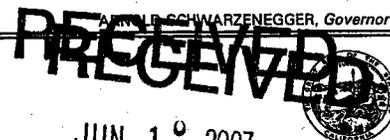


## DEPARTMENT OF FISH AND GAME

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(707) 944-5500



CEQA Filing Fee No Effect Determination Form

CITY OF SAN JOSE  
CITY OF SAN JOSE  
DEVELOPMENT SERVICES  
DEVELOPMENT SERVICES

**Applicant Name:** The Flea Market, Incorporated      **Date Submitted:** June 11, 2007

**Applicant Address:** 1590 Berryessa Road, San Jose, CA 95133

**Project Name:** San Jose Flea Market

**CEQA Lead Agency:** City of San Jose

**CEQA Document Type:** EIR

**SCH Number and/or local agency ID Number:** SCH 2005042070

**Project Location:** Both sides of Berryessa Road, just west of Union Pacific Railroad tracks, east of Coyote Creek and north of Mabury Road, in the City of San Jose.

**Brief Project Description:** Draft Environmental Impact Report (EIR) for San Jose Flea Market for a General Plan Amendment and Planned Development Rezoning (File No. GP/GPT06-04-01/PDC03-108) to change the land use designation of the site from Combined Industrial/Commercial on 24.3 acres to Transit Corridor Residential (20+ DU/AC) with a Flexible Land use Boundary; to increase building height limit from 120 feet to 150 feet on a portion of the site south of Berryessa Road; and add a Major Collector roadway through the project site between Mabury and Berryessa Roads. The current Medium Density Residential (8-16 DU/AC) on 8 acres and Public Park/Open Space on 22.8 acres will remain unchanged. The Project includes a Planned Development Rezoning to allow up to 2,818 residential dwelling units and 365,622 square feet of commercial / industrial/office uses on a 120.3-acre site.

**Describe clearly why the project has no effect on fish and wildlife:** The EIR for the entire project includes mitigation measures that should reduce impacts on fish & wildlife to a less than significant level. We have already filed an NOD on April 30 with the requisite Fish & Game fees for the General Plan Amendment portion of the Project (see below). The PD Rezoning portion of the Project is scheduled for City Council hearing sometime in August. We are requesting a Fish & Game filing fee exemption, since we have already the required fees in April.

**NOTE:** This is the language we used to describe the GPA portion of the Project in the NOD we already filed: GP/GPT06-04-01. San Jose Flea Market. General Plan Land Use/Transportation Diagram and Text amendment for a 120.3-acre site located on the both sides of Berryessa Road, west of Union Pacific Railroad

tracks, east of Coyote Creek and north of Mabury Road to: 1) change the land use designation on a portion of the site south of Berryessa Road from 10 acres of Combined Industrial/ Commercial to 9 acres of Transit Corridor Residential (20+ DU/AC) and 1 acre of Public Park/Open Space; 2) to increase the maximum

allowable building height limit from 120 feet to 150 feet south of Berryessa Road; 3) downgrade Sierra Road on the north side of Berryessa Road from a four-lane Major Collector to a two-lane Major Collector; and 4) add a new two-and-four-lane Major Collector roadway through the project site between Mabury and Berryessa Roads.

**Determination:** Based on a review of the Project as proposed, the Department of Fish and Game has determined that for purposes of the assessment of CEQA filing fees [F&G Code 711.4(c)] the project has no potential effect on fish, wildlife and habitat and the project as described does not require payment of a CEQA filing fee. This determination does not in any way imply that the project is exempt from CEQA and does not determine the significance of any potential project effects evaluated pursuant to CEQA.

Please retain this original determination for your records; you are required to file a copy of this determination with the County Clerk after your project is approved and at the time of filing of the CEQA lead agency's Notice of Determination (NOD). If you do not file a copy of this determination with the County Clerk at the time of filing of the NOD, the appropriate CEQA filing fee will be due and payable.

Without a valid No Effect Determination Form or proof of fee payment, the project will not be operative, vested, or final, and any local permits issued for the project will be invalid, pursuant to Fish and Game Code Section 711.4(c)(3).

DFG Approval By: Charles Armor Date: June 14, 2007  
Charles Armor  
Acting Regional Manager

cc: City of San Jose

## DEPARTMENT OF FISH AND GAME

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CITY OF SAN JOSE  
DEVELOPMENT SERVICES

## CEQA Filing Fee No Effect Determination Form

**Applicant Name:** KB Home South Bay, Incorporated (Steve Bull)  
**Date Submitted:** June 13, 2007

**Applicant Address:** 6700 Koll Center Parkway, Suite 200, Pleasanton, CA 94566

**Project Name:** Forestdale Ave EVA Route and Water Line Connection

**CEQA Lead Agency:** City of San Jose  
**CEQA Document Type:** Mitigated Neg Dec  
**SCH Number and/or local agency ID Number:** SCH 2007042144

**Project Location:** Between Forestdale Avenue and South 22<sup>nd</sup> Street, along the southerly side of the proposed addition to Martin Park in the City of San Jose (APN 472-01-024 portion)

**Brief Project Description:** PP07-080 Public Project for the establishment of a portion of City-owned property south of Martin Park, between Forestdale Avenue and South 22<sup>nd</sup> Street, as an easement for a water line connection and the development of an emergency vehicle access route within a 20-foot wide easement on approximately 3,247 square feet.

