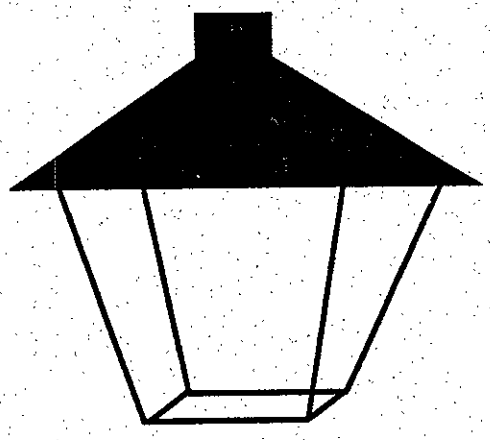
FINAL

ENVIRONMENTAL IMPACT REPORT

TOWN AND COUNTRY VILLAGE



CITY OF SAN JOSE

JUNE 1998

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VOLUME IV OF IV : FINAL EIR APPENDICES H-K

PDC98970 6-036

APPENDIX H

FIRST AMENDMENT TO THE

DRAFT ENVIRONMENTAL IMPACT REPORT

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FIRST AMENDMENT

TO A

DRAFT ENVIRONMENTAL IMPACT REPORT

TOWN AND COUNTRY VILLAGE

CITY OF SAN JOSE

APRIL 1998

PREFACE

This document, together with the Draft Environmental Impact Report (DEIR) constitute the Final Environmental Impact Report (FEIR) for the Town and Country Village redevelopment project. The DEIR was circulated to affected public agencies and interested parties for a 45-day review period. This Amendment consists of comments received by the Lead Agency, the City of San Jose, on the DEIR, responses to those comments, and revisions to the text of the DEIR.

In conformance with the CEQA Guidelines, the FEIR provides objective information regarding the environmental consequences of the proposed project. The FEIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The FEIR is used by the City and other Responsible Agencies in making decisions regarding the project. The CEQA Guidelines require that, while the information in the FEIR does not control the agency's ultimate discretion on the project, the agency must respond to each significant effect identified in the DEIR by making written findings for each of those effects. According to State Public Resources Code (§21090), no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

(a) The public agency makes one or more of the following findings with respect to each significant effect:

(1) Changes or alterations have been required in, or incorporated into, the project which will mitigate or avoid the significant effects on the environment.

(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities of highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

(b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

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FOR THE FIRST AMENDMENT TO THE DRAFT EIR

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I. LIST OF AGENCIES AND INDIVIDUALS RECEIVING THE DRAFT EIR

State and Regional Agencies

Director of Planning, County of Santa Clara
Santa Clara County, Roads and Airport Department
Audubon Society
Director of Planning, City of Campbell
Association of Bay Area Governments
Governor's Office of Planning and Research, State Clearinghouse
Director, California Department of Fish and Game
Santa Clara County, Parks & Recreation Department
Santa Clara Valley Water District
Director of Planning & Inspections, City of Santa Clara
San Francisco Bay Regional Water Quality Control Board
Transportation Planning, Caltrans District 4
Santa Clara Valley Transportation Authority
Sierra Club/Loma Prieta Chapter
Guadalupe-Coyote Resource Conservation District
Bay Area Air Quality Management District
Metropolitan Transportation Commission
Campbell Union School District

Individuals

Mark Cali
Robin Marshall
Janet Gawbill
Kerry Field
Peter Cassata
Karita Hummer
Don Ichikawa
Susan Lindshog
Rita Carr
Cisco Systems

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II. LIST OF AGENCIES AND INDIVIDUALS COMMENTING ON THE DRAFT EIR

Comment Received From	Date of Letter	Response Required
Federal and State Agencies		
A. State Department of Fish and Game	2/11/98	yes
B. Cal EPA	2/25/98	yes
C. State Department of Transportation	2/26/98	yes
Regional and Local Agencies		
D. County of Santa Clara, Parks and Recreation Department	1/27/98	yes
E. Campbell Union School District	1/29/98	yes
F. County of Santa Clara, Roads and Airports Department	2/5/98	yes
G. City of Santa Clara, Planning Division	2/20/98	yes
H. The Redevelopment Agency of the City of San Jose	2/25/98	yes
I. Santa Clara Valley Transportation Authority	2/25/98	yes
Organizations and Individuals		
J. Daphna Lee	2/7/98	yes
K. Petition to Slow the "Fast Track" Development of the New Town & Country Village	2/12/98	yes
L. Lucille J. Williams	2/23/98	yes
M. Ann Reid	2/23/98	yes
N. Petition letter	2/24/98	yes
O. Berliner Cohen	2/24/98	yes
P. San Jose Downtown Association	2/25/98	yes
Q. Abrams Associates*	2/23/98	yes

*Note: This letter was sent attached to the letter from the Downtown Association.

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III. RESPONSES TO COMMENTS RECEIVED ON THE DRAFT EIR

The following section includes all of the comments contained in letters received during the 45-day review period advertised by the City of San Jose regarding this DEIR. The comments are organized under headings containing the source of the letter and its date. The specific comments have been copied from the letters and are presented as "Comment" with its response directly following. Copies of these letters submitted to the City of San Jose are found in their entirety in Section V of this First Amendment to the DEIR.

FEDERAL AND STATE AGENCIES

A. DEPARTMENT OF FISH AND GAME, DATED FEBRUARY 25, 1998

COMMENT 1: On Page 85 of the Draft Environmental Impact Report (EIR), it is stated that "the vacant area does not meet the definition of what is considered by the State Department of Fish and Game to be the minimum amount of habitat to support one or a pair of burrowing owl (6.5 acres)." The Department has **never** made this assertion.

In our Staff Report of Burrowing Owl Mitigation (1995), we state that "a minimum of 6.5 acres of foraging habitat (calculated on a 100 m (approx. 300 ft) foraging radius around the burrow) per pair or unpaired resident bird should be acquired or permanently protected" (Staff Report 1995) as a mitigation requirement for project impacts to burrowing owls. This is not to say that we believe that burrowing owls may not be utilizing sites of smaller size (or of larger size). Due to the fragmented nature of the patches of burrowing owl habitat left in the South Bay area, it is likely burrowing owls utilize several small parcels of open space within their range.

RESPONSE: Language in the DEIR addressing the minimum amount of habitat that is necessary to support Burrowing Owls, and clarifying the project's impacts on both the habitat available to the species and potential impacts to individual birds is included in **Section IV. Revisions to the Text of the EIR** found in this Amendment.

As stated in the text revisions, and as reflected in these comments from Fish and Game, there is no widely accepted, scientific estimate as to what constitutes a minimum amount of habitat that will support one or more Burrowing Owls. When Owls must be relocated, the State Department of Fish and Game typically stipulates that a relocation site provide a minimum of six and one-half acres of habitat per bird or pair of birds. While Burrowing Owls have been found living in locations with less natural habitat available, there are no studies on whether such sub-optimal environments are conducive to successful breeding. The loss of 4.5 acres of marginal foraging habitat is not considered a significant loss of habitat impact; however, the EIR does conclude that, without mitigation there would be a significant impact from the project on individual owls, since owls intermittently live on the project site.

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A. DEPARTMENT OF FISH AND GAME, DATED FEBRUARY 25, 1998, continued

COMMENT 2: On Page 85, it is stated that "the development of the project site will have no effect on the breeding success of the burrowing owl." There is not enough information available to make this kind of determination. One of the owls that was observed on the Town and Country site in October, 1997, was leg banded. It turns out that the bird hatched in a nest burrow on the Santa Clara University Campus in the spring of 1997. It is difficult to predict the habits of wild animals, however, we do know that owls have been observed on the Town and Country parcel in the past and we also know that burrowing owls prefer to breed in areas that other burrowing owls have bred in the past. Therefore, it is possible that the juvenile observed in October may attempt to nest on the site. If so, development of the site would effect the breeding success of the owls observed. We make this argument to illustrate that it is best to avoid making these types of sweeping generalizations when conducting impacts analysis on burrowing owls.

RESPONSE 2: As clarified in the text revisions found in Section IV. in this Amendment, the remaining habitat on the project site is poor quality and will deteriorate whether or not this project is approved. The habitat consists of a small patch of vacant ground in the center of a heavily urbanized area. The text revisions also clarify the distinction between potential impacts to the species and their breeding success in the area and the region, and potential impacts to the particular birds that may be still on the property. The loss of this vacant land will not, by itself, significantly impact the success of the species in San Jose or Santa Clara County, but does contribute to the cumulatively significant loss of habitat in the region (see Cumulative Impacts, page 118 of the DEIR).

COMMENT 3: The mitigation measures proposed for reducing impacts to burrowing owls to a level of less than significant (Page 86) are appropriate insofar as they assure there will be no "take" of individual burrowing owls. Pre-construction surveys should be conducted within thirty days of construction and any burrowing owls observed on the site during the nesting season (February 1 to August 31) shall be protected pursuant to sections 3503 and 3503.5 of the California Fish and Game Code and the Federal Migratory Bird Treaty Act. A 250-foot radius buffer will have to be established around any active owl burrow for the duration of the nesting season. No activities will be allowed within the protective buffer. The buffer shall be established with the placement of acceptable fencing.

Mitigation for the loss of burrowing owl foraging and potential breeding habitat should be required as a condition of approval for the project. To delay the determination of mitigation requirements for impacts to burrowing owl **habitat** would not be in accordance with the provisions of CEQA. On Page 86 it is written that, "if resident of breeding owls are located on the site during pre-construction surveys, a site-specific mitigation plan would be prepared." One of the purposes of CEQA is to provide the public with an opportunity to review and comment on the adequacy of various mitigation measures proposed to off-set the project's impacts. Habitat mitigation requirements should be clearly identified in the Final EIR. If the City were to develop an interim measure for burrowing owl habitat protection (until the Burrowing Owl Habitat Conservation Plan is implemented) this type of situation could be avoided.

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A. DEPARTMENT OF FISH AND GAME, DATED FEBRUARY 25, 1998, continued

We suggest assessing an impact fee on projects such as this, which contribute to the cumulative loss of burrowing owl habitat in the region. This approach would provide the applicant and the City with an acceptable and reasonable approach to burrowing owl habitat mitigation. The fee could be placed into an account which could later be used to fund management activities to enhance or create burrowing owl habitat on protected open space areas. We urge the City to consider this approach without delay so that the burden of protecting burrowing owls in the San Jose area is distributed fairly among developers. This approach will provide the applicant with a feasible way to lessen the significant impact of the project on burrowing owl habitat and afford the City with the opportunity to avoid making a finding of overriding considerations.

On Page 117 of the Draft EIR, this type of approach is clearly identified as a mitigation option. However, it is stated that "although the City of San Jose has begun a study .... there is currently no established program in place" for an applicant to contribute financially to burrowing owl habitat protection, enhancement and management. An interim measure, such as an ordinance which identifies a fee schedule based on the number of square feet of the project or the size of the owl habitat area impacted, would assure that all applicants are provided with a mitigation mechanism so that mitigation would be distributed fairly and that enough money will be available to fulfill the components of the future Burrowing Owl Habitat Conservation Plan. We would be pleased to provide you information about similar ordinances elsewhere that have been established to achieve similar goals.

If a fee assessment is not possible at this time, we recommend that impacts to burrowing owl habitat be offset with the protection of similar habitat elsewhere within the South Bay area. We suggest - that a minimum mitigation ratio of 1:1 be applied to burrowing owl habitat impacts. The applicant should be required to protect and enhance five acres of burrowing owl habitat in the South Bay area. If the applicant is unable to find acceptable habitat within the time frame of the project permitting process, we would be willing to accept a security bond as an interim mitigation measure. The security bond would have to be in an amount sufficient to cover the potential cost of having the Department fulfill the mitigation requirement. A Mitigation Agreement with our Department will be required if this mitigation option is chosen.

RESPONSE 3: This comment assumes that the loss of habitat resulting for this project would be significant. The EIR does not conclude that the development of the remaining vacant land on the project site would be a significant loss of habitat, although it does contribute to the cumulatively significant loss of such habitat in the region. The text revisions in this Amendment (**Section IV. Revisions to the Text of the EIR**) clarify the distinction between impacts to birds and impacts to habitat, and explain why the loss of the remaining foraging habitat on this site is not considered significant. CEQA does not require mitigation for cumulative impacts when the project's contribution is considered *de minimus*.

The Department's suggestions regarding how to implement possible mitigation for cumulatively significant impacts are acknowledged, and will be considered by the City Council for inclusion as potential project conditions.

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B. DEPARTMENT OF TOXIC SUBSTANCES CONTROL, DATED FEBRUARY 25, 1998

COMMENT 1: As stated in our August 11, 1997 letter to you, DTSC is a Responsible Agency under CEQA and had planned to use the Environmental Impact Report (EIR) prepared by the City of San Jose to address the potential environmental effects stemming from the cleanup actions specified in the Removal Action Workplan. (RAW). However, the since the City of San Jose failed to include DTSC, as a Responsible Agency, in the scoping sessions conducted early in the planning stages, the Draft EIR as proposed is not useful for the purposes of evaluating effects of the RAW. In fact, at this time the RAW is still in the draft stages and although there are a few potential remedies under consideration, a remedy for the soil contamination has not been selected. DTSC formally requests from the City of San Jose an extension of the public comment period in order to allow development of the RAW to the point that a remedy can be selected. At that point, the EIR could be modified to address the environmental effects of the RAW.

RESPONSE 1: No formal scoping meeting for Responsible Agencies was conducted for this project. The applicants' representatives, and consultants responsible for preparing the technical analysis reflected in the DEIR, have been in contact with DTSC since the circulation of the Notice of Preparation. The City believes the conditions found on the site are not uncommon, and the mitigation identified in the DEIR is adequate to address these issues. Implementation of a RAW for the type and amount of contamination found on the site, which is being developed in conjunction with DTSC, would not generate additional significant environmental effects which are not already addressed in the DEIR.

In addition, the mitigation measure identified on page 92 of the DEIR states, "once implemented, the RAW will reduce the levels of contamination within the areas designated for residential uses to acceptable threshold levels as established by local, state, and federal regulatory agencies."

COMMENT 2: If the City of San Jose will not extend the public review and comment period, please consider and respond appropriately to the comments contained in this letter. If the City of San Jose does not address these comments to the satisfaction of DTSC, an alternate CEQA document will be written to address the effects of the RAW exclusively. This course of action will result in higher costs (on the order of $15,000) to the project proponent, Federal Realty. Staff at DTSC are ready and willing to work closely with the City of San Jose to modify the EIR such that the wasteful exercise of generating another CEQA document can be avoided.

RESPONSE 2: Please refer to Response 1 of this letter. The City acknowledges that Section 15096(e) of the CEQA Guidelines states that if a Responsible Agency believes that a final EIR or Negative Declaration prepared by the Lead Agency is not adequate for use by the Responsible Agency, the Responsible Agency may prepare a subsequent EIR or assume lead Agency status.

B. DEPARTMENT OF TOXIC SUBSTANCES CONTROL, DATED FEBRUARY 25, 1998, continued

COMMENT 3: As stated in DTSC's August 11, 1997 letter, the EIR must account for potential impacts of the cleanup work on earthen structures, air quality, surface and ground water, animal and plant life, land use, natural resources, risk of upset, public resources, energy, utilities, noise, public health and safety, aesthetics, cultural and paleontological resources, traffic, population, housing, recreation, and cumulative effects.

RESPONSE 3: It is the City's understanding that one of the purposes of the development of a RAW is to include measures to ensure that the implementation of the workplan will not generate new significant effects, and that clean up is conducted in a safe and effective manner in accordance with local, state, and federal regulations. As reflected in the responses below, there is no reason to assume that the measures necessary to implement a RAW at this site would have significant impacts different or greater than those identified in the DEIR.

COMMENT 4: The Land Use section should discuss issues related to restricting land use if a deed restriction is put into place. Conceptually, the deed restriction would prevent uncontrolled excavation of contaminated soils. It would prevent uses that would involve sensitive receptors such as day care centers, hospitals, etc. The restriction would require a plan, approved by DTSC, that describes how contaminated soils will be handled in the future. Residential units may be constructed on deed restricted land, but ground-level private patios or yards must be free of contaminants at any depth.

RESPONSE 4 The DEIR identifies environmental impacts from the project as proposed. If DTSC concludes that a deed restriction is necessary, and if that restriction results in a development pattern substantially different than that reflected in the City's approved project design, the property owner would propose suitable revisions consistent with DTSC requirements. The City would consider the modified design and evaluate it for conformance with the approved PD zoning. If the modified proposal had environmental impacts different than those reflected in this EIR, subsequent review would be required under CEQA, including coordination with DTSC and other concerned agencies.

There is no proposal to locate a day care center, hospital, or other sensitive use on the site, as reflected in the Project Description in the DEIR.

COMMENT 5: The Traffic section should discuss issues related to the potential effects of implementing alternative #1, complete removal and disposal of contaminated soil. The estimated amount of soil that would require removal has not been determined. This alternative would involve hauling contaminated soil by truck to the nearest disposal facility. A disposal facility has not been proposed to DTSC and is not known at this time. The EIR should discuss the effects of the level of service due to the implementation of this remedy.

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B. DEPARTMENT OF TOXIC SUBSTANCES CONTROL, DATED FEBRUARY 25, 1998, continued

RESPONSE 5: Even if all of the contaminated soil is removed from the site, the number of truck trips necessary to remove contaminated soil would be significantly less than the number of daily trips that will be generated by this project after development. Since the DEIR evaluates the impacts of full buildout of the project, traffic impacts of the RAW activities would not create significant impacts different or more significant than those addressed in the DEIR.

COMMENT 6: The Air Quality section should state that soil with high levels of arsenic, lead and pesticides exists on the site and should discuss the potential health effects. Indicate that DTSC would require a Health and Safety Plan as part of the RAW which would include monitoring and dust control measures.

This section should also discuss the potential negative impacts to air quality stemming from the use of construction equipment and from the use of trucks hauling contaminated soil for disposal.

RESPONSE 6: The DEIR assumed that DTSC, as stated in this comment, would require that the RAW include appropriate measures to reduce air quality impacts. As reflected in the response to the previous comment about traffic, implementation of the RAW will have fewer air quality impacts related to traffic than will full buildout of the project and, therefore, would not create significant impacts different or more significant than those addressed in the DEIR.

COMMENT 7: This section should discuss the appropriateness of fill material potentially being placed into areas that will be used for foundation support. This section should address changes in the site due to potential excavation of contaminated soils. This section should also discuss issues related to the remedial option of leaving contaminated soils in place. If contaminated soils are left in place, DTSC will require an Operations and Maintenance Plan for long term maintenance and Soils Management Plan for **any** disturbance of contaminated soil. These discussions should tie into the discussion in the Air section as they relate to dust control.

RESPONSE 7: As reflected in responses to previous comments, the DEIR states that the RAW will need to conform to DTSC requirements. If the soil were to remain on site, it would either be incorporated into building foundations, or would otherwise be treated in a fashion that would conform to relevant State and Federal standards.

COMMENT 8: The discussion of sample results in the "Former Agricultural Uses" section is inaccurate. Perhaps the author was confused by the presentation in the Environmental Site Assessment, which presented sampling data in a chronological fashion. Environmental sampling data should be presented in total, i.e., regardless of the time sampled. There were at least 76 soil samples analyzed. Present the total number of samples analyzed for pesticides, lead, and arsenic. Present the correct concentrations as a range from minimum to maximum. This data should be

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B. DEPARTMENT OF TOXIC SUBSTANCES CONTROL, DATED FEBRUARY 25, 1998, continued

supported by copies of figures presented in the Environmental Site Assessment which show both concentration and location of samples.

RESPONSE 8: The soil sampling information summarized in the DEIR document is based upon the most recent environmental site assessment prepared on the project site. CEQA Guidelines and recent case law direct the analysis in an EIR to evaluate the conditions which exist on the site before the commencement of the project. The information in the DEIR is the most up-to-date available for the project site. In addition, the DEIR contains a reference to previous soil sampling conducted on the site. The text of the EIR has been revised to clarify the ranges in pesticides found in the most recent soil samples and the comparison to previous soil samples. These revisions are included in **Section IV. Revisions to the Text of the Draft EIR** of this document.

Support material for technical information contained in an EIR is frequently included in the Appendices which are also part of the EIR. Figures identifying the location of the soil samples and the concentrations of the materials are found in Appendix E of the DEIR. Page 88 of the DEIR refers the reader of the document to the technical report located in the Appendix.

COMMENT 9: The comparison of site concentrations to the total threshold limit concentration (TTLC) and resulting determination of whether the soil is hazardous material leads the reader to believe that any concentration below the TTLC is not hazardous and therefore does not present a human health risk. While the containment concentration may be below the TTLC, it still may present a significant health risk and by virtue of being toxic is defined as hazardous material. The Site Concentrations should be compared to site-specific background soil concentrations or Preliminary Remedial Goals (PRGS) developed by the U.S. EPA. PRGs are conservative screening concentrations that provide a good benchmark for comparison to potential human health risks.

RESPONSE 9: Total threshold limit concentrations (TTLC) are used by the State of California to define hazardous waste. The text of the DEIR states that the soil would be classified as a hazardous material. The text revisions in this Amendment (**Section IV. Revisions to the Text of the Draft EIR**) clarify the classification of the contaminated soils. A Human Health Screening Evaluation is summarized on page 91 of the DEIR.

COMMENT 10: The EIR presents arsenic concentrations in the "Former Agricultural Uses" section. This is not appropriate, because it leads the reader to believe that arsenic is limited to the currently unpaved area. DTSC believes that the entire area encompassed by the site was once used for agricultural purposes. As the figures in the Environmental Site Assessment show, arsenic was detected in soil at several locations at the site.

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B. DEPARTMENT OF TOXIC SUBSTANCES CONTROL, DATED FEBRUARY 25, 1998, continued

Page 92, Mitigation for Hazardous Material Impacts: This section refers to the "former agricultural area." As previously stated, DTSC believes that the entire site was once used for agricultural purposes.

RESPONSE 10: The entire project site was previously used for agricultural purposes. The "Former Agricultural Uses" section of the DEIR does not limit previous agricultural operations only to the existing vacant parcel. The text revisions in this Amendment (**Section IV. Revisions to the Text of the Draft EIR**) clarify the reference to the former agricultural area to include the entire site.

COMMENT 11: This section refers to the RAW as a mitigation measure. The EIR should address the effects of the RAW (in both implementation and final result). It is unclear how the EIR can address these effects when the RAW has not been developed yet.

RESPONSE 11: As stated in previous comments and responses to them, both the City of San Jose and State law assume that the RAW will include measures to reduce impacts from the contamination on site to a less than significant level. Preparation and conformance with a RAW is, therefore, mitigation for impacts from the contamination. Based on the amount and type of contamination identified as present on this site, it is unlikely that implementation of the RAW itself would have significant adverse impacts different or more significant than those addressed in the DEIR.

COMMENT 12: This section should address the potential effects of the usage of fuel for trucking contaminated soil to a disposal facility.

RESPONSE 12: If the contaminated soil must be removed from the site to a disposal facility, no more than approximately 35 truck trips would be required. The City of San Jose would not consider the fuel necessary to remove the contaminated soil to be "inefficient and unnecessary consumptions of energy" and its consumption is, therefore, not considered a significant impact, requiring mitigation under the CEQA Guidelines [Section 15126(c)].

COMMENT 13: There should be a section addressing the risk of upset. This section would examine the potential effects from an accident during or after implementation of the selected alternative in the RAW. The Health and Safety Plan, Operations and Maintenance Plan and Soils Management Plan required by DTSC would make these impacts less than significant.

RESPONSE 13: The implementation of the RAW to remove or move soil in accordance with DTSC standards, which include the development of a Health and Safety Plan,

B. DEPARTMENT OF TOXIC SUBSTANCES CONTROL, DATED FEBRUARY 25, 1998, continued

Operations and Maintenance Plan, and Soils Management Plan is not anticipated to generate additional significant effects associated with risk of upset.

COMMENT 14: This section should analyze the relative impacts associated with the main areas of contamination and how the various hazardous materials may, when considered together, result in an adverse impact at and around the project site. This includes similar hazardous material removal projects in proximity to the site. The cumulative analysis as currently written limits the focus primarily to traffic impacts and its cumulative effects.

RESPONSE 14: Singularly or collectively the hazardous materials found on the site do not result in significant impacts with the identified mitigation. The City knows of no approved or reasonably foreseeable future projects which, considered in conjunction with the proposed project, would result in cumulatively significant hazardous materials impacts.

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C. STATE DEPARTMENT OF TRANSPORTATION, DATED FEBRUARY 26, 1998

COMMENT 1: Modifications to the existing ramp metering systems, such as ramp widening, may be necessary in order to mitigate the impacts the project. In particular, at the one-lane diagonal on-ramp from Stevens Creek Boulevard to the southbound I-880, the existing ramp meter is located on the lane collector road. The traffic generated by this project will add to the existing queue at the diagonal on-ramp in the afternoon peak period, it appears that a three-lane on-ramp, including an HOV bypass lane will be required.

RESPONSE 1: The EIR identifies mitigation necessary to offset project impacts, but does not address improvements to better accommodate existing and/or background traffic. Widening the diagonal ramp to SB I-880/I-280 from Stevens Creek Boulevard to two lanes, from Monroe to the I-280 interchange, will mitigate impacts from the proposed project. This improvement would also be compatible with Caltrans' plan for three lanes with an HOV bypass on that ramp. As a condition of the project, the two-lane ramp will be required. This ramp improvement goes a long way toward achieving the ultimate design that Caltrans desires; however, Caltrans may wish to build the ultimate design all at once, as opposed to widening the ramp to two lanes, then at some future date widening it to three. If that is the case, the City would recommend that Caltrans coordinate with the developers of the project and the City Department of Public Works to achieve this end.

COMMENT 2: In Volume I, page 32 land Vol. II, Page 14, the report states "the assumed ramp capacity is 2,000 vehicle per hour per lane for the diagonal ramps and 1,800 vehicle per hour per lane for the loop ramps". The LOS of ramps was calculated using V/C ratio alone without any consideration for ramp metering. Please revise the analysis of impacts to freeway segments, interchange ramps and intersections to include the effects of ramp metering on peak period traffic.

RESPONSE 2: Based on the traffic analysis by Barton-Aschman, the project could potentially add traffic to the following metered ramps: I-880 northbound ramp from Stevens Creek (metered in mornings only), I-880 southbound onramp from Stevens Creek (metered in the afternoons only), and I-280 northbound onramp from Winchester Boulevard (metered in the morning and afternoon). A ramp metering analysis has been conducted and shows no adverse impact due to the project. The results of observations, and the project impact, are presented on the table below. The only location where traffic exceeded the storage capacity was at the I-280 onramp from Winchester in the morning. The project would add only four trips to this ramp during the AM peak hour, which represents an insignificant impact. The other ramps are expected to remain within their available storage capacity.

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C. STATE DEPARTMENT OF TRANSPORTATION, DATED FEBRUARY 26, 1998, continued

Ramp Metering Summary						
Ramp	Time Period	Maximum Storage (cars)	Maximum Queue (cars)[a]	Added by Background (cars)[b]	Added by Project (cars)[b]	Total Queue (cars)
San Carlos to NB 880	AM	50	14	0	0	14
Stevens Creek to NB 880	AM	45	28	2	5	35
Stevens Creek to SB 880	PM	55	16	5	3	24
Winchester to NB 280	AM	58	58+	0	4	58+
Winchester to NB 280	PM	58	53	1	3	57

[a] Count conducted on Wed. 1/21/98

[b] Cars added to maximum queue calculated by taking average arrival rate per minute and multiplying by two.

COMMENT 3: The Existing Level of Service (LOS) was calculated using V/C ratio. The ratio alone is not sufficient to provide correct traffic conditions. Peak hour speeds also must be looked at before true LOS could be calculated. For instance, upstream of any bottleneck, traffic volumes are lower than the capacity due to stored vehicles. Therefore, relying on volumes alone will not provide true traffic conditions because it will show much higher LOS.

RESPONSE 3: The freeway analysis in the DEIR was conducted using the methodology specified by both the City of San Jose and Santa Clara Valley Transportation Authority (VTA) for traffic studies. These guidelines specify the use of a V/C ratio for the analysis of freeway segments. In addition, the V/C analysis shows LOS F on several freeway segments and indicates that the project would have a significant impact on those segments. The EIR concludes that the project will have a significant unavoidable impact on six freeway segments.

COMMENT 4: In addition, weaving affects are ignored. For instance the northbound Collector Distributor Road on I-880 between I-280 and Stevens Creek Boulevard is currently experiencing daily congestion with LOS F due to traffic weave. This information is not reflected in Table 7. Projects that will increase traffic demand in this project will undoubtedly worsen that weave and therefore must be addressed in the environmental document.

RESPONSE 4: Barton-Aschman conducted traffic counts and analyzed the weave sections on the collector-distributor roads of the I-880/Stevens Creek Boulevard/I-280 interchange. These counts were conducted on Saturday (1/17/98) and Tuesday (1/20/98). A weaving analysis was done using the methodology described in the *Highway Capacity Manual*. The standard weaving methodology is designed to analyze freeway sections where the free flow speed is 65-miles per hour. The weaving sections analyzed are on the collector-distributor roads, where free flow speeds are much lower. Three

C. STATE DEPARTMENT OF TRANSPORTATION, DATED FEBRUARY 26, 1998, continued

weave sections were analyzed: 1) northbound 280 off-ramp to northbound 880/northbound 880 to San Carlos, 2) Stevens Creek on-ramp to northbound 880/280 to Stevens Creek westbound off-ramp, and 3) Stevens Creek on-ramp to southbound 880/280. Weave sections numbers 1 and 3 are assumed to have a free flow speed of between 35 and 45 miles per hour since they are fed by diagonal ramps. Weave section number 2 is more restricted because it has loop ramps at either end. It is assumed to have a free flow speed of between 25 and 35 miles per hour. The levels of service by speed for these two conditions is on the following table.

The results of the weave section analysis show that all weave sections are estimated to operate at LOS D or better for all scenarios (including the project scenario). Therefore, the project would not have a significant impact on weave section operations. Nevertheless, it has been noticed that back-ups sometimes occur (not daily) in the weave sections of northbound 880 during the PM peak and on Saturday. These back-ups are caused by congestion on Stevens Creek and not by any inherent deficiency in the weave sections or the ramps. In particular, the intersection of Stevens Creek and Monroe causes back-ups in the westbound direction on Stevens Creek that extend beyond the interchange. The Draft EIR states that the project would have a significant impact on the Stevens Creek/Monroe intersection and identifies mitigation to eliminate this impact.

Weave Analysis Summary

Weekday PM Peak Hour

	Existing			Background			Cumulative		
Weave Section	**Sw**	**Snw**	**LOS**	**Sw**	**Snw**	**LOS**	**Sw**	**Snw**	**LOS**
East of I-880	34	36	B	33	35	B	32	34	B
I-880/Stvns. Crk. Int. (east)	25	24	B	25	23	B	23	22	C
West of I-880	40	43	A	39	42	A	38	40	A

Saturday Peak Hour

	Existing			Background			Cumulative		
Weave Section	**Sw**	**Snw**	**LOS**	**Sw**	**Snw**	**LOS**	**Sw**	**Snw**	**LOS**
East of I-880	33	35	B	32	34	B	31	32	B
I-880/Stvns. Crk. Int. (east)	23	22	C	23	21	C	22	20	C
West of I-880	40	44	A	39	42	A	39	42	A

Sw = Average running speed of weaving vehicles, mph

Snw = Average running speed of non-weaving vehicles, mph

Note: Methodology based on 1994 HCM

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D. COUNTY OF SANTA CLARA, PARKS AND RECREATION DEPARTMENT, DATED JANUARY 27, 1998

COMMENT 1: Consistency with the County of Santa Clara General Plan. The subject project is not located along the route of any of the proposed routes identified in the Countywide Trails Master Plan. Nor is it located adjacent to any regional County park facilities. Therefore, the project will not have a direct impact on County facilities.

RESPONSE 1: The comment is acknowledged and hereby included in the environmental record.

COMMENT 2: City's Park and Trails Objectives. The proposed project is not providing any additional public park facilities. However, the DEIR has indicated that the project will be in compliance with the parkland dedication ordinance. We are assuming that compliance will be met through the dedication of in lieu fees that will be dedicated to parkland elsewhere in the city.

RESPONSE 2: The project will be conditioned to provide either additional neighborhood serving park facilities or in-lieu fees. At this time, it appears that the in-lieu fees will be required.

COMMENT 3: Pedestrian Circulation Requirements. The DEIR has indicated that the project will be providing or retaining sidewalks to meet internal and external pedestrian circulation requirements. As this project proposes high density residential and commercial use of the project site, the project applicant needs to coordinate with the Valley Transportation Authority to ensure that residents and shoppers opportunity to use transit is maximized.

RESPONSE 3: The City and the developer are working with the Valley Transportation Authority to maximize the transit opportunities in the project area.

COMMENT 4: Bicycle Circulation. The project applicant needs to coordinate with the City of San Jose bicycle corrdinator, Joan Collins and the City Bicycle Advisory Committee to maximize the saftey of bicycists using Winchester as a travel route.

RESPONSE 4: The comment is acknowledged and hereby included in the environmental record.

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E. CAMPBELL UNION SCHOOL DISTRICT, DATED JANUARY 29, 1998

COMMENT 1: I am in receipt of the Town and Country Village Draft Environmental Impact Report. Having received this report, on behalf of the Campbell Union School District, I have serious concerns that the students who would be generated by this project would severely overcrowd our northern schools. To house an additional 204+ students would be extremely difficult or impossible given the current loading factor in our north-end learning community.

Hence, if this project were to be approved, I believe the Campbell Union School District would need some substantial mitigation in order the District to accomodate these students.

RESPONSE 1: As stated in the DEIR, State law specifies payment of impact fees as an acceptable method of offsetting increased demands for school capacity. The Campbell Union School District is a participating school under conditions set forth in the School Availability Policy Ordinance. The developer of the residential component of the site will be required to adhere to the School Availability Policy which requires either a presumptive payment or negotiated agreement between the school district and the developer to offset increased enrollment.

Measures to respond to the demand which might result in physical changes in the environment, such as busing, realignment of attendance boundaries, and/or expansion of existing schools with temporary or permanent building additions, are not anticipated to result in significant adverse environmental impacts.

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F. COUNTY OF SANTA CLARA, ROADS AND AIRPORTS DEPARTMENTS, DATED FEBRUARY 5, 1998

COMMENT 1: Table 27 - Cumulative Intersection Levels of Service (page 113): LOS for San Tomas/Stevens Creek intersection is F for existing PM peak hour and E for existing AM peak hour. The CMP approved existing solution should be used for this intersection. The intersection of San Tomas/Saratoga should be included in the traffic analysis.

RESPONSE 1: The CMP approved existing solution (CMP approved volumes, lane configuration, and timing) was used for the San Tomas Expressway/Stevens Creek Boulevard using the CAPSSI-11 methodology and the 1997 existing traffic counts. The analysis shows a level of service E for both the AM and PM hours. The intersection of San Tomas Expressway and Saratoga Avenue has been included in the analysis. See **Section IV. Revisions to the Text of the Draft EIR** of this document. No additional significant impacts were identified at this intersection.

COMMENT 2: San Tomas/Stevens Creek (Existing Conditions AM Peak Hour Scenario 1): NBT has only two lanes during the AM commute. The third lane is designated HOV/Bus lane only. NB has two critical movements which is an error.

RESPONSE 2: The comment is noted. The level of service calculations for the intersection of San Tomas Expressway and Stevens Creek Boulevard have been revised and are reflected in the revised tables in **Section IV. Revisions to the Text of the Draft EIR** of this document.

COMMENT 3: San Tomas/Moorpark (Existing Conditions AM Peak Hour Scenario 1): WBR cannot be a critical movement. NBT has two lanes during the AM commute.

RESPONSE 3: The comment is noted. The level of service calculations for the intersection of San Tomas Expressway and Moorpark Avenue have been revised and are reflected in the revised tables in **Section IV. Revisions to the Text of the Draft EIR** of this document.

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G. CITY OF SANTA CLARA, PLANNING DIVISION, DATED FEBRUARY 20, 1998

COMMENT 1: It is our understanding that, according to the Barton Aschman traffic studies for these two developments, the proposed addition of 438,000 square feet of retail space (211,000 square feet of gross leasable area) to Valley Fair would not be, on its own, cause for consideration of street widening and intersection improvements at Winchester and Stevens Creek Boulevard in Santa Clara. However, when combined with the proposed reconstruction and intensification of uses on the Town & Country Shopping Center site. This intersection would be significantly impacted by the proposed changes in this area.

We are concerned that the newly proposed addition of double left turn lanes at the northern part of this intersection (southbound Winchester) cannot be accommodated within the existing public right-of-way nor within the planned right-of-way. The City has no adopted Plan Line for further widening of this intersection. It should be noted that this intersection was previously widened, reducing onsite parking and required landscaping for commercial businesses in our city, to provide for the 1980's expansion of Valley Fair. The property owners of the shopping center at the northwest corner of Winchester and Stevens Creek Boulevard, the Winchester Shopping Center, have contacted Santa Clara staff to express their opposition to the newly proposed widening, including the alternative which would result in a reduced width of the public sidewalk and landscaping at this corner. The grocery store and drug store parking on the other corner should not be reduced.

RESPONSE 1: As stated on page 45 of the DEIR, Town & Country traffic will cause the intersection to fall below LOS D. As stated on page 55 of the DEIR, the proposed mitigation measure is physically possible without the loss of parking. The Winchester/Stevens Creek northbound left turn lane addition is not located in the jurisdiction of the City of San Jose, as reflected in the Draft EIR and in this comment. Therefore, this mitigation measure cannot be imposed as a project condition, and the impact is identified as significant, unavoidable.

COMMENT 2: Without this improvement, the intersection would operate at Level of Service (LOS) E, based on the cumulative developments included in this traffic analysis. LOS E still falls within the acceptable Congestion Management Program guidelines.

RESPONSE 2: The commentor is correct; the intersection would still meet an acceptable level of service identified in the Congestion Management Program guidelines. However, the Level of Service Policy of the City of San Jose defines acceptable level of service as LOS D. Thus, with the implementation of the proposed project, the intersection of Stevens Creek Boulevard and Winchester Boulevard would operate below the City of San Jose's acceptable level of service, and the project impact is considered significant.

COMMENT 3: The Valley Fair Final EIR's analysis of adequacy of queuing for access to driveways has identified inadequate capacity and no possible mitigation to accommodate forecast demand for access from eastbound traffic on Stevens Creek into the driveway opposite the main driveway entrance to Town & Country. Stacking of vehicles waiting to turn will extend into the center through traffic lane for eastbound Stevens Creek, in an area where the two right-hand lanes

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G. CITY OF SANTA CLARA, PLANNING DIVISION, DATED FEBRUARY 20, 1998, continued

are already backed up/impacted by traffic queuing to enter 17/880 and 280 southbound from Stevens Creek. This situation may impact the left-turn movement of traffic southbound on Winchester into the eastbound Stevens Creek traffic lanes (and/or seeking to enter Town & Country Center).

RESPONSE 3: It is not anticipated that the Town and Country project traffic will impact the Valley Fair queing. Since this entrance is a signal controlled intersection, the queing problems associated with Valley Fair access will not affect the left turn movement from westbound Stevens Creek Boulevard to the project site driveway.

COMMENT 4: We note that the Alternatives discussion for the Town & Country redevelopment identifies that "even a project half the size of the proposed project would cause impacts to two of the local intersections (Stevens Creek/Monroe and Stevens Creek/Winchester) and would still require mitigation (Alternative B). Alternative C, which would consist of updating and remodeling of the existing shopping center, and development of residential uses on the vacant portion of the site, would result-in an approximate 90% reduction in the number of additional daily trips, compared to the proposed project. An Alternatives analysis which maintains the existing undeveloped portion of the site may be appropriate as this area is under-served by existing parks.

RESPONSE 4: The comment is acknowledged and is hereby included in the environmental record.

COMMENT 5: The information provided is not adequate for assessing the cumulative impacts of the development proposal. For example, the proposed size of the residential units, number of bedrooms, and number of parking spaces allocated per unit has not been established.

RESPONSE 5: The project plans in the DEIR illustrate a proposed project that is currently being reviewed by the City of San Jose. The development standards included on the plans represent the parameters within which future development could occur.

COMMENT 6: Although not discussed in the Draft EIR, we understand that the Town & Country redevelopment could involve multiple movie theaters with their primary access from Winchester Boulevard at the Olin Drive and Olsen Drive intersections which are already impacted by the Century Movie Theaters. As the theaters also impact the Winchester and Stevens Creek intersection, the EIR should include a detailed traffic analysis relative to peak hour traffic for the proposed theaters.

RESPONSE 6: The existing Town & Country shopping center contains a single screen movie theater. The traffic associated with the existing movie theater is included in the traffic analysis under the existing traffic conditions. No additional movie theater seats besides those already existing on the project site have been assumed in the project analysis. Should additional movie theater seats be proposed in future PD Permits, the overall project would

G. CITY OF SANTA CLARA, PLANNING DIVISION, DATED FEBRUARY 20, 1998, continued

have to be reduced in size and a traffic analysis prepared that ensures that no significant impacts different from those identified in this EIR would occur.

COMMENT 7: Overall, the traffic analysis may be inadequate at this time. It cannot be detennined whether cumulative impacts on area streets and intersections have been adequately addressed. It is not clear which of Santa Clara's approved projects were considered. We know of at least one approved project in Santa Clara, the pending addition of 727,500 square feet of office/research and development space to the Hewlett Packard site at Lawrence Expressway and Steven Creek Boulevard, which will contribute significant traffic to an intersection identified as being significantly impacted by the Valley Fair/Town & Country proposals. According to the Barton Aschman-prepared EIR for Hewlett Packard, that intersection is San Tomas Expressway and Stevens Creek Boulevard, which is already operating at an unacceptable level of service.

RESPONSE 7: The traffic analysis has been modified to include the approved projects submitted by Santa Clara into the background traffic conditions. Under these conditions, the only intersection affected would be at San Tomas and Stevens Creek as a result of the additional traffic from the Hewlett-Packard development. The level of service at this intersection would not change from that presented in the DEIR.

COMMENT 8: If approved, the Town & Country project should contribute to the County-wide Deficiency Plan to help fund improvements to area Freeways and Expressways.

RESPONSE 8: A discussion of the Countywide Deficiency Plan and its relationship to the proposed project is provided on page 116 of the DEIR.

COMMENT 9: We have attached a list of approved projects in our city (as of September 1997) for your use in preparing subsequent environmental documents related to this project. Barton Aschman has used this list in recent Santa Clara EIR's.

RESPONSE 9: Please refer to response 7 above.

COMMENT 10: Please note that the City of Santa Clara General Plan does not support a continuous median planter on Stevens Creek, primarily due to its adverse impacts on access to the automobile sales dealerships there. The traffic analysis does not identify whether the existing median on Stevens Creek west of Winchester will need to be lengthened for additional queuing of eastbound Stevens Creek traffic heading northbound on Winchester.

RESPONSE 10: The implementation of the proposed project would not require the modification of the existing median on Stevens Creek Boulevard.

COMMENT 11: Santa Clara staff first expressed concerns to San Jose staff in a 1992 letter regarding the then-tentative plans of the prior property owner to intensify development on the Town & Country site. A copy of that letter has been attached. Many of the concerns remain.

G. CITY OF SANTA CLARA, PLANNING DIVISION, DATED FEBRUARY 20, 1998, continued

RESPONSE 11: The proposed project is different from the previous plan, which is the subject of the 1992 letter.

COMMENT 12: It is not clear from the Draft EIR how many, if any, of the housing units to be created would be restricted so as to be affordable to very low, low and moderate income households.

RESPONSE 12: All of the proposed housing is assumed to be market rate.

COMMENT 13: The EIR does not identify what percentage of Town & Country employees and customers are anticipated to use mass transit. What is the percentage use of transit by employees and customers now and projected into the future? Would Light Rail on Stevens Creek significantly help the traffic and parking situation?

RESPONSE 13: While the City and the developer have committed to working with VTA to improve transit access to the site, and to incorporate into the project design appropriate measures to maximize transit usage by residents and clients of the proposed development, it is not possible to accurately predict what transit usage might be with the future project. The DEIR therefore conservatively assumed that transit usage with future conditions would be no greater than under the existing condition.

COMMENT 14: The Draft EIR does not identify any traffic mitigation measures to encourage Town & Country employee or customer use of bicycles to access the site. The City of Santa Clara 1997 Bicycle Map should be referenced in the EIR. This Council-adopted document identifies a Bike Lane on Monroe Street extending from Sunnyvale on the west through Santa Clara to the San Jose City limits at Newhall. This map also identifies an existing Bike/Pedestrian Bridge at the south end of Monroe at Tisch Way and extending over Highway 280 to Moorpark (the only park in the immediate area is on Monroe at Tisch Way). There is also a bicycle/pedestrian bridge over 280 connecting Moorpark to Cypress Avenue west of Valley Fair.

RESPONSE 14: The text revisions in **Section IV. Revisions to the Text of Draft EIR**, reflect this information about planned bicycle routes. Page 66 of the Draft EIR identifies the provision of bicycle parking as a mitigation measure.

COMMENT 15: Emergency access and public safety needs should be clearer in the FEIR.

RESPONSE 15: While the project would contribute incrementally to traffic congestion throughout the area, it proposes mitigation measures that will reduce the severity of several of the more significant bottlenecks that presently impede emergency vehicle access.

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G. CITY OF SANTA CLARA, PLANNING DIVISION, DATED FEBRUARY 20, 1998, continued

COMMENT 16: Cumulative impacts on nearby Freeways, especially where stacking on those Freeway off-ramps may result in blocking of a freeway lane such as that which provides an important connection from northbound 280 to northbound 17, should seriously be evaluated. Stacking for traffic at the meter light for northbound 17 already impacts northbound 280 traffic's access to Stevens Creek Boulevard towards the two shopping centers. Solutions to resolve these conflicts should be identified now, as commitment from San Jose will be required to support implementation of alternative designs. Cumulative impacts from these developments could be partially mitigated if the Town & Country development is phased to coincide with resolution of existing, connecting ramp design constraints.

RESPONSE 16: The project mitigation identified in the Draft EIR will reduce all cumulative impacts to a less than significant level. The back-up that extends back to I-280 is caused by traffic congestion on Stevens Creek. Freeway traffic cannot get to the Stevens Creek loop off-ramp. The Stevens Creek congestion is caused by the Stevens Creek/Monroe intersection. The proposed improvements to the Stevens Creek/Monroe intersection, which will reduce congestion at that intersection, will also improve conditions on the I-880/I-280 Stevens Creek interchanges.

COMMENT 17: The mixed use nature of the development, especially if the phases which accomplish additional residential units are completed, represents an improvement over the present single purpose use of the site. For continued diversity of the area's economic base, approval should be conditioned on preservation of the automobile sales use (this is consistent with Santa Clara's General Plan goal).

RESPONSE 17: The comment is acknowledged and hereby included in the environmental record.

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H. THE REDEVELOPMENT AGENCY OF THE CITY SAN JOSE, DATED FEBRUARY 25, 1998

COMMENT 1: The Redevelopment Agency has the following comments on the DEIR for the Town and County Village project. The Agency's concerns fall into three major areas:

1) General Plan Conflicts

The DEIR does not adequately address conflicts and inconsistencies between the proposed project and adopted land use policies in the General Plan. Conflicts with adopted General Plan policies are considered significant impacts, and these impacts should be addressed. (DEIR page 21, Threshold of Significance).

RESPONSE 1: Conflicts with General Plan polices are **not** considered environmental impacts. The CEQA Guidelines state that an EIR must discuss "any inconsistencies between the proposed project and applicable general plans and regional plans." [§15125(b)] Neither CEQA nor the Guidelines identify nonconformance with a General Plan policy as a threshold of significance. The reference in this comment to page 21 of the DEIR (Land Use Impacts) appears to be to a threshold of significance included in the EIR for the purpose of evaluating land use compatibility impacts; land use incompatibility can result in physical impacts. The potential for such impacts is increased where land uses are proposed inconsistent with a General Plan land use designation. The City's General Plan designates the proposed project site for *Regional Commercial* uses, and specifically provides for mixed uses under that designation under certain circumstances, including a large site on a major arterial [Discretionary Alternate Use Policies, page 180].

All General Plans contain a variety of goals, policies and strategies which are designed to achieve a broad range of community objectives. Some of the goals and policies may be in conflict with each other for a particular development or proposal. Determining conformance with the General Plan involves an overall weighing of the various policies. A discussion of the project's conformance with relevant General Plan goals, policies and major strategies is found in Section II.E(1), on pages 13 through 16 of the DEIR.

COMMENT 2: 2) Downtown Impacts

The DEIR does not adequately address potentially significant physical impacts that will likely result due to economic decline in Downtown from the increased competition of the expanded Town and Country Village (Sec. 21083, 21087 Public Resources Code: Sec. 21001(e) and (g), 21002, 21002.1, 21060.5, 21080.1, 21083 (c), and 21100, Public Resources Code.).

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H. THE REDEVELOPMENT AGENCY OF THE CITY SAN JOSE, DATED FEBRUARY 25, 1998, continued

RESPONSE 2: There is no evidence in the record that the addition of 1,200 dwelling units and expansion of an existing shopping center will cause a substantial decline in Downtown San Jose, resulting in a significant adverse environmental impacts. It is not clear from this statement how the expansion of an existing shopping center could cause a significant physical decline in Downtown (i.e. blight). There is no existing regional commercial development in Downtown San Jose with which the proposed project would compete. Given the current housing market in Santa Clara County, and the extremely low vacancy rates, the development of dwelling units at Town & Country would not create high vacancy rates of dwelling units Downtown such that it would cause a physical decline. As discussed below in response to subsequent comments, there is no reason to assume that expansion and improvement of this shopping center would cause significant environmental blight Downtown. In addition, the General Plan states that mixed use development within the Intensification Corridors will strengthen downtown.

