ADDENDUM A

EIR Resolution No. 2005-02
RESOLUTION NO. 2005-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY MAKING CERTAIN FINDINGS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) IN CONNECTION WITH THE HECKER PASS SPECIFIC PLAN FOR WHICH AN ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED, AND ADOPTING THE MITIGATION MEASURES AND APPROVING A MITIGATION MONITORING PROGRAM FOR THE PROJECT

WHEREAS, the City Council of the City of Gilroy (the "City") intends to approve the Hecker Pass Specific Plan project, referred to herein as the "HPSP" or the "Project"; and

WHEREAS, the Project was the subject to a Final Environmental Impact Report (the "FEIR" or the "Final EIR") prepared by the City as the lead agency in compliance with the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., title 14, §15000 et seq.) ("CEQA"); and

WHEREAS, the FEIR for the Project consists of the Draft EIR (the "DEIR") dated May 2004 (State Clearinghouse Number 2003012119), and the FEIR dated August 30, 2004, prepared for the City of Gilroy by EMC Planning Group Inc.; and

WHEREAS, a Notice of Preparation was prepared and comments received from responsible agencies pursuant to Public Resources Code Section 21080.4. The Notice of Preparation response period began on January 30, 2003 and ended on March 1, 2003. A public scoping meeting was noticed, and held at Gilroy City Hall on February 13, 2003; and

WHEREAS, a Draft EIR was circulated for public review for 45 days beginning on May 28, 2004 and ending on July 12, 2004. The Notice of Availability was posted by the Santa Clara County Clerk on May 30, 2004, and published in the Gilroy Dispatch on June 1, 2004. Copies of the proposed FEIR were sent out on August 30, 2004, to public agencies who commented on the Draft EIR, and made available for public review; and

WHEREAS, the proposed FEIR, and the Project were considered by the Planning Commission at a duly noticed public hearing on September 2, 2004, followed by study sessions on September 9, 2004, and October 14, 2004, and a duly noticed public meeting on November 4, 2004; and

WHEREAS, the proposed FEIR and the Project were considered by the City Council at a duly noticed public hearing at a special meeting on November 8, 2004, followed by study sessions on November 22, 2004, and November 29, 2004, and additional duly noticed public hearings on December 6, 2004, and December 20, 2004; and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant environmental effects, the decision-making agency make certain findings regarding those effects; and
WHEREAS, the City Council on December 20, 2004, certified that the FEIR had been completed in compliance with CEQA; that the City Council had reviewed and analyzed the FEIR and other information in the record and had considered the information contained therein, including the written and oral comments received at the public meetings on the FEIR and the Project, prior to acting upon or approving the Project; and that the FEIR represents the independent judgment of the City.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GILROY, AS FOLLOWS:

1. The findings and recommendations set forth herein are made by this City Council as the City’s findings pursuant to CEQA relating to the Project. The findings provide the written analysis and conclusions of the City Council regarding the Project’s environmental impacts, mitigation measures and alternatives to the Project.

2. The Mitigation and Monitoring Program for the Project (the “Program”) is attached to this resolution as Exhibit “A” and is incorporated herein and adopted as part of this resolution. The Program identifies impacts of the Project and corresponding mitigation measures and designates responsibility for mitigation implementation and the agency responsible for the monitoring action.

3. This City Council hereby finds and recognizes that the FEIR contains additions, clarifications, modifications and other information in its responses to comments on the DEIR for the Project, and also incorporates information obtained by the City since the DEIR was issued. This City Council hereby finds and determines that such changes and additional information are not significant new information as that term is defined under the provisions of CEQA, because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the Project and do not reflect any substantial increase in the severity of any environmental impact. No feasible mitigation measures considerably different from those previously analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the Project; and no feasible alternatives considerably different from those analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the Project. Accordingly, this City Council hereby finds and determines that recirculation of the FEIR for further public review and comment is not required under CEQA.

4. This City Council does hereby designate the City Clerk’s office of the City of Gilroy, at 7351 Rosanna Street, Gilroy, California 95020, as the custodian of documents and record of proceedings on which the decision is based.

5. This City Council does hereby adopt the mitigation measures in the FEIR as set forth or modified herein as conditions of the Project; and

6. This City Council does hereby make the following findings with respect to the significant effects on the environment of the Project based on facts within the administrative record as a whole, and as identified in the FEIR, with the stipulation that all information in these findings is intended as a summary of the entire record supporting the FEIR. Any mitigation measures and/or alternatives that were suggested by commenters on the DEIR and
not adopted as part of the FEIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the FEIR and in the record:

I. HECKER PASS SPECIFIC PLAN PROJECT FINDINGS REGARDING SIGNIFICANT ENVIRONMENTAL IMPACTS

A. AGRICULTURAL IMPACTS

1. HPSP: Potentially Significant Impact-Land Use Changes that Could Result in Conversion of Farmland/Agricultural Land Use Conflicts. Operational noise, dust, and agricultural chemicals associated with agricultural production could be a nuisance and health hazard to sensitive receptors such as residential, school, and church uses. Conflicts between agriculture and other land uses could result in pressure to convert farmland to non-agricultural use. This would be considered a significant adverse environmental impact.

Mitigation: The policies stipulated within the HPSP ensure land use conflicts will not occur within the specific plan area. To reduce potential conflicts, the HPSP requires a 50-foot buffer between crops and dwelling units to ensure residents are not affected by noise, dust, or spray drift or other adverse conditions from chemical applications and other agricultural activities (Policy 5-12). Site features and improvements within the buffer may include agricultural maintenance roads, driveways, public roads, swales or landscaping and may act as a fuel transition zone for structures. The HPSP also requires that an Integrated Agricultural Management Plan be incorporated into the Conditions, Covenants and Restrictions (CC&R's) for all properties that include agricultural uses (Policy 5-10). The Integrated Agricultural Management Plan should ensure that agricultural operations and residential uses may coexist with minimal conflict by identifying appropriate times and uses of farm machinery, and suitable weed abatement, pest control, fertilization, and erosion control.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

B. AIR QUALITY PROJECT AND CUMULATIVE IMPACTS

1. Inconsistency with the Clean Air Plan for Operational Emissions - Significant and Unavoidable Impact. The City of Gilroy General Plan is inconsistent with the population projections and vehicle miles traveled projections used in preparing the Clean Air Plan (CAP). The volume of operational emissions that would be generated under City of Gilroy General Plan buildout conditions is greater than anticipated in the CAP. The proposed general plan amendment and HPSP would result in development of 418 more dwellings that were assumed in the City of Gilroy General Plan. Therefore, just as in the General Plan, the HPSP is inconsistent with the CAP and its implementation would hinder progress towards achieving the BAAQMD performance objectives for reducing operational emissions to level needed for the air quality basin to be in attainment for all criteria pollutants.
**Mitigation:** The HPSP includes provisions for pedestrian and bicycle trails and would enable development of local commercial services that could be accessible by residents within the specific plan area. These elements of the HPSP would serve to reduce the number and length of vehicle trips taken by future residents, thereby marginally reducing vehicle related air emissions. The feasibility of extending transit service to one or more areas within the specific plan area has yet to be fully evaluated by the VTA. If service were feasible, this too would marginally reduce the generation of vehicular emissions from implementation of the HPSP. However, the impact would remain significant and unavoidable. Finally, providing housing units in the Hecker Pass Specific Plan area will lessen the need for expansion of infrastructure and construction of housing units in undeveloped areas of Gilroy and surrounding communities. This more compact development pattern will contribute to a reduction in vehicle-related air emissions.

**Finding:** The implementation of this mitigation measure will not avoid or substantially lessen the impact. Therefore, this impact remains significant and unavoidable. See Statement of Overriding Considerations, Section III.

**Cumulative Impact on Air Quality:** Significant and Unavoidable. The implementation of the HPSP would result in a significant cumulative impact on air quality. The provisions and policies contained in the HPSP will not avoid or substantially lessen the impact.

**Finding:** This impact is considered to be cumulatively considerable and unavoidable. See Statement of Overriding Considerations, Section III.

2. **Inconsistency with the Clean Air Plan for Short-Term Emissions – Potentially Significant Impact.** Approval of the HPSP would not directly result in short-term air emissions, as it is not a specific construction Project. However, it does provide direction for subsequent specific projects that would be the direct source of such emissions.

**Mitigation:** Comprehensive short-term air emission control measures shall apply to individual projects. Projects shall prepare and implement the dust control measures during grading and construction activities in accordance with the specifications set forth in mitigation measure 4 of the FEIR.

**Finding:** The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

3. **Violation of Air Quality Standards (Construction Emissions) – Potentially Significant Impact:** $PM_{10}$ can cause respiratory ailments if breathed into the body. Construction projects involving grading and other earth movement can generate significant quantities of $PM_{10}$. Projects involving large amounts of earth movement near sensitive receptors such as residences, senior housing facilities, and schools can have a potentially significant health impact. The major sensitive use is the adjacent Village Green, where facilities for senior housing and care are located. These sensitive receptors could be affected by emissions from construction equipment, as well as the generation of significant quantities of $PM_{10}$ during site preparation activities. This is considered a potentially significant environmental impact.

**Mitigation:** Comprehensive short-term air emission control measures shall apply to individual projects. Projects shall prepare and implement the dust control measures during grading and construction activities in accordance with the specifications set forth in mitigation measure 4 of the FEIR.
grading and construction activities in accordance with the specifications set forth in mitigation measure 4 of the FEIR.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

C. BIOLOGICAL IMPACTS

1. HPSP: Potentially Significant Impact - Special Status Species (California Tiger Salamander, Western Spadefoot Toad, Foothill Yellow-legged Frog, California Red-legged Frog, Western Pond Turtle, Steelhead, Yellow-breasted Chat, and Yellow Warbler potentially occurring in or along Uvas Creek). Breeding habitat for these species is potentially present in and/or adjacent to Uvas Creek. The riparian corridor also provides a potential migration corridor for these species if they are present. The remainder of the Specific Plan area does not contain appropriate habitat. Development activities that degrade habitat in or adjacent to Uvas Creek could cause significant impacts to special status species.

Mitigation: Specific Plan policies stipulating that Uvas Creek will be designated as permanent open space and with buffers along the Uvas Creek riparian corridor, discouraging human intrusion into natural riparian habitat by limiting access into the riparian corridor and restricting trails to dirt paths and natural wildlife corridors, and requiring a qualified biologist to inform construction workers of potential presence of the special status species prior to construction will reduce impacts to a less than significant level (see Policies 5-13, 5-14, and 5-27 through 5-54).

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

2. HPSP: Potentially Significant Impact - Special Status Specie: There is potential aestivation habitat for the California Tiger Salamander in upland portions of the Specific Plan area located north of Hecker Pass Highway. The majority of the area is designated for open space uses. However, a portion of this area is designated for residential development. The direct impacts on California Tiger Salamander or its habitat from this development would be considered a significant impact.

Mitigation: Conducting California Tiger Salamander surveys in the grasslands north of Hecker Pass Highway prior to the approval of development entitlements, in accordance with the specifications set forth in mitigation measure 5 of the FEIR, is feasible, and fully enforceable through permit conditions, agreements, or other measures. A survey would be conducted to determine if the property is aestivation habitat for the California Tiger Salamander. If it were found to be habitat, the City and the developer would consult with the responsible agencies during the subsequent environmental review process for proposed development on the property to determine the appropriate protection.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

3. HPSP: Potentially Significant Impact-Special Status Species (Burrowing Owl) The specific plan area provides potential habitat for burrowing owls, although none was
observed during the field investigation. Potential burrowing owl habitat is limited to approximately seven percent of the specific plan area, which occurs predominately in the area designated for Open Space located north of Hecker Pass Highway. A small portion of the potential habitat is also located in an area designated for Hillside Residential uses. The HPSP does not propose development within either area, though widening of Hecker Pass Highway through the Hillside Residential area and human disturbance within both areas could result from implementation of the HPSP. Should active burrowing owl nests occur on or immediately adjacent to the specific plan area, any construction or disturbance within or immediately adjacent to nest habitat, if conducted during the nesting season, could result in the direct loss of nests, including eggs and young, or the abandonment of an active nest by the adults. The loss of active burrowing owl nests, if determined to be on site, would be a significant impact.

Mitigation: The Specific Plan policy requiring burrowing owl pre-construction surveys is feasible, and fully enforceable through permit conditions, agreements, or other measures. A survey would be conducted to determine if the property is nesting habitat for burrowing owls. If active nests are found, a burrowing owl habitat mitigation plan will be submitted to the California Department of Fish and Game for review and approval. The plan would be implemented after approval.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

4. HPSP: Potentially Significant Impact-Special Status Species (Loggerhead Shrike and Nesting Raptors). Trees located along the Uvas Creek riparian corridor or in the oak woodland area have the potential to provide nesting habitat for loggerhead shrike and several protected nesting raptor species. No evidence of nesting activity was observed in the trees during site investigations. However, if active nest(s) of loggerhead shrike and/or raptors species should occur in the trees, any construction and/or site preparation activities, if conducted during the nesting season, could result in the direct loss of nests, including eggs and young, or the abandonment of an active nest by the adults. The loss of individuals of these species or actions that cause abandonment of nests would be considered significant impacts.

Mitigation: The Specific Plan policies requiring loggerhead shrike and nesting raptors pre-construction surveys are feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

5. HPSP: Potentially Significant Impact-Loss of Riparian Woodland and Oak Woodland Habitat—The HPSP designates Uvas Creek and the riparian woodland area for open space uses. Impacts to the riparian woodland would be limited to extension of the Uvas Creek Trail along the riparian corridor and to potential human disturbance within the corridor. The Hillside Residential area is located within oak woodland habitat. Disturbance to the oak woodland or riparian habitat is considered a potentially significant impact.
Mitigation: The following mitigations when implemented will effectively mitigate significant adverse effects from conflicts with biological protection policies by protecting riparian woodland and oak woodland habitat. The Specific Plan seeks to preserve rare and endangered species to the greatest extent possible. To achieve this goal, development locations are mostly limited to lands subject to agricultural and horticultural uses with little or no habitat value. The habitat that may be affected by additional development will be protected by the additional environmental review required by the HPSP.

Specific Plan policies that designate Uvas Creek as permanent open space and provide buffers along the Uvas Creek riparian corridor, minimize encroachments into Uvas Creek buffers by establishing development setbacks, and protect riparian woodland and oak woodland habitat are feasible, fully enforceable through permit conditions, agreements or other measures and are set forth in Policies 6-1 and 6-2.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

6. HPSP: Potentially Significant Impact-Disturbance of Sensitive Riparian Habitat/Hydrologic Disturbance—Any work within or along Uvas Creek could disturb the sensitive riparian habitat and natural hydrologic processes. This is considered a potentially significant impact. Additionally, any work in or along the Uvas Creek may require consultation with U.S. Army Corps of Engineers, California Department of Fish and Game, or National Marine Fisheries Service depending on the activity.

Mitigation: The following mitigation measures are feasible, and when, implemented, will effectively mitigate significant adverse effects from conflicts with biological protection policies by protecting riparian woodland. It is the goal of the HPSP to promote sensitive habitat areas as permanent open space to preserve the natural resources of the area. This coupled with the coordination with respective responsible and trustee agencies will ensure that sensitive riparian habitat and hydrologic processes are impacted in a less than significant manner, protecting the riparian habitat of Uvas Creek.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

7. HPSP: Potentially Significant Impact-Interference with Wildlife Movement—If any special status species occur in or along the Uvas Creek or oak woodland, nighttime lighting, and/or people and unleashed pets wandering into these areas could restrict the movement or activity of or disturb or kill one or more of these special status species. Injury or death of a special status species would be considered a significant environmental impact.

Mitigation: The Specific Plan policies protecting wildlife movement are feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

8. HPSP: Potentially Significant Impact-Conflict with Local Policies Protecting Open Space and Habitat Areas (Significant Trees)—The Gilroy Consolidated Landscape Plan defines native trees that are six inches or more in diameter to be significant trees.
Several trees are located along Uvas Creek, as well as the oak woodland habitat located along the northern portion of the Specific Plan area. In addition, several large trees are distributed throughout the Specific Plan area. Any native trees that are greater than six inches in diameter may be considered significant. Removal of these trees could represent a significant impact.

**Mitigation:** The Specific Plan policies protecting significant trees are feasible, fully enforceable through permit conditions, agreements, or other measures.

**Finding:** The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

**D. CULTURAL RESOURCES**

1. **HPSP: Potentially Significant Impact—Loss of Historical Resources** - The Specific Plan area contains several potentially historic resources, including structures and landscaping, which could require demolition or relocation to accommodate development. Demolition of the historic resources associated with the Ousley house would be considered a significant impact.

   **Mitigation:** The Specific Plan policies protecting the potentially historic Ousley House structures and landscaping are feasible, fully enforceable through permit conditions, agreements, or other measures.

   **Finding:** The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

2. **HPSP: Potentially Significant Impact—Change in Significance of Archaeological Resources** - The Specific Plan area is located in an archaeologically sensitive area. In addition, a potentially significant archeological resource has been identified in an area north of Hecker Pass Highway that is proposed for development. The likelihood of discovering subsurface significant archaeological resources during site preparation for infrastructure development or building construction in all locations within the specific plan area is high. Disturbance of prehistoric or historic cultural resources during development is considered a potentially significant impact. Damage or destruction to the potentially significant archeological resource site would be a significant adverse impact. Implementation of the mitigation measure 6 in the FEIR would reduce this potentially significant impact to a less than significant level.

   **Mitigation:** The required archaeological assessment to minimize disturbance to possible archaeological resources prior to the approval of development entitlements, in accordance with the specifications set forth in mitigation measure 6a of the FEIR, is feasible, fully enforceable through permit conditions, agreements, or other measures.

   **Finding:** The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

3. **HPSP: Potentially Significant Impact—Disturbance to Human Remains** - The specific plan area is not known to contain human remains. However, the Project site is
located within an archaeologically sensitive area and the possibility of accidentally uncovering human remains is a possibility. This would be considered a significant adverse environmental impact.

Mitigation: The required archaeological assessment to minimize disturbance to possible human remains prior to the approval of development entitlements, in accordance with the specifications set forth in mitigation measure 6b of the FEIR, is feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

E. GEOLOGY

1. HPSP: Potentially Significant Impact-Exposure of People to Landslide Hazard—Development proposed north of Hecker Pass Highway could, if improperly sited, be subject to hazards from unstable landslide areas. Exposing people and property to landslide hazards is considered a significant adverse environmental impact.

Mitigation: The Specific Plan policies sufficiently protect people and property from potential landslide hazards, and are feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

2. HPSP: Potentially Significant Impact-Soil Erosion—Soils within the Specific Plan area are not considered to be highly erodable. Build out of the Specific Plan area would result in significant exposure of soils to the erosive effects of rain and storm water runoff as a result of grading and other site preparation activities. The proximity of the Specific Plan area to a sensitive biological habitat and to Uvas Creek makes soil erosion and the subsequent potential deposition of sediment within these sensitive areas a potentially significant impact.

