13**

Please advise the Council to stick to the goals and objectives of their General Plan. It is the ethical thing to do. Ethics – now there's a unique thought. **36-14**

Very truly yours

Tom Medica
21558 Schillingsburg Ave
San Jose, CA 95120

Tom Medica
Three letters dated September 26, 2004

36-1 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

36-2 Please refer to Response to Comment 35-4.

36-3 In regards to the projects' conformance to County building ordinances and General Plan, please refer to Response to Comment 10-7. In regards to the description of the proposed project as a public project, please refer to Responses to Comments 10-1 and 10-2.

36-4 Please refer to Response to Comment 35-3.

36-5 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

36-6 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

36-7 Please refer to Responses to Comments 3-1, 15-21, 15-23 and 15-24.

36-8 Please refer to Responses to Comments 4-2, 4-3 and 28-1.

36-9 Please refer to Response to Comment 15-6. .

36-10 The commentor states that the 36.5-acre IBM property located on the south side of Harry Road between Arroyo Calero and Santa Teresa Creeks is a "great alternative site" that was not analyzed in the EIR. The site is situated between two creeks and contains riparian vegetation and wetlands. The Santa Clara Valley Water District also has easements through the property. After areas containing creeks, easements, wetland and riparian setbacks are eliminated from the 36.5-acre IBM site, the remaining useable portion is approximately 17.3 acres. The previous housing development application request the commentor refers to was actually a request to convert these 17.3 acres of the IBM site, leaving the remaining 19.7 acres as open space; however, that request was not approved by the City.

The commentor further states that he hopes the City uses the same logic to vote against the McKean sports complex. The commentor's opposition to the proposed project is noted. The existing General Plan land use designation for the 36.5-acre portion of the IBM property is *Private Open Space*. As part of the approval of the IBM Almaden Research Facility, the IBM project site was identified and zoned to permanently remain as *Private Open Space*. Since the IBM property is intended to remain designated as open space in perpetuity, it is

not included in the City's Vacant Land Inventory, which tracks vacant land that may be suitable for eventual urban development. The Vacant Land Inventory was used by the consultant and City staff in searching for alternative sites for evaluation. It is important to note that once all the creeks, easements, wetland and riparian setback areas are eliminated from the 36.5-acre IBM site, all that remains is approximately 17.3 acres of the site in a narrowly configured shape, too narrow and irregular in shape for an efficient layout of a sports complex, containing six baseball/softball fields and six soccer fields with dimensions of 210 feet by 345 feet. Based on the above conditions, the site does not meet the criteria identified in the DEIR for selection of alternative sites as described on page 212 of the DEIR.

36-11 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

36-12 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

36-13 Please refer to Response to Comment 36-10.

36-14 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

Environmental Project Manager, Janis Moore
September 26, 2004
Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

Dear Ms. Moore:

The DEIR for the McKean Road Sports Complex is insufficient as an environmental document. It fails to fully address the problems associated with the project, especially with regards to water, traffic, and noise. **37-1**

In the case of water, no real attempt was made to determine the impact this project will have on the aquifer. Residents were not interviewed and no clear understanding is available of the wells in the area and how much the water table can drop before those wells run dry. No responsible decision can be made without a clear understanding of how the water resources of the Reserve will be affected and certainly no reasonable mitigation can be arrived at if you don't start with an accurate basis of information. **37-2**
I am sure that the assessment that the impact will be significant is correct but you don't know how serious because you have no information.

The traffic issue is large. McKean is a two-lane country road that will be expected to handle urban traffic. From what I see in the report, no effort will be made to mitigate the traffic issue. And from what I see of the uncontrolled growth pattern of the soccer league, the traffic will only get worse. **37-3**

Noise was hardly addressed in the report. These are open fields that carry sounds. Noise will travel further and seem louder than it would in an urban area with buildings to block it. I have to wonder what standard of noise was used to determine that this is a problem and that it can't be mitigated. If they used urban standards my guess is that this is an even bigger problem than expected. **37-4**

Sincerely,
Francis Ratliff
7535 Tierra Sombra Ct
San Jose, CA 95120

Francis Ratliff
Letter dated September 26, 2004

37-1 The commentor states that the Draft EIR fails to address the problems associated with the project, especially with regards to water, traffic, and noise; however, the commentor does not raise any specific environmental issues affecting the adequacy of the Draft EIR. For a detailed discussion of environmental impacts related to water supply, traffic and noise that are anticipated with project implementation, the commentor is referred to Sections II.D, II.E and II.G of the Draft EIR, respectively.

37-2 Please refer to Responses to Comments 4-2, 4-3, and 28-1.

37-3 The measured Average Daily Traffic (ADT) was reported in the Draft EIR to be 6,253 VPD, well within the acceptable volume for standard two lane rural collector. For a detailed discussion of the environmental impacts related to traffic, please refer to Section II. E. of the Draft EIR. Please refer to Responses to Comments 8-9, 15-20, 15-85 and 28-3.

37-4 Please refer to Responses to Comments 13-6, 20-6 and 28-2.

-----Original Message-----
From: Don Scott [mailto:donald_scott@sbcglobal.net]
Sent: Monday, September 27, 2004 1:53 PM
To: janis.moore@sanjoseca.gov
Subject: RDEIR Comment Letter - (SCH No. 2002112035) (File No. GPT01-10-02/P P03-02-057)

Environmental Project Manager, Janis Moore
September 26, 2004

Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

Dear Ms. Moore:

As a resident of the Urban Reserve I am concerned about your proposed sports complex on McKean Road. I saw your most recent DEIR (August 2004) on this project and I have the following comments to make:

First, the water issue. Your report indicates that the two wells on the project are insufficient to supply water to the project. It doesn't even take into account the drought months, when water is low. Since the only test I can see that you ran was following the rainy season, you have no idea what the wells will do during drought months. **38-1**

The project impacts aside, your report barely considers the impact to the region. The heavy demand of water for this project could severely damage the aquifer and surrounding wells. Your contractor made no attempt to contact the area residents to discuss well issues that may exist in the area. As for your mitigation, it would be incredibly irresponsible to continue spending money on a project that you must take a "wait and see if there is enough water" approach. Is that even legal? To leave a big question like that unanswered when you are recommending approval or disapproval. This is not a reasonable mitigation. If you cannot plan the entire project and project the water impacts for the entire project than you must reject it. **38-2**

Second, the noise. According to your report it exists, it isn't going away, it is above acceptable levels and there is no reasonable mitigation provided. **38-3**

Third -- Traffic. Your estimates are low. Just taking the evening practice, which starts at 5:30, the peak of traffic for the residents in the area as they return home. You will have 180 kids (cars) arriving and 250 cars leaving (the 180 that have finished practice plus most of the arriving parents who will drop their kids off and leave again). This roadway can't handle that traffic. You will be deliberately creating an unbearable situation for the community. You will also make it impossible for residents living across from the park to exit their homes. Crossing the roadway to turn left will be impossible. Once again, mitigation is **38-4**

non-existent.

Fourth -- Safety. Your report fails to adequately describe the type and number of accidents that might occur. Your mitigation is non-existent. Claiming that you can't afford to mitigate the danger to children, residents, and visitors is not mitigation. "We don't have money to save lives so its significant and unavoidable that people will die" is an unbelievable approach to public projects. **38-5**

You cannot, in any good conscience recommend that the council approve this EIR and move forward with this project. **38-6**

Very truly yours,

Denise Scott
Sprawling Oaks Ct.
San Jose, CA

Denise Scott
E-mail dated September 27, 2004

38-1 Please refer to Responses to Comments 4-2, 4-3, 15-15, 15-51 and 28-1.

38-2 Please refer to Responses to Comments 4-2, 4-3, 15-15, 15-51 and 28-1.

38-3 The commentor summarizes the Draft EIR conclusions regarding noise. No additional response is necessary.

38-4 Please refer to Responses to Comments 3-1, 8-9, 15-20, 15-42 and 28-3.

38-5 Please refer to Responses to Comments 3-1..

38-6 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

-----Original Message-----
From: Don Scott [mailto:donald_scott@sbcglobal.net]
Sent: Monday, September 27, 2004 10:55 AM
To: janis.moore@sanjoseca.gov
Subject: RDEIR Comment Letter - (SCH No. 2002112035) (File No. GPT01-10-02/P P03-02-057)

Environmental Project Manager, Janis Moore
September 26, 2004

Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

Dear Ms. Moore:

In reviewing the Draft EIR recently submitted on the McKean Road Sports Complex, I wonder how any responsible governing body could approve this project as it stands. It is clear from the report that this project is ill suited to the area. The infrastructure does not exist to support this type of development and the City, in an attempt to provide for the needs of a private organization, is trying to develop pre-maturely. **39-1**

There are reasons for the General Plans and for LAFCO, which regulate urban sprawl. When the Sphere of Influence was established for this area the City of San Jose agreed to the plans and triggers that would prevent this area from imprudent development decisions. The residents of San Jose also passed a measure protecting this area from this type of chaotic approach, preserving it until such time as it could properly be developed. Only voter approval can change that directive. And yet -- the City has taken up this project knowing full well that it violates those directives and agreements. **39-2**

This project does not qualify as city-owned property and therefore the City does not have the right to develop it outside the building ordinances or General Plan of the County. It also does not rise to the level of a "public project". The history of this project shows it to be a long-term goal of a private organization that was unable to qualify the project under proper guidelines. The City's involvement is an attempt by council members and district officials to circumvent the proper planning rules to benefit an organization of which they are or were involved. This smacks of special interest and conflict of interest. **39-3**

It is this desire on the part of certain individuals to sneak a project through that causes such a problem with the DEIR. It is obvious that traffic, safety, water, noise and biological issues cannot be mitigated properly in the report. When mitigations are presented they are incomplete or ineffectual. Many times no mitigation is given, especially in regards to safety. Placing the safety of children and residents in the hands of volunteer action on the part of citizens is possibly criminal or if it's not criminal it should be. The notion that a text amendment can be passed allowing for "interim use", with a definition of "interim" that stretches the bounds of credulity, is also a travesty of responsibility for **39-4**

those elected officials who have the duty to follow their own plans, policies, regulations, and statutes, and protect the Reserve and its residents. **39-4 Cont.**

The information generated by this report requires that your Commission reject this project. It also should require the Council to reject it, out of hand, and not continue to throw good money after bad, misusing scarce taxpayer funds. **39-5**

Sincerely,

Don Scott
Sprawling Oaks Ct.
San Jose, CA

Don Scott
E-mail dated September 27, 2004

39-1 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. Please also refer to Responses to Comments 35-1 through 35-4.

39-2 Please refer to Responses to Comments 35-1 through 35-4.

39-3 In regards to the projects' conformance to County building ordinances and General Plan, please refer to Response to Comment 10-7. In regards to the description of the proposed project as a public project, please refer to Responses to Comments 10-1 and 10-2.

39-4 Please refer to Response to Comment 35-3.

39-5 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

Sept. 26, 2004

RECEIVED
SEP 27 2004
CITY OF SAN JOSE
PLANNING DEPARTMENT

Janis Moore
City of San Jose
Department of Planning, Building & Code Enforcement
801 N. First Street, Room 400
San Jose, CA 95110-1795

SUBJECT: DEIR (SCH # 2002112035), proposed AYA sports complex on McKean Road)

Dear Ms. Moore:

Herewith my comments and concerns about the proposed AYA (Almaden Youth Association) sports complex on McKean Road as described in the DEIR (SCH # 2002112035).

The proposed project is completely contrary to the Greenprint plan as approved by the city council in 2000. Greenprint calls for renovating existing sites and for enhancing sports facilities at identified cluster sites where schools and parks are located in close proximity before considering the building of entirely new sites. It also points out the desired goals of community involvement, of safety, and of easy access; it further says that recreational activities should be provided within "a neighborhood context". The proposed project is way out in the country, is not easy of access, creates health and safety hazards, and is so restricted in use as to be nearly a private club. **40-1**

The proposed project is not "public" except insofar as public money has been and would continue to be spent on it. The fields would be built exclusively for the AYA who would have complete control over scheduling . There would be no fixed schedule of when the "general public" might have access. The general public would get the fields only when the AYA did not want to use them. (vol.I, p.1) **40-2**

The DEIR says there are no alternative sites. That is because the proponents of the project have confused wants and needs. The AYA wants the large site with no reasons given and treats it as an all-or-nothing plan. The underlying perceived need is for more playing fields. The suggested alternative numbered B3 (vol.I, p.217), which begins with a 5-acre piece, shows that smaller sites are indeed suitable for setting up fields. Among the vacant sites available in Almaden neighborhoods there are no doubt quite a few of at least five acres in size and suitable for playing fields. These would have several advantages: 1) they would fit the criteria of Greenprint and would be in the neighborhoods where they belong; 2) they would already have city utilities, including water; and 3) they could be permanent. The interim nature of the proposed project is insufficiently stressed. **40-3**

The DEIR lists five areas where continuing "significant and unavoidable impacts" would result should this project be carried out: 1) permanent loss of prime farm land; 2) land use compatibility in which operational noise levels exceed General Plan Noise guidelines; 3) compromised pedestrian/bicycle safety; 4) degradation of existing visual character of the site and surroundings; 5) water supply: demand would be in excess of supply and could seriously deplete neighborhood wells. **40-4**

All five together show that the proposed project is in the wrong place, but the last item concerning water supply ought to be enough in itself to stop the project. Should the City issue a Statement of Overriding Considerations to continue with the project then it would be a case of the wants of a special interest group (AYA) overriding the need of the county residents for water, and that would be a monstrous iniquity, an ineradicable blot on the reputation of the City. The suggested alternative B3 (vol.I, p.217-219), offered as a mitigation of the difficulties of water supply, "could also remain at its reduced size if adequate water was not available." If that is the case, and there is no reason to think that in the near future there will be an increase in the water supply, then surely other sites could be found among the 44 vacant parcels (vol.I, p.212) that, as I said above, would be far more suitable. **40-4**

According to evidence presented in the DEIR this proposed project would jeopardize the health, safety, well-being and even livelihood of the neighbors around it. There are no redeeming features because alternative sites DO exist. They simply are not as fancy or as convenient for the AYA as the proposed plan. **40-5**

Sincerely,

Kathryn Tsai
1143 Via Jose
San Jose, CA 95120
ph: 997-7792

Kathryn Tsai
Letter dated September 26, 2004; Received September 27, 2004

40-1 On September 5, 2000, the City Council of San José approved the *Greenprint*, a 20-Year Strategic Plan for Parks, Community Facilities and Programs.

The *Greenprint* lists a minimum goal of providing 3.5 acres of parkland per 1,000 population. The City would like to exceed that goal wherever possible, as well as meeting the growing need for active sports fields. Existing park and school facilities located in District 10 are not able to meet the demand for active sports fields because of their configuration, location and topography.

Most programmed youth sports activities in District 10 use sports fields located on school sites. These fields are maintained by the school districts. Recent economic conditions have had an impact on the ability of school districts to maintain these facilities at a level sufficient to sustain optimum use.

40-2 Please refer to Responses to Comments 10-1 and 10-2.

40-3 Please refer to Response to Comment 15-6.

40-4 The commentor restates the project's significant impacts as identified in the Draft EIR. Their opposition to the project and their opinions relating to Alternative B3 are noted. Please refer to Responses to Comments 10-14, 15-6, 15-51, 18-4 and 28-1.

40-5 Please refer to Response to Comment 15-6.

Environmental Project Manager, Janis Moore
Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

September 27, 2004

Dear Ms. Moore:

I am a resident of the Almaden Urban Reserve. I have been concerned about the proposed sports complex for a number of years now. I want to make it perfectly clear that this is a good idea set in the wrong place. I have visited sports complexes in many other cities, Pleasanton, Milpitas, and Morgan Hill to name a few. They are all located near large transportation hubs, freeways, and have facilities adequate to handle the needs of the participants. This "temporary" facility has none of the needed support businesses and infrastructure necessary to support this activity. I urge you to not recommend this project go forward to the City Council. **41-1**

As a father of two children who must use this road daily, I am concerned about the safety of this single road that will be impacted by this development. It would be located in a very dangerous portion of the road and it is challenging to navigate currently when the sun is setting. Drivers a re often blinded and with the existing bicycle traffic we are setting up a tragedy for one of us. **41-2**

I also depend on my well for my family, animals and acreage. As it is I run out of water regularly. What happens to me when this filed uses up my aquifer? **41-3**

Finally Ms. Moore, this field complex would change the nature of the reserve from rural to another noisy suburb. I moved out of San Jose to get away from that atmosphere and now the residents of Almaden Valley want to force it me again with this project. **41-4**

I urge you to reject this EIR as inadequate and move to quash this development. **41-5**

Regards,

Maurice & Leslie Adams
7525 Tierra Sombra Ct.
San Jose, Ca. 95120-1412

Maurice and Leslie Adams
Letter dated September 27, 2004

41-1 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

41-2 Please refer to Response to Comment 3-1.

41-3 Please refer to Responses to Comments 4-2, 4-3, 15-15, 15-51 and 28-1..

41-4 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

41-5 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

-----Original Message-----
From: R. J. (Bob) Eltgroth [mailto:eltgroth@garlic.com]
Sent: Monday, September 27, 2004 10:08 AM
To: janis.moore@sanjoseca.gov
Subject: Comment on draft EIR for McKean Road Sports Complex

Robert J. Eltgroth
173 Giddings Court
San Jose, CA 95139
408 859-4987

27 September 2004

Janis Moore,

Studies now show bicycling to be the most popular recreational sports activity in the country as well as the local area. The McKean Road and Reservoir areas serve the county as one of the most popular recreational cycling routes as well as serving bicycle commuters. The EIR fails to address this project's current plan's negative affect on recreational sports in both the City of San Jose and Santa Clara County. A current survey of bicycle use in the area should be included and the negative impacts stated showing any necessary mitigation up to and including relocation of the project. **42-1**

The plan assumes that most traffic will come from Almaden Expressway, but the City of San Jose should have taken into account the city's new Bailey/101 interchange. Out of area users of the field will use both Bailey and McKean thanks to the city's foresight in providing this access. Obviously, the city's scoping for the McKean Road Sports Complex must have considered the Bailey/101 interchange. Why was it left out of the EIR. **42-2**

In the City of San Jose's Transportation Policies: Pedestrian Facilities: Item 19 says "The City should encourage walking. bicycling, and public transportation as preferred modes of transportation." The mitigation item requiring field users to drive violates this and other city policies as well as adding to the congestion. **42-3**

I see no bicycle parking addressed in the plan although city policy as well as the VTA Bicycle Technical Guidelines call for it. I frequently bicycled to my daughter's Class I soccer games in multiple San Francisco Bay Area counties. Bicycle parking should be included in the plan. **42-4**

The EIR is in error on page 99 where it says, "No existing pedestrian or bicycle linkages to and from the project site currently exist." The California Vehicle Code clearly states that roads are bicycle linkages and pedestrians are also allowed on them. Multiple places in the EIR misstate that roads are not bicycle accommodations. **42-5**

Staff working on this project needs to consult and abide by the Caltrans Highway Design Manual, the VTA Bicycle Technical Guidelines, and consult with City of San Jose staff who understand these documents. **42-6**

Robert J. Eltgroth
E-mail dated September 27, 2004

42-1 Please refer to Responses to Comments 3-1 and 11-2. .

