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Evergreen Community Task Force
c/o John Baty, Planning Department
San Jose City Hall
200 E. Santa Clara Street
San Jose, CA. 95113-1905

Re: Draft Evergreen Development Policy

Dear Task Force Members:

The following comments on the Second Draft of the Evergreen Development Policy dated August 21, 2006 are submitted on behalf of Canyon Creek Plaza, LP, owner of Canyon Creek Plaza, and Shapell Industries of Northern California, owner of the Evergreen Village Center.

We were very pleased that the Second Draft of the Evergreen Development Policy explicitly states that with regard to future commercial development within the Evergreen Valley Community College Opportunity Site, "This commercial square footage may be used for either retail or commercial office development, but may not be allocated for development of a grocery store." (Draft at page 12) The adoption of this Policy statement is crucial to the continued viability of existing grocery and retail stores operating within the area.

The Draft's policy statement in this regard is consistent with and promotes the Evergreen Visioning Project's Vision and Expected Outcome approved by the City Council on June 21, 2005 (Appendix A to the Draft). Specifically, Vision and Expected Outcome #7 states that the plan should, "Capture new retail and commercial opportunities while strengthening all existing retail including the commercial center at the Evergreen Village." Moreover, the Purpose and Goal of the Policy makes clear that, "All new development within the Evergreen area should be consistent with the Guiding Principles and the desired Outcomes endorsed by the City Council in June of 2005, as part of the EEHVS planning process. The EEHVS states that all new development in Evergreen should be sustainable, of high quality, and improve the overall livability of the area." (Draft at page 9)

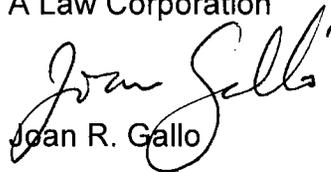
Not only is this policy mandated by the City Council-endorsed Vision, but it is essential for the overall livability of the area. The study by MapInfo Corp., prepared for Lunardi's Market, concluded that the addition of a major chain supermarket at the Community College site would be at the direct expense of nearby markets such as Cosentino's and Lunardi's. It is predictable that not only would these stores fail, but their closure would have a devastating impact on the remaining tenants in the shopping centers that these markets anchor. The reality of the impact on the community was recognized by the group of "Concerned Residents of District 8" in their report to the Task Force dated August 4, 2006 in which the group articulated support the "productive, viable land use of the land that benefits the community without harming existing, neighborhood retail centers." (Report at page 10)

As I pointed out in the attached letter submitted to the Task Force on March 6, 2006, the Planning Staff in the past, consistently recommended against retail over-saturation of the area. In 1994, in 1995 and again in 1996, the Planning Staff noted that approving a large retail center, including a major grocery store, in this area would be contrary to the General Plan, and would undermine the commercial strategy of the Evergreen Specific Plan. The College District acknowledged this concern when it removed a major grocery store from its proposal for the site in 1996. The same compelling reasons against developing a major grocery store at the site still exist.

There is no question that a major grocery store on the Evergreen Community College site would undercut the sustainability of the Canyon Creek Plaza and the Evergreen Village Center and thus would diminish the overall livability of the area. It is critical that the Evergreen Development Policy with regard to this issue be adopted as proposed in this Draft.

Sincerely,

HOPKINS & CARLEY
A Law Corporation



Joan R. Gallo

JRG/bm

Cc: Laurel Prevetti
Ed Abelite
Kelly Erardi

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March 8, 2006

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Evergreen Community Task Force
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Re: Canyon Creek Plaza

Dear Task Force Members:

I represent Canyon Creek Plaza which is the shopping center on Silver Creek Road which currently houses the Cosentino's Market. We are asking that the proposed Evergreen Vision Strategy specifically exclude the addition of a supermarket at San Felipe Road and Paseo De Arboles as proposed by the Evergreen Community College.

As the study by MapInfo Corp., prepared for Lunardi's Market shows that in addition to Lunardi's and Cosentino's, plans for an upgrade of the Safeway at Capitol Expressway and Silver Creek Road, a Lion Market and new Manilla Market are underway or complete. The study concludes that addition of a chain supermarket at the San Felipe site would be at the direct expense of Cosentino's and Lunardi's. It is predictable that these stores would not survive with the resultant effect on the shopping centers which will not flourish in the absence of their anchors.

