

RESOLUTION NO. 72768

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS CONCERNING MITIGATION MEASURES, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, AND MAKING FINDINGS CONCERNING ALTERNATIVES IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR THE NORTH SAN JOSÉ AREA DEVELOPMENT POLICY, THE NORTH SAN JOSÉ DEFICIENCY PLAN, CERTAIN GENERAL PLAN AMENDMENTS, APPLICATION NOS. GPT04-04-06A, GPT04-0406B, GP04-04-06A, GP04-04-06B, AND AN ADDITION TO THE LIST OF PROTECTED INTERSECTIONS, FOR WHICH AN ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

WHEREAS, prior to the adoption of the Resolution, the City Council of the City of San Jose has certified the Final Environmental Impact Report ("FEIR" or "First Amendment to the DEIR") for the North San José Development Policy Update (Project) and found the FEIR was completed in accordance with the requirements of the California Environmental Quality Act (CEQA) and state and local guidelines; and

WHEREAS, the Project requires the City to approve a revised North San José Area Development Policy, a revised North San José Deficiency Plan, amendments to the General Plan Land Use/Transportation Diagram (Application Nos. GP04-04-06A, GP04-04-06B), an amendment to the General Plan text for building height (Application Nos. GPT04-04-06A, GPT04-0406B), revisions to the Rincon Redevelopment Plan, and the addition of intersections to the approved List of Protected Intersections; and

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

NOW, THEREFORE, BE IT RESOLVED

THAT THE CITY COUNCIL does hereby find that it has independently reviewed and analyzed the FEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the Environmental Review and the Project, prior to acting upon and approving the Project, and has found that the Environmental Review represents the independent judgment of the City of San Jose and designates the Director of Planning, Building and Code Enforcement at his office at 801 North First Street, Room 400, San Jose, California 95121, as custodian of documents and record of proceedings on which the decision is based; and

THAT THE CITY COUNCIL does hereby make the following findings with respect to significant effects on the environment of such Project, as identified in the FEIR:

I. LAND USE

A(1). Impact: The significant increase in residential development in direct proximity to existing and proposed industrial facilities will increase the likelihood of conflicts between industrial vehicles and residents, especially pedestrians and persons on bicycles. Increased overall development intensity, which will also increase bicycle and pedestrian activity, will further add to non-vehicular traffic in the area. This could create significant safety impacts. (Significant Impact)

A(2). Mitigation (a): Conformance with the following existing General Plan policies would reduce the potential for significant impacts resulting from the proposed land use amendments to a less than significant level:

Industrial Land Use Policy #1 states industrial development should incorporate measures to minimize negative impacts on nearby land uses.

Industrial Land Use Policy #19 states new industrial development should create a pedestrian friendly environment by connecting the features of the development with safe, convenient, accessible, and pleasant pedestrian facilities. Such connections should also be made between the new development and adjacent public streets.

Residential Land Use Policy #22 states high density residential and mixed residential/commercial development located along transit corridors should be designed to:

- create a pleasant walking environment to encourage pedestrian activity, particularly to the nearest transit stop;
- maximize transit usage;
- allow residents to conduct routine errands close to their residence;
- integrate with surrounding uses to become a part of the neighborhood rather than an isolated project;
- use architectural elements or themes from the surrounding neighborhood; and
- ensure that building scale does not overwhelm the neighborhood.

Residential Land Use Policy #23 states new high-density residential development in Transit-Oriented Development Corridors and BART Station Area Nodes should be designed to protect residents from any potential conflicts with adjacent land uses.

Residential Land Use Policy #24 states new residential development should create a pedestrian friendly environment by connecting the features of the development with safe, convenient, accessible, and pleasant pedestrian facilities. Such connections should also

be made between the new development, the adjoining neighborhood, transit access points, and nearby commercial areas.

Urban Design Policy #1 states that the City should continue to apply strong architectural and site design controls on all types of development to ensure the proper transition between areas with different types of land uses.

Mitigation (b): Adherence to the City Council's adopted Transportation Impact Policy would not allow future mitigation for traffic congestion impacts to eliminate or reduce capacity for alternative transportation modes. The effect of this policy modification will be to minimize the likelihood that future intersection or roadway widening will degrade or eliminate bicycle lanes, sidewalks, bus stops, or other elements of the City's transportation infrastructure.

The proposed Area Development Policy includes requirements for all new industrial development to include all feasible TDM measures to reduce vehicular traffic generation.

Mitigation (c): All new development in North San José will be subject to a design review process that includes review of site planning and architecture as well as consistency with the assumptions in this EIR. Most industrial development, including development in the newly designated Industrial Core Area, will be processed through Site Development Permits. Mixed-use projects in which residential and industrial uses are combined on the same site may be processed through Planned Development zoning and PD Permits.

Residential development, including residential/commercial mixed-use development, will be processed through PD zoning and PD Permits.

All new development will be reviewed for consistency with the City's adopted Industrial and Residential Design Guidelines.

A(3). Finding: Potential conflicts between industrial traffic and increased volumes of bicycle and pedestrian traffic will be minimized or avoided through implementation of and adherence to specific policies and design guidelines, through the City's design review process.

A(4). Facts in Support of Finding: The following facts indicated the identified impact will be reduced to a less than significant level:

All new development will be subject to the City's design review process. This process requires that Planning and Public Works Staff review site design, driveway locations, vehicular circulation, sidewalk locations, truck access points, loading dock locations, transit stop design and locations to ensure that designs minimize or avoid conflict between vehicular movements and non-vehicular movements. This fact supports the City's finding.

B(1). Impact: The amount of development proposed in North San José will result in significantly increased congestion along major arterials and residential collectors. This congestion is likely to result in the generation of cut-through traffic using the grid streets in nearby residential neighborhoods. Many of the residential streets that will directly experience significant traffic increases serve front-on residences, both single family houses and duplexes, that would be adversely impacted by the secondary effects of significant traffic increases. (Significant Impact)

B(2). Mitigation: Conformance with the City Council's adopted Traffic Calming Policy, which includes performance of periodic analyses of the source of cut-through traffic, and implementation of various measures to minimize or avoid neighborhood impacts, will reduce the effects of cut-through traffic.

B(3). Finding: Although the proposed mitigation measure will reduce cut-through traffic on residential streets, this impact cannot be reduced to a less than significant level. There is no mitigation available that would reduce this impact to less than significant. This impact will remain **significant and unavoidable**.

II. TRAFFIC

A(1). Impact: Implementation of the proposed General Plan amendments during the current General Plan horizon, including land use and network revisions, could cause significant increases in traffic across the three special subarea screenlines for Evergreen, South San José, and North San José. The proposed General Plan amendments will also result in significant increases in traffic congestion on six roadway link sets that provide access to the project area.

A(2). Mitigation: Conformance with the following existing General Plan policies would reduce the potential for significant impacts resulting from the proposed General Plan amendments:

- Transportation Goal #3 states that the City shall develop a continuous, safe, accessible, interconnected high quality pedestrian environment that promotes walking as a desirable mode of transportation.
- Transportation Policy #1 (Thoroughfares) states that inter-neighborhood movement of people and goods should occur on thoroughfares and is discouraged on neighborhood streets.
- Transportation Policy #3 (Thoroughfares) states that public street right-of-way dedication and improvements should be required as development occurs. Ultimate thoroughfare right-of-way should be no less than the dimensions as shown on the Land Use/Transportation Diagram except when a lesser right-of-way would avoid significant social, neighborhood or environmental impacts and perform the same traffic movement function.
- Transportation Policy #8 (Thoroughfares) states that vehicular, bicycle, and pedestrian safety should be an important factor in the design of streets and roadways.

- Transportation Policy #9 (Impacts on Local Neighborhoods) states that neighborhood streets should be designed to discourage through traffic and unsafe speeds. If neighborhood streets are used for through traffic or if they are traveled at unsafe speeds, law enforcement and traffic operations techniques should be employed to mitigate these conditions.
- Transportation Policy #16 (Pedestrian Facilities) states that pedestrian travel should be encouraged as a mode of movement between residential and non-residential areas throughout the City and in activity areas such as schools, parks, transit stations, and in urban areas, particularly the Downtown Core and Frame Areas and neighborhood business districts by providing pedestrian facilities that are pleasant, safe, and accessible to people with disabilities, and convenient.
- Transportation Policy #22 (Pedestrian Facilities) states that pedestrian pathways and public sidewalks should provide connectivity between uses, such as neighborhoods, schools, parks, libraries, open space, public facilities, shopping centers, employment centers, and public transit. A continuous pedestrian facilities network should include pedestrian connections between neighborhoods, across natural and man-made barriers, between dead-end streets, and to trails and transit.
- Transportation Policy #41 (Bicycling) states that the City should develop a safe, direct, and well-maintained transportation bicycle network linking residences, employment centers, schools, parks, and transit facilities and should promote bicycling as an alternative mode of transportation for commuting as well as for recreation.
- Transportation Policy #42 (Bicycling) states that bike lanes are considered generally appropriate on arterial and major collector streets. Right-of-way requirements for bike lanes should be considered in conjunction with planning the major thoroughfares network and in implementing street improvement amendments.
- Transportation Policy #43 (Bicycling) states that priority improvements to the Transportation Bicycle Network should include:
 - Bike routes linking light rail stations to nearby neighborhoods.
 - Bike paths along designated trails and pathway corridors.
 - Bike paths linking residential areas to major employment areas.

A(3). Finding: Consistency with the relevant General Plan policies will reduce some of the traffic impacts resulting from implementation of the proposed land use amendments. Consistency will not, however, reduce these impacts to less than significant. Impacts will remain **significant and unavoidable**.

B(1). Impact: Full implementation of the proposed project would result in significantly increased congestion at 36 intersections for which there is no feasible mitigation. This includes impacts at 21 intersections in San José, 12 of which are within the North San José project area; 9 impacted intersections are in the City of Santa Clara; one intersection is in the City of Sunnyvale; one intersection is in the City of Campbell; and four intersections are in the City of Milpitas.

B(2). Mitigation: Mitigation consisting of physical improvements is proposed for the remaining City of San Jose study intersections. The mitigation for the individual intersections will be phased over time, concurrent with phasing of the development. Intersections will be improved in four development phases which represent approximately equal amounts of development; 85% of all infrastructure mitigation for any individual phase (and all infrastructure for any previous phase) must be built or reasonably assured prior to issuance of building permits for any subsequent phase. The list of intersections that will be improved during each phase is included in the Project Description section of the Final EIR. These intersection improvements will be funded through a development impact fee collected prior to the issuance of building permits. The phasing of development and mitigation measures could allow temporary congestion at some intersections to exist for unknown periods of time until the improvements are installed.

City of San Jose Intersections. No feasible mitigation was identified for 21 of the significantly impacted intersections located within the City of San Jose, therefore the impacts to these intersections are significant and unavoidable. Of these 21 San Jose intersections, 12 are located within the proposed North San Jose Area Development Policy boundary, within which increased levels of congestion are proposed to be allowed. Of the remaining San Jose intersections, which are located outside the proposed North San Jose Area Development Policy boundary, the City Council has previously included eight of the nine intersections on the List of Protected Intersections as part of the revised Transportation Impact Policy 5-3. These eight intersections listed below were included on the List of Protected Intersections to maintain the existing intersection geometries, including adjacent land uses, and to protect other multi-modal transportation facilities (i.e., sidewalks, bicycle lanes, etc.) at these intersections, instead of only maintaining stable traffic flow in these areas.

1. North First Street and West Taylor Street
2. North Fourth Street and East Hedding Street
3. North Eleventh Street and East Taylor Street
4. 10th Street and Taylor Street
5. 10th Street and Hedding Street
6. 10th Street and Julian Street
7. Capitol Avenue and McKee Road
8. Capitol Avenue and Hostetter Road

The remaining significantly impacted San Jose intersection for which no feasible mitigation exists, Almaden Avenue and Grant Street, would be included on the List of Protected Intersections to maintain the existing intersection geometry, including adjacent land uses, and to protect other multi-modal transportation facilities (i.e., sidewalks, bicycle lanes, etc.) at this intersection, instead of only maintaining stable traffic flow in this area.

Intersections in Other Jurisdictions. Fifteen intersections located outside of the City of San Jose would be significantly impacted by full implementation of the project. The EIR identifies and discusses all mitigation measures that could be identified for all of the

significant transportation impacts to these intersections in other jurisdictions. Mitigation measures are described and the degree of mitigation that could be achieved by each measure is also identified, both in the text of the EIR and in the transportation impact analysis included in Appendix D. As stated in the EIR, the project does not include implementation of these mitigation measures for intersections in other jurisdictions.

It is because the City cannot ensure that the mitigations identified in other jurisdiction will be implemented that the EIR identifies the mitigations as infeasible. Imposing fees for mitigation, especially a "fair share" of a hypothetical public improvement project that would have to be wholly under the jurisdiction of one or more other government agencies, does not satisfy the CEQA requirement that the mitigation be legally assured. The City of San José has reached agreements with other jurisdictions in the past to contribute money to help pay for intersection improvements in another city, and such fair share agreements may be reached in the future. The nature of such agreements have many shortcomings if they would be considered as CEQA mitigation because of the inability of the lead agency to assure their implementation. They are totally out of the lead agency's control, the ultimate execution and the content of those agreements would be speculative at present, they would follow timelines that are not usually known at the time the project in question is being approved, and the "improvement" may be subject to design changes by others that impact the adequacy of the mitigation in question, all of which precludes their identification as definite and feasible mitigation in a CEQA document. Therefore, the impacts to the 15 intersections in other jurisdictions are significant and unavoidable.

B(3). Finding: Impacts to 36 intersections, 21 within San Jose and 15 in other jurisdictions, will remain significant and unavoidable. Implementation of the mitigation measures proposed will reduce impacts to the remaining study intersections located within San Jose to less than significant.

B(4). Facts in Support of Finding: The City has identified the physical improvements necessary to mitigate impacts to San Jose study intersections, where feasible, and a funding mechanism to pay for their implementation. Adherence to the proposed Area Development Policy will be required of all new development in the area, including phasing of development and mitigation measures.

C(1). Impact: Full implementation of the proposed project would result in significantly increased congestion on 72 freeway segments. This is a significant impact.

C(2). Mitigation: Mitigation of freeway segment impacts would require widening the freeways, a major capitol improvement to a state facility. This mitigation would not be feasible due to cost of both construction and right-of-way acquisition, and is outside the jurisdiction of the City of San José.

C(3). Finding: No feasible mitigation measures were identified for freeway impacts that could be implemented by the City of San José.

D(1). Impact: Full implementation of the proposed project would create demands for transit service significantly in excess of the existing transit systems, based on passengers' expectations of VTA's current operating standards, such that passengers' expectations about comfort, mobility, and seating while aboard light rail and buses can not be maintained.