Mitigation: The Specific Plan policies sufficiently protect soil from erosion, and are feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

F. HAZARDS AND HAZARDOUS MATERIALS

1. HPSP: Potentially Significant Impact-Exposure of Future Residents, the Public, and Users of Community Facilities to Hazardous Materials - The extent to which future residents of the site, visitors to commercial uses, and school children would be exposed to hazardous materials from historical use of the Specific Plan area for agricultural use cannot be adequately assessed without further evaluation. Analysis is needed to identify if the hazard exists and to ensure that hazards, if they do exist, are adequately mitigated prior to development.
Mitigation: A Phase I Environmental Site Assessment is required to identify hazardous materials in the soil and ensure that identified hazards are mitigated appropriately in accordance with the specifications set forth in mitigation measure 9 of the FEIR, which is feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

G. HYDROLOGY AND WATER QUALITY

1. HPSP: Potentially Significant Impact-Erosion of Uvas Creek Banks From Storm Water Runoff/Increased Bank Instability for Third Street Extension - The proposed extension of Third Street would result in two minor encroachments into the Uvas Creek setback defined in the HPSP. The roadway improvement could, if not properly designed, result in storm water runoff being conveyed over the creek bank and require grading/excavation or other actions that could facilitate instability of the bank margins.

Mitigation: The Specific Plan policy requiring that any improvements, including the encroachments of Third Street, that extend into the setback from Uvas Creek must be reviewed by the project geotechnical engineer and mitigations implemented is feasible, fully enforceable through permit conditions, agreements, or other measures (see Policies 5-25 and 5-26).

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

2. HPSP: Potentially Significant Impact-Short Term Storm Water Runoff Water Quality Effects - Build out of the Specific Plan area would require a significant amount of grading for site preparation and construction activities. This could result in significant erosion during a storm event.

Mitigation: Specific Plan policies that require preparation and implementation of an erosion control plan, in combination with the implementation of water quality BMPs, would reduce potential impacts to a less than significant level (see Policy 5-24). The policies are feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

3. HPSP: Potentially Significant Impact-Long Term Water Storm Water Runoff Quality Effects — The proposed development could introduce contaminants associated with urban runoff into local groundwater and surface water. Construction activities have the potential to result in erosion of soil from wind or water, including washing of mud from the site into areas of sensitive habitat. This is a potentially significant environmental impact.

Mitigation: Specific Plan policies requiring storm water collection and treatment and compliance with regulatory requirements of the NPDES, are feasible, fully enforceable through permit conditions, agreements, or other measures (see Policies 5-24, 5-35, and 8-8 through 8-17).
Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

4. HPSP: Potentially Significant Impact-Exposure of People or Structures to Flood Hazard – The Uvas Creek setback of 100 to 145 feet from toe of bank should be sufficient to prevent construction of significant improvements within the flood hazard zone. However, there is a need to prevent damage to or impacts from improvements that may be constructed within a flood hazard zone. Exposing people or structures to flooding is considered a significant adverse environmental impact.

Mitigation: Public recreational facilities with foundations or support on the ground that are located within 50 feet of the Uvas Creek top of bank will conform to the requirements of the Santa Clara Valley Water District in accordance with the specifications set forth in mitigation measure 10 of the FEIR.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

H. LAND USE IMPACTS

1. HPSP: HPSP Inconsistency with the City of Gilroy General Plan Target Dwelling Unit Number for the Hecker Pass Special Use District – Significant Impact: The HPSP is inconsistent with target number of dwelling units described in the City of Gilroy General Plan for the Hecker Pass Special Use District. The Specific Plan proposed up to 530 dwelling units to be constructed, although the Plan as revised proposes up to 506 units. The City of Gilroy General Plan projects a total of approximately 112 dwelling units within the Hecker Pass Special Use District. Approval of the proposed project would result in significant intensification of residential use and intensification of the range of impacts described in the FEIR relative to what was anticipated in the City of Gilroy General Plan.

Mitigation: The General Plan will be amended to avoid the inconsistency. With the exception of impacts on air quality, for which findings of overriding consideration must be made, the impacts of the proposed project created by its inconsistency with the City of Gilroy General Plan prior to its amendment for this Project can be reduced to a less than significant level through the implementation of policies contained in the HPSP and through mitigation measures contained in the FEIR. The policies and mitigation measures are feasible, and fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

I. MINERAL RESOURCES

1. HPSP: Loss of Availability of a Locally Important Mineral Resource – Significant and Unavoidable Impact: Implementation of the HPSP Project would result in loss of availability of State designated mineral resources. Direct loss would occur from development within areas where resources have been mapped. Indirect loss of resources mapped outside proposed development areas would likely occur as mining activity in those areas would be incompatible with the HPSP land uses.
Finding: The City Council finds that there are no mitigation measures available that would substantially lessen or avoid this effect and therefore, this impact is significant and unavoidable. See Statement of Overriding Considerations, Section III.

J. NOISE

1. HPSP: Potentially Significant Impact—Exposure to Construction Noise that Exceeds Standards Implementation of the HPSP would require the operation of construction equipment that could produce noise up to 70 to 90 dBA. This would be considered a significant adverse environmental impact.

Mitigation: The hours of construction will be limited in accordance with the specifications set forth in mitigation measure 11 of the FEIR through permit conditions. Requiring the reception hall doors to be closed as much as possible whenever significant noise generating activities occur, in accordance with the specifications set forth in mitigation measure 12 of the FEIR, is also fully enforceable through permit conditions.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

K. TRANSPORTATION

1. HPSP: Significant Impact—Traffic Operations on Hecker Pass Highway from the Proposed East and West Access Roads Under Background Plus Total Project Conditions Implementation of the HPSP circulation plan requires that two new intersections be created on Hecker Pass Highway (two existing driveways onto the highway would be eliminated). These intersections could impact operations on Hecker Pass Highway unless they are properly designed to accommodate background plus Project and cumulative and general plan build out traffic conditions.

Mitigation: The Specific Plan policies requiring these intersections to be properly designed to accommodate future traffic conditions are feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

2. HPSP: Significant Impact—Substantial Increase in Traffic that Contributes to Unacceptable Levels of Service on Hecker Pass Highway Under Background Plus Total Project Conditions The HPSP will cause a substantial increase in AM and PM peak hour trips on Hecker Pass Highway when background conditions are compared with background conditions plus HPSP build out. The HPSP triggers the need to widen Hecker Pass Highway from a two-lane rural highway to a four-lane arterial between Santa Teresa Boulevard and the East intersection. It also triggers the need to upgrade the highway to a two-lane arterial from the West intersection to the Bonfante Gardens driveway. These improvements would result in an LOS C or better on the Hecker Pass Highway road segments studied.

The HPSP applicant’s general plan amendment includes a request to change the classification of the highway from a four-lane expressway as it is designated in the City of Gilroy General
Plan to a two-lane arterial. Approval of the amendment will be needed to enable implementation of the improvements that mitigate HPSP impacts.

Applicants for projects within the Specific Plan area shall be responsible for widening Hecker Pass Highway to a four-lane urban arterial from Santa Teresa Boulevard to the East intersection. This improvement is contingent on approval of the HPSP applicant’s general plan amendment that would reclassify Hecker Pass Highway to an arterial.

**Mitigation:** Requiring the developers of projects within the Specific Plan area to make improvements to Hecker Pass Highway, in accordance with the specifications set forth in mitigation measures 18 and 19 of the FEIR, is feasible, fully enforceable through permit conditions, agreements, or other measures.

**Finding:** The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

3. **HPSP: Significant Impact—Cumulative Citywide Traffic Impacts.** Buildout of the specific plan area would result in a cumulatively considerable amount of traffic to the City’s overall circulation system. This is considered a significant adverse environmental impact.

**Mitigation:** Requiring applicants for individual projects within the Specific Plan area to pay traffic impact fees in accordance with the City of Gilroy citywide traffic impact fee ordinance, and also as required in mitigation measures 20 and 21 of the FEIR, is feasible, fully enforceable through permit conditions, agreements, or other measures.

**Finding:** The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

4. **Potentially Significant Impact-Facilitation of Transit Service**—The HPSP may not facilitate use of public transit consistent with City policy. The HPSP does, however, call for clustering of residential uses in specific locations. This should facilitate the potential for transit service by concentrating residential development in specific locations. However, the feasibility of providing transit services to the residential clusters is not clear. The Valley Transportation Authority (VTA) will review the proposed Project to determine if and how transit service may be provided. The HPSP includes a policy requiring new development to request review of plans by the VTA to determine transit feasibility and improvements that may be required to facilitate transit service.

**Mitigation:** The Specific Plan policy requiring new development to coordinate with VTA for transit service is feasible, fully enforceable through permit conditions, agreements, or other measures.

**Finding:** The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact. However, the City Council also finds that it does not have the legal authority to require transit service, as the provision of transit service is the responsibility of another public agency, the VTA. Should the VTA determine that transit service is feasible for this area of the City, the impact would be mitigated via provision of VTA bus stops within subsequent projects in this development. Therefore, part
of this mitigation is not within the City's jurisdiction, and that proposed mitigation can or should be adopted by the VTA.

L. UTILITY IMPACTS

1. HPSP: Effects of Construction or Expansion of Storm Drainage Facilities – Potentially Significant Impact: Construction of a new storm drainage outfall on the bank of Uvas Creek could adversely affect the quality of the habitat or affect water quality within the creek.

Mitigation: The HPSP contains policies that require any disturbance within the Uvas Creek setback to minimize adverse effects on the riparian habitat or water quality in Uvas Creek, including a policy that pertains specifically to any storm drainage outfalls along the creek. Implementation of these policies is feasible, and fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

II. FINDINGS CONCERNING PROJECT ALTERNATIVES

Pursuant to CEQA Guidelines Section 15126.6(d), the FEIR identifies and evaluates the comparative merits of alternatives to the Project, which could eliminate any significant adverse environmental impacts of the Project or reduce them to a level of insignificance. These alternatives are evaluated in the FEIR even if they would impede to some degree the attainment of Project objectives or would be more costly.

A. ALTERNATIVE 1 – “NO PROJECT” ALTERNATIVE

Description. The no project alternative assumes that the specific plan area is not developed as proposed in the City of Gilroy General Plan.

Comparison to the Proposed Specific Plan Project. This alternative would result in a significant decrease in all Specific Plan impacts including aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology and soils, hazards, hydrology and water quality, land use, noise, public services, transportation, and utilities.

Finding: This alternative is environmentally superior to the proposed Specific Plan since it avoids the adverse impacts. However, the no project alternative would not meet the objectives of the Specific Plan and would not provide residential development potential needed by the City to meet its regional fair share housing requirements, would not prevent mining of mineral resources in the HPSP area, and would not provide tax revenues to the City. This alternative would not implement the City of Gilroy General Plan and also make it challenging for the City to extend the Uvas Creek Park Preserve through the Project site. For these reasons, this alternative is rejected.
B. ALTERNATIVE 2–GENERAL PLAN TARGET DWELLING UNIT/CLUSTERING

**Description.** This alternative proposes that residential development be limited to approximately 115 dwelling units consistent with the target dwelling unit number included in the *City of Gilroy General Plan*. This is a 391 dwelling unit decrease relative to the proposed Project. This alternative would result in a population increase of about 402 people versus the 1,367-person increase projected for the proposed Project. Residential units would be clustered in two locations — one south of Hecker Pass Highway and one north of Hecker Pass Highway. All other uses included in the Specific Plan are retained.

**Comparison to the Proposed Specific Plan Project.** This alternative would substantially reduce all impacts associated with the proposed Specific Plan. By reducing the number of dwelling units and size of the development area within the Specific Plan area, this alternative results in a much lower intensity of development. The overall rural agricultural character of the area is better retained and impacts on natural resources are reduced. Greater acreage could be retained in agricultural use. Exposure to and creation of hazards is reduced. Impacts on water quality, transportation and circulation are substantially reduced.

**Finding:** This alternative is environmentally superior to the proposed Project. However, this alternative does not meet the objectives of the Specific Plan applicant and would not provide sufficient development capacity needed by the City to meet its regional fair share housing requirements. Nor would it likely enable the City to extend the Uvas Park Preserve through the entire specific plan Project area or prevent mining of mineral resources in the HPSP area. It would also result in reduced tax revenue to the City. For these reasons, this alternative is rejected.

C. ALTERNATIVE 3 – REDUCED DWELLING UNIT/CLUSTERING

**Description.** This alternative would permit up to 220 of the 506 dwelling units proposed within the Specific Plan area, a reduction of 56.6 percent. Residential development would be permitted in three clusters, two south of Hecker Pass Highway and one north of the highway, similar to the cluster locations proposed in the Specific Plan. Other land uses proposed in the Specific Plan would remain unchanged.

**Comparison to the Proposed Specific Plan Project.** Alternative 3 is also environmentally superior to the proposed Specific Plan. It would partially reduce all impacts identified for the Specific Plan. This alternative would also result in better retention of the existing rural agricultural character, maintain greater acreage in active agriculture, reduce air quality impacts by reducing vehicle trip generation, create less intrusion into the Uvas Creek riparian area, expose fewer people and structure to geologic or other hazards, reduce demand for public services, have fewer impacts on the local circulation system, and reduced demand for public services and utilities.

**Finding:** This alternative is also environmentally superior to the proposed Project. While it would enable the City to better meet its regional fair share housing needs than alternative 2, it does not provide sufficient residential development capacity. This alternative also provides less tax revenue to the City, and does not meet the applicant’s objectives. For these reasons, this alternative is rejected.
III. STATEMENT OF OVERRIDING CONSIDERATIONS

After review of the entire administrative record, including the FEIR, the staff report, and the oral and written testimony and evidence presented at public hearings, the City Council finds, pursuant to CEQA Section 21081 (b) and CEQA Guidelines Section 15093, that specific economic, legal, social, technological and other benefits of the Project outweigh the Project’s unavoidable adverse environmental impacts and the City Council finds that the significant and unavoidable adverse impacts are acceptable in light of the Project’s benefits.

The City Council further finds that, in the event it is determined that the mitigation measures identified in the FEIR above do not reduce the significant environmental impacts identified and analyzed in the FEIR to a less-than-significant level, the benefits described below outweigh any and all potential adverse impacts of the Project.

The City Council adopts and makes this Statement of Overriding Considerations regarding the significant unavoidable impacts of the Project and the anticipated benefits of the Project. The City Council finds that each of the benefits set forth below in this Statement of Overriding Considerations constitutes a separate and independent ground for finding that the benefits of the Project outweigh the risks of its potential significant adverse environmental impacts. The benefits of the Project, which constitute the specific economic, legal, social, technological and other considerations that justify the approval of the Project, are addressed in Sections B and H above and are set forth below:

A. The proposed Project will provide housing opportunities that help meet the City’s regional fair share housing requirements.

B. The proposed Project will meet the City of Gilroy General Plan’s goal of extending the Uvas Creek Park Preserve.

C. The proposed Project is designed to preserve the agricultural character and aesthetic character of the Hecker Pass area. Preservation of the character of the area is in the public interest.

D. The proposed Project will contribute to the City’s tax base.

E. Providing housing units in the Hecker Pass area will lessen the need for expansion of infrastructure and construction of housing units in undeveloped areas of Gilroy and surrounding communities, thereby contributing to a reduction in vehicle-related air emissions.

F. The proposed project will prevent mining in the HPSP area, thereby furthering the goal of preserving the Uvas Creek and its surrounding habitat.

IV. ADOPTION OF THE MITIGATION/MONITORING PROGRAM

The City Council hereby adopts the Mitigation and Monitoring Program attached hereto as Exhibit A, which is incorporated herein by this reference.
PASSED AND ADOPTED this 18th day of January, 2005, by the following vote:

AYES: COUNCILMEMBERS: CORREA, DILLON, GARTMAN, MORALES, VALIQUETTE, VELASCO and PINHEIRO

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE

APPROVED:

________________________
Albert Pinheiro, Mayor

ATTEST:

________________________
Rhonda Pellin, City Clerk
ADDENDUM B

General Plan Resolution No. 2005-03
RESOLUTION NO. 2005-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY APPROVING GPA 02-01, AN AMENDMENT TO THE GENERAL PLAN TO ADOPT THE HECKER PASS SPECIFIC PLAN FOR APPROXIMATELY 423 ACRES ALONG HECKER PASS HIGHWAY, WEST OF SANTA TERESA BOULEVARD, AND TO APPROVE GENERAL PLAN TEXT AMENDMENTS THAT SUPPORT THE GOALS AND POLICIES OF THE HECKER PASS SPECIFIC PLAN.

WHEREAS, the Hecker Pass Property Owners submitted GPA 02-01, an amendment to the General Plan to adopt the Hecker Pass Specific Plan and to approve General Plan text amendments that support the goals and policies of the Hecker Pass Specific Plan; and

WHEREAS, application GPA 02-01 applies to approximately four-hundred-twenty-three (423) acres located along Hecker Pass Highway, west of Santa Teresa Boulevard, APNs 810-20-003, 004-009, 011-013; 810-21-001, 002-005; 783-04-011, 018; 783-03-002, 003, 070; 783-20-004, 009, 010, 020, 026, 030-033; and

WHEREAS, the General Plan 2002-2020, adopted on June 13, 2002, established the Hecker Pass Special Use District to establish specific use controls and development guidelines for the Hecker Pass area that will allow for limited development while encouraging open space preservation, view protection, and enhancement of features that give the area its special character; and

WHEREAS, the Hecker Pass Specific Plan was drafted over the course of more than 18 months with input from the Hecker Pass Specific Plan Advisory Committee and the Hecker Pass property owners as a means to implement the General Plan Hecker Pass Special Use District land use designation; and

WHEREAS, the Planning Commission and City Council held joint workshops on April 26, 2004, and July 6, 2004, to consider and revise drafts of the Hecker Pass Specific Plan; and
WHEREAS, the Planning Commission held a duly noticed public hearing on September 2, 2004, followed by study sessions on September 9, 2004, and October 14, 2004, and a duly noticed public meeting on November 4, 2004, at which time the Planning Commission considered the public testimony, the Staff Reports, the proposed Final EIR, and all other documentation related to application GPA 02-01, and recommended that the City Council approve said application; and

WHEREAS, the City Council held a duly noticed public hearing at a special meeting on November 8, 2004, followed by study sessions on November 22, 2004, and November 29, 2004, and additional duly noticed public hearings on December 6, 2004, and December 20, 2004, at which time the City Council considered the public testimony, the Staff Reports, a follow-up staff report dated December 13, 2004 ("Follow-Up Report"), the proposed Final EIR and all other documentation related to application GPA 02-01; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA"), the City Council on December 20, 2004, certified the Final Environmental Impact Report (Final EIR), finding that (a) it was completed in compliance with CEQA; that (b) the Final EIR was presented to the City Council and the City Council reviewed and considered the information contained in the Final EIR prior to approving the project; and that (c) the Final EIR reflects the independent judgment and analysis of the City; and

WHEREAS, the City Council at its regular meeting of January 18, 2005, adopted Resolution No. 2005-02, making findings for each significant environmental impact, adopting a Statement of Overriding Considerations in connection with this project regarding the unavoidable impacts and the anticipated benefits of the project; and
WHEREAS, the City Council, also by Resolution No. 2005-02, and pursuant to CEQA, adopted a Mitigation Monitoring Program for the mitigation measures set forth in the Final EIR; and

WHEREAS, the location and custodian of the documents or other materials which constitute the record of proceedings upon which this project approval is based is the office of the City Clerk.

SECTION I

NOW, THEREFORE, THE CITY COUNCIL FINDS THAT:

1. The General Plan text amendments proposed by GPA 02-01 are in the public interest because they further the intent of the Hecker Pass Special Use District as described by the existing General Plan, while eliminating any inconsistencies between the Hecker Pass Specific Plan and the General Plan.

2. The Hecker Pass Specific Plan is consistent with the City's General Plan as amended, and provides a means to implement the Hecker Pass Special Use District as described by the General Plan.