**Describe clearly why the project has no effect on fish and wildlife:** This small portion of City-owned land has been graded and does not contain any biological resources, nor is it adjacent to any creek or wetland.

**Web link to MND:** <http://www.sanjoseca.gov/planning/eir/MND.asp>

**Determination:** Based on a review of the Project as proposed, the Department of Fish and Game has determined that for purposes of the assessment of CEQA filing fees [F&G Code 711.4(c)] the project has no potential effect on fish, wildlife and habitat and the project as described does not require payment of a CEQA filing fee. This determination does not in any way imply that the project is exempt from CEQA and does not determine the significance of any potential project effects evaluated pursuant to CEQA.

Please retain this original determination for your records; you are required to file a copy of this determination with the County Clerk after your project is approved and at the time of filing of the CEQA lead agency's Notice of Determination (NOD). If you do not file a copy of this determination with the County Clerk at the time of filing of the NOD, the appropriate CEQA filing fee will be due and payable.

Without a valid No Effect Determination Form or proof of fee payment, the project will not be operative, vested, or final, and any local permits issued for the project will be invalid, pursuant to Fish and Game Code Section 711.4(c)(3).

DFG Approval By:  \_\_\_\_\_ Date: June 25, 2007  
Charles Armor  
Acting Regional Manager

cc: City of San Jose

**DEPARTMENT OF FISH AND GAME**

POST OFFICE BOX 47  
YOUNTVILLE, CALIFORNIA 94599  
(707) 944-5500

**CEQA Filing Fee No Effect Determination Form****Applicant Name: WPV San Jose, LLC****Date Submitted: April 27, 2007****Applicant Address: 26901 Agoura Road, Suite 250, Calabasas, CA 91301****Project Name: "The Plant" Stormwater Treatment****CEQA Lead Agency: City of San Jose****CEQA Document Type: Addendum****SCH Number and/or local agency ID Number: PD05-058 / PDA05-058-01****Project Location: Northwest corner of the intersection of Monterey Road and Curtner Avenue**

**Brief Project Description: Planned Development Permit to construct approximately 646,000 square foot commercial buildings for retail/office uses on a 55.4 gross acre site, Planned Development Permit Amendment to remove a condition of approval of the previously issued Planned Development Permit regarding the percentage of storm water runoff from the site that shall be treated by bioretention swales**

**Describe clearly why the project has no effect on fish and wildlife: The stormwater control plan has been amended to reduce the number of bio-retention swales on site, but the project will still treat 100% of all stormwater on-site.**

**This Planned Development Permit Amendment allows the removal of a condition in the previously approved PD permit (PD05-058) which requires that the storm water runoff plan ensure that at least 30% of the site drains into bio-retention swales for treatment of storm water. This 30% was determined earlier on by Planning Staff as an optimistic percentage that could be treated by bioretention swales given the remediation constraints on the site. As discussed in greater detail in the Final EIR for the General Electric Facility, previous investigations have identified the presence of hazardous materials on the project site including volatile organic compounds (VOCs) in the soil and groundwater.**

**The California Regional Water Quality Control Board has approved a Remediation and Risk Management Plan for the site and include the installation of vapor management systems on site. As indicated in the RRMP, storm water infiltration has the potential to interfere with the subsurface remediation system.**

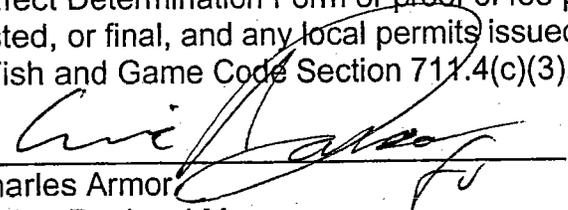
Further, the RRMP states that storm water infiltration should be limited only to areas on site which are subject to the areas that can be influenced by the installed remedial equipment. The constraints of this remediation plan provide fewer opportunities for the use of bio-retention swales, which allow for storm water infiltration, on the site than anticipated prior to approval of the Planned Development Permit (PD05-058). The applicant has demonstrated that only 23% of the site can be treated with bio-retention swales without adversely interfering with the subsurface remediation system and taking into account other site constraints (such as grading constraints and locations of buildings). The remaining 77% of the site shall be treated by the use of mechanical storm vaults. The storm water control plan has been numerically sized to treat 100% of all storm water on site.

