

From: bgoldmace@aol.com
To: Reena.Mathew@sanjoseca.gov; dipa.chundur@sanjoseca.gov;
laurel.prevetti@sanjoseca.gov
Cc: D8CRT_Steering@yahoogroups.com
Sent: Tue, 7 Oct 2008 9:20 am
Subject: D8CRT public comments re: EDP

Attn: Reena Mathew
Planning, Building and Code Enforcement
Re: Draft Evergreen-East Hills Development Policy (EEHDP)

Reena,
On behalf of the District 8 Community Round Table Steering Committee (D8CRTSC), here are our formal public comments. The D8CRTSC recommends the following revisions to the Draft EEHDP:

1. Project Caps for Larger and Smaller Projects: The D8CRTSC has consistently opposed any development over 35 units coming from the 500 unit pool. Furthermore, the D8CRTSC recommends that the majority of units should be designated for smaller development projects of **10 units** or less. This would give priority to the "mom and pop" parcels rather than to the larger developer. Several community meetings have shown that the Evergreen-East Hills public supports this concept. The goal is to have development of smaller parcels spread equitably and relatively evenly throughout the entire policy area. Therefore, the hierarchy of priority should be the following: the majority of pool allocations should be for projects of 1-10 units. Next in line for priority would be projects containing 11-35 units. The lowest priority would be for projects containing more than 35 units.

2. Existing Allocations: Appendix J of the proposed EEHDP shows that there are currently existing allocations that have not yet received entitlements in the policy area. The D8CRTSC recommends that for existing sites with allocations, any project seeking to increase these allocations should be counted in full against the 500 unit pool. This means that if a site with 10 allocations wants to build 20 units, then the project is considered to be a new 20 unit application against the 500 unit pool. This would fold the background allocations into the new project, rather than counting the background allocations separately. Two related questions on this topic are: how many traffic allocations currently exist in the EEHDP area? Are allocations tied to a single parcel, or can they be moved to other sites?

3. Anti-Clustering Criteria: The D8CRTSC supports anti-clustering criteria, as detailed on page 24 of the proposed EEHDP. The D8CRTSC recommends tightening the criteria by addressing the issue of parcels with phased development in which one part of the development has occurred prior to the revision of the EEHDP. For example, what if part of the parcel has developed units prior to the EEHDP revision based on preexisting allocations, but then after the EEHDP revision the developer seeks to add new traffic allocations to the remainder of the parcel? In this case, the D8CRTSC recommends that the original and future allocations should be counted together rather than separately

towards the 500 unit pool in order to avoid clustering. Thus, two phases of the same project (although developed pre and post EEHDP revision) count as a single project in terms of the unit pool.

4. Project Criteria for Small Developments (1-10 units): The D8CRTSC recommends that the EEHDP should have a clear definition of how to prioritize projects between 1-10 units. Currently, there are no proposed criteria for small developments. The D8CRTSC opposes "first come, first served", and we would prefer to see projects chosen on the basis of their value to the neighborhood and larger community. The D8CRTSC is particularly concerned about the cumulative impact of several small projects in a single geographic area, and we recommend that Staff develop criteria to avoid having too many units in a small subregion of the EEHDP area.

5. Dispersion of Units: The D8CRTSC recommends that the EEHDP should focus on dispersing units equitably throughout the entire project area. The D8CRTSC opposes the overconcentration of units in one or two subregions of the policy area.

6. Remainder Units: What happens to remainder units in this 500 unit pool? The D8CRTSC recommends that any remainder units in larger project categories revert to the smaller project pool. In other words, if there are 34 units remaining in the large project (+35) pool, then these 34 units revert to the smaller project pool.

7. Mitigation Measures: The mitigation measures detailed in the proposed EEHDP are insufficient to deal with the traffic problems in the project area, especially since six busy intersections are exempt from any proposed mitigation due to "background conditions" or other reasons: Capitol and Story, White and Stevens, Evergreen Commons and Tully, Capitol and Nieman, San Felipe and Yerba Buena, and San Felipe and Delta. Two of these intersections (Capitol and Story, White and Stevens) are exempted due to "significant unavoidable impacts" and they will require a "statement of overriding considerations." Four of these intersections are exempt due to special circumstances: "if the proposed mitigation has undesired conflicts with other modes of travel or has unacceptable biological impacts, then the impacts will be considered acceptable and the intersection is exempt from constructing the proposed mitigation".

8. "Background Conditions" Exemption: The D8CRTSC strongly opposes exemptions based on "background conditions," since it assumes that project impact at these intersections would be less than significant. This creates a situation in which a "statement of overriding considerations" is not required, and this leads to the false assumption that there is no significant impact or that impact is "acceptable." In fact, there would be a "significant impact" at these four intersections, and the D8CRTSC recommends that the "significant unavoidable impact" label should be used in these situations rather than creating a new label that is misleading and inaccurate.

9. Analytical Assumptions: The land use distribution model is based on a presumed distribution of units in various sub-areas. The D8CRTSC is concerned about the following issues in regards to these analytical assumptions:

- Is the City going to grant traffic allocations to meet this distribution?
- If not, why not?
- What is the algorithm for distributing the allocations?
- Will the City distribute the allocations in order to spread out the impact?
- What is the probability that this distribution of units will be met?
- Are the analytical assumptions based on potential projects?

The basic problem with these analytical assumptions is that having specific numbers of unit allocations can appear to developers as if these are the recommended allocations for the future. Hence, the EEHDP should make it very clear that these are only "assumptions" and not potential entitlements of any sort.

10. Park Funds: Projects over 10 units should contribute to a fund for parks or park amenities in the EEHDP area. This would provide a steady source of funds for parks.

11. Development Pool: In terms of the third exemption on page 16 ("the development causing the impact is within the scope of the development pool"), what does this mean? Aren't all traffic allocations and hence all development coming from the development pool? This exemption seems like an escape clause that implies no mitigation is required.

12. Pedestrian Conflicts: On page 16, there is a discussion of exemptions due to "pedestrian conflicts" at Capitol and Nieman, San Felipe and Yerba Buena, and San Felipe and Delta. Instead of unilaterally dismissing additional lanes as unnecessary, the D8CRTSC recommends the City study how to mitigate the pedestrian conflict if the proposed lanes were added.

13. Green Building and Riparian Sensitivity: On page 25, it states that developers building 11-35 units can choose from among four options: riparian sensitivity, green building, diverse housing types, or community meeting room space. The D8CRTSC recommends that developers should be required to adhere both to green building and riparian sensitivity. This should not be an "either/or" criterion for development. The green building standard must be mandatory for all development over 10 units, and the riparian policy should also be upheld. Green building and riparian policy must also be upheld for commercial projects.

If you have any questions about these recommendations, please contact Bonnie Mace.

Thanks for your time.

Sincerely,
Bonnie Mace (Chair, Land Use Subcommittee, District 8 Community Round Table)
Angela McCarren (Vice President, District 8 Community Round Table)
Contact info: Bonnie Mace (bgoldmace@aol.com)