3. The General Plan text amendments and Hecker Pass Specific Plan also are in the public interest in that they provide a means to protect the Hecker Pass area's rural and agricultural character and scenic qualities while providing for an economically viable use of the land for property owners.

SECTION II

Based on the above findings, General Plan amendment application GPA 02-01 is hereby approved, the Hecker Pass Specific Plan, attached hereto as Exhibit A and incorporated herein by this reference, is hereby adopted, and the City of Gilroy General Plan is hereby amended as set forth on Exhibit B attached hereto and incorporated herein by this reference.
SECTION III

This Resolution shall be in full force and effect thirty (30) days after the date of its adoption.

PASSED AND ADOPTED this 18th day of January, 2005 by the following vote:

AYES: COUNCILMEMBERS: CORREA, DILLON, GARTMAN, MORALES, VALIQUETTE, VELASCO and PINHEIRO

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE

APPROVED:

___________________________
Albert Pinheiro, Mayor

ATTEST:

___________________________
Rhonda Pellin, City Clerk
ADDENDUM C

Zoning Ordinance No. 2005-02
ORDINANCE NO. 2005-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GILROY AMENDING THE GILROY ZONING ORDINANCE TO ADD SECTION 29, HECKER PASS SPECIAL USE DISTRICT, IMPLEMENTING PROVISIONS OF THE HECKER PASS SPECIFIC PLAN AND TO AMEND THE ZONING MAP ON PROPERTY LOCATED ON HECKER PASS HIGHWAY, WEST OF SANTA TERESA BOULEVARD FROM RH, A1 AND HC TO HECKER PASS SPECIAL USE DISTRICT/PUD

WHEREAS, the Hecker Pass Property Owners submitted application Z 04-04 to amend the text of the Gilroy Zoning Ordinance to establish the Hecker Pass Special Use District and to change the zoning designation on approximately four-hundred-twenty-three (423) acres located on Hecker Pass Highway, west of Santa Teresa Boulevard, from RH, A1 and HC to Hecker Pass Special Use District/PUD; and

WHEREAS, the zone change request Z 04-04 applies to property identified as APNs 810-20-003, 004-009, 011-013; 810-21-001, 002-005; 783-04-011, 018; 783-03-002, 003, 070; 783-20-004, 009, 010, 020, 026, 030-033; and

WHEREAS, the City Council on December 20, 2004, certified the Final Environmental Impact Report (Final EIR), in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, pursuant to CEQA, the City Council on January 18, 2005, by Resolution No. 2005-02, made findings for each significant environmental impact and adopted a Statement of Overriding Considerations in connection with this project regarding the unavoidable impacts and the anticipated benefits of the project, and adopted the mitigation measures in the Final EIR; and

-1-
WHEREAS, the City Council, also by Resolution No. 2005-03, and pursuant to CEQA, adopted a Mitigation Monitoring Program for the mitigation measures required by the Final EIR; and

WHEREAS, the City Council on January 18, 2005, then adopted Resolution No. 2005-______ adopting the Hecker Pass Specific Plan for the same area included in application Z04-04, and approving associated General Plan text amendments; and

WHEREAS, the Planning Commission held a duly noticed public hearing on September 2, 2004, followed by study sessions on September 9, 2004, and October 14, 2004, and a duly noticed public meeting on November 4, 2004, at which time the Planning Commission considered the public testimony, the Staff Reports, and all other documentation related to application Z04-04, and recommended that the City Council approve said application; and

WHEREAS, the City Council held a duly noticed public hearing at a special meeting on November 8, 2004, followed by study sessions on November 22, 2004, and November 29, 2004, and additional duly noticed public hearings on December 6, 2004, and December 20, 2004, at which time the City Council considered the public testimony, the Staff Reports, a follow-up staff report dated December 13, 2004 (Follow-Up Report), and all other documentation related to application Z04-04; and

WHEREAS, the location and custodian of the documents or other materials which constitute the record of proceedings upon which this project approval is based is the office of the City Clerk.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GILROY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I

The City Council hereby finds:

A. The project provides consistency of the City's Zoning Ordinance and map with the City's General Plan document and land use map.
B. The project is consistent with the intent of the goals and policies of the General Plan.

C. Public utilities and infrastructure improvements needed in order to serve the proposed project are in close proximity.

D. To the extent feasible, the project will mitigate significant environmental impacts. The City Council adopted a Statement of Overriding Considerations pursuant to CEQA regarding unavoidable environmental impacts.

E. The proposed Zoning amendments implement the Hecker Pass Specific Plan by establishing specific use controls and development guidelines that allow for limited development while encouraging open space preservation, view protection, and enhancement of features that give the area its special character.

SECTION II

Based on the above findings, zoning application Z 04-04 is hereby approved, amending the Gilroy Zoning Ordinance as follows:

A. The text of the Zoning Ordinance is hereby amended to add Section 29, Hecker Pass Special Use District, to read as follows:

SECTION 29
HECKER PASS SPECIAL USE DISTRICT

Section 29.10 Statement of Intent

The Hecker Pass Special Use District intends to protect and enhance the Hecker Pass area's rural character, open space, and agricultural uses, as well as to create a logical, coherent pattern of rural-style uses as part of the western gateway to Gilroy. The average residential density is intended to create consistency with the densities described in the Land Use chapter of the Hecker Pass Specific Plan document. The land uses permitted in this zone are intended to allow
economically viable land uses and capitalize on the area’s unique potential as a year-round tourist draw, while simultaneously preserving Hecker Pass’ rural character.

Section 29.20 Permitted Uses and Conditional Uses

Land in the Hecker Pass Special Use District may be used as provided in the Hecker Pass Specific Plan’s Agricultural Use Table (table 3-2) and Residential Uses Table (table 3-4). Conditional uses may be permitted with a Conditional Use Permit issued by the Planning Commission in accordance with the regulation included in Section 50.30 of this ordinance.

Section 29.30 Site and Building Requirements

The Lot, Yard, Height and Additional Requirements in the Hecker Pass Special Use District shall be as established in the Hecker Pass Specific Plan’s Minimum Residential Site and Building Requirements Table (table 7-1) and the Minimum Agri-tourist, Agricultural Commercial, and Community Facility Site and Building Requirements Table (table 7-2).

Section 29.40 Density

The maximum density in the Hecker Pass Special Use District shall be consistent with the densities described in the Hecker Pass Specific Plan’s Land Use chapter (chapter 3).

Section 29.50 Site Design Requirements

Projects within the Hecker Pass Special Use District shall be designed in accordance with the Hecker Pass Specific Plan’s Community Design chapter (chapter 7).

B. The Gilroy Zoning Map is hereby amended to change the zoning designation from RH, A1 and HC to Hecker Pass Special Use District/PUD on approximately four-hundred-twenty-three (423) acres located on Hecker Highway, west of Santa Teresa Boulevard, APNs 810-20-003, 004-009, 011-013; 810-21-001, 002-005; 783-04-011, 018; 783-03-002, 003, 070; 783-20-004, 009, 010, 020, 026, 030-033.
SECTION III

If any section, subsection, subdivision, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise void or invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, subdivision, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional.

SECTION IV

This Ordinance shall be in full force and effect thirty (30) days after the date of its passage and adoption.

PASSED AND ADOPTED this 7th day of February, 2005, by the following vote:

AYES: COUNCIL MEMBERS: CORREA, DILLON, GARTMAN, MORALES, VALIQUETTE, VELASCO and PINHEIRO

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE

APPROVED:

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Albert Pinheiro, Mayor

ATTEST:

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Rhonda Pellin, City Clerk
ADDENDUM D

EIR Resolution No. 2009-32
RESOLUTION NO. 2009-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY MAKING CERTAIN FINDINGS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) IN CONNECTION WITH GPA 07-05, AN AMENDMENT TO THE HECKER PASS SPECIFIC PLAN FOR WHICH AN ADDENDUM TO A PREVIOUSLY CERTIFIED ENVIRONMENTAL IMPACT REPORT (EIR) HAS BEEN PREPARED, AND ADOPTING THE MITIGATION MEASURES AND APPROVING A MITIGATION MONITORING PROGRAM FOR THE SOUTH VALLEY COMMUNITY CHURCH PROJECT

WHEREAS, the South Valley Community Church submitted application GPA 07-05, a General Plan Amendment (referred herein as the “Revised Church Project”) to amend the Hecker Pass Specific Plan (“HPSP”) to expand the East Residential Cluster area by six acres, reduce the size of Community Facilities District area by six acres, and make corresponding changes to the HPSP to provide for development of up to 15 residential units and a small park on the southerly 6 acres of the area currently designated Community Facilities District; and

WHEREAS, the Revised Church Project applies to an approximately 27 acre parcel within the HPSP boundaries, that is located at 1690 and 1750 Hecker Pass Highway, west of Santa Teresa Boulevard, APNS 810-21-004, 005; and

WHEREAS, the City Council of the City of Gilroy (“City”) intends to approve the Revised Church Project; and

WHEREAS, the HPSP and included the original church project, which was the subject of a Final Environmental Impact Report (“HPSP FEIR”) prepared by the City as the lead agency in compliance with the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., title 14, §15000 et seq.) (“CEQA”); and

WHEREAS, the HPSP FEIR consists of the Draft EIR (“DEIR”) dated May 2004 (State Clearinghouse Number 2003012119), and the FEIR dated August 30, 2004, prepared for the City of Gilroy by EMC Planning Group Inc.; and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant environmental effects, the decision-making agency make certain findings regarding those effects; and

WHEREAS, the City Council on January 18, 2005, adopted Resolution No. 2005-02 making certain findings required by CEQA, and certified that the HPSP FEIR had been completed in compliance with CEQA; that the City Council had reviewed and analyzed the HPSP FEIR and other information in the record and had considered the information contained therein, including the written and oral comments received at the public meetings on the HPSP FEIR, prior to acting upon or approving the HPSP; and that the HPSP FEIR represented the independent judgment of the City; and

RESOLUTION NO. 2009-32
WHEREAS, the HPSP was amended in October 2006, GPA 06-02, and pursuant to CEQA an initial study was prepared and potentially significant effects on the environment were identified and a Mitigated Negative Declaration was adopted to mitigate these effects to a point where no significant effects would occur; and

WHEREAS, as part of the Mitigated Negative Declaration for GPA 06-02, HPSP Mitigation Measures Nos. 18 and 19 were revised and replaced with new mitigation measures; and

WHEREAS, in conjunction with application GPA 07-05 for the Revised Church Project, on December 8, 2008, an Addendum to the HPSP FEIR (“Addendum”) was prepared in compliance with CEQA by EMC Planning Group, Inc. and was approved by the City Planning Manager, having found that no substantive revisions to the HPSP FEIR were required because no new significant impacts or impacts of substantially greater severity would result from the Revised Church Project; and

WHEREAS, the Planning Commission held a duly noticed public hearing on May 7, 2009, at which time the Planning Commission considered the public testimony, the staff report dated April 28, 2009 (“Staff Report”), and all other documentation related to the Revised Church Project, and recommended that the City Council approve said Revised Church Project; and

WHEREAS, the City Council held duly noticed public hearings on June 1, 2009 and July 13, 2009, at which time the City Council considered the public testimony, the Staff Report, a follow-up staff report dated May 18, 2009 and all other documentation related to the Revised Church Project.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GILROY, AS FOLLOWS:

1. The findings and recommendations set forth herein are made by this City Council as the City’s findings pursuant to CEQA relating to the Revised Church Project. The findings provide the written analysis and conclusions of the City Council regarding the Revised Church Project’s environmental impacts, mitigation measures and alternatives to the Revised Church Project.

2. This City Council finds that on January 18, 2005, it adopted Resolution No. 2005-02 making certain findings required by CEQA, certified that the HPSP FEIR had been completed in compliance with CEQA; that the City Council had reviewed and analyzed the HPSP FEIR and other information in the record and had considered the information contained therein, including the written and oral comments received at the public meetings on the HPSP FEIR, prior to acting upon or approving the HPSP; and that the HPSP FEIR represented the independent judgment of the City.

3. This City Council finds that on December 8, 2008, an Addendum to the HPSP FEIR (“Addendum”) was prepared in compliance with CEQA by EMC Planning Group, Inc. for the proposed Revised Church Project and was approved by the City Planning Manager, having found that no substantive revisions to the HPSP FEIR were required because no new significant impacts or impacts of substantially greater severity would result from the Revised Church Project.
4. The Mitigation and Monitoring Program for the Revised Church Project (the “Program”) is attached to this resolution as Exhibit “A” and is incorporated herein and adopted as part of this resolution. The Program identifies impacts of the Revised Church Project and corresponding mitigation measures and designates responsibility for mitigation implementation and the agency responsible for the monitoring action.

5. This City Council does hereby designate the City Clerk’s office of the City of Gilroy, at 7351 Rosanna Street, Gilroy, California 95020, as the custodian of documents and record of proceedings on which the decision is based; and

6. This City Council does hereby adopt the mitigation measures in the HPSP FEIR as set forth or modified herein as conditions of the Revised Church Project; and

7. This City Council does hereby make the foregoing findings with respect to the significant effects on the environment of the Revised Church Project based on facts within the administrative record as a whole, and as identified in the HPSP FEIR, with the stipulation that all information in these findings is intended as a summary of the entire record supporting the HPSP FEIR. Any mitigation measures and/or alternatives that were suggested by commenters on the DEIR and not adopted as part of the HPSP FEIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the HPSP FEIR and in the record;

1. HECKER PASS SPECIFIC PLAN AND SOUTH VALLEY COMMUNITY REVISED CHURCH PROJECT FINDINGS REGARDING SIGNIFICANT ENVIRONMENTAL IMPACTS

A. AESTHETIC IMPACTS

1. Revised Church Project: Significant Impact –Substantially Damage Scenic Resources- The Revised Church Project site plan represents one option for development that is consistent with the basic land use requirements specified for the Private Community Facilities land use designation in the HPSP. The Revised Church Project would maintain 70 percent non-structural open space as required. However, the scale of development and the significant area of the site dedicated to parking are inconsistent with the open space character and sensitivity to visual character which the HPSP promotes in the remainder of the specific plan area.

The visual change between the Revised Church Project, which locates a large parking area along its western boundary, and the rural visual character of agricultural uses proposed for the adjacent property (Hecker Pass Agriculture designation), is abrupt and would not promote or be consistent with rural visual character and pattern of development.

The potential visual effect of the extensive parking facility adds significantly to the visual urban intensity of the Revised Church Project in an area where existing rural, agricultural, and open space qualities are to be maintained. In addition, the location of the parking area would detract from the scenic quality of the Hecker Pass Highway corridor. This impact is considered significant.
Mitigation: Prepare a detailed landscaping plan. In addition to landscaping for screening buildings to minimize their visual massiveness, the plan shall provide for:

- extensive landscaping along the western property line to facilitate a smooth visual transition from rural, agricultural uses to the west and the parking areas proposed along the western boundary of the site; and

- dense landscaping within the Hecker Pass Highway setback area to screen views of the parking areas as seen from Hecker Pass Highway. Landscape plantings in this area must avoid blocking views across the site to Uvas Creek and the foothills.

- Prepare a detailed parking area treatment plan. The plan shall illustrate how, through a combination of grade differences/terracing, landscaping, landscaped berms, and use of alternatives to asphalt such as pervious paving materials (i.e. decomposed granite or gravel) or earth tone pigmented concrete, the visual impact of all parking areas as seen from Hecker Pass Highway will be minimized. Use of alternative paving materials shall be prioritized as specified in the HPSP. The parking area treatment plan shall be subject to review and approval by the city prior to approval of a Conditional Use Permit.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

B. AGRICULTURAL IMPACTS

1. HPSP and Revised Church Project: Potentially Significant Impact-Land Use Changes that Could Result in Conversion of Farmland/Agricultural Land Use Conflicts

   Operational noise, dust, and agricultural chemicals associated with agricultural production could be a nuisance and health hazard to sensitive receptors such as residential, school, and church uses. Conflicts between agriculture and other land uses could result in pressure to convert farmland to non-agricultural use. This would be considered a significant adverse environmental impact.

Mitigation: The policies stipulated within the HPSP ensure land use conflicts will not occur within the specific plan area. To reduce potential conflicts, the HPSP requires a 50-foot buffer between crops and dwelling units to ensure residents are not affected by noise, dust, or spray drift or other adverse conditions from chemical applications and other agricultural activities (Policy 5-12). Site features and improvements within the buffer may include agricultural maintenance roads, driveways, public roads, swales or landscaping and may act as a fuel transition zone for structures. The HPSP also requires that an Integrated Agricultural Management Plan be incorporated into the Conditions, Covenants and Restrictions (CC&R’s) for all properties that include agricultural uses (Policy 5-10). The Integrated Agricultural Management Plan should ensure that agricultural operations and residential uses may coexist with minimal conflict by identifying appropriate times and uses of farm machinery, and suitable weed abatement, pest control, fertilization, and erosion control.
Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

C. AIR QUALITY IMPACTS

1. Revised Church Project: Violation of Air Quality Standards (Construction Emissions) – Potentially Significant Impact: PM$_{10}$ can cause respiratory ailments if breathed into the body. Construction projects involving grading and other earth movement can generate significant quantities of PM$_{10}$. Projects involving large amounts of earth movement near sensitive receptors such as residences, senior housing facilities, and schools can have a potentially significant health impact. The major sensitive use is the adjacent Village Green, where facilities for senior housing and care are located. These sensitive receptors could be affected by emissions from construction equipment, as well as the generation of significant quantities of PM$_{10}$ during site preparation activities. This is considered a potentially significant environmental impact.

Mitigation: Comprehensive short-term air emission control measures shall apply to individual projects. Projects shall prepare and implement the dust control measures during grading and construction activities in accordance with the specifications set forth in mitigation measure 4 of the FEIR.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

D. BIOLOGICAL IMPACTS

1. HPSP and Revised Church Project: Potentially Significant Impact - Special Status Species (California Tiger Salamander, Western Spadefoot Toad, Foothill Yellow-legged Frog, California Red-legged Frog, Western Pond Turtle, Steelhead, Yellow-breasted Chat, and Yellow Warbler potentially occurring in or along Uvas Creek). Breeding habitat for these species is potentially present in and/or adjacent to Uvas Creek. The riparian corridor also provides a potential migration corridor for these species if they are present. The remainder of the HPSP area does not contain appropriate habitat. Development activities that degrade habitat in or adjacent to Uvas Creek could cause significant impacts to special status species.

Mitigation: The HPSP policies stipulating that Uvas Creek will be designated as permanent open space and with buffers along the Uvas Creek riparian corridor, discouraging human intrusion into natural riparian habitat by limiting access into the riparian corridor and restricting trails to dirt paths and natural wildlife corridors, and requiring a qualified biologist to inform construction workers of potential presence of the special status species prior to construction will reduce impacts to a less than significant level (see Policies 5-13, 5-14, and 5-27 through 5-54).

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

2. HPSP and Revised Church Project: Potentially Significant Impact - Special Status Species: There is potential aestival habitat for the California Tiger Salamander in
upland portions of the HPSP area located north of Hecker Pass Highway. The majority of the area is designated for open space uses. However, a portion of this area is designated for residential development. The direct impacts on California Tiger Salamander or its habitat from this development would be considered a significant impact.