42-2 The traffic distribution and assignment is based on the existing League boundaries, which encompass neighborhoods north of the project. Traffic coming from south of the project is negligible since there are few, if any, league participants living in this area. Please also refer to Response to Comment 3-1. .

42-3 Please refer to Responses to Comments 3-1. .

42-4 Please refer to Response to Comment 3-1.

42-5 Please refer to Response to Comment 3-1.

42-6 The commentor's statements regarding the proposed McKean Road Sports Complex project are noted; however the comment does not raise any new environmental issues therefore no response is required. Please also refer to Response to Comment 3-1.

1/4

TO: Department of Planning, Building & Code Enforcement
801 N. First Street, Room 400
San Jose, CA 95110-1795

FR: Robert L. Hughes
20423 Hunters Hill Road
San Jose, CA 95120-3509

Robert L. Hughes
9/27/2004

RECEIVED
SEP 27 2004
CITY OF SAN JOSE
PLANNING DEPARTMENT

SUBJECT: RECIRCULATED DRAFT ENVIRONMENTAL IMPACT REPORT FOR MCKEAN ROAD SPORTS COMPLEX (SCH #2002112035) (FILE NO. GPT01-10-02/PP03-02-057).

Please accept my following comments regarding the subject Draft Environmental Impact Report (DEIR):

1) TRAFFIC:

a. Page 128: The 95th Percentile Queue vehicle traffic projection suggests that 4 to 7 vehicles will pass the intersection of McKean Road/Almaden Road Intersection (Table II.E-13). Referring to the data on Table II.E-13, the DEIR concludes, "Therefore, it is recommended that the southbound left-turn queue on McKean Road at the inbound driveway is 7 vehicles." These two intersections are totally different. The intersection of McKean Road and Almaden Road is not the same as the intersection of McKean Road and the proposed inbound driveway. They are separated by approximately a mile road distance. The "pocket analysis" needs to be re-analyzed (especially considering that the planned parking spaces will be for 569 cars). It is anticipated that hundreds of cars will be coming down Almaden Expressway (and returning) on an hourly basis. Few, if any, drivers will use the McKean Road/Almaden Road intersection. This significant error casts major doubt on the accuracy of the remainder of the forecasted traffic data. **43-1**

b. Page 128: The Site Access Queuing Analysis describes the McKean Road left-turn into the project site as southbound. If the rising and setting sun and the Hydrology Map, Exhibit II.C-3, are any indication, McKean Road travels east and west bound in this vicinity. Morning and afternoon windshield sun glare creates a frequent traffic hazard as evidenced by drivers turning into and out of the elementary school, for example. **43-2**

c. Page 93, Transportation, II.E: With the singular exception of the McKean Road Accident Data (Exhibits II.E-8 and II.E-9) none of the transportation analyses include the numerous streets and driveways on McKean Road (including McKean Ct., Hunters Hill Road, and Whispering Oaks Drive); these and several other streets and driveways, two fire stations, one elementary school, and one large church, mostly located to the west side of the proposed sports complex, have been ignored. This alone is approximately thirty (30) private residences. **43-3**

Additional streets, driveways, and numerous residences exist to the east of the proposed sports complex. The DEIR estimates that the weekday traffic increase on McKean Road will be 1440 (it is assumed that a "daily trip" as expressed by the DEIR means 1440 cars traveling to the proposed sports complex and 1440 cars exiting the proposed sports complex) and the weekend traffic increase will be 2040, similarly each way. To ignore the safe ingress and egress from these "local" streets and properties in the face of this huge traffic increase is a major deficiency of the DIER. Examples of the omission of adjoining streets and driveways to McKean Road are Exhibit II.E-1, Exhibit II.E-2, Exhibit II.E-3, Table II.E-3, Exhibit II.E-4, Table II.E-4, Exhibit II.E-5, Exhibit II.E-6, Exhibit II.E-7, Table II.E-6, Exhibit II.E-10, Exhibit II.E-11, Table II.E-8, Exhibit II.E-12, Exhibit II.E-13, Table II.E-10, Exhibit II.E-14, Exhibit II.E-15, Table II.E-14, Table II.E-15, and all of the accompanying and supporting text. **43-3**

d. The DIER forecasted traffic data ignores "double trippers." Double trippers are parents who do not stay for practice or games. They drive to the proposed sports complex, drop off their child, and return home. At the end of practice, they return to the sports complex to retrieve their child. This, in effect, will double their contribution to the traffic congestion on McKean Road and lead in streets. **43-4**

e. No mention is made or analyzed of parents who will "drop and go." These are parents who will simply make a U-turn on two lane, no shoulder McKean Road (speed limit: 40mph but most often exceeded as is passing over the double yellow line) at the inbound driveway, let their child out of their car, and drive off. A U-turn on McKean Road is dangerous by any standard not to mention the safety of the children. **43--5**

f. The Conceptual Site Plan, Exhibit I-5 and the Hydrology Map, Exhibit II.C-3, does not show or indicate any sort of vehicular turn around area within the proposed sports complex. This increases the likelihood of unsafe U-turn, child drop and go, instances on McKean Road. **43-6**

g. No mention is made of the safety of children standing along two lane, no shoulder, McKean Road (speed limit: 40mph but most often exceeded) waiting for their "drop and go" parents to return for pickup. **43-7**

h. No mention is made of the safety or congestion resulting from parent "drop and go" drivers "temporarily" parking on McKean Road waiting for games or practices to end and for their child to return to their vehicle. **43-8**

i. Page 127: The DEIR concludes that the "Harry Road/McKean Road intersection is not planned to be signalized as part of the "proposed project." Anyone who visits this intersection would conclude otherwise. "Hollywood" stops are the usual by most drivers rushing to get to the local school, church, or elsewhere; some others simply shortcut the intersection by going the wrong way across the opposite **43-9**

direction right turn traffic island. It is anticipated that AYA members, in their rush, will be temped to Hollywood stop regardless of the local resident's safety. It is suggested that a red/green traffic light be installed at this intersection to allow local residents on McKean Road and including McKean Ct. to safely ingress and egress through this busy intersection. **43-9**

j. Page 93: The notation that the Almaden Road/McKean Road is 2-way stop controlled is incorrect. It is one way stop controlled. **43-10**

2) NOISE

a. Page 149: It is agreed that decibels are based on a logarithmic scale. However, the simplified conclusion that a 20 dBA noise is twice as loud as a 10 dBA noise is technically incorrect. On a logarithmic scale, a 20 dBA noise is ten times more loud than a 10 dBA noise and so forth. **43-11**

b. Because of the open fields, it is anticipated that referee whistles, crowd cheering, vehicular noise, etc. will be heard continuously by the surrounding neighborhood as games/practices go on every day of the week, every week of the year. Using the data from Table II.G-1., it is fully expected that the generated sports complex noise will be equal to freight train/vacuum cleaner/freeway traffic on a continuous basis. **43-12**

c. Page 149: This chapter fails to note, evaluate, or deal with the noise emanating from parent (or AYA) supplied direct current (DC) sound generating devices or machines. This includes DC powered boom boxes, bull horns, DC powered microphones, and all other types of similarly powered sound generating devices. This comment also includes similar sound generating devices powered by alternating current (AC) should it be necessary to install AC power to the proposed sports complex. **43-13**

d. Page 150: Traffic noise, as described on Table II.G-1, refers to "Light Auto Traffic (at 100 ft)". The inference here is that the neighbors will experience a sound level of 50 dBA on a continuous basis. As I live approximately 300 feet (3 X 100 feet) from McKean Road, I can hear each and every car on McKean Road. Neighbors and street side residents who live closer to McKean Road obviously hear more. An explanation of the technical language from page 149 would be helpful. Perhaps some understandable language on the San Jose 2020 General Plan goals and policies on page 152 would also be helpful. Does this mean that these goals and policies do not take effect until 2020? Recall that this is 2004. **43-14**

e. How will Policy 11 (page 152) with regard to the proposed sports complex be implemented? **43-15**

f. Page 153: A noise mitigation measure is described as keeping house windows closed (and presumably stay inside). Does this mean that should the proposed sports complex be constructed, my neighbors and myself must keep our doors and windows closed at all times? I personally will find this difficult, if not impossible, with which to live. **43-16**

g. Page 159: An increase from 0.1 to 1.3 decibels vehicular noise is a more than ten fold increase in basic noise. **43-17**

h. Page 162: The technical discussion about noise switches from the accepted technical understanding using dBA (the logarithmic scale unit of decibel) to Lmax, Lmin, and Leq. The equivalency discussion (pages 162 and 163) is difficult, at best, to comprehend. **43-18**

i. No mention is made of noise level measurements or projections being peak or continuous such as on Table II.G-1, Table II.G-2, Table II.G-3, Table II.G-4, Table II.G-5, Table II.G-6, Table II.G-7, Table II.G-8, Table II.G-9. There is an enormous difference between peak and continuous. To simplify, peak might be described as an airplane flying over my house occasionally. Continuous would be living at the end of the runway. The DEIR text fails to note or evaluate this distinction with regard to the expected sports activity noise generation and the anticipated traffic noise increase. **43-19**

3. SEISMICITY

a. Page 34: The proposed sports complex site is adjacent to the Calero Fault (Exhibit II.B-1). The DEIR states, because "no known surface expression of active faults is known to exist within the site boundary...fault rupture...through the site is, therefore, not anticipated." Recall that the Loma Prieta fault, 60 miles south of San Francisco caused huge death, fire, and destruction in San Francisco, Oakland, etc. This DEIR text and conclusion(s) needs to be further evaluated for accuracy. **43-20**

In conclusion, it must be noted that the DEIR does not in any way discuss, evaluate, review, describe, or suggest impacts of the potential for the AYA, the San Jose Unified School District land owner, the City of San Jose, Santa Clara County, and/or alternate or subsequent owners or operators to sublet, rent, loan, or otherwise allow the use of the proposed sports complex on McKean Road (for revenue producing reasons or not) to other individuals, organizations, amateur, semi professional, or professional sports teams for practice and/or organized/scheduled games, "Super Bowl" like championship sports tournaments, football or other sports games on the fields, wine and/or art festivals, and/or any other large crowd drawing, noise making, and traffic inducing activities, whether the participants are Almaden Valley residents or not. If this were to occur, the evaluations, results, and impact conclusions of this DEIR would be invalidated. **43-21**

Robert L. Hughes
Letter received September 27, 2004

43-1 Draft EIR Table II.E-13 is mislabeled. The correct title of this table should be "Southbound McKean Road Left-turn Queuing analysis at project driveway." The EIR will be corrected. In response to the commentor's statements, the title of Table II.E-13 on page 128 of the Draft EIR is hereby revised as follows:

> ~~McKean Road/Almaden Road Intersection Turn Pocket Analysis Summary~~ Southbound McKean Road Left-turn Queuing analysis at Project Driveway

43-2 The existence of "sun glare" occurs in all parts of the City on all east/west streets and is not an environmental impact from the project and is not, therefore, an EIR issue.

43-3 Automobile traffic from all area streets was included in the traffic analysis. The average daily trips (ADT) for McKean Road is 6,253 for weekday traffic. The project increase in weekday traffic is 1,440 trips, spread over four peak hours. This results in 360 weekday vehicle trips per hour, evenly split (i.e., 180 trips in and 180 trips out per hour).

The project increase in weekend traffic is 2,040 trips, spread over a nine-hour period, from 8:00 a.m. to 5:00 p.m. This results in 1020 trips in and 1020 trips out over the nine-hour period, with approximately 255 weekend vehicle trips per hour.

The Traffic Impact Analysis prepared for the proposed project is in conformance with the City's Transportation LOS Policy and the requirements of the VTA's Congestion Management Program. It is important to note that the traffic analysis prepared for this Draft EIR was a conservative analysis, assuming that participants arrive separately and that all weekday trips are "double trippers", in other words, that all trips are drop off trips where players are dropped off and picked up later after practices.

43-4 Trip generation was based on current Almaden Youth Association operations. It is important to note, the Institute of Transportation Engineers Trip Generation, Seventh Edition currently published, estimates a six-field soccer complex to generate approximately 131 p.m. peak hour trips and 167 Saturday peak hour trips, well below the estimate based on current league operations. Please refer to Responses to Comments 15-20 and 43-3.

43-5 "No Stopping At Any Time" signs currently exist along McKean Road in the vicinity of the project site.. The project driveways and parking lot are designed for parents to drive onto the site to drop off or pick up children. Please refer to Exhibit 2 in the Traffic Impact Analysis in Appendix E of the Draft EIR.

43-6 Please refer to Response to Comment 43-3 and 43-5.

43-7 Please refer to Response to Comment 43-3 and 43-5.

43-8 Please refer to Response to Comment 43-3 and 43-5.

43-9 Please refer to Response to Comment 15-98.

43-10 In response to the commentor's statement, the second to last bullet on page 93 of the Draft EIR is hereby revised as follows:

> Almaden Road/McKean Road (**1-way stop-controlled** ~~2-way stop-controlled~~); and

43-11 The decibel scale is logarithmic; each 10-decibel increase represents a tenfold increase in noise intensity. However, noise intensity differs from human perception of noise. Human perception of loudness also conforms to a logarithmic scale; a 10-decibel increase is perceived as roughly a doubling of loudness. For example, 30 decibels is 10 times more intense than 20 decibels and sounds twice as loud; 40 decibels is 100 times more intense than 20 and sounds 4 times as loud; etc.

43-12 The noise levels provided in Table II.G-1are given in Leq. Leq, the equivalent energy noise level, is the average acoustic energy content of noise, measured during a prescribed period (typically one hour). Thus, the Leq of a time-varying noise and that of a steady noise are the same if they deliver the same acoustic energy to the ear during the exposure period. Sound levels from sources such as freight trains, vacuum cleaners and traffic on a freeway have different frequencies, pitch and characteristics from such sources as whistles and cheering. The Draft EIR provided noise measurements at existing soccer and baseball fields in order to determine the type of noise levels that would be generated at the project. In order to provide a conservative analysis, the Lmax noise descriptor was used to establish maximum noise levels at the project site. The Lmax is the highest averaged instantaneous noise level recorded during a measured period. This descriptor is sometimes referred to as "peak (noise) level". Since the City does not provide standards for instantaneous noise sources, the Lmax was compared to the 55 dBA DNL noise standard as provided in the City General Plan. The Draft EIR concludes that the noise associated with youth sports activities at the site would exceed the General Plan noise standards and, therefore, is a significant and unavoidable impact.

43-13 As noted in Section I, Project Description, of the Draft EIR, the project proposes no lighting or amplified sound equipment (refer to the Human Activity discussion contained in the Biological Resources section of the Draft EIR).

Noise amplifying devices would be prohibited and thus were not included in the noise analysis.

43-14 Table II.G-1 in the Draft EIR provides examples of noise levels from various sources. As indicated in the Noise section of the Draft EIR, the traffic generated by the proposed project would contribute a maximum of 1.3 dBA to the existing noise environment. A 3-dBA increase in sound is barely perceptible to the human ear. and therefore an increase of 1.3 dBA is not considered a significant impact per the City of San José thresholds of significance. Additionally, the City's Goals and Policies are intended to provide guidance regarding noise for proposed developments. The General Plan Goals and Policies are applied to the review of all new development proposals from the existing year to the year 2020.

> 43-15 San Jose 2020 General Plan Noise Policy 11 states that: *"When located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses, non-residential land uses should mitigate noise generation to meet the 55 DNL guideline at the property line. "*

The 55 DNL guideline provided by the City of San José is based on the Ldn (DNL) noise descriptor. The DNL is a measure of the 24-hour average noise level at a given location. It was adopted by the U.S. Environmental Protection Agency (EPA) for developing criteria for the evaluation of community noise exposure. It is based on a measure of the average noise level over a given time period called the Leq. The DNL is calculated by averaging the Leqs for each hour of the day at a given location after penalizing the "sleeping hours" (defined as 10:00 p.m. to 7:00 a.m.), by 10 dBA to account for the increased sensitivity of people to noises that occur at night. Since the sports activities at the proposed Project would not operate on 24 hours of the day, the Lmax and Leq noise descriptors were used in the analysis in order to provide a conservative analysis. The Draft EIR states on page 163 that:

> *"Some of the project characteristics would limit the adverse effects of the Leq and Lmax noise levels generated at the site including the limits on operating hours to daytime only and the lack of an outdoor loudspeaker system. As noise levels are projected to be substantially above the City's General Plan standard, the operational noise impacts associated with the proposed project would be considered significant and unavoidable."*

43-16 The commentor questions whether he and his neighbors would be required to keep their doors and windows closed at all times if the proposed sports complex is constructed. The discussion on page 153 of the Draft EIR to which the commentor references, identifies the attenuation in interior noise levels expected with windows both opened and closed. The Draft EIR did not assume windows

would be kept closed when assessing the potential impact of project noise on surrounding sensitive receptors, and therefore the commentor would not have to keep his windows closed to avoid interior noise exposures in excess of identified State and City standards. The Draft EIR does not include any requirement or propose any mitigation that would require area residents to keep their windows closed.

43-17 As discussed in Response to Comment 43-11, the decibel scale is logarithmic; each 10-decibel increase represents a tenfold increase in noise intensity. However, noise intensity differs from human perception of noise. Human perception of loudness also conforms to a logarithmic scale; a 10-decibel increase is perceived as roughly a doubling of loudness. An increase from 0.1 dBA DNL to 1.3 dBA DNL would be barely perceptible by the human ear. In general, in an ambient outdoor noise environment, a 3-dBA change is considered to be a "just detectable" difference in most situations. Please also refer to Response to Comment 43-15.

43-18 As indicated in the EIR, in order to accurately represent the noise levels generated at the site by the proposed youth sports activities, the Leq noise descriptor was used instead of the DNL descriptor. The DNL noise descriptor is calculated by averaging the day and night noise levels associated with a project with a nighttime penalty to account for the higher sensitivity to noise levels at night. However, because the proposed project would not generate noise during nighttime hours, the low ambient nighttime noise levels at the site would offset the daytime noise levels, resulting in a much lower 24-hour average noise level than would be expected during typical youth sports events. Lmax is considered the average of peak or maximum noise events in a given period of time. . The commentor states that the technical noise discussion is difficult to comprehend. The following provides a brief summary of the technical noise terms used in the Noise section of the Draft EIR.

The standard unit of measurement for sound is the decibel (dB). Since the human ear is not equally sensitive to sound at all frequencies, a special frequency-dependent rating scale has been devised to relate noise to human sensitivity. The A-weighted decibel scale (dBA) performs this compensation by discriminating against frequencies in a manner approximating the sensitivity of the human ear.

Sound measured over time is typically done so in one of two ways: 1) the Equivalent Sound Level (Leq), which is a measurement of the average acoustic energy content of noise measured during a prescribed period (typically one hour); and 2) day/night average sound level (DNL). The DNL noise descriptor is calculated by averaging the day and night noise levels associated with a project with a nighttime penalty to account for the higher sensitivity to noise levels at night. However, because the proposed project would not generate noise during nighttime hours, the low ambient nighttime noise levels at the site would offset the daytime noise levels, resulting in a much lower 24-hour average noise level

than would be expected during typical youth sports events. In order to accurately represent the noise levels generated at the site by the proposed youth sports activities, the Leq noise descriptor was used instead of the DNL descriptor.