The various citations at the end of this comment (Sec. 21083 *et. seq.*) refer to parts of the California Environmental Quality Act (CEQA) and no response is required.

COMMENT 3: 3) Project Alternatives

The DEIR does not adequately identify alternatives to the project, particularly including the alternative of a Downtown location for the project components, which would feasibly attain the most basic objectives of the project but would avoid or substantially lessen any of the significant impacts of the proposed project (State CEQA Guidelines Sec.15126(d).

RESPONSE 3: As discussed in greater detail below in response to other comments, the DEIR does identify two alternatives, both of which reduce project impacts. Also, refer to the response to comment 8, below.

COMMENT 4: 1. Conflicts with General Plan Policies

The Land Use section of the DEIR does not address inconsistencies between the proposed project and the following Land Use policies:

a) "Any new regional-scale commercial development should be encouraged to locate in the Downtown Core Area rather than suburban locations." (Commercial Land Use Policy 3, page 48 and 49)

b) "The City should encourage retail and service establishments to locate in the Downtown Core Area in order to serve residential and employees."(Commercial Land Use Policy 8, page 49)

The Agency advises that the project is inconsistent with these policies. Rather than encouraging regional scale development in the Downtown Core, the project accomplishes regional commercial

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H. THE REDEVELOPMENT AGENCY OF THE CITY SAN JOSE, DATED FEBRUARY 25, 1998, continued

development in a suburban location by doubling the square footage of development at the suburban shopping center and adding 1200 residential units and two hotels. This establishes Town and Country as a direct competitor with the revitalizing Downtown San Jose commercial district. City strategy and policy directs that density at the Town and Country Village should be maintained at a level that preserves the suburban character of the area and does not constitute an expanded urbanized center in direct competition with Downtown. The project, which proposes more than a doubling of building heights at Town and Country, is in direct conflict with City Commercial Land Use policy, creates significant impacts on the City's ability to accomplish its Land Use goals and objectives for Downtown, and the City as a whole.

RESPONSE 4: The proposed project, an expansion of an existing shopping center designated as *Regional Commercial* on the City's General Plan, does not propose to create a new regional commercial center, which is the situation identified in Commercial Land Use Policy #3. Rather, the project proposes to expand an existing regional shopping center which is already part of an existing regional commercial node. Commercial Land Use Policy #8 is intended to encourage locally serving retail/service uses Downtown, but does not preclude or discourage the development of local-serving commercial and service uses elsewhere in the City.

COMMENT 5: c) "Hotel/motel development elsewhere in the City may be allowed when it would not interfere with the Downtown revitalization Major Strategy. This policy is effective until the City Council finds that Downtown hotel development objectives are substantially achieved." (Land Use Policy 7, page 49)

The DEIR does not analyze this apparent conflict between General Plan policy and the proposed project. There is no information about the nature of the proposed hotels (i.e., target market, amenities, services, related uses) or how they might impact this policy or the strategies in the General Plan 2020 or the Downtown Strategy Plan 2010. There is no evidence in the DEIR that this proposal is consistent with the Hotel Policy. There is no analysis to support the conclusion that the project is consistent with the goal of achieving an effective mass of Downtown hotel rooms to support the Convention Center. The impact of 200 rooms on the Redevelopment Agency's ability to achieve an adequate number of hotel rooms to sustain the existing Convention Center as well as the expansion identified in the Council adopted Downtown Strategy Plan 2010 has not been evaluated.

RESPONSE 5: In 1987, the City Council adopted a set of Hotel Policy Implementation Standards in order to clarify what type of hotels were allowed at what locations, consistent with General Plan policies. The Implementation Standards have since been modified, most recently in December 1997. A consistent feature of the Implementation Standards since their adoption is that 100-room limited-service hotels are allowed outside the Downtown.

The proposed PD rezoning allows for development of up to two 100-room hotels. The EIR does not evaluate the impacts of hotels with significant meeting space or other amenities because the two hotels are specifically

H. THE REDEVELOPMENT AGENCY OF THE CITY SAN JOSE, DATED FEBRUARY 25, 1998, continued

proposed to conform to adopted Council policy for hotels located in San Jose but outside of the Downtown. Language clarifying that intention is included in the proposed text amendments in **Section IV. Revisions to the Text of the DEIR** of this Amendment.

While this comment would relate to the project's potential conformance with a particular City policy, it does not appear to address an environmental issue.

COMMENT 6: d) "Non-residential building height should not exceed 45 feet except [in certain specified areas, not including the Town and Country Center]." (Urban Design Policy 11, page 56)

This policy is intended to help define the character and livability of the City by controlling form and density of development. The proposed maximum height for the project is 90 feet, 50% greater than the tallest structure at Valley Fair Shopping Center and in excess of the building heights described in the General Plan. This building height will replicate a dense urban environment, such as that envisioned in the General Plan for Downtown. The conflict between the General Plan policy and the project proposal have not been evaluated in the DEIR.

RESPONSE 6: This comment quotes only part of Urban Design Policy #11. Some of the policy language that was omitted from this comment states that:

For mixed use projects (residential and non-residential uses) on sites of 20 acres or larger located near major transportation arterials or corridors, the maximum building height is 90 feet, provided that the project contains a minimum of 200 dwelling units in a master Planned Development zoning.

The DEIR specifically discusses project conformance with this policy on page 15. Since the proposal is for a mixed use project (residential and non-residential uses) on a 39 acre site located at the intersection of two major arterials, and includes 1,200 dwelling units in a proposed Planned Development zoning district, it does conform with Urban Design Policy #11.

COMMENT 7: 2. Physical Impacts on Downtown due to Economic Competition

The DEIR does not address physical impacts on the Downtown which are potentially significant and result from economic causes. Economic factors are to be considered by public agencies in deciding whether changes in the project are feasible to reduce or avoid significant impacts.* [*In *Citizens Association for Sensible Development v. Inyo (1985),* the court held that '...an EIR for a proposed shopping center located away from the downtown shopping area must discuss the potential economic and social consequences of the project, if the proposed center would take business away from the downtown and thereby cause business closures and eventual physical deterioration of the downtown.']

The doubling of retail development and addition of 1200 residential units and two hotels at the Town and Country Center will take business away from the Downtown. The two projects, Downtown San

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H. THE REDEVELOPMENT AGENCY OF THE CITY SAN JOSE, DATED FEBRUARY 25, 1998, continued

Jose and Town and Country Village, serve basically the same regional market, and the market cannot support both. Except for very localized service support retail, they have almost the same trade area. For example, the sites are only three miles apart and therefore, have nearly the same ten-mile trade area radius that exists for most regional serving retail. In addition, a broader radius for entertainment retail exists for both sites. The combination of entertainment and retail uses, therefore, expands the trade area overlap.

Currently, Town and Country is not a significant competitor for the convention and business traveler because the lack of a critical mass of entertainment related uses does not justify the additional travel time from Downtown, the Convention Center, or other places in the region to Town and Country. If Town and Country doubles in size, adds entertainment oriented retail and restaurants, hotels and high density housing, and intensifies at urban heights and densities, it will become a formidable competitor as an evening restaurant and entertainment destination. As such, it will deter the business traveler from staying Downtown in the evenings.

The project proponent, Federal Realty Trust, is considered one of the premier developers of entertainment retailing concepts. Their relationship with major retailers includes Williams Sonoma, Barnes and Noble, Pottery Barn, J. Crew, The Gap, Victoria's Secret, Urban Outfitters, and Z Gallery. To the extent Town and Country Village is successful in creating an entertainment retailing venue, it will deprive the Downtown of some of the critical components it needs to adequately anchor its commercial base. There is a notable shortage of national retailers in Downtown and the availability of a location only three miles away will keep some away that would have considered Downtown as it solidifies its Downtown resident, tourist and entertainment base.

Retailing in downtown environments is the last and most difficult product type to restore to viability. Cities that have done so have succeeded by simultaneously encouraging retailers to locate in their Downtowns while discouraging the development and expansion of conflicting uses in other parts of the city that directly compete for the same target markets. While retail is the most difficult use to restore, it is also critical to retaining other uses. Without a vibrant and successful retail environment, the office, housing, and cultural facility accomplishments in Downtown cannot be sustained through time, and the plan for Downtown as a twenty-four hour city will not be realized.

Failure to sustain a consistent vision of Downtown San Jose, as articulated in the strategies and policies of the General Plan, will not only keep Downtown San Jose from obtaining a dynamic and viable retail core, but will degrade the quality of retail that currently exists and is struggling to survive. Marginal retailers, including some of the "Mom and Pop" specialty stores which contribute to San Jose's unique community identity, will likely close. Vacancy increases will lead to physical decline, property maintenance decay, and bright.

This phenomenon occurred when Valley Fair was constructed in the late 1950's. Redevelopment Plan Areas were established to combat the physical decline and blight in Downtown which occurred due to competition from the suburban regional shopping center. Since the establishment of the Redevelopment Agency, the City has been deeply committed to revitalizing Downtown San Jose, most notably through the re-establishment of a strong and vibrant office market, the creation of housing, the creation of critical cultural facilities and the prospective relocation of City Hall. The Agency has to date contributed more than $800 million into Downtown redevelopment and

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H. THE REDEVELOPMENT AGENCY OF THE CITY SAN JOSE, DATED FEBRUARY 25, 1998, continued

infrastructure. That public expenditure has been coupled with approximately $1 billion in private investment. These efforts and investment are just beginning to pay off in the late 1990's. To the extent that Town and Country Village represents an alternative urban landscape incorporating many elements which are offered and planned for Downtown, particularly entertainment retail and restaurants, it competes with and is counterproductive to the City's goals for Downtown, threatening further private investment and reversing recent positive economic and physical trends.

A secondary economic concern is that the service support retail component of this proposed project could cause competition and resultant physical decline on Neighborhood Business Districts within overlapping trade areas.

RESPONSE 7: The *existing* Valley Fair and Town & Country Village shopping centers total 1,362,000 square feet of regional commercial space (including a theater) at the intersection of Stevens Creek and Winchester. On the east side of Winchester Boulevard is the Century Theater complex, containing a total of six theater screens, and a fourth theater with two screens is nearby. Additionally, hundreds of thousands of square feet of existing commercial development stretches east and west of this intersection, along Stevens Creek Boulevard, and north and south along Winchester Boulevard. The site is at the intersection of two major freeways and two major arterials. Town & Country Village is part of a major *existing* regional commercial/entertainment complex serving the residents of Santa Clara County.

The Town & Country center is experiencing physical deterioration, causing it to become noncompetitive. The center is therefore proposing to add 365,000 square feet of commercial space, one or two small hotels, and high density housing, to create the type of mixed-use infill project which is specifically encouraged by San Jose's adopted General Plan, particularly in the designated Intensification Corridors. This existing regional shopping center is at the intersection of two Intensification Corridors [General Plan Land Use Transportation Diagram Special Strategy Areas, "Intensification Corridors", page 120].

As stated in the General Plan discussion of the Intensification Corridors, the development of high intensity mixed use developments along the major corridors is necessary to meet a number of land use goals and policies. The General Plan specifically states that placing high intensity mixed use developments along the major corridors providing access to Downtown will support Downtown revitalization by placing high concentrations of population and activity areas along the major transportation accessways to the Downtown (see proposed text amendments to Section II.E. Consistency With Relevant Plans and Policies in **Section IV. Revisions to the Text of the DEIR** in this Amendment to the EIR). Specifically, the General Plan states:

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The Intensification Corridors are important means for the City to achieve key General Plan objectives including vigorous economic growth, more affordable housing opportunities, shelter for a growing population, increased transportation capacity through increased transit use, efficient delivery of urban services, and a solid fiscal base for the City. Development along the Intensification Corridors will help support the revitalization of Downtown by making it easier for new residents to work, shop or seek entertainment Downtown. New economic development is also encouraged along the Intensification Corridors to support new residential development and provide new job opportunities. Intensification can also help preserve open space by using land more efficiently and reducing the pressure to develop existing open space.

The General Plan discussion identifies the need for intensified development along existing and planned transit lines; the development will facilitate the ultimate development of the planned LRT lines and make their utilization efficient. There is a light rail line planned along Stevens Creek Boulevard, and an existing major bus route along Winchester Boulevard. The first stage of intensification is identified by the General Plan as including no front setbacks, buildings of at least two to three stories, and a pedestrian and transit-oriented urban environment that includes plazas and outdoor street design features. The General Plan specifically discourages the conventional suburban shopping center form (large setbacks, single story buildings, large parking lots) as inappropriate on sites adjacent to the planned central transportation facilities.

The comment from the Redevelopment Agency states that the property owners' relationship with certain businesses will preclude those businesses from locating Downtown. All but two of the businesses listed (Williams Sonoma, Barnes and Noble, Pottery Barn, The Gap, Victoria's Secret, and Z Gallery) are already located on Stevens Creek Boulevard (most of them at Valley Fair). Therefore, it seems unlikely these businesses would locate at Town and Country.

Expansion of this regional commercial center does meet a variety of General Plan policies, including providing mixed use development at the junction of two Intensification Corridors, replacing an aging shopping center with a new, well-designed facility, and locating housing, commercial uses, and jobs in close proximity to each other. Furthermore, the City's General Plan identifies intense, urban, mixed use development at this location as being compatible with the planned revitalization of Downtown.

In the court case cited [Citizens Association for Sensible Development of Bishop Area vs. County of Inyo] the circumstances were quite different than

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in San Jose.

There is no existing regional commercial development in downtown San Jose with which the proposed development would compete. The proposed development would not result in the relocation of any commercial development from downtown. Therefore, there is no potential loss of commercial development leading to the physical deterioration or blight.

Rather, the only possible impact would be that new business would choose to locate within the proposed project rather than downtown. There is no evidence in the record that this would occur. Even if this were the result of the proposed project, this would mean that the status quo commercial situation remains downtown. There is no evidence in the record that failure to attract new businesses downtown will result in new or further deterioration or physical blight downtown.

Finally, San Jose currently has multiple regional commercial centers throughout the City. There is no evidence in the record that expansion of one such center will result in significant impacts.

COMMENT 8: **3.** Downtown and "Reduced Scale" Project Alternatives

The DEIR does not adequately address alternatives to the project. The text states that there is no alternative site known to the City of San Jose. However, other options are available. The developers have identified in their own presentations how this type of project can be integrated into a developed urban area such as a downtown. Yet, there is no attempt to analyze that alternative.

In order to be consistent with the General Plan, the "Alternatives" section of the DEIR must include a "Downtown Alternative". There are many suitable locations in Downtown for the high density mixed use and hotel projects that the project proponent has presented. While there is no site in Downtown San Jose with the same amount of land, other high density alternatives integrating the project within the existing urban framework are achievable. The Redevelopment Agency staff is unaware of any attempts by the developer or the City to undertake an evaluation of a Downtown alternative. The private development could be further leveraged with public incentives through the use of tax increment financing. This alternative is likely to reduce or eliminate many, if not all, of the significant land use impacts identified in this memo.

RESPONSE 8: CEQA does not require that an EIR discuss all possible alternatives, only those which are "capable of avoiding or substantially lessening any significant effects" [Guidelines §15126(d)]. This comment says that a Downtown alternative is necessary to reduce significant land use impacts identified in the comment letter. The DEIR does not identify significant land use impacts resulting from the project. There was (and is), therefore, no requirement that the EIR discuss an alternative that would reduce land use impacts. The project does, as stated previously, conform to the General Plan policies which the comment letter discusses. The potential for conflict with

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Downtown which is discussed at length in this letter relates primarily to perceived economic conflicts rather than environmental issues.

CEQA requires that an EIR identify alternatives to mitigate significant environmental effects of the project as it is proposed. In seeking such alternatives, the EIR was required to identify alternatives of design or location which would reduce or avoid increased traffic congestion on the freeways and at a local intersection in Santa Clara (Winchester/Stevens Creek), and/or would not contribute to the cumulatively significant impacts on Burrowing Owl habitat, air quality and traffic. The DEIR states that the City knew of no appropriate alternative site; no feasible site had been identified which would support a project similar to that proposed, which could reasonably be assumed to reduce those identified impacts to a less than significant level, and where other significant impacts would not occur. As discussed below, there is still no feasible site known which is likely to be environmentally superior to the project as proposed.

The comment acknowledges that there is no comparable site available Downtown, but that "other high density alternatives" could be built Downtown, particularly if special financing is arranged. The comment is phrased ("integrating the project within the existing urban framework" and "high density mixed use and hotel projects") to suggest that the project would need to be split into component parts, possibly on different pieces of property. This means that a Downtown alternative would need to be substantially different than the proposed project, and would either need to include acquisition of multiple parcels or would lack certain components. In determining whether there are feasible alternatives, the CEQA Guidelines state that factors to be taken into account can include economic viability, and "whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent)." [§15126(d)(5)A].

The project proponent does not own or have immediate access to land Downtown. Suitable property would have to be acquired, and/or multiple parcels assembled before the project could proceed. It is acknowledged that redevelopment powers could be exercised to assist in assembling an adequate amount of land for a project supported by the Redevelopment Agency. Such a process is also time consuming and subject to a number of other variables, particularly since it involves other discretionary actions by a governmental agency, beyond the land use approvals required for the proposed project.

In effect, this comment suggests that the EIR compare the environmental impacts of the proposed project to an alternative on an unidentified site or sites that is a different size than the project site, and to evaluate an alternative's feasibility despite the fact that it must include acquisition of one

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or more parcels, but assuming that it is leveraged with special financing options.

EIRs prepared for most development proposals Downtown (Convention Center, San Jose Arena, River Park Towers, Fairmont Hotel Expansion, New Century Block) have identified a variety of significant environmental impacts, including the presence of historic structures, the presence of subsurface archaeological resources, contamination from past hazardous materials usage, high groundwater, airport noise, access, displacement of affordable housing, etc. Traffic congestion exists in Downtown and on its nearby freeways, and would be compounded by a significant high intensity new development. Many of the Redevelopment project areas located Downtown were formed because of the blighted and environmentally complex physical conditions existing there.

Like the proposed project location, Downtown is centrally located relative to the larger urban area, and would place new housing and commercial uses in close proximity to existing and planned employment centers. In addition, the Downtown has existing bus service, like the proposed project site, as well as existing light rail service that would reduce the amount of automobile traffic generated by a new mixed use development, if it is located on a site proximate enough to the light rail and/or bus stops. Although, the proposed project site is adjacent to a planned light rail line, it does not offer the immediate trip diversion potential of an existing line. It is therefore possible to assume that there is a site or combination of sites Downtown whose development with 1,200 dwelling units, 650,000 square feet of commercial development and two 100-room hotels could result in the generation of incrementally less near term traffic and less air pollution than the proposed project. Available documentation indicates that placing high density residential uses near a light rail station could result in as much as a 22% use of transit (Gerston, 1995). The presence of light rail alone would not, however, be sufficient to reduce air quality and traffic impacts from this project to a less than significant level.

Based on the information available, it was assumed that placing the proposed project Downtown would not reduce environmentally significant impacts, other than the contribution to a cumulatively significant loss of Burrowing Owl habitat, to a less than significant level. Depending on the alternative site, the project could result in other significant adverse impacts.

COMMENT 9: The Agency can support a "Reduced Scale Alternative" project for Town and Country Center. A project comprised of approximately 30,000 square feet of additional retail, without significant entertainment related uses, and up to 600 units of housing would be economically feasible and would not create the impacts on Downtown that are described herein. This "reduced scale alternative" project is consistent with the development program proposed by Federal Realty Investment and Trust as part of the terms of the *Prospective Purchase Agreement Approved Re*

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development To Occur At Town and Country Shopping Village, between the State of California, E.P.A., Department of Toxic Substance Control and Federal Realty Investment and Trust, published April 21, 1997.

RESPONSE 9: The DEIR describes two reduced scale alternatives, one larger than the scenario described in this comment ("Reduced Scale Alternative", page 106), and one smaller ("Remodeling Commercial/Addition of Residential Alternative", page 107). This proposal is, therefore, within the parameters of the alternatives described in the EIR and would probably be environmentally superior to the proposed project. Given the physical condition of the existing center, the creation of an attractive, marketable new mixed-use project would probably require demolition and reconstruction, even for the development of a much smaller overall project. Certainly, there would need to be substantial reconstruction to effectively integrate any amount of residential units. The remodeling alternative scenario, however, would still be a low intensity, one to two story suburban shopping center. Such an alternative may not be economically viable, and is not compatible with General Plan policies for higher intensity, urban-form, pedestrian-oriented land uses along the Intensification Corridors.

According to a letter from attorneys representing the property owners, the property owners entered into an agreement with the Department of Toxic Substances Control to clean up the existing property in the context of a future development. There was no commitment to a particular development, other than the creation of additional jobs and housing on the site.

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I. SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, FEBRUARY 25, 1998

COMMENT 1: By proposing a mix of uses and a compact development pattern, this project has the potential to be an excellent example of transit-supportive development. Current transit service directly serving this site is somewhat limited. However, it should be noted that the Stevens Creek Corridor was identified as a future rapid transit corridor (as a Year 2010 Goal) in the T2010 Transportation Plan. To date, planning for the Stevens Creek Corridor has been very preliminary and is not even to a point where the mode has been determined. It is anticipated that transit priorities will be revisited during the development of the next countywide transportation plan, Valley Transportation Plan 2020, which will be completed in 1998.

While future rapid transit has not been determined, it would potentially utilize Stevens Creek Boulevard. Therefore, it would be desirable to reserve right-of-way (by setback, dedication, or reservation) estimated at 15 feet along both the eastbound and westbound frontage of Stevens Creek Boulevard.

RESPONSE 1: The City and the developer will work with the VTA in developing the specific project design.

COMMENT 2: As we mentioned in our August 26, 1997 comments on the Notice of Preparation for the Draft EIR, VTA staff recommend that modified bus duckouts and PCC pavement pads be provided at the Olson Drive and Olin Drive bus stops. We also recommend that a PCC shelter pad be provided at the Olson Drive bus stop. VTA staff would like to review future plans for this project in order to provide recommendations for bus stop improvements.

RESPONSE 2: This comment will be considered by the City in reviewing the specific project design.

COMMENT 3: Despite the uncertainty of future transit improvements, the Town and Country project site is currently served by bus service and there is the possibility of additional transit service to the site in the future. Therefore pedestrian accessibility is very important. The project should incorporate pedestrian-oriented features providing good access between the various uses and transit. This should include direct, convenient, and safe pedestrian facilities (e.g., a network of interconnected walkways, pathfinder signage, and pavement treatments for safe roadway crossings).

RESPONSE 3: This comment will be considered by the City in reviewing the specific project design.

COMMENT 4: While the project is relatively isolated from designated Santa Clara County Bikeways corridors, the cities of San Jose and Santa Clara should be contacted to determine whether local bicycle routes exist or are planned in the vicinity of the project. This is to ensure that the project design will not prevent future residents and employees from conveniently accessing the site by bicycle and to allow for appropriate connections to planned bicycle facilities on and off the site. The following items should be identified and considered in the Draft EIR:

- VTA publishes the Santa Clara Valley Bikeways map based on information provided by local jurisdictions. The 1995 bikeways map shows city undesignated bicycle routes on Stevens Creek Boulevard and Pruneridge Avenue in the City of Santa Clara in the vicinity of the site.

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I. SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, FEBRUARY 25, 1998, continued

- The 1997 City of Santa Clara Bicycle Map also includes Winchester Boulevard from Stevens Creek Boulevard to the north as a city undesignated route. (For more information on the City of Santa Clara bicycle network, please contact Chris Fernandez, City Traffic Engineer, at (408) 261-5185).
- The City of San Jose has also identified Winchester Boulevard for various bicycle facilities. In addition, the City of San Jose has been studying the feasibility of a bicycle route or lane on Monroe Street and through the Valley Fair shopping center. Bicycle access from the proposed project to Monroe Street via Redwood Avenue or Hemlock Avenue would provide a convenient link from the project to local bicycle networks. (For more information on the City of San Jose bicycle network, please contact JoAnn Collins, City Bicycle Coordinator, at (408) 277-5345).

RESPONSE 4: **Section IV. Revisions to the Text of the DEIR** reflects the existing bicycle routes in the area.

COMMENT 5: The traffic analysis did not identify the intersection of South Bascom and Moorpark as a Congestion Management Program (CMP) intersection. It is monitored annually by the County of Santa Clara. For the Transportation Impact Analysis (TIA), the intersection will need to be analyzed using the CMP methodology.

RESPONSE 5: The intersection of Bascom Avenue and Moorpark Avenue has been analyzed using the CMP methodology. The analysis determined there would be no adverse impact due to the implementation of the proposed project. The is included in **Section IV. Revisions to the Text of the Draft EIR** of this document.

COMMENT 6: The trip generation estimates for the project appear on page 26 of the traffic analysis. The traffic analysis used a passby trip reduction rate of 32% for existing retail uses. Current TIA guidelines allow for a maximum -30% reduction due to pass-by-trips. Please explain how this higher pass-by reduction was calculated for this analysis.

RESPONSE 6: The use of a 32% pass-by reduction is based upon the suggested pass-by reduction presented in the *ITE Generation 5th Edition*, based upon a shopping center size of 285,000 square feet. The use of the 32% reduction rate applied to existing traffic was determined to be a more conservative approach since it would show greater project impacts than the 30% reduction suggested in the CMP Guidelines.

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I. SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, FEBRUARY 25, 1998, continued

COMMENT 7: In order to reflect the internalization of trips within this mixed-use project, the traffic analysis reduced both the shopping center trips as well as the proposed residential dwelling unit trips by 10 %. As a result, the net reduction in residential trips for the PM peak hour should be 59 trips (10%) and the number of PM peak hour retail trips that should be internalized is 59 trips (for a total of 118 PM peak hour trips). However, the traffic analysis assumes 204 internal trips, which is substantially higher than would be expected from the project's proposed 1200 dwelling units. Therefore, we recommend that the trip reduction calculations be reevaluated. It should be noted that the revised draft CMP Guidelines include revisions to the trip reduction factor in order to account for the potential overestimation of internal trips for mixed-use developments.

RESPONSE 7: The mixed-use reduction rates utilized in the DEIR have been revised to reflect the updated CMP reduction guidelines. The updated CMP reduction guidelines have been applied to residential (13% reduction) and hotel (10% reduction) uses along with updated trip generation rates, and are included in **Section IV. Revisions to the Text of the Draft EIR** of this document.

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J. DAPHNA LEE, DATED FEBRUARY 7, 1998

COMMENT 1: My family lives at 442 Maplewood Avenue behind the Century Theaters off of Winchester Boulevard. We enjoy our quiet neighborhood about ten months out of the year. Unfortunately during November and December it is a busy and often dangerous place to live. Allow me to explain.

When traveling east on Stevens Creek Boulevard from San Tomas Expressway, in these two months, it takes approximately one hour to travel a half mile. This is due to residents coming home from work and shoppers entering the Valley Fair Mall. The Century Theaters and various restaurants also add to the terrible traffic.

Just this past December 23 we had a medical emergency with our 5 month old son and could not get out of our neighborhood for 45 minutes. We were lucky that his respiratory distress was not any worse or an ambulance would have been needed and there would not have been any way for emergency services to reach our home. Our baby continues to have asthma like symptoms, I am truly afraid that traffic jams may take his life.

RESPONSE 1: While the project would contribute incrementally to traffic congestion throughout the area, it proposes mitigation measures that will reduce the severity of several of the more significant bottlenecks that presently impede emergency vehicle access.

COMMENT 2: It is amazing to all of us who live in this neighborhood that any more retailers are even being cosidered in the area. This includes expansion for the mall or theaters. There is every store and service imaginable within a one square mile area.

RESPONSE 2: The comment is acknowledged and hereby included in the environmental record.

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K. PETITION TO SLOW THE "FAST TRACK" DEVELOPMENT OF THE NEW TOWN & COUNTRY VILLAGE, DATED FEBRUARY 12, 1998

COMMENT 1: This project has been working on a "fast track", with only the minimal amount of analysis and community participation (i.e. public hearings) considered to date.

RESPONSE 1: There have been four community meetings to discuss the proposed project. These community meetings were conducted on December 9 and 10, 1997, January 15, 1998, and February 4, 1998. In addition, there will be a public hearing on the EIR and one on the project before the Planning Commission and another public hearing before the City Council.

COMMENT 2: **Traffic:** As determined by the Environmental Impact Report (EIR) and by anyone who's driven through that area in a peak hour, traffic will be heavily impacted by such a large project, even with the proposed local improvements. Highway access is not planned to be improved, meaning that the poorly designed access to the area off of 280 N at 880 and 280 S at Winchester will get even worse than it is now, which is rated at the lowest possible service level at peak hour.

RESPONSE 2: As stated on page 55 of the DEIR, a mitigation measure is proposed which includes the improvement of the southbound on-ramp to I-880. This mitigation measure will improve the movement onto I-880 and thus, reduce the associated backup on Stevens Creek Boulevard. Additional improvements at Stevens Creek/Monroe will also improve conditions on the I-880 off-ramp near that intersection.

COMMENT 3: Downtown retail: With a proposed regional sized project of this scale and design, there could be a significant impact on the growth of retail in Downtown San Jose if the retail strategy of the new T&C is not developed in conjunction with that of Downtown's. Retail is the only remaining element that keeps our city from being complete. If traffic is not dealt with properly, both T&C and Downtown will suffer as regional gridlock will send shoppers to areas like Los Gatos and Palo Alto.

RESPONSE 3: The project site is located at the intersection of two Intensification Corridors, Winchester Boulevard and Stevens Creek Boulevard, as identified on page 120 in the City's General Plan. The general purpose of this designation is to channel development intensification in "prime urban areas" into locations where the "intensified uses and public transit will be mutually supportive and will help create vibrant pedestrian oriented neighborhoods." The General Plan identifies these Intensification Corridors as critical means of achieving key objectives, including economic growth, affordable housing, efficient delivery of urban services, a good fiscal basis for the City, and revitalization of Downtown.

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K. PETITION TO SLOW THE "FAST TRACK" DEVELOPMENT OF THE NEW TOWN & COUNTRY VILLAGE, DATED FEBRUARY 12, 1998, continued

COMMENT 4: It appears that there has been insufficient time for the Planning Commission, and for the City Council to evaluate the EIR, possible problems with traffic mitigation, and the combined impact on the neighborhoods, both local to T&C and the downtown. If you believe that a more detailed investigation and analysis of the impacts of the proposed plan should be completed before approvals are rushed through, please sign below. For more information, please contact Rich Sutton (408) 536-6376 or the SJDA at (408) 279-1775.

RESPONSE 4: At the time of the public hearing on the Environmental Impact Report, both the Planning Commission and City Council will have had the Draft EIR for approximately 55 days. A study session was conducted for the Planning Commission on both the Town and Country and Valley Fair projects on February 18, 1998. A separate Planning Commission study session on the Town and Country project is scheduled for April 15, 1998.

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L. LUCILLE J. WILLIAMS, DATED FEBRUARY 23, 1998

COMMENT 1: In the area of Traffic, the EIR focus is on peak a.m. and p.m. traffic. This report fails to address the fact that all of Valley Fair, Town and Country and Century Theaters are closed during the a.m. traffic rush. No wonder there is not a significant effect on morning traffic. Traffic during peak times for these business is not addressed.

RESPONSE 1: It is standard practice to evaluate a project's traffic impacts during the peak travel periods. The EIR therefore identifies the peak use time periods for the street system in the project area. Because commercial land uses, which are the dominant uses in this area, are also heavily utilized on Saturday, the EIR also identifies the peak traffic period on Saturdays. This ensures that the EIR looks at a variety of travel times and accurately characterizes what traffic conditions are likely to be if the proposed project is approved and built.

COMMENT 2: Traffic in the area is not representative of a fully developed Town and Country center. This center as it currently exists is just a parking lot for Century Theaters and Valley Fair. Nowhere does the EIR address insufficient parking for the existing development in the area.

RESPONSE 2: The amount of traffic assumed for the existing Town & Country was increased to reflect a fully occupied shopping center under the "Background" conditions in the traffic analysis.

The project proposes eight parking structures to provide parking which meets the City's requirements for the land uses proposed.

COMMENT 3: Within this already congested corner of San Jose there are two developments, Valley Fair and Town and Country competing for approval. How does the EIR address possible approval of both of these projects. In addition, a few years ago Century Theaters also petitioned for an expansion.

RESPONSE 3: In accordance with Section 15130 of the CEQA Guidelines, a cumulative analysis which evaluates a combination of the expansion of Valley Fair , and the proposed Town and Country redevelopment is provided on page 110 of the DEIR. Currently, there is no foreseeable development planned on the Century Theater site.

COMMENT 4: The EIR states that this development will provide for retail space and a quality living environment. How can this new housing be of high quality when special construction must be undertaken to mitigate unacceptable noise levels for residents? In addition, how can we allow increased noise to an unacceptable level for existing residents.

RESPONSE 4: In accordance with State law, interior noise levels for the new residential development will be attained through structural mitigation, which is standard practice in many urban areas. The project will cause significant noise impacts during construction; however, mitigation incorporated in the project will reduce these to a less than significant level. The EIR does not identify the project as having significant unmitigated noise impacts.

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L. LUCILLE J. WILLIAMS, DATED FEBRUARY 23, 1998, continued

COMMENT 5: The EIR states that traffic created by this new development would not exceed that generated by the existing car dealership. This statement makes no sense at all. How could 285,000 sq. ft of retail space, 1,200 residences and two 100 room hotels generate equal traffic to one car dealership?

RESPONSE 5: As stated on page 1 of the DEIR, the amount of development that could replace the existing car dealership, should it be eliminated, has been limited to generate no more traffic than the amount of traffic currently generated by the car dealership. The amount of additional development which could replace the car dealership is 50,000 square feet of commercial space, as identified in Table 1 of the DEIR

COMMENT 6: The EIR acknowledges that there is a shortage of parks and recreation in the area. This development will only make this shortage more acute. How about just adding housing and a park. This sounds much more like high quality housing to me.

RESPONSE 6: The comment is acknowledge and hereby included in the environmental record.

COMMENT 7: The EIR states that it has no control over traffic effects in the city of Santa Clara. However, this must be addressed. What does the City of Santa Clara have to say regarding this proposed development?

RESPONSE 7: The letter from the City of Santa Clara is found in subsection G of this section of this Amendment to the DEIR.

COMMENT 8: The EIR states that an additional lane at Monroe will reduce the back-up in this area. I do not think that this will be sufficient give the other traffic problems in the area.

RESPONSE 8: The comment is acknowledged and hereby included in the environmental record.

COMMENT 9: Since the remodeling at Valley Fair, parking and access have been inadequate. This is true every weekend and not just on holidays. Cars headed into Valley Fair block the right hand exit lane from South Hwy 880 impeding the flow of traffic onto Stevens Creek Blvd.

RESPONSE 9: Access to Valley Fair was discussed in the EIR on that project.

COMMENT 10: Traffic headed for Valley Fair and Century Theaters from Hwy 280 backs up and impedes access to Northbound Hwy 880. Traffic backed up on Hwy 280 is exceptionally dangerous. You are sitting at a dead stop on the freeway with traffic moving at full speed on both sides! People bail out of this stoppage and cut out into moving traffic. It is a disaster. This doesn't just happen around Christmas. It happens all the time.

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L. LUCILLE J. WILLIAMS, DATED FEBRUARY 23, 1998, continued

RESPONSE 10: The back-up that extends back to I-280 is caused by traffic congestion on Stevens Creek. Freeway traffic cannot get to the Stevens Creek loop off-ramp. The Stevens Creek congestion is caused by the Stevens Creek/Monroe intersection. The proposed improvements to the Stevens Creek/Monroe intersection will improve conditions at the I-880/I-280 Stevens Creek interchanges.

COMMENT 11: Parking at Valley Fair is inadequate. Why do you think Bank of America has parking guards in their lot? Also there is store specific restricted parking everywhere. Is it any wonder they have Valet Parking on Fridays, Saturday and Sundays. Who in their right mind would pay $4.00 for one hour parking plus $1.00 for each additional hour in a free lot unless they had to. Someone must be paying or Valley Fair would not offer this service. During Christmas time many people park at Town and Country (even though they are not supposed to) because there is no parking at Valley Fair. I would like to know how a business can only provide sufficient parking for the hours when it is least busy.

RESPONSE 11: This comment is not on the proposed project or this EIR.

COMMENT 12: Access to Hwy 880/17 and 280 around Monroe is insane! This log jam backs up to past Town and Country in the evening and throughout the day. Both Century Theaters and Valley Fair are to blame for this mess. In addition, let's not forget that Stevens Creek Blvd is a major commuter route.

RESPONSE 12: As stated on page 55 of the DEIR, the project proposes mitigation to the Stevens Creek Boulevard and Monroe Street which will restore the intersection operation to Level of Service D for the daily peak and Saturday peak hour conditions.

COMMENT 13: Access and parking at Century Theaters is inadequate. Traffic backs up in the turn lane at Olsen to past Moorpark. In addition this jam extends down Moorpark and on to Hwy 880. Century further compounds this problem by narrow driveways into their lot. Regardless of all the signs prohibiting parking in Town and Country this occurs all the time. In addition, every weekend there are cars parked in the "No Parking At Any Time" areas on Olin Ave. These parked cars block cars exiting the area. Cars also park on the ends of the rows in Century's lots blocking Fire Lane access. People also park in the "Permit Parking Only" areas regularly in spite of the $50.00 fine. Resident only parking seems to be the only enforcement in this area as the residents call in violators. I have never seen a ticket on any of the other cars in violation of parking regulation in spite of the high percentage of Police officers that enjoy their meals at the Flames Restaurant. I welcome you to come and observe all the violations. People are even parking on Hanson off of Stevens Creek and walking to the theaters.

RESPONSE 13: This comment is not on the proposed project.

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L. LUCILLE J. WILLIAMS, DATED FEBRUARY 23, 1998, continued

COMMENT 14: Century Theaters refuses to address the parking problem and schedules movie times that only compound the congestion. In order to decrease congestion and make more parking available, times between movie showings needs to be increased. Otherwise, you have two theaters worth of people trying to park. In my opinion the City's regulations regulating only the number of parking places per theater seat are inadequate. This problem increased dramatically when Century split their theaters and added more showings. Again, just like for Valley Fair, how can a business only provide sufficient parking for it's least busiest times.

RESPONSE 14: This comment is not on the proposed project or on this EIR.

COMMENT 15: Moving vehicle violations are rampant in this area. Blocked intersections and red light running occur regularly at Olsen and Winchester; Moorpark and Winchester; Winchester and Stevens Creek- and Winchester and Monroe.

RESPONSE 15: This comment is not on the proposed project. Existing traffic conditions are reflected in the traffic analysis included in the EIR.

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M. ANN REID, DATED FEBRUARY 23, 1998

COMMENT 1: The intersection at Stevens Creek Blvd. and Cypress Ave. was not included in the traffic analysis. If the intersection at Stevens Creek and Bellerose was included in the analysis, the intersection at Cypress and Stevens Creek should have been included, because both intersections are approximately the same distance from Town and Country. The Cypress intersection is affected by the traffic on Stevens Creek, especially during holiday shopping and major sales.

RESPONSE 1: The intersection of Stevens Creek Boulevard and Cypress Avenue has been added to the study intersections, as reflected in the text revisions included in **Section IV. Revisions of the Text of the DEIR** of this Amendment. The intersection will operate at Level of Service B under project conditions.

COMMENT 2: The traffic analysis does not take into account the homes that were recently constructed on S. Monroe St., south of Stevens Creek Blvd. The additional traffic from that complex must be considered in the final draft.

RESPONSE 2: The traffic associated with the new development along Monroe Street was included under the "background" condition in the traffic analysis and the DEIR.

COMMENT 3: The count date for the PM peak period at the I-880/Stevens Creek was 10/96. The count occurred over one year ago. To date, there is rarely an afternoon during which the intersection clears in one cycle. That intersection needs to be reevaluated.

RESPONSE 3: The City allows the use of traffic counts which are up to two years old in a traffic analysis if significant new development has not occurred within the project area. Since no significant new development has occurred in the project area since the October 1996 count, the count was determined to reflect the current conditions at I-880/Stevens Creek. In addition, the traffic consultant and City Staff have field checked the validity of this traffic count.

COMMENT 4: The southbound on-ramp to 1-880 should be widened to two lanes prior to construction of the project.

RESPONSE 4: The City of San Jose's adopted Level of Service Policy requires that transportation improvements required to mitigate project impacts be completed within one year of construction of the project whose impacts the improvement is designed to mitigate.

COMMENT 5: The number of parking spaces varies with each area. In Area 1, the number of spaces ranges from 1200 to 2225, whereas in Area 2 the range is from 960 to 2038. The report should have definite numbers for the parking spaces. The lower range does not accommodate the increased demands for parking.

RESPONSE 5: Figure 3 in the DEIR does identify a range of possible spaces for each subarea. It also states that 4,525 spaces will be provided overall.

M. ANN REID, DATED FEBRUARY 23, 1998, continued

COMMENT 6: If there are to be 1,200 residences, where is the open space for a playground or park?

RESPONSE 6: The project does not propose to include either a playground or park. The project will be required to contribute in-lieu fees for acquisition of neighborhood serving parkland in conformance with the Parkland Dedication Ordinance.

COMMENT 7: The fire station that serves the area is on S. Monroe St.. With the increase of traffic, there will likely be an increase in the length of time it will take emergency services to respond. This is unacceptable.

RESPONSE 7: The traffic improvements in the project area will maintain or increase the level of service provided on the local roadways. Thus, the length of time for emergency services may actually improve due to the elimination of existing bottlenecks.

COMMENT 8: The increase of traffic may affect the length of time it takes a person to drive to the emergency room at either O'Connor Hospital or Valley Medical Center.

RESPONSE 8: Please refer to Response 7 of this letter.

COMMENT 9: The report mentions the bus routes nearby on Stevens Creek Blvd., but currently no routes serve Stevens Creek Blvd. between I-880 and Winchester Blvd.

RESPONSE 9: The commentor is correct. Transit services are available along Winchester Boulevard and along Stevens Creek Boulevard just west of Winchester Boulevard.

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N. PETITION LETTER, DATED FEBRUARY 24, 1998

COMMENT 1: This letter is in regards to the Town and Country Village Draft Environmental Impact Report. This proposal, with structures up to 100 feet in height, 1,200 residential units, 650,000 square feet of commercial, two 100-room hotel, numerous parking structures, and all on only 39 acres, is a very massive and dense development for this neighborhood, in addition to the proposed major expansion of Valley Fair. The Draft Environmental Impact Report offers vague and inadequate information about the development, a proposal that will have major significant environmental effects on the surrounding area and the single-family neighborhood adjacent to the east.

RESPONSE 1: The project plans in the DEIR illustrate a proposed project that is currently being reviewed by the City of San Jose. The development standards included on the plans represent the parameters within which future development could occur.

The DEIR does identify significant environmental effects due to the implementation of the proposed project; however, mitigation measures have been included in the project to reduce most of the project impacts to a less than significant level. As stated on page 109 of the DEIR, regional air quality impacts, traffic congestion impacts on six freeway segments, and traffic impacts at one local intersection would remain significant with the implementation of the proposed project. The DEIR also identifies significant unavoidable cumulative air quality and traffic impacts. In addition, the project would contribute incrementally to a cumulatively significant loss of Burrowing Owl habitat in the region.

COMMENT 2: The proposal by itself represents piecemealing, in addition to not taking into consideration the proposed expansion of the Valley Fair Shopping, transportation issues especially light rail-construction, streetscape, impact on automobile traffic, and linkage of development's construction with installation of Light Rail facilities, etc. This is in direct conflict with the California Environmental Quality Act.

RESPONSE 2: A cumulative impacts analysis which includes the proposed Valley Fair expansion is found on page 110 of the DEIR.

The environmental analysis for this project complies with the California Environmental Quality Act (CEQA). Section 15130 of the CEQA Guidelines states that an EIR should discuss cumulative impacts "when they are significant". The discussion does not need to be in as great detail as is necessary for project impacts, but is to be "guided by the standards of practicality and reasonableness". The purpose of the cumulative analysis is to allow decision makers to better understand the potential impacts which might result from approval of past, present and reasonably foreseeable future projects, in conjunction with the proposed project. While a light rail line is planned for Stevens Creek Boulevard, it has not been designed or funded.

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N. PETITION LETTER, DATED FEBRUARY 24, 1998, continued

COMMENT 3: What are the short-term and long-term effects of these regional projects?

RESPONSE 3: As required by CEQA, the impacts of the project are addressed throughout the report.

COMMENT 4: What significant environmental impacts will happen with these current proposals, and what foreseeable impacts will they have on the future of this neighborhood and future developments? Piecemealing will not address these significant CEQA issues?

RESPONSE 4: The Cumulative Impacts section of the DEIR (page 110) addresses all cumulative impacts assumed to be significant.

COMMENT 5: To comply with the intent of CEQA, that is avoiding piecemealing, both regional proposals, Valley Fair Expansion and Town & Country Village redevelopment, should be placed on hold until an Area Specific Plan is completed. This area is entitled to as much attention, study and public funding, as downtown and other areas in the City have received, and most of all this neighborhood is entitled to a quality in-fill project. The planning process (Planned Development) and the Draft Environmental Impact Report are inadequate to fully address these major issues which affect the surrounding neighborhood and region. We must take the time to develop an exemplary Area Specific Plan and bring together representatives from the City of San Jose, City of Santa Clara, Valley Transportation Authority, Valley Fair Shopping Center, Town & Country Village, and neighborhood residents who will be the ones most severely impacted, and on a daily basis.

RESPONSE 5: The comment is acknowledged and hereby included in the environmental record.

COMMENT 6: Additionally, we think the existing Courtesy Chevrolet automobile dealership at the corner of Stevens Creek Boulevard and Winchester Boulevard should remain and not be a part of this development. The Courtesy Chevrolet auto dealership provides jobs, tax revenues for the City, jobs/housing balance and provides an important service to the community.

RESPONSE 6: The comment is acknowledged and hereby included in the environmental record.

COMMENT 7: The proposal represents a full build-out, full intensification, at the neglect and expense of adversely impacting the surrounding neighborhood. What is needed is a quality in-fill development with an appropriately reduced level of intensification which could be just a commercial development with mixed use commercial/residential, but one that results in a reasonable and sensitive development with the highest exemplary site design, architecture and streetscape, with a proper and respectful single family interface, that resolves transportation and traffic issues, jobs/housing issues, inadequate park facilities, etc. The Draft Environmental Impact Report does not adequately address these issues.

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N. PETITION LETTER, DATED FEBRUARY 24, 1998, continued

RESPONSE 7: The Draft EIR analyzes the impacts from the proposed project. It is an information document; it does not change a project. Decision makers may elect to modify a project based on the information in the EIR. The DEIR addresses the interface with adjacent land uses (pages 21-22), traffic (page 24), and visual impacts (page 93). The EIR also discusses conformance with the City's jobs/housing goals (page 14) and the availability of park facilities (page 103).

In addition, the project site is located at the intersection of two Intensification Corridors (General Plan Land Use Transportation Diagram Special Strategy Areas, "Intensification Corridors", page 120). The General Plan states that:

> *The Intensification Corridors are important means for the City to achieve key General Plan objectives including vigorous economic growth, more affordable housing opportunities, shelter for a growing population, increased transportation capacity throughout increased transit use, efficient delivery of urban services, and a solid fiscal base for the City.*

The General Plan discussion identifies the need of intensified development along existing and planned transit lines to facilitate their ultimate development and make their utilization efficient. There is a light rail line planned along Stevens Creek Boulevard, and an existing major bus route along Winchester Boulevard. The first stage of intensification is identified as including no front setbacks, buildings of at least two to three stories, and a pedestrian and transit-oriented urban environmental that includes plazas and outdoor street design features.

O. BERLINER COHEN, DATED FEBRUARY 24, 1998

COMMENT 1: On behalf of the applicant, Federal Realty Investment Trust San Jose Town & Country Village, we submit the following comments on the draft EIR in the order in which the topics are discussed:

1. Description of the Project - Transfer of density within the Project

In addition to the description of the Project in its entirety, the Project is divided into six areas, each stating a range of potential development expressed in square footage for commercial/retail development and dwelling units for residential development. It is the intent of the owner that the Planned Development Zoning will allow for transfer of density from one area to another as the project evolves through the Planned Development Permit process provided that Area 3 shall remain residential, and that the maximum density described for the entire project is not exceeded.

RESPONSE 1: The site plan contained in the DEIR is identified as conceptual. The project proponent's development program is acknowledged.

COMMENT 2: 2. Noise - Standard for interior of commercial buildings

The draft EIR discloses that certain commercial uses adjacent to Stevens Creek and Winchester will be subject to traffic noise from those major arterials and recommends mitigation in the form of interior decibel control to a maximum of 45dB (page 75). However, Title 24, Part 2 of the State Building Code only requires this performance standard for the proposed hotels and multi-family dwelling units. While the City of San Jose has set goals in the General Plan for noise limits, the General Plan itself acknowledges that certain limits are unattainable. A commercial interior performance standard for this Project other than for the hotels is not warranted, particularly as the noise is not generated by the Project itself. The mitigation should clearly state that the 45dB interior noise level is only a guideline, and that the Project is not required to insulate to that level.

RESPONSE 2: The DEIR uses the word "guideline" in every reference to noise levels identified in the City's General Plan (in the first and second paragraphs of the Noise Impacts section on pages 72 and 73). Nevertheless, those guidelines do establish the noise levels which the General Plan considers acceptable for interior conditions, including interior commercial space. The DEIR identifies what mitigation measures would be necessary in order to meet those conditions.