Mitigation: Conducting California Tiger Salamander surveys in the grasslands north of Hecker Pass Highway prior to the approval of development entitlements, in accordance with the specifications set forth in mitigation measure 5 of the FEIR, is feasible, and fully enforceable through permit conditions, agreements, or other measures. A survey would be conducted to determine if the property is aestivation habitat for the California Tiger Salamander. If it were found to be habitat, the City and the developer would consult with the responsible agencies during the subsequent environmental review process for proposed development on the property to determine the appropriate protection.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

3. HPSP and Revised Church Project: Potentially Significant Impact-Special Status Species (Burrowing Owl) – The HPSP area provides potential habitat for burrowing owls, although none was observed during the field investigation. Potential burrowing owl habitat is limited to approximately seven percent of the specific plan area, which occurs predominately in the area designated for Open Space located north of Hecker Pass Highway. A small portion of the potential habitat is also located in an area designated for Hillside Residential uses. The HPSP does not propose development within either area, though widening of Hecker Pass Highway through the Hillside Residential area and human disturbance within both areas could result from implementation of the HPSP. Should active burrowing owl nests occur on or immediately adjacent to the specific plan area, any construction or disturbance within or immediately adjacent to nest habitat, if conducted during the nesting season, could result in the direct loss of nests, including eggs and young, or the abandonment of an active nest by the adults. The loss of active burrowing owl nests, if determined to be on site, would be a significant impact.

Mitigation: The HPSP policy requiring burrowing owl pre-construction surveys is feasible, and fully enforceable through permit conditions, agreements, or other measures. A survey would be conducted to determine if the property is nesting habitat for burrowing owls. If active nests are found, a burrowing owl habitat mitigation plan will be submitted to the California Department of Fish and Game for review and approval. The plan would be implemented after approval.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

4. HPSP and Revised Church Project: Potentially Significant Impact-Special Status Species (Loggerhead Shrike and Nesting Raptors). Trees located along the Uvas Creek riparian corridor or in the oak woodland area have the potential to provide nesting habitat for loggerhead shrike and several protected nesting raptor species. No evidence of nesting activity was observed in the trees during site investigations. However, if active nest(s) of loggerhead shrike and/or raptors species should occur in the trees, any construction and/or site preparation activities, if conducted during the nesting season, could result in the

RESOLUTION NO. 2009-32
direct loss of nests, including eggs and young, or the abandonment of an active nest by the adults. The loss of individuals of these species or actions that cause abandonment of nests would be considered significant impacts.

**Mitigation:** The HPSP policies requiring loggerhead shrike and nesting raptors pre-construction surveys are feasible, fully enforceable through permit conditions, agreements, or other measures.

**Finding:** The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

5. **HPSP and Revised Church Project: Potentially Significant Impact-Loss of Riparian Woodland and Oak Woodland Habitat**—The HPSP designates Uvas Creek and the riparian woodland area for open space uses. Impacts to the riparian woodland would be limited to extension of the Uvas Creek Trail along the riparian corridor and to potential human disturbance within the corridor. The Hillside Residential area is located within oak woodland habitat. Disturbance to the oak woodland or riparian habitat is considered a potentially significant impact.

**Mitigation:** The following mitigations when implemented will effectively mitigate significant adverse effects from conflicts with biological protection policies by protecting riparian woodland and oak woodland habitat. The HPSP seeks to preserve rare and endangered species to the greatest extent possible. To achieve this goal, development locations are mostly limited to lands subject to agricultural and horticultural uses with little or no habitat value. The habitat that may be affected by additional development will be protected by the additional environmental review required by the HPSP.

The HPSP policies that designate Uvas Creek as permanent open space and provide buffers along the Uvas Creek riparian corridor, minimize encroachments into Uvas Creek buffers by establishing development setbacks, and protect riparian woodland and oak woodland habitat are feasible, fully enforceable through permit conditions, agreements or other measures and are set forth in Policies 6-1 and 6-2.

**Finding:** The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

6. **HPSP and Revised Church Project: Potentially Significant Impact-Disturbance of Sensitive Riparian Habitat/Hydrologic Disturbance**—Any work within or along Uvas Creek could disturb the sensitive riparian habitat and natural hydrologic processes. This is considered a potentially significant impact. Additionally, any work in or along the Uvas Creek may require consultation with U.S. Army Corps of Engineers, California Department of Fish and Game, or National Marine Fisheries Service depending on the activity.

**Mitigation:** The following mitigation measures are feasible, and when, implemented, will effectively mitigate significant adverse effects from conflicts with biological protection policies by protecting riparian woodland. It is the goal of the HPSP to promote sensitive habitat areas as permanent open space to preserve the natural resources of the area. This coupled with the coordination with respective responsible and trustee agencies will ensure that sensitive riparian habitat and hydrologic processes are impacted in a less than significant manner, protecting the riparian habitat of Uvas Creek.
Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

7. HPSP and Revised Church Project: Potentially Significant Impact-Interference with Wildlife Movement—If any special status species occur in or along the Uvas Creek or oak woodland, nighttime lighting, and/or people and unleashed pets wandering into these areas could restrict the movement or activity of or disturb or kill one or more of these special status species. Injury or death of a special status species would be considered a significant environmental impact.

Mitigation: The HPSP policies protecting wildlife movement are feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

8. HPSP and Revised Church Project: Potentially Significant Impact-Conflict with Local Policies Protecting Open Space and Habitat Areas (Significant Trees)—The Gilroy Consolidated Landscape Plan defines native trees that are six inches or more in diameter to be significant trees. Several trees are located along Uvas Creek, as well as the oak woodland habitat located along the northern portion of the Specific Plan area. In addition, several large trees are distributed throughout the HPSP area. Any native trees that are greater than six inches in diameter may be considered significant. Removal of these trees could represent a significant impact.

Mitigation: The HPSP policies protecting significant trees are feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

E. CULTURAL RESOURCES

1. Revised Church Project: Loss of Historical Resources – Significant Unavoidable Impact: The Revised Church Project site contains historic resources that would require demolition or relocation to accommodate the development. Demolition of the historic resources would be considered a significant impact. The HPSP includes a policy containing four options for mitigation of impacts on cultural resources on the Church site. However, the first three mitigation options have been determined to be infeasible and the last option would not mitigate this impact to a less than significant level. Nevertheless, the policy should be modified and retained in the HPSP as described in the following mitigation measure as a basis for partial mitigation of this impact.

Mitigation: Retain a theme of Conrotto viniculture within the new Revised Church Project. Options for designs include developing a display along Hecker Pass Highway, creating a Conrotto viniculture historic walk, and/or other approaches to be developed by the applicant. The design should utilize structures, winery artifacts, landscaping, and other elements. The design shall be subject to review and approval of the city prior to approval of a Conditional Use Permit.
Finding: The implementation of these mitigation measures will not avoid or substantially lessen the impact. Therefore, this impact remains significant and unavoidable. See Statement of Overriding Considerations, Section III.

2. Revised Church Project: Potentially Significant Impact-Disturbance to Human Remains. The HPSP area is not known to contain human remains. However, the Revised Church Project site is located within an archaeologically sensitive area and the possibility of accidentally uncovering human remains is a possibility. This would be considered a significant adverse environmental impact.

Mitigation: Require an archaeological assessment to minimize disturbance to possible human remains prior to the approval of development entitlements, in accordance with the specifications set forth in mitigation measure 6b of the FEIR, is feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

F. GEOLOGY

1. HPSP and Revised Church Project: Potentially Significant Impact-Exposure of People to Landslide Hazard—Development proposed north of Hecker Pass Highway could, if improperly sited, be subject to hazards from unstable landslide areas. Exposing people and property to landslide hazards is considered a significant adverse environmental impact.

Mitigation: The HPSP policies sufficiently protect people and property from potential landslide hazards, and are feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

2. HPSP and Revised Church Project: Potentially Significant Impact-Soil Erosion—Soils within the HPSP area are not considered to be highly erodible. Build out of the HPSP area would result in significant exposure of soils to the erosive effects of rain and storm water runoff as a result of grading and other site preparation activities. The proximity of the HPSP area to a sensitive biological habitat and to Uvas Creek makes soil erosion and the subsequent potential deposition of sediment within these sensitive areas a potentially significant impact.

Mitigation: The HPSP policies sufficiently protect soil from erosion, and are feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.
G. HAZARDS AND HAZARDOUS MATERIALS

1. HPSP and Revised Church Project: Potentially Significant Impact-Exposure of Future Residents, the Public, and Users of Community Facilities to Hazardous Materials - The extent to which future residents of the site, visitors to commercial uses, and school children would be exposed to hazardous materials from historical use of the HPSP area for agricultural use cannot be adequately assessed without further evaluation. Analysis is needed to identify if the hazard exists and to ensure that hazards, if they do exist, are adequately mitigated prior to development.

Mitigation: A Phase I Environmental Site Assessment is required to identify hazardous materials in the soil and ensure that identified hazards are mitigated appropriately in accordance with the specifications set forth in mitigation measure 9 of the FEIR, which is feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

H. HYDROLOGY AND WATER QUALITY

1. HPSP and Revised Church Project: Potentially Significant Impact-Erosion of Uvas Creek Banks From Storm Water Runoff/Increased Bank Instability for Third Street Extension - The proposed extension of Third Street would result in two minor encroachments into the Uvas Creek setback defined in the HPSP. The roadway improvement could, if not properly designed, result in storm water runoff being conveyed over the creek bank and require grading/excavation or other actions that could facilitate instability of the bank margins.

Mitigation: The HPSP policy requiring that any improvements, including the encroachments of Third Street, that extend into the setback from Uvas Creek must be reviewed by the project geotechnical engineer and mitigations implemented is feasible, fully enforceable through permit conditions, agreements, or other measures (see Policies 5-25 and 5-26).

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

2. HPSP and Revised Church Project: Potentially Significant Impact-Short Term Storm Water Runoff Water Quality Effects - Build out of the HPSP area would require a significant amount of grading for site preparation and construction activities. This could result in significant erosion during a storm event.

Mitigation: The HPSP policies that require preparation and implementation of an erosion control plan, in combination with the implementation of water quality BMPs, would reduce potential impacts to a less than significant level (see Policy 5-24). The policies are feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.
3. **HPSP and Revised Church Project: Potentially Significant Impact-Long Term Water Storm Water Runoff Quality Effects**—The proposed development could introduce contaminants associated with urban runoff into local groundwater and surface water. Construction activities have the potential to result in erosion of soil from wind or water, including washing of mud from the site into areas of sensitive habitat. This is a potentially significant environmental impact.

**Mitigation:** The HPSP policies requiring storm water collection and treatment and compliance with regulatory requirements of the NPDES, are feasible, fully enforceable through permit conditions, agreements, or other measures (see Policies 5-24, 5-35, and 8-8 through 8-17).

**Finding:** The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

4. **HPSP and Revised Church Project: Potentially Significant Impact-Exposure of People or Structures to Flood Hazard**—The Uvas Creek setback of 100 to 145 feet from toe of bank should be sufficient to prevent construction of significant improvements within the flood hazard zone. However, there is a need to prevent damage to or impacts from improvements that may be constructed within a flood hazard zone. Exposing people or structures to flooding is considered a significant adverse environmental impact.

**Mitigation:** Public recreational facilities with foundations or support on the ground that are located within 50 feet of the Uvas Creek top of bank will conform to the requirements of the Santa Clara Valley Water District in accordance with the specifications set forth in mitigation measure 10 of the FEIR.

**Finding:** The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

I. **MINERAL RESOURCES**

1. **HPSP and Revised Church Project: Loss of Availability of a Locally Important Mineral Resource – Significant and Unavoidable Impact:** Implementation of the Revised Church Project would result in loss of availability of State designated mineral resources. Direct loss would occur from development within areas where resources have been mapped. Indirect loss of resources mapped outside proposed development areas would likely occur as mining activity in those areas would be incompatible with the Church land uses.

**Finding:** There are no mitigation measures available that would substantially lessen this effect and therefore, this impact is significant and unavoidable. See Statement of Overriding Considerations, Section III.

J. **NOISE**

1. **HPSP and Revised Church Project: Potentially Significant Impact-Exposure to Construction Noise that Exceeds Standards** Implementation of the Revised Church Project would require the operation of construction equipment that could produce noise up to 70 to 90 dBA. This would be considered a significant adverse environmental impact.
Mitigation: The hours of construction will be limited in accordance with the specifications set forth in mitigation measure 11 of the FEIR through permit conditions. Requiring the reception hall doors to be closed as much as possible whenever significant noise generating activities occur, in accordance with the specifications set forth in mitigation measure 12 of the FEIR, is also fully enforceable through permit conditions.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

2. Revised Church Project: Potentially Significant Impact-Church Function Noise Generation and Effects on Village Green Residents —A large (300 person) wedding ceremony and reception (reception hall doors open) with a live rock band or DJ, could generate noise levels of up to 54 dB DNL, which is within the 60 dB DNL limit of the city standards. However, a nuisance to sensitive residents at Village Green from live music events could occur. This is considered a potentially significant impact.

Mitigation: Doors to the reception hall shall be closed as much as possible whenever significant noise generating activities such as live or recorded music is being played. The interior of the reception hall shall be acoustically designed to minimize sound build up within the space and to control reflected sound from being emitted. Outdoor music for weddings and any other functions should be limited to soft music styles and instrumentation, typical of wedding ceremony music. These requirements shall be made conditions of approval of a Building Permit.

Finding: The implementation of these mitigation measures will avoid or substantially lessen this potential significant environmental impact.

3. Revised Church Project: Potentially Significant Impact-School Play Area Function and Noise Impacts on Village Green —The proposed school use could generate noise levels along the eastern Revised Church Project boundary and at the closest Village Greens structure of up to 66 dBA DNL at full school capacity of 600 students. Noise exposure up to 6 dB in excess of the city standard would occur. This is considered a potentially significant impact.

Mitigation: Construct a six-foot high acoustically effective barrier along the property line contiguous with the residences to the east (Village Green). The barrier shall extend from the Reception Gardens to the south property line. The barrier height is in reference to the nearest play area ground elevation. Plans for the barrier shall be subject to review of the City of Gilroy Engineering Division prior to approval of a Building Permit.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

4. Revised Church Project: Potentially Significant Impact-School Play Area Function and Noise Impacts on Proposed Residential Land Uses to the West —The proposed school could generate noise levels along the western Revised Church Project boundary of up to 61 dBA DNL at full school capacity of 600 students. This noise level only marginally exceeds the city standard, but nevertheless, triggers the need for mitigation under current city standards.
Mitigation: Development applications shall be consistent the City of Gilroy noise exposure standards. Utilize development setbacks, construction techniques to reduce interior noise exposure, a sound wall and/or landscape berm. Or other options to minimize noise impacts on residential uses.

Finding: The implementation of these mitigation measures will avoid or substantially lessen this potential significant environmental impact.

5. Revised Church Project: Potentially Significant Impact-Gymnasium Noise Impact on Village Green-Noise exposure created by activities within the planned gymnasium could not be quantified, as detailed architectural information is not available. Typically, noise from within a gymnasium is not significant at the exterior of the building if windows and doors are kept closed during loud activities such as basketball games and dances. The locker rooms and food court will provide an adequate noise buffer for noise transmitting to the east and north. However, if windows or doors are open during certain events, or if events occur past 10:00 p.m., there is potential for noise excesses to the west and south. This is considered a potentially significant impact.

Mitigation: All windows and doors on the west and south sides of the gymnasium shall remain closed during noise generating activities inside the gymnasium. Noise generating activities include, but are not limited to, athletic games and practice, social events with music, and P.E. classes. These requirements shall be made conditions of approval of a Building Permit.

Finding: The implementation of these mitigation measures will avoid or substantially lessen this potential significant environmental impact.

6. Revised Church Project: Potentially Significant Impact-Mechanical Systems Noise Impact on Village Green-Precise designs of the mechanical systems for the church and school have not been developed, thus, a detailed analysis of the mechanical systems could not be performed. There is potential for air-conditioners, air-handlers, condensing units and other HVAC equipment to generate significant levels of noise that could be a nuisance to the adjacent Village Green residential use. This is considered a potentially significant impact.

Mitigation: Perform a detailed analysis of the church and school mechanical equipment systems to ensure compliance with the city standards under cumulative (traffic plus playground plus mechanical equipment, etc.) conditions. The analysis shall be performed by a qualified acoustician and approved by the City of Gilroy Engineering Division prior to approval of a Building Permit.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

K. TRANSPORTATION

1. HPSP and Revised Church Project: Significant Impact—Cumulative Citywide Traffic Impacts. Buildout of the HPSP area would result in a cumulatively considerable amount of traffic to the City's overall circulation system. This is considered a significant adverse environmental impact.
Mitigation: Requiring applicants for individual projects within the Specific Plan area to pay traffic impact fees in accordance with the City of Gilroy citywide traffic impact fee ordinance, and also as required in mitigation measures 20 and 21 of the FEIR, is feasible, fully enforceable through permit conditions, agreements, or other measures.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

2. Revised Church Project: Potentially Significant Impact-Site Access and On-site Circulation. The Revised Church Project site plan proposes three driveways along Cobblestone Court, each with throat widths of 25 feet. The City has indicated that the minimum throat width for this type of development is 35 feet for a two-way driveway.

Mitigation: All Revised Church Project site driveways should be widened to meet the City’s 35-foot requirement.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

3. Revised Church Project: Potentially Significant Impact-Site Access and On-site Circulation - Student Loading Area. The maximum on-site student loading/unloading space needed would be 1,300 feet, and the Revised Church Project site plan shows there will be 343 feet of loading/unloading provided. Therefore, the site needs to accommodate an additional 1,057 linear feet of loading space.

Mitigation: During project review, prepare a site plan that provides the required 1,000 feet of on-site student loading/unloading space.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

4. Revised Church Project: Potentially Significant Impact-Parking Deficiencies. The revised Revised Church Project site plan does not meet the City’s parking supply standards. However, the parking areas that would serve the Revised Church Project site are divided into two areas. One parking area would serve the church component of the project, and the other parking area would serve the school component of the project. Therefore, it is possible that all or some portion of the overflow demand from one use could be accommodated by parking spaces provided for the other use and vice-versa.

Mitigation: During project review, prepare a site plan that provides the required number of City parking spaces or prepare a parking management plan that addresses the parking deficiency.

Finding: The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

L. UTILITY IMPACTS

1. HPSP and Revised Church Project: Effects of Construction or Expansion of Storm Drainage Facilities – Potentially Significant Impact: Construction of a new storm
drainage outfall on the bank of Uvas Creek could adversely affect the quality of the habitat or affect water quality within the creek.

**Mitigation:** The HPSP contains policies that require any disturbance within the Uvas Creek setback to minimize adverse effects on the riparian habitat or water quality in Uvas Creek, including a policy that pertains specifically to any storm drainage outfalls along the creek. Implementation of these policies is feasible, and fully enforceable through permit conditions, agreements, or other measures.

**Finding:** The implementation of this mitigation measure will avoid or substantially lessen this potential significant environmental impact.

II. **FINDINGS OF REVISED CHURCH PROJECT ALTERNATIVES**

A. **ALTERNATIVE 1 – “NO PROJECT” ALTERNATIVE**

Description. The no project alternative assumes that the specific plan area is not developed as proposed in the *City of Gilroy General Plan*, nor is the Revised Church Project permitted to proceed.

Comparison to the Church Project. This alternative would result in a significant decrease in all Revised Church Project impacts including aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology and soils, hazards, hydrology and water quality, land use, noise, public services, transportation, and utilities.