D(2). Mitigation (a): The following physical improvements will be implemented to expand and improve transit service in North San José:

- Specialized passenger shelters and bus/shuttle stop improvements including curb bulbouts, depending on location and new [additional] locations.
- LRT northbound shelters at Orchard, Bonaventura, Component, (in the project area) and Tasman (lengthen existing plus southbound shelter) and River Oaks outside the project area;
- Intersection and crosswalk improvements; lane or intersection narrowing, including reducing curve radii and/or curb bulbouts; sidewalks along median from intersections to station platform;
- Lighting, furniture and landscaping at LRT stations, bus stops and key pedestrian locations;
- Station platform improvements;
- Other stop and station amenities such as sidewalks (locations) and/or sidewalk widening and lengthening;
- Self-cleaning bathrooms (2-4 locations);
- Real-time information infrastructure (on LRVs and at 17 stations and stops);
- Duck outs (most important at Tasman station);
- Shuttles between residential areas, businesses and transit stops/stations;
- New bus/shuttle stop locations (noted around Tasman LRT station) including dedication of right-of-way.
- Bi-directional full priority with ability to cascade calls for green signals for LRT along North First Street;
- LRT operations capital improvements such as, but not limited to:
- Trackway improvements
- Switches
- Tail/storage/layover tracks
- Platform improvements.

Mitigation (b): The City and Redevelopment Agency will work with VTA to educate local businesses and their employees and residents of the County about the benefits of using transit. As the transit systems become more heavily utilized, these educational programs will address the realities of the system operations and will support and reinforce ongoing use of the system.

D(3). Finding: With the implementation of the mitigation proposed, impacts to the transit systems will be reduced to less than significant.

D(4). Facts in Support of Finding: The mitigation measures proposed are intended to change public expectations about transit use, and offset what is assumed to be a negative reaction to crowded buses and trains. Based on experience in other urban areas, this approach is anticipated to be successful.

III. AIR QUALITY

A(1). Impact: Project emissions of ozone precursors and particulate matter would exceed the BAAQMD threshold of significance of 80 pounds per day for regional pollutants.

A(2). Mitigation (a): all employment generating development projects will be required to develop and implement a Transportation Demand Management program that will include, where feasible, the following elements:

- Physical improvements, such as sidewalks, landscaping and bicycle parking that would act as incentives for pedestrian and bicycle modes of travel.
- Connect individual sites with regional bikeway/pedestrian trail system.
- Provide transit information kiosks.
- Implement a carpool/vanpool program, e.g., carpool ridematching for employees, assistance with vanpool formation, provision of vanpool vehicles, etc.
- Develop a transit use incentive program for employees in the project area, such as on-site distribution of passes and/or subsidized transit passes for local transit systems (participation in the VTA EcoPass system would satisfy this requirement).
- Provide preferential parking for electric or alternatively-fueled vehicles.
- Provide a guaranteed ride home program.
- Implement a flextime policy.
- Provide on-site child care.
- Provide showers and lockers for employees bicycling or walking to work.
- Provide secure and conveniently located bicycle parking and storage for workers.
- Implement parking cash-out program for employees.

Mitigation (b): Residential developments will be required to implement measures identified by the BAAQMD to reduce emissions from residential projects. Examples of feasible mitigation measures include:

- Provide bicycle lanes, sidewalks and/or paths, connecting project residences to adjacent schools, parks, the nearest transit stop and nearby commercial areas.
- Provide a satellite telecommute center within or near the development.
- Provide secure and conveniently placed bicycle parking and storage facilities at parks and other facilities.
- Provide neighborhood-serving shops and services within or adjacent to residential projects.
- Allow fireplaces only consistent with restrictions in Municipal Code.
- Use electric lawn and garden equipment for landscaping.

- Construct transit amenities such as bus turnouts/bus bulbs, benches, shelters, etc.
- Provide direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development.
- Utilize reflective (or high albedo) and emissive roofs and light colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand.
- Provide transit passes to new residents.

Mitigation (c): The project has design features that would reduce air quality impacts. The project area has access to bus service and light rail. The project also proposes to increase proximate mixed land uses and improved internal circulation, which will facilitate non-auto trips between residential, industrial, and commercial uses.

A(3). Finding: The project design features and the proposed TDM measures have the potential to reduce project trip generation by up to 20%. This amount would still be well below the 98% reduction in emissions needed to reduce the project's impact to a level that is less-than-significant, so project impacts after implementation of proposed mitigation measures would remain **significant and unavoidable**.

B(1). Impact: The proposed General Plan amendments are not consistent with the population projections in the most recently adopted CAP. The project would, therefore, have a significant impact on long term regional air quality to the extent that it is not consistent with the projected long term air quality goals.

B(2). Mitigation (a): Conformance with the following existing General Plan policies would reduce the potential for significant impacts resulting from the proposed land use amendments:

- Transportation Goal #3 states that the City shall develop a continuous, safe, accessible, interconnected high quality pedestrian environment that promotes walking as a desirable mode of transportation.
- Transportation Thoroughfare Policy #8 states that vehicular, bicycle, and pedestrian safety should be an important factor in the design of streets and roadways.
- Transportation Policy #16 (Pedestrian Facilities) states that pedestrian travel should be encouraged as a mode of movement between residential and non-residential areas throughout the City and in activity areas such as schools, parks, transit stations, and in urban areas, particularly the Downtown Core and Frame Areas and neighborhood business districts by providing pedestrian facilities that are pleasant, safe, and accessible to people with disabilities, and convenient.
- Transportation Policy #22 (Pedestrian Facilities) states that pedestrian pathways and public sidewalks should provide connectivity between uses, such as neighborhoods, schools, parks, libraries, open space, public facilities, shopping centers, employment centers, and public transit. A continuous pedestrian facilities network should include

pedestrian connections between neighborhoods, across natural and man-made barriers, between dead-end streets, and to trails and transit.

- Transportation Policy #41 (Bicycling) states that the City should develop a safe, direct, and well-maintained transportation bicycle network linking residences, employment centers, schools, parks and transit facilities and should promote bicycling as an alternative mode of transportation for commuting as well as for recreation.
- Transportation Policy #42 (Bicycling) states that bike lanes are considered generally appropriate on arterial and major collector streets. Right-of-way requirements for bike lanes should be considered in conjunction with planning the major thoroughfares network and in implementing street improvement amendments.
- Transportation Policy #43 (Bicycling) states that priority improvements to the Transportation Bicycle Network should include:
 - Bike routes linking light rail stations to nearby neighborhoods.
 - Bike paths along designated trails and pathway corridors.
 - Bike paths linking residential areas to major employment areas.

Mitigation (b): The following measures, which reflect the CAP Transportation Control Measures, are included in the Area Development Policy/Deficiency Plan, will be implemented by the City through infrastructure improvement programs, and will be required of new development where appropriate within the Rincon Redevelopment area to ensure compliance with the aforementioned General Plan policies and state law:

- Expand employee assistance program. Provide assistance to regional and local ridesharing organizations.
- Improve bicycle access and facilities. Improve access and facilities by implementing the following: 1) improve and expand bicycle lane system by providing bicycle access in plans for all new road construction or modification, 2) establish and maintain bicycle advisory committees in all nine Bay Area counties, 3) designate a staff person as a Bicycle Program Manager, 4) develop and implement comprehensive bicycle plans, 5) encourage employers and developers to provide bicycle access and facilities, and 6) provide bicycle safety education.
- Improve Arterial Traffic Management. Improve arterial traffic management by implementing the following: 1) study signal preemption for buses on arterials with high volumes of bus traffic, 2) improve arterials for bus operations and to encourage bicycling and walking, and 3) continue and expand local signal timing programs, only where air quality benefits can be demonstrated.
- Local Clean Air Plans, Policies, and Programs. Incorporate beneficial air quality policies and programs into local planning and development activities, with a particular focus on subdivision, zoning, and site design measures that reduce automobile trips.
- Conduct Demonstration Projects. Promote demonstration projects to develop new strategies to reduce motor vehicle emissions. Projects include: low emission vehicles fleets and LEV refueling infrastructure.

- Pedestrian Travel. Implement the following measures: 1) review/revise general/specific plan policies to promote development patterns that encourage walking and circulation policies that emphasize pedestrian travel and modify zoning ordinance to include pedestrian-friendly design standards, 2) include pedestrian improvements in capital improvement programs, and 3) designate a staff person as a Pedestrian Program Manager.
- Promote Traffic Calming Measures. Promote traffic calming measures by implementing the following: 1) include traffic calming strategies in the transportation and land use elements of general and specific plans, and 2) include traffic calming strategies in capital improvement programs.

B(3). Finding: Even with the specific measures described, which are consistent with the regional Clean Air Plan, the proposed project will require revision of the CAP and could contribute to long term regional air quality impacts that are inconsistent with air quality goals. This impact would remain **significant and unavoidable**.

C(1). Impact: Construction activities related to the proposed project, particularly generation of construction dust, could result in significant short-term air quality impacts.

C(2). Mitigation: All development in the project area will be required to implement the following construction practices during construction on all sites within the project area:

- Water all active construction areas at least twice daily.
- Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.
- 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 (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites.
- Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- 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 as quickly as possible.

The following control measures will be required at construction sites that are large in area (four acres or greater), are located near sensitive receptors, or which for other reasons may warrant additional emissions reductions:

- Install wheel washers for exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site;
- Install wind breaks, or plant trees/vegetative wind breaks at windward side(s) of construction areas, especially applicable to very large sites or sites on which construction and/or grading will be taking place over two or more years;
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph;
- Limit the area subject to excavation, grading and other construction activity at any one time.

C(3). Finding: Implementation of these control measures during construction will reduce construction-related dust impacts to a less than significant level.

C(4). Facts in Support of Finding: These measures are identified by BAAQMD on a list of feasible construction dust control measures that, if implemented, can reduce construction impacts to air quality to a less than significant level.

IV. NOISE

A(1). Impact: The project would introduce noise-sensitive residential uses into a noisy environment that exceeds the "satisfactory" level for new residential development, according to the City's General Plan.

A(2). Mitigation (a): Conformance with the following existing General Plan policies would reduce the potential for significant impacts resulting from the proposed land use amendments:

- Noise Policy #1 states the City's acceptable noise level objectives are 55 dBA DNL as the long-range exterior noise quality level, 60 dBA DNL as the short-range exterior noise quality level, 45 dBA DNL as the interior noise quality level, and 76 dBA DNL as the maximum exterior noise level necessary to avoid significant adverse health effects. These objectives are established for the City, recognizing that the attainment of exterior noise quality levels in the environs of the Norman Y. Mineta San José International Airport, the Downtown Core Area, and along major roadways may not be achieved in the time frame of this Plan. To achieve the noise objectives, the City should require appropriate site and building design, building construction and noise attenuation techniques in new residential development.
- Noise Policy #8 states the City should discourage the use of outdoor appliances, air conditioners, and other consumer products which generate noise levels in excess of the City's exterior noise level guidelines.

- Noise Policy #11 states when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses, non-residential land uses should mitigate noise generation to meet the 55 dBA DNL guideline at the property line.
- Urban Design Policy #18 states to the extent feasible, sound attenuation for development along city streets should be accomplished through the use of landscaping, setback, and building design rather than the use of sound attenuation walls. Where sound attenuation walls are deemed necessary, landscaping and an aesthetically pleasing design shall be used to minimize visual impact.
- Urban Design Policy #21 states to promote safety and to minimize noise impacts in residential and working environments, development which is proposed adjacent to railroad lines should be designed to provide the maximum separation between the rail line and dwelling units, yards or common open space areas, offices, and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, areas of development closest to an adjacent railroad line should be devoted to parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials, and so forth.

Mitigation (b): All residential development will be required to conform to state Title 24 by preparing an acoustical analysis that demonstrates that noise attenuation is incorporated into the proposed project design that will achieve acceptable interior noise levels, prior to issuance of building permits.

Mitigation (c): Conformance with the Residential Design Guidelines standards for provision of private and common open space, and consistency with General Plan guidelines for acceptable noise levels in outdoor activity areas, will ensure that residents have usable outdoor areas that do not exceed General Plan guidelines. Conformance with these guidelines must be demonstrated prior to issuance of a Planned Development or Site Development Permit.

A(3). Finding: Consistency with all of the above described mitigation measures will reduce significant noise impacts from the existing noise environment, including aircraft noise, to a less than significant level.

A(4). Facts in Support of Finding: General Plan policies and state law identify appropriate noise levels that can and will be achieved through consistency with General Plan policies, conformance with adopted Design Guidelines, and whose implementation will be assured through consistency with existing law.

B(1). Impact: Construction of the development and infrastructure that are allowed by the proposed General Plan amendments that make up the proposed project would temporarily elevate noise levels at adjacent noise-sensitive land uses.

B(2). Mitigation: Conformance with the following General Plan policy will reduce construction noise impacts on sensitive receptors:

- Noise Policy #9 states construction operations should use available noise suppression devices and techniques.

B(3). Finding: Consistency with all of the above described mitigation measures will reduce significant noise impacts from constructions activity to a less than significant level.

B(4). Facts in Support of Finding: New development within the project area will be conditioned at the Planning Permit stage to include restrictions on construction operations, including a requirement to employ available noise suppression devices and techniques, and enforcement action taken by the Director of Planning, as appropriate, to ensure implementation of the mitigation.

C(1). Impact: Implementation of the proposed project will generate an increase in traffic along the local roadway network and will substantially increase noise levels at noise sensitive receptors in the project area on a permanent basis. Additionally, traffic will be generated on roadway links outside of the project area on which existing sensitive receptors will be impacted by significant increases in noise from project-generated traffic.

C(2). Mitigation: No feasible mitigation measures could be identified that would reduce noise impacts to existing sensitive receptors from project-generated traffic.

C(3). Finding: Because there is no feasible mitigation that would could be implemented to existing residences that front onto existing streets, this impact would be significant and unavoidable.

V. BIOLOGICAL RESOURCES

A(1). Impact: Development of vacant parcels within the Rincon area would result in impacts to urban landscape, agricultural, non-native grassland, and coyote brush scrub habitats that are regionally common. Development of vacant parcels within the Rincon area would result in significant loss of habitat for Burrowing Owls and other raptors. In addition, development and/or redevelopment of developed sites could result in potential disturbance to active raptor nests, occupied Burrowing Owl burrows, and pallid bat and Townsend's Big-eared Bat nursery colonies, and/or destruction of members of these species. (Significant Impact)

A(2). Mitigation.

- *Riparian Corridors and Upland Wetlands Policy #1* - Creeks and natural riparian corridors and upland wetlands should be preserved whenever possible.
- *Riparian Corridors and Upland Wetlands Policy #2* - New public and private development adjacent to riparian corridors should be consistent with the provisions

of the Riparian Corridor Policy Study.

- *Riparian Corridors and Upland Wetlands Policy #3* - New development within the Urban Service Area should be set back from the outside edge of riparian habitat (or top of bank, whichever is greater) a distance sufficient to buffer the impacts of adjacent human activities and provide avenues for wildlife dispersal.

- *Riparian Corridors and Upland Wetlands Policy #4* - New development should be designed to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.

- *Riparian Corridors and Upland Wetlands Policy #5* - When disturbances to riparian corridors and upland wetlands cannot be avoided, appropriate measures should be required to restore, or compensate for damage to, the creeks or riparian corridors.