COMMENT 3: 3. Mitigation for Cumulative Impacts - Burrowing Owl

The draft EIR, in the Project-specific impacts section, states that development of the 4.5 acres of currently vacant property will not result in a significant loss of wildlife habitat (page 85). That acreage is weedy ground adjoining the new Citation houses and bordered by paved surfaces and buildings, described in Appendix E as "a highly disturbed habitat strongly influenced by human industrial activities." In addition, it is acknowledged that the State considers a minimum of 6.5 acres necessary as habitat for one burrowing owl, and that burrowing owls once seen on site are [or] were inhabiting the paved areas of the shopping center itself. Yet loss of this unsuitable land is included in the discussion of cumulative impacts, with comments that the City could require the applicant to pay some kind of impact fee (page 117).

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O. BERLINER COHEN, DATED FEBRUARY 24, 1998, continued

Not only does this land not qualify as suitable burrowing owl habitat, but as disclosed in the cumulative analysis, there is no established program governing habitat impact fees or funds. State statutes and case law require establishment of a program and implementing ordinances based on studies providing the data necessary to establish a nexus between a project and the fee or dedication sought. To our knowledge, the City has not conducted such studies nor adopted ordinances to establish fees or funds. Accordingly, the reference in the fourth and fifth full paragraphs on page 117 to the possibility of the City's requiring a contribution to a non-existent mitigation fund should be deleted in its entirety.

We respectfully request that the City revise the draft EIR to state that the vacant 4.5 acres are unsuitable burrowing owl habitat, and that therefore no cumulative significant effect results from the development of this acreage. If not, the City should revise the discussion to delete a reference to " requiring this applicant to pay a mitigation fee for the reasons set forth above.

RESPONSE 3: The biologists that evaluated the site do not consider the statement proposed in this comment (that the 4.5 acres is unsuitable burrowing owl habitat) to be accurate. The vacant portion of the site is not good quality habitat, but at least one ground squirrel burrow has been at least temporarily occupied by one or more Burrowing Owls in the recent past and Burrowing Owls have foraged on the property throughout the 1997-98 winter season. There is, at this time, no evidence that the remaining vacant land would qualify as breeding habitat. Because of questions raised relative to the distinction between loss of habitat and impacts to Burrowing Owls, **Section IV. Revisions to the Text of the EIR** contains language clarifying the project's impacts.

The remainder of this comment is referring to the Cumulative Impacts analysis. The vacant land **is** Burrowing Owl foraging habitat and its loss does contribute to cumulatively significant loss of such habitat throughout the region. The discussion in the DEIR also accurately describes the status of the City's efforts to establish a programmatic mitigation program and identifies the City's options with regard to requiring a contribution to that program.

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P. SAN JOSE DOWNTOWN ASSOCIATION, DATED FEBRUARY 25, 1998

COMMENT 1: The San Jose Downtown Association believes that the Draft EIR for the Town and Country Village project is incomplete because it fails to address important information needed for informed decision making. Our specific concerns are listed below:

1. **Analysis on local streets impact is inadequate**

1 . Six fewer intersections were analyzed for the T&C EIR than for the Valley Fair EIR. The T&C project will generate five times the additional traffic as the Valley Fair expansion. At least the intersections analyzed for Valley Fair should be analyzed for T&C.

RESPONSE 1: The traffic distribution which was assumed for this project is described in detail in the traffic analysis in Appendix A of the DEIR. In determining the scope of a traffic analysis for a particular development project, the City of San Jose identifies those intersections through which *project* traffic is likely to move in identifiable quantities. The criteria used to determine those intersections include existing travel patterns and levels of congestion, access to major thoroughfares and freeways, project points of access, and existing land use patterns in the area and the region. As project-generated traffic moves away from the project site, or converges toward it, the concentration of project-generated traffic is greater in intersections nearer the project site than in intersections farther away.

The existing street pattern includes a number of intersections immediately adjacent to Valley Fair, to the north, which will receive a significant amount of traffic from Valley Fair (all of which is commercially generated) during the peak hours, but which Town & Country traffic (much of which is residentially generated) is less likely to use during the peak hours. All of the intersections through which any discernible amount of Town & Country traffic is anticipated to move are analyzed in the DEIR.

For informational purposes, the text revisions included in this Amendment identify the cumulative impacts from the combination of Town & Country and Valley Fair traffic on the Forest Avenue intersections. The cumulative impacts from both projects together are less than significant on the Forest Avenue intersections.

COMMENT 2: 2 . The traffic generation reports were done based on formulas from the Institute of Transportation Engineers *Trip Generation,* 1991. There is a 1997 edition of the same publication which was not used, which may change some EIR conclusions.

RESPONSE 2: The traffic report in the DEIR relied on the Fifth Edition of the ITE publication; the Sixth Edition was released in December 1997, at virtually the same time the traffic report was completed. However, because the ITE rates for multi-family traffic generation have changed in the more recent edition, the impacts were recalculated and are reflected in the text revisions included in **Section IV. Revisions to the Text of the DEIR** of this Amendment. The

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recalculation did not change the conclusions of the traffic analysis or the DEIR.

COMMENT 3: 3. The trip generation numbers based on the retail/commercial element of the proposed plan are inadequate. The base-line used to determine *additional* trips expected from the T&C commercial expansion was not the current traffic generated by an under performing center, but instead the base-line for a robust 285,000 sf of retail/commercial. If the current conditions are used as the baseline, the additional trips increase by 5,040 more per day than stated in the EIR. That would raise the additional trip generation to as many as 19,560 trips daily instead of the 14,520 additional daily trips estimated in the EIR. (See projections in the attached Abrams Associates report) This is a 26 percent increase in daily trips, with a corresponding increased impact on all intersections, on-ramps, mitigations, etc.

RESPONSE 3: In conformance with ongoing practice in San Jose and elsewhere in Santa Clara County, the traffic analysis and the DEIR attempt to accurately reflect: (1) the existing physical conditions (existing cars on existing roadways), (2) the physical impacts of development which is already approved but whose traffic may not actually be on the roads at this point in time (background), (3) the likely impacts of approving the project as it is proposed, and (4) the potential cumulative effects if all pending development is ultimately approved.

The traffic impacts from the proposed project identified in the DEIR are the estimated impacts which would be assumed to result from the **additional amount of development** currently proposed on the site; the analysis does not, however, assume that the existing buildings would remain vacant if the proposed expansion is not approved.

The traffic analysis reflected in the DEIR adhered to consistently used City of San Jose methodology. Town & Country is an existing regional shopping center. While the center is currently underutilized, that situation could change without the exercise of discretionary authority subject to CEQA review by the City of San Jose. The introduction of a different tenant mix, possibly with interior modifications (building permits are ministerial actions exempt from CEQA), could result in a more intense utilization of the existing facility and a significant increase over existing traffic. The analysis in the DEIR made a good faith effort to identify the most likely future conditions while still reflecting as accurately as possible both what the existing conditions are, and what would be reasonably foreseeable. If the City of San Jose chooses to not approve any significant intensification of development on the project site (the "No Project" alternative), it is reasonable to assume that the property owners would use whatever methods are available to them in order to use the existing resources more efficiently. Traffic from this entitled level of development is therefore included in background conditions in order to most accurately reflect the full impact of the proposed project.

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P. SAN JOSE DOWNTOWN ASSOCIATION, DATED FEBRUARY 25, 1998, continued

COMMENT 4: 4. The EIR does not estimate the use of public transit expected from the project or the impact of additional congestion on the bus routes which use the affected traffic corridors. The EIR does not identify the percentage of employees and customers anticipated to use public transit; employer-provided shuttles, etc. The use of public transit including bus stop locations, bus route timing, etc., needs to be integrated in the project.

RESPONSE 4: The General Plan designation of both Winchester Boulevard and Stevens Creek Boulevard at this location as Intensification Corridors is based on their existing and planned status as transit corridors. While the City and the developer have committed to working with VTA to improve transit access to the site, and to incorporate into the project design appropriate measures to maximize transit usage by residents and clients of the proposed development, it is not possible to accurately predict what transit usage might be with the future project. The DEIR therefore conservatively assumed that transit usage with future conditions would be no greater than under the existing condition.

COMMENT 5: *5* . The EIR does not address bicycle use for customers or employees of the project, or how the project will impact the area's existing bicycle access.

RESPONSE 5: This Amendment to the DEIR includes language clarifying the project's relationship to existing bicycle routes (see **Section IV. Revisions to the Text of the DEIR**). It is not anticipated that bicycle usage will significantly reduce project traffic, or that the project will conflict with planned bicycle routes.

COMMENT 6: 6. The EIR is inadequate in addressing emergency vehicle (police, fire, medical) access, especially the impacts to San Jose Fire Station 10 and O'Connor Hospital.

RESPONSE 6: While the project would contribute incrementally to traffic congestion throughout the area, it proposes mitigation measures that will reduce the severity of several of the more significant bottlenecks that presently impede emergency vehicle access.

COMMENT 7: H. Analysis is needed on impacts on Forest Avenue

1 . Although this traffic analysis was done for the Valley Fair expansion project, no analysis was done for the Town and Country project. Of the 20,000 new trips generated by the combined projects, three quarters will be generated by the Town and Country project. As one of only three streets in the vicinity of the combined projects which allows access from the East across the 880-17 Freeway, there is likely to be a significant impact on Forest Avenue. Drivers, especially local residents and the residents of the proposed project, will look for an alternative to the congestion on Stevens Creek Blvd., Winchester Blvd. and the local freeways. Taylor/Forest is likely to become the reliever road from the Downtown vicinity and points North and East.

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P. SAN JOSE DOWNTOWN ASSOCIATION, DATED FEBRUARY 25, 1998, continued

2. The EIR needs to analyze the intersections of Forest/Winchester, Forest/Redwood, and especially Forest/Monroe, since Monroe offers an alternative to Winchester for traveling Southbound to the project and the proposed housing.

RESPONSE 7: Not only does the DEIR include a complete traffic analysis for the proposed Town & Country expansion, it includes a cumulative impact analysis of both Town & Country and Valley Fair.

As stated in response to previous comments, the traffic analysis is based on a trip distribution that reflects a number of factors and constraints, including the most likely travel patterns for both commercially generated and residential traffic. While the anticipated peak hour traffic for the proposed Town & Country project would be greater than that assumed for the Valley Fair expansion, it is not all commercially generated. Every intersection which was anticipated to experience a significant increase in trips is analyzed in the DEIR. This comment suggests that, in the future, behavior different from previous travel patterns, and different than that assumed by the professional traffic engineers working for the City and the consultants, may occur. While individuals may experiment with variations on travel routes, the City believes that the analysis in the DEIR reflects the most likely prevailing pattern of traffic from the proposed Town & Country expansion, and from the combination of Town & Country and Valley Fair traffic.

The text revisions in **Section IV. Revisions to the Text of the DEIR** included in this Amendment identify the potential cumulative impacts from the combination of Valley Fair and Town & Country traffic on the Forest Avenue intersections. The combined impacts are less than significant.

COMMENT 8: 3 . As stated above, local residents are expected to take 'side roads' to their homes to avoid the Winchester/Stevens Creek/I-280/I-880 'weave' congestion. This will not only impact Forest, as stated above, but also Moorpark- Additional analysis on all Moorpark intersections between Bascom and Winchester is needed.

RESPONSE 8: This comment, like the previous one, suggests additional analysis of intersections to which the project is not assumed to add a significant quantity of traffic. As discussed in the Traffic Mitigation section of the DEIR, the project includes improvements that would offset increased congestion at specific points in the local transportation system, which will also reduce the likelihood of "side" trips along less direct routes. As stated in response to previous comments, the traffic analysis in the DEIR reflects what the City believes is the most likely travel behavior and traffic distribution.

COMMENT 9: HI. Additional information is needed on proposed mitigations

1 . There is no information in the EIR giving the timing for the completion of the proposed traffic mitigation. There is also no information on whether any of these same improvements are required

for the Valley Fair expansion or whether the financial responsibility is solely with the proposed T&C development. Since many of these mitigations are extensive and require acquisition of private land, there should be a listing of project costs and funding and a study of their feasibility. There is especially a problem with the mitigation proposed at Stevens Creek Blvd. and Monroe Street, just west of the I-880 ramps.

RESPONSE 9: The City of San Jose's adopted Level of Service Policy requires that transportation improvements required to mitigate project impacts be completed within one year of construction of the project whose impacts the improvement is designed to mitigate. The DEIR clearly identifies which mitigation measures are required (and proposed) to mitigate the Town & Country project impacts (page 55 of the DEIR) and which mitigation measures are required to reduce the cumulative impacts resulting from the development of both Valley Fair and Town & Country (pages 115 and 116 of the DEIR).

All of the mitigation measures required to mitigate impacts from the Town & Country project are technically feasible. As stated in the DEIR, the mitigation for Stevens Creek/Monroe requires additional roadway right-of-way along the Valley Fair frontage, but the right-of-way is not encumbered by structures and can either be required as mitigation from the Valley Fair project, purchased, and/or acquired through eminent domain proceedings. The mitigation for the northern leg of the Stevens Creek/Winchester intersection, which would involve some loss of sidewalk pavement and reduced landscaping, requires agreement by the City of Santa Clara. Should the City of Santa Clara not agree to allow the widening, the unmitigated impact at that intersection would be significant and unavoidable, as stated in the DEIR (page 56). The Winchester/Moorpark intersection improvements could be accommodated within the existing right-of way.

COMMENT 10: 2. The EIR does not define the project's uses in specifics that allow identification of appropriate traffic impacts and mitigations. The number of movie theater seats; number of bedrooms in the 1200 housing units; type and configuration of destination retail (i.e., nightclubs) could all have separate and cumulative impacts inadequately addressed in the EIR. For instance, more intensive movie uses could further impact Winchester Boulevard and the adjacent Century Theaters; large numbers of market rate multi-bedroom housing units will have a different traffic impact than single bedroom affordable units, etc.

RESPONSE 10: The traffic analysis used trip generation figures that are based on averages derived from numerous traffic analyses done throughout the country. The methodology used is the same as that used for all other traffic analysis done for development projects in San Jose and generally throughout Santa Clara County. The only movie theater seats explicitly proposed by the project at this time is the same number that is there already, which number is reflected in the existing traffic. Should the project propose to add theater seats at some

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time in the future, a supplemental traffic analysis would be prepared. The project could have to reduce the intensity of development on the site (*i.e.*, reduce the amount of commercial floor area or number of dwelling units) sufficiently to offset the traffic which would be generated by the increased theater seating. The traffic generation figures used to estimate traffic from multi-family housing are based on an average that reflects a variety of unit types and numbers of bedrooms. There are no ITE generation rates used by professional engineers that are based on number of bedrooms.

COMMENT 11: IV. Additional information is needed on freeway impacts

1 . The analysis of impacts on freeway ramps does not include seasonal impacts. During the Christmas season, stopped traffic backs up onto freeway thru-lanes from two of the ramps in the analysis. Although this is the "worst case scenario", it has safety implications which should be quantified in the EIR for informed decision making.

RESPONSE 11: The traffic analysis focused on typical worst case conditions as required by CEQA. For this project, both the standard AM and PM peak hours as well as Saturday peak hour were analyzed. As described in the DEIR, mitigation proposed by the project will improve the operation of the intersection of Stevens Creek/Monroe, which will also improve the conditions which sometimes presently result in a back-up onto the freeway off-ramp nearest that intersection. The mitigation proposed will more than off-set the increased impact anticipated to result from the proposed project.

COMMENT 12: 2 . The EIR points out how the freeway system will be affected by this project, but then possible solutions are dismissed as not feasible. LOS F problems are raised but are not discussed and no possible mitigations are presented. The EIR also needs to discuss the impact of the inevitable diversion of bottlenecked freeway traffic onto adjacent arterial and residential streets.

RESPONSE 12: The DEIR states that freeway widening is considered infeasible for a single development project to implement. Since the cost of adding extra lanes to freeways is more expensive than would be feasible for any single development to implement, that statement is accurate. There is a further discussion of mitigation for freeway impacts in the Cumulative Impacts section of the DEIR (page 116), in which the possibility of mitigating freeway impacts through implementation of a Countywide Deficiency Plan is discussed.

Congestion on freeways may result in some vehicles using alternate routes that are considered longer or slower than the freeway, including various surface streets. Since these alternate routes are generally longer, it would be too speculative to try to predict how this fraction of future freeway trips might behave.

P. SAN JOSE DOWNTOWN ASSOCIATION, DATED FEBRUARY 25, 1998, continued

COMMENT 13: V. Additional information is needed on parking impacts

1. This project will have a significant impact on the overall parking conditions in the area. The EIR should describe the projected demand and the amount of parking to be provided, and whether this meets the City code. The problem of the potential for an overflow of parking beyond the project boundaries is a real one and could affect nearby residential neighborhoods.

RESPONSE 13: The project proposes to provide parking which meets the City's requirements for the land uses proposed. There is no "code" requirement for parking in mixed use projects. While parking overflow can be a nuisance, it does not generally constitute an environmental impact.

COMMENT 14: 2. The EIR does not identify the number of parking structures proposed. Are there eight garages for the entire project? Which ones are dedicated to retail and which to residential? What is the phasing plan for the project and the timing of parking improvements related to the project's development phasing?

RESPONSE 14: The eight parking structures are shown on Figure 4, the conceptual site plan. The site plan ***is*** conceptual, meaning that the ultimate layout of the project may change, within the parameters (such as setbacks and building heights) described and set forth in the General Development Plan and shown in cross section in Figures 5 and 6. The Project Description includes (on pages 9 and 10 of the DEIR) a discussion of approximately how much development and how many parking spaces could be located on each portion of the site. It is not presently proposed that individual parking structures would necessarily be "dedicated" to specific land uses; residential units would probably be allowed to use the nearest parking structure. The Planned Development Zoning will include minimum parking standards which will be met by each phase of development, based on City standards identified in the Residential and Commercial Design Guidelines. There is, at present, no phasing plan proposed. The EIR assumes, as a worst case, that the entire project would be built in a single phase.

COMMENT 15: 3 . The parking problem could be compounded by parking demand at the expanded Valley Fair project. Although a shuttle between the two projects has been discussed, it is not mentioned in the EIR.

RESPONSE 15: It is the policy of the City of San Jose that individual developments must meet their own parking demands, except in the Downtown area. Both the Valley Fair and Town & Country expansion projects are proposing to provide adequate parking for their individual needs. In addition, a shuttle service between the two projects has been identified as mitigation for the cumulative traffic impact at Stevens Creek and Monroe (see **Section IV. Revisions to the Text of the Draft EIR**).

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P. SAN JOSE DOWNTOWN ASSOCIATION, DATED FEBRUARY 25, 1998, continued

COMMENT 16: VL. Finally, the analysis of alternatives is incomplete

1 . Project Objective #2 states: "Maximize the opportunities for people to live, work, shop and be entertained at proximate locations that *reduce regional traffic congestion".* The proposed project does not meet that objective. An alternative should be proposed and analyzed which is intended specifically to reduce the significant PM peak-hour impacts to the freeway system. It is possible that the peak-hour impacts could be lessened by a different mix of elements, such as adjustment to the amount and type of destination retail development, hotel rooms, and housing units to better match the number of units to the number of jobs generated by the project. The EIR is not complete until a viable alternative is identified which meets the objectives and reduces the unacceptable traffic impacts.

2. Only a much reduced housing/retail alternative and an across the board/equal reduction of all the elements has been considered. However, reducing the different elements of the project by different percentages, or eliminating some proposed uses, may give effective solutions to the traffic bottlenecks without hampering the sound mixed-use concept which internalizes traffic and gives a sense of community.

RESPONSE 16: The project does meet the project objective quoted. The project proposes 1,200 dwelling units and a total of 650,000 square feet of commercial space at an infill location adjacent to two freeways, on major arterials that already contain a great deal of commercial and office development, within two to three miles of significant employment centers in Santa Clara and San Jose. For existing and future employees of that existing commercial, office and industrial development, this project would provide housing that requires far less travel on the regional transportation system than would a comparable number of dwelling units in other locations where significant quantities of housing are being constructed, such as south or east San Jose, Morgan Hill, Alameda County, or San Benito County. The proposed project would place commercial services at an infill location that is convenient, both for people who would live on-site, and for workers at the existing commercial, office and industrial developments within a two to three mile radius of the existing shopping center. If the same amount of commercial development were to be developed at scattered various locations throughout the City or County, and/or were to be located at an outlying location on the edge of the City, its customers and clients would have to travel more often and/or farther on the regional transportation system than using this single, centrally located site.

CEQA requires that an EIR attempt to identify alternatives that would reduce or avoid the impacts of the proposed project. The obvious mechanism for reducing impacts for a project of this type is to reduce project size. The DEIR therefore evaluated both an incremental (25%) reduction in project size and a very significant (90%) reduction that would still meet some of the project objectives (remodeling the aging buildings and adding some residential development on the vacant land). The 25% reduction would still result in significant traffic according to the traffic consultants, and significant

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air quality impacts according to the air quality consultants. The 90% reduction would avoid most of the significant project impacts (Burrowing Owl foraging habitat would still be lost). Changing the project size along the spectrum between those two scenarios would, therefore, result in greater or less reductions in project impacts. Only the No Project Alternative avoids all impacts.

This comment suggests that there is or needs to be an alternative identified which would meet the project objectives and reduce the traffic impacts to an acceptable level. As stated in the air quality analysis and on page 108 of the DEIR, a reduction in project traffic of 42% would be necessary to reduce air quality impacts to a less than significant level. If reducing traffic impacts to a less than significant level were the primary objective, project traffic would need to be reduced by 70%. A project 70% smaller than the proposed project would fall between the two reduced intensity alternatives discussed in the DEIR. There are, of course, a variety of possible scenarios that would result in such a reduction; some of them might be:

(a) An expansion of the existing shopping center by approximately 300,000 square feet of commercial space, with no addition of residential or hotel uses;
(b) The expansion of the existing shopping center by approximately 78,000 square feet of commercial space and the addition of 600 dwelling units, and no hotels;
(c) The addition of approximately 520 dwelling units, one small hotel, and no additional commercial space.

If the project is reduced in size so as to avoid having significant traffic impacts, as described, it could also proceed without needing to make any of the modifications to the local roadway systems described in the DEIR as mitigation for project impacts. The project would, therefore, not include the potential benefits anticipated to result from the addition of an additional lane for the on-ramp to I-280 and I-880, or the expansion of the intersections of Stevens Creek/Winchester or Winchester/Moorpark.

Some of these scenarios would not be compatible with the identified project objectives. For example, if no additional commercial space is allowed, it may not be economically viable to demolish the existing center and replace it with a project designed for mixed uses. Any residential development would have to constructed apart from the commercial center in order to design an adequate living environment. Direct access to the transit corridors on Winchester and Stevens Creek would not be possible for the new residential units. This alternative could also preclude replacing the existing suburban-style shopping center with a more urban design, in conformance with General Plan policies. A minor expansion of the shopping center would still result in a sprawling suburban-style shopping center which would not meet the intent

P. SAN JOSE DOWNTOWN ASSOCIATION, DATED FEBRUARY 25, 1998, continued

of General Plan policies for intensification corridor development. If no residential units are allowed, the benefits of mixed use development are lost altogether.

These alternatives are, however, within the parameters of the alternatives addressed in the EIR. In considering the project, the City Council will need to determine whether "...specific overriding economic, legal, social, technological, other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report" [CEQA §21081(a)3].

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Q. ABRAMS ASSOCIATES, DATED FEBRUARY 23, 1998

[Note: This letter was sent attached to the letter from the Downtown Association, and generally contains some of the same comments reflected in that letter. Because some of the comments are phrased differently, each is responded to separately below.]

COMMENT 1: We have reviewed the Draft EIR for the Town & Country Village development on Stevens Creek Boulevard at Winchester Boulevard that was prepared in January, 1998 by David J. Powers & Associates, Inc. The proposed project is new shopping center of 600,000 sq ft, 1,200 units of housing, and two 100 room hotels. We have a number of comments, questions and concerns about this Draft EIR that should be transmitted to the City of San Jose.

1.) Adequacy of Trip Generation Rates - We believe that the trip rates used in this analysis for the shopping center understate the trip generation difference between the existing conditions and the proposed new center. The existing Town & Country Village has never been a large traffic generator, and we believe its trip generation is quite a bit less than the ITE averages would suggest. The EIR calculations of the trip rates should have been based on the actual conditions and current traffic counts at Town & Country Village rather than the ITE estimates. If this were the case, we believe the existing center would generate only about 8,550 vehicle trips per day, not 13,680 as was used in the Draft EIR. The net difference in new daily trips would then be 11,000, not 6,000 as was used in the EIR. The peak hour traffic volumes would also be dramatically increased. Carrying this analysis forward would result in revised trip generation estimates for the total project. An estimate of this revised trip generation is shown on the following page.

If the existing trip generation of Town & Country Village were used, the project would be shown to generate considerably more trips than were indicated in the EIR. The peak hour Levels of Service, the volume-to-capacity ratios, and the amount of intersection delay would also all be considerably greater than was shown in the Draft EIR. We believe that the traffic analysis should be revised to reflect these changes, and we also believe that with this change the mitigation measures outlined in the EIR would be shown to be insufficient to satisfy the project impacts.

Draft EIR Table 12 (revised)
Trip Generation Estimates for Town & Country Shopping Center

Project Description	Size	Daily Rate	Daily Trips	In	Out	Total	In	Out	Total
Proposed Center	600 ksf	36.4	19,656	265	156	421	663	663	1,326
Existing T&C Village	285 ksf	30.0	8,550	126	74	200	291	291	582
Added Trips from New Shopping Center			11,106	139	82	221	372	372	744
Residential Units	1,200 unit	6.3	6,804	114	361	475	191	191	529
Hotels	200 ksf	8.7	1,740	80	54	134	70	70	152
Net Added Trips			19,560	333	497	830	633	633	1,425

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Q. ABRAMS ASSOCIATES, DATED FEBRUARY 23, 1998, continued

In addition to the above comments, we would also suggest that the trip rates for this project be taken from the most up-to-date information available. In this regard, the latest information is contained in Trip Generation - An Informational Report 6th Edition, Institute of Transportation Engineers, Washington, D, C,. 1997, This became available during the preparation of the EIR, and is the most up-to-date, reliable source for land use trip generation information.

RESPONSE 1: This comment speaks to two issues: (1) trip generation, or how mary trips per square foot or per dwelling unit are assumed to be generated by a given land use, and (2) how project impacts are evaluated. The 6th Edition of the ITE trip generation report was released at the same time (December 1997) that the project traffic analysis was completed. The DEIR therefore reflects the trip generation rates that were in the 5th Edition. While there is no inherent requirement that an EIR be revised under these circumstances, the estimated traffic impacts were recalculated using the new trip generation rates found in the 6th Edition. That information is found in **Section IV. Revisions to the Text of the DEIR** in this Amendment. The revised numbers did not result in any new significant impacts being identified.

In conformance with ongoing practice in San Jose and elsewhere in Santa Clara County, the traffic analysis and the DEIR attempt to accurately reflect: (1) the existing physical conditions (existing cars on existing roadways), (2) the physical impacts of development which is already approved but whose traffic may not actually be on the roads at this point in time (background), (3) the likely impacts of approving the project as it is proposed, and (4) the potential cumulative effects if all pending development is ultimately approved.

The traffic impacts from the proposed project identified in the DEIR are the estimated impacts which would be assumed to result from the **additional amount of development** currently proposed on the site; the analysis does not, however, assume that the existing buildings would remain vacant if the proposed expansion is not approved. The traffic analysis identifies the amount of traffic which might reasonably be generated if the shopping center were fully occupied, and includes that traffic under "Background" conditions. The DEIR therefore identifies the existing physical conditions **and** an estimate of "reasonably foreseeable" conditions.

The traffic analysis reflected in the DEIR adhered to consistently used City of San Jose methodology. Town & Country is an existing regional shopping center. While the center is currently underutilized, that situation could change without the exercise of discretionary authority subject to CEQA review by the City of San Jose. The introduction of a different tenant mix, possibly with interior modifications (building permits are ministerial actions

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Q. ABRAMS ASSOCIATES, DATED FEBRUARY 23, 1998, continued

exempt from CEQA), could result in a more intense utilization of the existing facility and a significant increase over existing traffic. The analysis in the DEIR made a good faith effort to identify the most likely future conditions while still reflecting as accurately as possible both what the existing conditions are, and what would be reasonably foreseeable. If the City of San Jose chooses to not approve any significant intensification of development on the project site (the "No Project" alternative), it is reasonable to assume that the property owners would use whatever methods are available to them in order to use the existing resources more efficiently. Traffic from this entitled level of development is therefore included in background conditions in order to most accurately reflect the full impact of the proposed project.

COMMENT 2: 2.) Lack of Discussion of Parking Impacts. This project will have a significant impact on the overall parking conditions in this area, and this is an issue which an EIR for a project of this magnitude should investigate in detail. The EIR should describe the amount of parking to be provided, and whether this meets the City zoning code. The problem of the potential for an overflow of parking beyond the project boundaries is a real one. Nearby residential neighborhoods to the east and the south are quite likely to be affected by this project. Parking overflow and interaction with the Winchester Mystery House and the movie theater complex to the west could also be affected.

As with trip generation, this center has been a below average performer in terms of parking, and the amount of on-site parking has never been an issue in the past. However, with the proposed changes and a revitalized 600,000 square foot shopping center, we would question whether an adequate amount of parking is being provided. It is quite likely that mitigation measures such as additional on-site parking, management of parking between the various uses, residential permit parking controls, and other techniques will be necessary to mitigate this impact. This type of analysis should be added to the EIR.

RESPONSE 2: The project proposes to provide enough parking to meet its own needs, and the City of San Jose will ensure through the Planned Development zoning and PD Permit processes that each phase of development provides adequate on-site parking. There is no "code" parking requirement for mixed uses in San Jose; each proposed phase must provide an analysis of its parking needs, including consideration of timing issues such as theater uses.

COMMENT 3: 3.) Adequacy of Roadway Mitigation Measures. We believe that this is especially a problem at the intersection of Stevens Creek Boulevard and Monroe Street, to the west of the I-880 ramps. There are a number of questions and concerns that should be addressed in the EIR. For example, are these mitigations feasible? How much right-of-way is required and is it available? Can the traffic engineering designs be implemented? What does the project cost and has it been funded? What is the applicant's share of these costs? Will these mitigations be in place and operating before the Town & Country Village project is completed? It would appear that some of these mitigations may not be available for years, and perhaps the project should not be constructed until these road improvements are reasonably certain to be implemented.

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Q. ABRAMS ASSOCIATES, DATED FEBRUARY 23, 1998, continued

RESPONSE 3: In conformance with the City's adopted Level of Service Policy, all traffic mitigation measures required of the project must be completed within one year of the project for which it is required mitigation. All mitigations required of the project will be funded by the project. If the same mitigation measure is required for more than one project, the projects may share the cost, but the mitigation measure must be completed within one year of the first project to develop. Prior to issuance of permits for construction, the City of San Jose obtains financial commitments for all mitigation measures required of the project.

All of the mitigation measures identified as proposed (pages 54 and 55 of the DEIR) for the Town & Country project are physically feasible. One of the mitigation measures, improvements to the northern leg of the Winchester/Stevens Creek intersection, requires concurrence by the City of Santa Clara and its implementation cannot, therefore, be assured by San Jose. Should Santa Clara not permit the improvement, the impact which that mitigation measure would otherwise reduce would be a significant unavoidable impact, as stated in the DEIR.

COMMENT 4: 4.) Lack of Discussion of Freeway Impacts. The EIR clearly points out how the adjacent freeway system (I-280 and I-880) will be affected by this project, and how LOS "F" conditions will exist in many locations. However, while freeway LOS 'F" problems and unmitigatable impacts are raised in the EIR, they are never discussed in any detail. This is a shortcoming of the EIR. Critical questions include the nature and amount of freeway diversion traffic onto adjacent arterial roadways. If the freeway is operating so far over capacity, where will this excess traffic go and how does this affect intersection Level of Service? How much additional freeway diversion traffic will travel on Stevens Creek Boulevard and Winchester Boulevard during the peak hours? The EIR should describe any future freeway improvement plans for 1-280 and I-880, and whether there are other possible mitigation measures that could be considered such as ramp metering, freeway auxiliary lanes, or improved ramp connections. And finally, it should be determined whether this project should contribute in some way to the solution of these problems.

RESPONSE 4: As stated in this comment, the DEIR "clearly points out how the adjacent freeway system (I-280 and I-880) will be affected by this project". The DEIR also clearly states that the mitigation necessary to offset project impacts, freeway widening, is not feasible for implementation by a single development project. That statement applies to all freeway widening, including provision of auxiliary lanes. Ramp metering is an operational improvement that frequently has secondary impacts such as queuing onto local streets and spreading peak hour impacts; the City contends that ramp metering, therefore, is not adequate mitigation. Like changes to the freeway ramps, it does not create new capacity on the freeways and may reduce capacity of local streets.

Q. ABRAMS ASSOCIATES, DATED FEBRUARY 23, 1998, continued

This comment invites speculation about how the incremental increase in freeway traffic represented by this project would cause significant changes in regional traffic patterns. While there may be individual trips that use surface streets instead of freeways in the future, despite the route being longer and less direct, the volume of traffic represented by such behavior is assumed to be insignificant and not possible to predict.

The project does propose improvements to the Stevens Creek/Monroe intersection, which would reduce the back-up onto the freeway offramp and improve conditions to better than existing.

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IV. REVISIONS TO THE TEXT OF THE DRAFT EIR

The following section contains revisions to the text of the *Draft Environmental Impact Report Town and Country Village*, dated January 1998. All deletions are shown ~~with a line through the text~~ and all new text to be added is shown with underlining.

Page 9 Section I.C. Description of the Project; Area 1, end of first paragraph in the section:

ADD a new sentence:

...300 residential units, a 100 room hotel, and 1,200 to 2,225 parking space~~s~~. The hotel will offer limited services, in conformance with the City's adopted General Plan policy.

Page 10 Area 5; fifth sentence in the first paragraph of the section:

REVISE as shown:

One of the uses proposed in this area is a~~n~~ limited service 100-room hotel, as shown on Figure 3.

Page 14 *General Plan Goals and Policies*, second section (after Balanced Community Goal),

ADD a new subsection:

Commercial Land Use Policy #7

This policy discourages new hotels outside the Downtown Core Area unless it will not interfere with the Downtown Revitalization Major Strategy. In order to define what hotel development will not interfere with the Downtown Revitalization Strategy, the City Council adopted a set of Hotel Policy Implementation Standards to clarify General Plan policies. The standards allow limited service, 100-room hotels on appropriately zoned sites outside the Downtown. The two hotels which would be allowed by the proposed project meet this criterion.

Page 16 After the third paragraph on the page (before Consistency statement),

ADD a new subsection:

Land Use/Transportation Diagram Special Strategy Areas

Intensification Corridors

The General Plan designates certain areas adjacent to major transit lines as "Intensification Corridors" for the purpose of allowing more intensive non-residential and mixed uses. These corridors are centered along existing or

planned light rail transit (LRT) lines and/or major bus routes. The general purpose of this designation is to channel development intensification in "prime urban areas" into locations where the "intensified uses and public transit will be mutually supportive and will help create vibrant pedestrian oriented neighborhoods." The General Plan identifies these Intensification Corridors as critical means of achieving key objectives, including economic growth, affordable housing, efficient delivery of urban services, a good fiscal basis for the City, and revitalization of Downtown.

Two of the designated Intensification Corridors are along Winchester Boulevard from Hamilton to Stevens Creek, and along Stevens Creek Boulevard from Downtown San Jose to I-280 near Cupertino. The General Plan identifies as a first stage of intensification that buildings with minimal or no front setbacks and at least two to three stories in height will be developed. The "conventional suburban shopping center form", with large setbacks and single story buildings surrounding by parking lots, is identified as inappropriate along these corridors. Mixed uses, with use of plazas and other features to encourage pedestrian activity, and residential development at 25 to 40 dwelling units per acre are encouraged. Subsequent development, to occur with completion of plans for construction of the LRT and scheduling of construction, will provide for even more intense development near rail stations.

The proposed project, which is located at the junction of two Intensification Corridors, includes two to four stories of development with minimal street setbacks, plazas and other pedestrian amenities, and a mixed use format with residential development at 40 dwelling units per acre.

Page 25 Section II.B.1. Transportation Existing Setting; Bicycle and Pedestrian Facilities; end of the section:

ADD the following:

The City of San Jose Transportation Bicycle Network designates Winchester Boulevard as a bicycle route. The City of Santa Clara Bicycle Map identifies a bike lane on Monroe Street from Sunnyvale through Santa Clara to the San Jose City Limits at Newhall. The map also identifies an existing bicycle/pedestrian bridge at the south end of Monroe at Tisch Way, extending over I-280 to Moorpark. There is also a bicycle/pedestrian bridge over I-280 connecting Moorpark to Cypress Avenue west of Valley Fair.

Page 39 Section II.B.2. Traffic Impacts; Trip Generation, last sentence of the first paragraph:

REVISE as shown:

The standard trip generation rates represented in the revised tables are those published in the Institute of transportation Engineers (ITE), *Trip Generation*, ~~fifth~~ sixth edition.

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The third paragraph:

REVISE as shown:

With the trip generation rates and reductions applied to the proposed development as indicated, the project as proposed is estimated to generate ~~a total~~ an increase of ~~14,520~~ 15,520 daily trips with ~~728~~ 723 trips occurring during the AM peak-hour (~~269~~ 198 inbound and ~~459~~ 525 outbound) and ~~1,133~~ 1,346 trips occurring during the PM peak-hour (~~647~~ 770 inbound and ~~486~~ 576 outbound). The trip generation estimates are presented in Table 12 Revised.

Page 40 Table 12:

REPLACE with the table on the following page, Table 12 Revised.

Page 46 Table 13:

REPLACE with the following table labeled Table 13 Revised.

Page 47 Table 14:

REPLACE with the following table labeled Table 14 Revised.

Page 49 Table 15:

REPLACE with the following table labeled Table 15 Revised.

Page 50 Table 16:

REPLACE with the following table labeled Table 16 Revised.

Page 51 Table 17:

REPLACE with the following table labeled Table 17 Revised.

Page 53 Table 18:

REPLACE with the following table labeled Table 18 Revised.

Page 54 Table 19:

REPLACE with the following table labeled Table 19 Revised.

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Table 12 Revised
Trip Generation Estimates for Town & Country Shopping Center

Land Use	Size (1000 s.f.)	Daily Rate	Daily Trips	AM Peak Hour[a] Peak Hour Rate	Capture Reduction	Pass By Reduction	In	Out	Total	PM Peak Hour[a] Peak Hour Rate	Capture Reduction	Pass By Reduction	In	Out	Total
Shopping Center (Proposed)	600	36	20,388	0.77	/b/	0%	225	144	369	3.41	/b/	25%	683	740	1,424
Residential Dwelling Units	1200	6.63	6,922	0.51	13%	0%	85	447	532	0.62	13%	0%	434	214	647
Hotel	200	8.92	1,606	0.67	10%	0%	70	51	121	0.71	10%	0%	63	65	128
Added Trips			28,915				380	642	1,022				1,180	1,019	2,199
Less Existing Shopping Center	285	47	(13,395)	1.05	0%	0%	(183)	(117)	(299)	4.4	0%	32%	(409)	(443)	(853)
Net Added Trips			15,520				198	525	723				770	576	1,346

/a/Peak-hour trip generation totals reflect reductions for internal capture and pass-by trips.

/b/Capture reductions for the shopping center are equal to the total of the residential and hotel (93 trips during the AM peak and 111 trips during the PM peak).

Source: Rates per 1,000 s.f. or per d.u. , from ITE Trip Generation manual, 6th Edition, 1997.

Table 13 Revised
Intersection Levels of Service-SJ Method

Intersection	Peak Hour	Count Date	Existing V/C	Background		Project Conditions			Mitigated Project		
				LOS	V/C	LOS	V/C	LOS	% INC.	V/C	LOS	% INC.
I-280/Moorpark	AM	4/9/97	0.357	A	0.375	A	0.387	A	3.25			3.62
	PM	10/96	0.439	A	0.468	A	0.512	A	9.57			9.57
I-880/Stevens Creek	AM	4/15/97	0.228	A	0.261	A	0.272	A	4.05			5.65
	PM	10/96	0.343	A	0.396	A	0.437	A	10.45			13.79
Bascom/Moorpark	AM	4/17/97	0.799	C	0.832	D	0.832	D	0.00			0.04
	PM	4/17/97	0.744	C	0.776	C	0.776	C	0.00			0.16
Bascom/Naglee	AM	10/31/95	0.746	C	0.815	D	0.815	D	0.04			0.17
	PM	4/17/97	0.639	B	0.668	B	0.679	B	1.40			2.10
Bascom/San Carlos	AM	4/15/97	0.849	D	0.887	D	0.890	D	0.19			0.31
	PM	4/15/97	0.784	C	0.856	D	0.865	D	0.84			1.53
Bellrose/Stevens Creek	AM	6/23/95	0.409	A	0.461	A	0.463	A	0.69			1.19
	PM	4/17/97	0.598	A	0.651	B	0.666	B	2.79			3.93
Hamilton/Winchester	AM	4/17/97	0.740	C	0.765	C	0.765	C	0.00			0.04
	PM	4/17/97	0.913	E	0.943	E	0.943	E	0.09			0.15
Hedding/Monroe	AM	4/17/97	0.486	A	0.502	A	0.502	A	0.08			0.31
	PM	4/17/97	0.532	A	0.553	A	0.560	A	1.46			2.16
Hedding/Winchester	AM	4/17/97	0.534	A	0.553	A	0.558	A	0.83			1.02
	PM	4/17/97	0.647	B	0.672	B	0.717	C	6.14			7.32
Monroe/Stevens Creek	AM	4/9/97	0.488	A	0.480	A	0.542	A	14.77			15.72
	PM	7/8/97	0.757	C	0.849	D	0.943	E	**12.21**	0.828	D	15.26
Moorpark/San Tomas	AM	4/17/97	0.914	E	0.941	E	0.941	E	0.00			0.06
	PM	10/96	1.003	F	1.055	F	1.059	F	0.28			0.53
San Tomas/Stevens Creek	AM	4/17/97	0.773	C	0.799	C	0.807	D	1.15			1.33
	PM	7/9/97	0.857	D	0.879	D	0.887	D	1.12			1.69
Moorpark/Winchester	AM	10/1/97	0.893	D	0.909	E	0.920	E	**1.23**	0.809	D	1.52
	PM	7/10/97	0.771	C	0.817	D	0.859	D	5.37			6.35
Saratoga/Stevens Creek	AM	5/21/96	0.578	A	0.617	B	0.624	B	1.37			1.47
	PM	10/96	0.786	C	0.832	D	0.844	D	1.70			2.24
Stevens Creek/Emporium	AM	4/15/97	0.417	A	0.432	A	0.432	A	0.00			0.61
	PM	4/15/97	0.496	A	0.539	A	0.621	B	13.39			16.37
Stevens Creek/Redwood	AM	4/10/97	0.395	A	0.409	A	0.422	A	3.91			5.22
	PM	4/10/97	0.475	A	0.574	A	0.633	B	10.47			12.51

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Table 13 Revised
Intersection Levels of Service-SJ Method

Intersection	Peak Hour	Count Date	Existing V/C	Background		Project Conditions			Mitigated Project		
				LOS	V/C	LOS	V/C	LOS	% INC.	V/C	LOS	% INC.
Stevens Creek/Winchester	AM	4/16/97	0.640	B	0.675	B	0.685	B	1.40			2.22
	PM	7/10/97	0.850	D	0.893	D	0.960	E	**4.93**	0.856	D	7.34
Tisch/Winchester	AM	4/16/97	0.371	A	0.429	A	0.469	A	10.28			10.76
	PM	4/16/97	0.675	B	0.750	C	0.781	C	5.20			6.65
Williams/Winchester	AM	4/16/97	0.752	C	0.725	C	0.777	C	0.15			0.41
	PM	4/16/97	0.502	A	0.520	A	0.526	A	0.99			1.63
Winchester/Olsen	AM	4/17/97	0.424	A	0.440	A	0.505	A	10.76			11.25
	PM	4/17/97	0.476	A	0.504	A	0.522	A	7.49			8.96
Winchester/Olin	AM	4/16/97	0.427	A	0.443	A	0.458	A	2.38			2.88
	PM	4/16/97	0.440	A	0.460	A	0.470	A	0.00			0.00
Stevens Creek/Cypress	AM	8/4/94	0.554	A	0.616	B	0.628	B	2.39			2.66
	PM	8/4/94	0.584	A	0.653	B	0.662	B	1.81			2.39
San Tomas/Saratoga	AM	10/9/97	1.223	F	1.223	F	1.232	F	0.87			0.97
	PM	10/96	1.162	F	1.211	F	1.216	F	0.51			0.97

*Note: Significant impacts indicated in bold.

Table 14 Revised
Weekday Project Intersection Levels of Service-CMP Method

Intersection	Peak Hour	Count Date	Existing Average Intersection Delay[a]	Existing LOS	Background Average Intersection Delay[a]	Background LOS	Project Conditions Average Intersection Delay[a]	Project Conditions LOS	Increase in Critical Movement[b]
I-280/Moorpark	AM	4/9/97	16	C	16	C	16	C	0
	PM	10/96	17	C	17	C	17	C	0
I-880/Stevens Creek	AM	4/15/97	14	B	16	C	17	C	1
	PM	10/96	16	C	17	C	20	C	3
San Tomas/Stevens Creek	AM	4/17/97	43	E	45	E	46	E	1
	PM	7/9/97	53	E	60	E	60	E	0
San Tomas/Moorpark	AM	4/17/97	41	E	45	E	45	E	0
	PM	10/96	35	D	39	D	39	D	1
Saratoga/Stevens Creek	AM	5/21/96	31	D	32	D	32	D	0
	PM	10/96	36	D	37	D	37	D	0
Stevens Creek/Winchester	AM	4/16/97	29	D	29	D	29	D	0
	PM	10/96	37	D	41	E	42	E	7
San Tomas/Saratoga	AM	10/9/97	78	F	78	F	81	F	3
	PM	10/96	59	E	74	F	75	F	3
Bascom/Moorpark	AM	4/17/97	31	D	30	D	31	D	1
	PM	4/17/97	63	F	74	F	74	F	0

[a] Whole intersection average delay expressed in seconds per vehicle.
[b] Increase in critical movement delay.