Finding. This alternative is environmentally superior to the Revised Church Project, since it avoids the adverse impacts. However, the no project alternative would not meet the objectives of the church applicant and would not provide residential development potential needed by the City to meet its regional fair share housing requirements or provide tax revenues to the City. This alternative would not implement the *City of Gilroy General Plan* and also make it challenging for the City to extend the Uvas Creek Park Preserve through the project site. For these reasons, this alternative is rejected.

B. **ALTERNATIVE 2 – GENERAL PLAN TARGET DWELLING UNIT/CLUSTERING**

Alternative 2 was thoroughly reviewed and analyzed in the HPSP FEIR and was rejected. *See Resolution No. 2005-02, pages 14-15.*

C. **ALTERNATIVE 3 – REDUCED DWELLING UNIT/CLUSTERING**

Alternative 3 was thoroughly reviewed and analyzed in the HPSP FEIR and was rejected. *See Resolution No. 2005-02, pages 14-15.*

D. **ALTERNATIVE 4 – CHURCH REDESIGN**

Description. Alternative 4 includes only the church redesign components that were described in the HPSP FEIR Alternatives 2 and 3. The HPSP FEIR included a redesign of the church project to substantially reduce its impacts on aesthetic resources and inconsistency with the rural character of the HPSP area. The size of the church sanctuary was recommended to be
reduced by 25 to 50 percent, with an associated reduction in parking area. In addition, two or more of the other church site functions were to be eliminated.

The Revised Church Project as currently proposed with the additional 15 residential dwelling units (37,500 square feet / 0.9 acres) substantially achieves the Church Redesign Alternative. The proposed Church Project reduces the church/school overall size from 752,700 square feet (17.3 acres) to 495,600 square feet (11.4 acres). The Church Redesign Alternative may substantially reduce the aesthetic impacts and inconsistency with the rural character of the HPSP area.

Comparison to the Revised Church Project. The Revised Church Project substantially achieves the Church Design Alternative; therefore, it may also substantially reduce the aesthetic impacts and inconsistency with the rural character of the HPSP area. However, both the Revised Church Project and the Church Redesign Alternative will have significant and unavoidable impacts to cultural and mineral resources.

Findings. It is uncertain that this alternative is environmentally superior to the Revised Church Project. However, it would not meet the objectives of the Revised Church Project applicant. The City deems that Revised Church Project as proposed meets a public need for an institutional use in the City for which another location that is within the control of the Church applicant is not available. On these bases, this alternative is rejected.

III. STATEMENT OF OVERRIDING CONSIDERATIONS

After review of the entire administrative record, including the FEIR, the staff report, and the oral and written testimony and evidence presented at public hearings, the City Council finds, pursuant to CEQA Section 21081 (b) and CEQA Guidelines Section 15093, that specific economic, legal, social, technological and other benefits of the Revised Church Project outweigh the Project's unavoidable adverse environmental impacts and the City Council finds that the significant and unavoidable adverse impacts are acceptable in light of the Revised Church Project's benefits.

The City Council further finds that, in the event it is determined that the mitigation measures identified in the FEIR above do not reduce the significant environmental impacts identified and analyzed in the FEIR to a less-than-significant level, the benefits described below outweigh any and all potential adverse impacts of the Project.

The City Council adopts and makes this Statement of Overriding Considerations regarding the significant unavoidable impacts of the Revised Church Project and the anticipated benefits of the Revised Church Project. The City Council finds that each of the benefits set forth below in this Statement of Overriding Considerations constitutes a separate and independent ground for finding that the benefits of the Revised Church Project outweigh the risks of its potential significant adverse environmental impacts. The benefits of the Revised Church Project, which constitute the specific economic, legal, social, technological and other considerations that justify the approval of the Revised Church Project, are addressed in Sections B and H above and are set forth below:
A. The Revised Church Project will provide housing opportunities that help meet the City's regional fair share housing requirements.

B. The Revised Church Project will meet the City of Gilroy General Plan’s goal of extending the Uvas Creek Park Preserve.

C. The Revised Church Project is designed to preserve the agricultural character and aesthetic character of the Hecker Pass area. Preservation of the character of the area is in the public interest.

D. Providing housing units in the Hecker Pass area will lessen the need for expansion of infrastructure and construction of housing units in undeveloped areas of Gilroy and surrounding communities, thereby contributing to a reduction in vehicle-related air emissions.

E. The Revised Church Project will prevent mining in the HPSP area, thereby furthering the goal of preserving the Uvas Creek and its surrounding habitat.

IV. ADOPTION OF THE MITIGATION/MONITORING PROGRAM

The City Council hereby adopts the Mitigation and Monitoring Program attached hereto as Exhibit “A”, which is incorporated herein by this reference.

PASSED AND ADOPTED this 3rd day of August 2009, by the following vote:

AYES: COUNCILMEMBERS: BRACCO, DILLON, TUCKER, WOODWARD and PINHEIRO

NOES: COUNCILMEMBERS: ARELLANO, GARTMAN

ABSENT: COUNCILMEMBERS: NONE

APPROVED:

[Signature]

Albert Pinheiro, Mayor

ATTEST:

[Signature]
Shawna Freels, City Clerk
Mitigation Monitoring Program
For GPA 07-05

Introduction

CEQA Guidelines section 15097 requires public agencies to adopt reporting or monitoring programs when they approve projects subject to an environmental impact report or a negative declaration that includes mitigation measures to avoid significant adverse environmental effects. The reporting or monitoring program is to be designed to ensure compliance with conditions of project approval during project implementation in order to avoid significant adverse environmental effects.

The law was passed in response to historic non-implementation of mitigation measures presented in environmental documents and subsequently adopted as conditions of project approval. In addition, monitoring ensures that mitigation measures are implemented and thereby provides a mechanism to evaluate the effectiveness of the mitigation measures.

A definitive set of project conditions would include enough detailed information and enforcement procedures to ensure the measure's compliance. This monitoring program is designed to provide a mechanism to ensure that mitigation measures and subsequent conditions of project approval are implemented.

Monitoring Program

The basis for this monitoring program is the mitigation measures included in the project environmental impact report. These mitigation measures are designed to eliminate or reduce significant adverse environmental effects to less than significant levels. These mitigation measures become conditions of project approval, which the proponents of the Hecker Pass Specific Plan ("HPSP") and the proponent of the South Valley Community Church project ("Church Project") are required to complete.

The attached checklist is proposed for monitoring the implementation of the mitigation measures. This monitoring checklist contains all appropriate mitigation measures in the environmental impact report. The monitoring checklist is divided into two sections. The first section includes mitigation measures for the HPSP related actions, which were adopted by City Council Resolutions No. 2005-02. Mitigations for the HPSP consist largely of requirements, which subsequent individual projects, including the South Valley Community Church, must be consistent. The second section includes mitigation measures for the South Valley Community Church project.

Monitoring Program Procedures

The City of Gilroy shall use the attached monitoring checklist for the Hecker Pass Specific Plan and for the South Valley Community Church projects and subsequent projects. The monitoring program should be implemented as follows:
1. The Gilroy Community Development Department is responsible for coordination of the monitoring program, including the monitoring checklist. The Community Development Department should be responsible for completing the monitoring checklist and distributing the checklist to the responsible individuals or agencies for their use in monitoring the mitigation measures;

2. Each responsible individual or agency will then be responsible for determining whether the mitigation measures contained in the monitoring checklist have been complied with. Once all mitigation measures have been complied with, the responsible individual or agency should submit a copy of the monitoring checklist to the Community Development Department to be placed in the project file. If the mitigation measure has not been complied with, the monitoring checklist should not be returned to the Community Development Department;

3. The Community Development Department will review the checklist to ensure that appropriate mitigation measures and additional conditions of project approval included in the monitoring checklist have been complied with at the appropriate time, e.g. prior to issuance of a use permit, etc. Compliance with mitigation measures is required for project approvals; and

4. If a responsible individual or agency determines that a non-compliance has occurred, a written notice should be delivered by certified mail to the project proponent within 10 days, with a copy to the Community Development Department, describing the non-compliance and requiring compliance within a specified period of time. If non-compliance still exists at the expiration of the specified period of time, construction may be halted and fines may be imposed at the discretion of the City of Gilroy.
Hecker Pass Specific Plan Mitigation Monitoring Checklist

The following mitigations, adopted by City Council Res. 2005-02, apply to discretionary approval of any entitlements for projects within the specific plan area.

4. Individual project applicants shall specify in project plans the implementation of the following dust control measures during grading and construction activities for any proposed development. The measures shall be implemented as necessary to adequately control dust, subject to the review and approval by the City of Gilroy Planning Division:

The following measures shall be implemented at all construction sites:

- Water all active construction areas at least twice daily;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more);
- Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.);
- Limit traffic speeds on unpaved roads to 15 mph;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- Replant vegetation in disturbed areas;
- Place a minimum of 100 linear feet of 6 to 8 inch average diameter cobble at all exit points to dislodge and trap dirt from vehicle tires;
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 miles per hour; and
- Limit the area subject to excavation, grading and other construction activity at any one time.
Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

5. A qualified biologist shall survey the grassland area located to the north of the Hecker Pass Highway planned for residential development for potential aestivation habitat. If the area is determined to be aestivation habitat for the California tiger salamander, the biologist shall consult with the California Department of Fish and Game and the U.S. Fish and Wildlife Service regarding mitigation and permit requirements that must be incorporated as conditions of project approval.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

6. All future development within the specific plan area shall implement the following conditions to minimize disturbance to potentially significant cultural resources. Each of the following shall be made a condition of approval for grading and Building Permits:

a. Developers of each project within the specific plan area shall contract with a qualified archaeologist to provide an archeological site assessment to determine the need for monitoring during grading and excavation activities.

b. If cultural resources or human remains are discovered during construction, work shall be halted at a minimum of 165 feet (50 meters) from the find and the area shall be staked off. The monitoring professional archaeologist, if one is on site, shall be notified. If a monitoring professional archaeologist is not on-site, the city shall be notified immediately and a qualified professional archaeologist shall be retained. If the find is determined to be significant, appropriate mitigation measures shall be formulated by the professional archaeologist and implemented by the responsible party.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

9. Prior to development of any property within the specific plan area, a Phase 1 Environmental Site Assessment shall be prepared in accordance with ASTM Standard(s) to identify whether past or existing uses of the project property may have adversely affected soil or groundwater, or would otherwise pose a health hazard during site development or habitation. If the Phase 1 assessment finds that past uses may have contaminated the site, a Phase 2 Site Assessment shall be prepared. If contamination is present, clean up and disposal of such contamination shall be in compliance with federal, state and local regulations governing the cleanup and disposal of hazardous waste. Results of the Phase 1 and, if needed, the Phase 2 assessment and cleanup shall be presented to and approved by the City of Gilroy Engineering Division prior to issuance of a Building Permit.
Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

10. Any development (i.e. public recreational facilities) with foundations or support on the ground that is located within 50 feet (or the distance in effect at the time of application) of the Uvas Creek top of bank shall conform to requirements of the Santa Clara Valley Water District.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

11. All noise generating construction activities shall be limited to weekdays between 7:00 AM and 7:00 PM, and to Saturdays between 9:00 AM and 7:00 PM. No construction is allowed on Sundays or city holidays. In addition, temporary berms or noise attenuation barriers shall be utilized when necessary. This requirement shall be attached as a contractor work specification for all projects.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

14. Residential development proposed adjacent to the Church project site shall be consistent with the City of Gilroy noise exposure standards in effect at the time a project application is submitted. Potential sound attenuation options for reducing exposure to Church project generated noise under current standards might include development setbacks from the Church property line, utilization of construction techniques to reduce interior noise exposure to 45dBA or less, installation of a sound wall and/or a landscaped berm between residential development sites and the Church property line, or another measure or combination of measures deemed acceptable to the city.

If buildout of the Church project and full utilization of the site occurs prior to an application being submitted for residential development, the applicant for the residential project may choose to conduct a noise study to determine noise levels at the Church property line based on actual conditions. Mitigation measures, if needed, would be proposed in the noise study consistent with city noise standards in effect at that time.

The noise mitigation approach proposed by the applicant for residential development adjacent to the Church shall be subject to review and approval of the City of Gilroy Engineering Division prior to approval of a Building Permit.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Engineering Division
18. The original mitigation measure for the HPSP pursuant to Resolution No. 2005-02 was as follows: "Applicants for projects within the specific plan area shall be responsible for widening Hecker Pass Highway to a four-lane urban arterial from Santa Teresa Boulevard to the East intersection. This improvement is contingent on approval of the HPSP applicant’s general plan amendment that would reclassify Hecker Pass Highway to an arterial. Applicants shall coordinate with the City of Gilroy Engineering Division to design and implement the widening project. Removal of deodar cedar trees along the highway must be avoided wherever possible and improvements must be consistent with State scenic highway guidelines."

This mitigation measure was modified pursuant to GPA 06-02, October 2006 Mitigated Negative Declaration, to be revised and replaced to read as follows:

"Mitigation Measure T-1 (Specific Plan EIR mitigation measure 18)

Applicants for projects within the specific plan area shall be responsible for improving Hecker Pass Highway immediately west of Santa Teresa Boulevard to include a second westbound travel lane. The second westbound travel lane on Hecker Pass Highway, and the appropriate lane-drop taper consistent with Caltrans’ Standards, should extend as far as possible beyond (west of) Santa Teresa Boulevard as can be accommodated within the existing public right-of-way, with the design subject to approval by the City Engineer in his/her reasonable discretion. Applicants shall coordinate with the City of Gilroy Engineering Division to design and implement the widening project. Removal of deodar cedar trees along the highway must be avoided wherever possible and improvements must be consistent with State scenic highway guidelines. Traffic signal modifications should be made to the intersection of Santa Teresa Boulevard and First Street/Hecker Pass Highway to add vehicle detection for the second eastbound through lane.”

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

19. The original mitigation measure for the HPSP pursuant to Resolution No. 2005-02 was as follows: "Applicants for projects within the specific plan area shall be responsible for upgrading Hecker Pass Highway to a two-lane arterial from the East intersection to the Bonfante Gardens intersection. This improvement is contingent on approval of the HPSP applicant’s general plan amendment that would reclassify Hecker Pass Highway to a two-lane arterial. Applicants shall coordinate with the City of Gilroy Engineering Division to design and implement the upgrade project. Removal of deodar cedar trees along the highway must be avoided wherever possible and improvements must be consistent with State scenic highway guidelines. The upgrade project must be approved by the relevant State and local agencies.”
This mitigation measure was modified pursuant to GPA 06-02, October 2006 Mitigated Negative Declaration, to be revised and replaced to read as follows:

“Mitigation Measure T-2 (Specific Plan EIR mitigation measure 19)

Applicants for projects within the specific plan area shall be responsible for shoulder improvements to Hecker Pass Highway, per Caltrans’ standards, between Santa Teresa Boulevard and the easterly limits of the planned Caltrans Uvas Creek Bridge Improvement project. Applicants shall coordinate with the City of Gilroy Engineering Division to design and implement the shoulder improvements. Removal of deodar cedar trees along the highway must be avoided wherever possible and improvements must be consistent with State scenic highway guidelines.”

Party responsible for implementation: Applicant
Party responsible for monitoring: Gilroy Planning Division

20. Applicants for individual projects within the specific plan area shall contribute traffic impact fees for future cumulative circulation improvements consistent with the requirements of the City of Gilroy citywide traffic impact fee ordinance. Fees shall be paid to the city prior to issuance of development permits.

Party responsible for implementation: Applicant
Party responsible for monitoring: Gilroy Planning Division

22. Storm water detention shall be designed to prevent an increase in the 2-year, 10-year and 100-year peak discharge for the project area (refinement of existing HPSP policy 8-6)

Party responsible for implementation: Applicant
Party responsible for monitoring: Gilroy Planning Division

23. Hecker Pass Specific Plan EIR Table S1, Summary of Impacts and Mitigation Measures. The area of concern, Agriculture, will be modified to state:

“HPSP Public Safety (Agricultural Management) Policies 5-93 through 5-97; Policy 5-7: “To ensure the preservation of designated agricultural areas in perpetuity, permanent agricultural easements, deed restrictions, or other such instruments shall be created for each property in each agricultural area at the earlier of (a) prior to or concurrent with the first discretionary approval for projects for which no map is
required; or (b) prior to or concurrent with final and/or parcel map approvals. In this instance, the tentative map shall have this requirement as a condition of its approval, and that map shall generally describe the area to be restricted. To ensure the preservation of designated open space areas in perpetuity, permanent open space easements, deed restrictions, or other such instruments shall be created for each property in each open space area at the earlier of (a) prior to or concurrent with the first discretionary approval for projects for which no map is required; or (b) prior to or concurrent with final and/or parcel map approvals. In this instance, the tentative map shall have this requirement as a condition of its approval, and, that map shall generally describe the area to be restricted.”

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

South Valley Community Church Mitigation Monitoring Checklist

Step 1

Prior to approval of a conditional use permit, the following mitigation measures shall be implemented:

1. The applicant shall prepare a detailed landscaping plan. In addition to landscaping for screening buildings to minimize their visual massiveness, the plan shall provide for:

   • extensive landscaping along the western property line to facilitate a smooth visual transition from rural, agricultural uses to the west and the parking areas proposed along the western boundary of the site; and

   • dense landscaping within the Hecker Pass Highway setback area to screen views of the parking areas as seen from Hecker Pass Highway. Landscape plantings in this area must avoid blocking views across the site to Uvas Creek and the foothills.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

2. The applicant shall prepare a detailed parking area treatment plan. The plan shall illustrate how, through a combination of grade differences/terracing, landscaping, landscaped berms, and use of alternatives to asphalt such as pervious paving materials (i.e. decomposed granite or gravel) or earth tone pigmented concrete, the visual impact of all parking areas as seen from Hecker Pass Highway will be minimized. Use of alternative paving materials shall be prioritized as specified in the HPSP. The parking area treatment plan shall be subject to review and approval by the city prior to approval of a Conditional Use Permit.
Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

3. The applicant shall prepare a detailed lighting plan, which demonstrates how nighttime lighting of playfields will be designed and the lighting technology that shall be used. Nighttime lighting of playfields should be prohibited by the city unless the plan clearly demonstrates that nighttime lighting will not create a significant source of glare that is inconsistent with maintaining the rural character of the plan area. The lighting plan shall be subject to review and approval of the city for consistency with this mitigation and with relevant HPSP lighting policies prior to issuance of a Conditional Use Permit. This review should be coordinated with mitigation provided in Section 2.4, Biological Resources, regarding lighting impacts on the habitat value of the Uvas Creek corridor.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

7. The Church project applicant shall retain a theme of Conrotto viniculture within the new Church project. Options for designs include developing a display along Hecker Pass Highway, creating a Conrotto viniculture historic walk, and/or other approaches to be developed by the applicant. The design should utilize structures, winery artifacts, landscaping, and other elements. The design shall be subject to review and approval of the city prior to approval of a Conditional Use Permit.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

Step 2

Prior to approval and issuance of a **grading or building permit**, the following mitigation measures shall be implemented:

2. The project proponent shall, to the extent feasible, use equipment powered by other than diesel fuel, or if diesel fueled equipment is used, employ soot filters or other devices to effectively reduce emissions.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Engineering Division

8. The Church project applicant shall implement the following actions:

a. The applicant shall contract with a qualified archaeologist to provide an archaeological site assessment to determine the need for continuous monitoring during grading and excavation activities. If cultural resources or human remains
are discovered during construction, immediate and appropriate mitigation measures shall be implemented.

b. If cultural resources or human remains are discovered during construction, work shall be halted at a minimum of 165 feet (50 meters) from the find and the area shall be staked off. The monitoring professional archaeologist, if one is on site, shall be notified. If a monitoring professional archaeologist is not on-site, the city shall be notified immediately and a qualified professional archaeologist shall be retained. If the find is determined to be significant, appropriate mitigation measures shall be formulated by the professional archaeologist and implemented by the responsible party.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

12. Doors to the reception hall shall be closed as much as possible whenever significant noise generating activities such as live or recorded music is being played. The interior of the reception hall shall be acoustically designed to minimize sound build up within the space and to control reflected sound from being emitted. Outdoor music for weddings and any other functions should be limited to soft music styles and instrumentation, typical of wedding ceremony music. These requirements shall be made conditions of approval of a Building Permit.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Engineering Division

13. The applicant shall construct a six-foot high acoustically effective barrier along the property line contiguous with the residences to the east (Village Green). The barrier shall extend from the Reception Gardens to the south property line. The barrier height is in reference to the nearest play area ground elevation. Plans for the barrier shall be subject to review of the City of Gilroy Engineering Division prior to approval of a Building Permit.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

15. The applicant shall perform a detailed analysis of the church and school mechanical equipment systems to ensure compliance with the city standards under cumulative (traffic plus playground plus mechanical equipment, etc.) conditions. The analysis shall be performed by a qualified acoustician and approved by the City of Gilroy Engineering Division prior to approval of a Building Permit.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division
16. To minimize noise annoyance to the residences to the west of the gymnasium, all windows and doors on the west and south sides of the gymnasium shall remain closed during noise generating activities inside the gymnasium. Noise generating activities include, but are not limited to, athletic games and practice, social events with music, and P.E. classes. These requirements shall be made conditions of approval of a Building Permit.