The resulting Leq noise level at the property line for residents near to the project site is provided on page 162 of the Draft EIR.

In addition to Leq, the Lmax noise descriptor can be used to describe noise generated by youth sports activities at the site. Lmax represents the average of peak or maximum noise events in a given period of time. The resulting Lmax noise level at the property line for residents near to the project site is provided on page 163 of the Draft EIR.

43-19 Please refer to Draft EIR Section II. G. Noise, Environmental Setting for a discussion of the noise measurement methodology used in the General Plan and how it relates to the proposed project. Also please refer to the Operational Noise portion of the Draft EIR beginning on page 160. .

43-20 As noted by the commentor, the proposed sports complex is adjacent to the Calero Fault; however, as noted on page 34 of the Draft EIR, the Santa Clara County Planning Office does not identify the Calero Fault as being within a Fault Rupture Hazard Zone. Furthermore, the Calero Fault has not been identified under the Alquist-Priolo Earthquake Fault Zoning Act passed in 1972 to mitigate the hazard of surface faulting. For a discussion of the likelihood of fault rupture across the project site and corresponding potential to expose people to substantial adverse effects, please refer to Section II.B (Geology, Soils and Seismicity), page 38 of the Draft EIR. For a discussion of the ground shaking that would occur at the site due to a large magnitude earthquake, please refer to Section II.B (Geology, Soils and Seismicity), pages 38-39 of the Draft EIR. The Draft EIR concludes that the project would have a less than significant impact on people or structures resulting from ground shaking or fault rupture, given that there are no structures proposed for the site that would be damaged in an earthquake.

43-21 Please refer to Response to Comment 13-7. In addition, the use agreement will contain specific limitations on the rental and use of the facility as well as provisions that use of the facility meet limitations and restrictions noted in the approved EIR document. No non-sports activities or uses of the facility are proposed.

-----Original Message-----
From: Brad Houser [mailto:b_houser@pacbell.net]
Sent: Monday, September 27, 2004 6:26 AM
To: janis.moore@sanjoseca.gov
Subject: Comment on DEIR for McKean Road Sports Complex

Environmental Project Manager, Janis Moore
Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

Dear Ms. Moore:

I am a resident of the McKean Road area, technically outside of San Jose. I object to the methods the city is using to force this sports complex on us.

1. The EIRs have stated water is an issue. This has not been adequately addressed. **44-1**

2. Safety is also an issue. The increased car, bike, and foot traffic will lead to more accidents. **44-2**

3. Traffic is an issue. Already there are backups at various times in the day, and the report states that a traffic light may be needed at McKean and Harry. This will most likely be at the end of a long list of traffic improvements the state and city can not afford right now. **44-3**

4. The city is favoring the AYA groups with loans and other incentives. I sure wish I could rent 77 acres for only a dollar a year! Why isn't the land being rented at fair market value? It is a tax payer give away. **44-4**

5. If the school fields are so bad, why not fix them? Surely it would cost less than creating new fields. **44-5**

6. Being part of a reserve, this area is not supposed to be developed now. The city is pushing its own agenda and bending the rules in support of a project that is dividing the community. **44-6**

7. The issue of jurisdiction seems to be ignored. Where is the County in all this? Why are they silent and letting this proceed without question? **44-7**

I could go on, but I think I have made my point.

Brad Houser
San Jose, CA

Brad Houser
E-mail dated September 27, 2004

44-1 The commentor does not identify a specific inadequacy relating to the water analysis contained in the Draft EIR. For additional information relating to water supply impacts, please also refer to Responses to Comments 4-2, 4-3 and 28-1.

44-2 Please refer to Response to Comment 3-1.

44-3 Please refer to Response to Comment 15-98. .

44-4 The comment states the opinion of the author and does not raise any specific environmental issues regarding the adequacy of the Draft EIR. No response is required.

44-5 The Draft EIR addresses an Alternative Location and a Rehabilitation/Expanded Use of Existing Sports Fields alternative. Please refer to Draft EIR Section III Alternatives to the Proposed Project beginning on page 210 for a discussion of the alternative entitled Rehabilitation/Expanded Use of Existing Sports Fields. The rest of the comment consists of the opinion of the author and does not raise any specific issues regarding the Draft EIR. No additional response is required.

44-6 The commentor's opinions regarding the proposed General Plan amendment are noted. The comment does not raise any specific environmental issues regarding the Draft EIR. No additional response is required. For additional discussion on the timing of urban development in SAVUR, please refer to Response to Comment 10-18.

44-7 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. Please refer to Response to Comment 10-2.

-----Original Message-----
From: nkole@kole.us [mailto:nkole@kole.us]
Sent: Monday, September 27, 2004 10:16 AM
To: janis.moore@sanjoseca.gov
Subject:

Environmental Project Manager, Janis Moore
September 27, 2004

Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

Dear Ms. Moore:

The DEIR for the McKean Road Sports Complex is insufficient as an environmental document. It fails to fully address the problems associated with the project, especially with regards to water, traffic, and noise. **45-1**

In the case of water, no real attempt was made to determine the impact this project will have on the aquifer. Residents were not interviewed and no clear understanding is available of the wells in the area and how much the water table can drop before those wells run dry. No responsible decision can be made without a clear understanding of how the water resources of the Reserve will be affected and certainly no reasonable mitigation can be arrived at if you don't start with an accurate basis of information. **45-2**

I am sure that the assessment that the impact will be significant is correct but you don't know how serious because you have no information.

The traffic issue is large. McKean is a two-lane country road that will be expected to handle urban traffic. From what I see in the report, no effort will be made to mitigate the traffic issue. And from what I see of the uncontrolled growth pattern of the soccer league, the traffic will only get worse. **45-3**

Noise was hardly addressed in the report. These are open fields that carry sounds. Noise will travel further and seem louder than it would in an urban area with buildings to block it. I have to wonder what standard of noise was used to determine that this is a problem and that it can't be mitigated. If they used urban standards my guess is that this is an even bigger problem than expected. **45-4**

Sincerely,

Neil Kole
22710 Davis Court
San Jose, CA 95120
Tel: +1408 517 7777

Neil Kole
E-mail dated September 27, 2004

45-1 The commentor states that the Draft EIR fails to address the problems associated with the project, especially with regards to water, traffic, and noise; however, the commentor does not raise any specific environmental issues affecting the adequacy of the Draft EIR. For a detailed discussion of environmental impacts related to water supply, traffic and noise that are anticipated with project implementation, the commentor is referred to Sections II.D, II.E and II.G of the Draft EIR, respectively.

45-2 Please refer to Responses to Comments 4-2, 4-3 and 28-1.

45-3 Mitigation measures are implemented when the City's transportation policy identifies a significant impact. No significant impact was identified per the City's Policy. Please also refer to Response to Comment 37-3.

45-4 Please refer to Responses to Comments 13-6, 20-6 and 28-2. .

-----Original Message-----
From: Roy Kole [mailto:rkole@ix.netcom.com]
Sent: Monday, September 27, 2004 12:19 PM
To: janis.moore@sanjoseca.gov
Subject: DEIR for the McKean Rd. Sport Complex

Environmental Project Manager, Janis Moore
September 27, 2004

Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

Dear Ms. Moore:

The review of this EIR rings some very alarming bells. It is totally inadequate and is based on many false premises.

I will try to cover some of these points in this letter as follows:

1- This DEIR omits, overlooks or ignores the many metrics necessary for a credible EIR. There are o comparative analyses of the proposed fields environmental impact (all facets) versus other viable alternative approaches. The metrics used for traffic analysis are imprecise and the ones used for water supply assessment are wishful thinking. **46-1**

2- The claim that alternate more suitable land is not available is totally false. Perhaps they searched for another site to support ten or twenty fields. But surely we can expand the existing school and park fields to meet the demand with much less adverse environmental impact. For example a few fields can be built next to the current Almaden Valley Library. It has all the amenities and facilities. **46-2**

3- How the DEIR addresses the water issue is a sham. It is in total disagreement with what the Santa Clara Valley Water District has told the residents of this community for many, many decades. It is not based on scientific geological data. It is simply based on on the credibility of one paid consultant. **46-3**

4- The water supply situation in this area has been and continues to be extremely critical. All your office needs to do is to review the Water Districts records for well drilling permits in the last 40 years. From this data you will be able to see how limited this aquifer and how fragile the situation is for the current residents. The DEIR authors have no idea what the wells will do during drought months or effects of even small and moderate earthquakes on these well. After the 1989 quake there were many, many disruptions. This project can severely damage the aquifer and surrounding wells. **46-4**

5- Deep down the authors of the DEIR knew that there is not enough water

to support the project. That is why they proposed a piecemeal approach. Build a few filed and wait and see!!! This has to be way below the dignity of a great city like San Jose to give its kids this kind of run around. In addition, the City will bear the responsibility for the consequences of peoples' wells drying up. **46-4**

6- The DEIR traffic analyses (if you want to call it that) is incomplete, incompetent, and flat wrong. There is so much inadequacy in it that it has to be covered in a separate letter. The city planners however know very well that a facility of this size needs a freeway proximity. **46-5**

8- Noise, dust, chemical pollution, trash and many other environmental impacts are either not addressed or no reasonable mitigation for them are provided by the DEIR. **46-6**

9- Safety on this narrow two lane road is overlooked by the DEIR. What is in the document is just a whitewash.

It is simply shameful to jeopardize the safety of our children to save money. I am at a total loss how the City can justify that. There are people living here that commute by bicycles. There are hikers and equestrians traffic. The impact of the proposed project traffic will be disastrous. The DEIR simply ignores all of that. **46-7**

10- Finally, the basic premise upon which the DEIR is based is false. This project is not for a "temporary" facility.

No court in the land will agree with that. Twenty years is permanent enough. But once the project is done there is no undoing it after 20 years. The DEIR says " there are no other suitable land available". Therefore, this DEIR should have addressed all issues relating to "permanent" faculties. **46-8**

These are just some of the points. There are many, many more. I cannot see how the City can recommend approval of this EIR and move forward with this project. **46-9**

Sincerely,

Roy Kole
21552 Schillingsburg Ave.
San Jose, CA 95120

Roy Kole
E-mail dated September 27, 2004

46-1 The commentor's statements regarding the proposed McKean Road Sports Complex project are noted, however the comment does not identify any specific environmental inadequacies of the Draft EIR. The Draft EIR evaluates a reasonable range of alternatives to which the proposed project was compared. For a detailed discussion of the project alternatives, water supply, and transportation, the commentor is referred to Sections III, II.D. and II.E., respectively.

46-2 The commentor states that the Draft EIR fails to analyze an alternative that would provide the same number of sports facilities spread over several sites within the Almaden Valley. However, as described on page 213 of the Draft EIR, the expansion of existing sports fields was considered as a project alternative. The expansion of existing sports fields would have the effect of spreading the proposed project's fields over several sites. The Draft EIR concluded that this alternative would be considered infeasible because the existing fields are generally located within existing established residential areas, which would constrain their expansion.

Furthermore, spreading the proposed sports fields over multiple, vacant parcels that are not contiguous was considered infeasible for a number of reasons including the need to provide groundwater pumping and irrigation infrastructure at multiple sites, the potential to have adverse environmental impacts in multiple locations (e.g., high noise, adverse visual impacts), the difficulty of managing multiple sites, and the inability of multiple small sites to meet the operational demands of the local youth sports leagues. Please also refer to Response to Comment 15-6.

46-3 The commentor states that the water supply analysis is a sham, that it disagrees with information provided by the SCVWD, and is not based on scientific geological data. The comment does not accurately state the content of the Draft EIR. For a discussion of information provided by SCVWD existing groundwater use, please refer to page 63 of the Draft EIR, which indicates that SCVWD records go back to 1989 for the Caglia well. In addition, a discussion of available driller's logs for the valley containing the site is described on page 73 of the Draft EIR. Page 77 states that rainfall data from October 1959 to June 2000 were provided by SCVWD. On the same page a discussion of groundwater hydrographs from data provided by SCVWD, which monitors water levels in two wells near the valley, is also provided. Additionally, stream flow data were provided by the SCVWD for Alamitos Creek from October 1972 to September 1999. Furthermore, historic annual pumping for 1989 through 2001 from the greater McKean Road area was provided by the SCVWD.

46-4 With respect to geological data used for the site, the commentor is referred to page 67 of the Draft EIR, which provides a discussion of the lithology of the property's geology. Please also refer to Responses to Comments 4-2, 4-3, 28-1 and 46-3.

46-5 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required. Please refer to Responses to Comments 15-73 through 15-83 for additional information.

46-6 For impacts related to noise, dust, chemical pollution, and trash, the commentor is referred to the Noise, Air Quality, Hydrology and Water Quality, Public Services, and Hazards and Hazardous Materials sections of the Draft EIR.

46-7 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. Please refer to Response to Comment 3-1 for additional information.

46-8 The Draft EIR analyzed the potential environmental impacts of the construction and operation of the proposed sports fields complex. No distinction was made as to the "temporary" nature of the project. The Draft EIR identifies the proposed sports fields use as an interim use, defined as "the continued use of the site until the School District needs the land for school purposes". The Draft EIR also states that, "because of the anticipated future demand for sports fields, it is assumed that the site would continue to be leased for the proposed facility's use until the South Almaden Valley Urban Reserve Specific Plan is approved and implemented."

46-9 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

GEORGE & ANNA STEPANENKO
20595 MCKEAN ROAD
SAN JOSE, CA 95120-2407
(408) 927-6479

September 27, 2004

RECEIVED
SEP 27 2004
CITY OF SAN JOSE
PLANNING DEPARTMENT

Akoni Danielsen, Principal Planner &
Janis Moore, Contact Person
Department of Planning, Building & Code Enforcement
CITY OF SAN JOSE
801 North First Street, Room 400
San Jose, CA 95110-1795

Re: RECIRCULATED DRAFT ENVIRONMENTAL IMPACT REPORT FOR MCKEAN ROAD SPORTS COMPLEX (SCH # 2002112035) (FILE NO. GPT01-10-02/PP03-02-057)

Dear Akoni and Janis:

Enclosed please find, in compliance with your August 12, 2004, letter, our written comments on the above referenced DEIR for inclusion in the Final EIR and consideration by the Planning Commission at the public hearing in this matter.

If you have any questions regarding the above, please do not hesitate to call or write or email us at georgestepanenko@aol.com.

Respectfully submitted,

George Stepanenko
Anna Stepanenko

George & Anna Stepanenko

Enclosed

RECEIVED
SEP 27 2004
CITY OF SAN JOSE
PLANNING DEPARTMENT

WRITTEN COMMENTS

DRAFT ENVIRONMENTAL IMPACT REPORT

MCKEAN ROAD SPORTS COMPLEX

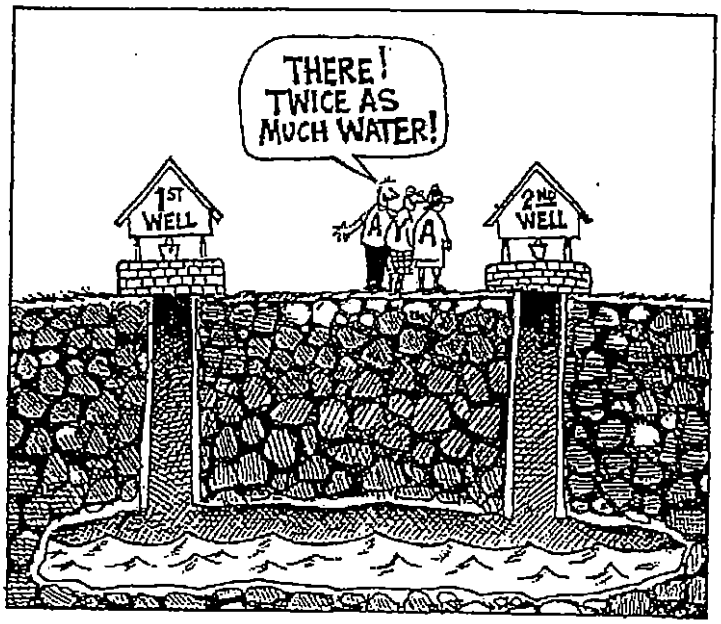
CITY FILE # GPT 01-10-02/PP 03-02-057
SCH # 2002112035

George & Anna Stepanenko

September 27, 2004

INTRODUCTION

They say a picture is worth a thousand words.



Cartoonist DeCinzo's "picture" published in the September 2, 2004, issue of the *Almaden Resident* says it all. All not just about the Almaden Youth Association (the "AYA")—who's myopic attitude on the McKean Road/AYA Sports Complex is captured so exquisitely in DeCinzo's political cartoon—but also, unfortunately, about this latest "recirculated" version of the McKean Road Sports Complex DEIR.

"An EIR is an informational document which will inform public agency decision-makers and the public generally . . . ." (CEQA Guidelines, 14 CCR, Ch. 3, §15121(a)) Like DeCinzo's characterization of the AYA, this DEIR is not about providing objective information to inform public agency decision-makers or the general public, it is about twisting facts and manipulating data to support a preconceived notion—proving against all logic and objective fact that the Urban Reserve can support a land use which is categorically incompatible with the General Plan, the *Greenprint* and the quality of life of the Reserve's residents. It is not about information, it is about advocacy. 47-1

Oh, yes, if you get into the rhythm of the language of the DEIR and read it without focusing too hard on what it actually says and try to convince yourself that all that data must have been generated at some great cost and for some logical purpose and, thus, must be probative of something—because numbers never lie (right?)—you can easily find yourself being swept onto the rocks by its siren song. But if you focus on the real meaning of what is being presented, ultimately, you cannot escape the realization that you have just stumbled upon the death of reason, the absence of fairness and a mockery of the planning process.

For, you see, just as digging another well does not mean there will be twice as much water, so also phasing the development of the project does not miraculously eliminate significant unavoidable water supply impacts as claimed by the DEIR. Nor will the monitoring of water usage by an obviously biased site operator (the Almaden Youth Association) determine anything we don't already know—that the aquifer beneath the Caglia property simply cannot support as intensive a use as a sports facility. But that is exactly the point: seen through the obviously biased eyes of the AYA, two wells means twice as much water; seen through the obviously biased perspective of this latest version of the DEIR, phasing the development of a categorically incompatible use, means the use will miraculously become compatible.

The McKean Road Sports Complex project promotes a singular inequity—a private monopoly out of the ashes of the General Plan, the *Greenprint* and the residents of the South Almaden Valley Urban Reserve. Not only that, but it fuels this private monopoly with public funds diverted from projects that could truly produce benefits for the greater public good! For, long before the ink had dried on the first City Council resolution to desecrate the General Plan and violate the South Almaden Valley Urban Reserve with new development it calls the McKean Road Sports Complex project, the Almaden Youth Association had already been pre-blessed to operate this valuable public resource for its own purposes at the ludicrous lease rate of $1 per annum for a term of twenty years. No other potential operators for the facility were interviewed and none needed to apply—Pat Dando had given the Almaden Youth Association her personal imprimatur and that was enough! 47-1

That's why this DEIR is not about providing unbiased information to inform public agency decision-makers or the public. This DEIR is about justifying Pat Dando's promises to the Almaden Youth Association. Astute politics? Maybe—but it most certainly is not good government!