**Determination:** Based on a review of the Project as proposed, the Department of Fish and Game has determined that for purposes of the assessment of CEQA filing fees [F&G Code 711.4(c)] the project has no potential effect on fish, wildlife and habitat and the project as described does not require payment of a CEQA filing fee. This determination does not in any way imply that the project is exempt from CEQA and does not determine the significance of any potential project effects evaluated pursuant to CEQA.

Please retain this original determination for your records; you are required to file a copy of this determination with the County Clerk after your project is approved and at the time of filing of the CEQA lead agency's Notice of Determination (NOD). If you do not file a copy of this determination with the County Clerk at the time of filing of the NOD, the appropriate CEQA filing fee will be due and payable.

Without a valid No Effect Determination Form or proof of fee payment, the project will not be operative, vested, or final, and any local permits issued for the project will be invalid, pursuant to Fish and Game Code Section 711.4(c)(3).

DFG Approval By:

  
Charles Armor  
Acting Regional Manager

Date: May 7, 2007

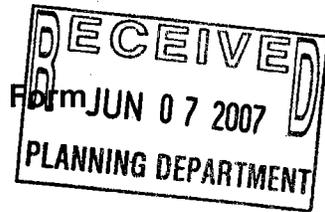
cc: City of San Jose

**DEPARTMENT OF FISH AND GAME**

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**CEQA Filing Fee No Effect Determination Form**



**Applicant Name:** WTI, Inc and the City of San Jose **Date Submitted:** October 3, 2005

**Applicant Address:** WTI, Inc., 3469 North First Street, San Jose, CA 95134

**Project Name:** GP-05-04-08 – Addendum to the North San Jose Area Development Policy

**CEQA Lead Agency:** City of San Jose

**CEQA Document Type:** Addendum to an EIR

**SCH Number and/or local agency ID Number:** City of San Jose, GP05-04-08 -  
Addendum to GP-04-04-06  
(CADFG #260167)

**Project Location:** Westerly side of North First Street, approximately 450 feet southerly of the intersection of North First Street and Rio Robles (3331-3475 North First Street)

**Brief Project Description:** General Plan amendment (File No. GP05-04-08) is a request to change the Land Use/Transportation Diagram designation to add a Transit/Employment Residential (55+ DU/AC) Overlay on a total 30.4-acre site designated Industrial Park.

**Describe clearly why the project has no effect on fish and wildlife:** The original North San José Area Development Policy (NSJADP) EIR analyzed the impacts of potentially designating the Transit/Employment Residential Overlay for the site. Implementation of the overlay, as prescribed by the original EIR, was contingent upon the findings of an updated flood study for the project area, which was completed in September 2006. The NSJADP EIR states that when a specific proposal is made to convert land within the Transit/Employment Residential Overlay area to a residential land use, further CEQA analysis is required to account for the project impacts anticipated to result from the specific project design. The current project change to add a land use designation overlay would not result in significant land use impacts beyond those evaluated for the overall NSJADP in the prior EIR.

The update to the North San José 1987 Floodplain Management Study completed by *Schaaf & Wheeler Consulting Civil Engineers* in September 2006 concluded that the potential density and land area coverage allowed by the Transit/Employment Residential Overlay was found to have no further

flooding/hydrological impacts, other than those stated in the original project EIR. Where necessary, the proposed project would be responsible for implementing the mitigation measures already identified in the NSJADP EIR (2005) to reduce or avoid significant environmental impacts. The EIR addendum submitted for the NOD serves as an affirmation of findings supported by the original EIR with no further impacts to wildlife.

**Determination:** Based on a review of the Project as proposed, the Department of Fish and Game has determined that for purposes of the assessment of CEQA filing fees [F&G Code 711.4(c)] the project has no potential effect on fish, wildlife and habitat and the project as described does not require payment of a CEQA filing fee. This determination does not in any way imply that the project is exempt from CEQA and does not determine the significance of any potential project effects evaluated pursuant to CEQA.

Please retain this original determination for your records; you are required to file a copy of this determination with the County Clerk after your project is approved and at the time of filing of the CEQA lead agency's Notice of Determination (NOD). If you do not file a copy of this determination with the County Clerk at the time of filing of the NOD, the appropriate CEQA filing fee will be due and payable.

Without a valid No Effect Determination Form or proof of fee payment, the project will not be operative, vested, or final, and any local permits issued for the project will be invalid, pursuant to Fish and Game Code Section 711.4(c)(3).

DFG Approval By: Charles Armor Date: June 5, 2007  
Charles Armor  
Acting Regional Manager

cc: City of San Jose