Party responsible for implementation: Applicant
Party responsible for monitoring: Gilroy Planning Division

17. The Church project applicant shall ensure that the following actions are incorporated into the contractor specifications:

- Construct the six-foot high noise control barrier along the east property line before any other site work is performed;

- Demolition of buildings should occur in phases with the walls of the building closest to existing residences being removed last as the walls can act as noise barriers;

- All diesel powered equipment should be located more than 115 feet from any residence if the equipment is to operate for more than several hours per day; and

- Consider implementing the additional ancillary noise attenuation actions as listed in the Noise Assessment Study for the Planned South Valley Community Church and School.

Party responsible for implementation: Applicant
Party responsible for monitoring: Gilroy Engineering Division

21. The Church project applicant shall participate in the city’s traffic impact fee program in order to mitigate its incremental impacts on the circulation system. Fees shall be paid prior to approval of a Conditional Use Permit.
I, SHAWNA FREELS, City Clerk of the City of Gilroy, do hereby certify that the attached Resolution No. 2009-32 is an original resolution, or true and correct copy of a city resolution, duly adopted by the Council of the City of Gilroy at a regular meeting of said Council held on the 3rd day of August, 2009, at which meeting a quorum was present.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Gilroy this 18th day of August, 2009.

[Signature]

Shawna Freels, CMC
City Clerk of the City of Gilroy

(Seal)
ADDENDUM E

Special Exemption Resolution No. 2009-34
RESOLUTION NO. 2009-34

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY APPROVING AN APPLICATION FOR A “SPECIAL EXCEPTION” FROM THE RESIDENTIAL DEVELOPMENT ORDINANCE TO ALLOCATE 15 SINGLE FAMILY RESIDENTIAL UNITS IN 2012 ON PROPERTY LOCATED AT 1690 AND 1750 HECKER PASS HIGHWAY, APNS 810-21-004, 005.

WHEREAS, South Valley Community Church submitted an application for a “Special Exception” from the Residential Development Ordinance (RDO) for fifteen (15) single family residential units on the southernmost 6 acres of a property containing approximately 27 acres, zoned Hecker Pass Specific Use District/PUD and located at 1690 and 1750 Hecker Pass Highway, west of Santa Teresa Boulevard, APNS 810-21-004, 005; and

WHEREAS, the City Council may grant the requested RDO Special Exception in conjunction with an approved Specific Plan if it determines that the application meets the criteria set forth in Zoning Ordinance section 50.63(c)(2), which criteria are fully discussed in the Planning Commission Staff Report dated April 28, 2009, for the South Valley Community Church General Plan Amendment (GP07-05) and RDO Allocation dated April 28, 2009; and

WHEREAS, the City has determined that the review and approval of an application for an RDO Special Exception does not confer any entitlement for development and therefore is not a “project” of and by itself for the purposes of review pursuant to the California Environmental Quality Act (CEQA). However, this application is in conjunction with GPA 07-05, which has received environmental clearance pursuant to City Council Resolution No. 2009-32; and

-1-
WHEREAS, the Planning Commission reviewed said application at a duly noticed public meeting on May 7, 2009, and by a 7-0 vote recommended approval of the RDO Special Exception request to the City Council; and

WHEREAS, the City Council reviewed the application for an RDO Special Exception and all documents relating thereto and took oral and written testimony at its duly noticed public meetings of June 1, 2009, and July 13, 2009;

WHEREAS, the City Council by Resolution No. 2009-33, has approved GPA 07-05 amending the Hecker Pass Specific Plan to redesignate the 6-acre area subject to this request the “East Residential Cluster,” thereby allowing residential development of up to 15 residential units; and

WHEREAS, the location and custodian of the documents or other materials which constitute the record of proceedings upon which this project approval is based is the office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED THAT

1. The City Council, pursuant to Zoning Ordinance section 50.63(c)(2) regarding a Special Exception, hereby finds as follows:

   A. That the additional 15 residential unit allocation for this Hecker Pass Specific Plan area are necessary to help finance the construction of the proposed church and school, without which it would not be possible to implement the Hecker Pass Specific Plan vision for their property, and therefore, if not granted, would not further the goals of the General Plan which encompasses this Specific Plan.


Resolution No. 2009-34
2. The City Council hereby approves granting of the fifteen residential units through the RDO Special Exception process for the year 2012, and that under terms of the Hecker Pass Development Agreement, Article 2, Section 2.3.3, the applicant will be permitted to accelerate or defer the use of its RDO allocation by up to three years, thereby granting an effective development date of 2009 to 2015, but only if all required City project approvals are received by the applicant.

3. This resolution shall be in full force and take effect only if, and on the same date, that Resolution No. 2009-33 approving GPA 07-05 takes effect.

PASSED AND ADOPTED this 3rd day of August, 2009, by the following vote:

AYES: COUNCILMEMBERS: BRACCO, DILLON, TUCKER, WOODWARD and PINHEIRO

NOES: COUNCILMEMBERS: ARELLANO, GARTMAN

ABSENT: COUNCILMEMBERS: NONE

APPROVED:

[Signature]
Albert Pinheiro, Mayor

ATTEST:

[Signature]
Shawna Freels, City Clerk

Resolution No. 2009-34
I, SHAWNA FREELS, City Clerk of the City of Gilroy, do hereby certify that the attached Resolution No. 2009-34 is an original resolution, or true and correct copy of a city resolution, duly adopted by the Council of the City of Gilroy at a regular meeting of said Council held on the 3rd day of August, 2009, at which meeting a quorum was present.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Gilroy this 18th day of August, 2009.

Shawna Freels, CMC
City Clerk of the City of Gilroy

(Seal)
ADDENDUM F

General Plan Resolution No. 2009-33
RESOLUTION NO. 2009-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY APPROVING GPA 07-05 AMENDING THE HECKER PASS SPECIFIC PLAN LOCATED AT THE WESTERN GATEWAY OF THE CITY OF GILROY AND COMMONLY KNOWN AS THE "HECKER PASS AREA" FOR THE REVISED CHURCH, SCHOOL AND RESIDENTIAL PROJECT PROPOSED BY SOUTH VALLEY COMMUNITY CHURCH

WHEREAS, the South Valley Community Church submitted application GPA 07-05 for a General Plan Amendment ("Revised Church Project") to amend the Hecker Pass Specific Plan ("HPSP") to expand the East Residential Cluster area by six acres, reduce the size of Community Facilities District area by six acres, and make corresponding changes to the Specific Plan document to provide for development of up to 15 residential units and a small park on the southerly 6 acres of the area currently designated Community Facilities District; and

WHEREAS, the Revised Church Project applies to an approximately 27 acre parcel within the HPSP boundaries, that is located at 1690 and 1750 Hecker Pass Highway, west of Santa Teresa Boulevard, APNS 810-21-004, 005; and

WHEREAS, the City Council on January 18, 2005, adopted Resolution No. 2005-02 making certain findings required by CEQA, and certified that the HPSP Final EIR ("FEIR") had been completed in compliance with CEQA; that the City Council had reviewed and analyzed the HPSP FEIR and other information in the record and had considered the information contained therein, including the written and oral comments received at the public meetings on the HPSP FEIR, prior to acting upon or approving the HPSP; and that the HPSP FEIR represented the independent judgment of the City; and

WHEREAS, the City Council on January 18, 2005, adopted the HPSP by Resolution No, 2005-03; and
WHEREAS, the original Church Project was included in the FEIR prepared for the HPSP in conformance with CEQA; and

WHEREAS, on December 8, 2008, an Addendum to the HPSP FEIR ("Addendum") was prepared in compliance with CEQA by EMC Planning Group, Inc. for the Revised Church Project and was approved by the City Planning Manager, having found that no substantive revisions to the HPSP FEIR were required because no new significant impacts or impacts of substantially greater severity would result from the proposed Revised Church Project; and

WHEREAS, the Planning Commission held a duly noticed public hearing on May 7, 2009, at which time the Planning Commission considered the public testimony, the staff report dated April 28, 2009 ("Staff Report"), and all other documentation related to the Revised Church Project, and recommended that the City Council approve said Revised Church Project; and

WHEREAS, the City Council held duly noticed public hearings on June 1, 2009, and July 6, 2009, at which time the City Council considered the public testimony, the Staff Report, a follow-up staff report dated May 18, 2009 and all other documentation related to the Revised Church Project; and

WHEREAS, the City Council at its duly noticed public meeting on August 3, 2009 adopted CEQA Findings Resolution No. 2009-32, making the required CEQA findings for this GPA amendment and adopting the mitigation measures from the certified HPSP FEIR as revised by GPA 06-02 and described in summary form in the Resolution and as revised by the Addendum, and adopting the mitigation/monitoring program for GPA 07-05; and

WHEREAS, the location and custodian of the documents or other materials which constitute the record of proceedings upon which this project approval is based is the office of the City Clerk.

SECTION I

NOW, THEREFORE, THE CITY COUNCIL FINDS THAT:

1. The General Plan text amendments proposed by GPA 07-05 are in the public interest
because they further the intent of the Hecker Pass Special Use District as described by the existing General Plan.

2. The Hecker Pass Specific Plan, as amended, is consistent with the City’s General Plan because it provides a means to implement the Hecker Pass Special Use District as described by the General Plan.

3. The amendments of the Hecker Pass Specific Plan as proposed by GPA 07-05 are also in the public interest because they provide the means to protect the Hecker Pass area’s rural and agricultural character and scenic qualities while providing for an economically viable use of the land for the property owner.

SECTION II

Based on the above findings, General Plan Amendment application GPA 07-05 is hereby approved, and the text amendments to the Hecker Pass Specific Plan, attached hereto as Exhibit A and incorporated herein by this reference, are hereby adopted subject to the mitigation measures in the HPSP FEIR as revised by GPA 06-02, all as set forth in summary form in CEQA Findings Resolution 2009-32, and subject to the mitigation/monitoring program, attached hereto as Exhibit B.

SECTION III

This Resolution shall be in full force and take effect thirty (30) days after the date of its adoption.

PASSED AND ADOPTED this 3rd day of August, 2009 by the following vote:

AYES: COUNCILMEMBERS: BRACCO, DILLON, TUCKER, WOODWARD and PINHEIRO

NOES: COUNCILMEMBERS: ARELLANO, GARTMAN

ABSENT: COUNCILMEMBERS: NONE

Resolution No. 2009-33
APPROVED:

Albert Pinheiro, Mayor

ATTEST:

Shawna Freels, City Clerk
3 LAND USE

3.1 PURPOSE

The Land Use Chapter establishes the overall framework for the development and conservation of the Specific Plan Area. This Chapter sets forth specific land use goals, policies and standards applicable to the Hecker Pass Specific Plan Area and describes the overall development program including the type, extent, and intensity of future development.

The Land Use Chapter is to be used in conjunction with the other Chapters of this Specific Plan. More detailed information on community services and facilities is included in the Community Services and Facilities Chapter (Chapter 6) and additional information relating to open space and resource management is included in the Conservation and Resource Management Chapter (Chapter 5). The Land Use Map in this Chapter (Figure 3-1) illustrates the physical pattern of uses permitted in the Specific Plan Area. Table 3-1 provides an overall summary of the acreage breakdown for each Specific Plan land use category.

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1. Existing residences excluded unless otherwise noted
2. Includes 3 existing units
3. Includes 3-acre neighborhood park
4. Excludes 3-acre neighborhood park
3.2 LAND USE CONCEPT

The land use concept for the Hecker Pass Specific Plan is to protect and enhance the Hecker Pass Area’s rural character, open space and agricultural uses as well as create a logical coherent pattern of rural style uses as part of the western gateway of Gilroy. A very unique land planning approach was taken to meet the challenge of preserving the character of the area while also allowing for future development. Generally, site planning principles dictate that existing site constraints first be identified then the primary proposed uses be located on the site. “Primary” uses are typically those uses that create the highest and best use for the property such as residential or commercial uses. In the case of the Hecker Pass Specific Plan, open space and agriculture were designated as the primary uses in order to maintain the scenic value of the area. During the site planning process, existing natural open space areas were identified and set aside for protection and enhancement. Secondary open spaces areas were then delineated to act as buffers and transition areas between proposed developments and Uvas Creek and to preserve the hillside slopes north of Hecker Pass Highway (State Route 152). Next, agricultural areas were defined along Hecker Pass Highway to preserve the scenic corridor, views to Uvas Creek and the Gabilan Mountains, and the rural character of the area. Agricultural areas were sited to be contiguous and large enough in size to ensure viable agricultural operation. The remaining areas were then evaluated as potential sites for future development. As a result of this unique approach, the Hecker Pass Specific Plan is, first and foremost, a plan for open space and agriculture.

Goal 3-1: Preserve the rural and scenic character of the Hecker Pass Area.

Goal 3-2: Integrate rural style urban development and agricultural uses in a manner that preserves and protects the rural agricultural character of the Hecker Pass Area.

Goal 3-3: Create a scenic gateway for the western entrance into the City of Gilroy.

Rather than extending existing urban development patterns into the Specific Plan Area, the Land Use Chapter will create a gradual and graceful transition from the existing rural uses to central clustered development. Transitional land use patterns will provide a softer edge between rural open space and the residential clusters where new agricultural and open space areas can grow up to and around new development. One example of this land use transition is the proposed South Valley Community Church. The South Valley Community Church development proposes an intensity of development that is less than the very dense existing Village Green project but more intensive than the proposed cluster residential and agricultural uses to the west. The church serves as a transition between the existing Village Green project and future uses within the Specific Plan Area. The southerly portion of the South Valley Community Church property will develop with 15 residential lots to integrate directly into the East Cluster area. To ensure consistency with the intent of the Specific Plan, a maximum of fifteen homes may be constructed on the South Valley Community Church site. By carefully integrating new development with agricultural and open space areas, the Specific Plan attempts to reduce the visual impact of development on the rural character of the area and increase the open space amenity value for the community.
Policy 3-1: Designate natural open space areas to protect the scenic natural environment of these areas.

Policy 3-2: Create open space and agricultural areas to maintain view corridors, provide opportunities for recreation and to act as buffers between natural areas and future development.

Policy 3-3: Establish contiguous agricultural lands large enough to ensure viable agricultural operations to preserve the rural character of the Specific Plan Area.

Policy 3-4: Restrict the South Valley Community Church property to the development of 15 homes.

The Specific Plan emphasizes relatively compact development patterns separated into a few distinct clusters. Central to the Land Use Chapter is the concept of the Residential Cluster (RC) land use designation. The Residential Cluster (RC) land use designation allows for averaging densities over a site by developing at higher densities in certain areas while preserving natural features or open space within other land use designations as further discussed in Section 3.5. Instead of spreading housing units uniformly over an entire tract, structures are arranged in closely related groups or “clusters.” Unlike standard subdivisions where all land is divided among individual property owners, The Residential Cluster (RC) land use designation creates large open space generally held for the benefit of all residents. In the Hecker Pass Specific Plan Area, these open space areas occur in the form of agricultural fields and natural open space areas. In the Specific Plan Area open spaces and agricultural areas can be maintained by either homeowner’s associations (HOA), Landscaping and Lighting Maintenance Districts (LLMD), individual property owners or agricultural operators.

Policy 3-45: The Residential Cluster (RC) land use areas shall be separated from each other and non-contiguous to reduce impacts associated with urban development patterns.

This “clustering” land use concept conserves large agricultural and open space areas that would normally be subdivided as part of a conventional large lot rural development. It also allows for creation of well-defined, pedestrian-scale neighborhoods that will foster social interaction and a shared sense of community (see Figure 3-2: “Cluster Concept”).
Figure 3-2: The clustering concept demonstrates that the same ten-acre parcel can be subdivided into ten one-acre parcels with no remaining open space, ten half-acre parcels with 5 acres of remaining open space, ten quarter-acre parcels with 7.5 acres of remaining open space, or ten townhomes with 9 acres of remaining open space. As units are clustered closer together on one portion of the site, the remaining open space increases.

### 3.3 OPEN SPACE LAND USE

Open Space is the primary and most important land use within the Hecker Pass Special Use District. Principal objectives of the Specific Plan include the preservation and protection of the environmentally sensitive habitat areas in and around the Specific Plan Area. To this end, the Specific Plan designates these areas as permanent open space and creates goals and policies to further protect and enhance such areas. There are two land use designs under the category of open space in the Specific Plan Area: Park/Recreational Facility and Open Space. The Open Space land use designation includes approximately 47 acres of the hillsides north of Hecker Pass Highway. The Park/Recreational designation totals approximately 98 acres and includes all of Uvas Creek Park Preserve, the Creek Setback Area, the linear park areas outside of the creek setback, and a 3-acre neighborhood park (see Figure 3-1: Land Use Diagram). Further discussion of open space can be found in the Conservation and Resource Management Chapter (Chapter 5) and the Community Facilities Chapter (Chapter 6).

**Goal 3-4:** *Preserve the Uvas Creek Corridor and other open space throughout the Specific Plan Area as permanent open space to preserve the area's scenic rural character.*

**Policy 3-56:** *Designate Uvas Creek as permanent open space and provide buffers along the Uvas Creek Riparian Corridor.*

**Policy 3-67:** *Minimize encroachments into Uvas Creek buffers by establishing development setbacks.*

### 3.3.1 UVAS CREEK SETBACK

The Uvas Creek Setback, as shown on the Land Use Diagram, represents the minimum setback for all future roadway and structural improvements adjacent to Uvas Creek. This composite setback is based on two factors:

1. The minimum setbacks for protection from potential creek bank erosion as established in Section 5.3 Geology, Soils and Grading, and
the adjacent residential cluster. Lands designated Park/Recreational Facility will be subject to the same land use regulations set forth in the City of Gilroy General Plan and the City of Gilroy Draft Parks and Recreation Master Plan.