The Metrovation Bay Area Economics Report prepared for the Office of Economic Development concludes in footnote 5 that the supermarket proposed by the Evergreen Community College would be "supportable" based on its market analysis but does not address whether Cosentino's and Lunardi's would be also be "supportable" or what the effect would be on the Canyon Creek Plaza and the Evergreen Village Center. It jumps to the conclusion that the "leakage" dollars that now go elsewhere would come into the retail area but does not analyze where that retail now goes and whether it would really move to the new supermarket. The MapInfo report points to the fact that the leakage goes, in substantial amount, to Costco and that "no conventional supermarket operator seems to impact Costco's phenomenal volume." Indeed, the leakage here would be from Cosentino's and Lunardi's to the new supermarket.

Indeed, the Planning Staff has consistently been aware of the potential retail over-saturation of the area. In 1994, in reviewing a General Plan amendment (GP94-8-4), the staff report pointed out:

A market study prepared for the Evergreen Specific Plan concluded that no additional commercial uses would be needed in the Evergreen area beyond the Village Specific Plan's "Village Center" and the already existing and planned commercial uses elsewhere in Evergreen. A market study recently prepared by the applicant's consultant, indicates adequate market demand for an additional shopping center in this area. The applicant's study, however, appears to underestimate the amount of retail commercial development that can be expected in the Evergreen area during the life of San Jose 2020 General Plan. ...As such, it (the GP amendment) would undermine the commercial strategy of the Evergreen Specific Plan, an integral component to the specific plan.

And, again in 1995 (GP95-8-2), when the Evergreen Community College first made its retail proposal, Planning Staff pointed out that an integral component of the Evergreen Planned Residential Community is the Village Center. A retail demand market study was prepared for the Evergreen Specific Plan task force. The market study analyzed the balance between supply and demand for retail space in the Evergreen Specific Plan study area.

The conclusion of that study found that the area is not only presently overserved with neighborhood serving commercial but would continue to be significantly overserved when the Evergreen Specific Plan area is built out. If this current request for neighborhood commercial use on 16 acres were to be approved, much of the commercial component of the Evergreen Specific Plan would become useless. Since a new commercial center on the Evergreen College site would contain many of the same types of retail uses, the stores in the specific plan would become unfeasible. In addition, a new commercial center at this time could dilute existing consumer markets, thereby, impacting existing shopping centers along White/ San Felipe Road to the north. There is also land designated for neighborhood oriented commercial development as a part of the Silver Creek Planned Community and some existing neighborhood commercial uses in the Villages to the south of the site.

And again in 1996, in response to Evergreen Community College's application (GP96-8-1);

Seven existing commercial centers were identified in studies prepared for this market area. Two other commercial centers have been extensively

planned and are expected to be constructed in the near future. These include up to 50,000 square feet of neighborhood commercial development as part of the Silver Creek Planned Residential Community, and the Village Commercial Center component of the Evergreen Planned Residential Community.

In 1990, a retail demand market study was prepared for the Evergreen Specific Plan Task force. The market study analyzed the balance between supply and demand for retail space within a three mile radius of the Evergreen Specific Plan project area..... The conclusion of that study found that the area is not only presently overserved with neighborhood-serving commercial but would continue to be significantly overserved when the Evergreen Specific Plan area is built out. If this current request for neighborhood commercial use on 16 acres were to be approved, much of the commercial component of the Evergreen Specific Plan could become infeasible.

The College responded, in a letter from Michael Hill, then Vice Chancellor of the San Jose/ Evergreen Community College District dated October 23, 1996 by revising its General Plan request to remove the supermarket from its proposal stating "Very importantly, by excluding a full service grocery operation, the revised amendment is intended to complement and not adversely impact the commercial Village Center in the Evergreen planned residential community."

The area is now served by Canyon Creek Plaza and the Evergreen Village Center, two very well designed and well run shopping centers. If competition drives Cosentino's and/or Lunardi's out of business, Evergreen will undoubtedly be faced with the impact on the community which arises when shopping centers do not thrive.

The Vision Strategy should protect, rather than adversely impact, the existing shopping centers by precluding a supermarket at the San Felipe site.

Sincerely,

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Joan R. Gallo

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