EXECUTIVE SUMMARY

The Draft Environmental Impact Report, McKean Road Sports Complex (SCH # 2002112035; City File No. GPT 01-10-02/PP 03-02-057) is fatally flawed.

From a "format" standpoint, the DEIR suffers from a paucity of citations to the very authorities on which it bases virtually all of its discussion and conclusions. Additionally, troubling nonsequiturs detract from the logical evaluation of data and discussions in key sections. **47-2**

The vast majority of critical information and data either comes from biased sources (like the project's beneficiary, the Almaden Youth Association) or (such as projections of field use and traffic data) is entirely anecdotal. Other information and data is based on meaningless analyses (like the traffic impact analysis prepared by RBF Consulting which deals primarily with delays at intersections miles from the project site) or nonexistent baselines (like the air quality analysis which uses City-wide clean-air standards compliance as a measure of the impact of increased traffic on the Urban Reserve or noise data measurements from sports events which are not representative of the concentration of sports events intended to be played or the conditions that would exist at the project site). Consequently, any attempt to characterize the significance of environmental impacts or the probable success of proposed mitigation measures for these particular sections of the report is entirely suspect. **47-3**

Significantly, the DEIR does not even make a perfunctory attempt to show that there is even a need for such a facility. In fact, the *Greenprint*—the document upon which the DEIR relies in support of its claim of need—based its conclusion that District 10 was underserved in parkland and sports facilities on faulty demographic projections based on what were then ten-year old (Census 1990) demographic projections. Those projections were proven incorrect by Census 2000, which conclusively proved that District 10 had a surplus, not a deficit of parkland and sports facilities in the year 2000. Moreover, as recent school closings and news articles convincingly show, the Almaden community—ostensibly the needy recipient of this public largess—is becoming older not younger in population. Perhaps even more importantly, virtually every aspect of the McKean Road Sports Complex project—from its one-track assessment of community needs (District 10 does not need more parks, only more sports fields) to its inequitable solution for meeting existing and future sports facility needs (lets not provide sports fields for all residents, but, instead, build an exclusive facility for the Almaden Youth Association—is radically different from the vision outlined in the *Greenprint*, the City's strategic plan for parks and community facilities and programs. In fact, the very existence of the McKean Road Sports Complex is categorically incompatible with the Core Values espoused by the *Greenprint*. **47-4**

Everything about the McKean Road Sports Complex project oozes "bad government." Although the DEIR calls the McKean Road Sports Complex Project a public project, it yields, at best, only incidental benefits to the general public, while endowing a huge monopolistic benefit on a private developer—the Almaden Youth Association. Initiated at the behest of and for the sole benefit of that private developer, the McKean Road Sports Complex amendment to the General Plan is a publicly-initiated General Plan amendment in name only. It is a flagrant attempt to amend the General Plan around one private developer's designs on one particular parcel—an outrageous scheme to "shoehorn" General Plan policy and language to suit the McKean Road **47-5**

Sports Complex project on the SJUSD Caglia property and nothing else. As such, it is a gross perversion of the planning process—the planning equivalent of the illegal practice of "spot zoning." Furthermore, by shielding the private developer from public scrutiny and diverting public funds from approved projects that, indeed, benefit the general public to a private developer for its own self-interested purposes, the McKean Road Sports Complex project undermines the City's credibility. And, further, by involving the SJUSD in such improper dealings (convincing the School District to lease a valuable public land resource to the private developer at substantially below market at the same time the School District is feigning poverty by closing schools), it compromises not only the City, but also the SJUSD. 47-5

Inasmuch as it proposes new development in the South Almaden Valley Urban Reserve prior to the initiation of the specific plan and before the prerequisite conditions have been met, the McKean Road Sport Complex General Plan amendment proposed in the DEIR violates not only the spirit and the letter of the *San Jose 2020 General Plan*, but also undermines the orderly process by which such plans must be amended ("[t]he general plan shouldn't be amended casually," Governor's Office of Planning Research, *State of California General Plan Guidelines*) and is incompatible with virtually every strategy and policy document of both the City and County. 47-6

At best, the McKean Road Sports Complex promises to be a costly mistake *à la* the Hayes Conference Center. At worst, sometime in the distant future (because of the many time-intensive mitigation measures) the McKean Road Sports Complex will become a noxious public nuisance—and the source of interminable litigation between the City and the residents of the South Almaden Valley Urban Reserve. If it is completed at all (because of all the mitigation measure delays and unanswered environmental questions), the McKean Road Sports Complex will subject not only its users to substantial risk, but also innocent bystanders (bicyclists and drivers injured or killed because of the dangerous congestion at the project entrance on McKean Road). Certain aspects of the project, such as noise, odors, air quality, trash, water and traffic—which cannot be mitigated adequately regardless of cost—will lead to contentious litigation for years to come. 47-7

Most importantly, the DEIR is legally deficient and CEQA noncompliant because it attempts to stack the deck in favor of a phased-development alternative by neither identifying nor evaluating alternative locations or use proposals—making it *per se* invalid. "Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly [emphasis supplied]." (CEQA Guidelines, 14 CCR, Ch. 3, §15126.6(b)) 47-8

Finally, inasmuch as the DEIR makes no meaningful attempt to evaluate the cumulative impact on the environment of the three existing LGAFs within the one-mile stretch of McKean Road between Harry Road and San Vicente Avenue, its conclusion that the project would result in less than significant cumulative impacts in aesthetics, air quality, biological resources, cultural resources, geology and soils, hydrology and surface water quality, noise, public services, recreation and transportation/traffic and resulting in significant cumulative impacts only in loss of prime farmlands and water supply is also *per se* invalid. 47-9

"The Legislature finds and declares that it is the policy of the state that noncompliance with the information disclosure provisions of this division [The California Environmental Quality Act] which precludes relevant information from being presented to the public agency, or noncompliance with substantive requirements of this division, may constitute a prejudicial abuse of discretion within the meaning of Sections 21168 and 21168.5 [judicial review], regardless of whether a different outcome would have resulted if the public agency had complied with those provisions [emphasis supplied]." Public Resources Code Section 21005(a)) The McKean Road Sports Complex project must be rejected; its General Plan amendment must be withdrawn. **47-10**

SECTION BY SECTION ANALYSIS

VOLUME I, PART I, SECTION A (OVERVIEW OF THE PROJECT)

ISSUE: "The City has identified the need for additional parkland and sports park facilities in this area [the southern part of the City (Almaden Valley, Blossom Valley and Santa Theresa areas)], based on the conclusions of the City's 20-year strategic plan entitled *Greeenprint for Parks and Community Facilities and Programs*, published in August 2000." (DEIR, Page 1)

COMMENT: The *Greenprint* task force had to make certain assumptions between January 1999 when it began collecting data and September 2000 when *Greenprint* was actually published. One of those assumptions, of course, had to do with population statistics. Since Census 2000 had not yet been conducted, the population assumptions in *Greenprint* were, by their very nature, extrapolated from population data collected during Census 1990—ten years earlier. And, because each District's need for parkland and sports park facilities is derivative of population (the *Greenprint* goal is 3.5 acres per 1,000 population)(*Greenprint*, Chapter 6, Page 67), the need established in *Greenprint* was based on projections from ten-year old data when it was propounded in September of 2000.

Thus, in September of 2000, *Greenprint* estimated that by 2020 the population of District 10 would increase by approximately 33,000 to 131,112 (*Greenprint*, Chapter 6, Page 67)—from which a simple arithmetic calculation shows that *Greenprint* assumed that the population of District 10 would be 98,112 in the year 2000. And, based on that population estimate and the aforementioned goal of 3.5 acres of parkland and sports facilities per each 1000 population, *Greenprint* concluded that District 10's existing 321.1 acres of parkland and sports facilities were inadequate to serve the estimated District 10 population. Or, to put it a different way, that District 10 needed an additional 22.9 acres of parkland and sports park facilities to adequately serve district residents in 2000 (*Greenprint*, Chapter 6, Page 67). 47-11

Of course, we know what happens when we assume. Earlier this year, the City of San Jose had to back off its claim to being the 10th largest city in the United States and re-cede that dubious distinction to Detroit because it assumed it was growing when we all know the out-migration from Silicon Valley since the bursting of the dot-com bubble has had a very different effect on San Jose's population. But that's another story. Anyway, as Census 2000 proved, the population of District 10 in the year 2000 was almost 13,000 less than what the *Greenprint* task force had assumed it would be in that year based on projections made from data that was then ten years old. In fact, according to the City's own Census 2000 Council District Profiles[1], the population of District 10 in the year 2000 was 86,285 people and not the 98, 112 people upon which the *Greenprint* task force based its conclusion of need.

So, if you take the actual population of District 10 as established by Census 2000 and perform the simple arithmetic calculations necessary to come up with the real—not assumed—need of District 10 in the year 2000, you find that the 321.1 existing acres of parkland and sports

[1] http://www.sanjoseca.gov/planning/Census/CD_DP1_pdf/DP1_CD10_Census%202000.pdf

facilities actually exceeded the goal of 3.5 acres per 1,000 population by 19 acres (86,285 divided by 1,000 times 3.5 equals 301.9975 acres). Of course this conclusion—that the parkland and sports park facilities needs of the Almaden community are more than adequately served by the existing inventory—surprises no one who actually lives in Almaden.

Not only, however, is District 10 overserved—not underserved—in parkland and sports, but even the three areas within District 10 that were found to be underserved by park facilities applying the faulty *Greenprint* analysis (East of Pearl, north of Branham Lane, south of Capitol Expressway; West of Alamitos Creek, east of Almaden and north of Camden; and "one area that is underserved for community centers southeast of Almaden Quicksilver County Park") (*Greenprint*, Chapter 6, Page 67) either have a different requirement (a community center) or are miles away from the proposed McKean Road Sports Complex.

The fact that there is no need for additional parkland and sports facilities in District 10 should come as no surprise to anyone. Earlier this year the San Jose Unified School District closed three schools in District 10 and has plans for closing more. Ultimately schools may close because of budgetary shortfalls, but they don't close unless there is a concomitant shortfall of enrollment. Closing schools telegraphs not just the overall decrease of school-age young people in District 10, but also the general graying of Almaden's population—which has been heralded in local newspapers (*see, e.g.*, "New Wrinkle: Almaden Valley offers new programs for its aging population," *Almaden Resident*, November 6, 2003). 47-11

Not establishing with any verifiable data that a need truly exists is one of the most serious deficiencies of this DEIR. Without need, there can be no justifiable Statement of Overriding Considerations—only significant unavoidable impacts. "The statement of overriding considerations shall be supported by substantial evidence in the record." (CEQA Guidelines, 14 CCR, Ch. 3, §15093(b)) And, significant unavoidable impacts without substantial evidence in the record of needs can only equate to . . . NO PROJECT!

VOLUME I, PART I, SECTION C (PROJECT DESCRIPTION)

ISSUE: "Until such time as the specific plan becomes effective, the allowed land uses and standards of the Rural Residential land use designation shall apply in the SAVUR. In addition, because this area has been identified as potentially appropriate for urban uses and inclusion in the Urban Service Area at some point in the future once certain preconditions have first been satisfied as discussed in this Section, it is appropriate to allow certain limited, interim recreational uses on public property that are consistent with the long-term character of the SAVUR . . . ." (DEIR, Page 7)

COMMENT: The General Plan is unequivocal about this: "Until such time as the specific plan becomes effective, allowed land uses *and standards* are those of the Rural Residential land use designation [emphasis supplied]." (*San José 2020 General Plan*, Page 200) The General Plan is very clear also regarding the prohibition that no specific plan may be initiated until the two prerequisite conditions have been met and "[t]hat these prerequisite conditions should only be modified during a comprehensive update of the General Plan involving a community task force similar to the San José 2020 General Plan update process." (*Id.*) The 47-12

proposed McKean Road Sports Complex amendment language violates not only the spirit, but also the letter of the General Plan.

As you well know, the prerequisite conditions have not been met and are a long way from being met. Furthermore, and notwithstanding any caveat(s) in the proposed amendment to the contrary, modifying the General Plan this casually violates the prohibition against such modifications except during a comprehensive update of the General Plan and undermines the orderly process by which such plans must be amended ("[t]he general plan shouldn't be amended casually," Governor's Office of Planning Research, *State of California General Plan Guidelines*). Proposing to amend the General Plan around one private developer's designs on one particular parcel is but an outrageous scheme to "shoehorn" General Plan policy and language to suit the McKean Road Sports Complex project on the SJUSD Caglia property and nothing else—a gross perversion of the planning process, the planning equivalent of the illegal practice of "spot zoning."

As you well know also, Rural Residential (*Id. At 139-40*) "is the least intensive category of residential use . . . represented by single family dwellings on lots averaging five acres in size." The *standard*, therefore, within the South Almaden Valley Urban Reserve for thirty-five acres is approximately seven dwellings. Seven dwellings might generate a parking requirement for 20, but not for 600 vehicles; daily weekday and weekend trips in the dozens, not the hundreds or thousands; water use in hundreds of gallons not acre-feet per year; and so on and so on and so on. By proposing such an intense use on the Caglia site, you are repudiating the standard by which Rural Residential land use is judged—and that is prohibited by the General Plan. **47-12**

In fact, by alleging that "it is appropriate to allow certain limited, interim . . . uses on public property that are consistent with the long-term character of the SAVUR," you are derogating the prohibition against development within SAVUR until the prerequisite conditions have been met. Regardless that you say these uses are recreational, if these uses are "consistent with the long-term character of the SAVUR," then they must by definition be not consistent with the existing character of SAVUR because the long term character of SAVUR is urban. And the Urban Reserve is just that—a reservation of land for FUTURE urban use, not present urban development. If it were otherwise, SAVUR would not be a reserve, it would already be urbanized.

VOLUME I, PART I, SECTION D (PROJECT OBJECTIVES)

ISSUE: "The objectives of the project are as follows: . . . and 4) to provide additional facilities in the area to meet the increasing demands for soccer, baseball and softball playing fields." (DEIR, Page 11)

COMMENT: The population of District 10 is not increasing and is graying, schools are closing and yet the City continues to maintain there is increasing demand for youth athletics. On what does it base such a conclusion? This is, after all, an Environmental Impact Report. This is, after all, an official document, mandated by State law. This is, after all, supposed to be an unbiased and well-documented product upon which the Council can make an educated decision regarding the McKean Road Sports Complex. And yet, there is certainly no evidence to support this objective. Just as the need discussed in Section A, above, this demand **47-13**

is either based on faulty premises or just pulled out of thin air. This type of the manufacturing of information is not acceptable in a public document. 47-13

VOLUME I, PART I, SECTION F (CONSISTENCY WITH ADOPTED PLANS AND POLICIES)

ISSUE: "The San Jose 2020 General Plan contains several Major Strategies that establish the basic framework for planning in San Jose. The two most relevant Major Strategies for the proposed project are the Growth Management and Greenline/Urban Growth Boundary Major Strategies. The Growth Management Major Strategy emphasizes the prudent location of new development to maximize the efficient use of urban facilities and services (i.e., infill within urbanized areas), and strives to achieve balance between new housing development and the commercial and industrial development that is vital to sustain the local economy. . . . The proposed project, whose potential level of service impacts are described in this EIR, would be consistent with the Growth Management Major Strategy in that it has been designed to be an interim public use, and would minimize impacts on public services by not allowing any permanent infrastructure improvements." (DEIR, Page 17) 47-14

COMMENT: If there is a Darwin Award for writing, this piece of inspired prose sorely deserves such an award. First of all, admitting that this Major Strategy—which is a strategy for locating new development—applies to this project is an admission against interest by the City that the McKean Road Sports Complex is, in fact, new development in the South Almaden Valley Urban Reserve. Moreover, because the prerequisite conditions have not yet been met and a specific plan has not been initiated, this new development in the South Almaden Valley Urban Reserve is unlawful—something the McKean Road Sports Complex project's opponents have been claiming all along—because new development is prohibited in the South Almaden Valley Urban Reserve prior to the preparation of a specific plan.

That aside, for the moment, the fact that the proposed project has been designed to be an interim public use has absolutely no bearing on whether it "is consistent with this Major Strategy." Interim public uses can put just as much strain on urban facilities and services as non-interim uses. Even ephemeral, temporary uses and events—like, let's say the Cinco de Mayo Celebration—often times put much greater strains on urban facilities and services than permanent, non-interim uses—like, e.g., the Discovery Museum. The interim nature of this proposed unlawful new development project in the South Almaden Valley Urban Reserve is not what makes it so apparently compliant with the element of this Major Strategy which deals with efficient use of urban facilities and services, but rather the fact that this new development is proposed to be located so far outside the Urban Boundary and the service area of urban facilities and services that it must rely on other institutions—like the Santa Clara Sheriff's Department for the provision of these services. 47-15

Think again: this Major Strategy says you should, whenever possible, locate new development as infill within urbanized areas to leverage on the existing urban facilities and services that already exist there. The opponents of the McKean Road Sports Complex have been saying that all along—this project belongs within the Urban Boundary NOT in the South Almaden Valley Urban Reserve. But, because it has been proposed to be located in the South

Almaden Valley Urban Reserve and not within the Urban Boundary, the McKean Road Sports Complex project is totally incompatible with this Major Strategy of the General Plan. 47-15

ISSUE: "The Greenline/Urban Growth Boundary Major Strategy is intended to define the City's ultimate perimeter of urban development, and to thereby preserve the wildlife habitat, watersheds and natural ecosystems contained in the City's open space preserves. The General Plan Policies for public and private development beyond the Greenline support the open space preservation strategy by: .... [long list of discouraged uses, encouraged uses and promoted uses omitted], consistent with Santa Clara County's General Plan, for lands beyond the Greenline. The South Almaden Valley Urban Reserve (SAVUR), which contains the project site, is located within the Greenline/Urban Growth boundary.... The project would also conform to the intent of Greenline/Urban Growth Boundary Major Strategy as the proposed sports field facility is an interim outdoor recreational use with no permanent structures and would be designed to be low intensity." (DEIR, Page 17)

COMMENTS: Oh, really? If SAVUR really "is located within the Greenline/Urban Growth boundary" (as the City contends) and if the McKean Road Sports Complex project is proposed to be located within SAVUR, how can it be "consistent with the Greenline/Urban Growth Boundary Major Strategy"—which deals with "public and private development beyond the Greenline"—except, perhaps, by not having been proposed outside the Greenline? 47-16

You know, the project is either within or outside the Greenline. If it is within the Greenline, then regardless whether the project is interim or how it is designed has no possible bearing on any strategy dealing with what the project should be if it were outside the Greenline. But, thank you once again! By admitting, again, that this Major Strategy—which is a strategy for the content or design of *new development*—applies to the project is an admission against interest by the City that the McKean Road Sports Complex project is, in fact, unlawful new development in the South Almaden Valley Urban Reserve (something its opponents have been claiming all along), because new development is prohibited in the South Almaden Valley Urban Reserve prior to the preparation of a specific plan.