Policy 3-78:  To ensure the creation of the Uvas Creek Linear Park and Uvas Creek Park Preserve, irrevocable offers of dedication to the City of Gilroy shall be required and obtained from property owners of land within the Hecker Pass Specific Plan Area that lies within the Linear Park or Park Preserve prior to the earlier of (a) prior to or concurrent with the first discretionary approval for projects for which no map is required; or (b) prior to or concurrent with final and/or parcel map approvals. In this instance, the tentative map shall have this requirement as a condition of its approval.

HECKER PASS NEIGHBORHOOD PARK:

The 3 acres of land designated Parks/Recreational Facility located north of the Uvas Creek Setback will be reserved and offered to the City for purchase as a neighborhood park. The neighborhood park will be developed as part of the adjacent residential cluster. Although the acreage has been counted as Park/Recreational Facility (PRF) in the Table 3-1: Land Use, the park is currently designated Cluster Residential on Figure 3-1: Land Use Diagram. The Land Use Diagram indicates a possible location for this park with an asterisk, however the exact location and configuration of this park will be determined at the time of development. If possible, this park should be visually and physically linked to the Uvas Creek Linear Park. Since these lands are located outside the Uvas Creek Setback, they can be used for more active recreation including tot lots, playgrounds, sport courts, playfields, community facilities, and other recreational uses deemed appropriate by the City of Gilroy. Lighting should be limited to reduce potential disturbances to the riparian habitat nearby. Lands within this area that are not used for recreational purposes may also be used for environmental mitigation subject to regulatory agency approval. Additional policies can be found in the Community Facilities Chapter (Chapter 6).

UVAS CREEK PARK PRESERVE:

The Specific Plan has established additional policies in Section 5.4.1, Riparian Habitats, specific to this portion of Uvas Creek Park Preserve. Uses allowed within the Park Preserve vary depending on proximity to sensitive habitat. Discussion of permitted uses in the Uvas Creek Park Preserve extension has been divided into two separate areas: habitat preserve and linear park. These areas are shown in Figure 3-1: Land Use Diagram and a representative cross section of these areas is illustrated in Figure 3-3: Uvas Creek Park Preserve and Linear Park Cross-Section.
**Habitat Preserve**

The habitat preserve includes approximately 73 acres of riparian corridor and 7 acres of buffer area between the existing sanitary sewer maintenance road and the Specific Plan Area’s southerly boundary. Access will be limited by split rail or other open type fencing to reduce human intrusion into this environmentally sensitive area. Trails shall be limited to unpaved walking/nature trails. Plantings shall be restricted to native species. All plantings, trails, fencing, and uses are subject to regulatory agency approval. The Conservation and Resource Management Chapter (Chapter 5) of this *Specific Plan* also includes policies pertaining to the Uvas Creek riparian corridor.

**Linear Park**

Approximately 15 acres of land designated Parks/Recreational Facility located between the Third Street Extension and the riparian corridor and buffer area will provide numerous recreational opportunities as a linear park for community residents. This area, shown as a cross hatch in “Figure 3-1: Land Use Diagram”, includes the existing sanitary sewer maintenance road, which will be converted into a Class I recreational trail. A major focus of the *Specific Plan* is to ensure that adequate pedestrian connections throughout the Specific Plan Area provide convenient access to all open space and recreational resources. This new Class I trail will provide a major public trail corridor along the Uvas Creek Park Preserve and link to other public trails along future roadways in the Specific Plan Area. Ultimately, this trail system will serve as part of the regional trail network and may provide a critical link to the Bay Ridge Regional Trail. Trail use in the Hecker Pass Area should be limited to bicycles, pedestrians, roller bladers and other non-motorized vehicles. Equestrian uses are prohibited. Recreational facilities including picnic areas, sitting areas, and other similar uses can occur in appropriate locations along the trail.
Landscaping should consist of native plantings and may include mitigation plantings in particular locations (refer to 7.4. Landscaping). Since most of this area is located within the Uvas Creek Setback, proposed uses, landscaping and improvements are subject to regulatory agency and City approval. More active uses such as tot lots, playgrounds, and playfields will occur outside the setback while mitigation areas, the Class I trail, and passive recreational uses can occur within the setback. Land use policies for public parks and trails are discussed further in the Community Facilities Chapter (Chapter 6). Any development encroachments into the creek setback must be approved by the City of Gilroy and fully mitigated (See Section 5.5).

3.4 AGRICULTURAL LAND USES

Agricultural is one of the most critical components of the rural design concept for the Hecker Pass Area because these uses preserve the rural and historical character of the Hecker Pass Area. Open agricultural fields preserve views towards Uvas Creek, preserve the scenic corridor of Hecker Pass Highway, buffer residential clusters and commercial uses, and create an interconnected network of agricultural and open space lands throughout the Specific Plan Area. Agricultural related commercial development serves as a visual reminder of Hecker Pass’ colorful history, preserves existing agricultural operations and takes advantage of the unique tourism potential of the area.

Goal 3-5: Provide for the ongoing operation of existing agricultural commercial uses and avoid creation of potentially conflicting uses.

Goal 3-6: Provide for limited small-scale Agri-Tourist commercial uses that support and enhance rural tourism in the Hecker Pass Area.

3.4.1 HECKER PASS AGRICULTURE

The Hecker Pass Agriculture land use designation provides for ongoing and new agricultural uses within the Specific Plan Area. These agricultural areas are generally located between Hecker Pass Highway and the Residential Cluster (RC) land use designation. These agricultural areas have been sited in such a manner to preserve significant view corridors, maintain the rural character of the area, and separate the Residential Cluster (RC) land uses. A more detailed description of these agricultural areas can be found in the Conservation and Resource Management Chapter (Chapter 5).

Policy 3-89: Establish significant development buffers along Hecker Pass Highway.

Policy 3-91(0): Establish open space or agricultural areas between Hecker Pass Highway and the Residential Cluster (RC) land uses to provide development buffers.

Agricultural crops shall be limited to low intensity crops such as vineyards, orchards and some row crops. An Integrated Agricultural Management Plan shall be prepared as part of the CC&R’s
for development projects that addresses pesticide use, heavy machinery use, and other elements as described in Section 5.2.1.3 Agricultural Management. All agricultural areas shall maintain minimum buffers between crops and residential units as described in Section 5.2.1.3 Agricultural Management.

It is intended that all the Hecker Pass Agricultural lands be permanent as part of the Specific Plan’s program for preservation of agricultural character. Permitted agricultural uses include all types of agriculture, gardens, outdoor plant and tree storage, and wholesale commercial tree and plant production. Temporary uses include bazaars and festivals. No development is permitted in agricultural areas with the exception of ancillary uses related to agricultural such as greenhouses and agricultural accessory buildings. Some Commercial uses are conditionally permitted within the Hecker Pass Agricultural land use areas such as landscape nurseries and wineries. Permitted and conditionally permitted Hecker Pass Agriculture uses are listed in Table 3-2.

3.4.2 AGRICULTURAL COMMERCIAL

The Agricultural Commercial land use designation is intended to provide for on-going and future agricultural commercial businesses in the Specific Plan Area. Existing agricultural commercial land will be protected under a new “Agriculture Commercial” land use designation. An example of this type of use is Goldsmith Seeds, Inc. Existing agricultural commercial uses will be protected by creating agricultural buffers between agricultural commercial and residential uses and by locating compatible land uses adjacent to the agricultural commercial uses. Permitted and conditionally permitted Agricultural Commercial uses are listed in Table 3-2.

Policy 3-411: Agricultural Commercial buildings shall be setback a minimum of 115 feet from the existing centerline of Hecker Pass Highway.

Policy 3-412: New habitable residential structures shall be setback a minimum of 50 feet from the Agricultural Commercial land use areas.

3.4.3 AGRI-TOURIST COMMERCIAL

To preserve the rural character of the Hecker Pass Area and at the same time capitalize on local tourism, an “Agri-tourist Commercial” land use designation was created for the Specific Plan. Only small-scale commercial uses associated with rural tourism, agricultural uses and some limited recreational services will be allowed. Agri-tourist uses may also include small-scale commercial uses serving local residents and
visitors. Examples of such local serving uses include but are not limited to a delicatessen, “mom & pop” grocery market, café, bistro, or small coffeehouse. All new commercial uses in the Hecker Pass Area are limited to a maximum of 25% gross area building coverage, with the exception of lands designated Agri-tourist Commercial Overlay, which are restricted to a maximum of 10% gross area building coverage. The remaining area can include agricultural crops, natural landscaping, fuel hazard reduction zones, gardens, recreational areas, outdoor event and seating areas, tree and plant growing areas, greenhouses, landscaped parking areas and driveways, gazebos, patio covers, tents, etc.

Policy 3-1213: All Agri-tourist commercial uses shall maintain a relatively small pedestrian scale and shall be, limited to a maximum of 25% gross site area building coverage with the exception of the 5-acre parcel designated as Agri-tourist Commercial Overlay on Figure 3-1: Land Use Diagram. This portion of the Hoey property designated as Agri-tourist Commercial Overlay shall be limited to a maximum 10% site area building coverage. Pedestrian scale development shall be defined as buildings that emphasize pedestrian access, comfort and visual interest. To this end, pedestrian-scale development shall be small in size, clustered, limited to a maximum of two stories, and include architectural elements such as awnings, columns, porches, and building decorations that are visible at eye level to a pedestrian on the ground adjacent to the building.

Policy 3-1314: Agri-tourist buildings shall be setback a minimum of 115 feet from the existing centerline of Hecker Pass Highway.

Policy 3-1415: The design of Agri-tourist facilities shall be consistent with the rural character of the area and with the Community Design Guidelines (Chapter 7) of this Specific Plan.

Policy 3-1516: No chain or franchise type convenience markets (i.e. 7-11, Stop and Go, etc.) shall be permitted within the Specific Plan Area.
6 = Must be visitor and local resident serving. No chain or franchise type convenience marts. May also include deli take-out food services.
7 = No chain or franchise type restaurants or fast food restaurants are permitted.
8 = Small Winery shall generally be defined as facilities that produce up to 10,000 cases of wine per year and may consist of the following
   (1) Bottling/crushing facilities
   (2) Lab and office space
   (3) Tasting room, storage
   (4) Indoor events room
   (5) Small outdoor event or picnic area.
9 = Wine tasting facilities may be developed in conjunction with any of the food serving establishments permitted in the Agricultural Commercial category or the Agri-tourist Commercial category and may include tasting room, storage, office, and small indoor events room.
10 = Conditional uses within the Hecker Pass Agriculture land use category should be located in the least viable agricultural lands.

3.5 RESIDENTIAL LAND USE

Residential development in the Specific Plan Area is intended to have a “rural” or “traditional” character that is consistent with the area’s scenic rural setting and enhances Hecker Pass’ historic, agricultural and wine country character. Residential development has been clustered to preserve larger areas for agriculture and open space uses and to preserve views and the overall character of the Hecker Pass Area. The Residential Cluster land use areas will incorporate “Livable” and “Walkable” community design principles to encourage compact, multi-dimensional land use patterns that ensure a mix of uses, minimize the use of cars, and promote walking, bicycling and transit access. The Specific Plan designates approximately 145 acres, or 34% of the total 423-acre Specific Plan Area, for residential uses. Approximately 17 homes already exist in the Hecker Pass Specific Plan Area. The majority of these homes are located north of Hecker Pass Highway near the intersection of Hecker Pass Highway and Santa Teresa Boulevard, in areas designated Hillside Residential on the Land Use Diagram. New residential development will be located in three distinct clusters: One north of Hecker Pass Highway adjacent to the Municipal Golf Course, and two south of Hecker Pass Highway. At maximum build out, the residential uses allow up to 506-521 new dwelling units resulting in an overall residential density of less than just over 1.2 du/ac for the Specific Plan Area.

Goal 3-7: Create a unique rural residential environment with a character that reflects that of the Hecker Pass Area.

New residential development should be designed to facilitate interaction between neighbors and foster a sense of community. Designs for residential areas should illustrate the development of “walkable,” pedestrian-scale neighborhoods, and the creation of pedestrian and bicycle facilities that make the area easily accessible to all residents and visitors by foot or bicycle (See Section
Mitigation Monitoring Program
For GPA 07-05

Introduction

CEQA Guidelines section 15097 requires public agencies to adopt reporting or monitoring programs when they approve projects subject to an environmental impact report or a negative declaration that includes mitigation measures to avoid significant adverse environmental effects. The reporting or monitoring program is to be designed to ensure compliance with conditions of project approval during project implementation in order to avoid significant adverse environmental effects.

The law was passed in response to historic non-implementation of mitigation measures presented in environmental documents and subsequently adopted as conditions of project approval. In addition, monitoring ensures that mitigation measures are implemented and thereby provides a mechanism to evaluate the effectiveness of the mitigation measures.

A definitive set of project conditions would include enough detailed information and enforcement procedures to ensure the measure's compliance. This monitoring program is designed to provide a mechanism to ensure that mitigation measures and subsequent conditions of project approval are implemented.

Monitoring Program

The basis for this monitoring program is the mitigation measures included in the project environmental impact report. These mitigation measures are designed to eliminate or reduce significant adverse environmental effects to less than significant levels. These mitigation measures become conditions of project approval, which the proponents of the Hecker Pass Specific Plan ("HPSP") and the proponent of the South Valley Community Church project ("Church Project") are required to complete.

The attached checklist is proposed for monitoring the implementation of the mitigation measures. This monitoring checklist contains all appropriate mitigation measures in the environmental impact report. The monitoring checklist is divided into two sections. The first section includes mitigation measures for the HPSP related actions, which were adopted by City Council Resolutions No. 2005-02. Mitigations for the HPSP consist largely of requirements, which subsequent individual projects, including the South Valley Community Church, must be consistent. The second section includes mitigation measures for the South Valley Community Church project.

Monitoring Program Procedures

The City of Gilroy shall use the attached monitoring checklist for the Hecker Pass Specific Plan and for the South Valley Community Church projects and subsequent projects. The monitoring program should be implemented as follows:
1. The Gilroy Community Development Department is responsible for coordination of the monitoring program, including the monitoring checklist. The Community Development Department should be responsible for completing the monitoring checklist and distributing the checklist to the responsible individuals or agencies for their use in monitoring the mitigation measures;

2. Each responsible individual or agency will then be responsible for determining whether the mitigation measures contained in the monitoring checklist have been complied with. Once all mitigation measures have been complied with, the responsible individual or agency should submit a copy of the monitoring checklist to the Community Development Department to be placed in the project file. If the mitigation measure has not been complied with, the monitoring checklist should not be returned to the Community Development Department;

3. The Community Development Department will review the checklist to ensure that appropriate mitigation measures and additional conditions of project approval included in the monitoring checklist have been complied with at the appropriate time, e.g. prior to issuance of a use permit, etc. Compliance with mitigation measures is required for project approvals; and

4. If a responsible individual or agency determines that a non-compliance has occurred, a written notice should be delivered by certified mail to the project proponent within 10 days, with a copy to the Community Development Department, describing the non-compliance and requiring compliance within a specified period of time. If non-compliance still exists at the expiration of the specified period of time, construction may be halted and fines may be imposed at the discretion of the City of Gilroy.
Hecker Pass Specific Plan Mitigation Monitoring Checklist

The following mitigations, adopted by City Council Res. 2005-02, apply to discretionary approval of any entitlements for projects within the specific plan area.

4. Individual project applicants shall specify in project plans the implementation of the following dust control measures during grading and construction activities for any proposed development. The measures shall be implemented as necessary to adequately control dust, subject to the review and approval by the City of Gilroy Planning Division:

The following measures shall be implemented at all construction sites:

- Water all active construction areas at least twice daily;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more);
- Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.);
- Limit traffic speeds on unpaved roads to 15 mph;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- Replant vegetation in disturbed areas;
- Place a minimum of 100 linear feet of 6 to 8 inch average diameter cobble at all exit points to dislodge and trap dirt from vehicle tires;
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 miles per hour; and
- Limit the area subject to excavation, grading and other construction activity at any one time.
Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

5. A qualified biologist shall survey the grassland area located to the north of the Hecker Pass Highway planned for residential development for potential aestivation habitat. If the area is determined to be aestivation habitat for the California tiger salamander, the biologist shall consult with the California Department of Fish and Game and the U.S. Fish and Wildlife Service regarding mitigation and permit requirements that must be incorporated as conditions of project approval.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

6. All future development within the specific plan area shall implement the following conditions to minimize disturbance to potentially significant cultural resources. Each of the following shall be made a condition of approval for grading and Building Permits:

a. Developers of each project within the specific plan area shall contract with a qualified archaeologist to provide an archeological site assessment to determine the need for monitoring during grading and excavation activities.

b. If cultural resources or human remains are discovered during construction, work shall be halted at a minimum of 165 feet (50 meters) from the find and the area shall be staked off. The monitoring professional archaeologist, if one is on site, shall be notified. If a monitoring professional archaeologist is not on-site, the city shall be notified immediately and a qualified professional archaeologist shall be retained. If the find is determined to be significant, appropriate mitigation measures shall be formulated by the professional archaeologist and implemented by the responsible party.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

9. Prior to development of any property within the specific plan area, a Phase 1 Environmental Site Assessment shall be prepared in accordance with ASTM Standard(s) to identify whether past or existing uses of the project property may have adversely affected soil or groundwater, or would otherwise pose a health hazard during site development or habitation. If the Phase I assessment finds that past uses may have contaminated the site, a Phase 2 Site Assessment shall be prepared. If contamination is present, clean up and disposal of such contamination shall be in compliance with federal, state and local regulations governing the cleanup and disposal of hazardous waste. Results of the Phase 1 and, if needed, the Phase 2 assessment and cleanup shall be presented to and approved by the City of Gilroy Engineering Division prior to issuance of a Building Permit.
10. Any development (i.e. public recreational facilities) with foundations or support on the ground that is located within 50 feet (or the distance in effect at the time of application) of the Uvas Creek top of bank shall conform to requirements of the Santa Clara Valley Water District.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

11. All noise generating construction activities shall be limited to weekdays between 7:00 AM and 7:00 PM, and to Saturdays between 9:00 AM and 7:00 PM. No construction is allowed on Sundays or city holidays. In addition, temporary berms or noise attenuation barriers shall be utilized when necessary. This requirement shall be attached as a contractor work specification for all projects.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

14. Residential development proposed adjacent to the Church project site shall be consistent with the City of Gilroy noise exposure standards in effect at the time a project application is submitted. Potential sound attenuation options for reducing exposure to Church project generated noise under current standards might include development setbacks from the Church property line, utilization of construction techniques to reduce interior noise exposure to 45dBA or less, installation of a sound wall and/or a landscaped berm between residential development sites and the Church property line, or another measure or combination of measures deemed acceptable to the city.

If buildout of the Church project and full utilization of the site occurs prior to an application being submitted for residential development, the applicant for the residential project may choose to conduct a noise study to determine noise levels at the Church property line based on actual conditions. Mitigation measures, if needed, would be proposed in the noise study consistent with city noise standards in effect at that time.

The noise mitigation approach proposed by the applicant for residential development adjacent to the Church shall be subject to review and approval of the City of Gilroy Engineering Division prior to approval of a Building Permit.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Engineering Division
18. The original mitigation measure for the HPSP pursuant to Resolution No. 2005-02 was as follows: “Applicants for projects within the specific plan area shall be responsible for widening Hecker Pass Highway to a four-lane urban arterial from Santa Teresa Boulevard to the East intersection. This improvement is contingent on approval of the HPSP applicant’s general plan amendment that would reclassify Hecker Pass Highway to an arterial. Applicants shall coordinate with the City of Gilroy Engineering Division to design and implement the widening project. Removal of deodar cedar trees along the highway must be avoided wherever possible and improvements must be consistent with State scenic highway guidelines.”