- *Species of Concern Policy #1* - Consideration should be given to setting aside conservation areas in the Bay and baylands, along riparian corridors, upland wetlands, and hillside areas to protect habitats of unique, threatened and endangered species of plants and animals, and to provide areas for educational and research purposes.

- *Species of Concern Policy #2* - Habitat areas that support Species of Concern should be retained to the greatest extent feasible.

- *Urban Design Policy #17* - Development adjacent to creekside areas should incorporate compatible design and landscaping including plant species which are native to the area or are compatible with native species.

A(3). Finding. Consistency with all of the above described mitigation measures will reduce significant biological impacts to a less than significant level.

B(1). Impact: Contaminated runoff from the future development could contribute to the degradation of aquatic habitat in the Guadalupe River.
(Significant Impact)

B(2). Mitigation

- *Water Resources Policy #8* - The City should establish nonpoint source pollution control measures and programs to adequately control the discharge of pollutants into the City's storm sewers.

- *Water Resources Policy #12* - For all new discretionary development permits for projects incorporating large paved areas or other hard surface areas (e.g., building roofs), or major expansion of a building or use, the City should require specific construction and post-construction measures to control the quantity and improve the water quality of urban runoff.

B(3). Finding. Consistency with all of the above described mitigation measures will reduce significant biological impacts to a less than significant level.

C(1). Impact: Development of vacant parcels and redevelopment of properties with mature landscaping in the Rincon area could result in the removal of a significant number of ordinance-size trees. (Significant Impact)

C(2). Mitigation.

- *Urban Design Policy #24* - New development projects should include the preservation of ordinance-sized and other significant trees. Any adverse affect on the health and longevity of such trees should be avoided through appropriate design measures and construction practices. When tree preservation is not feasible, the project should include appropriate tree replacement.

C(3). Finding. Implementation of the General Plan policies and Program Mitigation Measures will reduce impacts to ordinance-size trees in the Rincon area resulting from implementation of the proposed project to a less than significant level.

Other Program Mitigation Measures

- Specific development proposals on properties containing or adjacent to existing riparian habitat will be evaluated for conformance with design guidelines in the City's adopted Riparian Corridor Policy Study. Projects consistent with the Policy would observe a 100-foot setback from the edge of the riparian corridor or top of bank, whichever is greater, within which little or no human activity or disturbance would occur. Development of parcels containing remnant cottonwood forest or sycamore riparian woodland will preserve the habitat, in order to be consistent with the Riparian Corridor Policy Study. Any area of this habitat impacted by development must be replaced at a minimum ratio of 1:1. Replacement habitat should be designed to expand areas with existing riparian vegetation and could occur within gaps in riparian vegetation that exist along the Guadalupe River.
- The City of San José has established regulations for removal of ordinance sized trees (56 inches in circumference or more) within the City, in order to retain as many trees as possible. At the time of future development, the proposed developments within the project area will obtain a permit for the removal of ordinance trees and provide for relocation and/or replacement of removed trees in accordance with City of San José Tree Removal Controls (San José Municipal Code Title 13 Chapter 13.32). Trees removed with a valid tree removal permit shall be replaced in accordance with the terms of the permit and trees to remain on individual sites within the project area will be protected from damage during construction. In conformance with the Migratory Bird Treaty Act and with federal and state regulations regarding protection of raptors, appropriate surveys for Burrowing Owls following California Department of Fish and Game protocols will be completed prior to any development occurring on sites with foraging or nesting habitat for Burrowing Owls, or prior to redevelopment occurring on sites with substantial landscaped areas. Likewise, preconstruction surveys for nesting raptors will be conducted on proposed development or redevelopment sites with mature trees.
- If surveys confirm that a site is occupied habitat, or that a nest exists that could be disturbed by proposed development, then additional Mitigation and Avoidance

Measures to minimize or avoid impacts to the raptors, their burrows or nests, and foraging habitat and would be identified and implemented.

- Future projects will comply with the NPDES General Construction Activity Stormwater Permit administered by the Regional Water Quality Control Board. Prior to construction grading for the proposed land uses with land disturbance of one acre or more, the applicant will file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a Stormwater Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. The SWPPP will be submitted to the City of San José Department of Public Works. The following measures would be included in the SWPPP:
 - Preclude non-stormwater discharges to the stormwater system.
 - Effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
 - Coverage of soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff.
 - Perform monitoring of discharges to the stormwater system.
- The Post-Construction Urban Runoff Management Policy establishes that all new development projects are required to include specific measures for improving the water quality of urban runoff to the maximum extent feasible. In addition, the Policy establishes general guidelines and best management practices for particular land uses, and requires that all post-construction treatment control measures be maintained to operate effectively.
- Development projects will comply with the City of San José Grading Ordinance, including erosion- and dust-control during site preparation and with the City of San José zoning ordinance requirement for keeping adjacent streets free of dirt and mud during construction. Construction practices will include use of stabilized construction entrances and/or wash racks, street sweeping, use of erosion control devices including straw bales and/or silt fences, and storm drain inlet protection to minimize contamination of storm water runoff.

Conclusion. Implementation of the General Plan policies and Program Mitigation Measures will reduce all impacts to vegetation and wildlife in the Rincon area resulting from implementation of the proposed project, other than the loss of Burrowing Owl habitat, to a less than significant level.

Impact. In the absence of replacement habitat to offset the loss of the remaining Burrowing Owl habitat in the area, the implementation of the a proposed project would result in the loss of up to 600 acres of Burrowing Owl habitat, which is a significant, unavoidable impact.

Measures to Be Considered at the Time of Future Development

Loss of Remnant Sycamore Riparian Woodland

Remnant sycamore riparian woodland must be preserved or protected in conformance with the City's *Riparian Corridor Policy* in the adopted General Plan; protection is defined to include a 100-foot setback, consistent with adopted policy. Any proposal to remove remnant riparian woodland would result in a significant impact that is not covered by this EIR, unless the project provides replacement of the habitat removed at a 1:1 ratio and the replacement habitat is designed to expand areas with existing riparian vegetation and/or fill in gaps that exist along the Guadalupe River. If replacement habitat is proposed, it must be documented by submittal of a plan prepared by a qualified ecologist and implemented in conformance with the plan. Any replacement habitat must be monitored in conformance with a Mitigation Monitoring and Reporting Plan approved by the City of San José.

Burrowing Owls

In the absence of a City-wide Burrowing Owl Mitigation Plan, off-site mitigation may be provided in order to reduce the significant impacts for specific development projects. Mitigation could take the form of the following:

- Affected Individuals Mitigation would replace habitat used by specific owls.

Mitigation may include active relocation (capture and relocation) or passive relocation (eviction from the project site) of affected owls to specific areas set aside and managed for these individual owls. Any relocation or eviction would require appropriate permits from the California Department of Fish and Game.

- In-kind Mitigation would be used to protect off-site habitat for Burrowing Owls in general, but not for the individual owls affected by the project. Burrowing Owls would be passively evicted from the site without being relocated to a selected mitigation site. Mitigation habitat should be a minimum of 30 contiguous acres, and must meet standards for Burrowing Owl habitat established by the *Burrowing Owl Consortium* and the California Department of Fish and Game. Areas set aside as owl habitat should be mowed rather than disked for weed control. Areas that are circular in shape are preferable to linear areas of habitat, to reduce potential predation pressures. Mitigation habitat areas should be preserved and managed as owl habitat in perpetuity, through a legal mechanism approved by the City of San José. Mitigation habitat must be within Santa Clara County, or near the Rincon de los Esteros Redevelopment Area to mitigate the habitat lost to the current population of Burrowing Owls.

Other Raptors

Parcels with trees and/or structures should be surveyed for nesting raptors if any construction activities will occur during the nesting season (February to August). Preconstruction surveys should be conducted by a qualified ornithologist and could be done in conjunction with Burrowing Owl surveys. Surveys should be conducted no more than 30 days prior to the start of construction. In the event nesting raptors are found during the preconstruction survey, no construction activities (including tree removal and grading) that could result in disturbance to active raptor nest should proceed. A construction-free zone would be established around the

nest as determined by a qualified ornithologist. The U.S. Fish and Wildlife Service and CDFG should also be notified of any active raptor nest within construction areas.

Pallid bat and Townsend's Big-eared Bats

Development activities during the Pallid bat and Townsend's big-eared bat nursery season (April to July) on Parcels 5, 7, and 25, or any parcel which may contain very large trees, unused structures, and/or structures known to have been used by bats, should be preceded by predemolition surveys for bat nursery colonies by a qualified bat biologist. Demolition of buildings outside of the nursery season need not be preceded by preconstruction surveys. No activities (including entering an occupied attic) that would result in disturbance to active nurseries would proceed prior to the completion of surveys. The extent of construction-free zones around active bat nurseries would be determined by the bat biologist. The California Department of Fish and Game should also be notified of any active nurseries within construction areas.

VI. CULTURAL RESOURCES

A(1) Impact. Future development and redevelopment of properties within the Rincon de los Esteros Redevelopment Area is likely to result in significant disturbance of and impacts to prehistoric or historic archaeological resources. (Significant Impact)

A(2) Mitigation. The policies in the City of San José General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. All future development addressed by this EIR would be subject to General Plan policies, including the following:

- *Historic, Archaeological and Cultural Resources Policy #1* states because historically or archaeologically significant sites, structures and districts are irreplaceable resources, their preservation should be a key consideration in the development review process.
- *Historic, Archaeological and Cultural Resources Policy #2* states the City should use the Area of Historic Sensitivity overlay and the landmark designation process of the Historical Preservation Ordinance to promote and enhance the preservation of historically or architecturally significant sites and structures.
- *Historic, Archaeological and Cultural Resources Policy #4* states areas with a concentration of historically and/or architecturally significant sites or structures should be considered for preservation through the creation of Historic Preservation Districts.
- *Historic, Archaeological and Cultural Resources Policy #5* states new development in proximity to designated historic landmark structures should be designed to be compatible with the character of the designated historic resource. In particular, development proposals located within the Areas of Historic Sensitivity designation should be reviewed for such design sensitivity.

- *Historic, Archaeological and Cultural Resources Policy #6* states the City should foster the rehabilitation of individual buildings and districts of historic significance and should utilize a variety of techniques and measures to serve as incentives toward achieving this end.
- *Historic, Archaeological and Cultural Resources Policy #7* states structures of historic, cultural or architectural merit which are proposed for demolition because of public improvement projects should be considered for relocation as a means of preservation.
- *Historic, Archaeological and Cultural Resources Policy #8* states for proposed development sites which have been identified as archaeologically sensitive, the City should require investigation during the planning process in order to determine whether valuable archaeological remains may be affected by the project and should also require that appropriate mitigation measures be incorporated into the project design.
- *Historic, Archaeological and Cultural Resources Policy #9* states recognizing that Native American burials may be encountered at unexpected locations, the City should impose a requirement on all development permits and tentative subdivision maps that upon discovery of such burials during construction, development activity will cease until professional archaeological examination and reburial in an appropriate manner is accomplished.
- *Historic, Archaeological and Cultural Resources Policy #11* states the City should encourage the continuation and appropriate expansion of Federal and State programs which provide tax and other incentives for the rehabilitation of historically or architecturally significant structures.

Special attention will be given to proposals to develop the following sites, which are considered likely to contain resources:

- East Agnews Complex;
- Site G—south side of Brokaw Road northeast of US 101;
- Site H—Northwest corner of Skyport Boulevard and North First Street;
- Site I—Northeast corner of Skyport Boulevard and North First Street;
- Site J—East side of North Fourth Street south of US 101; and
- Urban Industrial Core —four areas do not appear to have been inventoried:
1) parcel fronting on both Trimble Road and Bonaventura Drive; 2) parcel(s) between Component Drive including a small portion south of Charcot Drive; 3) parcels in vicinity of Karina Court and O'Neil Drive; and, 4) parcels bounded by Brokaw Road, the VTA Light Rail tracks, and Highway 101.

The Archaeological Resources Assessment Reports will:

1. address the potential for prehistoric and historic resources through a review of compliance reports completed and on file at the NWIC coupled with any other supplementary archival research including the baseline data in this report;
2. complete a field inventory of the property (only if the property has not been subject to a previous inventory);

3. identify any resources or potential resources that might be affected by the project;
and,
4. present project recommendations and a mitigation strategy that focuses on a minimal impact strategy on identified and potential resources and stresses the preservation and/or avoidance of an identified resource rather than mitigation through data recovery.

- Management recommendations should consider either subsurface testing to determine the horizontal and vertical extent, integrity and significance of potential cultural deposits in high sensitivity areas and/or archaeological monitoring of subsurface construction if a site testing program is not possible or inappropriate.

- Reporting and evaluation requirements should be in accordance with current archaeological standards (e.g., Archaeological Resource Management Reports, ARMR); Recommended Contents and Format, California Office of Historic Preservation, Preservation Planning Bulletin 4(a); any internal City of San José reporting standards for cultural resources reports including Guidelines for Historic Reports All research should be undertaken by professionals who meet the requirements of the California State Office of Historic Preservation for their respective disciplines. Whether the project is public or private, appropriate language regarding the sensitivity of the proposed project area for archaeological resources should be inserted in the General Conditions section of any construction contract requiring subsurface disturbance and the contractor cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles and other cultural materials from the project. Furthermore, the language should also detail the procedures to be followed by the contractor for any archaeological monitoring requirements and requirements in the event of an inadvertent exposure of cultural resources.
- Prior to approval of a Site Development or Planned Development Permit, the preparation of an Historic Properties Treatment Plan (HPTP) by a professional archaeologist will be required for any development project on a property that has: 1) a recorded archaeological site present that has been determined eligible for or is listed on one of the registers and/or is adjacent to a parcel with a recorded site that has been determined eligible for or is listed on one of the registers; or, 2) a potential for significant subsurface cultural resources identified through either archival research and/or site testing (see Table 26). The Urban Industrial Core Area is extremely sensitive for both recorded and unknown prehistoric resources which are likely to yield Native American burials. Residential areas adjacent to the Urban Industrial Core also appear to have some sensitivity. The HPTP should provide a background context for the parcel/resources and appropriate guidelines for considering and protecting cultural resources during any future development or modification of the site. The plan should include resource protection and monitoring plans for both prehistoric and historic archaeological resources as well as methods and procedures to deal with inadvertent cultural discoveries that may be exposed during subsurface construction. In the case of parcels that have only been partially inventoried but have either known sites or potential cultural resource properties present and/or adjacent,

the HPTP should include a records review and field inventory. Any new findings should be incorporated into the HPTP guidelines.

A(3). Finding. Implementation of the General Plan policies and Program Mitigation Measures will reduce all impacts to cultural resources in the Rincon area resulting from implementation of the proposed project, to a less than significant level.