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Table 15 Revised
Freeway Segment Levels of Service - Project Conditions

				Background With Project (a)								Project Traffic				
				Mixed-Flow Lane Traffic Volumes				HOV Lane Traffic Volumes				Mixed-Flow Lane			HOV Lane	
Freeway	Segment	Direction	Peak Hour	Capacity	Volume	V/C	LOS	Capacity	Volume	V/C	LOS	Total Volume	Volume	% Capacity	Volume	% Capacity
I-280	Lawrence to Saratoga	SB	AM	7,000	7,011	1.00	E	2,000	461	0.23	A	58	54	0.8%	4	0.2%
			PM		7,555	1.08	F		784	0.39	B	148	134	**1.9%**	14	0.7%
I-280	Saratoga to Winchester	SB	AM	7,000	7,211	1.03	F	2,000	399	0.20	A	58	55	0.8%	3	0.2%
			PM		7,388	1.06	F		650	0.33	A	148	136	**1.9%**	12	0.6%
I-280	Winchester to I-880	SB	AM	6,000	4,251	0.71	C	2,000	336	0.17	A	0	0	0.0%	0	0.0%
			PM		4,284	0.71	C		564	0.28	A	0	0	0.0%	0	0.0%
I-280	I-880 to Bascom	SB	AM	8,000	6,938	0.87	D	2,000	480	0.24	A	65	61	0.8%	4	0.2%
			PM		7,240	0.91	D		670	0.34	A	81	74	0.9%	7	0.4%
I-280	Bascom to Meridian	SB	AM	8,000	7,421	0.93	D	N/A	N/A	N/A	N/A	65	65	0.8%	N/A	N/A
			PM		7,910	0.99	E	N/A	N/A	N/A	N/A	81	81	1.0%	N/A	N/A
I-280	Meridian to Bascom	NB	AM	9,000	7,749	0.86	D	N/A	N/A	N/A	N/A	36	36	0.4%	N/A	N/A
			PM		7,391	0.82	D	N/A	N/A	N/A	N/A	121	121	**1.3%**	N/A	N/A
I-280	Bascom to I-880	NB	AM	9,000	8,469	0.94	E	2,000	441	0.22	A	36	34	0.4%	2	0.1%
			PM		8,008	0.89	D		513	0.26	A	121	114	**1.3%**	7	0.4%
I-280	I-880 to Winchester	NB	AM	6,000	5,572	0.93	D	2,000	465	0.23	A	0	0	0.0%	0	0.0%
			PM		5,059	0.84	D		580	0.29	A	0	0	0.0%	0	0.0%
I-280	Winchester to Saratoga	NB	AM	7,000	7,632	1.09	F	2,000	495	0.25	A	108	101	**1.4%**	7	0.4%
			PM		7,294	1.04	F		524	0.26	A	94	88	**1.3%**	6	0.3%
I-280	Saratoga to Lawarence	NB	AM	7,000	7,141	1.02	F	2,000	472	0.24	A	108	101	**1.4%**	7	0.4%
			PM		6,804	0.97	E		507	0.25	A	94	87	**1.2%**	7	0.4%
I-880	Bascom to Stevens Creek	SB	AM	7,000	5,057	0.72	C	N/A	N/A	N/A	N/A	87	87	**1.2%**	N/A	N/A
			PM		7,805	1.12	F	N/A	N/A	N/A	N/A	229	229	**3.3%**	N/A	N/A
I-880	Stevens Creek to I-280	SB	AM	6,000	3,470	0.58	C	N/A	N/A	N/A	N/A	21	21	0.4%	N/A	N/A
			PM		6,149	1.02	F	N/A	N/A	N/A	N/A	40	40	0.7%	N/A	N/A
SR 17	I-280 to Hamilton	SB	AM	8,000	5,254	0.66	C	N/A	N/A	N/A	N/A	21	21	0.3%	N/A	N/A
			PM		8,548	1.07	F	N/A	N/A	N/A	N/A	40	40	0.5%	N/A	N/A
SR 17	Hamilton to I-280	NB	AM	7,000	7,534	1.08	F	N/A	N/A	N/A	N/A	14	14	0.2%	N/A	N/A
			PM		5,370	0.77	C	N/A	N/A	N/A	N/A	40	40	0.6%	N/A	N/A
I-880	I-280 to Stevens Creek	NB	AM	6,000	6,011	1.00	F	N/A	N/A	N/A	N/A	14	14	0.2%	N/A	N/A
			PM		3,666	0.61	C	N/A	N/A	N/A	N/A	40	40	0.7%	N/A	N/A
I-880	Stevens Creek to Bascom	NB	AM	7,000	7,054	1.01	F	N/A	N/A	N/A	N/A	166	166	**2.4%**	N/A	N/A
			PM		5,257	0.75	C	N/A	N/A	N/A	N/A	162	162	**2.3%**	N/A	N/A

(a) Background traffic volumes and HOVL proportions are based on 2010 CUA model projections.
Note: Significant impacts are indicated in **bold.**

Table 16 Revised
Interchange Ramp Levels of Service

Interchange	Ramp	Type	Capacity	Period	Existing Conditions Volume	V/C	LOS	Background Conditions Volume	V/C	LOS	Project Conditions Volume	V/C	LOS
I-880/Stevens Creek	SB to WB	Diagonal	2,000	AM	493	0.247	A	639	0.320	A	725	0.363	A
			2,000	PM	628	0.314	A	682	0.341	A	915	0.458	A
			2,000	Sat	850	0.425	A	904	0.452	A	1,137	0.569	A
I-880/Stevens Creek	SB to EB	Loop	1,800	AM	136	0.076	A	136	0.076	A	136	0.076	A
			1,800	PM	168	0.093	A	168	0.093	A	168	0.093	A
			1,800	Sat	179	0.099	A	179	0.099	A	179	0.099	A
I-880/Stevens Creek	WB to NB	Diagonal	2,000	AM	218	0.109	A	218	0.109	A	218	0.109	A
			2,000	PM	179	0.090	A	179	0.090	A	179	0.090	A
			2,000	Sat	234	0.117	A	234	0.117	A	234	0.117	A
I-880/Stevens Creek	WB to SB	Loop	1,800	AM	160	0.089	A	160	0.089	A	160	0.089	A
			1,800	PM	354	0.197	A	354	0.197	A	354	0.197	A
			1,800	Sat	270	0.150	A	270	0.150	A	270	0.150	A
I-880/Stevens Creek	NB to EB	Diagonal	2,000	AM	272	0.136	A	272	0.136	A	272	0.136	A
			2,000	PM	272	0.136	A	272	0.136	A	272	0.136	A
			2,000	Sat	501	0.251	A	501	0.251	A	501	0.251	A
I-880/Stevens Creek	NB to WB	Loop	1,800	AM	1,004	0.558	A	1,101	0.612	B	1,156	0.642	B
			1,800	PM	1,051	0.584	A	1,144	0.636	B	1,306	0.726	C
			1,800	Sat	1,245	0.692	B	1,338	0.743	C	1,500	0.833	D
I-880/Stevens Creek	EB to SB	Diagonal	2,000	AM	483	0.242	A	527	0.264	A	620	0.310	A
			2,000	PM	1,374	0.687	B	1,513	0.757	C	1,637	0.819	D
			2,000	Sat	1,364	0.682	B	1,503	0.752	C	1,627	0.814	D
I-880/Stevens Creek	EB to NB	Loop	1,800	AM	252	0.140	A	318	0.177	A	487	0.271	A
			1,800	PM	504	0.280	A	531	0.295	A	687	0.382	A
			1,800	Sat	750	0.417	A	777	0.432	A	933	0.518	A
I-280/Winchester	to NB	Diagonal	2,000	AM	713	0.357	A	757	0.379	A	864	0.432	A
			2,000	PM	729	0.365	A	768	0.384	A	867	0.434	A
			2,000	Sat	689	0.345	A	728	0.364	A	827	0.414	A
I-280/Winchester	from SB	Diagonal	2,000	AM	769	0.385	A	785	0.393	A	839	0.420	A
			2,000	PM	1,068	0.534	A	1,080	0.540	A	1,228	0.614	B
			2,000	Sat	865	0.433	A	877	0.439	A	1,025	0.513	A

Table 17 Revised
Saturday Peak Hour Intersection Levels of Service-SJ Method

Intersection	Count Date	Existing		Background		Project Conditions			Mitigated Project		Cumulative			Mitigated Cumulative	
		V/C	LOS	V/C	LOS	V/C	LOS	% INC.	V/C	LOS	V/C	LOS	% INC.	V/C	LOS
Monroe/Stevens Creek	7/19/97	0.815	D	0.900	E	1.005	F	**12.65**	0.881	D	1.033	F	16.14	0.895	D
Stevens Creek/Winchester	7/19/97	0.818	D	0.861	D	0.939	E	**5.86**	0.811	D	0.967	E	9.17	0.835	D
Stevens Creek/Redwood	9/27/97	0.513	A	0.599	A	0.664	B	11.41			0.682	B	13.83		
Stevens Creek/Emporium	9/27/97	0.627	B	0.647	B	0.702	C	8.80			0.719	C	11.99		
Winchester/Olin	9/27/97	0.517	A	0.538	A	0.642	B	12.98			0.650	B	14.63		
Winchester/Olsen	9/27/97	0.586	A	0.610	A	0.751	C	18.41			0.756	C	20.07		
Winchester/Tisch	9/27/97	0.569	A	0.616	B	0.652	B	6.91			0.664	B	9.00		

*Note: Significant impacts indicated in **bold**.

Table 18 Revised
Average Daily Trips (ADT) On Local Streets

Street	Existing ADT	Access at Redwood Only		Access at Dudley Only		Access at Redwood & Dudley	
		Project ADT	Existing Plus Project ADT	Project ADT	Existing Plus Project ADT	Project ADT	Existing Plus Project ADT
Redwood Avenue	1,050	490	1,540	0	1,050	490	1,540
Hemlock Avenue	1,637	2,470	4,107	0	1,637	950	2,587
Baywood Avenue	1,999	0	1,999	0	1,999	0	1,999
Dudley Avenue	451	0	451	2,520	2,971	2,520	2,971

Note: Based on weekday counts and weekday project trip estimates.

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Table 19 Revised
Alternative Access Intersection Levels of Service
Saturday Peak Hour-SJ Method
With Proposed Project Traffic

Intersection	Count Date	Proposed Project Access		Existing Site Access		Access at Dudley Only		Access at Redwood & Dudley	
		V/C	LOS	V/C	LOS	V/C	LOS	V/C	LOS
Monroe/Stevens Creek	7/19/97	1.005	F	0.971	E	0.975	E	1.005	F
Stevens Creek/Redwood	9/27/97	0.664	B	0.677	B	0.662	B	0.664	B
Stevens Creek/Emporium	9/27/97	0.702	C	0.769	C	0.736	C	0.702	C
Winchester/Olsen	9/27/97	0.751	C	0.751	C	0.707	C	0.707	C
Winchester Tisch	9/27/97	0.652	B	0.652	B	0.654	B	0.654	B

Page 85 Section II.G. Biological Resources; 2. Biological Impacts, first paragraph after the Thresholds of Significance:

DELETE existing text and replace as shown:

~~Other than possible impacts to Burrowing Owls, development of the project will not result in the loss of wildlife habitat, since the site will continue to be landscaped urban environment.~~

There are two possible ways in which the project could impact Burrowing Owls: (1) by reducing the amount of habitat available to the species such that it could reduce the number of birds in the area below a viable level or would otherwise limit their ability to breed successfully in the region; or (2) by resulting in harm to individual owls and/or their eggs. Each of these types of impact is discussed below.

Burrowing Owls

~~The development of the project site will have no effect on the breeding success of the Burrowing Owl, although it may result in a small reduction in habitat available to them. The vacant portion of the site is approximately 4.5 -5 acres of weedy ground, closely bordered by paved surfaces and buildings. The vacant area does not meet the definition of what is considered by the State Department of Fish and Game to be a minimum amount of habitat to support one or a pair of Burrowing Owls (6.5 acres). In addition, its location in close proximity to urban development, including a new residential project, means the site is subject to heavy predation from cats and other sources. While there are currently owls on the property, two of them appear to spend~~

~~most of their time in the shopping center, which is not considered habitat. The development of the vacant ground would not constitute a significant loss of burrowing owl habitat.~~

Loss of Habitat

The vacant area behind the Town and Country Shopping Center is presently about 4.5 to 5 acres in total area. It is surrounded by paved surfaces and buildings, including a newly built residential project that is now being occupied. While the biologists who inspected the site observed that it has been used as foraging habitat by Burrowing Owls, and could conceivably be used as breeding habitat, it is also used for hunting by neighborhood cats, which will increase after the new residences nearby are occupied. This is vacant land in an urban location, surrounded by urban development; this is not considered good quality habitat now, and its habitat value will deteriorate in the future, with or without the project.

There is no widely accepted, scientific estimate as to what constitutes a minimum amount of habitat that will support one or more Burrowing Owls. When Owls must be relocated, the State Department of Fish and Game typically stipulates that a relocation site provide a minimum of six and one-half acres of habitat per bird or pair of birds. Burrowing Owls have been found living in locations with less natural habitat available, but there are no studies on whether such sub-optimal environments are conducive to successful breeding.

There are no records as to whether or not Burrowing Owls have bred on or adjacent to the Town & Country site. If they did, it would have been at a point in time in the past when there was more open space in the area. While the proposed project would probably preclude the possibility of Burrowing Owls breeding on the property in the future, the loss of this 4.5 acres as breeding habitat would not create a significant impact on the species as a whole, does not represent a significant loss of habitat available to the species, and will not effect the success of the species' survival in the region.

- **Development of the project site would not result in a significant loss of wildlife habitat. (Less than Significant Impact)**

~~Future construction which destroyed birds and/or nests containing eggs or birds, would negatively impact individual members of the species.~~

Impacts to Individual Birds

There are between one and three Burrowing Owls presently living on the Town & Country Village property. One of the birds observed on the site is a banded juvenile that moved from a known site in Santa Clara and is probably seeking new permanent habitat as part of a post-fledgling dispersal pattern that is believed to occur among Burrowing Owls. One or more of the other birds may be long-term winter occupants of the property, since they spend

significant amounts of time on the buildings and could have been missed in previous surveys.

If one or more of these Burrowing Owls remain on the property, or if other Burrowing Owls were to move onto the property prior to the proposed demolition and grading of the site, the proposed demolition and grading could result in harm to the birds. If a pair of birds mates and establishes an active nest on the vacant ground, demolition and grading could result in destruction of the nest and its occupants.

The project does not, however, propose to include any grading or demolition that could harm the Burrowing Owls. The project includes the implementation of preconstruction surveys for Owls that conform to the State DFG protocols (see discussion of Mitigation Measures at the end of this section). If Owls are found to still be present on the property at the time construction is scheduled to begin, the property owner will enter into a Memorandum of Understanding (MOU) with the DFG to relocate the remaining birds. The MOU will be prepared to the satisfaction of DFG, and will include a relocation site that provides adequate area for supporting the number of birds that must be relocated. Acceptable sites in the past have had to include approximately six and one-half acres of habitat for each bird or pair of birds.

- **If no measures are taken to protect them, ~~T~~the project could impact Burrowing Owls. Should the owls be present on the site prior to the start of grading, individual birds and /or their eggs could be destroyed. (Significant Impact)**

Page 90 II. Environmental Setting, Impacts, and Mitigation Measures; H. Hazardous Materials; first paragraph of the section:

REVISE as shown:

Previous environmental review on the project site identified concentrations of organochlorine pestcides (DDT, DDE, and DDD), organophosphate pesticides, carbamate and urea pesticides due to former agriculture operations ~~uses~~ throughout ~~on~~ the project site.

Page 90 II. Environmental Setting, Impacts, and Mitigation Measures; H. Hazardous Materials; second paragraph of the section:

REVISE as shown:

During the January 1997 Environmental Site Assessment, ~~T~~ ten soil samples were taken on the site. Pesticides were detected in six of the ten samples. DDT, DDE, and DDD concentrations ranged from 0.03 mg/kg to a high of ~~7.6~~ 10.6 mg/kg. These concentrations of pestcides are consistent with concentrations detected during previous investigations which ranged from 0.03 mg/kg to 15.4 mg/kg.

Page 90 II. Environmental Setting, Impacts, and Mitigation Measures; H. Hazardous Materials; third paragraph of the section:

REVISE as shown:

Arsenic and lead were detected in six of the ten samples. The arsenic concentrations ranged from 25 to 860 mg/kg and the lead concentrations ranged from 6 to 1,500 mg/kg. The highest concentrations for arsenic (860 mg/kg) and lead (1,500 mg/kg) were detected in a single sample at a depth of three feet below the ground surface (bgs). This sample exceeds the total threshold limit concentrations (TTLC) for arsenic (500 mg/kg) and lead (1,000 mg/kg) which means that this soil would be classified as a hazardous ~~material~~ waste if it were removed from the site.

Page 92 II. Environmental Setting, Impacts, and Mitigation Measures; H. Hazardous Materials; second mitigation measure:

REVISE as shown:

- **Prior to issuance of a PD Permit for development ~~of either (1) the Courtesy Chevrolet portion of the property, (2) the Building 9 area of the vacant former dry cleaner operation, or 3) the former agricultural area~~, a Removal Action Workplan (RAW) will be developed in conjunction with the Department of Toxic Substances Control and the City of San Jose requirements. The RAW will describe the specific measures that will be implemented to reduce or/avoid the potential exposure of future residents, workers, and users of the site to hazardous materials, if it is determined that such measures are necessary. The Workplan is expected to include proposed remedial measures such as capping the contaminated soil with buildings or pavement and/or removing all or a portion of the contaminated soil for off-site treatment or disposal at an appropriate disposal site. Once implemented, the RAW will avoid or reduce the levels of contamination within the areas designated for residential uses to acceptable threshold levels as established by local, state, and federal regulatory agencies.**

Page 105 IV. Alternatives to the Proposed Project; A. No Project Alternative; first paragraph of the section:

REVISE the paragraph as shown:

Under the "No Project" alternative, the project site would remain as a 285,000 square foot shopping center and a car dealership on 39 acres. The vacant 4.5 to 5 acres of land behind the center would remain vacant. It is

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unlikely that the shopping center would remain in its present condition indefinitely, however. The property owners would be likely to investigate various techniques for upgrading the center and increasing its economic return. These could include changing the types of retail uses targeted, interior remodeling, and other methods for increasing the percentage of leased space and the value of that space.

This alternative would avoid the significant traffic impacts to the freeway network that could occur as a result of project traffic. As a result, traffic-related increases in air pollutant emissions associated with the traffic from the center expansion would also not occur. Regional and cumulative air quality impacts would ~~decrease~~ be less than significant under this alternative, since the additional project-related traffic levels would not occur. This alternative would also avoid any impacts to Burrowing Owls and their habitat.

Page 112 Section VI. Cumulative Impacts; Cumulative Traffic Impacts; Table 26:

REPLACE with the following table labeled Table 26 Revised.

Page 113 Table 27:

REPLACE with the following table labeled Table 27 Revised.

Page 114 Table 28:

REPLACE with the following table labeled Table 28 Revised.

Page 116 After the first full paragraph, under the heading Stevens Creek Boulevard and Monroe Street

ADD the following:

- The Town & Country developer could be required to work withValley Fair to provide for shuttle service between the two shopping centers. (Mitigation Not Included in the Project).

Page 121 Section IX. References; after the sixth entry,

ADD the following:

Gerston & Associates, *Transit-Based Housing*; September 1995.

After the eleventh entry,

ADD the following:

Valley Transportation Agency, Letter to James R. Derryberry regarding Ohlone-Chynoweth/Traffic Impacts; April 4, 1996.

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Table 26 Revised
Cumulative Intersection Levels of Service-SJ Method

Intersection	Peak Hour	Background			Cumulative			Mitigated Cumulative	
		V/C	LOS	% INC.	V/C	LOS	% INC.	V/C	LOS
I-280/Moorpark	AM	0.375	A	3.25	0.388	A	3.62		
	PM	0.468	A	9.57	0.512	A	9.57		
I-880/Stevens Creek	AM	0.261	A	4.05	0.276	A	5.65		
	PM	0.396	A	10.45	0.450	A	13.79		
Bascom/Moorpark	AM	0.832	D	0.00	0.832	D	0.04		
	PM	0.776	C	0.00	0.775	C	0.16		
Bascom/Naglee	AM	0.815	D	0.04	0.816	D	0.17		
	PM	0.668	B	1.40	0.683	B	2.10		
Bascom/San Carlos	AM	0.887	D	0.19	0.892	D	0.31		
	PM	0.856	D	0.84	0.873	D	1.53		
Bellrose/Stevens Creek	AM	0.461	A	0.69	0.465	A	1.19		
	PM	0.651	B	2.79	0.672	B	3.93		
Hamilton/Winchester	AM	0.765	C	0.00	0.765	C	0.04		
	PM	0.943	E	0.09	0.942	E	0.15		
Hedding/Monroe	AM	0.502	A	0.08	0.504	A	0.31		
	PM	0.553	A	1.46	0.564	A	2.16		
Hedding/Winchester	AM	0.553	A	0.83	0.559	A	1.02		
	PM	0.672	B	6.14	0.725	B	7.32		
Monroe/Stevens Creek	AM	0.480	A	14.77	0.546	A	15.72		
	PM	0.849	D	12.21	0.968	E	15.26	0.853	D
Moorpark/San Tomas	AM	0.941	E	0.00	0.942	E	0.06		
	PM	1.055	F	0.28	1.062	F	0.53		
San Tomas/Stevens Creek	AM	0.799	C	1.15	0.809	D	1.33		
	PM	0.879	D	1.12	0.892	D	1.69		
Moorpark/Winchester	AM	0.909	E	1.23	0.924	E	1.52	0.813	D
	PM	0.817	D	5.37	0.867	D	6.35		
Saratoga/Stevens Creek	AM	0.617	B	1.37	0.625	B	1.47		
	PM	0.832	D	1.70	0.846	D	2.24		
Stevens Creek/Emporium	AM	0.432	A	0.00	0.434	A	0.61		
	PM	0.539	A	13.39	0.635	B	16.37		
Stevens Creek/Redwood	AM	0.409	A	3.91	0.428	A	5.22		
	PM	0.574	A	10.47	0.647	B	12.51		
Stevens Creek/Winchester	AM	0.675	B	1.40	0.690	B	2.22		
	PM	0.893	D	4.93	0.980	E	7.34	0.876	D
Tisch/Winchester	AM	0.429	A	10.28	0.470	A	10.76		
	PM	0.750	C	5.20	0.790	C	6.65		
Williams/Winchester	AM	0.725	C	0.15	0.777	C	0.41		
	PM	0.520	A	0.99	0.530	A	1.63		
Winchester/Olsen	AM	0.440	A	10.76	0.507	A	11.25		
	PM	0.504	A	7.49	0.568	A	8.96		
Winchester/Olin	AM	0.443	A	2.38	0.459	A	2.88		
	PM	0.460	A	0.00	0.476	A	0.00		

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Table 26 Revised
Cumulative Intersection Levels of Service-SJ Method

Intersection	Peak Hour	Background			Cumulative			Mitigated Cumulative	
		V/C	LOS	% INC.	V/C	LOS	% INC.	V/C	LOS
Forest/Monroe	AM	0.272	A		0.275	A	1.27		
	PM	0.466	A		0.479	A	2.92		
Forest/Redwood	AM	0.140	A		0.145	A	3.81		
	PM	0.308	A		0.335	A	8.38		
Winchester/Forest	AM	0.467	A		0.470	A	0.87		
	PM	0.604	B		0.620	B	2.87		
Winchester/Dorcich	AM	0.581	A		0.586	A	0.98		
	PM	0.469	A		0.488	A	3.70		
Stevens Creek/Cypress	AM	0.616	B	2.39	0.629	B	2.66		
	PM	0.653	B	1.81	0.666	B	2.39		
San Tomas/Saratoga	AM	1.223	F	0.87	1.233	F	0.97		
	PM	1.211	F	0.51	1.219	F	0.97		

*Note: Significant impacts indicated in bold.

Table 27 Revised
Cumulative Intersection Levels of Service-CMP Method

Intersection	Peak Hour	Background		Cumulative		
		Average Delay[a]	LOS	Average Delay[a]	LOS	Inc. in Crit. Mvmt[b]
I-280/Moorpark	AM	16	C	16	C	0
	PM	17	C	17	C	0
I-880/Stevens Creek	AM	16	C	17	C	1
	PM	17	C	21	C	4
San Tomas/Stevens Creek	AM	45	E	46	E	1
	PM	60	E	61	F	2
San Tomas/Moorpark	AM	45	E	45	E	0
	PM	39	D	39	D	1
Saratoga/Stevens Creek	AM	32	D	32	D	0
	PM	37	D	37	D	0
Stevens Creek/Winchester	AM	29	D	29	D	0
	PM	41	E	43	E	10
San Tomas/Saratoga	AM	78	F	80	F	2
	PM	74	F	75	F	3
Bascom/Moorpark	AM	30	D	31	D	1
	PM	74	F	75	F	1

[a] Whole intersection average delay expressed in seconds per vehicle.
[b] Increase in critical movement delay.

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Table 28 Revised
Freeway Segment Levels of Service - Cumulative Conditions

				Cumulative With Project[a]								Town & Country Project Traffic				
				Mixed-Flow Lane Traffic Volumes				HOV Lane Traffic Volumes					Mixed-Flow Lane		HOV Lane	
Freeway	Segment	Direction	Peak Hour	Capacity	Volume	V/C	LOS	Capacity	Volume	V/C	LOS	Total Volume	Volume	% Capacity	Volume	% Capacity
I-280	Lawrence to Saratoga	SB	AM	7,000	7,016	1.00	E	2,000	461	0.23	A	58	54	0.8%	4	0.2%
			PM		7,571	1.08	F		786	0.39	B	148	134	1.9%	14	0.7%
I-280	Saratoga to Winchester	SB	AM	7,000	7,216	1.03	F	2,000	399	0.20	A	58	55	0.8%	3	0.2%
			PM		7,405	1.06	F		651	0.33	A	148	136	1.9%	12	0.6%
I-280	Winchester to I-880	SB	AM	6,000	4,251	0.71	C	2,000	336	0.17	A	0	0	0.0%	0	0.0%
			PM		4,284	0.71	C		564	0.28	A	0	0	0.0%	0	0.0%
I-280	I-880 to Bascom	SB	AM	8,000	6,942	0.87	D	2,000	481	0.24	A	65	61	0.8%	4	0.2%
			PM		7,269	0.91	D		673	0.34	A	81	74	0.9%	7	0.4%
I-280	Bascom to Meridian	SB	AM	8,000	7,426	0.93	D	N/A	N/A	N/A	N/A	65	65	0.8%	N/A	N/A
			PM		7,942	0.99	E	N/A	N/A	N/A	N/A	81	81	1.0%	N/A	N/A
I-280	Meridian to Bascom	NB	AM	9,000	7,758	0.86	D	N/A	N/A	N/A	N/A	36	36	0.4%	N/A	N/A
			PM		7,423	0.82	D	N/A	N/A	N/A	N/A	121	121	1.3%	N/A	N/A
I-280	Bascom to I-880	NB	AM	9,000	8,478	0.94	E	2,000	441	0.22	A	36	34	0.4%	2	0.1%
			PM		8,038	0.89	D		515	0.26	A	121	114	1.3%	7	0.4%
I-280	I-880 to Winchester	NB	AM	6,000	5,572	0.93	D	2,000	465	0.23	A	0	0	0.0%	0	0.0%
			PM		5,059	0.84	D		580	0.29	A	0	0	0.0%	0	0.0%
I-280	Winchester to Saratoga	NB	AM	7,000	7,635	1.09	F	2,000	495	0.25	A	108	101	1.4%	7	0.4%
			PM		7,310	1.04	F		526	0.26	A	94	88	1.3%	6	0.3%

Table 28 Revised
Freeway Segment Levels of Service - Cumulative Conditions

				Cumulative With Project[a]								Town & Country Project Traffic				
				Mixed-Flow Lane Traffic Volumes				HOV Lane Traffic Volumes					Mixed-Flow Lane		HOV Lane	
Freeway	Segment	Direction	Peak Hour	Capacity	Volume	V/C	LOS	Capacity	Volume	V/C	LOS	Total Volume	Volume	% Capacity	Volume	% Capacity
I-280	Saratoga to Lawarence	NB	AM	7,000	7,144	1.02	F	2,000	472	0.24	A	108	101	1.4%	7	0.4%
			PM		6,821	0.97	E		508	0.25	A	94	87	1.2%	7	0.4%
I-880	Bascom to Stevens Creek	SB	AM	7,000	5,063	0.72	C	N/A	N/A	N/A	N/A	87	87	1.2%	N/A	N/A
			PM		7,831	1.12	F	N/A	N/A	N/A	N/A	229	229	3.3%	N/A	N/A
I-880	Stevens Creek to I-280	SB	AM	6,000	3,473	0.58	C	N/A	N/A	N/A	N/A	21	21	0.4%	N/A	N/A
			PM		6,166	1.03	F	N/A	N/A	N/A	N/A	40	40	0.7%	N/A	N/A
SR 17	I-280 to Hamilton	SB	AM	8,000	5,257	0.66	C	N/A	N/A	N/A	N/A	21	21	0.3%	N/A	N/A
			PM		8,565	1.07	F	N/A	N/A	N/A	N/A	40	40	0.5%	N/A	N/A
SR 17	Hamilton to I-280	NB	AM	7,000	7,539	1.08	F	N/A	N/A	N/A	N/A	14	14	0.2%	N/A	N/A
			PM		5,387	0.77	C	N/A	N/A	N/A	N/A	40	40	0.6%	N/A	N/A
I-880	I-280 to Stevens Creek	NB	AM	6,000	6,016	1.00	E	N/A	N/A	N/A	N/A	14	14	0.2%	N/A	N/A
			PM		3,683	0.61	C	N/A	N/A	N/A	N/A	40	40	0.7%	N/A	N/A
I-880	Stevens Creek to Bascom	NB	AM	7,000	7,058	1.01	F	N/A	N/A	N/A	N/A	166	166	2.4%	N/A	N/A
			PM		5,283	0.75	C	N/A	N/A	N/A	N/A	162	162	2.3%	N/A	N/A

[a]Cumulative traffic volumes and HOVL proportions are based on 2010 CUA model projections with estimated Town & Country and Valley Fair trips added.

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V. COPIES OF THE COMMENT LETTERS

The original comment letters received on the DEIR are provided on the following pages.

97-036

State of California - The Resources Agency
DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
(707) 944-5500

PETE WILSON, *Governor*

February 11, 1998

Ms. Julie Caporgno
Department of Planning, Building
and Code Enforcement
801 North First Street
San Jose, California 95110-1795

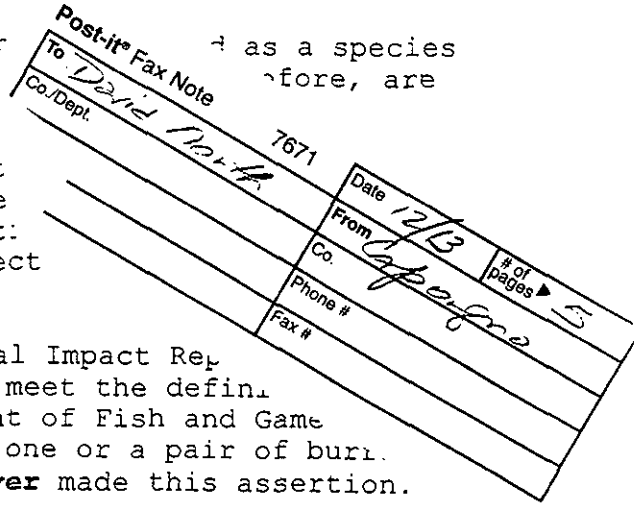
Dear Ms. Caporgno:

Town and Country Village Draft Environmental Impact Report, SCH # 97072085
Santa Clara County

Department of Fish and Game personnel have reviewed the above-named document. The proposed project is the redevelopment of a 39-acre parcel. The project site is located at the southeasterly corner of Steven's Creek and Winchester Boulevards in the City of San Jose. The majority of the site is already developed, however, five acres of grassland habitat remain along the easterly boundary.

Three burrowing owls were observed on the site in 1997 (letter dated October 29, 1997 from H. T. Harvey and Associates to David Powers and Associates). Additionally, burrowing owls have been observed on the site in the past. The grassland habitat on site is accurately described in the letter, presented in Appendix D, as "suitable foraging habitat" and "potential nesting habitat" for burrowing owls. The site may have served as nesting habitat in the past, however, we cannot verify this.

As you know, burrowing owls have ber ed as a species of special concern by the State of Calif fore, are considered to meet the definition of rar California Environmental Quality Act (CE(Impacts to species of special concern shc significant for the purposes of CEQA. We burrowing owl foraging and potential nest: and Country site significant from a project and a cumulative perspective.



On Page 85 of the Draft Environmental Impact Rep is stated that "the vacant area does not meet the defin what is considered by the State Department of Fish and Game the minimum amount of habitat to support one or a pair of burr owl (6.5 acres)." The Department has **never** made this assertion.

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Conserving California's Wildlife Since 1870.

In our Staff Report of Burrowing Owl Mitigation (1995), we state that "a minimum of 6.5 acres of foraging habitat (calculated on a 100 m (approx. 300 ft) foraging radius around the burrow) per pair or unpaired resident bird should be acquired or permanently protected" (Staff Report 1995) as a mitigation requirement for project impacts to burrowing owls. This is not to say that we believe that burrowing owls may not be utilizing sites of smaller size (or of larger size). Due to the fragmented nature of the patches of burrowing owl habitat left in the South Bay area, it is likely burrowing owls utilize several small parcels of open space within their range.

Because we do not have information regarding the distances that might be traveled for foraging, we have no way of knowing exactly how much habitat a pair of breeding burrowing owls might be utilizing. The acreage figure that we have provided in our staff report is our best guess of the amount of habitat that might support a pair of birds in their natural environment. It is especially difficult to make this type of determination in an urban environment. Burrowing owls have been documented breeding in suboptimal habitat such as in parking lots and under sidewalks. The foraging habits of birds in these types of situations is not well documented. Due to compromised habitat availability for burrowing owls in the South Bay area, asserting that the loss of anything less than six and one-half acres of habitat is less than significant is erroneous.

On Page 85, it is stated that "the development of the project site will have no effect on the breeding success of the burrowing owl." There is not enough information available to make this kind of determination. One of the owls that was observed on the Town and Country site in October, 1997, was leg banded. It turns out that the bird hatched in a nest burrow on the Santa Clara University Campus in the spring of 1997. It is difficult to predict the habits of wild animals, however, we do know that owls have been observed on the Town and Country parcel in the past and we also know that burrowing owls prefer to breed in areas that other burrowing owls have bred in the past. Therefore, it is possible that the juvenile observed in October may attempt to nest on the site. If so, development of the site would effect the breeding success of the owls observed. We make this argument to illustrate that it is best to avoid making these types of sweeping generalizations when conducting impacts analysis on burrowing owls.

The mitigation measures proposed for reducing impacts to burrowing owls to a level of less than significant (Page 86) are appropriate insofar as they assure there will be no "take" of

individual burrowing owls. Pre-construction surveys should be conducted within thirty days of construction and any burrowing owls observed on the site during the nesting season (February 1 to August 31) shall be protected pursuant to sections 3503 and 3503.5 of the California Fish and Game Code and the Federal Migratory Bird Treaty Act. A 250-foot radius buffer will have to be established around any active owl burrow for the duration of the nesting season. No activities will be allowed within the protective buffer. The buffer shall be established with the placement of acceptable fencing.

Mitigation for the loss of burrowing owl foraging and potential breeding habitat should be required as a condition of approval for the project. To delay the determination of mitigation requirements for impacts to burrowing owl **habitat** would not be in accordance with the provisions of CEQA. On Page 86 it is written that, "if resident of breeding owls are located on the site during pre-construction surveys, a site-specific mitigation plan would be prepared." One of the purposes of CEQA is to provide the public with an opportunity to review and comment on the adequacy of various mitigation measures proposed to off-set the project's impacts. Habitat mitigation requirements should be clearly identified in the Final EIR. If the City were to develop an interim measure for burrowing owl habitat protection (until the Burrowing Owl Habitat Conservation Plan is implemented) this type of situation could be avoided.

We suggest assessing an impact fee on projects such as this, which contribute to the cumulative loss of burrowing owl habitat in the region. This approach would provide the applicant and the City with an acceptable and reasonable approach to burrowing owl habitat mitigation. The fee could be placed into an account which could later be used to fund management activities to enhance or create burrowing owl habitat on protected open space areas. We urge the City to consider this approach without delay so that the burden of protecting burrowing owls in the San Jose area is distributed fairly among developers. This approach will provide the applicant with a feasible way to lessen the significant impact of the project on burrowing owl habitat and afford the City with the opportunity to avoid making a finding of overriding considerations.

On Page 117 of the Draft EIR, this type of approach is clearly identified as a mitigation option. However, it is stated that "although the City of San Jose has begun a study....there is currently no established program in place" for an applicant to contribute financially to burrowing owl habitat protection, enhancement and management. An interim measure, such as an

ordinance which identifies a fee schedule based on the number of square feet of the project or the size of the owl habitat area impacted, would assure that all applicants are provided with a mitigation mechanism so that mitigation would be distributed fairly and that enough money will be available to fulfill the components of the future Burrowing Owl Habitat Conservation Plan. We would be pleased to provide you information about similar ordinances elsewhere that have been established to achieve similar goals.

If a fee assessment is not possible at this time, we recommend that impacts to burrowing owl habitat be offset with the protection of similar habitat elsewhere within the South Bay area. We suggest that a minimum mitigation ratio of 1:1 be applied to burrowing owl habitat impacts. The applicant should be required to protect and enhance five acres of burrowing owl habitat in the South Bay area. If the applicant is unable to find acceptable habitat within the time frame of the project permitting process, we would be willing to accept a security bond as an interim mitigation measure. The security bond would have to be in an amount sufficient to cover the potential cost of having the Department fulfill the mitigation requirement. A Mitigation Agreement with our Department will be required if this mitigation option is chosen.

If you have any questions regarding any of these comments, please contact Ms. Caitlin Bean, Environmental Specialist, at (408) 469-8759, or Mr. Carl Wilcox, Environmental Services Supervisor, at (707) 944-5525.

Sincerely,

Brian Hunter
Regional Manager
Region 3

cc: See Attached Page

97-036

cc: Mr. Craig Breon
Santa Clark Valley Audubon Society
22221 McClellan Road
Cupertino, California 95014

Mr. Lee Quintana
Planning Department
City of San Jose
801 North First Street
San Jose, California 95110

February 25, 1998

Cal/EPA

Department of Toxic Substances Control

700 Heinz Avenue, Suite 200 Berkeley, CA 94710-2737

Pete Wilson Governor

Peter M. Rooney Secretary for Environmental Protection

Ms. Julie Caporgno
City of San Jose Department of Planning
Building & Code Enforcement
City Hall Annex, Room 400
801 N. First Street
San Jose, California 95110-1795

Dear Ms. Caporgno:

TOWN AND COUNTRY VILLAGE SHOPPING CENTER
COMMENTS ON DRAFT ENVIRONMENTAL IMPACT REPORT
FILE NO. PDC 97-06-036; SCH NO. 97072085

The Department of Toxic Substances Control (DTSC) has received the California Environmental Quality Act (CEQA) Draft Environmental Impact Report (EIR) for the Town and Country Village Project in San Jose, California (Project).

As stated in our August 11, 1997 letter to you, DTSC is a Responsible Agency under CEQA and had planned to use the Environmental Impact Report (EIR) prepared by the City of San Jose to address the potential environmental effects stemming from the cleanup actions specified in the Removal Action Workplan (RAW). However, the since the City of San Jose failed to include DTSC, as a Responsible Agency, in the scoping sessions conducted early in the planning stages, the Draft EIR as proposed is not useful for the purposes of evaluating effects of the RAW. In fact, at this time the RAW is still in the draft stages and although there are a few potential remedies under consideration, a remedy for the soil contamination has not been selected. DTSC formally requests from the City of San Jose an extension of the public comment period in order to allow development of the RAW to the point that a remedy can be selected. At that point, the EIR could be modified to address the environmental effects of the RAW.

If the City of San Jose will not extend the public review and comment period, please consider and respond appropriately to the comments contained in this letter. If the City of San Jose does not address these comments to the satisfaction of DTSC, an alternate CEQA document will be written to address the effects of the RAW exclusively. This course of action will result in higher costs (on the order of $15,000) to the project proponent, Federal Realty. Staff at DTSC

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are ready and willing to work closely with the City of San Jose to modify the EIR such that the wasteful exercise of generating another CEQA document can be avoided.

As stated in DTSC's August 11, 1997 letter, the EIR must account for potential impacts of the cleanup work on earthen structures, air quality, surface and ground water, animal and plant life, land use, natural resources, risk of upset, public resources, energy, utilities, noise, public health and safety, aesthetics, cultural and paleontological resources, traffic, population, housing, recreation, and cumulative effects.

This letter provides comments on the following possible remedies: (1) complete removal and disposal of contaminated soil, (2) removal and consolidation of contaminated soil, (3) leaving contaminated soil in place, capping the surface, and placing a deed restriction on the property to prevent soil contact, and (4) any combination of (1) - (3).

A. LAND USE

The Land Use section should discuss issues related to restricting land use if a deed restriction is put into place. Conceptually, the deed restriction would prevent uncontrolled excavation of contaminated soils. It would prevent uses that would involve sensitive receptors such as day care centers, hospitals, etc. The restriction would require a plan, approved by DTSC, that describes how contaminated soils will be handled in the future. Residential units may be constructed on deed restricted land, but ground-level private patios or yards must be free of contaminants at any depth.

B. TRAFFIC

The Traffic section should discuss issues related to the potential effects of implementing alternative #1, complete removal and disposal of contaminated soil. The estimated amount of soil that would require removal has not been determined. This alternative would involve hauling contaminated soil by truck to the nearest disposal facility. A disposal facility has not been proposed to DTSC and is not known at this time. The EIR should discuss the effects of the level of service due to the implementation of this remedy.

C. AIR QUALITY

The Air Quality section should state that soil with high levels of arsenic, lead and pesticides exists on the site and should discuss the potential health effects. Indicate that DTSC would require a Health and Safety Plan as part of the RAW which would include monitornig and dust control measures.

This section should also discuss the potential negative impacts to air quality stemming from the use of construction equipment and from the use of trucks hauling contaminated soil for disposal.

E. SOILS AND GEOLOGY

This section should discuss the appropriateness of fill material potentially being placed into areas that will be used for foundation support. This section should address changes in the site due to potential excavation of contaminated soils. This section should also discuss issues related to the remedial option of leaving contaminated soils in place. If contaminated soils are left in place, DTSC will require an Operations and Maintenance Plan for long term maintenance and Soils Management Plan for any disturbance of contaminated soil. These discussions should tie into the discussion in the Air section as they relate to dust control.

H. HAZARDOUS MATERIALS

The discussion of sample results in the "Former Agricultural Uses" section is inaccurate. Perhaps the author was confused by the presentation in the Environmental Site Assessment, which presented sampling data in a chronological fashion. Environmental sampling data should be presented in total, i.e., regardless of the time sampled. There were at least 76 soil samples analyzed. Present the total number of samples analyzed for pesticides, lead, and arsenic. Present the correct concentrations as a range from minimum to maximum. This data should be supported by copies of figures presented in the Environmental Site Assessment which show both concentration and location of samples.

The comparison of site concentrations to the total threshold limit concentration (TTLC) and resulting determination of whether the soil is hazardous material leads the reader to believe that any concentration below the TTLC is not hazardous and therefore does not present a human health risk. While the contaminant concentration may be below the TTLC, it still may present a significant health risk and by virtue of being toxic is defined as hazardous

material. The site concentrations should be compared to site-specific background soil concentrations or Preliminary Remedial Goals (PRGs) developed by the U.S. EPA. PRGs are conservative screening concentrations that provide a good benchmark for comparison to potential human health risks.

The EIR presents arsenic concentrations in the "Former Agricultural Uses" section. This is not appropriate, because it leads the reader to believe that arsenic is limited to the currently unpaved area. DTSC believes that the entire area encompassed by the site was once used for agricultural purposes. As the figures in the Environmental Site Assessment show, arsenic was detected in soil at several locations at the site.

Page 92, Mitigation for Hazardous Material Impacts: This section refers to the "former agricultural area." As previously stated, DTSC believes that the entire site was once used for agricultural purposes.

This section refers to the RAW as a mitigation measure. The EIR should address the effects of the RAW (in both implementation and final result). It is unclear how the EIR can address these effects when the RAW has not been developed yet.

K. ENERGY

This section should address the potential effects of the usage of fuel for trucking contaminated soil to a disposal facility.

RISK OF UPSET

There should be a section addressing the risk of upset. This section would examine the potential effects from an accident during or after implementation of the selected alternative in the RAW. The Health and Safety Plan, Operations and Maintenance Plan and Soils Management Plan required by DTSC would make these impacts less than significant.

CUMULATIVE IMPACT

This section should analyze the relative impacts associated with the main areas of contamination and how the various hazardous materials may, when considered together, result in an adverse impact at and around the project site. This includes similar hazardous material removal projects in proximity to the site. The cumulative analysis as currently written limits the focus primarily to traffic

impacts and its cumulative effects.

For further guidance on all of the above categories, please refer to the enclosed Workbook for Conducting Initial Studies Under the California Environmental Quality Act prepared by Cal/EPA DTSC Office of Program Audits and Environmental Analysis (OPEA). The standard described in this document is the standard to which the resulting EIR will be reviewed by DTSC's CEQA Unit. As discussed earlier in this letter, if the City of San Jose's response to these comments is not deemed adequate by OPEA, a separate CEQA document will be generated to address these effects.

At your earliest convenience, please call Ben Hargrove, P.E., at (510) 540-3845 to arrange a time to meet with DTSC to discuss these issues.

Sincerely,

Karen M. Toth, P.E.
Unit Chief
Northern California Coastal
Cleanup Operations Branch

Enclosure

cc: Ms. Tamara J. Gabel
Berliner Cohen
10 Almaden Boulevard, 11th Floor
San Jose, California 95113

Ms. Nancy Herman
Environmental Coordinator
Federal Realty Investment Trust
1626 E. Jefferson Street
Rockville, Maryland 20852

97-036

cc: (without enclosure)
Mr. Guenther Moskat
Department of Toxic Substances Control
Office of Program Audits & Environmental Analysis
Planning and Environmental Analysis Section
400 P Street
Sacramento, California 95814

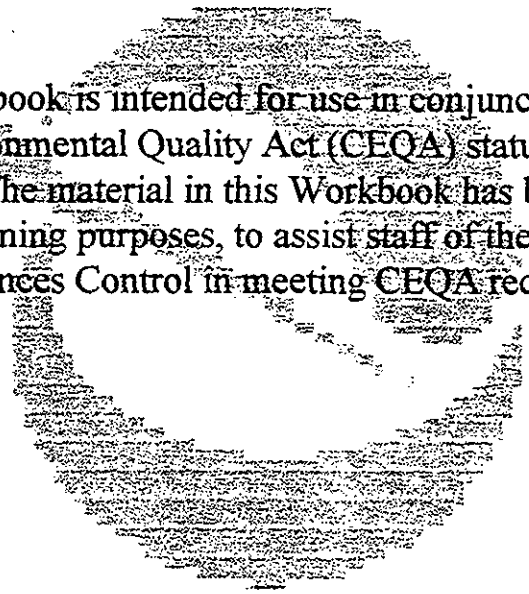
97-096

WORKBOOK FOR CONDUCTING INITIAL STUDIES UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Prepared By:
California Environmental Protection Agency
Department of Toxic Substances Control
Office of Program Audits and Environmental Analysis

October 1996

WORKBOOK FOR CONDUCTING INITIAL STUDIES UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT



This Workbook is intended for use in conjunction with California Environmental Quality Act (CEQA) statutes, guidelines and case law. The material in this Workbook has been prepared primarily for training purposes, to assist staff of the Depatment of Toxic Substances Control in meeting CEQA requirements.

Prepared by:
California Environmental Protection Agency
Department of Toxic Substances Control
Office of Program Audits and Environmental Analysis

TABLE OF CONTENTS

APPENDICES

WORKBOOK FOR CONDUCTING INITIAL STUDIES UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

This Workbook contains instructions for Department of Toxic Substances Control (DTSC) programs for completing the Initial Study and Checklist for projects subject to the requirements of the California Environmental Quality Act [(CEQA); § 21000 et seq., Public Resources Code] and implementing Guidelines [§ 15000 et seq., Title 14, California Code of Regulations (CCR)]. The Workbook identifies a new format for the Initial Study and Checklist, as contained in Appendix A. For each Appendix A heading identified by **Bold Capital Letters and Roman Numerals**, there is a corresponding heading in this Workbook. The information under the bold Workbook heading provides instructions for filling in the information required under the corresponding heading in the Initial Study.

Copies of pertinent DTSC policy and procedural requirements related to Initial Study development are provided in this Workbook, along with up-to-date forms and reference sources. A complete set of required Initial Study filing documents is available on computer disc format and available upon request through the Office of Program Audits and Environmental Analysis (OPAEA), 400 P Street, Fourth Floor, Sacramento, California 95814.

PURPOSE OF AN INITIAL STUDY

Before a Lead Agency can carry-out or approve a project, it must conduct an environmental analysis to determine if approval of the project may result in significant effect upon the environment. The DTSC, as a Lead Agency, is subject to this requirement because it has approval authority over several types of projects, including, but not limited to, the following:

- ☐ Initial Permit Issuances
- ☐ Closure Plans
- ☐ Interim Removals
- ☐ Remedial Investigation/ Feasibility Studies
- ☐ Permit Renewals
- ☐ Post Closure Plans
- ☐ Remedial Action Plans
- ☐ Removal Actions
- ☐ Permit Modifications
- ☐ Variances
- ☐ Regulation Development

The environmental analysis conducted by a Lead Agency is called an *Initial Study*. The Initial Study serves to:

- provide the Lead Agency with information to use as the basis for deciding whether to prepare an Environmental Impact Report (EIR) or a Negative Declaration (Neg Dec);
- enable an applicant or Lead Agency to modify a project, mitigating adverse impacts before an EIR is prepared, thereby enabling the project to qualify for a Neg Dec;

- assist the Lead Agency in preparing an EIR, if one is required, by:
  - * focusing the EIR on effects determined to be significant;
  - * identifying the effects determined not to be significant; and
  - * explaining the reasons for determining that potentially significant effects would not be significant.
- facilitate environmental assessment early in the design of a project;
- provide documentation of the factual basis for the finding in a Neg Dec that a project will not have a significant effect on the environment;
- eliminate unnecessary EIRs; and
- assist the Lead Agency in determining whether a previously prepared EIR or Neg Dec could be used with the project.

CONTENTS OF AN INITIAL STUDY

In mid-1994, the State CEQA Guidelines were amended to include the requirement that an Initial Study contain factual evidence to support the findings concerning whether a project had a significant effect upon the environment. In addition, the amendments revised the categories for evaluating each potential impact from "yes", "maybe", or "no" to four categories of evaluation: "Potentially Significant", "Potentially Significant Unless Mitigated", "Less Than Significant Impact", and "No Impact". These revisions were adopted to clarify when a proposed Negative Declaration, Mitigated Negative Declaration or Environmental Impact Report is required for a particular project.

Specifically, the State CEQA Guidelines require that an Initial Study contain the following baseline information:

- a description of the project including the location of the project;
- an identification of the environmental setting;
- an identification of environmental effects by use of a checklist, matrix, or other method, provided that entries on the checklist or other form are briefly explained to indicate that there is some evidence to support the entries. The brief explanation may be either through a narrative or a reference to another information source such as a map, photographs, or an

earlier EIR or Neg Dec. A reference to another document should include, where appropriate, a citation to the page or pages where the information is found;

- a discussion of ways to mitigate the significant effects identified, if any;
- an assessment of whether the project would be consistent with existing zoning, plans, and other applicable land use controls; and
- the name of the person or persons who prepared or participated in the Initial Study. (ref: CCR §15063)

The format of an Initial Study is generally left to the Lead Agency to develop and use, provided these minimum content requirements are included. In response to these changes in the CEQA Guidelines, OPAEA revised the DTSC Initial Study and Checklist formats. The new format combines the Initial Study and Checklist into one cohesive format which simplifies the manner in which programs prepare these documents for their projects. This new format allows DTSC to meet the legal and technical requirements of CEQA and implementing Guidelines. This new format is contained in Appendix A.

In addition to the standard format contained in Appendix A, OPAEA has revised the Special Initial Study Checklist for use when programs are seeking an exemption to the filing fees required by the Department of Fish and Game whenever a Lead Agency files a Notice of Determination. This Special Initial Study Checklist contains additional highlighted areas within each environmental factor to be evaluated in support of the filing fee exemption. This new format is contained in Appendix B. Guidance on Notice of Determination and Filing fees can be obtained from OPAEA upon request.

DEVELOPING THE INITIAL STUDY

Consistent with CEQA and case law, *it is the policy of the DTSC that all Initial Studies be prepared in-house in order to ensure that the DTSC, as Lead Agency, conducts an independent analysis to determine if a project may have a significant effect on the environment. Initial Studies are not to be prepared by outside consultants or contractors* (ref: Management Memorandum #EO-93-033-MM, September 30, 1993; Appendix C).