This mitigation measure was modified pursuant to GPA 06-02, October 2006 Mitigated Negative Declaration, to be revised and replaced to read as follows:

“Mitigation Measure T-1 (Specific Plan EIR mitigation measure 18)

Applicants for projects within the specific plan area shall be responsible for improving Hecker Pass Highway immediately west of Santa Teresa Boulevard to include a second westbound travel lane. The second westbound travel lane on Hecker Pass Highway, and the appropriate lane-drop taper consistent with Caltrans’ Standards, should extend as far as possible beyond (west of) Santa Teresa Boulevard as can be accommodated within the existing public right-of-way, with the design subject to approval by the City Engineer in his/her reasonable discretion. Applicants shall coordinate with the City of Gilroy Engineering Division to design and implement the widening project. Removal of deodar cedar trees along the highway must be avoided wherever possible and improvements must be consistent with State scenic highway guidelines. Traffic signal modifications should be made to the intersection of Santa Teresa Boulevard and First Street/Hecker Pass Highway to add vehicle detection for the second eastbound through lane.”

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

19. The original mitigation measure for the HPSP pursuant to Resolution No. 2005-02 was as follows: “Applicants for projects within the specific plan area shall be responsible for upgrading Hecker Pass Highway to a two-lane arterial from the East intersection to the Bonfante Gardens intersection. This improvement is contingent on approval of the HPSP applicant’s general plan amendment that would reclassify Hecker Pass Highway to a two-lane arterial. Applicants shall coordinate with the City of Gilroy Engineering Division to design and implement the upgrade project. Removal of deodar cedar trees along the highway must be avoided wherever possible and improvements must be consistent with State scenic highway guidelines. The upgrade project must be approved by the relevant State and local agencies.”
This mitigation measure was modified pursuant to GPA 06-02, October 2006 Mitigated Negative Declaration, to be revised and replaced to read as follows:

“Mitigation Measure T-2 (Specific Plan EIR mitigation measure 19)

Applicants for projects within the specific plan area shall be responsible for shoulder improvements to Hecker Pass Highway, per Caltrans’ standards, between Santa Teresa Boulevard and the easterly limits of the planned Caltrans Uvas Creek Bridge Improvement project. Applicants shall coordinate with the City of Gilroy Engineering Division to design and implement the shoulder improvements. Removal of deodar cedar trees along the highway must be avoided wherever possible and improvements must be consistent with State scenic highway guidelines.”

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

20. Applicants for individual projects within the specific plan area shall contribute traffic impact fees for future cumulative circulation improvements consistent with the requirements of the City of Gilroy citywide traffic impact fee ordinance. Fees shall be paid to the city prior to issuance of development permits.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

22. Storm water detention shall be designed to prevent an increase in the 2-year, 10-year and 100-year peak discharge for the project area (refinement of existing HPSP policy 8-6)

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

23. Hecker Pass Specific Plan EIR Table S1, Summary of Impacts and Mitigation Measures. The area of concern, Agriculture, will be modified to state:

“HPSP Public Safety (Agricultural Management) Policies 5-93 through 5-97; Policy 5-7: “To ensure the preservation of designated agricultural areas in perpetuity, permanent agricultural easements, deed restrictions, or other such instruments shall be created for each property in each agricultural area at the earlier of (a) prior to or concurrent with the first discretionary approval for projects for which no map is
required; or (b) prior to or concurrent with final and/or parcel map approvals. In this instance, the tentative map shall have this requirement as a condition of its approval, and that map shall generally describe the area to be restricted. To ensure the preservation of designated open space areas in perpetuity, permanent open space easements, deed restrictions, or other such instruments shall be created for each property in each open space area at the earlier of (a) prior to or concurrent with the first discretionary approval for projects for which no map is required; or (b) prior to or concurrent with final and/or parcel map approvals. In this instance, the tentative map shall have this requirement as a condition of its approval, and, that map shall generally describe the area to be restricted.”

**Party responsible for implementation:** Applicant

**Party responsible for monitoring:** Gilroy Planning Division

**South Valley Community Church Mitigation Monitoring Checklist**

**Step 1**

Prior to approval of a **conditional use permit**, the following mitigation measures shall be implemented:

1. The applicant shall prepare a detailed landscaping plan. In addition to landscaping for screening buildings to minimize their visual massiveness, the plan shall provide for:

   - extensive landscaping along the western property line to facilitate a smooth visual transition from rural, agricultural uses to the west and the parking areas proposed along the western boundary of the site; and

   - dense landscaping within the Hecker Pass Highway setback area to screen views of the parking areas as seen from Hecker Pass Highway. Landscape plantings in this area must avoid blocking views across the site to Uvas Creek and the foothills.

   **Party responsible for implementation:** Applicant

   **Party responsible for monitoring:** Gilroy Planning Division

2. The applicant shall prepare a detailed parking area treatment plan. The plan shall illustrate how, through a combination of grade differences/terracing, landscaping, landscaped berms, and use of alternatives to asphalt such as pervious paving materials (i.e. decomposed granite or gravel) or earth tone pigmented concrete, the visual impact of all parking areas as seen from Hecker Pass Highway will be minimized. Use of alternative paving materials shall be prioritized as specified in the HPSP. The parking area treatment plan shall be subject to review and approval by the city prior to approval of a Conditional Use Permit.
Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

3. The applicant shall prepare a detailed lighting plan, which demonstrates how nighttime lighting of playfields will be designed and the lighting technology that shall be used. Nighttime lighting of playfields should be prohibited by the city unless the plan clearly demonstrates that nighttime lighting will not create a significant source of glare that is inconsistent with maintaining the rural character of the plan area. The lighting plan shall be subject to review and approval of the city for consistency with this mitigation and with relevant HPSP lighting policies prior to issuance of a Conditional Use Permit. This review should be coordinated with mitigation provided in Section 2.4, Biological Resources, regarding lighting impacts on the habitat value of the Uvas Creek corridor.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

7. The Church project applicant shall retain a theme of Conrotto viniculture within the new Church project. Options for designs include developing a display along Hecker Pass Highway, creating a Conrotto viniculture historic walk, and/or other approaches to be developed by the applicant. The design should utilize structures, winery artifacts, landscaping, and other elements. The design shall be subject to review and approval of the city prior to approval of a Conditional Use Permit.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

Step 2

Prior to approval and issuance of a grading or building permit, the following mitigation measures shall be implemented:

2. The project proponent shall, to the extent feasible, use equipment powered by other than diesel fuel, or if diesel fueled equipment is used, employ soot filters or other devices to effectively reduce emissions.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Engineering Division

8. The Church project applicant shall implement the following actions:

   a. The applicant shall contract with a qualified archaeologist to provide an archaeological site assessment to determine the need for continuous monitoring during grading and excavation activities. If cultural resources or human remains...
are discovered during construction, immediate and appropriate mitigation measures shall be implemented.

b. If cultural resources or human remains are discovered during construction, work shall be halted at a minimum of 165 feet (50 meters) from the find and the area shall be staked off. The monitoring professional archaeologist, if one is on site, shall be notified. If a monitoring professional archaeologist is not on-site, the city shall be notified immediately and a qualified professional archaeologist shall be retained. If the find is determined to be significant, appropriate mitigation measures shall be formulated by the professional archaeologist and implemented by the responsible party.

Party responsible for implementation: Applicant
Party responsible for monitoring: Gilroy Planning Division

12. Doors to the reception hall shall be closed as much as possible whenever significant noise generating activities such as live or recorded music is being played. The interior of the reception hall shall be acoustically designed to minimize sound build up within the space and to control reflected sound from being emitted. Outdoor music for weddings and any other functions should be limited to soft music styles and instrumentation, typical of wedding ceremony music. These requirements shall be made conditions of approval of a Building Permit.

Party responsible for implementation: Applicant
Party responsible for monitoring: Gilroy Engineering Division

13. The applicant shall construct a six-foot high acoustically effective barrier along the property line contiguous with the residences to the east (Village Green). The barrier shall extend from the Reception Gardens to the south property line. The barrier height is in reference to the nearest play area ground elevation. Plans for the barrier shall be subject to review of the City of Gilroy Engineering Division prior to approval of a Building Permit.

Party responsible for implementation: Applicant
Party responsible for monitoring: Gilroy Planning Division

15. The applicant shall perform a detailed analysis of the church and school mechanical equipment systems to ensure compliance with the city standards under cumulative (traffic plus playground plus mechanical equipment, etc.) conditions. The analysis shall be performed by a qualified acoustician and approved by the City of Gilroy Engineering Division prior to approval of a Building Permit.

Party responsible for implementation: Applicant
Party responsible for monitoring: Gilroy Planning Division
16. To minimize noise annoyance to the residences to the west of the gymnasium, all windows and doors on the west and south sides of the gymnasium shall remain closed during noise generating activities inside the gymnasium. Noise generating activities include, but are not limited to, athletic games and practice, social events with music, and P.E. classes. These requirements shall be made conditions of approval of a Building Permit.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Planning Division

17. The Church project applicant shall ensure that the following actions are incorporated into the contractor specifications:

- Construct the six-foot high noise control barrier along the east property line before any other site work is performed;

- Demolition of buildings should occur in phases with the walls of the building closest to existing residences being removed last as the walls can act as noise barriers;

- All diesel powered equipment should be located more than 115 feet from any residence if the equipment is to operate for more than several hours per day; and

- Consider implementing the additional ancillary noise attenuation actions as listed in the Noise Assessment Study for the Planned South Valley Community Church and School.

Party responsible for implementation: Applicant

Party responsible for monitoring: Gilroy Engineering Division

21. The Church project applicant shall participate in the city’s traffic impact fee program in order to mitigate its incremental impacts on the circulation system. Fees shall be paid prior to approval of a Conditional Use Permit.
I, SHAWNA FREELS, City Clerk of the City of Gilroy, do hereby certify that the attached Resolution No. 2009-33 is an original resolution, or true and correct copy of a city resolution, duly adopted by the Council of the City of Gilroy at a regular meeting of said Council held on the 3rd day of August, 2009, at which meeting a quorum was present.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Gilroy this 18th day of August, 2009.

Shawna Freels, CMC
City Clerk of the City of Gilroy

(Seal)
ADDENDUM G

Zoning Ordinance No. 2015-05
ORDINANCE NO. 2015-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GILROY APPROVING ZONE CHANGE Z 15-02, A PLANNED UNIT DEVELOPMENT ZONING AMENDMENT TO APPROVE THE HEARTLANDS ESTATES PHASE II PROJECT, FILED BY MERITAGE HOMES C/O SCOTT KRAMER, FOR PROPERTY LOCATED ON THE NORTHERN PORTIONS OF 1690 AND 1750 HECKER PASS ROAD (APN 810-21-009)

WHEREAS, Meritage Homes submitted an application requesting a Planned Unit Development zoning amendment to approve The Heartlands Estates Phase II project; and

WHEREAS, The Heartlands Estates Phase II Planned Unit Development sets forth the architectural standards for property located on the northern portions of 1690 and 1750 Hecker Pass Road (APN 810-21-009); and

WHEREAS, the Planned Unit Development design conforms to all setbacks set forth in the Hecker Pass Specific Plan; and

WHEREAS, the Planned Unit Development design establishes a new front porch setback of 11 feet to the right-of-way; setbacks for porches are not identified in the specific plan, and this standard is specific to the Heartland Estates subdivision only; and

WHEREAS, the developer will contribute to providing the following amenities, required both by the Hecker Pass Specific Plan development agreement and this Planned Unit Development approval:

1. Two million dollars ($2,000,000) for a “Public Benefit Fee”;

2. Improve and dedicate a three-acre neighborhood park at no cost to the city;

3. Improve and dedicate a trail and other improvements along the portion of the De Bell Uvas Creek Park Preserve that lies within the boundaries of the Specific Plan area at no cost to the city;

4. Provide a wireless computer communication system for city employees in the Specific Plan Area;

5. Reconstruct approximately 1,000 feet of a sewer main that traverses the Specific Plan area; and construct a Class I trail south of SR 152; and

WHEREAS, the Planning Commission of the City of Gilroy considered the zone change request (Z 15-02) in accordance with the existing General Plan and GPA 14-02, the Staff Report dated April 2, 2015, the testimony in the Public Hearing duly held on April 2, 2015, and the Gilroy Zoning Ordinance and other applicable standards and regulations; and

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LAC04706089

ORDINANCE NO. 2015-05
WHEREAS, an addendum to the certified Hecker Pass Specific Plan/South Valley Community Church EIR has been prepared for this project, entitled HECKER PASS SPECIFIC PLAN AMENDMENT #3 (GPA 14-02) AND RESIDENTIAL SUBDIVISION (TM 14-04); Addendum to the Hecker Pass Specific Plan/South Valley Community Church EIR (SCH #2005012119); and

WHEREAS, the addendum analyzed the proposed Hecker Pass Specific Plan text amendments and development of The Heartlands Estates Phase II and determined the proposed amendments to the specific plan would not create new significant environmental effects, intensify previously identified effects or take place in a context where new information is available that would alter conclusions in the Hecker Pass Specific Plan/South Valley Community Church EIR concerning potential environmental effects; and

WHEREAS, the Planning Commission of the City of Gilroy recommended approval of the zone change to the City Council; and

WHEREAS, the City Council held a duly noticed public hearing on May 4, 2015, and reviewed the staff reports from April 2, 2015, and May 4, 2015.

NOW, THEREFORE, BE IT RESOLVED THAT:

The City Council finds as follows:

Z15-02 is consistent with the General Plan and General Plan Amendment 14-02 and the City Zoning Ordinance.

This ordinance shall become effective thirty (30) days from the date of its adoption, so long as General Plan Amendment 14-02 is in full force and effect on that date.

PASSED AND ADOPTED this 1st day of June, 2015 by the following roll call vote:

AYES: COUNCILMEMBERS: BRACCO, LEROE-MUÑOZ, TUCKER, VELASCO, WOODWARD and GAGE

NOES: COUNCILMEMBERS: NONE

ABSTAIN: COUNCILMEMBERS: AULMAN

APPROVED:

Donald Gage, Mayor

ATTEST:

Shawna Freels, City Clerk

ORDINANCE NO. 2015-05
I, SHAWNA FREELS, City Clerk of the City of Gilroy, do hereby certify that the attached Ordinance No. 2015-05 is an original ordinance, or true and correct copy of a City ordinance, duly adopted by the Council of the City of Gilroy at a regular meeting of said Council held on the 1st day of June, 2015, at which meeting a quorum was present.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Gilroy this 2nd day of June, 2015.

[Signature]

Shawna Freels, MMC
City Clerk of the City of Gilroy

(Seal)
ADDENDUM H

General Plan Resolution No. 2015-21
RESOLUTION NO. 2015-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY RECOMMENDING APPROVING GENERAL PLAN AMENDMENT APPLICATION GPA 14-02, A GENERAL PLAN AMENDMENT TO MODIFY THE HECKER PASS SPECIFIC PLAN, FILED BY NORTHERN CALIFORNIA LAND AND ENTITLEMENT CONSULTANTS FOR APNs 810-20-004 AND 810-21-009

WHEREAS, Northern California land and Entitlement Consultants submitted an application requesting a General Plan Amendment to amend portions of the Hecker Pass Specific Plan to remove the Community Facilities land use designation and change the designation to Residential Cluster and to change a portion of the property designated as Hecker Pass Agriculture to Agricultural Commercial, with corresponding and associated text changes; and

WHEREAS, the subject properties are located at 1690, 1750, and 2300 Hecker Pass Road (APNs 810-20-004 and 810-21-009); and

WHEREAS, the Planning Commission of the City of Gilroy has considered General Plan Amendment Application GPA 14-02, in accordance with the Gilroy General plan, the Hecker Pass Specific Plan, and other applicable standards and regulations; and

WHEREAS, an addendum to the certified Hecker Pass Specific Plan/South Valley Community Church EIR, entitled HECKER PASS SPECIFIC PLAN AMENDMENT #3 (GPA 14-02) AND RESIDENTIAL SUBDIVISION (TM 14-04): Addendum to the Hecker Pass Specific Plan/South Valley Community Church EIR (SCH #2003012119), has been prepared for this project; and

WHEREAS, the addendum analyzed the proposed Hecker Pass Specific Plan text amendments and development of The Heartlands Estates Phase II and determined the proposed amendments to the specific plan would not create new significant environmental effects, intensify previously identified effects or take place in a context where new information is available that would alter conclusions in the Hecker Pass Specific Plan/South Valley Community Church EIR concerning potential environmental effects; and

WHEREAS, said General Plan Amendment application was referred to various City departments, including the Technical Advisory Committee, for recommendations; and

WHEREAS, the Planning Commission of the City of Gilroy has considered the Staff Report dated April 2, 2015, along with testimony received at the duly-noticed public hearing and other materials; and

WHEREAS, the Planning Commission finds the General Plan Amendment Application conforms to the intent of the adopted Hecker Pass Specific Plan and elements thereof.
NOW, THEREFORE, BE IT RESOLVED THAT:

The City Council of the City of Gilroy hereby approves General Plan Amendment Application GPA 14-02 as follows:

1. Amend Hecker Pass Specific Plan Figure 3-1, Land Use Map, and Table 3-1, Land Use, to change the Community Facilities designation of the SVCC North site to Residential Cluster. With this change, no more Community Facility-designated land will exist within the specific plan boundary.

2. Amend Hecker Pass Specific Plan Table 3-3, Residential Cluster Lot Size Requirements, to redistribute lot types to account for the proposed development of the SVCC North site with 33 residential units.

3. Remove Section 3.6, Community Facilities from the Hecker Pass Specific Plan.

4. Amend Hecker Pass Specific Plan Figure 9-2, Conceptual Development Phasing Plan in the specific plan, to reflect that the project site is now considered as Phase I (residential).

5. Amend text throughout the Hecker Pass Specific Plan document to account for the change in land use designation as reflected in the proposed Hecker Pass Specific Plan amendments presented to the city council.

6. Amend Hecker Pass Specific Plan Figure 3-1, Land Use Diagram, to change four acres in the eastern portion of the Arias property from Hecker Pass Agriculture to Agricultural Commercial.

Based on the statements above, the Gilroy City Council finds that the proposed General Plan amendments are in the public interest. This amendment will be effective thirty (30) days after its adoption unless prevented by law from taking effect.

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RESOLUTION NO. 2015-21
PASSED AND ADOPTED this 18th day of May, 2015 by the following roll call vote:

AYES: COUNCILMEMBERS:  BRACCO, LEROE-MUÑOZ, TUCKER, VELASCO, WOODWARD and GAGE

NOES: COUNCILMEMBERS:  NONE

ABSENT: COUNCILMEMBERS:  NONE

ABSTAIN: COUNCILMEMBERS:  ALL MAN

APPROVED:

[Signature]

Donald Gage, Mayor

ATTEST:

[Signature]

Shawna Freels, City Clerk

RESOLUTION NO. 2015-21
I, SHAWNA FREELS, City Clerk of the City of Gilroy, do hereby certify that the attached Resolution No. 2015-21 is an original resolution, or true and correct copy of a city Resolution, duly adopted by the Council of the City of Gilroy at a regular meeting of said Council held on the 18th day of May, 2015 at which meeting a quorum was present.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Gilroy this 19th day of May, 2015.

Shawna Freels, MMC
City Clerk of the City of Gilroy

(Seal)