VII. GEOLOGY AND SOILS

A(1). Impact: Construction of high-rise industrial/office/R&D and high-density residential buildings on compressible clay layers and highly expansive surface soils could result in significant structural damage. Relatively high water table levels could also result in damage to structures from hydrostatic pressure. **(Significant Impact)**

A(2). Mitigation: Implementation of relevant General Plan policies will reduce impacts from geology and soil conditions in the project area to a less than significant level. General Plan policies are listed in *Section II.G.(3)* of this EIR. Consistent with General Plan policies and current planning practice in the City of San José, new construction of industrial/office/R&D and residential buildings will occur in conformance with design-specific geotechnical reports prepared in conformance with requirements of the City Geologist and Building Official.

A(3). Finding: Implementation of the General Plan policies and Program Mitigation Measures will reduce all impacts from geology and soils in the Rincon area resulting from implementation of the proposed project, to a less than significant level.

B(1). Impact: Development within the North San José area would result in future industrial and residential development being built on sites subject to seismic hazards, including liquefaction. **(Significant Impact)**

B(2). Mitigation: Implementation of relevant General Plan policies will reduce impacts from geology and soil conditions in the project area to a less than significant level. General Plan policies are listed in *Section II.G.(3)* of this EIR. Seismic shaking hazards would be mitigated by implementation of construction practices in accordance with Seismic Zone 4 building criteria as described in the Uniform Building Code.

B(3). Finding: Based on the foregoing, implementation of identified mitigation will reduce geology and soils impacts to a less than significant level.

VIII. HYDROLOGY AND WATER QUALITY

A(1). Impact: The project is located in an area of San José subject to periodic flooding from two creeks and possible tidal flooding from the Bay, all of which could expose people or structures to significant risks. This represents a significant impact.

A(2). Mitigation: Implementation of relevant General Plan policies will reduce impacts from flooding in the project area to a less than significant level. General Plan policies are listed in *Section II.H.(3)* of this EIR. In order to avoid or reduce risks to people and structures, specific development projects proposed in the project area will be subject to the City of San José Floodplain Management Ordinance in place at the time the project application is filed with the City. Consistency with the Ordinance will ensure that significant impacts to persons and property are reduced or avoided.

A(3). Finding: Based upon the foregoing, Implementation of relevant General Plan policies will reduce impacts from flooding in the project area to a less than significant level.

B(1). Impact: In addition to flooding from nearby creeks and tidal flooding from the Bay, the project area is subject to flooding when stormwater flows exceed the capacity of the drainage system. This flooding could pose a significant risk to people and/or structures in the project area, resulting in a potentially significant impact.

B(2). Mitigation: Implementation of relevant General Plan policies will reduce impacts from flooding in the project area to a less than significant level. General Plan policies are listed in *Section II.H.(3)* of this EIR. In order to avoid or reduce risks to people and structures, future projects proposed in the project area will be subject to the City of San José Floodplain Management Ordinance in place at the time the project application is filed with the City.

In keeping with General Plan policies and consistent with current planning practice in the City of San José, and in order to improve stormwater drainage in the project area and prevent localized flooding due to lack of system capacity, all proposed development in North San José will be evaluated for the adequacy of on-site and off-site stormwater collection systems prior to issuance of Site Development or Planned Development Permits. Some areas will require new or supplemental stormwater lines, catch basins, or other infrastructure. As redevelopment proceeds in the area, priorities may be set for upgrading the storm drainage system. Consistent with City policies, Capitol Improvement Projects will be identified and incorporated into the City's Five Year CIP process, as appropriate. Future development projects will also be subject to any blockage criteria contained in the City's Floodplain Management Ordinance.

B(3). Finding: Implementation of relevant General Plan policies will reduce impacts from flooding in the project area to a less than significant level.

IX. HAZARDS AND HAZARDOUS MATERIALS

A(1). Impact: Development or redevelopment of properties within the project area could expose construction workers and/or the public to hazardous materials during site preparation and construction as a result of one or more of the following: 1) hazardous materials that have been accidentally released in the past that contaminated soil or groundwater; 2) the presence of asbestos or lead-based paint in buildings that are demolished; and/or 3) removal of underground storage tanks during redevelopment. **(Significant Impact)**

A(2). Mitigation: Health and Safety Plan(s) prepared in accordance with the California Code of Regulations (Title 8, Section 5192) are required on some construction sites. A Health and Safety Plan is a project-specific plan that describes safety measures to be followed during all phases of remediation on contaminated sites. It is designed to protect the health and safety of construction workers and the public during the remediation and/or construction periods.

A(3). Finding: Based upon the foregoing, implementation of relevant General Plan policies will reduce impacts from flooding in the project area to a less than significant level

X. ENERGY

B(1). Impact: Development proposed by this project would result in a significant increase in energy use. **(Significant Impact)**

B(2). Mitigation: Implementation of relevant General Plan policies will reduce energy impacts of the project. Relevant General Plan policies are listed in *Section II K (3)* of this EIR.

The project shall recycle or salvage a minimum of 50% (by weight) of construction, and demolition waste, in conformance with existing City ordinance. All new buildings shall be constructed to meet the requirements of Title 24 of the California Administrative Code, as pertains to energy efficiency.

In conformance with the existing Plumbing Code, residential developments shall install low-flow showerheads and faucets and low flow toilets. Even with inclusion of the proposed mitigation measures, the project will significantly increase energy use. While the nature and location of the proposed land uses are efficient, including placement of jobs and housing in close proximity to each other and transit services, the increase in use may be substantial in relation to currently projected future energy supplies.

B(3). Finding: There are no feasible mitigation measures that would reduce project energy impacts to a less than significant level. Therefore, the project would result in a Significant Unavoidable Impact.

XI. UTILITIES AND SERVICE SYSTEMS – WATER SUPPLY

As required by SB 610 (2001), codified at Water Code section 10910 *et seq.*, the City has considered information relating to the water supply for the Project, and finds as follows:

Availability of Sufficient Water Supplies; Ability of San Jose Municipal Water System and San Jose Water Company to Supply Water. The proposed project, at full build-out expected in 2025, will increase water demand by 8.1 million gallons per day (mgd) of which 2.9 mgd will be supplied by San Jose Water Company and 5.2 mgd will be supplied by Muni Water. The San Jose Water Company and Muni Water completed water supply assessments (Appendix K of the First Amendment to the Draft EIR), which concluded that there is sufficient water to meet projected water demands during normal and multiple dry years. Future sources of supply for the project will include additional deliveries for Muni Water from the SFPUC, treated surface water from the Santa Clara Valley Water District, increased pumping from existing and planned groundwater wells, and increased use of recycled water. Achieving the necessary usage of recycled water may require developer extension of the recycled water distribution system, as well as construction of the on-site improvements needed for landscape irrigation use of recycled water and dual plumbing in commercial and industrial buildings. Water demand conservation measures will also be employed during normal and dry years to help offset reductions in supply and avoid shortfalls. The City will continue to work with the Water District, the SFPUC, and the San Jose Water Company to ensure long-term water supply reliability and avoid water shortages.

XII. CUMULATIVE IMPACTS

A. Cumulative Land Use Impacts

1. **Impact:** Implementation of the proposed *North San Jose* Project, in combination with all of the cumulative projects currently proposed, would contribute to the following significant cumulative land use impacts:
 - A cumulatively significant loss of visual open space in San José, estimated to be in the range of 2,000 to 3,000 acres; and
 - A cumulatively significant loss of unobstructed views of the scenic hillsides and mountains that form the perimeter of the Santa Clara Valley.
 - Secondary effects of the cumulative traffic from the Downtown and North San José development, such as dust, litter, odors, and access difficulties, will increase significantly on segments of North Tenth and Eleventh Streets and on Julian, Taylor and Hedding Streets. Because of the quantity of traffic and the presence of the grid street system, the quantity of cut-through traffic into the adjacent residential neighborhoods, and the land use impacts from that traffic on residential neighborhoods, will also be significant.

2. **Mitigation Measure:** Available mitigations for the land use impacts associated with significant traffic increases, and available mitigation measures to reduce the visual impacts associated with loss of open space are assumed to be in place and/or included in all of the proposed projects. The significant unavoidable land use impacts that would result from approval and implementation of all identified projects are therefore significant and unavoidable. Implementation of *North San Jose* project will contribute to these cumulative significant impacts both in terms of additional traffic as well as the loss of visual open space.
3. **Finding:** Implementation of the proposed Project, in conjunction with anticipated projects, would: result in the loss of visually-significant open space; result in the loss of unobstructed hillsides and mountains; and contribute additional congestion between Downtown and North San Jose, resulting in additional cut-through traffic, and air quality, noise, and visual impacts associated with congestion. Mitigation measures to reduce land use impacts associated with traffic congestion, and loss of open space are assumed to be in place and/or included in all of the anticipated projects. However, these mitigation measures would not reduce the cumulative impact to a less-than-significant level. Therefore, this impact remains **significant and unavoidable**. This unavoidable cumulative impact is overridden by Project benefits as set forth in the statement of overriding considerations.

B. Cumulative Traffic Impacts

1. **Impact:** The Project which is the subject of this EIR will contribute substantially to the identified significant cumulative impacts that include increasing congestion across the three special subarea screenlines, significant increases to VMT and VHT within the City's Sphere of Influence, and significant increases in peak hour congestion on already congested roadway links and the degradation of additional roadway links.
2. **Impact:** The cumulative effect of approving all of these pending projects and policy modifications could be to allow up to 158 intersections fall below LOS D. Those intersections in North San José would only be exempt for the lifetime of the Area Development Policy, and most are not predicted to operate below LOS D. This is an increase of 100 intersections over the number currently exempt from the LOS Policy, although most of the intersections in North San José are already and have been for many years subject to a lower standard under the current Area Development Policy.
3. **Mitigation Measure:** Given the magnitude of the cumulative traffic impacts that are described above, no feasible mitigation was identified that would reduce the impacts to a less than significant level. This conclusion notwithstanding, it is important to summarize the mitigation/avoidance measures that are included in the projects under consideration in this cumulative scenario.

1. Consistent with the policies and strategies of the General Plan, all of the projects are infill development within San José's UGB.
2. Consistent with adopted City policies and policies embodied in various regional transportation and clean air plans, each of the six large projects (*i.e.*, Downtown, North San José, Evergreen, Coyote Valley, Hitachi, and iStar) include a proposed intensification of development along existing/planned rail corridors.
3. Four of the six large projects (Downtown, North San José, Coyote Valley, and Hitachi) include new residential land uses proximate to existing/planned job centers.
4. As applicable, each project will include facilities (*e.g.*, showers, bike lockers, transit amenities, pedestrian pathways, etc.) that facilitate use of alternative modes of transportation.
5. The North San José project includes a comprehensive package of roadway improvements (including upgrades to freeway, expressway, and local street facilities), and a financing plan for their funding. The North San José project is also proposing improvements to the transit system.
6. The Downtown *Strategy 2000* project includes a comprehensive package of roadway improvements (including upgrades to US 101, I-280, and SR 87 freeway ramps, and local street facilities such as the new Autumn Street connection and Coleman Avenue widening).
7. The Evergreen project contains a comprehensive package of highway improvements (including upgrades to US 101, White Road, and local intersections), and a financing plan for their funding.
8. The Coyote Valley project will include improvements to interchanges on US 101, new/widened roadways in Coyote Valley, and the widening of Bailey Avenue between Coyote Valley and Almaden Valley. The Coyote Valley project is also envisioned to include a fixed guideway transit system.

These measures will have the effect of reducing cumulative traffic impacts, compared to that which would occur in the absence of such measures. The measures would not, however, be sufficient to reduce impacts to a less than significant level. Given the practical limitations on future roadway expansions, further reductions in cumulative traffic impacts will be largely dependent upon long term changes in the behavior of commuters. Such changes will be necessary in order to reduce the overwhelming dependence on single occupant automobile transportation that is the basis of both the Project specific and cumulative traffic impact analyses. This EIR does not assume that such change will occur during the current General Plan horizon.

Changes in commute behavior (*i.e.*, relying less on single occupant automobile transportation) may, over time, reduce the significant traffic congestion identified in this

cumulative impacts analysis. Government actions that encourage use of alternative transportation and discourage reliance on single occupant automobiles, consistent with the City's General Plan and the Countywide Congestion Management Plan, are specific actions that also might be taken to reduce the significant traffic impacts. However, a significant reduction in cumulative traffic congestion is unlikely to occur during the current General Plan horizon.

4. **Finding:** Implementation of the proposed Project, in conjunction with anticipated projects, would increase congestion across the three special subarea screenlines, significantly increase VMT and VHT within the City's Sphere of Influence, and significantly increase peak hour congestion on already congested roadway links and the degradation of additional roadway links. There are no feasible mitigation measures to reduce this significant cumulative impact. Therefore, this cumulative impact would remain **significant and unavoidable**. This unavoidable cumulative impact is overridden by Project benefits as set forth in the statement of overriding considerations.

C. Cumulative Air Quality Impacts

1. **Impact:** The proposed Project which is the subject of this EIR would add 32,000 new dwelling units, 26,000 million sq.ft. of office and R&D to the holding capacity of the City's General Plan. Both the housing and the jobs will be relatively close to each and to an existing network of transit and roadway systems. Nevertheless, the addition of this much additional development would not be consistent with the assumptions of the Clean Air Plan, which will result in a significant impact on regional air quality in the Bay Area.
2. **Mitigation Measure:** The City's adopted General Plan includes all of the Transportation Control Measures identified in the BAAQMD Guidelines that can be implemented by a local government. Goals and objectives for all of the six major projects evaluated in this cumulative section include designing for transit access where such design is feasible. As development is proposed, the City evaluates specific development design for consistency with the General Plan policies.

North San Jose project includes improvements to the existing transit system, maintenance and redevelopment of a street system that is compatible with alternative transportation modes (including walking and bicycling), requirements for design that supports alternative transportation, and the basic policy modifications are intended to facilitate the development of mixed uses in closer proximity to one another.

All of these measures are consistent with the BAAQMD Guidelines for reducing long term air quality impacts, and with the provisions of the CAP.

While there are no specific measures identified that would reduce air quality impacts to a less than significant level, the proposed Project includes all feasible measures to reduce long term air quality impacts. While the cumulative projects would not be consistent with the population projections in the current CAP, the inclusion of TCMs and design measures to support alternative transportation modes and the provision for improvements to the existing transit system are consistent with CAP policies. The Project's contribution to the cumulatively significant air quality impacts will still be significant and unavoidable.

3. **Finding:** Implementation of the proposed Project, in conjunction with anticipated projects, would result in development that would not be consistent with the assumptions of the Clean Air Plan, and would result in a significant impact to regional air quality. All feasible measures to reduce long term air quality impacts are incorporated into *North San Jose* project. However, there are no other available mitigation measures that would reduce this cumulative impact to a less-than-significant level. Therefore, this cumulative impact would remain **significant and unavoidable**. This unavoidable cumulative impact is overridden by Project benefits as set forth in the statement of overriding considerations.