ISSUE: "Parks and Recreation Goal: Provide park lands and recreational areas which enhance the livability of the urban environment by providing parks for residential neighborhoods, preserving significant natural, historic, scenic and other open space resources, and meeting the open space and recreation services needs of community residents.... The intent of the project is to provide a recreational facility to meet the needs of the community in the Almaden Valley area. The project would, therefore, be consistent with the Parks and Recreation Goal." (DEIR, Page 16) 47-17

COMMENT: The *Greenprint*, indeed, speaks loud and often about providing parks for residential neighborhoods. But the McKean Road Sports Complex project is miles away from the closest (southernmost) District 10 residential neighborhood (not within one)—down a narrow, mostly shoulder-less, two-lane, rural road; it is more than 8 miles from the northernmost reaches of District 10 and more than 4 miles from District 10's population center at Lake Almaden Park. So the project fails miserably in providing accessibility to the project by

neighborhood residents and does nothing to improve the three underserved area needs identified in the *Greenprint* (*Greenprint*, Chapter 6, Page 67). 47-17

VOLUME I, PART II, SECTION A (LAND USE)

ISSUE: "The General Plan stipulates that development in an Urban Reserve area can only occur following the preparation of a Specific Plan .... For the SAVUR, the General Plan also requires the satisfaction of two conditions prior to the initiation of the Specific Plan. The conditions related to industrial growth and the creation of jobs in the North Coyote Valley area, east of the SAVUR and project site, and to the determination of the City's future fiscal stability. The General Plan restricts land uses and standards within the SAVUR to those of the Rural Residential designation until the Specific Plan becomes effective. The Rural Residential designation is typified by single-family residential development on approximately five-acre lots.... The proposed General Plan Text Amendment would not alter the land use designation on the property. Instead, the proposed Amendment would result in a modification of the General Plan text, as described on page 1-2 of this EIR, which would allow for the establishment of sports fields." (DEIR, Pages 28 & 31) 47-18

COMMENT: Well, first of all, sports fields are new development. In fact, that's what the City has already admitted by discussing the project's consistency with the Greenline/Urban Growth Boundary Major Strategies—which deal exclusively with locating new development. But, really, who wrote this gem? The General Plan restricts land uses and standards to Rural Residential, but this proposed General Plan Text Amendment would not alter the land use designation it would result only in a modification of the General Plan text, allowing for the establishment of sports fields. So, are we to conclude that the sports fields would not actually be built, but would remain—like the General Plan Text Amendment—only as text? Or are we to conclude that sports fields are a type of Rural Residential, single-family use? If you admit that, "until the Specific Plan becomes effective ... [t]he General Plan restricts land uses and standards within the SAVUR to those of the Rural Residential designation" then sports fields are not allowed. Period. End of story.

VOLUME I, PART II, SECTION B (GEOLOGY, SOILS AND SEISMICITY)

ISSUE: "The site is more than 25 miles from the southern end of San Francisco Bay at an elevation of approximately 345 to 370 feet above sea level .... The nearest water body is Calero Reservoir, approximately 1 mile to the southwest, where the maximum water level is at approximate elevation 485 feet. Seismically induced waves such as a seiche could theoretically impact the site if they overtopped the dam. However, such an event is not considered very likely due to the relatively small size of Calero Reservoir." (DEIR, Page 37) 47-19

COMMENTS: Well, if as the DEIR states, "the San Andreas fault, which generated the great San Francisco earthquake of 1906, passes about 8.5 miles southwest of the site" (DEIR, Page 37) and Calero Reservoir is approximately 1 mile southwest of the site (see, above), then the San Andreas fault is only about 7.5 miles southwest of Calero Reservoir. And, if the site is at 370 feet elevation and the water level of Calero Reservoir is at 485 feet elevation, you're talking about 100 feet of water coming down on the site if the dam breaks. You don't need to imagine seiches overtopping the dam, because if the dam breaks as the result of an

earthquake, you'll get not just a seiche, but Calero's entire 10,000 acre feet of water with a surface area of 349 acres[2] coming down on the site. Imagine a wall of water 100 feet high flooding down Arroyo Calero which is the natural path of least resistance for water from Calero Reservoir. But, then, again, it's quite obvious from this and other aspects of this DEIR that safety was never a primary concern at this facility. 47-19

VOLUME I, PART II, SECTION D (WATER SUPPLY)

ISSUE: "The consistent decrease in hydraulic head away from the creek under non-pumping conditions indicates that the creek is contributing significant quantities of water to the aquifer. . . . One of the most important observations from the aquifer test is the high degree of connection between the aquifer and Arroyo Calero. The decrease in drawdown observed in the observation well O-1 early pumping data as water from the creek began to be pulled into the well, the rapid recovery in the Caglia Well once pumping stopped and the rapid initial recovery in O-1 all support this high degree of interconnection. . . . During the aquifer test . . . [t]here was a loss of water from the stream [Arroyo Calero] between the two measuring points, most likely due to infiltration of stream water into the ground. . . . The proposed project's irrigation demands would be in excess of the available capacity of the two project wells. . . . The following project-level mitigation measures shall be implemented to minimize the proposed project's impacts on available groundwater . . . [i]f excessive drawdown level occurs, groundwater pumping shall be reduced accordingly . . . [t]he reduction shall correspond to the availability of water within Arroyo Calero with no pumping allowed if Arroyo Calero is dry adjacent to the project site." (DEIR, Pages 60, 73, 77 & 92)

COMMENT: Let us see if we got this right? The City spends half a million dollars on studies and at least another $3 million—according to Almaden Youth Association estimates—to develop the McKean Road Sports Complex. The City moves Heaven and the Earth. The City brutalizes the County. The City violates its own General Plan. The City disregards the *Greenprint*. And, the City destroys the South Almaden Valley Urban Reserve as well as the quality of life of its existing residents—who, by the way, were there first and with no possible indication that such a calamity was ever going to rain down upon them. And, then, "[i]f excessive drawdown level occurs, groundwater pumping shall be reduced accordingly . . . [t]he reduction shall correspond to the availability of water within Arroyo Calero with no pumping allowed if Arroyo Calero is dry adjacent to the project site." 47-20

And we know this situation is bound to occur because the conclusion tells us that "[t]he proposed project's irrigation demands would be in excess of the available capacity of the two project wells." Who wins? You build out the sports complex by destroying the quality of life of the SAVUR community and, then, you can't irrigate the fields. Pretty soon, those fields you've built out at such a high cost to the public are degraded beyond the conditions of existing park and school fields in District 10—which was the purported reason for building this facility? So, now, the sports complex just sits there, an expensive eyesore which no one gets to use—instead of spending all this money on refurbishing existing City park and school facilities as advocated in *Greenprint*, developing new facilities within the Urban Boundary and giving the children a place to play NOW, not two or three or four years in the future.

[2] See http://www.valleywater.org/Water/Where_Your_Water_Comes_From/Local_Water/Reservoirs/Calero.shtm

And what about the environmental impact on the ecosystem of the stream—have we forgotten about that? All of those "biological resources"—where are they going to live when you destroy their environment? How come the very real probability that the groundwater demands of the sports complex are going to do irreparable damage to those "biological resources" is not discussed in your discussion of "biological resources" in Section H? And, how can you conclude Section H with the statement that "[t]he proposed project would have less-than-significant impacts on [long list of animals, including three species of fish] . . . "? How do you propose salmon and trout will be less-than-significantly impacted when you pump their stream dry? 47-21

VOLUME I, PART II, SECTION E (TRANSPORTATION)

ISSUE: "The Traffic Operational Analysis provided below addresses potential traffic impacts associated with the project that are not considered significant impacts according to City policy. For example, the City's transportation policy and general plan policy do not specifically address weekend conditions." (DEIR, Page 118)

COMMENT: The traffic (transportation) section of this DEIR is one of the two most specious parts of the document (the other being air quality): it contains a lot of data—much of it irrelevant—and suffers from the most defective methodology. Delay at intersections may work as a measure of level of service in urbanized areas, but out in the country or on the freeways it does not give an accurate portrayal of the potential traffic problems a proposed project will generate. 47-22

ISSUE: "Accident history data on McKean Road between Harry Road and Bailey Road for years 1999 through 2001 has been provided by County of Santa Clara staff. Exhibit II.E-8 shows the location of County-reported accidents that occurred on McKean Road between Harry Road and Bailey Avenue for years 1999 through 2001. . . . According to accident data provided by County staff, during the years 1999-2001 less than five accidents occurred at the same location within a twelve-month period. Therefore, using the Caltrans Accident Data Criteria utilized by the City, an unsafe condition is not found to occur at any of these locations. Detailed accident data is contained in Appendix E." (DEIR, Page 113) 47-23

COMMENT: Not surprising—for analyses coming from RBF Consulting—the accident data in Appendix E (Technical Appendices, Volume II, Appendix E) is not only internally inconsistent, but also faulty in its conclusions. For example, why did RBF choose to truncate the seven years (1995 through 2001) of data provided by the County by half and report only on years 1999 through 2001. Perhaps because the 1995 though 2001 data shows 51 accidents on the stretch of McKean Road between Bailey Avenue and Harry Road, whereas the truncated 1999 through 2001 data shows only 18.

But, you know, regardless which data you rely on, the fact remains that 5 of the 18 accidents (*i.e.*, 28%) which occurred on McKean Road between Harry Road and Bailey Avenue in 1999 through 2001 occurred between Fortini Road and Whispering Oaks Drive (the vicinity of the proposed sports complex). And, furthermore, 13 of the 51 years accidents (*i.e.*, 25%) which occurred on McKean Road between Harry Road and Bailey Avenue in 1995 through 2001 47-24

occurred between Fortini Road and Whispering Oaks Drive (the vicinity of the proposed sports complex)—RBF hoist by its own petard.

Either way that's, respectively, 28% or 25% of the accidents occurring on this 4.13 miles of two-lane country road concentrated into less than half a mile of its total span. To put it another way, one stretch of road comprising 12% of McKean Road between Bailey Avenue and Harry Road accounts for 25% to 28% of the total accidents occurring on McKean Road between Bailey Avenue and Harry Road. Imagine that, the very location of the City proposed to build the sports complex project is more than two times more likely to have an accident occur in that location than random number theory would suggest. As we said at the beginning, a picture is worth a thousand words. You take a look at all those circles populating the area around what is identified as the "Project Site" on Exhibit II.E.8, Page 114 of the DEIR and tell me how safe you feel about the Fortini to Whispering Oaks segment of McKean Road—particularly when you add 1400 additional weekday trips daily and 2000 additional weekend trips daily as the result of the project. **47-24**

ISSUE: "The magnitude of traffic generated by the project was estimated by activity-specific data provided by the Almaden Youth Association, which represents the youth soccer, baseball and softball leagues of the Almaden Valley area."

COMMENT: Would that be the same AYA that expects to receive, if this DEIR is certified, 35 acres of land from the School District via the City at a rental cost of $1 per year for twenty years? And, we're supposed to rely on data supplied by such a biased source? Besides, what about projections for the magnitude of traffic that would be generated by public (non-AYA) users of this facility—or is this another one of those admissions against interest that proves what project opponents have been saying all along, that the public will never see the inside of this sports facility because the AYA hold the key to the lock, that this is a facility being built with public funds for the exclusive use of a private organization? **47-25**

VOLUME I, PART II, SECTION F (AIR QUALITY)

ISSUE: "Less-than-significant impacts associated with Clean Air Plan consistency, operational emissions, and carbon monoxide emissions generated by vehicles accessing the site would be anticipated with project implementation." (DEIR, Page 147)

COMMENT: Now, how would they know that? No measurements were taken to establish a baseline for the existing air quality at the proposed project site—so all those modeling numbers mean nothing because there is nothing to compare to. What possible correlation can the air quality of an open space reserve have to the Clean Air Plan of an urban area? This section of the DEIR is as inadequate as the transportation analysis. **47-26**

VOLUME I, PART II, SECTION G (NOISE)

ISSUE: "In order to determine the noise levels that would be generated from these activities, representative noise measurements were taken at two separate fields while youth sports activities were underway. The first measurements were taken at Blossom Hill Park located in the Town of Los Gatos (16400 Blossom Hill Road, Los Gatos). Blossom Hill Park **47-27**

consists of 5 baseball fields, batting cages, tennis courts and a concession stand. It is located adjacent to a residential area and Blossom Hill School. Noise measurements were taken while three games were taking place, while the concession stand was in operation, and while batting cages and tennis courts were being used. . . . Additionally, noise measurements were conducted at Los Alisos Intermediate School, which is located within the City of Mission Viejo . . . . The facility consisted of three soccer fields, an area for vendors, a temporary parking lot and a playground. Measurements were taken while three soccer games were taking place." (DEIR, Page 160-161)

COMMENT: Well, at least measurements were taken and, this time, not by the AYA. But isn't this project proposing 6 soccer fields plus 4 baseball and 2 softball fields. What's the relevance of sound measurements made at 3 soccer games or 3 baseball games to the proposal before us? When the McKean Road Sports Complex cranks fully up, there may be 12 games of various types going at the same time. If there's a soccer tournament, all six fields might be occupied with soccer games. And, finally, what about bleachers—they raise the level of the spectators off the ground and, as we all know, sound carries and, the higher off the ground it is, the further it carries. There's no indication of bleachers at Blossom Hill Park and, although, there is a reference to bleachers in the sketch made of Los Alisos Intermediate School, there is no indication that any of the spectators actually used the bleachers when the measurement data was collected—in fact the photo of the measurement location seems to show that all of the spectators in that photo were sitting or standing on the ground. 47-27

Remember, the proposed sports facility site is relatively flat and devoid of trees—there are few natural or man-made barriers to block noise which emanates from the sports facility. It lies in a valley—with the Santa Theresa Hills lying immediately northeast of the site and rising to an elevation of over 1,000 feet and the foothills of the Santa Cruz range immediately to the southwest. This "bowl" effect means that sound will travel at this site, be further amplified by echoing off the adjacent hills and both travel further and reverberate louder because of the natural conditions of the site and its surroundings and because of the lack of man-made barriers to this not-naturally-generated sound. This is also why raw measurements made at a location "adjacent to a residential area and Blossom Hill School . . ." or "within the City of Mission Viejo in a developed area consisting of residential land uses to the south, west and east, and a golf course to the north" (DEIR, Page 162) are not relevant to a noise analysis of the proposed project.

VOLUME I, PART II, SECTION H (BIOLOGICAL RESOURCES)

ISSUE: They are too numerous to list here, but all the "Project-Level Mitigations" in which either a qualified biologist or a qualified ornithologist conducts preconstruction surveys and then monitors constructions activities, builds silt fence exclusionary barriers or relocates the affected species or replaces lost habitat through some agreement with the USFWS, etc., etc., etc. and establishes all these mitigation measures prior to development on the site. 47-28

COMMENT: What this discussion of biological resources says to us, however, is that the development of this land into a sports complex is not only the wrong thing to do—because of the potential harm to the environment—but it is also going to be immensely costly and, if it is to be done right, may not happen in any of our lifetimes. But the one that really

caught our eye this time—because the groundwater discussion posed the very real possibility that the irrigation needs of the project may suck Arroyo Calero dry—is this conclusion: "The following project-level mitigation measures shall be implemented to ensure the proposed project's impacts on Chinook salmon, Coho salmon and steelhead rainbow trout are reduced to a less-than-significant level: . . . The erosion control plans and storm water pollution prevention measures identified in Section II.C, Hydrology and Surface Water Quality of this report shall be implemented to ensure the water quality of Arroyo Calero is not degraded during site construction and operational activities." (DEIR, Page 181) Not degraded—what would you call sucked entirely dry if not degraded? Is it just us or has the City's Planning Staff developed a new language specifically for EIRs? 47-28

VOLUME I, PART II, SECTION L (CULTURAL RESOURCES)

ISSUES: "With implementation of the identified mitigation measures, the proposed project's impacts on cultural resources would be reduced to a less-than-significant level." (DEIR, Page 202)

COMMENT: OK, but have you read Page 201 of your own DEIR detailing what this project-level mitigation entails? First, stop work. Next, the coroner. Then, the Native American Heritage Commission. Then, the archaeological report. Then, more excavation and, possibly, reburials. And on and on and on. In the meanwhile where do the kids play? Time is (and archaeologists cost) money! 47-29

VOLUME I, PART II, SECTION M (RECREATION)

ISSUE: "City Council District 10 is growing rapidly with new single-family home development and cluster housing along transit corridors. Nearly 33,000 additional residents are expected to move into District 10 between the year 2000 and 2020, when the total population is expected to reach 131,112 (City of San Jose Greenprint Strategic Plan, 2000). The City's "Greenprint for Parks and Community Facilities and Programs" identifies District 10 as being "parkland deficient." District 10 currently needs an additional 22.9 acres of neighborhood/community-serving parkland to meet the San Jose 2020 General Plan goal of 3.5 acres/1,000 population, or a total of 344 acres. By 2020, the area will need an additional 137.76 acres [sic]" (DEIR, Page 203)

COMMENT: You obviously don't read your own Census data, which may, by the way, be found on the Planning Department's website at: "http://www.sanjoseca.gov/planning/Census/CD_DP1_pdf/DP1_CD10_Census%202000.pdf." Check it out, really. District 10 is not growing, it's shrinking. The data you reproduce above is old news. But, if you take the actual population of District 10 as established by Census 2000 and perform the simple arithmetic calculations necessary to come up with the real—not assumed—need of District 10 in the year 2000, you'll find that the 321.1 existing acres of parkland and sports facilities actually exceeded the goal of 3.5 acres per 1,000 population by 19 acres (86,285 divided by 1,000 times 3.5 equals 301.9975 acres). And no additional fields are necessary to serve the District 10 youth sports community at this time or in the future. If District 10 schools are closing, that can't be a very compelling argument for the proposition that the school-age 47-30

population of District 10 is increasing. And, if the media is writing articles about the graying of the Almaden community, perhaps you should check your facts again . . . and again . . . and again. Remember, you're going to have to support your claims of need "by substantial evidence in the record." (CEQA Guidelines, 14 CCR, Ch. 3, §15093(b)) 47-30

VOLUME I, PART III (ALTERNATIVES TO THE PROPOSED PROJECT)

ISSUE: "Two additional alternatives, an alternative location and the rehabilitation/expanded use of existing sports fields, were considered but determined to be infeasible, as described below. . . . The City of San Jose conducted an alternative site analysis in February 2004 . . . . The following criteria were used to determine the feasibility of potential alternative sites: . . . The site should be approximately 35 acres in size, but not less than 25 acres in size in order to accommodate the proposed sports field uses." (DEIR, Pages 210 & 212)

COMMENT: What do you think is the validity of an evaluation of alternatives when your entire Alternatives A through B1, 2 and 3 matrix of alternatives selected for consideration contains no proposal over 15 acres in size, when your "environmentally superior alternative" proposes a 1st Phase of 5 acres with future phases based on available water and yet where your criterion for an alternative site is "not less that 25 acres in size in order to accommodate the proposed sports field uses"? To put it another way, how come 5 acres is enough to accommodate the proposed sports field uses out on McKean Road, but when you're looking for alternative sites, you will only look at sites of not less than 25 acres in size. So, if 5 acres is enough for a start out on McKean Road, perhaps it should be enough for a start at some lawful alternative location—don't you agree? Let's revisit CEQA, why don't we: "Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly [emphasis supplied]." (CEQA Guidelines, 14 CCR, Ch. 3, §15126.6(b)) 47-31