In order to prepare an accurate and complete Initial Study, it is critical that the project manager begin gathering information necessary for the assessment early in the planning process. Generally, this is done during the early phases of permit application review or evaluation phases of site cleanup. As a Lead Agency, the DTSC may require the applicant or potential responsible party to submit data or information which would enable the DTSC to prepare the Initial Study. Similarly, the DTSC may retain contractors or consultants to assist with specific tasks related to preliminary data gathering or analyses.

Within each of the environmental sections in this Workbook is a listing of references where the project manager can go to obtain information regarding existing standards for significant levels of effects, and the applicability of public agency laws, ordinances and regulations as they relate to the proposed project activities. Once relevant information has been obtained, the project manager can begin preparation of the draft Initial Study. The following provides guidance on how each section of the Initial Study is to be prepared.

I. PROJECT INFORMATION (Appendix A; pg. 1)

⇒Project Name

Identify the project by facility name, site location, or regulation package as appropriate.

⇒Site Location

Identify where the site is located by street address, map coordinates or other indicator. If possible, identify the United States Geographical Survey (USGS) 7.5 quadrangle where the project is located. Include a map showing the site and surrounding land uses and traffic arterials and a site map identifying the physical features onsite and the areas of project activities.

⇒Contact Name/Address/Phone Number

Provide information on the name of the company representative who is responsible for providing information and documentation on the project to DTSC. If not known, and the DTSC is lead on the project, include information on the DTSC representative responsible for overseeing project activities.

⇒Project Description

Since the nature of a project directly affects the type and level of discussion and analysis of environmental impacts and mitigation measures, it is very important that the Project Description in the Initial Study text be accurately detailed. The level of detail in the description should be sufficient to lead the reader to logical conclusions as to the significance of the environmental impacts.

The Project Description should address all activities associated with the project from beginning to end. For example:

- the precise location and boundaries of the project including physical features and the contiguous land uses need to be discussed and shown on a site, regional and vicinity map to give the reader a sense of geographic location;

- all treatment and cleanup (removal procedures and operations) should be summarized, including construction activities, demolitions, and grading work to give the reader a sense of how involved the project will be;

- any public agency with jurisdiction over project activities and the permits and approved plans required, such as onsite or offsite disposal plans, emergency and safety plans, traffic control plans, and future sampling and monitoring programs should be discussed to provide the reader with an understanding of the involvement and complexities of the project.

Sources of information for developing a detailed Project Description can be obtained from such documents as permit applications, corrective action surveys, site inspection records, closure plans, remedial investigations, feasibility studies, remedial action plans, site evaluations, removal action workplans and special studies (e.g., health risk assessments and biological surveys).

II. DISCRETIONARY APPROVAL ACTION BEING CONSIDERED BY DTSC (Appendix A; pg. 1)

Identify the specific type of discretionary action being taken by the program by checking the appropriate box.

⇒Program/ Region Approving Project

Provide the name of the DTSC program and the regional or headquarters office approving the project.

⇒Contact Person/ Address/ Phone Number

Provide information related to the DTSC contact person responsible for overseeing the project.

III. ENVIRONMENTAL CONDITIONS POTENTIALLY AFFECTED (Appendix A; pg. 2)

The intent of this section is to summarize, based on the findings in the Initial Study, which environmental media would be potentially affected by the project. Check the appropriate box.

IV. ENVIRONMENTAL SETTING/ IMPACT ANALYSIS

(Appendix A; pg. 2)

The State CEQA Guidelines require the Initial Study to contain an identification of the environmental setting and an identification of environmental effects created as a result of project approval [CCR §15063(d)]. The Environmental Setting and Impact Analysis sections are combined in this section in order to allow the project manager and interested individuals the opportunity to more clearly see the impacts a project may have on the environment without having to jump from one section of the analysis to the other.

The format in this section requires that the environmental setting be provided for each environmental media being examined for potential impacts. Second, an analysis is required which assesses the degree to which that setting will be affected. This assessment must identify any project conditions and/or additional needed measures which would either avoid or reduce impacts to a level of insignificance. Finally, this section requires that the conclusion of the assessment be identified as Findings by checking one of the four corresponding boxes.

The following provides guidance on the content requirements of a baseline Environmental Setting, the environmental media which could be affected by the project, the potential impacts to those media which must be considered, and reference sources where the project manager can obtain information to support the findings in the section.

ENVIRONMENTAL SETTING

The Initial Study developed by the DTSC identifies several environmental media which are assessed for potential impacts. These media are generally used to define the parameters of a proper environmental setting and are similar to those contained in the suggested State CEQA Guidelines, Appendix I, but modified for specific use by the DTSC. The following media correspond to those contained in the Initial Study and must be discussed in the Environmental Setting Section:

☐ Earth	☐ Noise	☐ Risk of Upset
☐ Animal Life	☐ Natural Resources	☐ Cultural/Paleontological Resources
☐ Utilities	☐ Public Health/Safety	☐ Transportation/Circulation
☐ Housing	☐ Surface/Groundwater	☐ Cumulative Effects
☐ Air	☐ Population	☐ Recreation
☐ Land Use	☐ Plant Life	☐ Aesthetics

Further guidance in establishing an adequate environmental setting is also found using the State CEQA Guidelines definition of "environment" as follows:

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"The physical conditions which exist within the area which will be affected by the proposed project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. The area involved shall be the area in which significant effects would occur either directly or indirectly as a result of the project. The "environment" includes both natural and man-made conditions." [CCR §15360]

Project-specific information needed to present an adequate baseline Environmental Setting description can be obtained from several sources, including but not limited to, the following:

State

- Environmental Information Form provided to a potential applicant
- Part B Permit Application
- Remedial Action Plans
- Feasibility Studies
- Closure Plans
- Governor's Office of Planning and Research (OPR) database for project documents that apply to the geographical area
- Department of Fish and Game Natural Diversity Database
- Regional Water Quality Control Board Waste Discharge Requirements

Local

- Local Planning Department's Environmental Databases
- Previously completed CEQA environmental documents
- Local air, transportation, water, emergency response, and other regulatory districts
- Hazardous Waste Management Plans
- Regional, General, Specific or Site Plans
- Coastal Development Plans

Once the baseline Environmental Setting from a physical standpoint has been developed, it is important to identify existing agencies and their associated laws, ordinances, regulations, and standards (LORS) which may apply to the project setting. The discussion of other agency LORS must contain a description of the threshold levels for certain pollutants allowed to be emitted for a particular project in a given location. Information on affected agencies and existing LORS assists in providing an understanding of the current or anticipated level of control over the project and assists DTSC in examining the degree to which mitigation measures may be required to address impacts associated with project approval.

Specific sources of reference which may be used in developing the environmental setting section are identified on page 11 of this Workbook under the title **"GUIDANCE FOR PREPARING AN ENVIRONMENTAL SETTING AND IMPACT ANALYSIS FOR ENVIRONMENTAL MEDIA"**.

ANALYSIS OF IMPACTS

STEP 1: Analysis of Potential Impacts

The first step in the environmental impact analysis process begins with an assessment of "potential" impacts a project may have on the environment. The term "potential" relates to impacts which are "likely" to occur, without regard as to whether or not that impact is found to be "significant". In analyzing a project for potential impacts, all phases of the project must be taken into account, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

All potential project impacts should be identified within each environmental factor in the Initial Study, under the subcategory titled "Analysis of Potential Impacts". These potential impacts are then assessed as to whether or not they are considered "significant".

An impact must be related to a physical change in the environment. For purposes of clarity, the State CEQA Guidelines uses the terms "impacts" and "effects" synonymously. Impacts or effects include:

- Direct or primary impacts which are caused by the project and occur at the same time and place.

- Indirect or secondary effects which are caused by the project and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect or secondary effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems (CCR § 15358(a).

In addition to the above, an assessment of potential "cumulative" impacts for each environmental category must also be conducted. Cumulative impacts are defined as "two or more individual effects which, when considered together, are considerable or which compound or increase the other environmental impacts" (CCR §15355).

The State CEQA Guidelines provides the following parameters for evaluating cumulative impacts:

- The individual effects may be changes resulting from a single project or a number of separate projects.

- The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time [CCR §15355 (a) (b)].

(Note: Further guidance on how to conduct a cumulative impact analysis for DTSC projects is available from OPAEA)

STEP 2: Determining Significance

The second step in the environmental analysis process is determining whether or not the identified "potential" impacts of a project would have a "significant effect on the environment". As guidance in making such a determination, the State CEQA Guidelines define "Significant effect on the environment" to mean:

> " a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant." (CCR Section 15382).

It is DTSC policy that the above definition applies to each of the environmental media identified in the Initial Study. Further guidance is provided in the State CEQA Guidelines which lists circumstances in which a project will normally have a significant effect on the environment. A copy of this listing is contained in Appendix D of this Workbook. DTSC staff conducting Initial Studies should also contact the appropriate local, state or federal agency with jurisdiction over environmental resources for guidance in evaluating potential impacts affecting their resource specialty.

CEQA provides support for determining effective mitigation measures from agencies with jurisdiction over certain environmental resources. In addition, technical support for evaluating measures for protecting public health and the environment is available through the DTSC Office of Scientific Affairs (OSA) and OPAEA.

STEP 3: Determining if Significant Impacts Can Be Avoided or Reduced to Levels of Insignificance

Once it has been determined that a project may result in a significant effect on the environment, an assessment must be conducted to determine if impacts can be either avoided or reduced to a level of insignificance. Avoiding an impact can often be accomplished by relocating a project in areas known not to be affected by the project. For example, if seismic concerns exist, then relocating in a non-seismic area may be a means of avoidance. Reducing impacts can often be achieved through controls

on project planning, construction and operation. Generally, for DTSC projects this is accomplished through imposition of mitigation measures made a part of the permit or site mitigation plan.

The State CEQA Guidelines define "mitigation" to include:

A) Avoiding the impact altogether by not taking a certain action or parts of an action.

B) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

C) Rectifying the impacts by repairing, rehabilitating or restoring the impacted environment.

D) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

E) Compensating for the impact by replacing or providing substitute resources or environments. (CCR; §15370)

To ensure that project impacts can be reduced, it is important that the environmental setting description clearly identifies the existing baseline environmental conditions and existing agency controls on the project. Once these conditions and controls are identified, then the expected levels of impacts can be estimated and documented in the Initial Study to show that certain impacts can either be avoided or reduced to levels of insignificance.

It is critical that all mitigation measures which reduce project impacts be identified by number in the Initial Study. These measures must also be contained in the permit, site mitigation plan or other document which is the subject of discretionary decision by the DTSC. The title and page number(s) of the approval document containing the mitigation measure should be noted in the Initial Study.

(Note: Further guidance on how to conduct a cumulative impact analysis for DTSC projects is available from OPAEA)

STEP 4: Findings of Significance

The last step in the environmental impact analysis process involves making a summary finding in the Initial Study that the project would have either "Potentially Significant Impact;" "Potentially Significant Impact Unless Mitigated;" "Less Than Significant Impact;" or "No Impact" on the environmental factor being analyzed. The box in the Initial Study corresponding to the correct finding should be checked. The following State CEQA Guidelines definitions are used in making these findings:

- "Potentially Significant Impact" is appropriate if an effect is significant or potentially significant, or if the lead agency lacks information to make a finding of insignificance. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
-

- Potentially Significant Unless Mitigated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level. *Some objective standard or measure of significance must be identified and compared to the level of impacts to be generated by the project upon implementation of the identified mitigation measures.*
- "Less than Significant Impact" applies to projects which show analytical measurement of thresholds for significance established (local, state, federal) and the proposed project's impact to these thresholds. If the project's impact does not contribute to exceeding these thresholds then a finding of "Less than Significant" can be determined. Each of the Initial Study Checklist subjects must reference and explain the reasoning.
- A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on project-specific screening analysis).

GUIDANCE FOR PREPARING AN ENVIRONMENTAL SETTING AND IMPACT ANALYSIS FOR ENVIRONMENTAL MEDIA

The following provides specific guidance on how to prepare an environmental setting section and impact analysis section for each environmental factor identified in the Initial Study.

1. EARTH

In determining the significant impacts the project may have upon the land, it is important to consider the physical features of the earth on the project site and surrounding area. The writer should consider the geological/soil features such as topographic contours, slopes, soil characteristics, and any potential geologic vulnerabilities of the area such as landslides and faults. All actions of the project must be analyzed from early grading/ construction to final operation and closure, if applicable.

The Earth impact analysis should indicate if the project will:

a. Result in unstable earth conditions or changes to the geologic substructures.

b. Result in disruption, displacement, compaction or overcovering of the soil during project construction, operation, excavation, grading, or dismantling.

c. Change topography or ground surface relief features or any alteration of ground contours during project construction, operation, dismantling, excavation, or grading.

d. Destruct, cover or modify any geologic or physical features during project construction, operation, and dismantling or excavation.

e. Potentially increase wind or water erosion of soils on or off the site by grading, removing vegetation, or removing compacted layers of soils which may increase the likelihood of erosion.

f. Change the deposition or erosion of beach sands, siltation, deposition, or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake.

g. Expose people or property to geologic hazards such as earthquakes faults, landslides, mudslides, ground failure, or similar hazards.

h. Be located on permeable strata or soils.

List of Potential References and Data Sources for Geologic, Seismic, and Soil Information

Federal

U.S. Department of Agriculture (USDA)	Soil Conservation Service (SCS) Soil Classification Maps.

State

California Department of Mines and Geology	Fault Rupture Hazard Zones in California
California Seismic Safety Commission	
OPR EIR/ND Data Base	EIR Geologic Studies
California Department of Conservation	Farmland Mapping and Monitoring Program
Alquist-Priolo Special Study Zone Act of 1972	Guidelines for active or potentially active faults and fault zones and study zones (A-P zones).

Local

City and County Local Grading Ordinances	
City and County General Plan Seismic Safety and Conservation Elements.	

2. AIR

To conduct an adequate Initial Study, staff needs a good understanding of the existing air quality baseline conditions at the project site and surrounding areas. This includes knowledge of the existing meteorology and climatology at the project site and the existing activities affecting air quality at the site and surrounding area. Standards that apply to air quality for the project and for the surrounding area should also be discussed. If this information is not readily available from existing documents in the project record, the appropriate air district may be able to advise the DTSC staff as to if, and where the information is available. In some cases, the project proponent will have prepared applications to the air district for authority to construct or operate project related equipment.

In accordance with CEQA Guidelines, §15063(g), it is appropriate to contact the regional air district to discuss the project informally, prior to and during development of the Initial Study before public comment periods or formal agency review. Appendix E contains air district telephone numbers and addresses.

Staff may also identify additional informational needs in a letter to the project proponent. Ideally this is done before the project application is deemed complete. However, in some cases, it may be necessary for the project proponent to provide more information, including conducting additional site surveys or otherwise responding to staff's informational needs.

The United States Environmental Protection Agency (USEPA) and the California Air Resources Board (CARB) classify areas where projects are located as attainment, unclassified, or non-attainment depending on whether or not the monitored ambient air quality data shows compliance, insufficient data available, or non compliance with ambient air quality standards. Each air basin has established ambient standards.

In addition to the information discussed above, the South Coast Air Quality Management District (SCAQMD) has specific information and analysis requirements it requests of Lead Agencies preparing Initial Studies. These specific requirements are contained in a DTSC Guidance Document dated December 16, 1994 and should be consulted in preparation of the air quality setting and analysis. This document is contained in Appendix F.

The following topics should be addressed when completing the Air impact analysis:

a) The amount of air emissions generated by the project and how they might be prevented, controlled, and reported;

b) Reference to the local air pollution control district and the project equipment and or activities they regulate;

c) Reference to the appropriate air emissions sections in the facility operation plan, closure plan, or remedial action plan, if applicable;

d) Fugitive emissions from storage containers and pressure vessels and piping, including construction standards for them where known; and,

e) Control measures in project design or proposed as conditions of the project.

When determining the significant impacts the project may have upon air quality, staff should first verify worst case estimates of project emission rates by comparing them to emissions from similar projects and to standardized emission factors. The verified emission rate estimates are then compared to the applicable Federal and California air quality standards which are enforced by the local air districts, and to the baseline conditions at the project site. This comparison is the basis for measuring the project's air impacts on the environment.

In general, maximum ground level pollutant concentrations are evaluated using regulatory agency (California Environmental Protection Agency [Cal/EPA], ARB or air district) approved air dispersion models. Maximum ground level concentrations are estimated for the averaging times of applicable ambient air quality standards. Predicted concentrations are then added to the highest ambient background concentrations recorded at a representative monitoring station to determine whether the project impacts will cause or exacerbate violations of federal and/or state ambient air quality standards. Similarly, the project's impacts are added to other sources consuming allowable Prevention of Significant Deterioration (PSD) increments to determine whether federal or state PSD increments will be exceeded.

PSD areas are those which meet the ambient air standards of the Federal Clean Air Act (FCAA), and thus should be prevented from significant deterioration. The siting of a facility or a large cleanup activity in one of these locations triggers different air quality controls established under the FCAA citation which is implemented by the states through the local Air Quality Management Districts (AQMDs). The degree of control affects the allowable discharge of emissions at a facility and would have a bearing on the probable impacts the facility or cleanup activity would have on the environment.

An air quality impact analysis should indicate if the project will:

- Contribute increased emissions in PSD Areas. When a project is located within a PSD Air Area, it is important to state the amount of additional air emissions the project may create. There may be a need for emission reduction credits pursuant to the New Source Review provisions in the rules and regulations for the applicable Air District.

- Contribute any permanent or temporary air emissions such as gases, vapors, mists, sprays, fumes, smoke, dust, or other particulates. Include any other possible harm to ambient air quality.

- Air pollutants are released during industrial processes and site remediation activities, especially those involving elevated temperatures or are conducted during windy conditions. Opened containers, chemical handling and storage may be sources of air pollutants, as may tank demolition or removal, soil excavation or transportation activities.
- Generate or release potential ozone-depleting gases or potential heat-retentive gases. The Initial Study should also take into account non-hazardous gases that can potentially harm the environment.
- Generate objectionable odors from decaying hazardous or non-hazardous waste.
- Alter air movement, moisture, or temperature, or result in any change in climate, either locally or regionally.
- Contribute gases that can displace oxygen.
- Increases dust within the immediate area from grading and excavation activities.
- Contribute significant cumulative effects on air quality or atmospheric quality.
- Produce Toxic Air Contaminant (TAC) emissions that exceed the air pollution control district's threshold level for health risks.
- Expose sensitive receptors or surrounding neighborhoods to substantial pollutant concentrations.

List of Potential References and Data Sources for Air Information

Federal

Federal Clean Air Act (FCAA) of 1970	Requires the establishment of national ambient air quality standards, which set allowable ambient concentrations of pollutants (i.e., criteria pollutants). The FCAA delegated enforcement responsibilities to the U.S. Environmental Protection Agency (USEPA). USEPA has delegated that authority to the California Air Resources Board (CARB), who in turn have designated regional authorities, or districts, to implement rules for the purpose of achieving attainment within the district's jurisdiction. In nearly all cases, CARB has retained authority over mobile sources of pollution, such as automobiles, trucks, trains and airplanes. The regional districts generally promulgate rules for stationary (non-mobile) sources of air pollution. To manage its attainment responsibility, CARB requires

FFCA of 1970, continued.	each district to prepare and submit an air quality management plan (AQMP). CARB then assembles the AQMPs from throughout the state into the State Implementation Plan (SIP). The SIP is submitted to USEPA for approval and constitutes California's long term strategy for achieving and maintaining the national ambient air quality standards. Local air district rules which are approved by USEPA are considered "federalized" rules.
USEPA publication AP 42, Compilation of Emission Factors	Construction emissions are evaluated using standardized emission factors for construction equipment and vehicles. Wind blown dust generated by construction equipment is also evaluated in the publication.

State

CEQA GUIDELINES	
Section 15064 (i)	If an air emission or water discharge meets the existing standard for a particular pollutant, the Lead Agency may presume that the mission or discharge of the pollutant will not be a significant effect on the environment. If other information is presented suggesting that the emission or discharge may cause a significant effect, the lead Agency shall evaluate the effect and decide whether it may be significant.
Appendix G (Workbook Appendix D)	States that a project will normally have a significant effect on the environment is it will "violate any ambient air quality standard, contribute substantially to an existing or projected air quality violation, or expose sensitive receptors to substantial pollutant concentrations."
CLEAR AIR ACT	California has also established its own ambient air quality standards. The California ambient air quality standards are generally more restrictive than the national standards. In 1988 California adopted the Clean Air Act (CCAA) to address California's unique air quality problems, and to establish new procedures and strategies to address the continuing nonattainment of ambient air quality standards. The CCAA not only addresses attainment of national ambient air quality standards, but also addresses strategies to attain the more stringent state ambient air quality standards.

Local

CALIFORNIA HEALTH AND SAFETY CODE (HSC)	
Section 42300 Section 42301	Requires an Air Pollution Control District to establish a permit system to "insure that the article, machine, equipment, or contrivance for which the permit was

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HSC continued Section 42300 Section 42301	issued shall not prevent or interfere with the attainment or maintenance of any applicable air quality standards." There are 44 air districts in California, each of which has its own unique permitting requirements. Workbook Appendix E lists these Districts along with their addresses and telephone numbers.
Existing EIR air studies in the project area	
South Coast Air Quality Management District CEQA Air Quality Handbook, April, 1993	Provides guidance to assist government agencies and consultants in preparing CEQA documents.
Air Quality Management District (AQMD) special reports/studies.	

3. SURFACE AND GROUNDWATER

In analyzing the impacts from this item, discussion should include applicable baseline information on existing hydrologic cycles and surface runoff patterns. Depth to ground water, groundwater recharge patterns and flow characteristics must also be discussed, as well as the location of all surface water bodies. The impact analysis must also address water quality throughout the various parts of the hydrologic cycle at the project site and surrounding areas.

Any pertinent laws, ordinances, and standards that apply to water quality for the project and for the surrounding area must also be identified. If this information is not readily available from existing documents, the appropriate Regional Water Quality Control Board (RWQCB) may be able to advise the DTSC staff as to where it is available. In some cases, the project proponent will have prepared applications to the RWQCB for drilling, pumping discharge permits, or other authority related to water use. These will normally contain pertinent baseline Initial Study information. It is appropriate to contact the RWQCB district to discuss the project informally, before public comment periods or formal agency reviews.

Staff may also ask for surface and groundwater information in a letter to the project proponent. Ideally this is done before the project application is deemed complete. However, in some cases it may be necessary for the applicant to conduct additional site surveys or other work to respond to staff's informational needs.

Appendix D lists project impacts to water resources that are generally considered significant.

The Surface and Groundwater analysis should indicate if the project will:

a. Substantially degrade water quality;

b. Substantially deplete or degrade groundwater supplies;

c. Interfere substantially with groundwater recharge;

d. Encourage the use of large amounts of water;

e. Use water in a wasteful manner; or

f. Cause substantial flooding, erosion or siltation.

Consider the physical proximity of the project site and/or activities to nearby surface and groundwater. The goal is to measure, and where applicable, prevent potential impacts to water supplies, water quality, disruptions of flow, and flood conditions.

An Initial Study should indicate if the project will:

- Increase discharges to Publicly Owned Treatment Works (POTWs). Include non-hazardous discharges to POTW's, as well as, potentially hazardous extracts from hazardous wastes.
- Increase discharges to surface waters, or alter surface water quality, including but not limited to: temperature, dissolved oxygen, or turbidity.
- Cause changes in currents, or the course or direction of water movements, in either marine or fresh waters. Include changes in existing features of any bays, tidelands, beaches, oceans, creeks, rivers, or other bodies of water, if applicable to one project.
- Change absorption, recharge, surface runoff rates, or the existing drainage pattern of any water body.
- Alter the course or flow of flood waters.
- Alter the direction or rate of flow of ground waters.
- Change the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations, or by changes to soil permeability in groundwater recharge areas.
- Alter groundwater quality.
- Significantly reduce the amount of water otherwise available for public water supplies.
- Expose people or property to water related hazards such as flooding or tidal waves.

- Encroach on wetlands. The CEQA Guidelines (§15206(b)(5)) requires a Lead Agency to determine that a proposed project is of statewide, regional, or area wide significance if the project would substantially affect sensitive wildlife habitats including but not limited to riparian lands, wetlands, bays, estuaries, marshes, and habitats for rare and endangered species as defined by Fish and Game Code Section 903. If there is a possibility that wetlands are in proximity, the project site should be surveyed for wetlands. If found, impacts to wetlands should be identified and evaluated.

- Be located within an area known or suspected to be supplying principal recharge to a regional aquifer (as defined in adopted General, Regional, or State Plans).

- Be located in the proximity of a recognizable body of water including but not limited to waterways, groundwater, oceans, rivers, streams, etc.

List of Potential References and Data Sources for Surface and Groundwater Information

Federal

The Resource Conservation and Recovery Act (RCRA) Act of 1976	Implementing Regulations found under 40 CFR, Part 260 et seq.
The Comprehensive Environmental Response, Compensation, and Liabilities Act of 1980 (CERCLA)	Implementing Regulations found under 40 CFR, Parts 300 to 255
Federal Water Pollution Control Act (33 United State Code [USC], Section 466 et. seq.).	
Rivers and Harbors Act of 1899 (33 USC, 403 Section et seq.).	
The Safe Drinking Water Act of 1974	Implementing regulations found under 40 CFR, Parts 122, 123, 146, and 147).

State

The Porter Cologne Water Quality Control Act of 1972	Implementing Regulations found under Title 23 of the California Code of Regulations (CCR).
CALIFORNIA HEALTH AND SAFETY CODE	
Sections 22500-20508.	Requires Hazardous Material Business Plan inventories for onsite storage
The Safe Drinking Water and Toxic Enforcement Act (Proposition 65)	Implementing Regulations found under Title 22, Sections 66001 et seq. of CCR
State Water Resources Control Board (SWRCB) Resolution No. 77-1	Encourages conservation of water resources and maximum of wastewaters.
The Cobey-Alquist Flood Plain Management Act	Empowers the California Department of Water Resources and the Reclamation Board to coordinate the adoption of

The Cobey-Alquist Flood Plain Management Act, continued.	flood plain regulations by local public agencies. Implementing Regulations found under Title 23, CCR, Chapter 1.5

Local

City and County ordinances related to storm drainage, flood management, erosion, and sediment control. These may include professional association adopted standards.	
Offices of Regional Water Quality Control Board (RWQCB).	
City or County General Plan Safety elements.	

4. PLANT LIFE

In analyzing the impacts under this item, discussion should include applicable baseline information on existing plants onsite and surrounding area, types of habitats (riparian, oak woodland, etc.), and degree and nature of past disturbances. Such information is produced by the California Department of Fish and Game (CDFG) in a system called The Natural Diversity Database and is available from OPAEA upon request.

When determining the significant impacts the project may have upon plant life, it is important to consider the long-run and short-run impacts on plant life onsite and in the surrounding area. Plant life can be impacted directly or indirectly. If applicable, include an analysis on the impact of plant life outside of the immediate area.

The Plant Life analysis should indicate if the project will:

a. Change the diversity of species, or number of any species of plants. This includes trees, shrubs, grass, crops, and aquatic plants.

b. Reduce the numbers of any unique, rare or endangered species of plants.

c. Introduce new species of plants into an area, or introduce a barrier to the normal replenishment of existing species.

d. Reduce acreage or adversely effect any agricultural land or crop.

List of Potential References and Data Sources for Plant Life Information

Federal

U.S. Fish and Wildlife Service	Listing of endangered and threatened wildlife and plants
Endangered Species Act of 1973, Title 16 of the USC, Section 1531 et seq.; 50 CFR 17.1 et seq.,	Designates and provides for protection of threatened and endangered plants and animals and their critical habitat.

State

CEQA GUIDELINES	
Section 15064a Section 15382a	Does the project have a significant effect?
Section 15382a	Will the project cause a fish or wildlife population to drop below self-sustaining levels? Will the project eliminate a plant or animal community? Will the project substantially diminish or reduce habitat for fish, wildlife, or plants?
Section 15065a Section 15380d Appendix G(c)	Will the project substantially affect, reduce the number, or restrict the range of unique, rare, or endangered species of animal or the habitat of the species?
Section 15065a Appendix G(t)	Will the project substantially diminish or reduce habitat for fish, wildlife, or plants?

FISH AND GAME CODE	
Section 1603	Stream Alteration Permits
Section 1900	California Native Plant Protection Act of 1977
Section 1925 Section 1926	California Desert Native Plant Act
Sections 2050-2098	California Endangered Species Act of 1984

DFG's Environmental Services Division Wetlands Resources Policy (January 1987)	This document outlines the Fish and Game Commission's Wetlands Resources Policy.

Local

Certified EIR's in the Area	OPR EIR/ND Data Base
Biological Assessments/Field Surveys	
California Native Plant Society	
City and County General Plan Biological Assessments	
City and County Planning Department Environmental	

Review Divisions	

5. ANIMAL LIFE

In analyzing the impacts from this item, discussion should include applicable baseline information on existing wildlife habitats, common characteristic animal species, sensitive species including rare, threatened, or endangered, commercially and recreational valued species, aquatic communities and previous disturbances to the area. Such information is produced by the Department of Fish and Game, Natural Diversity Database and is available through OPAEA upon request.

When determining the significant impacts the project may have upon animal life, it is important to consider both the long-run and short-run impacts on animal life on site and in the surrounding area. Animal life can be impacted directly or indirectly. If applicable, include an analysis on the impact of animal life outside of the immediate area.

The Animal Life analysis should indicate if the project will:

a. Generate or release substances that have a potential to bioaccumulative or cause carcinogenic effects.

b. Affect the reproductive capability or reproductive rate of any animals.

c. Change the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms or insects).

d. Reduce the numbers of any unique, rare or endangered animal species. This includes possible damage to their habitat.

e. Introduce new species of animals into an area, encourage or hinder migration or movement of animals.

f. Affect fish or wildlife habitat.

g. Create or utilize new, altered, or mutated forms of life.

List of Potential References and Data Sources for Animal Life Information

Federal

Endangered Species Act, 16 USC, Section 1531 et. seq.	Designates and provides for protection of threatened and endangered plants and animals and their critical habitat.
Clean Water Act, 33 USC, Section 404 et. seq.	Prohibits the discharge of dredged or fill material into the

	waters of the United States without a permit from the Corp of Engineers.
U.S. Fish and Wildlife Service	Provides a listing of endangered and threatened wildlife and plants.

State

CEQA GUIDELINES	
Section 15064a Section 15382a	Does the project have a significant effect?
Section 15065a	Will the project cause a fish or wildlife population to drop below self-sustaining levels? Will the project eliminate a plant or animal community? Will the project substantially diminish or reduce habitat for fish, wildlife, or plants?
Section 15065a Section 15380d Appendix G(c)	Will the project substantially affect, reduce the number, or restrict the range of unique, rare, or endangered species of animals or the habitat of the species?
Section 15065a Appendix G(t)	Will the project substantially diminish or reduce habitat for fish, wildlife, or plants?
Appendix G(d)	Will the project interfere substantially with the movement of any resident or migratory fish or wildlife species?

FISH AND GAME CODE	
Section 1603	Stream Alteration Permits
Section 1900	California Native Plant Protection Act
Section 1925 Section 1926	California Desert Native Plant Act
Sections 2050-2098	California Endangered Species Act
DFG's Environmental Services Division Wetlands Resources Policy (January 9, 1987)	This document outlines the Fish and Game Commission's Wetlands Resources Policy.

Local

Certified EIR's in the Area	OPR EIR/ND Data Base
Biological Assessments/Field Surveys	
California Native Plant Society	
City and County General Plan Biological Assessments	
City and County Planning Department Environmental Review Divisions	

6. LAND USE

In analyzing the impacts from this item, discussion should include applicable baseline information on existing zoning and general plan land use designations; ownership patterns; Hazardous Waste Management Plans; proposed development in the area; sensitive land use receptors; existing structures; and existing roadways/airports. In addition, all applicable land use laws, regulations, ordinances, and standards will need to be addressed in the impact analysis.

When determining the significant impacts the project may have upon land use, it is important to consider the existing and possible uses of the land on the project site as well as in the surrounding area. Nearby land use can be impacted directly or indirectly, since contaminants may be carried by air or water, or there can be impacts from noise or traffic.

The Land Use analysis should indicate if the project will:

a. Alter present or planned land uses including existing zoning on proposed zoning. Indicate if the planned use complies with local land use designations and is consistent with the local hazardous waste management plan.

b. Change the pattern, scale, or character of the general vicinity.

c. Adds to buildings, destroys buildings or parts of buildings, adds new structures; changes fencing patterns; or significantly affects the construction, destruction, or alteration of structures.

d. Constructs, destroys, adds, or alters structures in proximity to residentially zoned property lines.

e. Be located in proximity to incompatible land uses. Consider adjoining and nearby land uses such as existing agricultural land, public waterways, protected bioregions, schools, hospitals, land zoned for residential use, or other possible incompatible land uses existing within 2,000 feet of the site.

List of Potential References and Data Sources for Land Use Information

Federal

Federal Land Policy and Management Act of 1976 (FLPMA)	Establishes management policies for public lands including those administered by the U.S. Bureau of Land Management (BLM) and the U.S. Forest Service.

State

Department of Conservation	Land Use mapping system.

Local

City and County General Plan	Land Use Element and Zoning Ordinances Text and Maps
DTSC Approved County Hazardous Waste Management Plans	Siting Criteria and general policies on facility siting
Assessor's Office	Parcel Maps for Ownership Patterns
Building Department	Local Uniform Building Codes
City and County Specific Plans	Land Use Element and Zoning Ordinances Text and Maps
Local Coastal Program	Land Use Plan and Zoning Implementation Ordinances

7. NATURAL RESOURCES

In preparing the analysis for this item, the Initial Study preparer should include discussion of existing renewable energy sources; existing gas and electrical lines/capacity/services; and, water resources.

When determining the significant impacts the project may have upon natural resources, first inventory the existing resources at the project site and in the surrounding area, then consider the possible impacts on those resources. Could the activities impact the resources by rendering them useless or affecting their extractability? If applicable, include an analysis of the impact on resources outside of the immediate area.

The Natural Resources analysis should indicate if the project will:

a. Increase rate of use of any natural resources.

b. Contribute to depletion of any natural resources in a substantial way.

c. Hinder the extraction of necessary natural resources, including minerals.

List of Potential References and Data Sources for Natural Resource Information

State

DTSC Office of Program Audits & Environmental Analysis	Department of Fish and Game Natural Diversity Data Base
Department of Conservation, Division of Oil and Gas	

Governor's Office of Planning & Research; State Clearinghouse	Completed Environmental Documents within the project area

Local

City and County General Plan	Conservation Elements

8. RISK OF UPSET

This section of the Initial Study addresses one of the most important environmental issues related to a project. When assessing the potential impacts for this portion of the Initial Study discussion should consider the full range of potential significant impacts that could occur under upset conditions. Upset conditions include not only events associated with natural disasters and associated unforeseen emergencies such as fire, but those events more commonly called accidents. Accidents include those caused by human error, equipment malfunction or failure and sabotage.

It will be helpful to keep in mind that there is always a potential for a release of hazardous substance(s) from a hazardous waste facility due to an accident or upset condition. It is the unexpected accident that CEQA is intended to consider, evaluate, and to ensure adequate protection measures.

The type of project and associated risks will dictate how many scenarios will need to be prepared to support your conclusion. The care taken to prepare accurate worst case scenarios during the Initial Study will facilitate efforts to identify necessary mitigation measures. Accurate scenarios also serve to promote the disclosure of the true risks of upset associated with the project, as required by CEQA.

In analyzing the impacts it will be necessary to reference information from supporting documentation (i.e. Operation Plans, Risk Management and Prevention Plans). For all adverse impacts, mitigation measures must be identified in terms of the specific impacts they are designed to mitigate. Mitigation measures can be in many forms, dependent upon the type of project and associated risks, both short and long term. There may be identified Risks of Upset that do not have adequate mitigation options to protect human health and the environment. If there are no mitigation measures, further evaluation of the project will be needed.

The project design and engineering features as well as applicable regulatory safeguards should be stated in this section. This would include pollution prevention technology (i.e. automatic sensors and shut-off valves, pressure and vacuum relief valves, secondary containment, air pollution control devices, double walled tanks and piping) access restrictions, fire controls, emergency power supplies, contingency planning, pollution prevention training and many other types of mitigating measures that are applicable to the project.

The writer should give consideration to, and discuss appropriate mitigation measures for diverse situations.

The Risk of Upset analysis should indicate if the project will:

a. Increase the risk of release of hazardous substances in the event of an accident or upset condition. If a release were to occur, is there potential risk to human health or the environment?

b. Jeopardize the implementation of existing Emergency Response Plans or Health and Safety Plans, or interfere with the response efforts in the event of an emergency situation.

c. Create new or different hazards requiring specialized response equipment or mitigation measures to reduce or prevent the hazard from occurring.

d. Expose the public or surrounding environment to unquantified, unknown, or uncontrollable levels of hazardous substances in the course of carrying out the project.

List of Potential References and Data Sources for Risk of Upset Information

Federal

Department of Labor, Safety and Health	Regulations for construction promulgated under Section 333 of the Contract Work Hours and Safety Standards Act (40 USC, Section 327 et seq.). The requirements for this regulation are all discussed in California's Title 8 regulations.
American National Standards Institute (ANSI)	Standard K61.1 (1980), Safety Requirements for the Storage and Handling of Anhydrous Ammonia. This code provides design criteria for ammonia storage tanks.
Uniform Fire Code, Article 80	Includes provisions for storage and handling of hazardous materials. There is overlap between this code and Chapter 6.95 of the H&SC. This fire code does, however, contain independent provisions regarding fire protection and neutralization systems for emergency venting (see Section 80.303, D [compressed gases]). In some jurisdictions the code is adopted by reference and in others it has been used as a model for development of local regulations.
The Federal OSHA Standards for Construction (29 CFR, Section 1926)	This provision sets forth the safety and health standards promulgated by the Secretary of Labor under Section 107 of the Contract Work Hours and Safety Standards Act.
Federal OSHA Standards (29 CFR, Section 1910.1000, and 1910.1200)	Section 1910.1000 sets permissible exposure limits of toxic air contaminants. The purpose of Section 1910.1200 is to ensure that information concerning the hazards

	associated with the use of all chemicals produced or imported is transmitted to employers and employees. This transmittal of information is to be accomplished by means of comprehensive hazard communication programs, which are to include container labeling and other forms of warning, material safety data sheets and employer training.
Title 40, CFR, Parts 112, 300 and 302	Environmental Protection Agency Spill Prevention Control and Countermeasure Regulation.

State

HEALTH & SAFETY CODE	
Sections 25500 - 25541	Require the preparation of a business plan by an applicant. Such plans must address in detail, the emergency planning and response procedures used in the event of a hazardous materials release at a facility.
Section 25534	Requires that facilities which handle acutely hazardous materials (AHMs) in sufficient quantities must develop a Risk Management and Prevention Program (RMPP) for these substances. This program is based on studies which identify the potential hazards associated with the handling of the acutely hazardous materials proposed for use at the facility.
TITLE 8, CCR	
Section 458, 600 - 515	Address the design and construction of storage and handling facilities for anhydrous ammonia.
Sections 1509 and 3203	Makes numerous changes designed to redirect the emphasis of Cal/OSHA towards ensuring employers have effective worksite injury prevention programs, to focus Cal/OSHA discretionary inspections in the highest hazard industries as determined by workers compensation and other occupational injury data, and to limit the number of follow-up inspections which Cal/OSHA must perform.
Regulations of the following state agencies may also apply:	California Department of Transportation Department of Industrial Relations Department of Health Services (DHS)

Local

Local Fire Departments or Districts and Health Departments	Normally have primary authority for fire safety and the enforcement and implementation of state regulations regarding emergency response and hazardous materials management.

9. TRANSPORTATION/CIRCULATION

In analyzing the impacts from this item, discussion should include applicable baseline information on existing roadways and other forms of transportation in the project area; existing traffic levels and patterns on the roadways; proposed highway and other transportation mode development; and, all applicable laws, regulations, ordinances, and standards.

A facility permit, closure, or site mitigation project will often increase traffic on a temporary or permanent basis due to construction or ongoing activities. This can happen because of an increase in the number of employees in the area or because of increased deliveries to the area.

The Transportation/Circulation analysis should indicate if the project will:

a. Significantly increase vehicular or other ground transportation; increase air emissions from project traffic; affect parking facilities, or increase parking demand; significantly impact existing transportation systems; change the present patterns of circulation or movement of people and/or goods; alter waterborne, rail or air traffic; have inadequacies in access to major transportation routes which include road design, road networks frontages or proximity to residential areas, and traffic conditions including accident rate, excessive traffic, etc.

b. Increase traffic hazards to motor vehicles, bicyclists or pedestrians.

c. Increase hazardous material or waste transportation within the vicinity.

d. Change the level of service (LOS) designation for roads and/or intersections near the project.

List of Potential References and Data Sources for Traffic/Circulation Information

Federal

The Hazardous Materials Transportation Act	Directs the Department of Transportation to establish criteria and regulations for the safe transportation of hazardous materials.
Title 49, CFR, Subtitle B, Chapter I, Subchapter C	Hazardous Materials Regulations, addresses the transportation of hazardous materials, the types of materials defined as hazardous, and the marking of the transportation vehicles.
Title 49, CFR, Subtitle, B, Chapter III, Subchapter B	Federal Motor Carrier Safety Regulations, addresses safety considerations for the transport of goods, materials, and substances over public highways.

State

CALIFORNIA VEHICLE CODE	
Division 13, Chapter 5, Article 1 Hazardous Materials, Sections 31300, 31303 et seq.	Addresses the transportation of hazardous materials, the routes used, and restrictions thereon.
Division 14.7, Flammable and Combustible Liquids, Sections 34000 et seq.	Addresses the transportation of flammable and combustible liquids over public roads and highways.
Division 14.8, Safety Regulations, Section 34500, 34501, 34501.3, 34502-7, 34510-11	Addresses the safe operation of vehicles including those which are used for the transportation of hazardous materials including explosives.
Sections 2500-2505	Addresses the issuance of licenses by the Commissioner of the California Highway Patrol for the transportation of hazardous materials including explosives.
Sections 12804-12804.5	Addresses the licensing of drivers and the classifications of licenses required for the operation of particular types of vehicles. It requires the possession of certificates permitting the operation of vehicles transporting hazardous materials.
Section 35780; Streets and Highways Code 660-711; and Title 21, CCR, Sections 1411.1-1411.6	State that overload approvals from the CALTRANS are required for transportation of excessive loads over state highways.
California Streets and Highways Code, Section 117, 660-711	Require an encroachment permit from CALTRANS for facilities that require construction, maintenance, or repairs on or across state highways.

Local

Local jurisdictions often adopt ordinances or codes (i.e. zoning, traffic, road use) which address such topics as oversize/overweight loads, encroachment on local right-of-ways, and Level of Service standards for local roads and intersections.	
City and County General Plan Circulation Elements	The scope of a Circulation Element consists of the "general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan".
Completed Environmental Documents within the project area	Governor's Office of Planning & Research; State Clearinghouse.
Special Traffic Studies prepared by cities or counties	

10. PUBLIC SERVICES

In analyzing the impacts from this item, discussion should include applicable baseline information on existing types of public services and facilities in the project area; present capacities of existing public services and facilities; and existing emergency response contingency plans for the project and other local plans proposed by governmental agencies.

A new, or change in the operation of a facility or the activities of any other type of project could increase the demand on public services. Of course, a hazardous waste facility or certain site remediation projects could often be expected to increase demands in fire protection because many hazardous materials are combustible. One should also consider if the facility would be susceptible to theft or sabotage, thereby increasing the demand for police protection.

The Public Service analysis should indicate if the project will:

a. Increase need for fire or police protection.

b. Impact schools.

c. Impact parks or recreational facilities.

d. Impact maintenance of public facilities, including roads.

e. Impact other governmental services (water, garbage, sewage, etc.).

f. Impact hospitals and other medical facilities.

List of Potential References and Data Sources for Public Service Information

Local

City and County Fire Department, Police, Parks, and Public Works Departments.	
Local hospitals and school districts in the project area.	
Local Five Year Capital Improvement Plans.	
Completed Environmental Documents within the project area	
Risk Assessment Studies for the projects prepared by private consulting firms or the Agency for Toxic Substance and Disease Registry (ATSDR).	

11. ENERGY & 12. UTILITIES

In analyzing the impacts from these items, discussion should include applicable baseline information on existing utility districts in the project area, type and capacity of utilities; present electrical and gas lines in or near the project site; and any applicable federal, state, or local laws.

The Initial Study writer should consider whether the project or technology is energy intensive. Could the technology or project increase energy demand temporarily or on a long term basis? Some operations use large amounts of electricity or natural gas including certain incinerators. There may be changes in indirect energy demand in addition to onsite energy demand.

The Energy and Utilities analysis should indicate if the project will:

a. Result in a significant use or demand for fuel or energy on an intermittent or long term basis.

b. Increase fossil fuel consumption (i.e. electricity, oil, natural gas).

c. Result in needs for new or expanded utility systems, or need for significant alteration to any existing utilities for water, natural gas, electric, and sewer.

List of Potential References and Data Sources for Energy and Utility Information

Local

City and County Public Works Department	
Local Utility Districts (i.e. electric utility companies, water companies, POTW's)	
City and County Community Development Departments - Five Year Capital Improvement Plans	

13. NOISE

In analyzing the impacts from this item, discussion should include applicable baseline information on levels, time of day and duration of noise produced by major pieces of equipment at a referenced distance and then develop an estimate of noise levels at the project line, the nearest receptor, and any potential noise sensitive receptors (i.e., residences, schools, hospitals, etc.). This involves calculating the amount of noise reduction due to proposed equipment enclosures, and geometric spreading of the sound wave that occurs with its travel toward the noise receptor. The noise level is then calculated for each receptor and is compared to existing ambient noise levels and Noise Element Guidelines of the County or City Plan. If existing sources are producing significant amounts of noise

which are greater than that to be produced by the project, some masking of the project noise may be assumed at these specific receptor locations.

The generally accepted criterion for determining the existence of a noise impact is audibility. Since maximum acceptable noise levels are set by local, state and federal standards for sensitive noise receptors and project workers, determining project compliance with these laws and regulations involves comparing estimated project noise to maximum acceptable noise levels in areas to be occupied by workers and at community noise receptors.

If project noise exceeds standards, all feasible mitigation will be required. Mitigation may include the lowering of the noise level of equipment, construction of sound barriers, limited construction hours, realignment of sound sources, etc.

The Noise impact analysis should indicate if the project will:

a. Use expected noise producing construction equipment and/or use noise producing equipment during project operations and various related activities that will increase noise levels.

b. Propose land uses that substantially increase noise levels in areas of sensitive receptor or that are incompatible with the baseline noise levels.

c. Result in noise level increases during construction and operation or transportation routes to and from the proposed site from trucks or other project-related vehicles.

d. Create adverse noise levels to which employees may be exposed to.

List of Potential References and Data Sources for Noise Information

Federal

Title 29, CFR, Section 1919, et. seq.	Establishes worker noise protection standards
Federal Noise Guidelines	EPA has identified a L_{dn} of 55dBA as adequate to protect outdoor activities against interference due to noise.

State

CEQA Guidelines Appendix G, Item p	Defines a significant effect as an action with the potential to "increase substantially the ambient noise levels for adjoining areas".
Title 8, CCR, Section 5095	Applicable state regulations which apply primarily to on-site conditions include the Cal/OSHA Occupational Noise Exposure Regulations. The Division of Occupational Safety & Health (DOSH) of the Department of Industrial Relations enforces the Cal/OSHA regulations.

Title 8, CCR, Section 5095, continued. Title 8, CCR, Sections 5096, 5097, and 5098	Sets employee noise exposure limits and identify measures to be undertaken whenever limits are exceeded.
State regulations for off-site (i.e., "community") conditions	There are no direct state regulations for off-site (i.e., "community") conditions, although the "Model Community Noise Control Ordinances" issued by DHS, Office of Noise Control, in 1977, may be applied as a set of evaluation criteria. Generally, enforcement authority for environmental noise laws resides with local agencies in the form of the Noise Element of the General Plan and a draft or adopted noise ordinance.
California Vehicle Code, Sections 23130 and 23130.5	Establishes noise limits for vehicles. Vehicle noise limits can be enforced by the California Highway Patrol or local law enforcement agencies.

Local

City and County General Plan Noise Elements	Establish acceptable noise limits for various types of land uses
Local planning departments or private consulting firms.	Often prepare noise assessments for developments adjacent to the project

14 PUBLIC HEALTH AND SAFETY

This section evaluates whether the activities associated with the project could have an impact on public health and safety, either on or off-site. Health and safety impacts should be evaluated using the worst-case scenarios developed in the Risk of Upset section.

The writer should evaluate the worst-case scenarios and identify the feasible health hazards or safety risks that could potentially impact the surrounding community or employees at the project site. Exposure potential is considered part of the nature of a business or project that handles hazardous substances. The objective is to integrate mitigation measures that can reduce, minimize or even prevent harmful acute or chronic health effects. The mitigation measures may be present or part of the proposed project.

Describe how the hazards will be minimized or eliminated through specific mitigation measures. Discuss the logic of how compliance with applicable regulations could be a mitigating measure. When using regulations or permit conditions as mitigating measures, specify which of the identified health and safety impacts are intended to be prevented or minimized. The same discussion needs to be made for other mitigating measures such as engineering design and technology, health and safety training, or relevant pollution prevention and contingency plans, if they are designed to reduce health and safety risks. Specify how the mitigation measure will reduce or minimize the potential hazard to a less-than significant level.

The Public Health and Safety analysis should indicate if the project will:

a. Under a worst-case scenario, have an impact on the public's health and safety, either on or off-site.

b. With all mitigation measures in place and implemented, still present a significant public health risk through known exposure pathways.

c. Require more diverse emergency response equipment, planning and training of personnel, either on or off-site.

d. Increase the consideration for safety measures due to the particular location or nature of the project activities.