D. Cumulative Noise Impacts

1. **Impact:** It is concluded that cumulative long-term noise impacts would be significant and unavoidable. Approval of all of the cumulative projects would result in a substantial increase in ambient noise levels, or expose people to noise levels in excess of established City or state standards.
2. **Mitigation Measure:** No feasible mitigation measures are available to reduce noise resulting from cumulative project traffic to a less-than-significant level.
3. **Finding:** Implementation of the proposed Project, in conjunction with anticipated projects, would result in noise increases along major roadways in the greater San Jose area where new roadways would be constructed, roadway widening would move traffic closer to adjacent receptors, and traffic volumes would substantially increase in relation to existing volumes. No feasible mitigation measures are available to reduce this cumulative impact to a less-than-significant level. Therefore, this cumulative impact would remain **significant and unavoidable**. In addition the amount of construction proposed in areas that are near enough to each other that some construction noise will spill over, will result in cumulatively considerable temporary construction noise impacts. This unavoidable cumulative impact is overridden by project benefits as set forth in the statement of overriding considerations.

E. Cumulative Biological Resources Impacts

Approval and implementation of the cumulative projects would directly affect development on over 10,000 acres of land of the City of San José. Of the overall cumulative development area, approximately 4,500 acres are currently undeveloped; that is, they are either in agricultural production, fallow, vacant lots, or are in a natural state and provide a higher level of biological habitat than urbanized property. Impacts to biological resources will result from the cumulative development of virtually all vacant land within the City limits that is not specifically designated for an open space use.

Impacts to Trees

Development of the cumulative projects will result in the loss of thousands of mature trees, including native trees, orchard trees, and landscape trees. The redevelopment of North San José and the development of Coyote Valley with high intensity, transit-oriented development will require removal of most of the trees on individual sites. Most of the trees in North San José, however, are non-native landscape trees, which provide generally lower habitat values. The substantial number of trees in North San José do contribute to improved air quality and they do provide some habitat value, especially for migratory birds. Most of the major project proposed will have significant tree impacts. The cumulative effect of the removal of thousands of existing mature trees, many of which are native species, will be cumulatively significant. The contribution to this impact from the development proposed in North San José would be less than other areas because it contains fewer native species. In combination with the loss of trees citywide, however, the project will contribute to the cumulatively significant impact.

Mitigation for Cumulative Impacts to Trees

The loss of mature, native trees cannot, in the short-term, be mitigated to a less-than significant level by replacing them with new trees. In the circumstances that would result from simultaneous and ongoing implementation of all of the proposed projects, thousands of native and non-native trees would be removed citywide – literally from one end of the City to the other. While replacement planting would be included in the future development and redevelopment projects to reduce the long-term effects of habitat loss from tree removal, the loss of mature trees, particularly native trees, resulting from development of all of the cumulative projects would result in a cumulatively significant biological impact for which there is no effective mitigation.

Cumulative Impacts to Burrowing Owl and Its Habitat

Development of the cumulative projects will result in the loss of native and non-native grassland habitat and active and fallow agricultural land throughout the City, some of which is either occupied or potential burrowing owl breeding and foraging habitat. Development of the cumulative projects would result in the loss of a total of

approximately 765 acres of burrowing owl habitat, including the North San José Development Policies Project (650 acres). The development of virtually all large pieces of vacant land in the City, as proposed by the cumulative projects, will result in significant cumulative impacts to burrowing owls and their habitat.

Potential Disturbance to Active Raptor Nests and Occupied Owl Burrows from Project Construction

Raptors (e.g., eagles, hawks, and owls) and their nests are protected under both federal and state regulations. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered a "taking" by the CDFG. Furthermore, the destruction of occupied Burrowing Owl burrows is also considered a taking. Any loss of fertile eggs, nesting raptors, any activities resulting in nest abandonment, or the destruction of occupied Burrowing Owl burrows would constitute a significant impact. Construction activities such as tree removal and site grading that disturb a nesting raptor on a specific site or immediately adjacent to the specific site would constitute a significant impact. Since development and redevelopment at the levels of intensity proposed by the cumulative development projects will leave very little of these sites in a natural state, it is likely that a number of trees harboring raptors and their nests will be removed. The destruction of occupied raptors' nests in the trees would be a significant impact. Likewise, destruction of a burrow occupied by a Burrowing Owl, whether during the nesting season or otherwise, would constitute a violation of the Migratory Bird Treaty Act and the Fish and Game Code. As the remaining viable habitat has diminished, Burrowing Owls have been found in marginal habitat locations, including landscape islands and in parking strips. The destruction of an occupied nest or of an individual bird, no matter where the nest is located, would be a significant impact.

Mitigation for Cumulative Impacts to Individual Nesting Raptors and Burrowing Owls

In conformance with federal and state regulations regarding protection of raptors, appropriate surveys for Burrowing Owls following CDFG protocols will be completed prior to any development occurring on sites with foraging or nesting habitat for Burrowing Owls, or prior to redevelopment occurring on sites identified as having potential burrowing owl habitat. Likewise, preconstruction surveys for nesting raptors will be conducted on proposed development or redevelopment sites with mature trees. If surveys confirm that a site is occupied habitat, or that a nest exists that could be disturbed by proposed development, then additional mitigation measures to minimize or avoid impacts to the individual raptors, their occupied burrows or nests, would be identified and implemented. Implementation of pre-construction surveys and establishment of construction free buffers, in the event raptors or active nests are present, will avoid project impacts and avoid a significant cumulative impact to raptors.

Mitigation for Cumulative Impacts to Burrowing Owl Habitat

There is currently no established program for the replacement habitat to offset the loss of the remaining Burrowing Owl habitat in the area nor does the project propose the creation of such a program. Therefore, the development proposed in North San José in combination with the other cumulative projects would result in a cumulatively significant, unavoidable loss of Burrowing Owl habitat.

Conclusions: Significant cumulative impacts were identified to Burrowing Owls and their habitat, mature trees and raptors. The proposed North San José project's impacts in these areas will contribute to these cumulatively significant impacts.

E. Cumulative Energy Impacts

1. **Impact:** As shown in the list of cumulative projects in the FEIR, there is a substantial amount of development that is being considered for approval in San José. To provide information regarding the magnitude of cumulative energy impacts, the estimated annual energy usage of the largest of these projects is quantified in the FEIR. To put the quantity into context, the cumulative increase in electricity, 1,433 million kWhr, is equivalent to 8 percent of the total amount of electricity used in Santa Clara County in the year 2000.¹ Similarly, the cumulative increase in gasoline, 77 million gallons, is equivalent to 9 percent of the total amount of gasoline used in Santa Clara County in 2003.²

More important, the California Energy Commission is projecting future shortages of electricity, natural gas, and gasoline during periods of peak demand. In the context of these projected shortages, the increase in energy usage would constitute a significant cumulative energy impact. This conclusion is consistent with the thresholds of significance used for energy impacts, which state that energy usage needs to be evaluated in the context of projected supplies.

There are many measures available to reduce energy consumption in both residences and businesses. Each of the projects being considered will, to varying degrees, incorporate such measures into the design of all new buildings.

It is also important to note that several of the large projects being considered (e.g., Downtown, North San José, Coyote Valley, and Hitachi) would construct residences in the vicinity of job centers. Further, all of the large projects are, to varying degrees, located along existing or planned rail corridors (LRT, CalTrain, BART, Altamont Commuter Express). Proximity of jobs to housing and the availability of efficient public transit are important goals of land use planning, as embodied in the policies of San José's General Plan, because they can substantially reduce the adverse effects of automobile usage (i.e., energy consumption, congestion, and air pollution).

One of the cumulative projects, the Evergreen Smart Growth Strategy, would reverse a 1970s decision to designate 367 acres of land in Evergreen for roughly 5 million square feet of *Campus Industrial* uses. The 1970s decision was made for the purpose of locating jobs near the substantial supply of housing in Evergreen. The current proposal would redesignate these lands for housing which would result in longer commutes. From a transportation energy perspective, this would be an adverse impact.

On the basis of the above discussion, including the fact that the extent to which each project will incorporate energy-conserving measures into its design is presently unknown, it is concluded that cumulative energy impacts will be significant and unavoidable.

2. **Mitigation Measure:** There are many measures available to reduce energy consumption in both residences and businesses. Each of the projects being considered will, to varying degrees, incorporate such measures into the design of all new buildings. However, given the

¹ Total electricity usage for year 2000 in Santa Clara County was 17,843 million kWhr. (Source: California Energy Commission, www.energy.ca.gov/electricity/electricity_by_county_2000.html)

² In 2003, Santa Clara County highway gasoline consumption was estimated to be 813,222,000 gallons. (Source: Caltrans, Office of Transportation Economics, 2004)

long term horizon for this Project, and the inherent limitations on the City's ability to forecast who the future users might be and what their requirements might include, the City is not proposing at this time to commit to a menu of energy conservation measures.

3. **Finding:** Implementation of the proposed Project, in conjunction with anticipated projects, would result in the use of finite supplies of energy. Because the Project would occur over a long time period, it is not feasible to commit to the implementation of certain energy conservation measures. Therefore, this cumulative impact would remain **significant and unavoidable**. This unavoidable cumulative impact is overridden by Project benefits as set forth in the statement of overriding considerations.

XIII. FINDINGS CONCERNING ALTERNATIVES

An EIR must describe a range of reasonable alternatives to the project, or the location of the project, which would feasibly obtain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant environmental effects of the project, the decision-maker may reject the alternative if it determines that specific considerations make the alternative infeasible. The findings with respect to alternatives identified in the FEIR are described below.

1. NO PROJECT ALTERNATIVE

A. Description of the Alternative: Existing policies, zoning, and General Plan designations would allow the ongoing development of additional industrial/office/R&D space in the Rincon area. Recent entitlements granted to eBay and BEA for developments on North First Street allocated all of the remaining surplus FAR, and required that additional surplus FAR be identified and allocated to each of the developments before they could be built out. It is unlikely that substantial additional development could be approved under existing policies. It is possible that development within the constraints allowed by current policies (*i.e.*, up to 0.35 FAR for most properties and up to 0.40 FAR for properties within 2,000 feet of an LRT station) could be approved on the remaining vacant parcels in North San José.

B. Comparison to Project. As reflected in the regional transportation model used by the Metropolitan Transportation Agency and VTA, however, projections show that economic development will continue to generate increased traffic congestion in the Bay Area. Under the No Project scenario, this development will occur somewhere other than North San José. Other cities in northern Santa Clara County will continue to approve industrial/office/R&D uses, as will nearby cities in San Mateo and Alameda Counties. Recent patterns indicate that some housing will continue to be developed in San José, but increasing percentages of the housing to serve jobs in Santa Clara County will continue to be approved outside the County. The No Project Alternative, therefore, assumes some amount of development in North San José under the existing General Plan designations, zoning, and policies. Based on the traffic model maintained by the regional transportation planning agencies, the analysis also identifies the presence of extensive development that would continue to occur outside North San José, producing equivalent levels of traffic and traffic-related impacts such as noise and air pollution.

C. Finding.

This alternative does not support the project's goals and objectives. This alternative is infeasible, and it may not be substantially environmentally superior to the proposed project. To the extent that more development, especially residential development to house workers in Santa Clara County, occurs

outside of the County, this alternative could result in greater impacts to regional air quality and traffic than the proposed project.

2. REDUCED SCALE ALTERNATIVE

A. Description of alternative. The most significant impacts of the proposed project are traffic and air quality. The traffic impacts are identified in a broad geographic area, including intersections in the cities of Santa Clara, Campbell, Sunnyvale, and Milpitas. The regional air quality impacts would be dispersed throughout much of the air basin. It is not possible to target the air emissions in order to specifically limit their geographic occurrence, especially since some of the work force would commute from outside San José. Downsizing the amount of industrial development proposed by the project could, however, reduce the impacts to roadways in other cities, particularly local street intersections.

B. Comparison to Project. The project is projected to significantly impact 15 intersections in four other cities, Santa Clara, Campbell, and Milpitas, ten of which are CMP intersections. To reduce the impacts at these intersections in other cities to less than significant would require a substantial reduction in project size. The greatest impacts to intersections outside San José are at two intersections in Milpitas, McCarthy/Tasman and I-880/Great Mall Parkway. To reduce the PM peak hour impacts at these two intersections to less than significant would require that the project traffic be reduced by 90 percent. Given the project's economic development goals and objectives, this alternative is assumed to include no new residential development in North San José, and a substantial reduction in the assumed quantity of industrial development (approximately 75 to 85 percent). This would be equivalent to the No Project Alternative evaluated above. To reduce impacts to roadways in Santa Clara, which is west of the project area, to a less than significant level, project traffic would have to be reduced by approximately 50 percent. The alternative that avoids significant impacts to Milpitas will, therefore, also avoid significant impacts in Santa Clara.

C. Finding. This alternative would substantially reduce project impacts and would be environmentally superior to the proposed project. This alternative would not be as consistent with most project objectives as is the proposed project. Particularly to the extent that vacant and underdeveloped lands in San José and elsewhere in the County could not be developed under this alternative, even to the extent allowed by existing policies, this alternative is infeasible from both an economic or regulatory standpoint. Therefore, based on the foregoing reasons, this alternative is found to be infeasible.

3. WORK FORCE HOUSING ALTERNATIVES

A. Description of alternative. The currently proposed project was developed through an analytic process which included quantitative near term and far term modeling of different combinations of jobs and housing in North San José. Four different scenarios were developed and evaluated for comparison purposes. These included a scenario that was comparable to the currently proposed project, and the following alternatives:

Scenario A (80-10-10) - Add 22 million square feet of new industrial development within Rincon, approximately 17 million square feet of which would be in the Core Area. Approximately 37,800 new dwelling units were assumed in the Rincon area, of a total of

42,600 new dwelling units in San José. The rest of the housing assumed necessary to house the new workforce, approximately 5,000 dwelling units, were assumed to be outside San José.

Scenario B (50-50) - Add 25 million square feet of new industrial development within Rincon, approximately 17 million square feet of which would be in the Core Area. Approximately 27,800 new dwelling units were assumed in the Rincon area, of a total of 53,800 new dwelling units, the number assumed necessary to house the entire new workforce, in San José.

Scenario C (50-25-25) - Add 25 million square feet of new industrial development within Rincon, approximately 17 million square feet of which would be in the Core Area. Approximately 27,800 new dwelling units were assumed in the Rincon area, of a total of 40,400 new dwelling units in San José. The remaining 12,600 dwelling units necessary to house the new workforce were assumed to be outside San José.

B. Comparison to Project. As summarized above, all of the alternatives have approximately the same amount of additional industrial development as the proposed project; the differences between the scenarios are in the percentage of the workforce housed in close proximity to the new jobs. This alternatives analysis was assumed to include new development and redevelopment at most of the same locations as the proposed project evaluated, and at approximately the same levels of intensity as the proposed project. More residential development in Rincon means that less land could be redeveloped for industrial purposes, so the scenarios with more residential units have incrementally less new industrial development. Less residential development in Rincon means that incrementally more of the existing industrial and/or commercial uses would remain at their existing locations. Even if some of the industrial sites assumed for residential redevelopment (many of which are underdeveloped or contain aging buildings) do not change land use, they may redevelop in the future with the same or similar uses. Construction impacts, for example, are unlikely to be substantially different under the scenarios, in the long term.