ISSUE: "Alternative B3 would not eliminate any of the significant unavoidable impacts of the project identified in this EIR, with the exception of impacts to water supply. Monitoring of water usage by the site operator and subsequent analysis would allow for a determination to be made as to whether additional fields could be constructed on a phased basis. Due to the existing water constraints, the full development of the site with natural turf would be unlikely. However, through a combination of phased expansion based on water supply monitoring, the implementation of overlapping fields and/or the use of artificial turf, this alternative could achieve the objectives of the project . . . . Significant unavoidable impacts regarding the land use (loss of Prime Farmland and land use compatibility), aesthetics, noise and pedestrian/bicycle traffic safety, as well as cumulative land use (loss of Prime Farmland) aesthetics, and pedestrian/bicycle traffic safety impacts would be anticipated with this alternative. However, these impacts would be reduced if the facility does not ultimately expand beyond five acres." (DEIR, Page 218) 47-32

COMMENT: First of all, as DeCinzo's political cartoon implies digging more wells and monitoring water usage by an obviously biased site operator is not going to put more

water into the aquifer. Every study, every test, every shred of evidence contained in this DEIR and Lowney Associates Groundwater Report (DEIR, Appendix D) confirms that there is not enough groundwater to support a sports complex on the McKean Road site—and there never will be. 47-32

Secondly, artificial turf brings with it its own unique concerns and characteristics that have not been examined or addressed in this DEIR. For example, artificial turf is not pervious like natural turf. It produces additional run off that has not been considered in this DEIR and, thus, cannot, by law, be considered as an alternative aspect of the project. If you had wanted to consider the possibility of an artificial turf scenario, you would have had to, at the very least, shown what the effects of such an alternative would have been in Appendix C, the Hydrological Analysis. Also, artificial turf is not itself without care. Although artificial turf does not need to be irrigated, it does need to be periodically flushed and that would (a) require water and (b) produce runoff. Neither of these impacts have been considered, examined or discussed in this DEIR and, thus, you are precluded by law from even proposing such an alternative. 47-33

But, most importantly, if five acres is enough to be the ultimate configuration of the sports fields out on McKean Road (by implementing overlapping fields, for example), why is five acres and overlapping fields not enough somewhere else where, irrigation and runoff do not cause significant unavoidable impacts because City water, sewer and storm drains are available to the site—such as on that site along Alamitos Creek you apparently considered but did not find to be a feasible alternative? How do you propose to justify this in your Statement of Overriding Considerations—and how do you think a Court will look at the logic of your argument when it has to review your decision in light of Public Resources Code Section 21005(a)? 47-34

VOLUME I, PART IV (CUMULATIVE IMPACTS)

ISSUE: "State CEQA Guidelines § 15130 requires that an EIR include a discussion of cumulative impacts .... Cumulatively considerable effects are those '...incremental effects of an individual project... when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." CEQA Guidelines § 15065(c).... The City of San Jose has identified past, present, and probable future projects that, when considered with the effects of the project, may result in cumulative effects. A list of these projects may be found in Table IV-I." (DEIR, Page 220)

COMMENT: Table IV-1 lists four cumulative effects projects: the Chinese Church of Christ, the North Coyote Valley Research Park, Metcalf Energy Center and the Coyote Valley Specific Plan. None is relevant to this discussion. The Chinese Church of Christ has put its property up for sale because of the difficulties it has had obtaining approvals from the City to build a facility smaller than the proposed sports complex project. The other three are so remote geographically from the proposed project site and two of those three are so tentative in their realization that it would be a waste of time to even bother to refute the relevance of including them in this discussion. 47-35

However, there are at least three past projects that are relevant to this discussion which were entirely overlooked: the Challenger School (with an adjacent sports field set up for night

activities), St. Anthony's Catholic Church and the Santa Clara County Horseman's Association. In fact, the one-mile stretch of McKean Road between the "STOP" sign at McKean and Harry and San Vicente Road, centerline of the proposed McKean Road Sports Complex, contains three existing LGAFs and one proposed LGAF. This critical mass of LGAFs—expressly brought to the City's attention at the December 12, 2002, EIR Scoping Meeting—occurring in such concentration in the Urban Reserve is deserving of evaluation. Failing even to list these past projects here or to evaluate their cumulative impact as required by CEQA invalidates this entire section of the EIR. 47-35

SUMMARY AND CONCLUSION

SUMMARY

I. FORMAT

A. LEGAL DOCUMENT. The DEIR is a legal document. In order for the reviewing agency to be able to review the EIR for conformance to CEQA and for the public to be able to make meaningful comments, the DEIR first has to conform to certain legal, regulatory and formal conventions. For example: 47-36

1. Citations. There is a whole section (Volume I, Part I, Section F., DEIR, Pages 12-19) entitled and dealing with "Consistency With Adopted Plans and Policies" with only one citation—and that one incomplete. So, except for that one parenthetical, incomplete reference on Page 13 to the "'Sher Bill' (Assembly Bill 2595)," this section—as well as the others—are totally devoid of citations to the specific book, chapter and verse that is referenced. How is the general public supposed to find this legislation to which you make reference? Even where the DEIR quotes directly from the *San Jose 2020 General Plan*, the *Greenprint* or some other such document, there is no citation directing the reader to the page from which the quotation is taken. The General Plan is a 274-page document—plus eight appendixes comprising about another 50 pages. The *Greenprint* numbers 102 pages plus a 6-page bibliography, 6 appendixes, 32 figures, 49 tables and 16 maps. How does the Planning Department expect members of the public to make intelligent comments on the DEIR in the absence of any citations? 47-37

2. Attribution of Information. "The maximum utilization of the facility, as described by the AYA, would occur on Saturdays during weekend soccer tournaments, and would potentially attract an estimated maximum of 650 people (players and spectators) to the site at one time." (DEIR, Page 11) As with citations (discussed above), a document such as an EIR requires precision and accuracy when it attributes information, identifying not only the source (for that matter, what was the source here—the AYA, someone else?), but also where that information can be reviewed or verified. Did this projection used in the description of the proposed project come from some official representative of the Almaden Youth Association—someone who knows what he or she is talking about? Was it made in writing so that we know this is something that can be challenged or is legally binding? Or is this just a recollection from an informal, across-the-fence chat between the authors of this DEIR and someone—official representative or not—who is attributing this information to this private developer without any special knowledge or even without the source knowing that this information has been attributed to it? How are the public agency and the public supposed to test the veracity or significance of these types of illusory references? There is no document to go to to verify that what is being referenced has actually been said or that it has not been taken out of context and has a very different true meaning. How do the authors of this DEIR expect members of the Planning Commission, the City Council or the public to make intelligent comments on the DEIR under such conditions? 47-38

3. Nonsequitur. "Until such time as the specific plan becomes effective, the allowed land uses and standards of the Rural Residential land use designation shall apply in the SAVUR. In addition, because this area has been identified as potentially appropriate for urban uses and inclusion in the Urban Service Area at some point in the future once certain preconditions have first been satisfied as discussed in this Section, it is appropriate to allow certain limited, interim recreational uses on public property that are consistent with the long-term character of the SAVUR . . . ." (DEIR, Page 7) If these uses are "consistent with the long-term character of the SAVUR," then they must by definition be not consistent with the existing character of SAVUR because the long term character of SAVUR is urban? And the Urban Reserve is just that—a reservation of land for FUTURE urban use, not present urban development. If it were otherwise, this would not be a reserve, it would already be urbanized? Such a statement is simply nonsequitur—and this disturbing tendency afflicts the DEIR throughout. **47-39**

II. SUBSTANCE

A. NO PROOF OF NEED.

1. When it determined in September 2000 that "District 10 currently needs an additional 22.9 acres of neighborhood/community service parkland to meet the goal of 3.5 acres/1000 population, or a total of 344 acres (*Greenprint*, Chapter 6, Page 67)," the *Greenprint* task force based its conclusion of faulty demographic data. Since Census 2000 had not yet been conducted, the population assumptions in *Greenprint* were, by their very nature, extrapolated from population data collected during Census 1990—ten years earlier. A simple arithmetic calculation (from the fact that *Greenprint* estimated that by 2020 the population of District 10 would increase by approximately 33,000 to 131,112) shows that the *Greenprint* task force assumed the population of District 10 would be 98,112 in the year 2000. From this faulty assumption, the *Greenprint* task force concluded that District 10's existing 321.1 acres of parkland and sports facilities were inadequate to serve this assumed District 10 population and that District 10 needed an additional 22.9 acres of parkland and sports park facilities to adequately serve district residents in 2000 (*Greenprint*, Chapter 6, Page 67). **47-40**

Of course, as we now know, Census 2000 proved that the population of District 10 in the year 2000 was almost 13,000 less than what the *Greenprint* task force had assumed—86,285 people (according to the City's own Census 2000 Council District Profiles[1]), not the 98, 112 upon which the *Greenprint* task force based its conclusion of need. So, if you take the actual population of District 10 in year 2000 as established by Census 2000 and perform the simple arithmetic calculations necessary to come up with the real—not assumed—need of District 10 in the year 2000, you find that the 321.1 existing acres of parkland and sports facilities actually exceeded the goal of 3.5 acres per 1,000 population by 19 acres (86,285 divided by 1,000 times 3.5 equals 301.9975 acres). **47-41**

[1] http://www.sanjoseca.gov/planning/Census/CD_DP1_pdf/DP1_CD10_Census%202000.pdf

The fact that there is no need for additional parkland and sports facilities in District 10 should come as no surprise to anyone—except, for some reason, the authors of this defective DEIR. Earlier this year the San Jose Unified School District closed three schools in District 10 and has plans for closing more. Ultimately schools may close because of budgetary shortfalls, but they don't close unless there is a concomitant shortfall of enrollment. Closing schools telegraphs also the graying of Almaden's population—which has been the topic of coverage in local newspapers. 47-41

2. Not only, however, is District 10 overserved—not underserved—in parkland and sports, but even the three areas within District 10 that were found to be underserved by park facilities applying the faulty *Greenprint* analysis (East of Pearl, north of Branham Lane, south of Capitol Expressway; West of Alamitos Creek, east of Almaden and north of Camden; and "one area that is underserved for community centers southeast of Almaden Quicksilver County Park") (*Greenprint*, Chapter 6, Page 67) either have a different requirement (a community center) or are miles away from the proposed McKean Road Sports Complex.

And, as we also know, the Community Needs Assessment conducted by the *Greenprint* task force found that "hanging out," not sports, was the most popular parkland activity among young people (*Greenprint*, Appendix, Page A-18). Young people will not be able to hang out at the McKean Road Sports Complex. First of all, unlike the district parks, which offer residents a wide range of possible activities in addition to sports (hanging out, picnics, children's playgrounds, etc.), the McKean Road Sports Complex will be a dedicated sports facility. Secondly, even if district residents wanted to use the McKean Road Sports Complex—which the DEIR has the audacity to call an "open space" use—for these other activities, they wouldn't be able to get in because the McKean Road Sports Complex will be encircled by an 8-foot chain link fence to which only the Almaden Youth Association will have a key. And, in any event, the McKean Sports Complex is proposed to be located miles from any District 10 residential concentrations, so most young people would not have ready access anyway. 47-43

3. In fact, the McKean Road Sports Complex is not only categorically incompatible with the *Greenprint* Core Value of accessibility (it will be accessible only by motor vehicles down a dangerous, two-lane rural road), but is also categorically incompatible with the Core Values of inclusivity (it's intended as a private playground for a very small and exclusive segment of District 10 youth), affordability (it will be vastly more expensive to build and maintain than sports fields in neighborhood parks or schools—and there is not even any indication in the DEIR that the Almaden Youth Association has the financing to manage this without significant additional infusions of public funds), equity (it will discriminate against potential users within District 10—not all District 10 youth athletes belong to the Almaden Youth Association leagues—and against potential users in more underserved districts—like Districts 3 and 7) and diversity (it will concentrate on meeting the needs of only one type of parkland user—the youth sports league) (*Greenprint*; Chapter 2, Page 8). 47-43

B. BAD GOVERNMENT.

1. Despite the City's calling the McKean Road Sports Complex a public project to confuse the issues and circumvent—among other things County zoning ordinances—it is no more a public project than a Shapell housing development is a public project. Just because both projects may produce incidental benefits for the general public does not make them public projects—malls create incidental benefits for the general public, particularly kids, and the elderly frequently use them for sheltered exercise. No, this project does not benefit the general public, but rather a private developer—the Almaden Youth Association.

2. Nor, for that matter is the McKean Road Sports Complex amendment a *bona fide* publicly-initiated General Plan amendment. Just because an amendment to the General Plan is introduced by an elected official does not make it a valid publicly-initiated General Plan amendment. This project and the amendment that it needs to become a reality have been initiated at the behest of and for the benefit of one private developer—the Almaden Youth Association—not the general public.

3. Moreover, the manner in which this project was introduced and the process by which it is making its way through the system has shielded the private developer entirely from public scrutiny. Nowhere in the DEIR is there any specific information regarding the Almaden Youth Association: who are its principals, who are its officers and board members, what is their experience in managing projects of this kind, what is their financing for the near and long term, etc., etc., etc.? How is the City or the public to evaluate whether this is a valid entity on which to bestow such governmental largesse? In point of fact recent news coverage of the lack of accountability both on the part of the Almaden Youth Association and the City in administering public funds pertaining to the McKean Road Sports Complex project ("City invests $2.6 million for fields—no oversight," Almaden Resident, July 15, 2004) tends to suggest that the Almaden Youth Association "doesn't know [its] own financial status" and that the City has not done a very good job of shepherding the public's money. 47-44

And, just stating that the Almaden Youth Association is a public benefit, non-profit organization is not enough. In point of fact, the Almaden Youth Association is definitely not a public benefit, non-profit organization. Public benefit corporations are not public benefit corporations because that's what they call themselves—they must also show that they operate in the public interest and for the greater public good and not for the benefit of just their own members. As the *Greenprint* indicates, the most pressing youth sports need in District 10 is to add additional fields at existing neighborhood and community parks and to renovate existing school fields. If the Almaden Youth Association were truly a public benefit corporation, that's what it would be raising money for, not for building itself a private sports venue segregated from the community. At best, that's the measure of a mutual benefit, non-profit corporation—one formed for the benefit of its members, not the general public.

4. Support of this project by the City is financially irresponsible. Here we are, in the midst of the worst budget deficit in City history and the City is diverting public funds to a private developer and for consultants to write reports for this DEIR.

Even as after-school programs are being closed and "911" fees are being implemented to pay for calls for emergency services, there seems to be no lack of money to lavish on this private developer and its private sports complex.

5. By agreeing to this bankrupt scheme, the San Jose Unified School District has shown that it is no more fiscally responsible than the City. Already three elementary schools have been closed in District 10 because of a lack of funds and, yet, SJUSD has agreed to give a private developer 35 acres of valuable agricultural land for its own private playground at a mere $1 per year for a term of 20 years. And, instead of continuing to collect a market-rate rent from Tony Vargas, the farmer who has, for 10 years, grown barley for hay on the property, it recently served him with an eviction notice giving him 30 days to vacate ("District OKs bulldozing of buildings on complex site," *Almaden Resident*, September 16, 2004).

6. The proposed General Plan amendment violates both the letter and the spirit of the General Plan. The General Plan is unequivocal that "[u]ntil such time as the specific plan becomes effective, allowed land uses *and standards* [in the South Almaden Valley Urban Reserve] are those of the Rural Residential land use designation [emphasis added]." (*San José 2020 General Plan*, Page 200) The General Plan is very clear also regarding the prohibition that no specific plan may be initiated until the two prerequisite conditions have been met and "[t]hat these prerequisite conditions should only be modified during a comprehensive update of the General Plan involving a community task force similar to the San José 2020 General Plan update process." (*Id.*) 47-44

The prerequisite conditions have not only not been met, but are a long way from being met. Rural Residential (*Id. At 139-40*) "is the least intensive category of residential use . . . represented by single family dwellings on lots averaging five acres in size." The *standard*, therefore, within the South Almaden Valley Urban Reserve for thirty-five acres is approximately seven dwellings. Seven dwellings might generate a parking requirement for 20 or so cars—but not for 600; daily weekday and weekend trips in the dozens, not the hundreds or thousands; water use in hundreds of gallons not acre-feet per year; and on and on and on. By proposing as an intense a use on the Caglia site as the McKean Road Sports Complex, the City is repudiating the standard by which Rural Residential land use is judged—and, that, is prohibited by the General Plan.

Moreover, contending that "it is appropriate to allow certain limited, interim . . . uses on public property that are consistent with the long-term character of the South Almaden Valley Urban Reserve," is a direct derogation of the prohibition against development within South Almaden Valley Urban Reserve until the prerequisite conditions have been met. Regardless that these uses are being called recreational, if these uses are "consistent with the long-term character of the South Almaden Valley Urban Reserve," they must by definition be not consistent with the existing character of South Almaden Valley Urban Reserve because the long term character of South Almaden Valley Urban Reserve is urban and the existing character of the South Almaden Urban Reserve is rural. And the urban reserve is just that—a reservation of land for future urban development, not present urban development. If it were otherwise, this would not be a reserve, it would be the City . . . already!

7. The McKean Road Sports Complex project is incompatible with every one of the avowed Core Values of *Greenprint*, violates the infill strategy or the General Plan, contradicts the County's scenic road policy and espouses unlawful development within the South Almaden Valley Urban Reserve. By proposing to amend the General Plan around one private developer's designs on one particular parcel, the McKean Road Sports Complex amendment is but an outrageous scheme to "shoehorn" General Plan policy and language to suit the McKean Road Sports Complex project on the SJUSD Caglia property and nothing else—a gross perversion of the planning process, the planning equivalent of the illegal practice of "spot zoning. " Instead of focusing on meeting the needs of many, the McKean Road Sports Complex project discriminates in favor of the powerful, privileged few—violating the basic precepts of good government. 47-44

C. COSTLY AND IMPRACTICAL.

1. No matter how you look at it, the McKean Road Sports project will cost more than the benefit it produces. It will take longer to construct and cause continuing problems that doom it to becoming a contentious public nuisance for years to come. As the County of Santa Clara Planning Staff found, in its well thought out and documented *ANALYSIS OF THE POSSIBILITY OF ALLOWING URBAN SCALE, LARGE GROUP ASSEMBLY FACILITIES (LGAFS) IN RURAL UNINCORPORATED AREAS OF SANTA CLARA COUNTY* (the "LGAF Report"), "all [rural] areas have physical limitations . . . rural areas lack critical infrastructure, particularly public sewer and water, which would be available to LGAFs located in urban areas." (LGAF Report, Page 10) The County Planning Staff ultimately concluded that while "some LGAF developers believe that rural sites are cheaper that urban sites . . . [i]n reality, the cost of providing and maintaining alternate systems, together with other costs of developing rural sites that would generally not be incurred in urban areas, may make development of LGAFs in rural areas no less expensive than in urban areas." (*Id.*) 47-45

2. Actually, one of the most serious criticisms of the DEIR is that it does not deal specifically with costs. There is some passing reference to the fact that the Almaden Youth Association believes it will cost approximately $3 million to build—but there is not even a whisper about how much the mitigation measures will cost or how much the McKean Road Sports Complex will cost annually to maintain. And even the build-out number is highly suspect. "In comparison, the Shady Oaks Sports Park, a similar athletic field complex planned by the city on 60 acres near Hellyer Avenue and Coyote Creek Drive, carries a $9.75 million price tag." ("City invests $2.6 million for fields—no oversight," Almaden Resident, July 15, 2004)

3. Virtually every proposed mitigation measure exacerbates not only the probable cost of the project, but the time delay in bringing it to completion: water—monitor water use—halt build out if it dries up Arroyo Calero; biological—monitor the existence or nesting habits of various flora and fauna employing special consultants and, perhaps, paying to relocate certain species or paying more public funds towards

mitigation bank bonds; cultural resources—call in the County Coroner, the Native American Heritage Commission, stop work until this matter, too, is resolved and so on and so forth. These are not insignificant delays—and, as we know, time is money!