The analyses for site mitigation projects should also identify the health risk levels before and after project completion based on baseline health risk analyses.

List of Potential References and Data Sources for Public Health and Safety Information

Federal

FEDERAL CLEAN AIR ACT TITLE 42	
Section 109(b)(1)	Established authority for adoption of Ambient Air Quality Standards to protect the public from adverse health affects of air pollution.
Section 110	Required that states adopt plans to attain compliance with these standards by 1982. These plans are called State Implementation Plans (SIPs).
Section 1857	U.S. EPA standards for nitrogen dioxide (NO_2) ozone (O_3), carbon monoxide (CO), sulfur dioxide (SO_2), particulate matter (PM), and lead.
The Superfund Amendments and Reauthorization Act of 1986 (SARA, Title 42, USC, Sections 11001 et seq.), Title III	Established a nationwide emergency planning and response program and imposes reporting requirements for businesses which store, handle, or produce significant quantities of hazardous materials or acutely hazardous materials.

State

CALIFORNIA CLEAN AIR ACT	
Health & Safety Code (H&SC) Section 39606	Requires that the ARB adopt ambient air quality standards to protect the public health. Pursuant to this section, the ARB has adopted standards for O_3, CO, SO_2, PM_{10}, lead hydrogen sulfide (H_2S), and NO_2. These standards are defined in Title 17, Article 2, CCR.
H&SC Section 39650 through 39674	These laws mandate the ARB and the Department of Health Services to establish safe exposure limits for toxic air pollutants and identify pertinent Best Available Control Technologies (BACT). They also require that the new source review rule for each air pollution district include regulations that require new or modified procedures for controlling the emission of toxic air contaminants. Pursuant to this code, DHS developed cancer potency estimates for several carcinogenic pollutants to use in assessing the carcinogenic risk associated with exposure to these pollutants.
H&SC, Part 6, Section 44300	Requires that facilities which emit large quantities of a criteria pollutants (as described in Section 44322), and which emit any quantity of a toxic contaminant (as described in Section 44321), provide the Local Air Pollution Control District an inventory of toxic emissions. Such facilities may also be required to prepare a quantitative health risk assessment.
H&SC, Section 41700	States that, "No person shall discharge from any source whatsoever such quantities of air contaminants or other material which causes injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health, or safety of any such persons or the public, or which cause, or have a natural tendency to cause injury or damage to business or property."
H&SC, Sections 25500-25541	Requires the preparation of a Hazardous Material Business Plan which addresses in detail the emergency planning and response aspects in the event of a hazardous materials release at a facility. It may also require the preparation of Risk Management and Prevention Plans where acutely hazardous materials are handled. This plan must be based on studies which identify the potential hazards associated with the handling of the acutely hazardous materials proposed for use at the facility.
Uniform Fire Code, Article 80	Includes provisions for storage and handling of hazardous materials. There is overlap between this code and Chapter 6.95 of the H&SC. It does, however, contain independent provisions regarding fire protection and neutralization systems for emergency venting. In many

	cases this code is adopted by reference by local fire districts. In other districts it has been used as a model for development of local regulations.
Porter-Cologne Water Quality Act Uniform Fire Code, Article 80, continued	Provisions requiring Release Reporting of Regulated Substances Discharged Into California Waters. These provisions require reporting of releases of specified quantities of regulated substances where the released substances enter or threaten to enter state water. In addition, the Porter-Cologne Act applies to releases of specified reportable quantities of hazardous substances or sewage and releases of specified reportable quantities of oil or petroleum products. Both release reporting sections of the Porter-Cologne Act are analogous to the federal CERCLA release reporting requirements. The primary distinction between the release reporting requirements of the Porter-Cologne Act and CERCLA is that the Porter-Cologne Act requires reporting of discharges that reach or probably will reach waters of the state, whereas CERCLA requires reporting of specified releases into the environment.
HAZARDOUS WASTE CONTROL ACT	
Health & Safety Code Section 25100 et seq.	Chapter 6.5 of Division 20 of the H&SC, entitled Hazardous Waste Control contains the primary state statutory provisions governing hazardous waste management. Directed DTSC to adopt regulations to implement the statute (CCR, Title 22 Division 4.5).

Local

Air Pollution Control District (APCD)	Establish local requirements necessary to achieve compliance with State and Federal Ambient Air Quality Standards and state air quality regulations regarding control of toxic air contaminant emissions. These rules are incorporated in the State Implementation Plan (SIP) in conjunction with other District rules. Emission reductions resulting from these rules form the basis by which the APCD proposes to achieve compliance with State and Federal Ambient Air Quality Standards and cause compliance with the requirements for public protection specified in the H&SC.
Fire Departments and Health Departments	May have primary authority for fire safety and for enforcement and implementation of state regulations regarding emergency response and hazardous materials management pursuant to Chapter 6.95 of the H&SC. Many of these agencies have also adopted regulations regarding hazardous materials management.

15 AESTHETICS

In evaluating the impacts for this item, it will be necessary to incorporate information concerning any onsite proposed structures, roadways, type and size of construction equipment, treatment units, surrounding features in the area, scenic vista points, and all applicable laws, ordinances, regulations, and standards.

The writer should consider any physical changes to the area including but not limited to changes to structures and views, or if the project will cause an increase in light or glare.

The Aesthetics analysis should indicate if the project will:

a. Add new light or glare;

b. Block any views, or obstruct any scenic vista or view open to the public (especially to existing residential areas); and/or,

c. Result in an aesthetically unpleasant site.

List of Potential References and Data Sources for Visual Resource Information

Federal

National Forest Landscape Management, Vol. 2, Chapter 1; United States Forest Service, 1977, and The Visual Management System in Agriculture Handbook 462; U.S. Department of Agriculture	Establishes the methodology and rationale to be used in determining the value of visual resources on public forest lands, and in assessing the potential impacts on visual resources of proposed projects on those lands.
Visual Resource Management Program, Bureau of Land Management 1980, U.S. Department of Interior	Establishes the methodology to be used by the BLM in inventorying and assigning values to scenic resources and in assessing the potential impacts to visual resources of proposed projects on public lands.

State

THE CALIFORNIA COASTAL ACT Public Resources Code (PRC), Section 30251	States that "scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance"; and
California Streets and Highways Code, Division 1, Chapters 1-2.	These chapters cover the establishment of a state scenic highway system, inclusion in the system; inclusion of county highways in the state system; and the undergrounding of electric and communication facilities near state scenic highways.

Local

City and County General Plan Open Space elements.	
Planning Departments and consulting firms.	Special Visual Assessments prepared for the area.
Planning Department Specific Plans.	May address scenic/visual resources along with design guidelines.

16 CULTURAL RESOURCES/PALEONTOLOGICAL

This section provides guidance in determining if project-related impacts to cultural or paleontological resources are significant. CEQA Guidelines require that the Initial Study address the potential for impacts to archeological resources and paleontological resources [CCR, §15064(E)].

A typical cultural/paleontological resources impact analysis evaluates the effects of project-related vegetation clearance, surface grading, and sub-surface excavation on known and/or previously unknown cultural or paleontological resources.

When cultural, archeological, and/or paleontological resources are found on-site, it is usually during ground clearing and excavation or other ground disturbance activities. Site cleanups, or projects requiring excavation for construction of foundations or landfill areas can reveal fossils or artifacts that may be significant.

It is important to remember that the lay of the land and the passage of long periods of time can cause denser (than surrounding soils) artifacts or fossils to settle in low areas. Also, historically humans have used low areas as dumps. It is possible that a modern dump site was also used historically by other cultures in the area as a dump. Pre-historic or historic dump sites can contain artifacts that are now considered significant.

A search for existing evidence of the potential for discovering cultural/paleontological resources and the adoption of project features or mitigation measures, where applicable, can help to avoid interrupting or stopping a project.

The Cultural/Paleontological impact analysis should consider if the project could potentially unearth any of the following resources:

a. Prehistoric archaeological resources: are those materials relating to prehistoric human occupation of any area; they may include deposits, sites, structures, artifacts, trails, and other traces of prehistoric human behavior. In California the prehistoric period began over 10,000 years ago and extended through 1800s when the first Euro-American explorers entered California.

b. Historic resources: are those materials usually associated with Euro-American exploration and settlement of an area and the beginning of a written historical record. They may include archaeological deposits, sites, structures, traveled ways, artifacts, documents, or other traces of human activity which are greater than 50 years old.

c. Ethnographic resources: are those materials important to the heritage of a particular ethnic or cultural group. They may include traditional resource collecting areas, cemeteries, ceremonial sites, shrines, or ethnic structures.

d. Paleontological resources: consist of fossilized evidence of prehistoric plants or animals preserved in soil or rock.

Consideration should also be given to the topic of paleontological resources because they were created in prehistoric time. Cultural and paleontological resources are usually evaluated and treated in the same general way. If found on site, they are usually protected by stopping construction in the immediate area of the find and removed to a museum for evaluation.

When determining the significant impacts the project may have upon cultural/paleontological resources consider first the evidence of or the likelihood that cultural/paleontological resources exist in the surrounding area from the environmental setting. Then consider the possible impacts on those resources. Ask the questions: Could the project activities directly impact the cultural/paleontological resources by destroying or damaging fossils, lands, or property? Could the project indirectly impact the cultural resources by making the area less attractive to visitation? Would the location of this facility upset any groups of people?

List of Potential References and Data Sources for Cultural/Paleontological

Cultural Resources:

Federal

NATIONAL HISTORIC PRESERVATION ACT (HPA), Section 106	Requires federal agencies to consider the effects of their actions on historic properties, to determine the eligibility of the property for listing on the National Register of Historic Places, and to seek comments from an independent reviewing agency, the Advisory Council on Historic Preservation.
36 CFR, Part 800	"Protection of Historic Properties"; published in the Federal Register (FR), September 2, 1986, at 51 FR 31115; federal regulations for implementing the Section 106 process.
PL 101-601 "Native American Graves Protection and Repatriation Act" (1990)	This law defines "cultural items", "sacred objects", and "objects of cultural patrimony"; establishes and ownership

	hierarchy' provides for review; allows excavation of human remains but stimulates return of the remains according to ownership; sets penalties; calls for inventories; and provides for return of specified cultural items.
Title 43 USC, Annotated section 1996: American Indian Religious Freedom Act	Protects Native American religious practices, ethnic heritage sites, and land uses.

State

STATE CEQA GUIDELINES	
Appendix G (j)/Workbook Appendix D	States that a project may have a significant effect on the environment if it will "Disrupt or adversely effect a prehistoric or historic archeological site or a property of historic or cultural significance to a community or ethnic or social group ..."
PRC, Section 5097.5	Any unauthorized removal of archaeological resources located on public land is a misdemeanor.
Penal Code, Section 622.5	Sets the penalties for damage or removal of archaeological resources.

Local

The project should be in compliance with local laws, ordinances, and regulations having to do with cultural resource protection. Some cities and counties have adopted policies providing protection for cultural resources.	

Paleontological Resources:

Federal

Antiquities Act of 1906	Paleontological remains are accepted as non-renewable resources significant to our culture, and as such are protected under provisions of the Act and subsequent related legislation, policies, and enacting responsibilities.
National Environmental Policy Act (NEPA), PL 91-190; 83 Stat 852; 42 USC, Section 4321-4327	Requires analysis of potential environmental impacts of projects with federal involvement and requires application of appropriate mitigation measures.

State

STATE CEQA GUIDELINES	
Appendix K	Provides information on determining whether a project may have an effect on archeological and historic resources.
PRC, Section 5097.5 (Stats 1965, c. 1136, p. 2792).	Any unauthorized removal of paleontological remains or sites located on public land is a misdemeanor.
Penal Code, Section 622.5 (Stats 1939, c. 90, p. 1605, S.1)	Sets the penalties for damage or removal of paleontological resources.
Completed EIR's in the Area	OPR EIR/ND Data Base.

Local

Some cities and counties have adopted policies providing protection for paleontological resources in addition to that which CEQA provides.	For example, San Bernardino and Riverside counties have specific policy requirements for the protection and mitigation of paleontological resources.
Society for Vertebrate Paleontology (SVP)	
Archaeological/Cultural Surveys	Located within City and County Planning Departments.

17 CUMULATIVE EFFECTS

The Initial Study preparer must consider and evaluate the possible cumulative effects from all activities related to the project. While the effects from the project may be minimal, a series of related projects may have a significant additive effect. A project can be "cumulatively considerable" which means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

While the individual project impacts discussed in previous chapters may not have a lasting or significant impact on the environment, the net result of the project along with other projects in the area may result in unforeseen long-term and cumulative effects.

The Cumulative Effects analysis should indicate if the project will:

a. Increase the need for developing new technologies, especially for managing any hazardous or non-hazardous wastes that the project generates.

b. Increase the need for developing new technologies for any other aspects of the project.

c. Leads to a larger project or leads to a series of projects, or is a step to additional projects. Examples of DTSC projects include Interim Corrective measures and Removal Actions that are not final remedies for a site or facility.

d. Alters the location, distribution, density, or growth rate of the human population of an area.

e. Affect existing housing, public services, public infrastructure, or creates demands for additional housing.

f. Be cumulatively considerable on the environments with cumulative adverse effects on air, water, habitats, natural resources, etc.

(Note: Further guidance on how to conduct a cumulative impact analysis for DTSC projects is available from OPAEA)

List of Potential References and Data Sources for Cumulative Information

Local

OPR EIR/Neg Dec Data Base	Completed EIRs in the area

18 POPULATION/HOUSING/RECREATION

Three additional content elements often addressed in an Initial Study are Population, Housing and Recreation. These three elements can be impacted by many CEQA projects, however, most DTSC projects do not pose a significant influence on these particular concerns.

The DTSC Project Manager will need to consider these elements on a project-by-project basis. If there is evidence a project has potential for impacting one or more of these elements, the Project Manager should consult with the appropriate local and state authorities to solicit their input. An example of such a project may be where a closure plan or remedial action requires a deed restriction which prohibits residential development on a parcel.

The impact analysis should consider if a project will:

a. Alter the location, distribution, density or growth rate of the human population.

b. Affect existing housing, or create a demand for additional housing.

c. Impact upon the quality or quantity of existing recreational opportunities.

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19 MANDATORY FINDINGS OF SIGNIFICANCE

The decision to prepare or not to prepare either an EIR or Neg Dec must be supported in the Initial Study with substantial evidence that the review process was conducted properly, and followed the CEQA Guidelines. To assure that the review process has been properly exercised, CEQA provides that certain Mandatory Findings of Significance be made by the Lead Agency regarding potential significant impacts on the environment.

Specifically, §15065 of the CEQA Guidelines states that a Lead Agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where any of the following conditions occur:

1. The project has the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of major periods of California history or prehistory.

2. The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

3. The project has possible environmental effects which are individually limited but cumulatively considerable. As used in this subsection, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of probable future projects.

4. The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

The Mandatory Findings of Significance are a summation of applied criteria for all the Initial Study subject areas to determine whether to prepare an EIR. They also summarize the effects that need to be analyzed in depth if an EIR is to be prepared. An EIR requires detailed findings on the feasibility of alternatives or mitigation measures that reduce or avoid the significant effects. These Mandatory Findings are to ensure that public agencies identify actions which will be taken to prevent significant environmental effects.

V. DETERMINATION OF SIGNIFICANT EFFECT (Appendix A; pg. 22)

It is essential that the writer carefully examine the potential environmental impacts and the relationship of the project to the environment during the Initial Study phase of the CEQA process. The

Initial Study analysis which has been formulated based in part on the responses to the Initial Study Checklist is used as the basis for preparation of the EIR or Neg Dec. The Initial Study should be complete in its written documentation of the factors considered in the assessment of potentially significant impacts upon the environment. A carefully prepared Initial Study will provide much of the information needed by the person preparing the EIR or Neg Dec and expedite the preparation of the final CEQA documents.

Once complete, the Initial Study constitutes a major portion of the project record for purposes of CEQA compliance. The Initial Study documents become important pieces of evidence if the project should face any legal challenges in court. Although the Initial Study is called a "preliminary investigation", it is important that you consider the potential for environmental impacts judiciously, directly and reasonably.

After the environmental analysis form has been completed, the writer must then determine whether to prepare an EIR or Neg Dec for the project.

INTERNAL DTSC INITIAL STUDY REVIEW AND APPROVAL PROCESS

Public agencies must adopt procedures to implement CEQA which are consistent with CEQA and the Guidelines, including the orderly evaluation of projects and preparation of environmental documents. The following describes the internal DTSC procedures to be followed to ensure that CEQA documents are procedurally correct and filed as prescribed by CEQA. Appendix G contains a flowchart which depicts the review and approval process.

> Step 1: Initial Studies are prepared by the appropriate program project manager. Once completed, the draft Initial Study and environmental document are transmitted via memorandum from the appropriate unit or branch chief to OPAEA for review and approval.

> Step 2: OPAEA logs in the CEQA package to begin the 15 working day review period. Within this 15 working day time period, OPAEA provides comments on the adequacy of the CEQA package via memorandum from the Section chief to the appropriate program unit or branch chief.

> Step 3: Project Manager incorporates OPAEA comments into revised text of the draft Initial Study and Neg Dec or EIR. Additional mitigation measures or project features identified as a result of OPAEA comments must be incorporated into the permit or site mitigation plan prior to release of the CEQA package for agency and public review and comment.

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> **Step 4:** Project Manager sends ten (10) copies of the revised draft package to the State Clearinghouse (SCH) and one copy to OPAEA. This package includes:

* the draft Initial Study/Checklist and Negative Declaration or Environmental Impact Report;

* the State Clearinghouse Transmittal Form;

* the State Clearinghouse Reviewing Agencies Checklist; and

* if applicable, De Minimis findings (supported by completion of the Initial Study Special Checklist).

> **Step 5:** The Public Participation Specialist prepares and sends a public notice regarding the completed CEQA package pursuant to Public Participation guidelines. The Project manager sends a copy of the package to the county clerk pursuant to the October 16, 1995, Guidance Document on Public Notice Requirements. See Appendix H.

The SCH sends copies of the documents to all Responsible Agencies, including the Department of Fish and Game, and to interested individuals requesting copies of the documents. This begins the public review period (30 days for Neg Decs and 45 days for EIRs).

Workbook Appendix I provides a copy of the Transmittal Form, Reviewing Agencies Checklist, and newspaper advertisement.

> **Step 6:** After the public review period ends, the Project Manager assesses any comments received and determines if the comments should be incorporated into the final Initial Study and Neg Dec or EIR. This decision must be recorded in the project file and serves as an official Record of Decision.

It is DTSC policy that comments received during the public review period be addressed by the preparation of a formal response to comments (ref: Management Memorandum #EO-94-013-MM, November 18, 1994; Appendix J).

> **Step 7:** After the Initial Study and Neg Dec or EIR have been finalized, the Project Manager completes the Notice of Determination (NOD) packet. Upon completion, the Branch Chief signs the NOD, or NOD/Certificate of Fee Exemption, the Initial Study and final Neg Dec or EIR; and sends the original and one copy to OPAEA. At this point, the project can be approved.

> **Step 8:** OPAEA reviews the NOD packet for completeness. If De Minimis Findings were not made by the Project Manager, OPAEA obtains a check from the Accounting Office to pay the Department of Fish and Game NOD filing fee required under the Fish and Game Code. The check and NOD is hand-carried to the Office of Planning and Research (OPR) for filing. The filing of the NOD starts a 30 day statute of limitations on court challenges to the approval under CEQA. If the Project Manager completed De Minimis Findings, then the NOD/Certificate of Fee Exemption, along with a copy of the De Minimis Findings would be taken to OPR.

> **Step 9:** OPAEA sends the Project Manager a confirmation note indicating the date the NOD was filed with the OPR along with a copy of the filing fee receipt.

> **Step 10:** The Project Manager responds to any written challenges submitted in response to the filing of the NOD.

(Note: Further guidance on review process for DTSC CEQA documents is available from OPAEA)

97-036

STATE OF CALIFORNIA—BUSINESS AND TRANSPORTATION AG
DEPARTMENT OF TRANSPORTATION
BOX 23660
OAKLAND, CA 94623-0660
(510) 286-4444
TDD (510) 286-4454

February 26, 1998

SCL-280-7.44
SCL280212
SCH# 97072085

Ms. Julie Caporgno
City of San Jose
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San Jose, CA 95110-1795

Dear Ms. Caporgno:

Re: Town and Country Village-DEIR

Thank you for continuing to include the California State Department of Transportation (Caltrans) in the environmental review process for the above-referenced proposal. The project is located on approximately sixty- nine acres. The project site is located by I-280 at the southeasterly corner of the intersection of Stevens Creek Boulevard and Winchester Boulevard. The proposed project entails redevelopment of Town and Country Village Shopping Center. We have reviewed the DEIR and forward the following comments:

This proposed project would generate additional traffic demand on I-280, I-880 and SR-17 which are operating at capacity during the morning and afternoon peak periods. The existing ramp metering system is in these three corridors.

Southbound I-280	Northbound-I-280	Southbound I-880	Northbound I-880	Northbound SR-17
De Anza Boulevard and Saratoga operate in the P.M.	Winchester and Wolfe Road operate in the A.M.	N. First Street to Stevens Creek Boulevard operate in the P.M	Between NB I-280 and Stevens Creek Boulevard connector and Bascom Avenue operate in the A.M.	Lark Avenue and Hamilton Avenue operate in the A.M.
	Winchester Boulevard on-ramp to NB I-280 in the P.M.			

Modifications to the existing ramp metering systems, such as ramp widening, may be necessary in order to mitigate the impacts the project. In particular, at the one-lane diagonal on-ramp from Stevens Creek Boulevard to the southbound I-880, the existing ramp meter is located on the lane collector road. The traffic generated by this project will add to the existing queue at the Stevens Creek Boulevard on-ramp. With the projected volume of 1,620 vehicles per hour on the diagonal on-ramp in the afternoon peak period, it appears that a three-lane on-ramp, including an HOV bypass lane will be required.

In Volume I, page 32 and Vol II, Page 14, the report states " the assumed ramp capacity is 2,000 vehicle per hour per lane for the diagonal ramps and 1,800 vehicle per hour per lane for the loop ramps". The LOS of ramps was calculated using V/C ratio alone without any consideration for ramp metering. Please revise the analysis of impacts to freeway segments, interchange ramps and intersections to include the effects of ramp metering on peak period traffic

The Existing Level of Service (LOS) was calculated using V/C ratio. The ratio alone is not sufficient to provide correct traffic conditions. Peak hour speeds also must be looked at before true LOS could be calculated. For instance, upstream of any bottleneck, traffic volumes are lower than the capacity due to stored vehicles. Therefore, relying on volumes alone will not provide true traffic conditions because it will show much higher LOS.

In addition, weaving affects are ignored. For instance the northbound Collector Distributor Road on I-880 between I-280 and Stevens Creek Boulevard is currently experiencing daily congestion with LOS F due to traffic weave. This information is not reflected in Table 7. Projects that will increase traffic demand in this vicinity such as this project will undoubtedly worsen that weave and therefore must be addressed in the environmental document.

Sincerely,

HARRY Y.YAHATA
District Director

By: Phillip Badal

PHILLIP BADAL
District Branch Chief
IGR/CEQA

97-036

County of Santa Clara

Environmental Resources Agency
Parks and Recreation Department

298 Garden Hill Drive
Los Gatos, California 95032
(408) 358-3741 FAX 358-3245
Reservations (408) 358-3751 TDD (408) 356-7146

January 27, 1998

Julie Caporgno
City Hall Annex, Room 400
801 North First Street
San Jose, CA 95110-1795

RE: TOWN AND COUNTRY VILLAGE DRAFT ENVIRONMENTAL IMPACT REPORT, FILE NO. PDCSH 97-06-036, SCH NO. 97072085

Dear Ms. Caporgno:

Thank for the opportunity to comment on this project. Our comments are focused on pedestrian and bicycle circulation and trail and park opportunities.

Consistency with the County of Santa Clara General Plan. The subject project is not located along the route of any of the proposed routes identified in the Countywide Trails Master Plan. Nor is it located adjacent to any regional County park facilities. Therefore, the project will not have a direct impact on County facilities.

City's Park and Ttrails Objectives. The proposed project is not providing any additional public park facilities. However, the DEIR has indicated that the project will be in compliance with the parkland dedication ordinance. We are assuming that compliance will be met through the dedication of in lieu fees that will be dedicated to parkland elsewhere in the city.

Pedestrian Circulation Requirements . The DEIR has indicated that the project will be providing or retaining sidewalks to meet internal and external pedestrian circulation requirements. As this project proposes high density residential and commercial use of the project site, the project applicant needs to coordinate with the Valley Transportation Authority to ensure that residents and shoppers opportunity to use transit is maximized.

Bicycle Circulation. The project applicantt needs to coordinate with the City of San Jose bicycle corrdinator, Joan Collins and the City Bicycle Advisory Committee to maximize the saftey of bicycists using Winchester as a travel route.

Sincerely,

Julie Bondurant
Park Planner

cc: Carla Ruigh, City Parks
Joan Collins, Bicycle Coordinator
Sylvia Star-Lack, Valley Transportation Authority

jb/towneir1

97 - 036

CAMPBELL UNION SCHOOL DISTRICT

EDUCATION BEYOND THE EXPECTED

RECEIVED
FEB 05 1998
CITY OF SAN JOSE
PLANNING DEPARTMENT

January 29, 1998

155 North Third Street
Campbell
California
95008-2086
Ph.: (408)364-4200
Fax: (408)341-7280

Website:
http //www campbellusd.k12.ca.us

Ms. Julie Caporgno
Department of Planning, Building & Code Enforcement
801 North First Street
San Jose, CA 95110-1795

Dear Ms. Caporgno:

Subject: File No. PDSCH97-06-036, SCH No. 97072085

I am in receipt of the Town and Country Village Draft Environmental Impact Report. Having received this report, on behalf of the Campbell Union School District, I have serious concerns that the students who would be generated by this project would severely overcrowd our northern schools. To house an additional 204+ students would be extremely difficult or impossible given the current loading factor in our north-end learning community.

Hence, if this project were to be approved, I believe the Campbell Union School District would need some substantial mitigation in order for the District to accommodate these students.

If I can be of further assistance in this matter, please feel free to call me. I can be reached at 408-341-7214.

Sincerely yours,

Richard A. McCann
Deputy Superintendent, Administrative Services

bj

97-036

cc: M. Plumleigh, Superintendent
M. Mitchell, Director I, Administrative Services

County of Santa Clara

Roads and Airports Department
Land Development and Permits

101 Skyport Drive
San Jose, California 95110

February 5, 1998

Ms. Julie Caporgno
City of San Jose
Department of Planning
801 North First Street
San Jose, CA 95110-1795

Subject: Draft Environmental Impact Report
Town and Country Village
File No.: PDCSH 97-06-036, SCH No. 97072085

Dear Ms. Caporgno:

County of Santa Clara Roads and Airports Department staff have reviewed the subject document submitted with your January 8, 1998 letter. Our comments are as follows:

1. Table 27 - Cumulative Intersection Levels of Service (page 113): LOS for San Tomas/Stevens Creek intersection is F for existing PM peak hour and E for existing AM peak hour. The CMP approved existing solution should be used for this intersection. The intersection of San Tomas/Saratoga should be included in the traffic analysis.

2. Appendix E - Level of Service Calculations CMP Method:

   a. San Tomas/Stevens Creek (Existing Conditions AM Peak Hour Scenario 1): NBT has only two lanes during the AM commute. The third lane is designated HOV/Bus lane only. NB has two critical movements which is an error.

   b. San Tomas/Moorpark (Existing Conditions AM Peak Hour Scenario 1): WBR cannot be a critical movement. NBT has two lanes during the AM commute.

Thank you for the opportunity to review and comment on this project. If you have any questions, please call me at 573-2460.

Sincerely,

Ed Evangelista

Ed Evangelista
Project Engineer

cc: M. Akbarzadeh
Central File Project File

epe682 Ref:030

7-00

97-036

THE CITY OF SANTA CLARA

CALIFORNIA

PLANNING DIVISION
CITY HALL
1500 WARBURTON AVENUE
SANTA CLARA, CA 95050
(408) 261-5260
FAX (408) 247-9857

February 20, 1998

James R. Derryberry, Director of
Planning, Building and Code Enforcement
City of San Jose
801 North First Street, Room 400
San Jose, CA 95110-1795

Dear Mr. Derryberry,

We have completed our review of the Town and Country Village Draft Environmental Impact Report and submit the following comments. Please also reference our comments of January 23, 1998 regarding the Valley Fair Mall Expansion Draft Environmental Impact Report.

1) It is our understanding that, according to the Barton Aschman traffic studies for these two developments, the proposed addition of 438,000 square feet of retail space (211,000 square feet of gross leasable area) to Valley Fair would not be, on its own, cause for consideration of street widening and intersection improvements at Winchester and Stevens Creek Boulevard in Santa Clara. However, when combined with the proposed reconstruction and intensification of uses on the Town & Country Shopping Center site, this intersection would be significantly impacted by the proposed changes in this area.

We are concerned that the newly proposed addition of double left turn lanes at the northern part of this intersection (southbound Winchester) cannot be accommodated within the existing public right-of-way nor within the planned right-of-way. The City has no adopted Plan Line for further widening of this intersection. It should be noted that this intersection was previously widened, reducing onsite parking and required landscaping for commercial businesses in our city, to provide for the 1980's expansion of Valley Fair. The property owners of the shopping center at the northwest corner of Winchester and Stevens Creek Boulevard, the Winchester Shopping Center, have contacted Santa Clara staff to express their opposition to the newly proposed widening, including the alternative which would result in a reduced width of the public sidewalk and landscaping at this

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corner. The grocery store and drug store parking on the other corner should not be reduced.

Without this improvement, the intersection would operate at Level of Service (LOS) E, based on the cumulative developments included in this traffic analysis. LOS E still falls within the acceptable Congestion Management Program guidelines.

The Valley Fair Final EIR's analysis of adequacy of queuing for access to driveways has identified inadequate capacity and no possible mitigation to accommodate forecast demand for access from eastbound traffic on Stevens Creek into the driveway opposite the main driveway entrance to Town & Country. Stacking of vehicles waiting to turn will extend into the center through traffic lane for eastbound Stevens Creek, in an area where the two right-hand lanes are already backed up/impacted by traffic queuing to enter 17/880 and 280 southbound from Stevens Creek. This situation may impact the left-turn movement of traffic southbound on Winchester into the eastbound Stevens Creek traffic lanes (and/or seeking to enter Town & Country Center).

2) We note that the Alternatives discussion for the Town & Country redevelopment identifies that "even a project half the size of the proposed project would cause 1" impacts to two of the local intersections (Stevens Creek/Monroe and Stevens Creek/Winchester) and would still require mitigation (Alternative B). Alternative C, which would consist of updating and remodeling of the existing shopping center, and development of residential uses on the vacant portion of the site, would result - in total - in an approximate 90% reduction in the number of additional daily trips, compared to the proposed project. An Alternatives analysis which maintains the existing undeveloped portion of the site may be appropriate as this area is under-served by existing parks.

3) The information provided is not adequate for assessing the cumulative impacts of the development proposal. For example, the proposed size of the residential units, number of bedrooms, and number of parking spaces allocated per unit has not been established.

Although not discussed in the Draft EIR, we understand that the Town & Country redevelopment could involve multiple movie theaters with their primary access from Winchester Boulevard at the Olin Drive and Olsen Drive intersections which are already impacted by the Century Movie Theaters. As the theaters also impact the Winchester and Stevens Creek intersection, the EIR should include a detailed traffic analysis relative to peak hour traffic for the proposed theaters.

Overall, the traffic analysis may be inadequate at this time. It cannot be determined whether cumulative impacts on area streets and intersections have been adequately addressed. It is not clear which of Santa Clara's approved projects were considered.

We know of at least one approved project in Santa Clara, the pending addition of 727,500 square feet of office/research and development space to the Hewlett Packard site at Lawrence Expressway and Steven Creeek Boulevard, which will contribute significant

We have attached a list of approved projects in our city (as of September 1997) for your use in preparing subsequent environmental documents related to these projects. Barton-Aschman has used this list in recent Santa Clara EIR's.

3) We understand that the Town & Country redevelopment would involve multiple movie theaters with their primary access from Winchester Boulevard at the Olin Drive and Olsen Drive intersections which are already impacted by the Century Movie Theaters. As the theaters also impact the Winchester and Stevens Creek intersection, does the Valley Fair EIR include a detailed traffic analysis relative to peak hour traffic for the proposed theaters? In order for that analysis to consider the worst case, San Jose needs to clarify what will be the maximum number of seats and the maximum number of theaters which could be constructed

As theater (and Town & Country) traffic also funnels through from Olin to Stevens Creek Boulevard via Spar Avenue, Hanson Avenue, and Maplewood, it would also be appropriate to identify where the break in the median on Stevens Creek Boulevard will be preserved and whether a traffic signal is warranted there now or in the future. Currently, partially due to the bus stops on both sides of Stevens Creek near Hanson, there is unprotected pedestrian movement crossing Stevens Creek, as well as a fairly significant u-turn movement at Hanson of westbound Stevens Creek traffic heading southbound on Winchester.

Please note that the City of Santa Clara General Plan does not support a continuous median planter on Stevens Creek, primarily due to its adverse impacts on access to the automobile sales dealerships there. The traffic analysis for Valley Fair does not identify whether the existing median on Stevens Creek west of Winchester will need to be lengthened for additional queuing of eastbound Stevens Creek traffic heading northbound on Winchester. Left-turn movements at Hanson (both southbound into Hanson and northbound into the Winchester Shopping Center) may also need to be protected. This should be addressed now.

4) We note that San Jose is in the process of drafting an update to its method of determining level of service. We welcome a more realistic analysis of cumulative impacts. What is the anticipated timing for review and adoption of this update?

5) The document does not discuss the County's planned extension of Light Rail service from Downtown San Jose via San Carlos Street and Stevens Creek Boulevard to Cupertino. We understand from discussions with San Jose Redevelopment Agency staff, at this time there is insufficient public right-of-way to accomplish this improvement, at least along the San Carlos portion. The EIR should identify whether right-of-way is adequate near Valley Fair. Can all of the Stevens Creek turn-lanes for entrances to Valley Fair and Town & Country be maintained after Light Rail improvements are completed? Contributions and/or dedication of right-of-way by Town & Country to assist in funding of timely implementation of this transit improvement should be

10) Cumulative impacts on nearby Freeways, especially where stacking on those Freeway off-ramps may result in blocking of a freeway lane such as that which provides an important connection from northbound 280 to northbound 17, should seriously be evaluated. Stacking for traffic at the meter light for northbound 17 already impacts northbound 280 traffic's access to Stevens Creek Boulevard towards the two shopping centers. Solutions to resolve these conflicts should be identified now, as commitment from San Jose will be required to support implementation of alternative designs. Cumulative impacts from these developments could be partially mitigated if the Town & Country development is phased to coincide with resolution of existing connecting ramp design constraints.

11) The mixed use nature of the development, especially if the phases which accomplish additional residential units are completed, represents an improvement over the present single purpose use of the site. For continued diversity of the area's economic base, approval should be conditioned on preservation of the automobile sales use (this is consistent with Santa Clara's General Plan goal).

Thank you for the opportunity to participate in this process. If you have any questions regarding these comments, please contact me or City Planner Art Henriques at (408) 261-5260.

Sincerely,

Geoffrey Goodfellow
Director of Planning
& Inspection

Attachments (2)

cc: Carol Painter, Principal Planner
Sue Lasher, Mark Sorich, Ann Reid
Safeway, Longs
Santa Clara's Principal Planner for distribution to Project Clearance Departments

dvh I:\PLANNING\1998\Subject\Town & Country Comments.doc

97-036

THE CITY OF SANTA CLARA

CALIFORNIA

PLANNING DIVISION
CITY HALL
1500 WARBURTON AVE
SANTA CLARA, CA 95050
(408) 984-3111
(FAX) (408) 241-3823

January 23, 1998

Jim Derryberry, Director of Planning,
Building and Code Enforcement
City of San Jose
801 North First Street, Room 400
San Jose, CA 95110

Dear Mr. Derryberry,

Thank you for the two week extension on the response deadline for comments on the Valley Fair Mall Expansion Draft Environmental Impact Report. We had requested this extension to allow time for concurrent review of the related Town & Country Draft EIR, which we recently received. We may update these comments as part of any comments on the Town & Country EIR.

It is our understanding that the only significant new construction in Santa Clara relative to the proposed expansion is part of the parking structure A located on the south side of the Mall and parking structure B at the northwestern corner of the Mall. Neither the Valley Fair expansion nor the Town & Country reconstruction would directly result in an expansion of square footage of retail uses in Santa Clara. Our comments, which are primarily transportation-related, therefore relate to impacts from development proposed entirely in San Jose and are as follows:

1) It is our understanding that, according to the Barton Aschman traffic studies for these two developments, the proposed addition of 438,000 square feet of retail space (211,000 square feet of gross leasable area) to Valley Fair would not be, on its own, cause for consideration of street widening and intersection improvements at Winchester and Stevens Creek Boulevard in Santa Clara. However, when combined with the proposed reconstruction and intensification of uses on the Town & Country Shopping Center site, this intersection would be significantly impacted by the proposed changes in this area.

We are concerned that the newly proposed addition of double left turn lanes at the northern part of this intersection (southbound Winchester) cannot be accommodated

within the existing public right-of-way nor within the planned right-of-way. The City has no adopted Plan Line for further widening of this intersection. It should be noted that this intersection was previously widened, reducing onsite parking and required landscaping for commercial businesses in our city, to provide for the 1980's expansion of Valley Fair. The property owners of the shopping center at the northwest corner of Winchester and Stevens Creek Boulevard, the Winchester Shopping Center, have contacted Santa Clara staff to express their opposition to the newly proposed widening, including the alternative which would result in a reduced width of the public sidewalk and landscaping at this corner.

We recently learned from a Longs Drug Store representative that their lease with Valley Fair, through Safeway, protects their onsite parking so further reduction (to accomplish alternative widening on Valley Fair's side of the intersection) appears to be limited. The grocery store and drug store parking should not be reduced.

We understand that the changes to this intersection necessary to accomplish two left-turn lanes would result in the removal of the elevated traffic islands and the loss of the free right-turn lanes where they exist at the northeast, southeast and southwest corners.

Without this improvement, the intersection would operate at Level of Service (LOS) E, based on the cumulative developments included in this traffic analysis. LOS E still falls within the acceptable Congestion Management Program guidelines.

2) Overall, the traffic analysis may be inadequate at this time. It cannot be determined whether cumulative impacts on area streets and intersections have been adequately addressed as, according to Gary Black of Barton Aschman, San Jose provided the traffic consultants with only a numbered list of related projects. Page 70 of the Draft EIR notes that the traffic volumes were calculated from San Jose's approved trip inventory. It is not clear whether Santa Clara's approved projects were considered.

We know of at least one approved project in Santa Clara, the pending addition of 727,500 square feet of office/research and development space to the Hewlett Packard site at Lawrence Expressway and Steven Creeek Boulevard, which will contribute significant traffic to an intersection identified as being significantly impacted anew by the Valley Fair/Town & Country proposals. According to the Barton Aschman-prepared EIR for Hewlett Packard, that intersection is San Tomas Expressway and Stevens Creek Boulevard, which is already operating at an unacceptable level of service. That intersection is identified as a planned grade-separated intersection in the City of Santa Clara General Plan, but we know of no near-term plans by the County for accomplishing this improvement in traffic movement. If approved, the Valley Fair and Town & Country projects should contribute to the county-wide Deficiency Plan to help fund improvements to area Freeways and Expressways. San Jose should strive to accomplish the San Tomas grade separation as soon as possible. Santa Clara will cooperate in this prioritization effort.

traffic to an intersection identified as being significantly impacted by the Valley Fair/Town & Country proposals. According to the Barton Aschman-prepared EIR for Hewlett Packard, that intersection is San Tomas Expressway and Stevens Creek Boulevard, which is already operating at an unacceptable level of service

If approved, the Town & Country project should contribute to the County-wide Deficiency Plan to help fund improvements to area Freeways and Expressways.

We have attached a list of approved projects in our city (as of September 1997) for your use in preparing subsequent environmental documents related to this project. Barton-Aschman has used this list in recent Santa Clara EIR's.

4) Please note that the City of Santa Clara General Plan does not support a continuous median planter on Stevens Creek, primarily due to its adverse impacts on access to the automobile sales dealerships there. The traffic analysis does not identify whether the existing median on Stevens Creek west of Winchester will need to be lengthened for additional queuing of eastbound Stevens Creek traffic heading northbound on Winchester.

5) Santa Clara staff first expressed concerns to San Jose staff in a 1992 letter regarding the then-tentative plans of the prior property owner to intensify development on the Town & Country site. A copy of that letter has been attached. Many of the concerns remain.

6) It is not clear from the Draft EIR how many, if any, of the housing units to be created would be restricted so as to be affordable to very low, low and moderate income households.

7) The EIR does not identify what percentage of Town & Country employees and customers are anticipated to use mass transit. What is the percentage use of transit by employees and customers now and projected into the future? Would Light Rail on Stevens Creek significantly help the traffic and parking situation?

8) The Draft EIR does not identify any traffic mitigation measures to encourage Town & Country employee or customer use of bicycles to access the site. The City of Santa Clara 1997 Bicycle Map should be referenced in the EIR. This Council-adopted document identifies a Bike Lane on Monroe Street extending from Sunnyvale on the west through Santa Clara to the San Jose City limits at Newhall. This map also identifies an existing Bike/Pedestrian Bridge at the south end of Monroe at Tisch Way and extending over Highway 280 to Moorpark (the only park in the immediate area is on Monroe at Tisch Way). There is also a bicycle/pedestrian bridge over 280 connecting Moorpark to Cypress Avenue west of Valley Fair.

9) Emergency access and public safety needs should be clearer in the FEIR.

97-036

considered if it is determined that Light Rail will help mitigate any identified "unavoidable" impacts on area roads and highways.

6) This EIR does not identify what percentage of Mall employees and customers are anticipated to use mass transit. The 1981 EIR adopted for the previous expansion of Valley Fair projected that, if the shopping center merchants' association instituted and maintained a program to encourage transit use by patrons and employees (including bus fare reimbursement for employees and posting of bus schedules at various locations in the Mall for customers), approximately six percent of the patrons and ten percent of the employees would use transit. Were these measures implemented? If so, how successful have they been? A shopper survey at that time indicated that 3.6% of shoppers used transit. What is the percentage use of transit by employees and customers now and projected into the future? Will Light Rail on Stevens Creek significantly help the traffic and parking situation?

7) The history of the Mall has documented that San Jose's retail parking requirement may not be adequate for development of this scale. It is not possible to determine from the Draft EIR to determine what parking is being allocated for what new and existing uses. For example, the existing bank on Winchester Boulevard is shown as "Not a Part" but its driveway entrance and most of its parking, including areas being used for temporary parking while accessing the outdoor automatic teller machines, is shown as being located on Valley Fair property.

The Draft EIR does not establish whether proposed onsite parking will be adequate for projected increased numbers of employees at the Mall. The document does not establish projections for number of increased temporary employees during the Christmas season (currently this reflects an increase in employee population of 67%). Presently, Valley Fair operates a shuttle service for employees (and customers at Christmas) from an offsite parking location a significant distance away. Will this continue? What percentage of employees are anticipated to use this shuttle? Might it not be more realistic to identify year-round "Employee Parking Only" areas onsite, such as at the top of the parking structures (or underground)?

8) The Draft EIR does not identify any traffic mitigation measures to encourage Mall employee or customer use of bicycles to access the site. The City of Santa Clara 1997 Bicycle Map should be referenced in the EIR. This Council-adopted document identifies a Bike Lane on Monroe Street extending from Sunnyvale on the west through Santa Clara to the San Jose City limits at Newhall. This map also identifies an existing Bike/Pedestrian Bridge at the south end of Monroe at Tisch Way and extending over Highway 280 to Moorpark (the only park in the immediate area is on Monroe at Tisch Way). There is also a bicycle/pedestrian bridge over 280 connecting Moorpark to Cypress Avenue west of Valley Fair.

According to information provided to our Traffic Engineering staff by San Jose staff. San Jose has identified future Bike Lanes on Hedding and Naglee (this street connects to Forest Avenue) near Valley Fair. The City of San Jose should include accomplishing the continuation/connection of these bikeways along Forest and Monroe in conjunction with the Valley Fair and Town & Country developments. Bike racks and bike lockers to be provided and maintained onsite should be called out on the new development plans.

9) The proposed design of the existing and new parking structures limits the effectiveness of their use. As they are not connected above-ground, if all levels are full it will be necessary for drivers to repeatedly exit the structures and use onsite driveways as well as city streets. The structures could be structurally designed to accommodate an additional level if parking proves inadequate for future demand and/or to accommodate possible future expansion of Valley Fair retail for that part of the shopping center in Santa Clara. The exterior elevations of all parking structures should be of a high quality of design and the structures should function in a pedestrian-friendly manner. Substantial landscaping should be provided where the parking structure is proposed to be located in close proximity to a public street.

If any portion of parking structures A or B within the City of Santa Clara is proposed to exceed fifty (50) feet in height (parking structure towers are proposed to extend to 58 feet), a Modification approval for height must be issued by the City Planner acting as the Zoning Administrator or else a Variance approval must be granted by the Planning Commission. The document does not identify this requirement. There is also the related Architectural Review process for any exterior changes to the portion of the Center in Santa Clara.

10) The site plan shows only one direct access to the Safeway and Longs Drugs stores from Forest Avenue. As this driveway also will be the only access point for ingress/egress to parking structure B for the shopping center, onsite circulation problems may develop. Valley Fair should maintain the current onsite driveway aisle providing direct access to the parking aisle which runs along the east side of the Safeway building from the street opening on Forest opposite Beechwood/Sylvan Avenues.

It appears from the site plan that the driveway entrance from Winchester next to Goodyear will continue to provide connection to this same aisle connecting with Safeway. Santa Clara does not anticipate supporting a median on Winchester near Forest unless the left-turn movement from southbound Winchester to this driveway is preserved. Any such improvement to Winchester should include plans for a future cross-turning movement from northbound Winchester onto the State Agricultural Center site, which is identified in our General Plan as appropriate for Moderate Density Residential development. The Final EIR should address this.

Please also note that Santa Clara staff would support a repeat of San Jose Traffic staff's recommendation to a prior City Council that the connection of Forest west of Winchester

to Winchester be closed and the double traffic light at this intersection be updated to a single light.

11) Santa Clara has a concern regarding the adequacy of access for Fire Protection equipment and personnel in the event of an emergency at either Valley Fair, Town & Country or the area nearby. San Jose's primary station, Station 10 at the southern end of Monroe near Tisch Way , has two ways to reach the Mall: via Monroe Street and Stevens Creek and via Tisch Way and Winchester Boulevard. All of these streets will have a worsened traffic condition as a result of these two proposed developments.

Santa Clara's closest Fire station is Station 4 on Pruneridge east of Saratoga. The primary access for Santa Clara's Fire response is via Pruneridge and Winchester and Forest. The intersection of Winchester and Dorcich would be the only direct access to Valley Fair buildings in Santa Clara and this limited width driveway onsite is often blocked with customers entering and exiting the Mall.

The Fire Department usually does not find acceptable an accessway through a parking garage such as is proposed through new parking structure B from Forest. It cannot be determined from the information provided in the Draft EIR whether the required minimum 14 foot high clearance in the structure is being provided and what the driveway width will be in this area (includes vehicle parking along one side). The Draft EIR does not clarify whether additional Fire personnel and/or apparatus will also be needed in Santa Clara as a result of the intensification of use at these two centers. San Jose staff and the developers should meet with Santa Clara Fire Department staff and obtain that Department's written comments/clearance before the Final EIR is prepared.

Similarly, a meeting should be scheduled and written comments received from Santa Clara's Chief of Police before the Final EIR is prepared. Santa Clara police are responsible for our portion of the Mall, all of Winchester from the northern half of the intersection of Winchester and Stevens Creek northward, and westbound Stevens Creek Boulevard westward from the City limits line (east of the main driveway entrance to Town & Country). The Draft EIR identifies impacts on police personnel and/or equipment, but does not discuss Santa Clara police service issues specifically.

The Final EIR should address adequacy of staffing for Mall security. The need for increased security staffing is especially an issue with the addition of multi-level parking structures.

12) Regarding impacts on landscaping in Santa Clara, the EIR does not address mitigation of the loss of existing trees in parking lots and on street frontages due to this project.

13) The EIR does not clearly resolve what is the proposed reconfiguration of the multiple parcels on the Valley Fair site. The Final EIR should clearly delineate existing and proposed lot lines. Easement issues need to be addressed. Buildings and/or parking

structures should not be allowed to cross property lines. A lot line adjustment to combine this parcel with the rest of Valley Fair would not be supported during the life of the grocery store and drug store leases unless it resulted in the perpetuation of these uses.

14) There is inadequate discussion in the Draft EIR of cumulative impacts on growth as a result of these proposed developments. Housing advocates maintain that new housing units are needed for the continued employment growth in this area, including affordable housing for service employees. An increase in employment of 1,000 permanent jobs is significant. What percentage of the new housing proposed on Town & Country will be required to be affordable to service workers?

15) Cumulative impacts on nearby Freeways, especially where stacking on those Freeway off-ramps may result in blocking of a freeway lane such as that which provides an important connection from northbound 280 to northbound 17, should seriously be evaluated. Stacking for traffic at the meter light for northbound 17 already impacts northbound 280 traffic's access to Stevens Creek Boulevard towards the two shopping centers. Solutions to resolve these conflicts should be identified now, as commitment from San Jose will be required to support implementation of alternative designs. Cumulative impacts from these developments could be partially mitigated if the Town & Country development is phased to coincide with resolution of existing connecting ramp design constraints.