To keep the basis of the analysis consistent and ensure that the analysis compared “apples-to-apples,” the same major transportation improvements were included in all of the alternatives.

The primary differences in impacts among the four scenarios would be traffic and traffic-related impacts. All of the project impacts that are identified as significant in this EIR would still be significant under each of the three alternative scenarios; to the extent that mitigation is identified for the project’s impacts, it would still be relevant for the three other scenarios. Impacts that result directly from the amount of residential development proposed (i.e., the number of dwelling units) would be reduced incrementally within or adjacent to Rincon, depending on how much of the workforce housing is proposed outside of Rincon. Since the workforce necessary for the new development in Rincon would need to live somewhere, the construction of and commute to a more distant residence would likely still result in the same types of impacts, but they would occur somewhere else.

C. Finding. Of the three work force housing scenarios evaluated, Scenario A would be environmentally superior to the proposed project (it would result in less traffic congestion and air pollution from commute traffic), and Scenarios B and C would not be environmentally superior. Scenario A is not fully consistent with the project’s identified goals and objectives. Scenarios B and C are consistent with the project’s goals and objectives, but would not reduce the project’s impacts. Therefore, based on the foregoing reasons, all three alternative scenarios are found to be infeasible.

4. ALTERNATIVE LOCATION IN COYOTE VALLEY

A. Description of alternative. As discussed at the beginning of the Alternatives section, the alternative location that came closest to meeting the site location criteria for the project was Coyote Valley. The Coyote Valley Location Alternative would place 24,700 dwellings and approximately 20 million square feet of industrial office uses (62,500 jobs) in Coyote Valley instead of locating these uses in North San José, as proposed by the project. Implementation of the this alternative would include General Plan amendments, creation of policies, rezonings and other actions necessary to allow the proposed development to proceed. This is not the entire "project" whose impacts are evaluated in this EIR. The entire project includes buildout on vacant and underdeveloped properties in North San José that are envisioned by existing General Plan designations, zoning, and implementation policies. This amount of development, 6.7 million square feet of industrial buildings and 7,300 dwelling units, is assumed to occur in North San José under this Alternative. Only the additional increment of 24,700 dwelling units and 20 million square feet of industrial uses would be developed at an alternative location. Under this alternative, this development would occur in Coyote Valley instead of the development currently being considered in Coyote Valley as part of the ongoing Coyote Valley Specific Plan development process described below.

B. Comparison to Project. This location alternative includes North Coyote Valley and the Urban Reserve which is in central Coyote Valley. While there is an ongoing planning effort to formulate and adopt a Specific Plan for development of Coyote Valley that is of the same approximate magnitude as the North San José project, this Coyote Valley location alternative is included and described here for the purposes of comparing the proposed project's impacts at the two locations. This alternative would place the proposed project in Coyote Valley instead of any of the planned or previously approved development (*i.e.*, it is not assumed to be in addition to the planned or previously approved development).

The impacts of the Coyote Valley Location alternative are, in general, greater than those of the proposed project. This is because the proposed project, when located in North San José, represents intensification of a highly urbanized area that is centrally located whereas the Coyote Valley alternative would place the proposed project at a location that is not now urbanized; rather, it is primarily agricultural or fallow land at the southern edge of San José's urban area.

At the present time, only North Coyote Valley is within San José's Urban Service Area (USA). The mid-Coyote area is designated as Urban Reserve on the General Plan and is outside the USA. It is, however, within the City's Urban Growth Boundary, which would allow its eventual inclusion within the USA. North Coyote Valley is designated for Campus Industrial uses and portions of it are zoned to allow up to approximately 10 million square feet of industrial development. The Coyote Valley Urban Reserve includes approximately 2,000 acres located on the valley floor between the campus industrial area in the north and the Coyote Valley Greenbelt, which is located at the southerly edge of San José's Sphere of Influence.

The City of San José is currently preparing a specific plan for Coyote Valley that includes 50,000 jobs (14-16 million square feet) and 25,000 dwellings, which would be consistent with the existing General Plan designations. This plan is currently scheduled for completion at the end of 2005. The Coyote Valley Location alternative consists of replacing the development being considered in the Coyote Valley Specific Plan with the proposed North San José project. The proposed project is specifically proposed to build on the existing dynamic of the North San José industrial area within the Silicon Valley Golden Triangle. The project evaluated in this EIR, 32,000 new dwelling units and 83,000 new jobs, is proposed to create a substantial new level of development in the existing Rincon de los Esteros Redevelopment Area. The alternative location evaluated, Coyote Valley, cannot accommodate the entire project as it is proposed. Placing even a smaller project at this location would result in most of the same significant impacts associated with the project - traffic congestion,

air quality and noise impacts - and will, in addition, result in additional significant impacts, including loss of agricultural land and open space, significant visual impacts, greater impacts to biological resources, similar or greater impacts related to geology and soils, and similar impacts to cultural resources.

This alternative location would require the construction of virtually all of the infrastructure, public services and public facilities required to serve the amount of development proposed. Although they may be mitigatable, significant impacts could occur as a result of the construction of water, sanitary sewer, storm sewer, electrical and natural gas lines. The necessary construction of schools, parks, recreational facilities, and libraries on agricultural land and visual open space could also result in additional impacts.

C. Finding. This project is not consistent with many of the project's goals and objectives, including the perceived ability and need to take advantage of North First Street's reputation immediately, while the demand exists and new development can contribute positively to the area's economy. The Coyote Valley location is infeasible, given the existing General Plan constraints limit the likelihood that the project could be developed in Coyote Valley immediately. Therefore, based on the foregoing reasons, this alternative is found to be infeasible.

5. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The CEQA Guidelines specify that an EIR must identify the environmentally superior alternative among those alternatives discussed. If the environmentally superior alternative is the "No Project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives. [§ 15126.6(3)(2)]. While the No Project Alternative is likely to result in slightly less impact than the proposed project, the environmentally superior alternative among the alternatives identified is the Reduced Scale Alternative.

XIV. MITIGATION MONITORING AND REPORTING PROGRAM

Attached to this Resolution as Exhibit A and incorporated and adopted as part of this Resolution herein is the Mitigation Monitoring and Reporting Program for the Project. The Program identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

XV. STATEMENT OF OVERRIDING CONSIDERATIONS

A. Significant Unavoidable Impacts. With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the Project will result in certain significant unmitigated impacts as disclosed in the Final EIR prepared for this Project. The impacts would not be reduced to a less than significant level by feasible changes or alterations to the Project.

B. Overriding Considerations. The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the Project. The City Council specifically 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 this Project has eliminated or substantially lessened all significant impacts on the environment where feasible.

C. Benefits of the Project. The City Council has considered the Final FEIR, the public record of proceedings on the proposed Project, and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the following substantial public benefits, which each outweigh the unavoidable impacts:

- The Project encourages "smart growth" and efficient use of land and supports the City's longstanding policy for in-fill development within the City's Urban Growth Boundary and Urban Service Area, consistent with the General Plan's Growth Management and Greenline/Urban Growth Boundary Major Strategies and the Sustainable City Major Strategy.
- The Project will enhance pedestrian and bicycle circulation, improve transit accessibility, develop parking resources, expand the City's existing trail system, and increase the City's housing supply.
- The Project will result in the construction of approximately 32,000 new housing units in North San Jose, 20 percent of which will be affordable. This housing will promote the goals of the Housing Major Strategy, will promote a jobs/housing balance in the City and Silicon Valley, and provide additional housing opportunities for Valley residents.
- The Project will result in the development of 26,000,000 square feet of office and R&D space, and 1,700,000 square feet of retail space. This new development will substantially stimulate the local and regional economy and increase the City's tax base.
- The Project will improve the urban design of North San Jose through streetscape improvements, the implementation of new design guidelines, the rehabilitation of existing park space, and the development of new open space. These improvements will improve the quality of life in North San Jose.
- The Project will provide substantial future ridership volumes to support for transit in North San Jose, including future BART extension to San Jose.

XVI. LOCATION AND CUSTODIAN OF RECORD

The documents and other materials that constitute the record of proceedings on which the City Council based the foregoing findings and approval of the Project are located at the Department of Planning, Building, and Code Enforcement, 801 N. First Street, Room 400, San Jose, CA.

ADOPTED and issued this 21st day of June, 2005 by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, PYLE, REED,
WILLIAMS; GONZALES

NOES CORTESI, LeZOTTE, YEAGER

ABSENT: NONE

DISQUALIFIED; NONE

VACANT : DISTRICT 7



RON GONZALES, Mayor
City of San Jose

ATTEST:



LEE PRICE, EMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

**NORTH SAN JOSÉ
DEVELOPMENT POLICIES UPDATE**

**CITY OF SAN JOSÉ
JUNE 2005**

EXHIBIT “A”

72768

P R E F A C E

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

On June 21, 2005 the City Council of the City of San Jose certified the Environmental Impact Report (EIR) for the North San José Development Policies Update. The Final EIR concluded that the implementation of the project could result in significant impacts on the environment and, where feasible, mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring and Reporting Program addresses those measures in terms of how and when they will be implemented.

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Land Use				
The significant increase in residential development in direct proximity to existing industrial facilities will increase the likelihood of conflicts between industrial vehicles and residents, especially pedestrians and bicycles. Increased development intensity, including increased bicycle and pedestrian activity will further add to non-vehicular traffic in the area. This could create significant safety impacts.	All new development in North San José will be subject to a design review process that includes review of site planning and architecture. The process includes specific review of building architecture and site design, evaluation of parking adequacy, access, landscaping, lighting, adherence to relevant standards for on-site security and provision of appropriate on-site services and amenities (trash enclosures, usable open space, etc.). The design review process would evaluate the projects for conformance with the adopted Design Guidelines and for the inclusion of appropriate environmental mitigation and consistency with assumptions and conclusions in this EIR.	DPBCE DPW	Planning and Public Works Staff will review site design, driveway locations, vehicular circulation, sidewalk locations, truck access points, loading dock locations, transit stop design and locations to ensure that designs minimize or avoid conflict between vehicular movements and non-vehicular movements.	Prior to issuance of Planning Permits
Less Than Significant Impact with Mitigation				
The amount of development proposed in North San José will result in significantly increased congestion along major arterials and residential collectors. This congestion is likely to result in the	Conformance with the City Council's adopted Traffic Calming Policy, which includes performance of periodic analyses of the source of cut-through traffic, and implementation of various measures to minimize or avoid neighborhood impacts, will reduce the effects of cut-through	DPBCE DPW DOT	Planning, Public Works, and DOT Staff, during the review of development applications, will consider, and require as conditions of approval, traffic calming measures consistent with the Traffic Calming Policy to minimize or	Prior to issuance of Planning Permits

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
generation of cut-through traffic using the grid streets in nearby residential neighborhoods. Many of the residential streets that will directly experience significant traffic increases serve front-on residences, both single family houses and duplexes, that would be adversely impacted by the secondary effects of significant traffic increases. Significant Unavoidable Impact	traffic.		avoid the effects of cut-through traffic.	
Transportation				
<i>Near Term Impacts and Mitigation for Implementation Policies and Proposed Development Project</i>				

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
<p>Full implementation of the proposed project would result in significantly increased congestion at 48 intersections which are listed in Table 11 in <i>Section II.B.(2)</i> of the DEIR. This includes impacts at 334 intersections in San José, 12 of which are within the North San José project area; 9 impacted intersections are in the City of Santa Clara; one intersection is in the City of Campbell; one intersection is in the City of Sunnyvale, and 4 intersections are in the City of Milpitas.</p> <p>Significant Unavoidable Impact</p>	<p>Mitigation is proposed for intersections where feasible. The mitigation will be phased over time. Intersections will be improved in four development phases which represent approximately equal amounts of development. The list of intersections that will be improved during each phase is included in the Project Description section of the Final EIR. These intersection improvements will be funded through a development impact fee collected at the issuance of building permits.</p>	<p>DPBCE/ CBO DPW</p>	<p>Chief Building Official will collect fees at issuance of building permits.</p> <p>Public Works will ensure implementation of identified mitigation as described in the Final EIR, based upon conditions and commitments included in the Final Public Works Clearance for development within the project area.</p>	<p>85% of all infrastructure mitigation for any individual phase (and all infrastructure for any previous phase) must be built or its implementation reasonably assured prior to issuance of building permits for any subsequent phase.</p>

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
<p>Full implementation of the proposed project would create demands for transit service significantly in excess of the existing transit systems, based on current operating standards.</p> <p>Less Than Significant with Mitigation</p>	<p>The following physical improvements will be implemented to expand and improve transit service in North San José:</p> <ul style="list-style-type: none"> Specialized passenger shelters and bus/shuttle stop improvements including curb bulbouts, depending on location and new [additional] locations. LRT northbound shelters at Orchard, Bonaventura, Component, (in the project area) and Tasman (lengthen existing plus southbound shelter) and River Oaks outside the project area; Intersection and crosswalk improvements; lane or intersection narrowing, including reducing curve radii and/or curb bulbouts; sidewalks along median from intersections to station platform; Lighting, furniture and landscaping at LRT stations, bus stops and key pedestrian locations; Station platform improvements; Other stop and station amenities such as sidewalks (locations) and/or sidewalk widening and lengthening; Self-cleaning bathrooms (2-4 locations); Real-time information infrastructure (on LRVs and at 17 stations and stops); Duck outs (most important at Tasman station); Shuttles between residential areas, businesses and transit stops/stations; New bus/shuttle stop locations (noted around Tasman LRT station) in addition 	<p>DOT</p> <p>DPW</p> <p>DPBCE</p>	<p>The Traffic Impact Fee assessed on new development includes funding for these transit improvements.</p> <p>Public Works will ensure implementation of identified mitigation as described in the Final EIR, with the timing of specific improvements to be coordinated with the VTA.</p> <p>The City and Redevelopment Agency will work with VTA to fund and develop the details and timing of the educational program for riders.</p>	<p>Chief Building Official will collect fees at issuance of building permits.</p> <p>Timing of specific improvements and the educational program for riders will be coordinated with the VTA.</p>
<p>North San José Development Policies Update</p> <p>Mitigation Monitoring and Reporting Program</p>				