4. Some parameters of the project are downright dangerous to public safety: "temporary" bleachers and buildings not fastened onto firm foundations, rolling around on "temporary" concrete pads poured on grade in the event of an earthquake; riparian and groundwater water quality permanently damaged because the pervious parking lot allows the drippings of thousands of cars weekly to seep into the soil (the mitigation measure consists entirely of posting signs encouraging sports facility users to be gentle with nature); police services being unable to respond in a timely manner because the Sheriff's Department patrol has to come from San Martin; fire and EMS unable to get through to the facility because of congestion—congestion along McKean Road caused by the McKean Road Sports Complex facility itself; impatient drivers passing long lines of standing vehicles causing both vehicular and bicycle accidents; and so on and so forth. 47-45

5. Some aspects of the project cannot be solved adequately regardless of cost or time and, although they are being downplayed in the DEIR, will lead to contentious litigation for years to come: noise and odor control from the Porta-Potties will create a public nuisance for adjoining residents; traffic will literally come to a standstill on McKean Road while vehicles spewing fossil fuel pollutants stand waiting to enter the facility; having Almaden Youth Association youth athletes sign an agreement not to bike or scooter to games and practices has no practical impact on other spectators who might want to cheer on their friends at this attractive nuisance in the Urban Reserve.

D. LEGALLY DEFICIENT AND CEQA NONCOMPLIANT. By not dealing in a meaningful way with two key issues—the alternatives and cumulative impacts requirements of CEQA—the DEIR fails *per se* to comply with CEQA.

1. Of course, if you don't look for any alternative sites or if you don't evaluate them in any meaningful manner and the "no project alternative" is not a favored alternative, then whatever the "phased-development" alternative might be, it wins by default. The real problem here is that there wasn't even a perfunctory effort made to locate or evaluate alternative sites—sites which could certainly have housed at least the number of fields proposed in the "phased-development" alternative. 47-46

No rational argument was made or can be made that existing public park and school facilities could not be upgraded to handle the three soccer fields (perhaps even overlapping soccer, baseball and softball fields) proposed in the "phased-development" alternative. No rational argument was or can be made that some 5-acre parcel of land could not be found to handle the three soccer fields (perhaps even overlapping soccer, baseball and softball fields) proposed in the "phased-development" alternative—in fact the DEIR specifically excluded from consideration any site smaller than 25 acres in size, despite the fact that the authors of this DEIR knew they would be proposing the 5-acre, "phased-development" alternative as the environmentally superior alternative.

Oh, these fields may not all be in one location (like the proposed McKean Road Sports Complex) and the Almaden Youth Association might have to share these fields with the general public, but such sites do exist. And, if this is, indeed, to be a public project, then the mere fact that an alternative exists which could add three sports fields for all District 10 residents to use—not just for the Almaden Youth Association—makes it that much more the preferred alternative than the "phased-development" alternative on McKean Road. And, then again, there is the requirement of CEQA Guidelines, §15126.6(b): "Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly [emphasis supplied]." 47-46

2. Similarly, no meaningful attempt was made to discuss the cumulative impact on the environment of the three existing LGAFs that already occupy the mile stretch of McKean Road between the "STOP" sign at McKean and Harry and San Vicente Road— the Challenger School (with an adjacent sports field set up for night activities), St. Anthony's Catholic Church and the Santa Clara County Horseman's Association—which, will, needless to say, cause cumulative impact on the McKean Road environment. There is probably not another one-mile stretch of Scenic Road within an Urban Reserve with such LGAF density anywhere. The DEIR's failure to deal with this issues condemns it as legally deficient and CEQA noncompliant.

CONCLUSION

Cartoonist DeCinzo's depiction of the Almaden Youth Association is uncannily accurate—and, unfortunately it applies equally well to this DEIR. Blinded by their lemming-like determination to dive into the Urban Reserve, the Almaden Youth Association seeks, however, not only to destroy itself, but also to take all of us with it. Like lemmings—who don't see the threat posed by the crashing waves on the rocks below their cliff—the Almaden Youth Association does not see (as Cartoonist DeCinzo so clearly depicts) the irreversible havoc it is about to wreak. More wells will not squeeze more water out of the aquifer beneath the Caglia property. Five acres outside the Urban Boundary is going to be much harder to service—from every conceivable point of view—than five acres within. 47-47

The McKean Road Sports Complex is not about "the children of Almaden"—much less "the children of District 10." The Almaden Youth Association is a private developer that wants to establish its own sports facility for the members of it sports leagues. Oddly enough, the AYA has already admitted on its website that the McKean Road site will not be used even by many of its own members: "Frequently Asked Questions: Question: I heard the AYA soccer fields are for Comp and Select teams only,[sic]why should I support the project? Answer: Not true. The AYA project is dedicated to the youth of Almaden Valley at all levels of play. However, since the soccer fields are full-sized, younger age teams, with smaller fields, will not play at this location."[2]

[2] http://www.almadenyouth.com/G00/main.asp?b=20030527071447&s=8z3

Sure, probably most, if not all, of the children who play on Almaden Youth Association leagues come from District 10. Sure, removing those children from the sports fields currently being used by all District 10 youth sports enthusiasts, will reduce overcrowding on what is undoubtedly a scarce public resource—the general public will enjoy some incidental benefit. However, the diversion of public funds which could have been used to improve City park and school sports facilities for the benefit of everyone to a private development project will do nothing to improve the safety of City park and school sports facilities for those children who will still have to use them either because they don't belong to the Almaden Youth Association leagues or they belong to AYA leagues but are in the wrong age categories to use the McKean Road facility or because City park and school sports fields will still be the most accessible sites for youth sports.

It's always hard to argue against "the children." But, the Almaden Youth Association does not represent "the children" of Almaden. No doubt, as the *Greenprint* found, not all of the children of Almaden even participate in school sports. Many probably just like to hang out—and they won't be able to do that at the McKean Road Sports Complex because it's a dedicated sports facility (and because the Almaden Youth Association is going to keep it under lock and key). Similarly, the Almaden Youth Association doesn't even represent all of the youth sports participants of District 10—only those that belong to its leagues (and, then again, not even all of those). But it wants its own sports facility. It wants its own private playing fields, superior to the fields currently enjoyed by all "the children" of District 10. These other (non-AYA) "the children" of District 10 are "the children," too! And, of course, so the Almaden Youth Association's fields don't deteriorate to the standard of the existing public fields in District 10, it needs to be able to exclude the general public—the facility will be surrounded by an 8-foot chain link fence to which the Almaden Youth Association holds the key and everybody else needs to make "reservations". 47-47

The real losers here are going to be "the children" of District 10. Because, with all this diversion of public funds to the private developer, there's not going to be enough left over to realize all those wonderful strategies outlined in the *Greenprint* for "the children" of District 10. But, the Almaden Youth Association, is, ultimately, going to lose also. This matter will be contested in the courts for decades and, even if the City can withstand challenges to its legality, future public nuisance actions are bound to close the proposed facility from time-to-time. No amount of digging new wells is going to make this sows ear into a silk purse—the City knows it, the AYA knows it and, in due course, the Courts and the public will know it too. What a tragic waste of everyone's time and efforts—and the public's money!

George and Anna Stepanenko
Letter dated September 27, 2004

47-1 The commentor's opinion and statements regarding the adequacy of the Draft EIR and his opposition to the proposed project are noted. For more information regarding the proposed project's water supply impacts and project alternatives, please refer to Responses to Comments 4-2, 4-3, 10-14, 15-6, 15-15, 15-51, 18-4 and 28-1.

47-2 The comment states the opinion of the author and does not raise any specific issues regarding the Draft EIR. No response is required.

47-3 The commentor states that sections of the Draft EIR are suspect. For the purposes of defining the project to analyze in the Draft EIR, information was obtained from AYA regarding existing league activities. Professional City staff in collaboration with an independent environmental consultant prepared the analysis contained in the Draft EIR to ensure its objectivity. The commentor states that the traffic report evaluates primarily intersections located miles from the project site. However, the traffic analysis specifically evaluates the intersections in the project vicinity that would be directly affected by project traffic. For more information on the intersections evaluated in the traffic analysis, the commentor is referred to the Transportation section of the Draft EIR, which commences on page 93.

The commentor raises concerns regarding the Draft EIR's assessment of the project's compliance with the citywide clean-air standards and the use of similar sports fields to identify projected sports field noise levels. For more information regarding these issues, the commentor is referred to the Air Quality and Noise sections of the Draft EIR commencing on pages 134 and 149, respectively.

47-4 Please refer to Response to Comment 40-1.

47-5 In regards to the description of the proposed project as a public project, please refer to Responses to Comments 10-1 and 10-2. The remainder of the comment is the opinion of the author. No response is required.

47-6 The San Jose 2020 General Plan and Title 18 of the San Jose Municipal Code provide for a process to amend the Land Use/Transportation Diagram and text of the General Plan, consistent with State law. Proposed changes to the General Plan may be approved by the City Council up to four times annually. The proposed General Plan text amendment to modify the text of the SAVUR to allow interim recreational uses on public property, if approved by the City Council, will become part of the adopted General Plan and will, therefore, not "violate the letter" of the Plan. The proposed General Plan text amendment does not propose changes to the SAVUR Prerequisite Conditions and does not initiate

the process for preparation of a Specific Plan. The proposed General Plan amendment is not in violation of the General Plan because there is no restriction on modifying other portions of the General Plan text outside of a comprehensive update of the General Plan. The comment includes many statements that express the opinion of the author but do not raise any specific environmental issues. No further response is required.

47-7 The commentor states their opinion and presents general statements regarding the Draft EIR but does not raise any specific environmental issues regarding the adequacy of the Draft EIR therefore no response is required. Please refer to Response to Comment 3-1 for additional discussion on traffic safety.

47-8 Please refer to Responses to Comments 15-6 and 36-10 regarding consideration of alternative project locations.

47-9 Please refer to Responses to Comments 15-30 and 47-35.

47-10 The commentor quotes Sections 21168, 21168 and 521005(a) of the Public Resources Code. The remainder of the comment states the opinion of the author and does not raise any specific environmental issues regarding the Draft EIR. No response is required.

47-11 Please refer to Response to Comment 40-1.

47-12 Please refer to Response to Comment 47-6.

47-13 Please refer to Response to Comment 40-1.

47-14 In response to comment regarding the South Almaden Valley Urban Reserve Prerequisite Conditions and the Specific Plan, please refer to Response to Comment 47-6.

47-15 The Draft EIR states that the proposed project is consistent with the General Plan Growth Management Major Strategy because it will not include extension of permanent public infrastructure including water mains, sanitary sewer or storm sewers. The Draft EIR also states that the proposed project will not have a significant impact on the provision of other public services, including fire protection and emergency medical services and police protection. The commentor's disagreement with the Draft EIR's conclusion regarding the Growth management Major Strategy is noted and will be considered by the City Council as part of its decision-making process.

47-16 The project site is located within the SAVUR, which is located inside the Greenline/Urban Growth Boundary. Please refer to Response to Comment 47-6. The proposed General Plan text amendment, if approved, would provide the

policy framework to allow the proposed sports fields project to be constructed and would not constitute "unlawful new development" in the SAVUR.

47-17 The *Greenprint* document makes recommendations specific to recreation in Chapter 3 as follows:

> ***"D. Recreation Facilities***
> *Provide access to various types of recreation facilities for all residents. ...D2. Develop additional council district-wide outdoor sports opportunities to serve youth."*

This recommendation is independent of other strategies in the *Greenprint* document for neighborhood parks.

The proposed sports fields facility is not intended to provide parks for residential neighborhoods. The *Greenprint* also contains Goal D2 to "Develop additional council district-wide outdoor sports opportunities to serve youth." The proposed sports fields complex would provide fields for youth soccer, baseball and softball.

47-18 Please refer to Response to Comment 47-6 The General Plan text amendment adds to the currently allowed land uses and standards of the Rural Residential land use designation limited, interim recreational uses on public property, stating that "Limited outdoor public recreation uses such as trails and sports fields, which do not require extension of permanent urban infrastructure or improvements may be allowed on a case-by case basis."

47-19 The commentor identifies the impacts that would be anticipated with a failure of Calero Reservoir. This information is noted. Since no permanent buildings are proposed for the project, no flood impacts on the constructed environment are anticipated. The comment does not raise any new environmental issues.

47-20 The commentor summarizes their reasons for opposing the proposed project. No additional response is necessary.

47-21 Please refer to Responses to Comments 15-17, 15-103 and 26-4.

47-22 The City's Level of Service Policy targets the AM and PM peak hour, the highest concentration of traffic at any period of the day or week. All other peak hours including those of malls, theatres and sports complexes may have different peak hours including weekend peaks but when these are compared to the existing roadway commute volumes, they are considerably less than the commute volumes. Draft EIR Section E. Transportation includes an operational analysis, beginning on page 118, which provides information regarding the potential weekend traffic impacts associated with the proposed project. Please also refer to Responses to Comments 15-21, 15-61 through 15-66 and 15-74

through 15-99 for additional discussion of traffic impacts of the proposed project.

47-23 Please refer to Responses to Comments 3-1 and 15-21.

47-24 Please refer to Responses to Comments 3-1 and 15-21.

47-25 The Draft EIR identifies that future City use of the site would be not more intensive and would be subject to the same limitations as the schedule of use proposed by AYA. Therefore, the project-generated traffic from any future City use would not exceed the worst-case project scenario studied in the Draft EIR. Comments regarding the Almaden Youth Association are noted. Please also refer to Responses to Comments

47-26 The commentor states that the air quality analysis included in the Draft EIR does not include any measurements of existing air quality at the project site. In order to provide a baseline for air quality impacts, the Bay Area Air Quality Management District (BAAQMD) in conjunction with the California Air Resources Board (CARB) operates a network of monitoring stations throughout the Bay Area. Three monitoring stations are located within the project area: 1) San José at 528 Tully Road, approximately 11 miles from the project site; 2) 1208 N. Fourth Street approximately 13 miles from the project site; and 3) 158 East Jackson Street approximately 13 miles from the project site. The three monitoring locations provide a baseline and a comparison level for future projects within the area. These three monitoring locations, while miles away from the project site, are in the same air basin. Pollutant concentrations monitored at these locations would be representative of conditions at the site.

All projects located within the jurisdiction of the BAAQMD must be analyzed in order to determine the contributing factors of the project to the cumulative air quality of the region. The air quality monitoring program collects accurate real-time measurements of ambient level pollutants at over 35 sites located throughout the state. The data generated are used to define the nature and severity of pollution in California; determine which areas of California are in attainment or non-attainment according to federal and state standards; identify pollution trends in the state; support agricultural burn forecasting; and develop air models and emission inventories. In particular, the carbon monoxide (CO) emissions monitored are used as the ambient background concentration in the CALINE4 CO hotspot model, which was utilized in the CO hot spots analysis included in the Draft EIR.

The Clean Air Plan is the adopted document that states the goals and policies that must be observed within the BAAQMD. The BAAQMD periodically updates the Clean Air Plan (CAP) to achieve the goal of healthy air. Typically, a plan will analyze emissions inventories (estimates of current and future emissions from industry, motor vehicles, and other sources) and combine that

information with air monitoring data and computer modeling simulations to test future strategies to reduce emissions in order to achieve the National and California Ambient Air Quality Standards. Air quality plans include measures to reduce air pollutant emissions from industrial facilities, commercial processes, motor vehicles, and other sources. A component of the analysis required under CEQA is to determine whether the project is consistent with the goals and policies of the regional air quality plan (in this case the BAAQMD CAP). This analysis is contained within the Air Quality section of the Draft EIR.

47-27 In order to provide a baseline for noise resulting from soccer and baseball fields, several agencies and youth facilities were researched and consulted. The American Youth Soccer Organization (AYSO), the City of San José, City of Campbell, City of Mission Viejo and City of Irvine soccer and baseball youth sports programs staff were consulted to find a facility that would have similar noise levels as the proposed McKean Road Sports Complex.

Although some facilities had baseball and soccer fields, not all games were scheduled at the same time. In order to provide a worst-case scenario, it was necessary to obtain noise measurements from a baseball field with three games being played at the same time and soccer fields where three soccer games were also being played. The noise levels were then added to determine the total amount of noise the two types of activities would generate, to approximate the anticipated noise levels that would occur with the proposed project. Although there are some topographical differences between the measured sites and the McKean Road Sports Complex, the measured sites are expected to closely resemble the noise emanating from the proposed project site. Additionally, as the McKean Road Sports Complex is expected to be a soft site (i.e. lack of concrete or paved surfaces), the effect of noise emanating from the bleachers or the "creation of a bowl effect" are not expected to significantly alter the tone or pressure of the noise. Draft EIR Section C. Project Description, Site Utilization on page 11 explains that the maximum utilization of the facility would occur during soccer season when all six soccer fields could be in use simultaneously. There is no planned use period when all 12 fields would be used at the same time.

47-28 Please refer to Responses to Comments 4-2, 4-3 and 28-1.

47-29 The Draft EIR incorporates standard cultural resource mitigation measures to ensure that the project's potential cultural resources impacts are reduced to a less than significant level.

47-30 Please refer to Response to Comment 40-1..

47-31 Please refer to Response to Comment 15-6.

47-32 Please refer to Responses to Comments 10-14, 15-51, 18-4 and 28-1.

47-33 The artificial turf construction anticipated by this EIR is pervious and has a perforated pipe under-drain system that collects rainwater and allows it to percolate into the soil, or directs it to on-site detention ponds when rainfall exceeds the percolation capability of the soil. Artificial turf construction would not increase storm water run-off for the project during the wet season and would reduce the use of water during the dry season.

47-34 Please refer to Response to Comment 15-6.

47-35 The comment states that at least three existing past projects were overlooked and not included in the Cumulative Impacts Analysis. These projects are the Challenger School, St. Anthony's Catholic Church and the Santa Clara County Horseman's Association. Existing land uses are not incorporated into the Cumulative Impacts analysis because they are already accounted for in the analysis of the environmental impacts of the proposed project. In conformance with CEQA, the potential environmental impacts of the proposed project are compared to the existing environment, including all the existing land uses. For example, the traffic analysis for the proposed project analyzes the project traffic, in addition to the traffic from existing uses, including those mentioned in the comment. Likewise the noise impacts of the project are compared to the existing noise environment created by all existing land uses and activities in the surrounding area. The Cumulative Impacts Analysis included in the Draft EIR is in conformance with CEQA. Please also refer to Responses to Comments 15-30 and 47-9 for additional discussion.

47-36 The commentor states that the Draft EIR is a legal document. No additional response is necessary.

