

August 9th, 2021

To: Matthew Kazmierczak

From: Ken Pyle (Airport Commission Vice-Chair)

Subject: Concerns and Questions regarding meeting the FAA obligations regarding Guadalupe Gardens

Recent news reports suggest that Airport is planning on removing homeless encampments and building a fence around approximately 40-acres on the Guadalupe Gardens property between Hedding and Taylor.

It is great news that there appears to be progress being made on a challenging issue. My concern is the cost of a fence and that it becomes permanent meaning this land remains permanently fallow.

With that said, please allow this letter to summarize some of the many questions that I hope are being raised as alternatives are discussed.

Questions:

1. What is the maximum number of people that can be in the location under consideration?
2. How is SJC engaging the Guadalupe River Park Conservancy on this short-term plan?
3. Longer-term, what activities would the FAA potentially allow for this location, if any? For instance
 - a. Disc golf? Observation: The Kelly Park Disc Golf is privately maintained and there are no encampments, despite it having similarities to the Guadalupe location.
 - b. Regular golf?
 - c. Other recreation?
 - d. Percolation ponds?
 - e. Farming of any kind?
 - f. Solar arrays or other energy generation?
4. How much is the fencing and how long is it expected to last?
5. What other options were considered besides a fence? For instance, what about regular patrols to prevent new encampments?
6. Has a location been found for a new safe, encampment? A few ideas:
 - a. What about using underutilized Government agency parking lots?
 - b. Parking lots of some of the underutilized commercial buildings in that same area would seem to have potential. This would require private entities to make parking space available and probably require jumping through lots of rules and regulations. Still, a creative way to use those empty masses of land might be a way for our corporate citizens to make a large impact in improving people's living conditions with minimal investment.

7. Lastly, why is it that homeless encampments were allowed to be built in Guadalupe Gardens in the first place? For example, the ½-acre next to the cell phone parking lot (pictured below) does not have homeless encampments. The City of San Jose should have had the same sense of stewardship for Guadalupe Gardens.



Footnote:

Based on the comment on page 76 of the most recent financial report for SJC, it appears there may not be clear-cut answers as to what can be done as long as this land is encumbered by FAA restrictions.

“Potential Claim from FAA Regarding Reuse of Guadalupe Gardens

In early 2002, the City Council approved a Master Plan for Guadalupe Gardens, consisting of approximately 120 acres of mostly vacant, City-owned property located south of the Airport, much of which falls within an FAA-established safety zone. The City acquired the Guadalupe Gardens properties using FAA grants for airport approach protection and noise compatibility, and the FAA grant agreements consequently required FAA approval of any planned City-use of the properties acquired with grant proceeds. By letter dated August 9, 2002, addressed to the City’s Director of Aviation, the FAA San Francisco Airport District Office (ADO) approved the City’s Master Plan for reuse of Guadalupe Gardens for runway and approach protection, and the City finalized the Master Plan in reliance upon the FAA approval. During discussions regarding proposals to develop certain portions of the Guadalupe Gardens, the FAA has taken the position that the City must dispose of any portion of the Guadalupe Gardens that is no longer needed for noise compatibility purposes. Citing provisions of federal law that require recipients of FAA grants for acquisition of land for noise compatibility purposes to dispose of any such acquired land when no longer needed by the airport owner for noise compatibility purposes, the FAA

contends that the FAA ADO erred in its 2002 approval of the Guadalupe Gardens Master Plan and that the City is obligated to prepare an inventory of the Guadalupe Gardens to identify those parcels that were acquired by the City with noise compatibility grant proceeds. This inventory would then be used to prepare for FAA review and approval of a disposition plan for those parcels no longer needed by the City for noise compatibility. Proceeds of the sale of the parcels proportionate to the FAA grant share of the original purchase price would be required to be used for other approved noise compatibility projects at the Airport or returned to the FAA. The City believes that it has viable defenses to any potential claim by the FAA with regard to Guadalupe Gardens. The FAA ADO's 2002 approval of the Guadalupe Gardens Master Plan constituted an official FAA approval of the City's reuse of the parcels acquired with proceeds from FAA noise compatibility grants, and the approval expressly provides that the entire Guadalupe Gardens is necessary for the continuing aeronautical purpose of runway and approach protection. Having received official FAA approval of its reuse of the parcels, the City believes it is under no obligation to take any further action to secure further FAA approval of its continuing use of the Guadalupe Gardens. However, the City cannot predict the final outcome of any such potential claim by the FAA."