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Air Quality				

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
<p>Project emissions of ozone precursors and PM₁₀ would exceed the BAAQMD threshold of significance of 80 pounds per day for regional pollutants.</p> <p>Significant Unavoidable Impact</p>	<p>All employment-generating development projects will be required to develop and implement a Transportation Demand Management program that will include, where feasible, the following elements:</p> <ul style="list-style-type: none"> Physical improvements, such as sidewalks, landscaping and bicycle parking that would act as incentives for pedestrian and bicycle modes of travel. Connect individual sites with regional bikeway/pedestrian trail system. Provide transit information kiosks. Implement a carpool/vanpool program, e.g., carpool ride-matching for employees, assistance with vanpool formation, provision of vanpool vehicles, etc. Develop a transit use incentive program for employees in the project area, such as on-site distribution of passes and/or subsidized transit passes for local transit systems (participation in the VTA EcoPass system would satisfy this requirement). Provide preferential parking for electric or alternatively-fueled vehicles. Provide a guaranteed ride home program. Implement a flextime policy. Provide on-site child care. Provide showers and lockers for employees bicycling or walking to work. Provide secure and conveniently located bicycle parking and storage facilities. 	<p>DPBCE</p> <p>DOT</p>	<p>Submittal of a TDM program will be required by the DPBCE with application for Site Development or Planned Development Permit. Physical site improvements will be incorporated into project design. Operational programs will be described to the satisfaction of the Director of Planning, and included as conditions of Planning permit approval.</p>	<p>Operational programs shall be described prior to issuance of Planning Permit(s). Physical site improvements shall be implemented prior to occupancy.</p>
<p>North San José Development Policies Update</p> <p>Mitigation Monitoring and Reporting Program</p>				

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
<p>The proposed General Plan amendments are not consistent with the population projected in the most recently adopted CAP. The project would, therefore, have a significant impact on long term regional air quality.</p> <p>Significant Unavoidable Impact</p>	<p>The following measures will be implemented by the City through infrastructure improvement programs, and will be required of new development where appropriate:</p> <ul style="list-style-type: none"> Expand employee assistance program. Provide assistance to regional and local ridesharing organizations. Improve bicycle access and facilities. Improve access and facilities by implementing the following: 1) improve and expand bicycle lane system by providing bicycle access in plans for all new road construction or modification, 2) establish and maintain bicycle advisory committees in all nine Bay Area counties, 3) designate a staff person as a Bicycle Program Manager, 4) develop and implement comprehensive bicycle plans, 5) encourage employers and developers to provide bicycle access and facilities, and 6) provide bicycle safety education. Improve Arterial Traffic Management. <p>Improve arterial traffic management by implementing the following: 1) study signal preemption for buses on arterials with high volumes of bus traffic, 2) improve arterials for bus operations and</p>	<p>DPW</p> <p>DOT</p> <p>DPBCE</p>	<p>Physical site improvements will be incorporated into project design. Operational programs will be described to the satisfaction of the Director of Planning, and included as conditions of Planning permit approval.</p>	<p>Operational programs shall be described prior to issuance of Planning Permit(s). Physical site improvements shall be implemented prior to occupancy.</p>

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
	<p>to encourage bicycling and walking, and 3) continue and expand local signal timing programs, only where air quality benefits can be demonstrated.</p> <ul style="list-style-type: none"> • Pedestrian Travel. Implement the following measures: 1) review/revise general/specific plan policies to promote development patterns that encourage walking and circulation policies that emphasize pedestrian travel and modify zoning ordinance to include pedestrian-friendly design standards, 2) include pedestrian improvements in capital improvement programs, and 3) designate a staff person as a Pedestrian Program Manager. • Promote Traffic Calming Measures. Promote traffic calming measures by implementing the following: 1) include traffic calming strategies in the transportation and land use elements of general and specific plans, and 2) include traffic calming strategies in capital improvement programs. 			

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Construction activities related to the proposed project, particularly generation of construction dust, could result in significant short-term air quality impacts.	BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to air quality to a less than significant level. The following construction practices will be implemented during construction on all sites within the project area:	DPBCE	All Planning permits will include these measures as conditions of project approval.	Concurrent with approval of Site Development or Planned Development Permits and Permit Amendments for all development in the area.
Less Than Significant with Mitigation	<ul style="list-style-type: none"> Water all active construction areas at least twice daily. Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind. 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 (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites. Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas. 	DPW	All of these measures will be required in approved Grading Permits issued for all private and public construction and grading in the project area and in contracts approved for public works projects.	Concurrent with issuance of all grading permits and contracts for public infrastructure construction.
North San José Development Policies Update Mitigation Monitoring and Reporting Program	<ul style="list-style-type: none"> Apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.). Limit traffic speeds on unpaved roads to 15 mph. 			

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Noise				
The project would introduce noise-sensitive residential uses into a noisy environment that exceeds the "satisfactory" level for new residential development, according to the City's General Plan.	All residential development will be required to conform to state Title 24 by preparing an acoustical analysis that demonstrates noise attenuation that will achieve acceptable interior noise levels, prior to issuance of building permits.	DPBCE	The Building Official will require design-specific acoustical analyses for all residential development.	Prior to issuance of building permit for residential development.
Less Than Significant with Mitigation	Conformance with the Residential Design Guidelines standards for provision of private and common open space, and consistency with General Plan guidelines for acceptable noise levels in outdoor activity areas, will ensure that residents have usable outdoor areas that do not exceed General Plan guidelines.		Planning staff will review site plans and project-specific acoustical analyses of all residential development and will compare the location and amount of open space with General Plan standards and the Residential Design Guidelines.	Prior to issuance of Planned Development Permits for residential development.
The construction of the individual development and infrastructure that make up the proposed project would temporarily elevate noise levels at adjacent noise-sensitive land uses.	Each new development project will be required to prepare construction noise reduction plans to minimize impacts on nearby sensitive receptors.	DPBCE	Noise reduction and management programs will be required as conditions of approval of all Planning permits. Copies of the noise reduction and management plan will be required prior to issuance of Building Permit	Concurrent with issuance of Site and Planned Development Permits and copies provided prior to issuance of Building Permit
Less Than Significant with Mitigation				
Biological Resources				

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Development of vacant parcels within the Rincon area would result in significant loss of habitat occupied by Burrowing Owls and other raptors. In addition, development and/or redevelopment of developed sites could result in potential disturbances of active raptor nests, occupied Burrowing Owl burrows, and pallid bat and Townsend's Big-eared Bat nursery colonies, and/or destruction of members of these species.	Implementation of relevant General Plan policies and conformance with other program mitigation measures listed below will reduce impacts of the project to vegetation and wildlife in the Rincon area to a less than significant level. General Plan policies are listed in greater detail in <i>Section II.E. (3)</i> of the DEIR. In conformance with the Migratory Bird Treaty Act and with federal and state regulations regarding protection of raptors, appropriate surveys for Burrowing Owls following California Department of Fish and Game protocols will be completed prior to any development occurring on sites with foraging or nesting habitat for Burrowing Owls, or prior to redevelopment occurring on sites with large landscaped areas. Preconstruction surveys for nesting raptors and bats will be conducted on proposed development or redevelopment sites with buildings and/or mature trees. If surveys confirm that a site is occupied habitat, or that a nest exists that could be disturbed by proposed development, then additional mitigation measures to minimize or avoid impacts to the raptors, their	DPBCE	Protocol level surveys will be completed by qualified biologists for all vacant and partially vacant development sites, and for all sites with areas (including large or vacant buildings and large trees) that could accommodate Burrowing Owls, other nesting raptors, or bats prior to approval of any Planning Permit. If the site is found to contain any special status species, mitigation will be identified and incorporated into the project, consistent with the mitigation discussed in the EIR and with the recommendations of a qualified ornithologist or bat biologist. The biologists' report(s) describing the surveys and, if appropriate, the mitigation proposed, will be provided to the DPBCE prior to issuance of any Planning Permit or Permit Amendment. The Planning Permit will also contain condition(s) of approval as required to ensure implementation of the mitigation measure(s) prior to grading and/or demolition.	Prior to issuance of any Planning Permit, including Site Development and Planned Development Permits and Amendments, for any site with areas that could be occupied by Burrowing Owls, other raptors, and/or bats.
Less Than Significant with Mitigation		DPW/CBO	If mitigation is required,	Prior to issuance of

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Significant Unavoidable Impact	<p>burrows or nests, and foraging habitat and would be identified and implemented.</p> <p>While identified mitigation will avoid impacts to individual birds and bats, the proposed development will result in the significant unavoidable loss of approximately 600 acres of vacant land that is presently Burrowing Owl foraging and breeding habitat.</p>		documentation of the mitigation implementation will be required prior to issuance of any grading or demolition permits on the specific development site.	any grading or demolition permit(s) for those projects which contain this condition of approval.
<p>Development that is covered by the DEIR will be consistent with the City's adopted Riparian Corridor Policy Study. For the purposes of the DEIR, it is assumed that future development or redevelopment will not encroach upon the 100-foot setback from the riparian corridors of the Guadalupe River or Coyote Creek, or otherwise significantly impact these corridors.</p> <p>Less Than Significant with Mitigation</p>	<p>Specific development proposals on properties containing or adjacent to existing riparian habitat will observe a 100 foot setback from the edge of the riparian corridor or top of bank, whichever is greater, within which little or no human activity or disturbance would occur. Any encroachment into the 100 foot setback is not covered by the Program EIR.</p> <p>Development of parcels containing remnant cottonwood forest or sycamore riparian woodland will preserve the habitat, in order to be consistent with the Riparian Corridor Policy Study. Any area of this habitat impacted by development must be replaced at a minimum ratio of 1:1. Replacement habitat should be designed to expand areas with existing riparian vegetation and could occur within gaps in riparian vegetation that</p>	DPBCE	<p>Planning staff will review all proposals for private development and public infrastructure to ensure that a 100 foot setback is observed.</p> <p>Planning staff will review all proposals for private development and public infrastructure on properties adjacent to or including the remnant cottonwood forest or sycamore riparian woodland. Any removal or degradation of this habitat must be replaced at a minimum ratio of 1:1 and should be designed to expand areas with</p>	<p>Prior to issuance of any Planning Permit, including Site Development and Planned Development Permits and Amendments.</p> <p>Replacement habitat must be identified and rights to implement the mitigation must be documented prior to issuance of any grading or construction permits that could</p>

[illegible]

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
	<ul style="list-style-type: none"> - Preclude non-stormwater discharges to the stormwater system. - Effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods. - Coverage of soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff. - Perform monitoring of discharges to the stormwater system. <p>The Post-Construction Urban Runoff Management Policy establishes that all new development projects are required to include specific measures for improving the water quality of urban runoff to the maximum extent feasible. In addition, the Policy establishes general guidelines and best management practices for particular land uses, and requires that all post-construction treatment control measures be maintained to operate effectively. Development projects will comply with the City of San José Grading Ordinance, including erosion-and dust-control during site preparation and with the City of San</p>			

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
	José zoning ordinance requirement for keeping adjacent streets free of dirt and mud during construction. Construction practices will include use of stabilized construction entrances and/or wash racks, street sweeping, use of erosion control devices including straw bales and/or silt fences, and storm drain inlet protection to minimize contamination of storm water runoff.			
Development of vacant parcels and redevelopment of properties with mature landscaping in the Rincon area could result in the removal of a significant number of ordinance-size trees. Less Than Significant with Mitigation	Prior to approval of project-specific development permits, a comprehensive tree survey for the parcel(s) being developed shall be required. The site design and PD Permit approval shall incorporate preservation of existing trees to the maximum extent practicable, to the satisfaction of the Director of PBCE. In locations where preservation of existing trees is not feasible due to site constraints, relocation and replanting of significant existing trees (especially native species) shall be incorporated into the project, where feasible and appropriate, to the satisfaction of the Director of PBCE. Each new development or proposed redevelopment project within the North San José area will obtain a permit for the removal of ordinance trees and provide for replacement of	DPBCE	Planning staff will review all proposals for development in the project area and will require a tree survey for any site that contains ordinance trees. Requirements to protect existing trees will be made conditions of approval for all Planning Permits. Replacement trees will be included in landscape plans that are part of the Planning Permits. Tree protection measures are to be identified at the PD Permit stage and implemented prior to demolition and during the construction phase by the contractors.	Verification of implementation of the tree mitigation and provision for long term maintenance must be provided to the DPBCE prior to Certificate of Occupancy

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Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
	removed trees in accordance with City of San José Tree Removal Controls (San José Municipal Code Title 13 Chapter 13.32). Trees removed with a valid tree removal permit shall be replaced in accordance with the terms of the permit and trees to remain on individual sites within the project area will be protected from damage during construction.		All measures will be printed on all construction documents, contracts, and project plans and will be reviewed by the Director of PBCE prior to issuance of PD Permit(s).	
Cultural Resources				

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Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Proposed future development and redevelopment of properties within the Rincon de los Esteros Redevelopment Area is likely to result in significant disturbance of and impacts to prehistoric or historic archaeological resources.	Any specific development proposal to develop or redevelop property in the project area, including any proposal to construct new infrastructure or other physical improvements that would include any disturbance of native soil (<i>i.e.</i> , soil that is not imported fill), will be accompanied by a new or an updated Archaeological Resources Assessment Report (as described below) prepared by a qualified archaeologist that identifies the status of the site <i>vis-à-vis</i> known cultural resources.	DPBCE	New or updated Archaeological Resources Assessment Report will be submitted concurrent with any application for rezoning, if applicable, or Planning Permits.	Recommendations of the consulting archaeologist will be implemented in the context of the pending rezoning or permit, including subsurface testing, monitoring, etc.
Less Than Significant with Mitigation	<p>The Archaeological Resources Assessment Reports will:</p> <ol style="list-style-type: none"> 1. address the potential for prehistoric and historic resources through a review of compliance reports completed and on file at the NWIC coupled with any other supplementary archival research including the baseline data in this report; 2. complete a field inventory of the property (only if the property has not been subject to a previous inventory); 3. identify any resources or potential resources that might be affected by the project; and, 4. present project recommendations and a mitigation strategy that focuses on a minimal impact strategy on identified and potential resources and stresses the preservation and/or avoidance of an identified resource rather than 			
North San José Development Policies Update Mitigation Monitoring and Reporting Program				May 2005 Page 17

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
<p>Future development and redevelopment of properties within the Rincon de los Esteros Redevelopment Area that contain or may contain historically significant architectural resources are assumed to include preservation and protection of such resources, consistent with definitions in the CEQA Guidelines.</p> <p>Less Than Significant with Mitigation</p>	<p>Special attention will be given to proposals to develop the following sites, which are considered likely to contain historic resources:</p> <ul style="list-style-type: none"> - East Agnews Complex; - Site G – south side of Brokaw Road northeast of US 101; - Site H – Northwest corner of Skyport Boulevard and North First Street; - Site I – Northeast corner of Skyport Boulevard and North First Street; - Site J – East side of North Fourth Street south of US 101; and - Urban Industrial Core – four areas do not appear to have been inventoried: <ul style="list-style-type: none"> 1) parcel fronting on both Trimble Road and Bonaventura Drive; 2) parcel(s) between Component Drive including a small portion south of Charcot Drive; 3) parcels in vicinity of Karina Court and O'Neil Drive; and, 4) parcels bounded by Brokaw Road, the VTA Light Rail tracks, and Highway 101. <p>The following measures will be incorporated into future development review processes for projects in North San José:</p>	DPBCE	<p>Planning Staff will review the evaluation of historic significance of any existing structures concurrent with the processing of any Planned Development rezoning or Planning Permits,. Recommendations of the consulting historian/architectural historian will be incorporated into the proposed project in order to avoid or mitigate any significant impacts to historically significant resources.</p>	<p>Concurrent with processing of any Planned Development rezoning or Planning Permits.</p>