16) Alternatives to this project considered by the EIR should include expansion of Valley Fair retail in Santa Clara now or at some time in the future.

17) The City of Santa Clara Electric Utility/Silicon Valley Power provides electricity to the Santa Clara portion of the shopping center and sufficient capacity exists to accommodate service for an expansion such as that proposed. We would anticipate that our City Council would welcome a contractual commitment from the property owner(s) ensuring continuation/expansion of that relationship.

Thank you for continuing to include our city in this important process of review. If you have any questions regarding these comments, please contact me, City Planner Art Henriques, or Advance Planning Coordinator Doug Handerson at (408) 261-5260.

Sincerely,

Geoffrey Goodfellow
Director of Planning
& Inspection

Attachment

Cc: Carol Painter, Principal Planner
Sue Lasher, Mark Sorich, property owners
Safeway, Longs
City Engineer, City Traffic Engineer, City Manager, City Attorney,
Fire Chief, Police Chief, Building Official

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97-036

APPROVED DEVELOPMENTS
CITY OF SANTA CLARA
(as of September 1997)

Project	Location	Description
McCandless	3955 Freedom Circle	220,000 s.f. office
Intel SC-12 Regency	2250 Mission College Blvd.	650,000 s.f. office
3Com	5420 Bayfront Plaza	405,000 s.f. office/mfg
Peery Arillaga	2500 Freedom Circle (south side)	850,000 s.f. office
Nexus	2805-2807 Mission College Blvd.	132,000 s.f. office
Mercado SC	3000 Mission College Blvd.	109,000 s.f. retail 21,000 s.f. restaurant 4,500 s.f. seat theater
HOPE	4401 Lafayette Street	400,000 s.f. industrial
Fairway Glen/Interland	4600 Lick Mill Blvd.	1,466 d.u. apartments
Applied Materials	3333 Scott Blvd.	840,000 s.f.office/R&D
Centennial Banquet Facility	Tasman and Centennial	6,000 s.f. banquet hall
Intel SC-12 Walsh	at Northwestern Parkway	300,000 s.f. office
Kaiser	Homestead and Lawrence	745,000 s.f. office 675,000 s.f. medical office 35,000 s.f. central plan
Hewlett-Packard	Stevens Creek at Lawrence	727,500 s.f. (net) office/R&D
Sobrato (Verifone)	Great America Parkway and Tasman Drive	137,315 s.f. office
3Com Pal Site	Great America Parkway and Yerba Buena Way	540,000 s.f. office/R&D
Hunter/Storm	451-475 El Camino Real	10,000 s.f. retail 230,000 s.f. R&D 110 Room Hotel

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97 - 036

THE CITY OF SANTA CLARA

CALIFORNIA

PLANNING DIVISION
CITY HALL
1500 WARBURTON AVENUE
SANTA CLARA, CA 95050
(408) 261-5260
FAX (408) 247-9857

August 27, 1992

Gary Schoennauer
Director of Planning
City of San Jose
801 North First Street
San Jose, CA 95110-1795

Dear Gary,

We are writing in response to your staff's request for preliminary comments on Metropolitan Life Insurance's conceptual proposal for the redevelopment of the Town and Country Village Shopping Center, as well as the Courtesy Chevrolet dealership at the southeast corner of Winchester and Stevens Creek Boulevards.

The Metropolitan Life proposal, at this conceptual stage, seems out-of-scale for the nature of existing development in this area. Ninety foot high buildings and 1.8 million square feet of development (especially 1.3 million square feet of new office development) may severely impact already overburdened intersections in this area. Also potentially adversely impacted are established residential neighborhoods near the project, unless significant mitigation measures can be provided.

As a specific example, we call your attention to the information provided in the Draft Environmental Impact Report for Prometheus Development's now-withdrawn proposal for the Marchese Orchard at Homestead and Lawrence Expressway in our City (excerpt attached).

That EIR's Alternatives Analysis in March of 1991 evaluated possible redevelopment of the Town and Country site and found that both the Winchester/ Hedding and San Tomas Expressway/ Stevens Creek intersections are currently operating at a Level of Service F. A development such as Prometheus', at two-thirds the density of the conceptual MetLife proposal, would worsen the existing traffic congestion at these and ten other area intersections, according to that EIR.

97-036

We suggest that a detailed Traffic Study be conducted. This study should consider the future impacts of losing one lane in each direction on Stevens Creek Boulevard for the County-planned Light Rail line, as well as the existing congested condition of the southbound State Highway 17/880 connection to Stevens Creek and State Highway 280.

The Traffic Study should also note that Stevens Creek Boulevard does not function as effectively - capacity-wise - as other streets of this width in the County, because of its commercial nature and the number of existing traffic signals in front of Valley Fair. Any Town and Country Village expansion or redevelopment should consider a connection of onsite parking areas to Stevens Creek Boulevard via Monroe Street on the east to better distribute traffic, as well as possible freeway improvements at Stevens Creek/ 880 and/or Winchester/ 280.

Please note that our recently adopted comprehensive General Plan Update did not result in any change in our allowed development densities along this part of Stevens Creek: three stories (35 foot height limit), except for Valley Fair where building heights up to fifty feet are permitted.

We urge you to carefully evaluate the cumulative impacts of the conceptual MetLife proposal. This evaluation should include a fiscal analysis of possible adverse fiscal impacts from reduced sales tax revenues at Valley Fair if traffic conditions are worsened in this highly sensitive area and shoppers are discouraged due to traffic congestion. This analysis could also examine whether the loss of a highly visible motor vehicle dealership at this end of Stevens Creek Boulevard would contribute to reduced auto sales revenues along the rest of the Boulevard. Santa Clara's General Plan protects motor vehicle sales lots along most of Stevens Creek Boulevard from higher density developments such as Mixed Use.

From a preliminary environmental, fiscal and market standpoint, it would seem that more appropriate locations exist, such as in San Jose's Downtown, for the one million, two hundred and fifty thousand (1,250,000) square feet of speculative office development proposed by MetLife.

We recommend that San Jose work with MetLife to refine the scale and mix of development for the inappropriate parts of this proposal in order to accomplish a better balanced retail/ residential redevelopment more in keeping with your regional vision.

97-036

We will closely review the Scoping Request and the Environmental Impact Report for this project when it is received and anticipate providing additional comments at that time.

Sincerely,

Geoffrey Goodfellow
Director of Planning
and Inspection

cc: Jeff Roche and Carol Hamilton

dvh7/TwnLtr

APPROVED DEVELOPMENTS
CITY OF SANTA CLARA
(as of September 1997)

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97 - 036

THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE

RECEIVED
FEB 25 1998
PLANNING DEPARTMENT

MEMORANDUM

TO: JULIE CAPORGNO PLANNING, BUILDING AND CODE ENFORCEMENT	FROM: NANCY LYTLE PROGRAM COORDINATOR
SUBJECT: SEE BELOW	DATE: February 25, 1998
APPROVED: David Kahn	DATE: 2/25/98

SUBJECT: TOWN AND COUNTRY VILLAGE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)

The Redevelopment Agency has the following comments on the DEIR for the Town and County Village project. The Agency's concerns fall into three major areas:

1) General Plan Conflicts

The DEIR does not adequately address conflicts and inconsistencies between the proposed project and adopted land use policies in the General Plan. Conflicts with adopted General Plan policies are considered significant impacts, and these impacts should be addressed. (DEIR page 21, Threshold of Significance).

2) Downtown Impacts

The DEIR does not adequately address potentially significant physical impacts that will likely result due to economic decline in Downtown from the increased competition of the expanded Town and Country Village (Sec. 21083, 21087 Public Resources Code: Sec. 21001(e) and (g), 21002, 21002.1, 21060.5, 21080.1, 21083 (c), and 21100, Public Resources Code.);

3) Project Alternatives

The DEIR does not adequately identify alternatives to the project, particularly including the alternative of a Downtown location for the project components, which would feasibly attain the most basic objectives of the project but would avoid or substantially lessen any of the significant impacts of the proposed project (State CEQA Guidelines Sec.15126(d).

97-036

1. Conflicts with General Plan Policies

The Land Use section of the DEIR does not address inconsistencies between the proposed project and the following Land Use policies:

a) "Any new regional-scale commercial development should be encouraged to locate in the Downtown Core Area rather than suburban locations." (Commercial Land Use Policy 3, page 48 and 49)

b) "The City should encourage retail and service establishments to locate in the Downtown Core Area in order to serve residential and employees."(Commercial Land Use Policy 8, page 49)

The Agency advises that the project is inconsistent with these policies. Rather than encouraging regional scale development in the Downtown Core, the project accomplishes regional commercial development in a suburban location by doubling the square footage of development at the suburban shopping center and adding 1200 residential units and two hotels. This establishes Town and Country as a direct competitor with the revitalizing Downtown San Jose commercial district. City strategy and policy directs that density at the Town and Country Village should be maintained at a level that preserves the suburban character of the area and does not constitute an expanded urbanized center in direct competition with Downtown. The project, which proposes more than a doubling of building heights at Town and Country, is in direct conflict with City Commercial Land Use policy, creates significant impacts on the City's ability to accomplish its Land Use goals and objectives for Downtown, and the City as a whole.

c) "Hotel/motel development elsewhere in the City may be allowed when it would not interfere with the Downtown revitalization Major Strategy. This policy is effective until the City Council finds that Downtown hotel development objectives are substantially achieved." (Land Use Policy 7, page 49)

The DEIR does not analyze this apparent conflict between General Plan policy and the proposed project. There is no information about the nature of the proposed hotels (i.e., target market, amenities, services, related uses) or how they might impact this policy or the strategies in the General Plan 2020 or the Downtown Strategy Plan 2010. There is no evidence in the DEIR that this proposal is consistent with the Hotel Policy. There is no analysis to support the conclusion that the project is consistent with the goal of achieving an effective mass of Downtown hotel rooms to support the Convention Center. The

THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE

RECEIVED
FEB 25 1998
PLANNING DEPARTMENT

MEMORANDUM

TO: JULIE CAPORGNO PLANNING, BUILDING AND CODE ENFORCEMENT	FROM: NANCY LYTLE PROGRAM COORDINATOR
SUBJECT: SEE BELOW	DATE: February 25, 1998
APPROVED: David Gayle	DATE: 2/25/98

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97-036

Currently, Town and Country is not a significant competitor for the convention and business traveler because the lack of a critical mass of entertainment related uses does not justify the additional travel time from Downtown, the Convention Center, or other places in the region to Town and Country. If Town and Country doubles in size, adds entertainment oriented retail and restaurants, hotels and high density housing, and intensifies at urban heights and densities, it will become a formidable competitor as an evening restaurant and entertainment destination. As such, it will deter the business traveler from staying Downtown in the evenings.

The project proponent, Federal Realty Trust, is considered one of the premier developers of entertainment retailing concepts. Their relationship with major retailers includes Williams Sonoma, Barnes and Noble, Pottery Barn, J. Crew, The Gap, Victoria's Secret, Urban Outfitters, and Z Gallery. To the extent Town and Country Village is successful in creating an entertainment retailing venue, it will deprive the Downtown of some of the critical components it needs to adequately anchor its commercial base. There is a notable shortage of national retailers in Downtown and the availability of a location only three miles away will keep some away that would have considered Downtown as it solidifies its Downtown resident, tourist and entertainment base.

Retailing in downtown environments is the last and most difficult product type to restore to viability. Cities that have done so have succeeded by simultaneously encouraging retailers to locate in their Downtowns while discouraging the development and expansion of conflicting uses in other parts of the city that directly compete for the same target markets. While retail is the most difficult use to restore, it is also critical to retaining other uses. Without a vibrant and successful retail environment, the office, housing, and cultural facility accomplishments in Downtown cannot be sustained through time, and the plan for Downtown as a twenty-four hour city will not be realized.

Failure to sustain a consistent vision of Downtown San Jose, as articulated in the strategies and policies of the General Plan, will not only keep Downtown San Jose from obtaining a dynamic and viable retail core, but will degrade the quality of retail that currently exists and is struggling to survive. Marginal retailers, including some of the "Mom and Pop" specialty stores which contribute to San Jose's unique community identity, will likely close. Vacancy increases will lead to physical decline, property maintenance decay, and blight.

97-036

impact of 200 rooms on the Redevelopment Agency's ability to achieve an adequate number of hotel rooms to sustain the existing Convention Center as well as the expansion identified in the Council adopted Downtown Strategy Plan 2010 has not been evaluated.

d) "Non-residential building height should not exceed 45 feet except [in certain specified areas, not including the Town and Country Center]." (Urban Design Policy 11, page 56)

This policy is intended to help define the character and livability of the City by controlling form and density of development. The proposed maximum height for the project is 90 feet, 50% greater than the tallest structure at Valley Fair Shopping Center and in excess of the building heights described in the General Plan. This building height will replicate a dense urban environment, such as that envisioned in the General Plan for Downtown. The conflict between the General Plan policy and the project proposal have not been evaluated in the DEIR.

2. Physical Impacts on Downtown due to Economic Competition

The DEIR does not address physical impacts on the Downtown which are potentially significant and result from economic causes. Economic factors are to be considered by public agencies in deciding whether changes in the project are feasible to reduce or avoid significant impacts.*

The doubling of retail development and addition of 1200 residential units and two hotels at the Town and Country Center will take business away from the Downtown. The two projects, Downtown San Jose and Town and Country Village, serve basically the same regional market, and the market cannot support both. Except for very localized service support retail, they have almost the same trade area. For example, the sites are only three miles apart and therefore, have nearly the same ten-mile trade area radius that exists for most regional serving retail. In addition, a broader radius for entertainment retail exists for both sites. The combination of entertainment and retail uses, therefore, expands the trade area overlap.

*In *Citizens Association for Sensible Development v. Inyo (1985)*, the court held that "...an EIR for a proposed shopping center located away from the downtown shopping area must discuss the potential economic and social consequences of the project, if the proposed center would take business away from the downtown and thereby cause business closures and eventual physical deterioration of the downtown."

97-036

likely to reduce or eliminate many, if not all, of the significant land use impacts identified in this memo.

The Agency can support a "Reduced Scale Alternative" project for Town and Country Center. A project comprised of approximately 30,000 square feet of additional retail, without significant entertainment related uses, and up to 600 units of housing would be economically feasible and would not create the impacts on Downtown that are described herein. This "reduced scale alternative" project is consistent with the development program proposed by Federal Realty Investment and Trust as part of the terms of the *Prospective Purchase Agreement Approved Re-development To Occur At Town and Country Shopping Village*, between the State of California, E.P.A., Department of Toxic Substance Control and Federal Realty Investment and Trust, published April 21, 1997.

The Redevelopment Agency staff appreciates the opportunity to comment on this DEIR.

NANCY MADDOX LYTLE
PROGRAM COORDINATOR

This phenomenon occurred when Valley Fair was constructed in the late 1950's. Redevelopment Plan Areas were established to combat the physical decline and blight in Downtown which occurred due to competition from the suburban regional shopping center. Since the establishment of the Redevelopment Agency, the City has been deeply committed to revitalizing Downtown San Jose, most notably through the re-establishment of a strong and vibrant office market, the creation of housing, the creation of critical cultural facilities and the prospective relocation of City Hall. The Agency has to date contributed more than $800 million into Downtown redevelopment and infrastructure. That public expenditure has been coupled with approximately $1 billion in private investment. These efforts and investment are just beginning to pay off in the late 1990's. To the extent that Town and Country Village represents an alternative urban landscape incorporating many elements which are offered and planned for Downtown, particularly entertainment retail and restaraunts, it competes with and is counterproductive to the City's goals for Downtown, threatening further private investment and reversing recent positive economic and physical trends.

A secondary economic concern is that the service support retail component of this proposed project could cause competition and resultant physical decline on Neighborhood Business Districts within overlapping trade areas.

3. <u>Downtown and "Reduced Scale" Project Alternatives</u>

The DEIR does not adequately address alternatives to the project. The text states that there is no alternative site known to the City of San Jose. However, other options are available. The developers have identified in their own presentations how this type of project can be integrated into a developed urban area such as a downtown. Yet, there is no attempt to analyze that alternative.

In order to be consistent with the General Plan, the "Alternatives" section of the DEIR must include a "Downtown Alternative". There are many suitable locations in Downtown for the high density mixed use and hotel projects that the project proponent has presented. While there is no site in Downtown San Jose with the same amount of land, other high density alternatives integrating the project within the existing urban framework are achievable. The Redevelopment Agency staff is unaware of any attempts by the developer or the City to undertake an evaluation of a Downtown alternative. The private development could be further leveraged with public incentives through the use of tax increment financing. This alternative is

Pedestrian and Bicycle Accessibility

Despite the uncertainty of future transit improvements, the Town and Country project site is currently served by bus service and there is the possibility of additional transit service to the site in the future. Therefore pedestrian accessibility is very important. The project should incorporate pedestrian-oriented features providing good access between the various uses and transit. This should include direct, convenient, and safe pedestrian facilities (e.g., a network of interconnected walkways, pathfinder signage, and pavement treatments for safe roadway crossings).

While the project is relatively isolated from designated Santa Clara County Bikeways corridors, the cities of San Jose and Santa Clara should be contacted to determine whether local bicycle routes exist or are planned in the vicinity of the project. This is to ensure that the project design will not prevent future residents and employees from conveniently accessing the site by bicycle and to allow for appropriate connections to planned bicycle facilities on and off the site. The following items should be identified and considered in the Draft EIR:

- VTA publishes the Santa Clara Valley Bikeways map based on information provided by local jurisdictions. The 1995 bikeways map shows city undesignated bicycle routes on Stevens Creek Boulevard and Pruneridge Avenue in the City of Santa Clara in the vicinity of the site.
- The 1997 City of Santa Clara Bicycle Map also includes Winchester Boulevard from Stevens Creek Boulevard to the north as a city undesignated route. (For more information on the City of Santa Clara bicycle network, please contact Chris Fernandez, City Traffic Engineer, at (408) 261-5185).
- The City of San Jose has also identified Winchester Boulevard for various bicycle facilities. In addition, the City of San Jose has been studying the feasibility of a bicycle route or lane on Monroe Street and through the Valley Fair shopping center. Bicycle access from the proposed project to Monroe Street via Redwood Avenue or Hemlock Avenue would provide a convenient link from the project to local bicycle networks. (For more information on the City of San Jose bicycle network, please contact JoAnn Collins, City Bicycle Coordinator, at (408) 277-5345).

Congestion Management Program

South Bascom/Moorpark Intersection

The traffic analysis did not identify the intersection of South Bascom and Moorpark as a Congestion Management Program (CMP) intersection. It is monitored annually by the County of Santa Clara. For the Transportation Impact Analysis (TIA), the intersection will need to be analyzed using the CMP methodology.

Pass-by Trip Reduction

The trip generation estimates for the project appear on page 26 of the traffic analysis. The traffic analysis used a pass-by trip reduction rate of 32% for existing retail uses. Current TIA guidelines allow for a maximum 30% reduction due to pass-by-trips. Please explain how this higher pass-by reduction was calculated for this analysis.

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Trip Reduction for Mixed-Use Development

In order to reflect the internalization of trips within this mixed-use project , the traffic analysis reduced both the shopping center trips as well as the proposed residential dwelling unit trips by 10 %. As a result, the net reduction in residential trips for the PM peak hour should be 59 trips (10%) and the number of PM peak hour retail trips that should be internalized is 59 trips (for a total of 118 PM peak hour trips). However, the traffic analysis assumes 204 internal trips, which is substantially higher than would be expected from the project's proposed 1200 dwelling units. Therefore, we recommend that the trip reduction calculations be reevaluated. It should be noted that the revised draft CMP Guidelines include revisions to the trip reduction factor in order to account for the potential overestimation of internal trips for mixed-use developments.

Thank you for the opportunity to review this project. If you have any questions, please call Roy Molseed of my staff at (408) 321-5784.

Sincerely,

Thomas Rountree
Environmental Program Manager

TDR:RM:kh

cc: Timm Borden, San Jose Public Works Department

97 - 036

February 7, 1998

Ms. Julie Caporgno
Department of Planning
801 First Street Rm 200
San Jose, Ca 95110-1795

Dear Ms. Caporgno,

My family lives at 442 Maplewood Ave. behind the Century Theaters off of Winchester Blvd. We enjoy our quiet neighborhood about ten months out of the year. Unfortunately during November and December it is a busy and often dangerous place to live. Allow me to explain.

When traveling east on Steven's Creek Blvd. from San Tomas Expressway, in these two months, it takes approximately one hour to travel a half mile. This is due to residents coming home from work and shoppers entering Valley Fair Mall. The Century Theaters and various restaurants also add to the terrible traffic.

Just this past December 23 we had a medical emergency with our 5 month old son and could not get out of our neighborhood for 45 minutes. We were lucky that his respiratory distress was not any worse or an ambulance would have been needed and there would not have been any way for emergency services to reach our home. Our baby continues to have asthma like symptoms, I am truly afraid that traffic jams may take his life.

It is amazing to all of us who live in this neighborhood that any more retailers are even being considered in the area. This includes expansion for the malls or theaters. There is every store and service imaginable within a one square mile area.

Retail greed should not be placed over the safety and sanity of residential neighbors.

Thank you for your consideration.

Sincerely,

Daphna Lee

Daphna Lee
442 Maplewood Ave
San Jose, Ca. 95117
(408) 243-8557

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Petition to Slow the "Fast Track" Development of the New Town & Country Village

February 12, 1998

San Jose residents, the San Jose Downtown Association (SJDA) and many other related organizations are currently involved in evaluating the proposed development of a new shopping and residential complex near Valley Fair Mall. The project is planned for the Town and Country shopping center (T&C) at Winchester Blvd and Steven's Creek Blvd.

The proposed development is a privately funded project that will replace the entire T&C Village (250,000 sq. ft. retail) with 650,000 sq. ft. of retail, 1200 housing units and two hotels. It will be designed to look like a historic downtown with retail on the first floor and housing above. The architecture will resemble that of Downtown San Jose buildings dating back to the early 1900s.

This project has been working on a "fast track", with only the minimal amount of analysis and community participation (i.e. public hearings) considered to date. The decision making process needs to be extended to allow the proper analysis to take place on major issues such as:

· **Traffic**: As determined by the Environmental Impact Report (EIR) and by anyone who's driven through that area in a peak hour, traffic will be heavily impacted by such a large project, even with the proposed local improvements. Highway access is not planned to be improved, meaning that the poorly designed access to the area off of 280 N at 880 and 280 S at Winchester will get even worse than it is now, which is rated at the lowest possible service level at peak hour.
· **Downtown retail**: With a proposed regional sized project of this scale and design, there could be a significant impact on the growth of retail in Downtown San Jose if the retail strategy of the new T&C is not developed in conjunction with that of Downtown's. Retail is the only remaining element that keeps our city from being complete. If traffic is not dealt with properly, both T&C and Downtown will suffer as regional gridlock will send shoppers to areas like Los Gatos and Palo Alto.

In order to preserve our investment in Downtown San Jose, we need to pull together and speak up on issues such as this so that the government agencies are aware of the impact not just of big business, but of the residents of San Jose as well.

It appears that there has been insufficient time for the Planning Commission, and for the City Council to evaluate the EIR, possible problems with traffic mitigation, and the combined impact on the neighborhoods, both local to T&C and the downtown. If you believe that a more detailed investigation and analysis of the impacts of the proposed plan should be completed before approvals are rushed through, please sign below. For more information, please contact Rich Sutton (408) 536-6376 or the SJDA at (408) 279-1775.

97 - 036

Name (please print)	Address (optional)	Signature
Rich Sutton	435 N. 2nd ST. #314 San Jose	
Ann Uelik	355, N. MARKET ST. #261, San Jose	Ann C. Uelik
GAUTAM DEWAN	415 N 2nd St #142 SAN JOSE	Gautam Dewan
MICHAEL CAMPLIN	415 N 2ND ST 344 SJ	
[illegible] Colton	415 N 2ND ST 344 S.J.	
Michael Vykukal	430 N 1st St 103 S.J.	

Petition to Slow the "Fast Track" Development of the New Town & Country Village

Name (please print)	Address (optional)	Signature
JESE NUNOZ	427 No 2nd #11	
VIRGINIA THOMAS	415 N. 2ND #445 San Jose 95112	
Suzanne Trocha	410 No. 1st St. #232 95112	
YVES ZELITTY	430 N. 1ST #407 95112	
Michelle Harmon	435 N 2nd #314, SJ 95117	
Troy Ryder	2015 4th St #442, SJ 95112	
JEFF BRADLEY	2244 West Hedding St, SJ 95128	
PATRICIA PEARSON	810 Saratoga Av N101, SJ 95129	
Lawrence T. Paradiso	6520 Timberwood Dr. SJ. 95120	
Renée Schell	435 N Second St. #313 SJ 95112	
Jon Jenkins	435 N. Second St. #343 SJ 95112	
Jeff Starbeck	541 Atlanda Ave SJ 95125	
Jan Mussell	SJ	
Des OATES	#261 VILLA TORINO SJ 95110	
TRACEY OATES	" " " "	
Tom Evans	927 Riverside Dr. San Jose 95125	
Pauline Sorter	37 South First St. 95113	
RAYMOND COLLIVER	2201 The Alameda #15 SC 95050	
Nikki Harmon	2201 The Alameda #15 SC 95050	
Heidi Colliver	2201 The Alameda #15 SC 95050	
Tonia Campbell	520 Railway Av, #383 CAMPBELL CA 95008	
Tina Nguyen T	2316 Shade Tree Ln San Jose, CA 95131	
Richard Sears	2333 Shelley Ave San Jose CA 95124	
MIKE LIN	1860 Elk Grove Landing SJ	
Judie Tiesla	1156 Hovse St. SJ	
Joanna Nelson	4978 Edgar Ct. #3, San José	
Kate Diber	329 N 1st Street San Jose 95110	
JEFF CONNIFF	3989 VISTAMONT DR SAN JOSE 95118	
CHRIS KWOK	6467 APPLEGATE DRIVE SAN JOSE 95119	
LAUREN BUCHHOLZ	232 FRANKLIN ST MTN VIEW 94041	
JANICE SOLIMENO	455 NAVARO WAY #111, SAN JOSE 95134	
Claudia M Lupo	SAN JOSE	
Joe Hernandez	San Jose	
GINA Park		
LeeRoy Pope	3893 Winkle Ave. SC	
Judy Pope	3893 Winkle Ave. Santa Cruz	
Linda Fagan	6281 Grand Oak Way San Jose	
Rowen Bensch	1020 Woodside Ct, San Jose, CA	
GUY ANDERSEN	1795 ELLEN AVE SAN JOSE	
LENNIS HARMON	1926 CRESTMONT DR San Jose CA	
PAUL HOLSTEIN KNECHT	2139 LA MIRADA WAY Campbell	
Steve Harmon	502 S 2nd St Campbell, Ca	
NORINE HARMON	1926 CRESTMONT DR	

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Name (please print)	Address (optional)	Signature
JOHN J BATTIN	144 S. 3rd St. #128	
Tina Golaw	144 S. 3rd St #128	
~~Nancy S. Freeman~~	~~1445. 3rd St #159~~	
NANCY S FREEMAN	1445. 3rd ST #159	
Brenda Sutherland	Mountain View CA	
MICHAEL ABBOTT	Sunnyvale CA	

Petition to Slow the "Fast Track" Development of the New Town & Country Village

Name (please print)	Address (optional)	Signature
RANDY JACK	1931 W. SAN CARLOS ST	
Yohah Ohlson	50 W San Fernando St #AA SJ	
David Lewis	50 W San Fernando St #AA SJ	
Ali Adesokun	50 W San Fernando St. 4th Fl SJ	
Patricia Wenzel	"	
Mikala Caulke	"	
Jenny Tricamo	"	
JOSEPH G. THOMAS	"	
Katie Mercer	201 S FOURTH ST. 4th ST	
Kevin Lizarus	50 W. 3rd ST San Jose, CA 95112	
Felipe Luna		
Catherine Robertson	70 N 2nd St. #3 S.J. Ca. 95112	

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Name (please print)	Address (optional)	Signature
SANDRA KOWALCHIK		Sandra K
KIM CLARK		Kimberly A Clark
RENEE FECTEAU		Renee A. Fecteau
Walter Kirchherr		Walter Kirchherr
Robert Ridgway		Robert Ridgway
Daniel		

Petition to Slow the "Fast Track" Development of the New Town & Country Village

Name (please print)	Address (optional)	Signature
MICHAEL ZELAZNY	435 N 2ND ST #312	Michael Zelazny
Sheila Cumpston	435 N 2nd St #318	Sheila Cumpston
[illegible]	435 N 2ND ST #224	[illegible]

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Name (please print)	Address (optional)	Signature
Richard Cirone	435 N. 2nd #117 95112	
Ken Wood	435 N. 2nd # 316 95112	
JUDY STABILE	430 N 1st # 307	
Nicholas J. DeWin	435 N. 2nd. #113	
DAVID A. YBARRA	435 N 2ND St. #222	
JIM McFARLAND	435 N 2nd # 225	

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Name (please print)	Address (optional)	Signature
PASQUALE D'EPIRO	Paseo Plaza	Pasquale D'Epiro
Alma D'Epiro	Paseo Plaza	Alma D'Epiro
Russ Kraft	" "	R M Kraft
MARY BENSON	" "	Mary E. Benson
LEANDRO REIS	Fruitdale Ave	
Kathleen Lee		Kathleen Lee

97 - 036

February 23, 1998

Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San Jose, CA 95110-1795
ATTN: Julie Caporgno
RE: PDCSH 97-06-036 Town and Country
File H97-02-012 Valley Fair

Dear Planning Department:

I have lived in a house near Century Theaters and Town and Country and Valley Fair for over fifteen years. In addition, my parents formerly owned this house so I have been familiar with this area for my entire life. Traffic and congestion over the last years have become unbearable! The fact that the City can claim that further development will not create an impact is outrageous and irresponsible!

This letter is addressed primarily to the Town and Country development but is also relevant to the Valley Fair Project of which I did not receive advance notice of the Draft EIR and was unable to make comments..

I have reviewed the Draft EIR (PDCSH 97-06-036) and have found several omissions.

1- In the area of Traffic, the EIR focus is on peak a.m. and p.m. traffic. This report fails to address the fact that all of Valley Fair, Town and Country and Century Theaters are closed during the a.m. traffic rush. No wonder there is not a significant effect on morning traffic. Traffic during peak times for these business is not addressed.
2- Traffic in the area is not representative of a fully developed Town and Country center. This center as it currently exists is just a parking lot for Century Theaters and Valley Fair. Nowhere does the EIR address insufficient parking for the existing development in the area.
3- Within this already congested corner of San Jose there are two developments, Valley Fair and Town and Country competing for approval. How does the EIR address possible approval of both of these projects. In addition, a few years ago Century Theaters also petitioned for an expansion.
4- The EIR states that this development will provide for retail space and a quality living environment. How can this new housing be of high quality when special construction must be undertaken to mitigate unacceptable noise levels for residents? In addition, how can we allow increased noise to an unacceptable level for existing residents.

5- The EIR states that traffic created by this new development would not exceed that generated by the existing car dealership. This statement makes no sense at all. How could 285,00 sq. ft of retail space, 1,200 residences and two 100 room hotels generate equal traffic to one car dealership?
6- The EIR acknowledges that there is a shortage of parks and recreation in the area. This development will only make this shortage more acute. How about just adding housing and a park. This sounds much more like high quality housing to me.
7- The EIR states that it has no control over traffic effects in the city of Santa Clara. However, this must be addressed. What does the City of Santa Clara have to say regarding this proposed development?
8- The EIR states that an additional lane at Monroe will reduce the back-up in this area. I do not think that this will be sufficient give the other traffic problems in the area.

In addition, several factors effecting the area were not discussed in the EIR. I would like to bring them to the attention of the City.

1- Since the remodeling at Valley Fair, parking and access have been inadequate. This is true every weekend and not just on holidays. Cars headed into Valley Fair block the right hand exit lane from South Hwy 880 impeding the flow of traffic onto Stevens Creek Blvd.
2- Traffic headed for Valley Fair and Century Theaters from Hwy 280 backs up and impedes access to Northbound Hwy 880. Traffic backed up on Hwy 280 is exceptionally dangerous. You are sitting at a dead stop on the freeway with traffic moving at full speed on both sides! People bail out of this stoppage and cut out into moving traffic. It is a disaster. This doesn't just happen around Christmas. It happens all the time.
3- Parking at Valley Fair is inadequate. Why do you think Bank of America has parking guards in their lot? Also there is store specific restricted parking everywhere. Is it any wonder they have Valet Parking on Fridays, Saturday and Sundays. Who in their right mind would pay $4.00 for one hour parking plus $1.00 for each additional hour in a free lot unless they had to. Someone must be paying or Valley Fair would not offer this service. During Christmas time many people park at Town and Country (even though they are not supposed to) because there is no parking at Valley Fair. I would like to know how a business can only provide sufficient parking for the hours when it is least busy.
4- Access to Hwy 880/17 and 280 around Monroe is insane! This log jam backs up to past Town and Country in the evening and throughout the day. Both Century Theaters and Valley Fair are to blame for this mess. In addition, let's not forget that Stevens Creek Blvd is a major commuter route.
5- Access and parking at Century Theaters is inadequate. Traffic backs up in the turn lane at Olsen to past Moorpark. In addition this jam extends down Moorpark and on to Hwy 880. Century further compounds this problem by narrow driveways into their lot. Regardless of all the signs prohibiting parking in Town and Country this occurs all the time. In addition, every weekend there are cars parked in the "No Parking At Any Time" areas on Olin Ave. These parked cars block cars exiting the area. Cars also park on the ends of the rows in Century's

lots blocking Fire Lane access. People also park in the "Permit Parking Only" areas regularly in spite of the $50.00 fine. Resident only parking seems to be the only enforcement in this area as the residents call in violators. I have never seen a ticket on any of the other cars in violation of parking regulation in spite of the high percentage of Police officers that enjoy their meals at the Flames Restaurant. I welcome you to come and observe all the violations. People are even parking on Hanson off of Stevens Creek and walking to the theaters.

6- Century Theaters refuses to address the parking problem and schedules movie times that only compound the congestion. In order to decrease congestion and make more parking available, times between movie showings needs to be increased. Otherwise, you have two theaters worth of people trying to park. In my opinion the City's regulations regulating only the number of parking places per theater seat are inadequate. This problem increased dramatically when Century split their theaters and added more showings. Again, just like for Valley Fair, how can a buisness only provide sufficient parking for it's least busiest times.

7- Moving vehicle violations are rampant in this area. Blocked intersections and red light running occur regularly at Olsen and Winchester; Moorpark and Winchester; Winchester and Stevens Creek; and Winchester and Monroe.

Please consider the massive traffic issues already present in this area and the under representation by the EIR of future traffic impact and deny this petition for development. This area is unsuitable for further development at both Town and Country and Valley Fair.

Sincerely,

Lucille Williams

Lucille J. Williams
374 Spar Ave.
San Jose, CA 95117

97-036

P.O. Box 26411
San Jose, CA 95159-6411
February 23, 1998

Ms. Julie Caporgno
Department of Planning, Building and Code Enforcement
801 North First St.
San Jose, CA 95110-1795

Dear Ms. Caporgno:

This letter is being written to address the Town and Country Draft Environmental Impact Report (DEIR). Following is a list of concerns.

1. The intesection at Stevens Creek Blvd. and Cypress Ave. was not included in the traffic analysis. If the intersection at Stevens Creek and Bellerose was included in the analysis, the intersection at Cypress and Stevens Creek should have been included, because both intesections are approximately the same distance from Town and Country. The Cypress intersection is affected by the traffic on Stevens Creek, especially during holiday shopping and major sales.

2. The traffic analysis does not take into account the homes that were recently constructed on S. Monroe St., south of Stevens Creek Blvd. The additional traffic from that complex must be considered in the final draft.

3. The count date for the PM peak period at the I-880/Stevens Creek was 10/96. The count occurred over one year ago. To date, there is rarely an afternoon during which the intersection clears in one cycle. That intersection needs to be re-evaluated.

4. The southbound on-ramp to I-880 should be widened to two lanes prior to construction of the project.

5. The number of parking spaces varies with each area. In Area 1, the number of spaces ranges from 1200 to 2225, whereas in Area 2 the range is from 960 to 2038. The report should have definite numbers for the parking spaces. The lower range does not accommadate the increased demands for parking.

6. If there are to be 1200 residences, where is the open space for a playground or park?

7. The fire station that serves the area is on S. Monroe St.. With the increase of traffic, there will likely be an increase in the length of time it will take emergency services to respond. This is unacceptable.

8. The increase of traffic may affect the length of time it takes a person to drive to the emergency room at either O'Connor Hospital or Valley Medical Center.

9. The report mentions the bus routes nearby on Stevens Creek Blvd., but currently no routes serve Stevens Creek Blvd. between I-880 and Winchester Blvd.

The area is not appropriate for high density housing and another shopping center is not needed. The streets and freeways will not accomodate the increased traffic associated with the project. There is already too much traffic in the area. Town and Country Village should not be redeveloped as currently planned.

Respectfully submitted,

Ann Reid

Ann Reid

97-036

February 24, 1998

Department of Planning,
Building and Code Enforcement
801 North First Street, Room 400
San Jose, CA 95110

Re: Town and Country Village Draft Environmental Impact Report

This letter is in regards to the Town and Country Village Draft Environmental Impact Report. This proposal, with structures up to 100 feet in height, 1200 residential units, 650,000 square feet of commercial, two 100-room hotels, numerous parking structures, and all on only 39 acres, is a very massive and dense development for this neighborhood, in addition to the proposed major expansion of Valley Fair. The Draft Environmental Impact Report offers vague and inadequate information about the development, a proposal that will have major significant environmental effects on the surrounding area and the single-family neighborhood adjacent to the east.

The proposal by itself represents piecemealing, in addition to not taking into consideration the proposed expansion of the Valley Fair Shopping, transportation issues especially light rail - construction, streetscape, impact on automobile traffic, and linkage of development's construction with installation of Light Rail facilities, etc. This is in direct conflict with the California Environmental Quality Act. What are the short-term and long-term effects of these regional projects? What significant environmental impacts will happen with these current proposals, and what foreseeable impacts will they have on the future of this neighborhood and future developments? Piecemealing will not address these significant CEQA issues.

To comply with the intent of CEQA, that is avoiding piecemealing, both regional proposals, Valley Fair Expansion and Town & Country Village redevelopment, should be placed on hold until an Area Specific Plan is completed. This area is entitled to as much attention, study and public funding, as downtown and other areas in the City have received, and most of all this neighborhood is entitled to a quality in-fill project. The planning process(Planned Development) and the Draft Environmental Impact Report are inadequate to fully address these major issues which affect the surrounding neighborhood and region. We must take the time to develop an exemplary Area Specific Plan and bring together representatives from the City of San Jose, City of Santa Clara, Valley Transportation Authority, Valley Fair Shopping Center, Town & Country Village, and neighborhood residents who will be the ones most severely impacted, and on a daily basis. Additionally, we think the existing Courtesy Chevrolet automobile dealership at the corner of Stevens Creek Boulevard and Winchester Boulevard should remain and not be a part of this development. The Courtesy Chevrolet auto dealership provides jobs, tax revenue for the City, jobs/housing balance and provides an important service to the community.

This proposal represents a full build-out, full intensification, at the neglect and expense of adversely impacting the surrounding neighborhood. What is needed is a quality in-fill development with an appropriately reduced level of intensification which could be just a commercial development or a mixed use commercial/residential, but one that results in a reasonable and sensitive development with the highest exemplary site design, architecture and streetscape, with a proper and respectful single-family interface, that resolves transportation and traffic issues, jobs/housing issues, inadequate park facilities, etc. The Draft Environmental Impact Report does not adequately address these issues.

1. The General Plan designation for the Town & Country Village and the Courtesy Chevrolet auto dealership is Regional Commercial and Intensification Corridor. Also, the draft document proposes to use Discretionary Alternate Use Policy, Residential Uses on Commercially Designated Parcels which would allow residential uses from a range from 12 up to a maximum 40 dwelling units per acre. This Discretionary Alternate Use Policy permits a mixed use commercial/residential development if it is located on a major thoroughfare and if the development: takes access from the major thoroughfare: and is of a size and design which would be located in a non-residential environment.

The existing Town & Country Village takes access only from Stevens Creek Boulevard and Winchester Boulevard, both major thoroughfares. But the proposed development has expanded new access from Hemlock Avenue and Dudley Avenue, both minor streets serving existing residential uses. Also, the area to the east of the Town & Country Village is an existing single-family neighborhood. Therefore, as the proposal does not meet the requirements of the Discretionary Alternate Use Policy, Residential Uses on Commercially Designated Parcels, the development is inconsistent with the General Plan.

The Intensification Corridor designation under Development Parameters states that development should consider potential effects of intensification on existing neighborhoods and adjacent uses and that the level of intensification may need to be limited to avoid inappropriate impacts on adjacent uses. Development adjacent to single-family neighborhoods should maintain appropriate height, setback and use characteristics to maintain the character of the residential neighborhood. Densities above 25 dwelling units per acre and buildings higher than two stories may be inappropriate in certain circumstances.

The area to east of Town & Country Village is a predominantly single-family neighborhood with one and two story structures. The development proposal allows along the easterly portion of the site fronting on Hemlock Avenue two massive structures, the first a 50 feet high maximum building structure with three stories approximately 180 by 770 foot in size, and the other structure 70 feet in height and five stories with two floors of parking and three story residential above. This is an inappropriate interface with the one and two story single-family structures immediately adjacent to the Town & Country Village. The development proposal is out of scale and character with the residential neighborhood and is inconsistent with the General Plan.

The General Plan has designated five areas throughout San Jose as Intensification Corridors. Under the Background for Planning section of the General Plan, the Preferred Alternative allows for 52,900 new housing units to be built in the city by the year 2020. The breakdown of this figure by location shows that a total of 6,600 housing units are to be constructed in the designated Intensification Corridors. If you divide 6,600 by 5 the result is 1,320 units per each designated Intensification Corridor area.

The development proposal contains 1,200 dwelling units, which when combined with the current Intensification Corridor development of 300 dwelling units at Stevens Creek Boulevard and Freeway 280, the total is 1500 dwelling units. These 1,500 units represent 23% of the total 6,600 units called for in the General Plan for all the Intensification Corridor areas. The development proposal is inconsistent with the General Plan and significantly impacts the jobs/housing balance.

What is the distribution of the total 6,600 units allowed by the General Plan, for each of the Intensification Corridors areas? Within each Intensification Corridor area how are allowed units dispersed and what should be the timing for construction of these units? How many Intensification Corridor area units have already been built, are in the planning process now and what is the breakdown

by each Intensification Corridor area? What are the cumulative effects? Will the City exceed the allowable number of units before the year 2020? If yes, will this further strain the City's financial health and ability to provide basic services to its residents? Will this be inconsistent with the Goals and Policies of the General Plan?

2. The General Plan in discussing transportation issues concerning Intensification Corridor developments states that the planning and development of substantial intensification areas will have to be coordinated with the planning, budgeting, and development of new Light Rail Transportation facilities as well as any other transportation facilities required for mitigation of a development. As Town & Country Village and Valley Fair are regional developments , they would be consistent and representative of substantial intensification development. Have these developments been coordinated with the planning, budgeting, and development of new Light Rail Transportation facilities? The Town and Country Village Draft Environmental Impact Report provides no in depth review and analysis of these issues as required by the General Plan.

What are the environmental impacts, including cumulative impacts, regarding these transportation issues? In what manner and way will Light Rail Transportation facilities impact this area and region? Will Light Rail impact automobile movements within this region? Will Light Rail further lower the Level of Service for traffic at the critical intersections in this area, especially Winchester Boulevard & Stevens Creek and Stevens Creek and Freeway 880/17? What are the short and long term impacts?

How will Light Rail Transportation facilities impact the streetscape of Stevens Creek Boulevard and intersecting streets? Will additional right-of-way need to be dedicated to accommodate the Light Rail facilities as well as automobile traffic, and to maintain an acceptable Level of Service? How will the Light Rail facilities relate to the public bus system and facilities? Will right-of way dedication be needed to accommodate adequate bus facilities in this congested area? What did the traffic analysis show when Valley Fair was redeveloped in the late 1980s? What were the impacts then and how does it relate to the cumulative impacts on traffic congestion in this area now and relating to the proposed development at Town & Country Village and Valley Fair?

The proposal is going to significantly impact the adjacent single-family neighborhood to the east, especially on Hemlock Avenue. Currently, Town & Country Village has no access on to Hemlock Avenue, a narrow residential street, and the operation of the shopping therefore does not impact the residential neighborhood.

But the current proposal calls for access not only onto Hemlock Avenue, but also Dudley Avenue. This is a significant impact, to allow mixed use developments to take direct access off residential streets. It is not acceptable to allow over 2,000 daily mixed use development trips onto Hemlock Avenue, a narrow minor residential street. This new development must stand on its own and not degrade the existing residential neighborhood. The General Plan requires that residential neighborhoods be protected from commercial mixed use developments and that such developments take their access directly from major thoroughfares, which the existing Town & Country Village does.

The Town and Country Village Draft Environmental Impact Report should be revised to show no automobile traffic access off of Hemlock Avenue and Dudley Avenue. In fact, the Section of the Draft Environmental Impact Report addressing traffic indicates that the development proposal could accommodate all traffic generated by this development on major thoroughfares of Winchester Boulevard and Stevens Creek Boulevard.

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The Town and Country Village Draft Environmental Impact Report should be revised to show several alternatives to the proposed on-site traffic circulation layout. One alternative could show a perimeter loop circulation pattern with concentrated development within the loop and scaled down development along the public streets and property lines. A loop system would allow amore fluid traffic flow on the site.

Will this project have the parking problem that Valley Fair currently has, with cars driving 20 to 30 minutes to find a parking space on the weekends and some weekdays? How many parking stalls will this proposal provide and will it be enough? What is the cumulative effect of this parking issue?

3. The Town and Country Village Draft Environmental Impact Report should provide more detail on the urban design and residential interface of the development. There are 15 separate building pads shown on the site plan, all rectangular in shape and packed on the site, with structures up to 100 feet in height. The development is laid out like a mini-storage warehouse with alley ways that dead end into one another. This is not an award winning urban design. The Draft Environmental Impact Report should be revised to show a project that reflects good urban design, has a sense of place, pedestrians plazas, open space, usable landscaped areas, etc.

The Draft Environmental Impact Report should show a computer generated three-dimensional model of this entire development and the surrounding neighborhood. The model should show architecture, building volumes and shapes, landscaping, roadways, parking structures, etc. Additionally, a computer simulated model should be made available to the public to use, to see what this project is actually going to look like, and it could even be posted on the world wide web to encourage citizen input.

The General Plan under Urban Design Policies states that proposed structures adjacent to existing residential areas should be architecturally designed and sited to protect the privacy of the existing residences.

The Draft Environmental Impact Report should be revised to show an appropriate residential interface with the existing single-family residential neighborhood immediately adjacent to the east by reducing the allowed density and limiting the height of structures along the easterly property line to two stories.. The plans should be revised to show the existing pattern of single-family residential development on the south side of Hemlock Avenue adjacent to the proposed development, continued easterly along the Hemlock Avenue frontage of the Town & Country property to the West side of Redwood Avenue.

The development should be revised to reflect existing building setbacks from public streets in the area. The Draft Environmental Impact Report should indicate street setbacks for existing developments in the area.

The portion of the development directly across from the Winchester House, a historic landmark structure, should reflect the architectural character and design of this important landmark, as called for in the City's General Plan.

The General Plan indicates that the average household size is currently 3.08 Persons Per Household and may increase in the future but will not decrease by the year 2020. City Policy calls for 3.5 acres of park facilities per 1,000 population. The development proposal at 1,200 units times 3.08 Persons Per Household will have a population of 3,696. Factor in 3.5 acres of park land per 1,000 population and

this development needs to provide 12.9 acres of land. The Draft Environmental Impact Report should be revised to reflect the 12.9 acre figure.

Additionally, the development should be revised to provide open park space on its site, such as retaining the existing tennis club facility, dedicating a portion of the site for public park purposes, creating open space, plazas, etc. Paying the Park Impact Fee alone is not sufficient mitigation and inconsistent with the Park Policies of the General Plan. This area is deficient in park space. What is the cumulative effect of this development and other Intensification Corridor developments on the level of park facilities in this area?

In summary this development does not conform with the General Plan's, Urban Design Goals and Policies, Major Strategies and Economic Development Sections, and should not be approved.