47-37 The commentor's statements regarding the proposed McKean Road Sports Complex project are noted, however the comment does not raise any new environmental issues; therefore, no response is required.

47-38 The project description included in the Draft EIR was originally prepared by Almaden Youth Association and was revised by the City of San Jose during preparation of the Draft EIR.

47-39 The comment does not identify any specific issues in reference to the Draft EIR

47-40 Please refer to Response to Comment 40-1.

47-41 Please refer to Response to Comment 40-1.

47-42 Please refer to Response to Comment 40-1.

47-43 Please refer to Response to Comment 40-1. The comments regarding potential financing issues, equity and diversity do not raise any specific environmental issues in reference to the Draft EIR.

47-44 In regards to the description of the proposed project as a public project, please refer to Responses to Comments 10-1 and 10-2. The General Plan text amendment was initiated by the City Council in June, 2001, in conformance with standard procedure for the initiation of City Council-initiated General Plan amendments. CEQA does not require that a Draft EIR provide information regarding the project applicant or other entities involved in the future implementation of the proposed project, other than to identify them. In regards to the projects' relationship to the SAVUR prerequisite conditions and Specific Plan, please refer to Response to Comment 47-6. The comment includes many statements that are the opinion of the author, to which no response is required.

47-45 CEQA does not require the inclusion of information regarding the cost of the proposed project or the proposed mitigation measures. The City will review the specifications and installation of all facilities to be placed on the project site as part of the Master Plan process to ensure that the interim facilities are safe for use by the public.

The Draft EIR Section II C Hydrology and Water Quality and Appendix C provides an analysis of potential impacts to water quality including impact from parked cars, pesticides, herbicides, etc. Mitigation measures are identified on page 58. Please refer to Responses to Comments 10-10 and 10-11 for addition water quality discussion.

The Draft EIR states that, according to the Santa Clara County Sheriffs Department, the proposed project would not require any additional sheriff patrols. The EIR states that San Jose Fire Station No. 28 and the adjacent California Department of Forestry (CDF) station are in the immediate vicinity of the project site and would provide emergency medical response times of between 2 ½ and 3 ½ minutes. There is no information to indicate that these services will experience difficulty accessing the site in an emergency. The Draft EIR concludes that the proposed project will have significant and unavoidable operational noise impacts. There is no information to indicate that the portable restroom facilities will emit odors that will affect surrounding properties. In regards to the proposed partial mitigation requiring participants to sign an agreement not to bike to the project site, please refer to Response to Comment 3-1. The comment includes many statements that are the opinion of the author, to which no response is required.

47-46 Please refer to Responses to Comments 4-3, 6-4, 10-3, 10-5, 10-10, 10-14, 10-18, 11-2, 13-8, 15-14, 15-15, 15-51, 18-4, 30-5, 36-13 and 44-5 for discussion of alternatives. Regarding the comment on the lack of discussion of the existing

Large Group Assembly Facilities ("LGAFs") on McKean Road, please refer to Response to Comment 47-35.

47-47 The comment states the opinion of the author. No response is required.

-----Original Message-----
From: Abu Eghan [mailto:akeghan@earthlink.net]
Sent: Tuesday, September 28, 2004 8:25 PM
To: janis.moore@sanjoseca.gov
Subject: DRAFT ENVIRONMENTAL IMPACT REPORT for McKEAN ROAD SPORTS COMPLEX (S CH No. 2002112035)

Environmental Project Manager, Janis Moore
Department of Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA

September 28, 2004

Dear Ms. Moore:

As a resident of the Urban Reserve I am concerned about the proposed sports complex on McKean Road. I have reviewed the recent DEIR (August 2004) on the project and I have the following comments on it

- Traffic situation - This is very real and the reports fails to provide any mitigation. McKean is a two-lane country road that will be expected to handle urban traffic. You should just observe the traffic situation on weekday mornings as kids are being dropped at the nearby Challenger school. From what I see in the report, no effort will be made to mitigate the traffic issue. This roadway can't handle that traffic. You will be deliberately creating an unbearable and an unacceptable situation for the community. You will also make it impossible for residents living across from the park to exit their homes. Crossing the roadway to turn left from will be impossible. **48-1**

- Noise - This is acknowledged in the report but I do not see anything being done about it. **48-2**

- Safety - The report fails to adequately describe the type and number of accidents that might occur. Mitigation is non-existent. Claiming that you can't afford to mitigate the danger to children, residents, and visitors is not mitigation, and frankly sounds irresponsible. "We don't have money to save lives so its significant and unavoidable that people will die" is an unbelievable approach to public projects. Can we in clear conscious refer someone who loses a loved one to this statement? **48-3**

I believe that in light of these pressing issues the council should not approve this EIR and move forward with this project. **48-4**

Best Regards

Abubakar Eghan
20575 Sprawling Oaks ct
San Jose, CA. 95120

Abubakar Eghan
20575 Sprawling Oaks Ct
San Jose, CA. 95120
September 28, 2004

48-1 The commentor's opinion and statement of opposition to the proposed McKean Road Sports Complex project are noted. Traffic mitigation measures are implemented when the City's transportation policy identifies a significant impact. The Traffic Impact Analysis prepared for the proposed project is in conformance with the City's Transportation LOS Policy and the requirements of the VTA's Congestion Management Program. No significant traffic impact was identified per the City's Policy to any signalized McKean Road intersections, therefore no traffic mitigation is required. Please also refer to Responses to Comments 3-1, 13-2 and 15-61 through 15-71 for additional discussion of traffic issues.

48-2 Please refer to Responses to Comments 13-6, 20-6, 28-2, 37-1, 37-4, 43-11 through 43-19, 47-27 and 47-35.

48-3 Please refer to Response to Comment 3-1.

48-4 The commentor's statement in opposition to the proposed McKean Road Sports Complex project is noted.

CHANGES MADE TO EIR TEXT

This Section contains changes and modifications to Volume 1 of the McKean Road Sports Complex Draft EIR, August 13, 2004, (City File No. GPT01-10-02/PP 03-02-057, SCH No. 2002112035). These changes are the result of responses to comments or editorial clarifications made by the City of San Jose. The changes are presented in the order in which they appear in the Draft EIR and the changes are identified by the page number(s) in that document. This chapter contains text changes to the Draft EIR, changes to the Draft EIR exhibits, and revised mitigation measures. Text deletions are shown in strike out (~~strike out~~) and additions are shown as underlined (underline).

Page 7 of the Draft EIR is hereby amended to include the following text:

> The site operator shall implement a Transportation Demand Management (TDM) program that includes the development and use of a carpool match list in order to reduce the likelihood that sports field participants walk or bike to the facility.

Page 11 of the Draft EIR is hereby revised as follows:

> The only other publicly-owned properties in the SAVUR include two parcels along McKean Road that are developed with fire stations, and property west of the site owned by the ~~San Jose Water Company, a public utility~~ Santa Clara Valley Water District, currently being used for sludge drying beds.

Page 17 of the Draft EIR is hereby amended to include the following San Jose 2020 General Plan Transportation policies:

> Transportation Goal
>
> Transportation Policy 19 (Pedestrian Facilities): The City should encourage walking, bicycling, and public transportation as preferred modes of transportation.
>
> Transportation Policy 20 (Pedestrian Facilities): Pedestrian safety and access should be given priority over automotive movement.
>
> Transportation Policy 50 (Bicycling): The City should develop a safe, direct, and well-maintained transportation bicycle network linking residences, employment centers, schools, parks and transit facilities and should provide bicycling as a an alternate mode of transportation for commuting as well as for recreation.
>
> Transportation Policy 36 (Parking): Bicycle parking facilities should be provided at all public off-street parking sites.
>
> Consistency: The proposed project does not include plans to extend bicycle lanes or sidewalks along McKean Road from Harry Road, the closest existing bicycle/pedestrian facilities, to the project site, a distance of approximately 1.5 miles. Neither the City of San Jose or Santa Clara County currently have plans to widen Harry Road to add such facilities. Comments from Santa Clara County Parks and Recreation Department contained in Draft EIR Comment letter No. 5 indicate that a future planned bicycle lane route, Subregional Trail S-6

(West Valley Trail), is located on this portion of McKean Road. In the same letter, the County has indicated they do not expect the project to complete the proposed trail in this area, as a part of this project. The County does recommend that roadway improvements along the project frontage be constructed with adequate room to accommodate a future bike lane. There are no bike parking facilities proposed as a part of the project. The project, as proposed, is not consistent with San Jose 2020 General Plan Transportation policies Nos. 19, 20, 36 and 50.

Page 93, second to last bullet, of the Draft EIR is hereby revised as follows:

Almaden Road/McKean Road (1-way stop-controlled ~~2-way stop-controlled~~);

Page 108, second sentence of the second paragraph, of the Draft EIR is hereby revised as follows:

The sports complex proposes to generate project traffic associated with soccer ~~and softball~~ activities from mid-August through October, and project traffic associated with baseball and softball activities from February through June.

In addition, the reference to the soccer and softball activities occurring from mid-August through October on pages 16 and 31 of the Traffic Impact Analysis is hereby revised as above.

Page 117, under the heading Project-Level Mitigation Measure for Pedestrian/Bicycle Safety Impact, of the Draft EIR is hereby amended to include the following:

AYA has indicated that if the project is approved and AYA is selected to operate and maintain the facility on behalf of the City, that AYA would implement the ~~The~~ following ~~mitigation~~ project operational measure ~~shall be implemented~~ to reduce potential accidents between vehicles and pedestrians/bicyclists on McKean Road:

- ~~The site operator (~~AYA~~) and the City of San Jose shall~~ proposes to include in all league registration materials and field use applications a requirement that parents sign an agreement form that restricts their children from riding bicycles or walking to the site for league events and ~~includes~~ a warning of expulsion from the league for violating the conditions of ~~the~~ this private agreement.

Page 128, Table II.E-13, of the Draft EIR is hereby revised as follows:

~~McKean Road/Almaden Road Intersection Turn Pocket Analysis Summary~~ Southbound McKean Road Left-turn Queuing analysis at Project Driveway

Page 185, third paragraph under the heading Regional Setting, of the Draft EIR is hereby revised as follows:

Three regional County parks are located adjacent to the SAVUR in the vicinity of the site: Santa Teresa County Park, located approximately ~~one mile~~ 500 feet to the northeast of the 77-acre School District property and approximately 2,000 feet from the proposed sports complex project site.

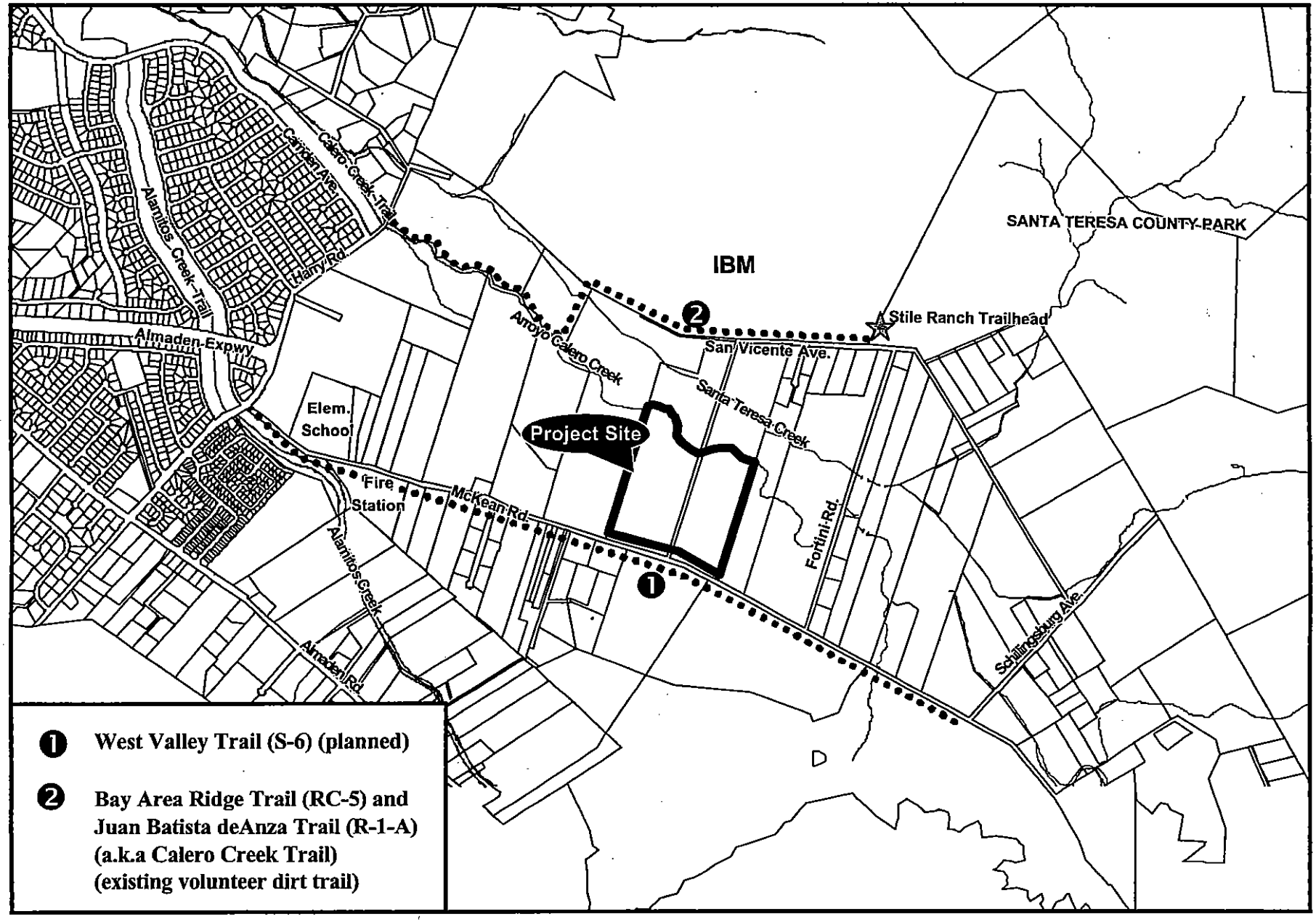
Page 190, second paragraph under the heading Visual Character, of the Draft EIR is hereby revised as follows:

The nearest trail that has a direct view of the site is located approximately ~~¼ mile~~ 2,000 feet to the northeast in Santa Teresa Park.

Page 225, second paragraph, of the Draft EIR is hereby revised as follows:

To estimate future growth, a 1.2 percent per year growth factor was applied to existing traffic volumes in order to represent a reasonable growth assumption in the absence of foreseeable projects not yet approved. The only reasonably foreseeable project, the Coyote Valley ~~Master Plan (CVMP)~~ Specific Plan (CVSP), is still in the initial planning stages. Sufficient information has not yet been developed to accurately project the expected traffic generation associated with buildout of the ~~CVMP~~ (CVSP). City of San Jose planning for the ~~CVMP~~ CVSP is anticipated to be completed in December 2005 with potential construction occurring over the following 10 to 20 years. It would be anticipated that cumulative traffic impacts would occur with the development of the ~~CVMP~~ CVSP.

The following two exhibits I-7 and II.E-4 are hereby added to the Draft EIR (exhibits follow on the next two pages).

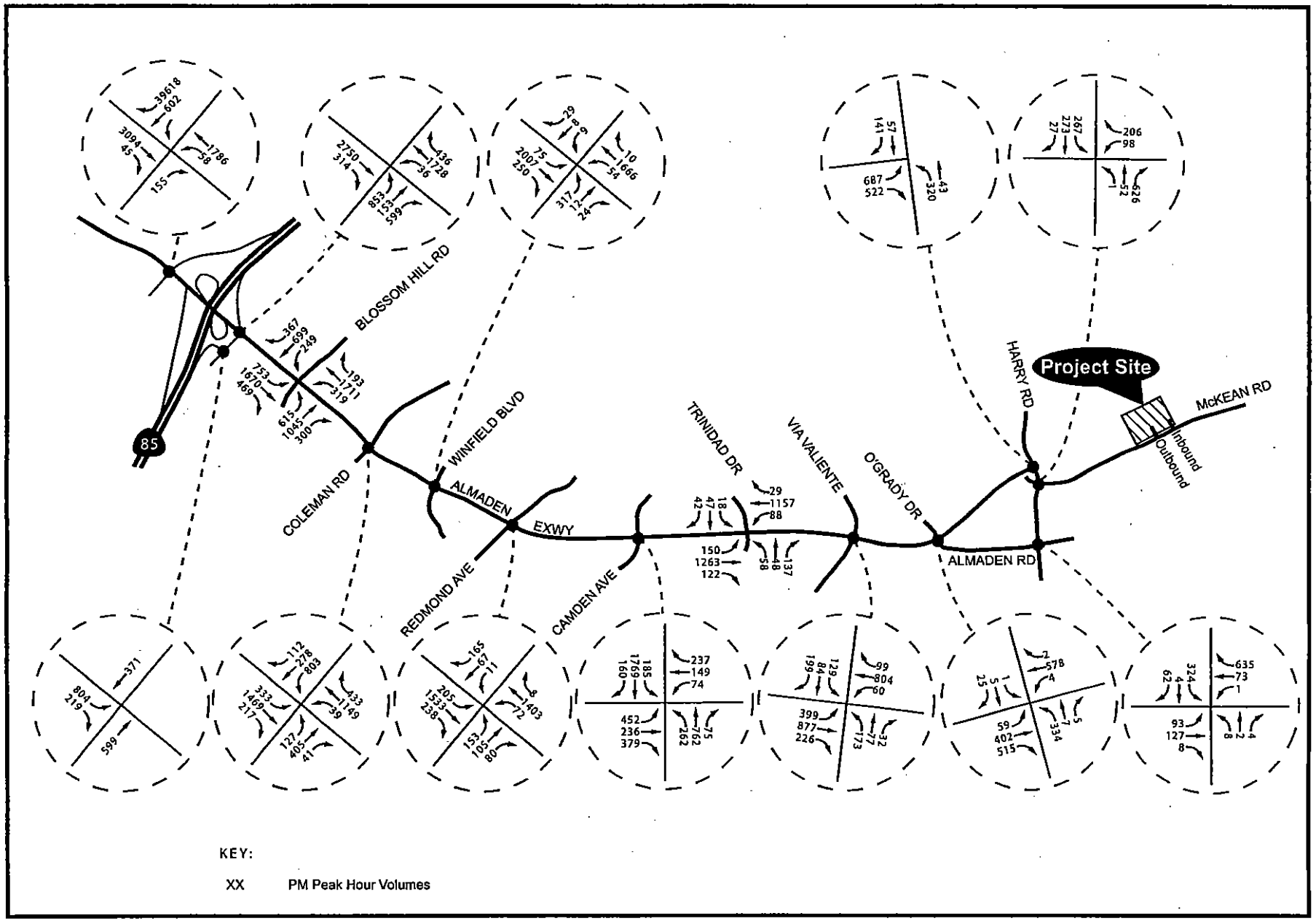


Scale 1" = 1,500'

McKEAN ROAD SPORTS COMPLEX

Trail Routes

Exhibit I-7



Not to Scale

McKEAN ROAD SPORTS COMPLEX

Background Conditions

Weekday PM Peak Hour Intersection Volumes

Exhibit II.E-4