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
	<ul style="list-style-type: none"> If baseline data are not available on the presence/absence and significance of architectural properties more than 45 years old, present on or adjacent to a specifically proposed development site at the time of any development permit request, then an evaluation of the site's historic significance will be completed. An historian/ architectural historian meeting the applicable Secretary of the Interior's professional qualification standards shall evaluate the potential significance of the resources for the National and California registers as well as for local Landmark eligibility. The historic report should provide recommendations or mitigation options. Significant properties located adjacent to the proposed development site will be considered in any impact analysis as to the likelihood that they may be indirectly affected by development and/or redevelopment (e.g., noise, vibration, setting, etc). In keeping with the intent of the General Plan and current planning practice, a Historic Report will be completed for the Agnews East Complex. The report should be prepared prior to approval by the City of any specific development 			

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Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
	<p>approvals on these parcels.</p> <p>Protection of historically significant architectural resources in a manner consistent with CEQA Guidelines §15064.5(b) and the City policies described above would reduce impacts to those resources to a less than significant level. Any proposal to remove historically significant architectural resources or any development that would result in a substantial adverse change in the significance of an historical resource as defined by CEQA Guidelines §15064.5(b), would result in a significant impact that is not covered by the DEIR.</p> <p>Consistent with adopted City Council policy, a comprehensive analysis should be prepared of the economic and structural feasibility of preservation and/or adaptive reuse of the structure, as well as an analysis of potential funding sources for preservation, prior to approval of its demolition.</p>			
Geology and Soils				
Construction of high-rise industrial/office/R&D and	Consistent with General Plan policies and current planning practice in the City of San	DPBCE/ CBO	Building and Public Works staff will review geotechnical reports and	Prior to issuance of Grading and

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
high-density residential buildings on compressible clay layers and highly expansive surface soils could result in significant structural damage. Relatively high water table levels could also result in damage to structures from hydrostatic pressure. Less Than Significant with Mitigation	José, new construction of industrial/office/R&D and residential buildings will occur in conformance with design-specific geotechnical reports prepared in conformance with requirements of the City Geologist and Building Official.	DPW/ CG	construction plans for conformance with the Building Code and acceptable professional standards.	Building Permits.
Development within the North San José area would result in future industrial and residential development being built on sites subject to seismic hazards, including liquefaction. Less Than Significant with Mitigation	Seismic shaking hazards would be mitigated by implementation of construction practices in accordance with Seismic Zone 4 building criteria as described in the Uniform Building Code.	DPBCE/ CBO DPW/ CG	Building and Public Works staff will review geotechnical reports and construction plans for conformance with the Building Code and acceptable professional standards.	Prior to issuance of Grading and Building Permits.
Hydrology and Water Quality				

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Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
<p>The project is located in an area of San José subject to periodic flooding from two creeks and possible tidal flooding from the Bay, all of which could expose people or structures to significant risks.</p> <p>Less Than Significant with Mitigation</p>	<p>In order to avoid or reduce risks to people and structures, specific development projects proposed in the project area will be subject to the City of San José Floodplain Management Ordinance in place at the time the project application is filed with the City. Consistency with the Ordinance will ensure that significant impacts to persons and property are reduced or avoided.</p>	DPW	<p>Public Works staff will ensure that plans submitted for Planning Permits, including Site Development and Planned Development Permits and Amendments, are consistent with the City's Floodplain Management Ordinance.</p>	<p>Prior to issuance of all Planning Permits, including Side Development and Planned Development Permits and Amendments</p>

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Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
In addition to flooding from nearby creeks and tidal flooding from the Bay, the project area is subject to flooding when stormwater flows exceed the capacity of the drainage system. This flooding could pose a significant risk to people and/or structures in the project area.	In order to avoid or reduce risks to people and structures, future projects proposed in the project area will be subject to the City of San José Floodplain Management Ordinance in place at the time the project application is filed with the City.	DPW	Public Works staff will ensure that plans submitted for Planning Permits, including Site Development and Planned Development Permits and Amendments, are consistent with the City's Floodplain Management Ordinance.	Prior to issuance of all Planning Permits, including Side Development and Planned Development Permits and Amendments
Less Than Significant with Mitigation	In keeping with General Plan policies and consistent with current planning practice in the City of San José, and in order to improve stormwater drainage in the project area and prevent localized flooding due to lack of system capacity, all proposed development in North San José will be evaluated for the adequacy of on-site and off-site stormwater collection systems prior to issuance of Site Development or Planned Development Permits. Some areas will require new or supplemental stormwater lines, catch basins, or other infrastructure. As redevelopment proceeds in the area, priorities may be set for upgrading the storm drainage system. Consistent with City policies, Capitol Improvement Projects will be identified and incorporated into the City's Five Year CIP process, as appropriate.	DPW	Public Works staff will have prepared an evaluation of the capacity of the existing storm drainage system in the project area, and will evaluate each proposed development for the adequacy of its proposed on-site drainage collection and management system, and for its effects on the localized system then in existence. Individual development proposals may be required to upgrade parts of the public system and/or to modify on-site systems in order to accommodate localized capacity problems.	Prior to issuance of Public Works Clearance for each development proposal within the project area
North San José Development Policies Update Mitigation Monitoring and Reporting	Future development projects will also be subject to any blockage criteria contained in the City's Floodplain Management Ordinance.			May 2005 Page 23

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Stormwater runoff from the proposed new development and from the anticipated increased levels of activity and traffic in this area could contribute to the degradation of surface water quality of the Guadalupe River, Coyote Creek, and ultimately, San Francisco Bay.	Under provisions of the NPDES Municipal Permit, redevelopment projects that disturb more than one acre are required to incorporate Best Management Practices for non-point pollution control in the new development area. These measures may include: <ul style="list-style-type: none"> • installation of landscaping that will facilitate the infiltration of stormwater; • installing bioswales in new landscape and surface parking areas to treat runoff prior to discharge to the stormwater system; • use of landscape species that minimize irrigation, runoff, pesticide and fertilizer application; • design landscape areas to be lower in elevation than surrounding paved areas; • planting new trees within 30 feet of impervious surfaces; • use efficient irrigation systems to minimize runoff; • stormwater catch basins will be stenciled to discourage illegal dumping; • use microretention techniques, such as tree well filters in parking and landscaped areas; • installation of oil/water separators in 	DPBCE DPW	Planning and Public Works staff will review all proposals for development in the project area, including Site Development Permits and Planned Development Permits and Amendments, and will require that site and landscape plans reflect BMPs required of the project.	Prior to issuance of Planning Permits in the project area, including Site Development and Planned Development Permits and Amendments.
Less Than Significant with Mitigation		DPW	Review SWPPP and on-site construction plans for consistency with NPDES Municipal Permit and RWQCB C-3 provisions.	Prior to issuance of all Public Works Clearances in the project area.

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Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
	<ul style="list-style-type: none"> parking structures, if required/allowed; cover dumpsters and other storage areas and/or protect by a berm or curb; use source control Best Management Practices (in vehicle areas, roofs, gutters, downspouts, dumpster/trash areas, floor drains, elevator shaft drains, air conditioning condensate, and outdoor material storage, etc.); maintenance of landscaped areas as necessary to maintain soil structure and permeability; site maintenance, including routine catch basin cleaning; and maintenance of landscaping with minimal pesticide use, including landscape maintenance techniques listed in the Fact Sheet on Landscape Maintenance Techniques for Pest Reduction prepared by the Santa Clara Valley Urban Runoff Pollution Prevention Program. <p>New Section C.3 requirements of the Municipal Stormwater NPDES Permit, including numeric sizing criteria for post-construction treatment control measures, will apply to future projects as project permits will not be approved prior to February 15, 2005. At the time of final</p>			

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Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
	design, treatment BMPs to be used on any proposed project site will be analyzed based upon a volume hydraulic design basis or a flow hydraulic design basis, as appropriate under the requirements of the City's Municipal Stormwater NPDES Permit.			
Hazardous Materials				

Mitigation Monitoring and Reporting Program North San José Development Policies Update				
Environmental Impact	Mitigation or Avoidance Measure(s)	Responsibility for Compliance	Method of Compliance	Timing of Compliance
Development or redevelopment of properties within the project area could expose construction workers and/or the public to hazardous materials during site preparation and construction as a result of one or more of the following: 1) hazardous materials that have been accidentally released in the past that contaminated soil or groundwater; 2) the presence of asbestos or lead-based paint in buildings that are demolished; and/or 3) removal of underground storage tanks during redevelopment.	Health and Safety Plan(s) prepared in accordance with the California Code of Regulations (Title 8, Section 5192) are required on some construction sites. A Health and Safety Plan is a project-specific plan that describes safety measures to be followed during all phases of remediation on contaminated sites. It is designed to protect the health and safety of construction workers and the public during the remediation and/or construction periods.	DPBCE	The DPBCE will require that prior to approval of Planned Development or other rezoning, Phase I hazardous materials reports will be prepared by qualified consultants on all sites proposed for development with residential, park, school or other sensitive uses. Based on the results of the Phase I reports, testing may also be required.	Prior to approval of Planned Development or other rezoning for sensitive uses; prior to approval of Planning Permits, including Site Development and Planned Development Permits and Amendments for all other uses.
Less Than Significant with Mitigation	The Department of Toxic Substances Control and the Regional Water Quality Control Board are responsible for overseeing cleanup of contaminated soil and water and for overseeing development activities on contaminated sites. For sites where contamination has been found as part of assessments of specific development sites, a Risk Management Plan, Remediation Plan or Clearance Letter approved by one of these agencies that outlines the site history and requirements for further site assessment and cleanup will be required by the City of San José prior to approval of specific residential development.		Phase I/II reports may also be required for other sites which the City has reason to believe may have been contaminated by hazardous materials from industrial, agricultural, or other sources. The reports will describe any mitigation required to make the site safe for the proposed uses and to protect the public and on-site workers from adverse health effects.	
	Department of Toxic Substances Control's		The recommendations of the reports will be included in the Planned Development zoning, and/or will be conditions of project approval.	

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	(DTSC's) Schools Property Evaluation and Cleanup Division is responsible for assessing, investigating and cleaning-up proposed school property sites. Under California Education Code Sections 17210.1 and 17213.1 the Division ensures that selected properties are free of contamination or, if the properties were previously contaminated, that they have been cleaned-up to a level that protects the students and faculty who will occupy the new school. All proposed school sites that will receive State funding for acquisition or construction are required to go through a rigorous environmental review and cleanup process under DTSC's oversight.			
Existing or future businesses within the project area could use hazardous materials that pose health or safety risks to nearby sensitive land uses, including new residential development that is proposed as part of this project, or	A number of local, State and Federal regulations address the prevention of accidental releases of chemicals that can affect human health. The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the	DPBCE	Prior to approval of Planned Development or other rezoning for residential, park, school, or other sensitive uses, the DPBCE will have prepared a report on the likelihood of nearby land uses resulting in significant off-site consequences associated with then permitted uses	Prior to approval by the City Council of Planned Development or other rezoning of a proposed site for residential, school, park, or other

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residential support uses, such as schools, that could be developed in the future. Less Than Significant with Mitigation	boundaries of property. Facilities that are required to participate in the CalARP program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The County of Santa Clara Department of Environmental Health reviews CalARP risk management plans as the Certified Unified Program Agency (CUPA). Within the City of San José (and neighboring cities of Santa Clara and Milpitas), a number of local regulations govern the use and storage of hazardous materials. A Hazardous Materials Business Plan is generally required of any facility which generates any quantity of hazardous waste or which handles hazardous materials in amounts greater than 55 gallons for liquids, 500 pounds for solids, and 200 cubic feet for compressed gases. Toxic gas storage on industrial and commercial sites must also comply with San José Municipal Code Chapter 17.78 (Toxic Gas Ordinance) and the California Fire Code. Engineering controls, such as secondary containment, automatic shut-off, seismic shutoff, emergency alarms, gas detection and signage may be required depending on the	Fire Chief	of hazardous materials. Based on the proximity of such uses, the DPBCE will report to the City Council on whether or not the particular site under consideration is appropriate for development with sensitive use(s) at that point in time. When the CUPA informs the City of a proposal to store specified quantities of toxic and flammable substances that can have off-site consequences if accidentally released, the Fire Chief will advise the CUPA, proposed materials users, and the DPBCE of the need for additional measures due to the proximity of residential, park, school or other sensitive users to the industrial site proposing the specified quantities. Any proposal to add hazardous materials to any site in the project area will be subject to relevant state and local laws and regulations. Permits must be obtained from Building and Fire Departments prior to implementation.	sensitive uses. Prior to approval of the CalARP risk management plan by the CUPA. Prior to issuance of hazardous materials permits or building permits for hazardous materials facilities.

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	<p>class and quantity of gas stored. The implementation and enforcement of these local, and state and Federal regulations regarding the use, storage and transport of hazardous materials (including setbacks for flammable storage from property lines) reduce the potential for impacts to off-site land uses, in the event of an accidental release. In addition to regulations regarding accidental releases, the routine emission of hazardous materials is locally regulated by the Bay Area Air Quality Management District (BAAQMD). BAAQMD's Air Toxics Program integrates federal and state air toxics mandates with local goals that have been established by the Bay Area Air Quality Management District's Board of Directors. The Program consists of several elements that are designed to identify and reduce public exposure to toxic air contaminants. BAAQMD programs include preconstruction review with the requirement that new or modified sources of toxic air contaminants use Best Available Control Technology to minimize emissions.</p> <p>The State Public Resources Code (Sections 21151.4 & 21151.8) and Sections 42301.6 and 42301.7 of the Health and Safety Code specifically apply to schools. These</p>			

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	regulations address facilities that may emit hazardous or acutely hazardous air emissions materials and are located within one-quarter mile (1,320 feet) or 1,000 feet of schools. The governing board of the school district in which a school is proposed is required to make findings regarding the health risks from nearby facilities and corrective measures required before a school is occupied.			
Energy				
Development proposed by this project would result in a significant increase in energy use.	The project shall recycle or salvage a minimum of 50% (by weight) of construction, and demolition waste, in conformance with existing City ordinance.	DPBCE/ CBO	The CBO will collect a deposit prior to issuance of demolition or construction permits which will only be refunded if recycling goals are met.	Concurrent with demolition and construction.
Significant Unavoidable Impact	<ul style="list-style-type: none"> All new buildings shall be constructed to meet the requirements of Title 24 of the California Administrative Code, as pertains to energy efficiency. In conformance with the existing Plumbing Code, residential developments shall install low-flow showerheads and faucets and low flow toilets. <p>Even with inclusion of the proposed mitigation measures, the project will significantly increase energy use. While the</p>		All building applications will conform to current building codes.	Concurrent with issuance of building permits
			Planning staff will review all applications for Planning Permits, including Site Development and	Prior to issuance of all Planning Permits

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	nature and location of the proposed land uses are efficient, including placement of jobs and housing in close proximity to each other and transit services, the increase in use may be substantial in relation to currently projected future energy supplies.		Planned Development Permits and Amendments for inclusion of Green Building principles and other energy saving techniques described in the EIR.	