Signature	Address
CONTACT PERSON → Lloyd T. Tabuy	2800 Hemlock Ave. SJ. 95128
	2816 HEMLOCK AVE
James Ahn	664 Villa Centre Way
	676 VILLA CENTRE WAY
	672 Villa Centre Way
Stephen Jeffman	2884 HEMLOCK AVE
	2888 Hemlock Ave
Michael & Kay Ard	2820 Hemlock Ave
Jacqueline N. Adler	2824 Hemlock Ave
Dennis Wan	2832 Hemlock Ave
	652 VILLA CENTRE WAY
	2892 Hemlock Ave

cc: Mayor
City Council

97-036

Signature	Address
	2836 HEMLOCK AVE S.J. 95128
	2848 Hemlock Ave SJ 95128
	2856 Hemlock Ave SJ 95128
	2868 Hemlock Ave SJ 95128
	2865 HEMLOCK AVE, SJ. 95128
	2872 HEMLOCK AVE. CA, 95128
	2872 Hemlock Ave, SJ CA 95128
	2860 Hemlock Ave S.J CA 95128
	2864 Hemlock Ave
saeid Mohaghegh	608 Villa Centre Way - SJ CA 95128
	620 Villa Centre Wy
	620 Villa Centre Way
	624 VILLA CENTRE WAY 95128
	624 VILLA CENTRE WAY
	632 VILLA CENTRE WAY
	640 Villa Centre Way
	640 Villa Centre Way
	668 Villa Centre Way
	629 Villa Centre Way

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BERLINER • COHEN

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

TEN ALMADEN BOULEVARD
ELEVENTH FLOOR
SAN JOSE, CALIFORNIA 95113-2233
FACSIMILE: (408) 998-5388
TELEPHONE: (408) 286-5800

SANFORD A. BERLINER*
ANDREW L. FABER
WILLIAM J. GOINES*
ROBERT W. HUMPHREYS
RALPH J. SWANSON
PEGGY L. SPRINGGAY
JOSEPH E. DWORAK
SAMUEL L. FARB

ALAN J. PINNER
FRANK R. UBHAUS
LINDA A. CALLON
ROBERTA S. HAYASHI
JAMES P. CASHMAN
STEVEN J. CASAD
NANCY J. JOHNSON
JEROLD A. REITON

ROBERT L. CHORTEK
JONATHAN D. WOLF
KATHLEEN K. SIPLE
THOMAS P. MURPHY
BRUCE W. GALLOWAY
TAMARA J. GABEL
WILLIAM E. ADAMS
SHARON KIRSCH

MARK V. ISOLA
LISA C. ALVAREZ
RONALD J. SCHOLAR
GREGORY R. WILSON
SCOTT C. SMITH
MATTHEW P. DUDMAN
JASON A. SILLS
JOHN F. DOMINGUE
SHARON DENNIS

*A Professional Corporation

RETIRED
SAMUEL J. COHEN*

OF COUNSEL
HUGH L. ISOLA*
KEVIN F. KELLEY

February 24, 1998

Julie Caporgno
Department of Planning, Building and Code Enforcement
801 North First Street
San Jose, Ca 95110

Re: Town and Country Draft EIR

Dear Ms. Caporgno:

On behalf of the applicant, Federal Realty Investment Trust San Jose Town & Country Village, we submit the following comments on the draft EIR in the order in which the topics are discussed:

1. Description of the Project - Transfer of density within the Project

In addition to the description of the Project in its entirety, the Project is divided into six areas, each stating a range of potential development expressed in square footage for commercial/retail development and dwelling units for residential development. It is the intent of the owner that the Planned Development Zoning will allow for transfer of density from one area to another as the project evolves through the Planned Development Permit process provided that Area 3 shall remain residential, and that the maximum density described for the entire project is not exceeded.

2. Noise - Standard for interior of commercial buildings

The draft EIR discloses that certain commercial uses adjacent to Stevens Creek and Winchester will be subject to traffic noise from those major arterials and recommends mitigation in the form of interior decibel control to a maximum of 45dB (page 75). However, Title 24, Part 2 of the State Building Code only requires this performance standard for the proposed hotels and multi-family dwelling units. While the City of San Jose has set goals in the General Plan for noise limits, the General Plan itself acknowledges that certain limits are unattainable. A commercial interior performance standard for this Project other than for the hotels is not

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warranted, particularly as the noise is not generated by the Project itself. The mitigation should clearly state that the 45dB interior noise level is only a guideline, and that the Project is not required to insulate to that level.

3. Mitigation for Cumulative Impacts - Burrowing Owl

The draft EIR, in the Project-specific impacts section, states that development of the 4.5 acres of currently vacant property will not result in a significant loss of wildlife habitat (page 85). That acreage is weedy ground adjoining the new Citation houses and bordered by paved surfaces and buildings, described in Appendix E as "a highly disturbed habitat strongly influenced by human industrial activities." In addition, it is acknowledged that the State considers a minimum of 6.5 acres necessary as habitat for one burrowing owl, and that burrowing owls once seen on site are were inhabiting the paved areas of the shopping center itself. Yet loss of this unsuitable land is included in the discussion of cumulative impacts, with comments that the City could require the applicant to pay some kind of impact fee (page 117).

Not only does this land not qualify as suitable burrowing owl habitat, but as disclosed in the cumulative analysis, there is no established program governing habitat impact fees or funds. State statutes and case law require establishment of a program and implementing ordinances based on studies providing the data necessary to establish a nexus between a project and the fee or dedication sought. To our knowledge, the City has not conducted such studies nor adopted ordinances to establish fees or funds. Accordingly, the reference in the fourth and fifth full paragraphs on page 117 to the possibility of the City's requiring a contribution to a non-existent mitigation fund should be deleted in its entirety.

We respectfully request that the City revise the draft EIR to state that the vacant 4.5 acres are unsuitable burrowing owl habitat, and that therefore no cumulative significant effect results from the development of this acreage. If not, the City should revise the discussion to delete a reference to requiring this applicant to pay a mitigation fee for the reasons set forth above.

Thank you very much for your consideration of these comments. Please call me with any questions, and notify me when responses are available.

Very truly yours,

BERLINER COHEN

Linda Callon

LINDA A. CALLON
E-Mail: lac@berliner.com

LAC:lac

cc: John Richman, Federal Realty San Jose Town and Country Village

97-036

SAN JOSE DOWNTOWN ASSOCIATION

28 N FIRST ST
SUITE 1000
SAN JOSE, CA 95113
TEL 408-279-1775
FAX 408-279-1904

February 25, 1998

Chairman Brian Grayson and Members of the Planning Commission
City of San Jose
801 North First Street, Room 400
San Jose, CA 95110

Dear Chairman Grayson and members of the Commission,

The San Jose Downtown Association believes that the Draft EIR for the Town and Country Village project is incomplete because it fails to address important information needed for informed decision making. Our specific concerns are listed below:

I. Analysis on local streets impact is inadequate

1. Six fewer intersections were analyzed for the T&C EIR than for the Valley Fair EIR. The T&C project will generate three times the additional traffic as the Valley Fair expansion. At least the intersections analyzed for Valley Fair should be analyzed for T&C.

2. The traffic generation reports were done based on formulas from the Institute of Transportation Engineers *Trip Generation*, 1991. There is a 1997 edition of the same publication which was not used, which may change some EIR conclusions.

3. The trip generation numbers based on the retail/commercial element of the proposed plan are inadequate. The base-line used to determine *additional* trips expected from the T&C commercial expansion was not the current traffic generated by an under performing center, but instead the base-line for a robust 285,000 sf of retail/commercial. If the current conditions are used as the base-line, the additional trips increase by 5,040 more per day than stated in the EIR. That would raise the additional trip generation to as many as 19,560 trips daily instead of the 14,520 additional daily trips estimated in the EIR. (See projections in the attached Abrams Associates report) This is a 26 percent increase in daily trips, with a corresponding increased impact on all intersections, on-ramps, mitigations, etc.

4. The EIR does not estimate the use of public transit expected from the project or the impact of additional congestion on the bus routes which use the affected traffic corridors. The EIR does not identify the percentage of employees and customers anticipated to use public transit; employer-provided shuttles, etc. The use of public transit including bus stop locations, bus route timing, etc., needs to be integrated in the project.

5. The EIR does not address bicycle use for customers or employees of the project, or how the project will impact the area's existing bicycle access.

6. The EIR is inadequate in addressing emergency vehicle (police, fire, medical) access, especially the impacts to San Jose Fire Station 10 and O'Connor Hospital.

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II. Analysis is needed on impacts on Forest Avenue

1. Although this traffic analysis was done for the Valley Fair expansion project, no analysis was done for the Town and Country project. Of the 20,000 new trips generated by the combined projects, three quarters will be generated by the Town and Country project. As one of only three streets in the vicinity of the combined projects which allows access from the East across the 880-17 Freeway, there is likely to be a significant impact on Forest Avenue. Drivers, especially local residents and the residents of the proposed project, will look for an alternative to the congestion on Stevens Creek Blvd., Winchester Blvd. and the local freeways. Taylor/Forest is likely to become the reliever road from the Downtown vicinity and points North and East.

2. The EIR needs to analyze the intersections of Forest/Winchester, Forest/Redwood, and especially Forest/Monroe, since Monroe offers an alternative to Winchester for traveling Southbound to the project and the proposed housing.

3. As stated above, local residents are expected to take 'side roads' to their homes to avoid the Winchester/Stevens Creek/I-280/I-880 'weave' congestion. This will not only impact Forest, as stated above, but also Moorpark. Additional analysis on all Moorpark intersections between Bascom and Winchester is needed.

III. Additional information is needed on proposed mitigations

1. There is no information in the EIR giving the timing for the completion of the proposed traffic mitigation. There is also no information on whether any of these same improvements are required for the Valley Fair expansion or whether the financial responsibility is solely with the proposed T&C development. Since many of these mitigations are extensive and require acquisition of private land, there should be a listing of project costs and funding and a study of their feasibility. There is especially a problem with the mitigation proposed at Stevens Creek Blvd. and Monroe Street, just west of the I 880 ramps.

2. The EIR does not define the project's uses in specifics that allow identification of appropriate traffic impacts and mitigations. The number of movie theater seats; number of bedrooms in the 1200 housing units; type and configuration of destination retail (i.e., nightclubs) could all have separate and cumulative impacts inadequately addressed in the EIR. For instance, more intensive movie uses could further impact Winchester Boulevard and the adjacent Century Theaters; large numbers of market rate multi-bedroom housing units will have a different traffic impact than single bedroom affordable units, etc.

IV. Additional information is needed on freeway impacts

1. The analysis of impacts on freeway ramps does not include seasonal impacts. During the Christmas season, stopped traffic backs up onto freeway thru-lanes from two of the ramps in the analysis. Although this is the "worst case scenario", it has safety implications which should be quantified in the EIR for informed decision making.

2. The EIR points out how the freeway system will be affected by this project, but then possible solutions are dismissed as not feasible. LOS F problems are raised but are not discussed and no possible mitigations are presented. The EIR also needs to discuss the impact of the inevitable diversion of bottlenecked freeway traffic onto adjacent arterial and residential streets.

V. Additional information is needed on parking impacts

1. This project will have a significant impact on the overall parking conditions in the area. The EIR should describe the projected demand and the amount of parking to be provided, and whether this meets the City code. The problem of the potential for an overflow of parking beyond the project boundaries is a real one and could affect nearby residential neighborhoods.

2. The EIR does not identify the number of parking structures proposed. Are there eight garages for the entire project? Which ones are dedicated to retail and which to residential? What is the phasing plan for the project and the timing of parking improvements related to the project's development phasing?

3. The parking problem could be compounded by parking demand at the expanded Valley Fair project. Although a shuttle between the two projects has been discussed, it is not mentioned in the EIR.

VI. Finally, the analysis of alternatives is incomplete

1. Project Objective #2 states: "Maximize the opportunities for people to live, work, shop and be entertained at proximate locations that *reduce regional traffic congestion*". The proposed project does not meet that objective. An alternative should be proposed and analyzed which is intended specifically to reduce the significant PM peak-hour impacts to the freeway system. It is possible that the peak-hour impacts could be lessened by a different mix of elements, such as adjustment to the amount and type of destination retail development, hotel rooms, and housing units to better match the number of units to the number of jobs generated by the project. The EIR is not complete until a viable alternative is identified which meets the objectives and reduces the unacceptable traffic impacts.

2. Only a much reduced housing/retail alternative and an across the board/equal reduction of all the elements has been considered. However, reducing the different elements of the project by different percentages, or eliminating some proposed uses, may give effective solutions to the traffic bottlenecks without hampering the sound mixed-use concept which internalizes traffic and gives a sense of community.

Conclusion: For the reasons stated above, we request that the Planning Commission find the EIR incomplete.

Sincerely,

Malcolm Bordelon
President

cc: Mayor Susan Hammer
Councilman Frank Fiscalini
Jim Derryberry
Larry Wallerstein
Judy Stabile
Scott Knies

97 - 036

Abrams Associates
Transportation • Traffic • Engineering • Planning

February 23, 1998

Mr. Scott Knies
San Jose Downtown Association
28 N. First Street, Suite 1000
San Jose, CA 95113

Re: Draft EIR for the Town & Country Village Development: Review of Traffic and Transportation Impacts

Dear Mr. Knies:

We have reviewed the Draft EIR for the Town & Country Village development on Stevens Creek Boulevard at Winchester Boulevard that was prepared in January, 1998 by David J. Powers & Associates, Inc. The proposed project is new shopping center of 600,000 sq ft, 1,200 units of housing, and two 100 room hotels. We have a number of comments, questions and concerns about this Draft EIR that should be transmitted to the City of San Jose.

1.) Adequacy of Trip Generation Rates - We believe that the trip rates used in this analysis for the shopping center understate the trip generation difference between the existing conditions and the proposed new center. The existing Town & Country Village has never been a large traffic generator, and we believe it's trip generation is quite a bit less than the ITE averages would suggest. The EIR calculations of the trip rates should have been based on the actual conditions and current traffic counts at Town & Country Village rather than the ITE estimates. If this were the case, we believe the existing center would generate only about 8,550 vehicle trips per day, not 13,680 as was used in the Draft EIR. The net difference in new daily trips would then be 11,000, not 6,000 as was used in the EIR. The peak hour traffic volumes would also be dramatically increased. Carrying this analysis forward would result in revised trip generation estimates for the total project. An estimate of this revised trip generation is shown on the following page.

If the existing trip generation of Town & Country Village were used, the project would be shown to generate considerably more trips than were indicated in the EIR. The peak hour Levels of Service, the volume-to-capacity ratios, and the amount of intersection delay would also all be considerably greater than was shown in the Draft EIR. We believe that the traffic analysis should be revised to reflect these changes, and we also believe that with this change the mitigation measures outlined in the EIR would be shown to be insufficient to satisfy the project impacts.

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Draft EIR Table 12 (revised)
Trip Generation Estimates for Town & Country Shopping Center

Project Description	Size	Daily Rate	Daily Trips	In	Out	Total	In	Out	Total
Proposed Center	600 ksf	36.4	19,656	265	156	421	663	663	1,326
Existing T&C Village	285 ksf	30.0	8,550	126	74	200	291	291	582
Added Trips from New Shopping Center			11,106	139	82	221	372	372	744
Residential Units	1,200 unit	6.3	6,804	114	361	475	339	191	529
Hotels	200 ksf	8.7	1,740	80	54	134	82	70	152
Net Added Trips			19,560	333	497	830	793	633	1,425

In addition to the above comments, we would also suggest that the trip rates for this project be taken from the most up-to-date information available. In this regard, the latest information is contained in Trip Generation - An Informational Report, 6th Edition, Institute of Transportation Engineers, Washington, D. C., 1997. This became available during the preparation of the EIR, and is the most up-to-date, reliable source for land use trip generation information.

2.) Lack of Discussion of Parking Impacts. This project will have a significant impact on the overall parking conditions in this area, and this is an issue which an EIR for a project of this magnitude should investigate in detail. The EIR should describe the amount of parking to be provided, and whether this meets the City zoning code. The problem of the potential for an overflow of parking beyond the project boundaries is a real one. Nearby residential neighborhoods to the east and the south are quite likely to be affected by this project. Parking overflow and interaction with the Winchester Mystery House and the movie theater complex to the west could also be affected.

As with trip generation, this center has been a below average performer in terms of parking, and the amount of on-site parking has never been an issue in the past. However, with the proposed changes and a revitalized 600,000 square foot shopping center, we would question whether an adequate amount of parking is being provided. It is quite likely that mitigation measures such as additional on-site parking, management of parking between the various uses, residential permit parking controls, and other techniques will be necessary to mitigate this impact. This type of analysis should be added to the EIR.

3.) Adequacy of Roadway Mitigation Measures. We believe that this is especially a problem at the intersection of Stevens Creek Boulevard and Monroe Street, to the west of the I-880 ramps. There are a number of questions and concerns that should be addressed in the EIR. For example, are these mitigations feasible? How much right-of-way is required and is it available? Can the traffic engineering designs be implemented? What does the project cost and has it been

funded? What is the applicant's share of these costs? Will these mitigations be in place and operating before the Town & Country Village project is completed? It would appear that some of these mitigations may not be available for years, and perhaps the project should not be constructed until these road improvements are reasonably certain to be implemented.

4.) Lack of Discussion of Freeway Impacts. The EIR clearly points out how the adjacent freeway system (I-280 and I-880) will be affected by this project, and how LOS "F" conditions will exist in many locations. However, while freeway LOS "F" problems and unmitigatable impacts are raised in the EIR, they are never discussed in any detail. This is a shortcoming of the EIR. Critical questions include the nature and amount of freeway diversion traffic onto adjacent arterial roadways. If the freeway is operating so far over capacity, where will this excess traffic go and how does this affect intersection Level of Service? How much additional freeway diversion traffic will travel on Stevens Creek Boulevard and Winchester Boulevard during the peak hours? The EIR should describe any future freeway improvement plans for I-280 and I-880, and whether there are other possible mitigation measures that could be considered such as ramp metering, freeway auxiliary lanes, or improved ramp connections. And finally, it should be determined whether this project should contribute in some way to the solution of these problems.

These comments should be transmitted to the City of San Jose, and should be responded to in the Final Draft EIR. I would be pleased to answer any further questions you may have about this EIR.

Sincerely yours,

Charles M. Abrams

Charles M. Abrams
Principal

97-036

APPENDIX I

RESPONSES TO COMMENTS

RECEIVED DURING THE PUBLIC HEARING

AT THE PLANNING COMMISSION HEARING MEETING

ON APRIL 22, 1998

97-036

P.C. Agenda: 5-13-98
Item: 10d

CITY OF SAN JOSE MEMORANDUM

TO: PLANNING COMMISSION FROM: James R. Derryberry

SUBJECT: PDCSH 97-06-036 TOWN & COUNTRY VILLAGE EIR DATE: May 5, 1998

APPROVED: DATE:

Council District: 6

The following is a brief summary of comments received at the public hearing on the Final EIR for the Town & Country Village project on April 22, 1998, and staff's responses to those comments.

1. **COMMENT:** The EIR does not address the need for sound walls along the on-ramps to southbound I-880 and southbound I-280. How will that issue be addressed?

   RESPONSE: At this time it is premature to determine if there will be noise impacts from the completed ramp widening. Once the ramp design has been completed, an evaluation will be made as to whether or not the on-ramp widening has the potential of creating significant changes in noise levels at any of the nearby residential properties. If it will cause additional noise impacts, sound walls or appropriate mitigation will be incorporated into the ramp-widening project.

2. **COMMENT:** What will be the effect of additional trips on Monroe Street south of Stevens Creek Boulevard on pedestrian safety and access to and from the fire station? Would it be possible to put a stop sign at the intersection of Monroe and Tisch? The existing condition is unsafe because of the speed of vehicles turning the corner.

   RESPONSE: The project will not significantly affect the conditions at the corner of Monroe and Tisch. The safety and access issues regarding this corner will be referred to the City's Public Works, Fire, and Streets and Traffic Departments. They will evaluate conditions at the corner and determine whether a stop sign is needed there.

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3. **COMMENT:** What is the status of the improvements to the north leg of the Stevens Creek/Winchester intersection identified in the EIR as necessary to mitigate project impacts?

   RESPONSE: Discussions are taking place with the City of Santa Clara as to the feasibility of implementing the identified improvements. Recent discussion indicates that the negotiations to implement the improvements, which would require permits from the City of Santa Clara, may be successful. The City of Santa Clara staff initially indicated that they would not support the mitigation because it would require the acquisition of right-of-way from an existing commercial center. Preliminary analysis, however, indicates that the additional turn lane can be built without affecting the center's parking lot.

   At the April 22 hearing, the Planning Commission requested that when negotiations with outside agencies/jurisdictions are anticipated to mitigate impacts, language to that effect should be included in future EIRs. Language addressing ongoing negotiations between San Jose and Santa Clara in conjunction with the Winchester/Stevens Creek improvements is attached and could be incorporated by the Planning Commission in the Final EIR as part of an Addendum.

4. **COMMENT:** What is the status of the existing neighborhood park?

   RESPONSE: When first approached, the owner of the existing land between the park and the Town & Country Village had been uninterested in selling land currently used for parking and storing antennas, which was the situation reflected in the DEIR. However, subsequent discussions indicate that a possibility for sale of the land for inclusion in the park exist. Ongoing discussions are taking place; the issue of whether or not the existing Santana Park will be expanded is still unresolved.

5. **COMMENT:** Since the project will cause blighted conditions in Downtown San Jose, resulting in physical deterioration, why was a Downtown alternative not addressed in the DEIR?

   RESPONSE: As reflected in the responses to comments in the First Amendment to the DEIR, the City does not believe that significant physical deterioration will occur Downtown if the proposed project is built. Currently there is not a concentration of regional commercial uses presently located Downtown. Therefore, there is no possibility of large-scale abandonment of existing commercial development that could cause physical deterioration to the abandoned buildings and result in blight.

CEQA requires the Alternatives Section of the DEIR to address environmental superior alternatives that reduce the significant impacts resulting from the proposed project. A Downtown alternative was not addressed in the EIR because no similar site was identified Downtown that could accommodate the proposed development and that might reasonably be assumed to result in fewer adverse environmental impacts than the proposed site. It should be noted that the Redevelopment Agency, in commenting on the Draft EIR, requested inclusion of a Downtown alternative; however, the Agency did not identify any specific areas in the Downtown that could accommodate a mixed use development similar to the proposed project.

Market analysts have indicated that given the population and economy in the area, considerable regional retail development in addition to the proposed Town & Country Village can be supported throughout the San Jose area. In addition, the Downtown is approximately three miles away from the Town & Country Village and would not be considered close enough to be direct competition for most retailers located at Town & Country. Retail chains usually will not locate another store closer than a one to two mile radius.

6. **COMMENT:** A letter from the Downtown Association was submitted to the Commission with an attached traffic analysis prepared by Abrams Associates, a traffic consultant. The analysis included traffic counts conducted at three of the project site's five driveways. The new counts differed from the counts at the same driveways included in the DEIR. In addition, the letter included marked-up volume sheets from the DEIR, which did not appear to include the increment of traffic that would result if the existing center were fully occupied.

RESPONSE: Since the new counts did not include all of the project site's driveways, it is not possible to compare the new counts with the older ones. There are frequently variations in counts that may occur over time, which may or may not be significant. The DEIR included counts of the driveways and nearby intersections, all done within approximately the same time period, or adjusted to reflect the same time period. Conditions in the area have not changed since the counts for the DEIR were taken in April 1997.

The volume sheets attached to the letter were from the DEIR. The omission of the increment of traffic reflecting full occupancy of the center was identified during the circulation period of the Draft EIR for the project and subsequently corrected in the First Amendment to the DEIR. The correction is reflected in the revised tables included in the First Amendment. In addition, the revised traffic calculation sheets upon which the tables were based have been provided to the Planning Commission.

7. **COMMENT:** Why was a different number given for the amount of traffic that might be assumed to be generated by a fully occupied center versus the existing counts? The previous number of such "entitled" trips was 177, but the engineers now use the number 156?

RESPONSE: As reflected in the First Amendment to the DEIR, the traffic calculations for the proposed project were redone because new ITE generation rates had become available in December 1997. Those new calculations were reflected in the revised tables included in the First Amendment. One of the differences that resulted from using the new generation rates is that the increment between the existing traffic from the existing shopping center and the calculated traffic from a shopping center of the same size that is fully occupied, changed. The previous number was 177 trips; the number using the new ITE rates is 156.

8. **COMMENT:** Craig Breon representing the Audubon Society distributed a letter to the Planning Commission that described concerns the Audubon Society had regarding the analysis of burrowing owl impacts in the DEIR. Mr. Breon acknowledged that he had not reviewed a copy of the First Amendment, which revised the DEIR to include additional information on the burrowing owl. Mr. Breon suggested three additional burrowing owl mitigation measures to include in the Final EIR.

RESPONSE: Staff recommended that the Planning Commission incorporate language into the Final EIR as an Addendum that addresses two of Mr. Breon's suggested mitigation. This language is attached to this staff report. The third mitigation suggested by Mr. Breon, requiring the applicant to provide 4.5-5 acres of viable owl habitat, staff did not support. The DEIR concludes that the site does not provide viable owl habitat, although burrowing owls have been known to intermittently inhabit the site. Therefore, the project should not be required to purchase owl habitat. The DEIR concluded that cumulative impacts to the burrowing owl were significant and unavoidable since the project would contribute marginally to the loss of burrowing owl habitat in the Santa Clara Valley. The DEIR identified that the City could require a financial contribution from the developer to offset their limited impact on the reduction of regional owl habitat.

9. **COMMENT:** Linda Callon representing Federal Realty, the project applicant, discussed the types of retail uses that could be developed within the commercial portion of the site. Retail stores, restaurant, professional offices and movie theaters are uses commonly found in regional shopping centers. Ms. Callon stated that any movie theater development would be part of the 650,000 square feet proposed by the development.

RESPONSE: The trip generation rate for the project traffic analysis is based on various types of commercial uses including those described by Ms. Callon. The traffic analysis limits the commercial development to 650,000 square feet of these various commercial uses on the site. The existing Town & Country shopping center contains a single screen movie theater. The traffic associated with the existing movie theater is included in the traffic analysis under the background conditions. If a movie theater is proposed as part of any PD permit application, the square footage of the theater would be part of the 650,000 maximum square feet of retail/commercial uses assumed in the traffic analysis for the Final EIR and allowed in the PD zoning.

Staff is also suggesting inclusion in the Final EIR of additional language to clarify a response to the Department of Toxic Substance Control addressing the potential effects of the usage of fuel for trucking contaminated soil to a disposal facility. The language is attached. Staff is recommending that the Planning Commission include the language as part of an Addendum to the Final EIR.

James R. Derryberry, Director
Planning, Building and Code Enforcement

Deputy

97-036

ADDENDUM TO FINAL EIR FOR TOWN & COUNTRY VILLAGE EIR

Page 56 of DEIR -- **Add** the following language at the end of the first paragraph on page 56:

> Discussions are currently underway with the City of Santa Clara regarding the feasibility of implementing this mitigation measure. The City of Santa Clara has indicated that if additional right-of-way is not required of private development on the northwest quadrant of the intersection, the City of Santa Clara may allow implementation of the traffic mitigation measure.

Page 86 of DEIR -- **Add** the following mitigation measures under the heading Burrowing Owls:

- The applicant shall not adversely impact any owl(s) on site or reduce the habitat values of the open field until the owl(s) has been properly relocated. Activities prohibited include: disking of fields, ground squirrel control in the area and use of the field for activities that might adversely affect the owls. The applicant shall be allowed to mow grasses on the site in accordance with Fire Department requirements.

- Prior to issuance of a building permit, if a burrowing owl(s) is found on the site, the applicant will be required to relocate the owl(s) to a permanently protected site comprised of sufficient size to adequately accommodate the owl(s).

Page 10 of First Amendment -- **Modify** response 12 as follows:

> **RESPONSE 12:** If the contaminated soil must be removed from the site to a disposal facility, ~~no more than approximately 35 truck trips would be required.~~ the fuel used in removing the material would be a minimal addition to that otherwise to be used in connection with the construction of the project. The City of San Jose would not consider the fuel necessary to remove the contaminated soil to be "inefficient and unnecessary consumptions of energy" and its consumption is, therefore, not considered a significant impact, requiring mitigation under the CEQA Guidelines [Section 15126(c)].

COUNCIL AGENDA: 6-9-98
ITEM NO.: _____

CITY OF SAN JOSE MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: TOWN & COUNTRY EIR
FILE NO. PDCSH 97-06-036

DATE: May 20, 1998

APPROVED:

DATE:

BACKGROUND

On May 13, 1998, the Planning Commission approved the adequacy of the Town & Country Final EIR on a vote of 4-1-0 (Ress opposed). The Commission deferred adoption of the EIR certification resolution until May 27 so that staff could summarize the Commission's comments during its deliberations on the EIR in a written record of the meeting.

ANALYSIS

Two Planning Commission Study Sessions were held on the Town & Country development project. On February 18 an overview of the traffic issues associated with development at both Valley Fair and Town Country was presented to the Commission by staff. The presentation included a detailed description of how the traffic analyses for these two projects were completed. In addition to the standard peak hour analysis, a Saturday afternoon analysis was required of both projects. On April 15 the Planning Commission held another Study Session. The purpose of this session was to discuss conformance of the Town & Country project with the General Plan. Staff also explained the environmental review process in general and how that process was completed for the Town & Country project.

On April 22 the Planning held a hearing on the Final EIR for the project. Traffic generation from the project was the primary environmental issue raised at the hearing. Commissioner Garcia was concerned about the adequacy of the traffic report. He wanted assurance that the analysis included assumptions for existing traffic from a fully functioning retail center, i.e., the entitlement for the existing Town & Country Village. The Final EIR hearing was continued on a 4-0-1 vote (Williams absent) to May 13 to enable the Planning Commission to review the traffic calculation sheets which had not been distributed to them. Subsequently, staff prepared a synopsis of issues raised during the hearing and staff's responses. That information was also transmitted to the Planning Commission.

97-036

William Ress

7040 Anjou Creek Circle • San Jose, CA 95120 • (408) 997-0102 • Fax (408) 268-9498 • Email: billress@ix.netcom.com

DATE: May 18, 1998

TO: San Jose Mayor and City Council

FROM: William Ress, San Jose Planning Commissioner

SUBJECT: Town and Country EIR Dissenting Opinion

At the planning commission hearing regarding the certification of the Town and Country EIR, I voted to not certify the EIR.

As the only dissenting vote, planning staff has invited me to include my comments in the transmittal to you regarding the results of our hearing.

In my opinion, the Town and Country (T&C) project, when considered with its neighbors, the Valley Fair Shopping Center and the Winchester theatre complex, coupled with the known traffic problems relating to freeway off-ramp traffic backups, does not present a "typical" project for which EIRs have been prepared. This project will not operate like any typical high-density residential/commercial complex we have dealt with in the City when considered in context with its neighbors.

My concern with the T&C EIR is that the project traffic analysis did not provide data or projections indicating the "magnitude" of the "worst case" traffic impacts occurring during "peak" demand periods. I refer to these peak demand periods as "events", which could occur separately at Town and Country, Valley Fair or the Winchester theatre complex, or could occur simultaneously at more than one of these facilities.

The traffic was analyzed for the traditional AM/PM peak commute and did include measurement and analysis for Saturday but the days these measurements were made were not at known "peak event" periods.

The EIR does presently identify two traffic effects as "significant and unavoidable" but since this determination was made for "non-event" periods, no analysis was presented which indicates what other intersections might be significantly impacted by the "domino" traffic effects resulting during these known "peak" traffic periods.

Section 15143 of the CEQA Guidelines states that "significant effects should be discussed with emphasis in proportion to their severity and probability of occurrence." I feel we didn't adequately follow this guideline when analyzing the traffic impacts at the T&C project.

My feelings about this decision to not measure during known peak traffic periods was voiced to planning staff prior to our hearing the Valley Fair EIR, so it is not new or late in the process.

Now let me try to define my use of the term "event".

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On May 13 the Planning Commission resumed the public hearing on the Final EIR for the Town & Country project. Traffic was again the main environmental issue discussed. Commissioners Ress and Garcia continued to express concerns about the adequacy of the EIR analysis. Commissioner Ress made a motion not to certify the EIR, which failed on a 2-3-0 vote (Commissioners Grayson, Williams, and Chun Hoo opposed).

After limited discussion, Commissioner Williams made a motion to certify the EIR stating that the EIR was adequate. Commissioner Ress could not support the motion because he felt the traffic analysis did not provide an analysis of worst case conditions from the existing Valley Fair and Winchester Theater developments in the area. In particular, Commissioner Ress promoted the concept that specific enhanced retail events, such as White Flower Days, the showing of Titanic and the grand opening of Town & Country, should be analyzed concurrently for the worst case traffic conditions. Staff explained that the analysis, as structured, represents the City's practices and is adequate as required by CEQA. The analysis followed the established methodology developed by the City of San Jose to assess Level of Service impacts.

Commissioner Garcia felt the traffic analysis, as revised, did address the entitled trips from the existing Town & Country Village development but was concerned that the air quality and noise sections may be affected by the traffic revisions. Staff informed Commissioner Garcia that since the revisions did not affect the EIR project impacts the noise and air quality sections did not change. Based on that information, Commissioner Garcia said he could support the motion. Commissioner Williams asked staff to include in the project some mechanism to measure the traffic base over time to ensure the project works. The Commission voted 4-1-0 (Ress opposed) to find the EIR adequate.

At the conclusion of the hearing, the Commissioners requested that staff convey to the City Council their collective concerns regarding the traffic conditions in this area and the impact that the additional traffic from the project will have on an existing constrained system. Chair Grayson asked the Commission to submit in writing any additional comments to transmit to the City Council. The attached transmittal from Commissioner Ress was submitted to the Planning Department.

James R. Derryberry, Secretary
Planning Commission

Deputy

Attachments:
Memo from William Ress
Resolution

97-036

PDCSH 97-06-026 Info Memo/PL/MD

RESOLUTION NO. 98-28

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN JOSÉ FINDING A FINAL ENVIRONMENTAL IMPACT REPORT IS COMPLETE FOR A PROJECT DESCRIBED IN APPLICATION PDCSH 97-06-036 AND FINDING THAT SAID REPORT CONFORMS TO THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSÉ:

WHEREAS, pursuant to Title 21 of the San José Code, Federal Realty Investment Trust hereinafter referred to as "Applicant", on June 18, 1997, filed an application for which an Environmental Impact Report (hereinafter called "EIR") was required on the proposed town and Country Village Rezoning Application No. PDCSH 97-06-036 concerning that certain real property hereinafter referred to as "subject property", described in Exhibit "A" attached hereto and made a part of hereof reference as though fully set forth herein; and

WHEREAS, the Director of Planning, pursuant to and in accordance with said Article has prepared and filed with this Commission a Final EIR, File No. PDCSH 97-06-036, relating to said subject property; and

WHEREAS, pursuant to and in accordance with said Title 21, the Director of Planning did send a copy of said draft EIR to each public agency having jurisdiction by law of said proposed project, advising such agencies to review and submit written comments, if any, to this Commission in the time and manner specified in said Title 21; and

WHEREAS, at said hearing, this Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said Final EIR.

NOW, THEREFORE:

SECTION 1. This Commission hereby finds, determines and declares the Final EIR for said project is complete and conforms to the requirements of the California Environmental Quality Act and represents the independent judgement of the City.

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SECTION 2. Copies of the final EIR shall be transmitted by the Director of Planning to the applicant and to the decision-making body.

ADOPTED this 27th day of May, 1998 by the following vote:

AYES: CHUN HOO, GARCIA, GRAYSON, WILLIAMS

NOES: RESS

ABSENT: NONE

Chairperson

ATTEST:

James R. Derryberry, Secretary

Deputy

T&CEIR.RES/JC:SRA/HD

97-036

APPENDIX K

CITY COUNCIL RESOLUTION

97-036

RESOLUTION NO. 68210

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT IN CONNECTION WITH A PROJECT CONSISTING OF A REZONING FROM C-3 TO A(PD) TO ALLOW THE REDEVELOPMENT OF THE EXISTING TOWN AND COUNTRY VILLAGE WITH A MIXED USE DEVELOPMENT FOR WHICH AN ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED. (PDCSH 97-06-036)

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

WHEREAS, the Council intends to approve a rezoning to change the zoning from C-3 to A(PD) to allow 575,000 square feet of commercial development, 1200 residential units and 2 hotels on approximately 35 acres, File PDCSH 97-06-036, herein referred to as the "project," and

WHEREAS, the California Environmental Quality Act of 1970, as amended, (CEQA) requires that, in the approval of a project for which a Final Environmental Impact Report (Final EIR) has been prepared, the decision-making body shall review said Final EIR and make certain findings regarding the significant effects on the environment identified in said Final EIR; and

WHEREAS, such project was the subject of a Final EIR entitled "Town and Country Village" prepared by the City of San Jose as the Lead Agency in compliance with the requirements of California Environmental Quality Act of 1970, as amended, and the said Final EIR was found complete by the City of San Jose Planning Commission on May 27, 1998; and

WHEREAS, the City Council of the City of San Jose is the decision-making body for rezonings; and

WHEREAS, this Council does hereby certify that as a decision-making body, it has reviewed and considered the information contained in such Final EIR, and other information in the record, prior to acting upon or approving such project, and found that the Final EIR reflects the independent judgment of the City of San Jose as Lead Agency for the project.

NOW THEREFORE, THE COUNCIL DOES HEREBY make the following findings with respect to the significant effects on the environment of such project as identified in the Final EIR.

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I. FINDINGS OF SIGNIFICANT ENVIRONMENTAL IMPACT

A. Traffic

1. Moorpark Avenue and Winchester Boulevard

a) Impact. Development of the project will increase the critical movement delay at this intersection already operating below LOS D by one percent during the AM peak hour on weekdays.

b) Mitigation. The project will improve the west leg of the intersection of Moorpark Avenue and Winchester Boulevard to include the addition of a second exclusive left-turn and the conversion of the existing shared through-left-turn lane to an exclusive through lane.

c) Finding. The implementation of this mitigation measure identified in the Final EIR would reduce the potential impact at this intersection to a **less than significant level.**

2. Stevens Creek Boulevard and Monroe Street

a) Impact. Project traffic will cause this intersection to deteriorate to LOS E in the Saturday peak hour.

b) Mitigation. The project will add a fourth eastbound through lane at Stevens Creek Boulevard and Monroe Street that transitions into a second southbound on-ramp to I-880.

c) Finding. The implementation of this mitigation measure identified in the Final EIR would reduce the potential impact at this intersection to a **less than significant level.**

3. Stevens Creek Boulevard and Winchester Boulevard

a) Impact. The proposed project will increase critical movement delay by more than one percent in the PM peak hour on weekdays at this intersection, which is already operating below LOS D.

b) Mitigation. Improve the north leg of the intersection of Winchester Boulevard and Stevens Creek Boulevard to include the addition of a second southbound left-turn lane, and improve the south leg of this intersection to include the addition of a second northbound left-turn lane.

c) Finding. Implementation of the mitigation proposed for Stevens Creek/Winchester will require improvements in the City of Santa Clara. The mitigation is therefore outside the jurisdiction of the City of San Jose to implement. This impact, therefore, is considered to be **significant and unavoidable.**

4. **Freeway Segments on I-280 and I-880**

a) Impact. Project traffic will add more than one percent of segment capacity to six freeway segments already anticipated to operate below LOS E.

b) Mitigation. The improvements necessary to mitigate the project's impact on these freeway segments would be the widening of these facilities. These freeway improvements are considered infeasible for implementation by a single project.

c) Finding. There is no feasible mitigation that could be reasonably imposed on the project to mitigate the project's impact on the six freeway segments. This impact, therefore, is considered to be **significant and unavoidable.**

B. Air Quality

1. **Short-term Construction**

a) Impact. Air quality impacts resulting from construction, particularly generation of construction dust, could cause significant adverse effects to the adjacent land uses.

b) Mitigation. Standard dust control measures will be required of the project, potentially including the following:

(1) Whenever possible, dust-proof chutes shall be used for loading construction debris onto trucks.

(2) Watering shall be used to control dust generation during demolition of structures and break-up of pavement.

(3) All trucks removing debris from the site shall be covered.

(4) Internal haul roads shall be paved, sealed or stabilized to control dust from truck traffic. Paved haul roads shall be regularly swept or cleaned to remove accumulated dust.

(5) The recycling of demolition materials will be considered, as it would reduce the number of truck trips to the site during construction. The use of a crusher on the site would be subject to regulation by the Bay Area Air Quality Management District.

(6) Water all active construction areas at least twice daily, or as necessary to prevent dust emissions.

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(7) 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.

(8) Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites, or as necessary to keep off dirt and debris.

(9) Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets, or as necessary to keep off dirt and debris.

(10) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas and previously graded areas inactive for ten days or more.

(11) Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)

(12) Limit traffic speeds on unpaved roads to 15 mph.

(13) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

(14) Replant vegetation in disturbed areas as quickly as possible.

c) Finding. The implementation of these mitigation measures identified in the Final EIR would reduce this potential impact to a **less than significant level.**

2. **Regional Air Quality**

a) Impact. Total project emissions of regional pollutants exceed BAAQMD thresholds and would have a significant impact on regional air quality.

b) Mitigation. The project incorporates site-planning measures to encourage use of transit and other commute options. These include: (a) Provision of secure and convenient residential and non-residential bicycle parking; and (b) Transit facilities such as bus turnouts, benches and shelters along public streets, and information kiosks on site.

c) Finding. The above mitigation measures would be expected to reduce project trip generation by 1-5 percent. There is no mitigation available that will completely avoid or reduce the significant regional air quality impacts, should the project be developed as proposed. The regional air quality impact would thus remain a **significant unavoidable impact.**

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C. Noise

1. Impact on Commercial Uses Along Stevens Creek Boulevard

a) Impact. The project proposes commercial development on Stevens Creek Boulevard that would be exposed to exterior noise levels exceeding 60 dB LDN. Special building practices may be required to reduce the interior noise levels to 45 dB LDN or less.

b) Mitigation. Prior to approval of the PD Permits for specific building designs, a detailed acoustical analysis will be prepared and the recommendations for noise attenuation to reduce interior noise levels to 45 dB LDN will be incorporated into the design of the commercial structures.

c) Finding. The implementation of this mitigation measure identified in the Final EIR would reduce this potential impact to a **less than significant level.**

2. Impact on Residential, Commercial and Hotel Uses Along Winchester Boulevard

a) Impact. The proposed project includes multi-family residential development, commercial development, and a hotel on Winchester Boulevard that would be exposed to exterior noise levels exceeding 60 dB LDN. Special building practices may be required to reduce the interior noise levels to 45 dB LDN or less.

b) Mitigation. Prior to approval of the PD Permits for specific building designs, a detailed acoustical analysis will be prepared and the recommendations for noise attenuation will be incorporated into the design of the commercial and residential structures proposed on the project site to reduce the interior noise levels to 45 dB LDN.

In addition, the following measures will be incorporated into the project to reduce exterior noise at residential uses: (a) Common outdoor use areas for the multi-family residences will be provided at locations set back and/or shielded by buildings from traffic noise produced by Winchester Boulevard and from the mechanical equipment associated with the Pacific Bell facility; (b) Outdoor balconies and patios on residential units facing Winchester Boulevard will be minimized; and (c) Most private outdoor areas will not be oriented toward public streets.

c) Finding. The implementation of these mitigation measures identified in the Final EIR would reduce this potential impact to a **less than significant level.**

3. Construction Impacts

a) Impact. Construction of the project would create significant noise impacts on the adjacent residences and businesses.

b) Mitigation. The project will implement noise reduction techniques during construction, including: (a) Limiting demolition and construction activities to daytime hours of 7:00 a.m. to 5:00 on weekdays, and non-holidays for on and off-site construction within 500 feet of residential development; (b) All internal combustion engines for construction equipment used on the site shall be properly muffled and maintained; (c) All stationary noise-generating construction equipment, such as air compressors and portable power generators, will be located as far as practical from existing residences and businesses; (d) Residential neighbors and the Director of Planning, Building and Code Enforcement will be notified of the construction schedule in writing at least seven days prior to the start of construction; and (e) A noise disturbance coordinator, responsible for responding to complaints about noise will be hired during the construction phase. The telephone number of the noise disturbance coordinator will posted on the project and be provided to adjacent residential neighbors and the Director of Planning, Building and Code Enforcement.

c) Finding. The implementation of these mitigation measure identified in the Final EIR would reduce the potential construction noise impacts to a **less than significant level.**

D. Soils and Geology

1. Exposure to Seismic Hazard

a) Impact. Development of the project as proposed would expose structures and occupants to significant seismic impacts.

b) Mitigation. A design level geotechnical investigation for the project site will be completed to address potential geologic hazards on the site, including liquefaction-induced settlement and lateral spreading. The geotechnical investigation for individual buildings will be completed to the satisfaction of the Director of Public Works prior to the issuance of a Public Works Clearance for that phase of the project. The investigation will include recommendations for proper foundation design, site preparation, and grading, which will be incorporated into the project design at the permit stage. Seismic hazards to the proposed project will be

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4. **Freeway Segments on I-280 and I-880**

a) Impact. Project traffic will add more than one percent of segment capacity to six freeway segments already anticipated to operate below LOS E.

b) Mitigation. The improvements necessary to mitigate the project's impact on these freeway segments would be the widening of these facilities. These freeway improvements are considered infeasible for implementation by a single project.

c) Finding. There is no feasible mitigation that could be reasonably imposed on the project to mitigate the project's impact on the six freeway segments. This impact, therefore, is considered to be **significant and unavoidable.**

B. Air Quality

1. **Short-term Construction**

a) Impact. Air quality impacts resulting from construction, particularly generation of construction dust, could cause significant adverse effects to the adjacent land uses.

b) Mitigation. Standard dust control measures will be required of the project, potentially including the following:

(1) Whenever possible, dust-proof chutes shall be used for loading construction debris onto trucks.

(2) Watering shall be used to control dust generation during demolition of structures and break-up of pavement.

(3) All trucks removing debris from the site shall be covered.

(4) Internal haul roads shall be paved, sealed or stabilized to control dust from truck traffic. Paved haul roads shall be regularly swept or cleaned to remove accumulated dust.

(5) The recycling of demolition materials will be considered, as it would reduce the number of truck trips to the site during construction. The use of a crusher on the site would be subject to regulation by the Bay Area Air Quality Management District.

(6) Water all active construction areas at least twice daily, or as necessary to prevent dust emissions.

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(7) The recycling of demolition materials will be considered, as it would reduce the number of truck trips to the site during construction. The use of a crusher on the site would be subject to regulation by the Bay Area Air Quality Management District.

(8) As part of the mitigation for post-construction runoff impacts addressed in the SWPPP, the project will implement regular maintenance activities including sweeping, cleaning stormwater inlets, and litter control at the site to prevent soil, grease, and litter from accumulation on the project site and contamination of surface runoff. Stormwater catch basins will be stenciled to discourage illegal dumping.

c) Finding. The implementation of these mitigation measures identified in the Final EIR would reduce this potential impact to a **less than significant level.**

F. Biological

1. Trees

a) Impact. Development of the site would result in the removal of 32 ordinance-sized trees.

b) Mitigation. Any trees that are removed will be replaced in accordance with City standards and the City's Residential and Commercial Design Guidelines.

c) Finding. The implementation of this mitigation measure identified in the Final EIR would reduce this potential impact to a **less than significant level.**

2. Burrowing Owls

a) Impact. Should Burrowing Owls remain on the site, and/or breed there prior to the start of grading, individual birds and/or their eggs could be destroyed.

b) Mitigation. The following measures are proposed as part of the project to avoid or minimize impacts to burrowing owls:

(1) In conformance with federal and state regulations regarding the protection of raptors, a preconstruction survey for Burrowing Owls will be completed in conformance with

C. Noise

1. Impact on Commercial Uses Along Stevens Creek Boulevard

a) Impact. The project proposes commercial development on Stevens Creek Boulevard that would be exposed to exterior noise levels exceeding 60 dB LDN. Special building practices may be required to reduce the interior noise levels to 45 dB LDN or less.

b) Mitigation. Prior to approval of the PD Permits for specific building designs, a detailed acoustical analysis will be prepared and the recommendations for noise attenuation to reduce interior noise levels to 45 dB LDN will be incorporated into the design of the commercial structures.

c) Finding. The implementation of this mitigation measure identified in the Final EIR would reduce this potential impact to a **less than significant level**.

2. Impact on Residential, Commercial and Hotel Uses Along Winchester Boulevard

a) Impact. The proposed project includes multi-family residential development, commercial development, and a hotel on Winchester Boulevard that would be exposed to exterior noise levels exceeding 60 dB LDN. Special building practices may be required to reduce the interior noise levels to 45 dB LDN or less.

b) Mitigation. Prior to approval of the PD Permits for specific building designs, a detailed acoustical analysis will be prepared and the recommendations for noise attenuation will be incorporated into the design of the commercial and residential structures proposed on the project site to reduce the interior noise levels to 45 dB LDN.

In addition, the following measures will be incorporated into the project to reduce exterior noise at residential uses: (a) Common outdoor use areas for the multi-family residences will be provided at locations set back and/or shielded by buildings from traffic noise produced by Winchester Boulevard and from the mechanical equipment associated with the Pacific Bell facility; (b) Outdoor balconies and patios on residential units facing Winchester Boulevard will be minimized; and (c) Most private outdoor areas will not be oriented toward public streets.

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comprised of sufficient size to adequately accommodate the owl(s).

c) Finding. The implementation of this mitigation measure identified in the Final EIR would reduce this potential impact to a **less than significant level.**

G. Hazardous Materials

1. Courtesy Chevrolet Site

a) Impact. The extent of the potential environmental hazards identified on the Courtesy Chevrolet portion of the project site have not been determined. Such potential environmental hazards could create a health hazard, particularly if residential uses are developed on this portion of the site

b) Mitigation. An environmental site assessment will be conducted on the Courtesy Chevrolet portion of the site prior to the issuance of a PD Permit for this portion of the site. The assessment will include remediation measures in conformance with local, state, and federal regulations.

c) Finding. The implementation of this mitigation measure identified in the Final EIR would reduce this potential impact to a **less than significant level.**

2. Impact on Future Residents, Workers and Users of the Site

a) Impact. Soil contamination on the project site would result in the exposure of future project residents to significant risks to human health and safety.

b) Mitigation. Prior to issuance of a PD Permit for development, a Removal Action Workplan (RAW) will be developed in conjunction with the Department of Toxic Substances Control and the City of San Jose requirements. The RAW will describe the specific measures that will be implemented to reduce or avoid the potential exposure of future residents, workers, and users of the site to hazardous materials, if it is determined that such measures are necessary. The RAW is expected to include proposed remedial measures such as capping the contaminated soil with buildings or pavement and/or removing all or a portion of the contaminated soil for off-site treatment or disposal at an appropriate disposal site. Once implemented, the RAW will avoid or reduce the levels of contamination within the areas designated for residential uses to acceptable threshold levels as established by local, state, and federal regulatory agencies.

appropriate protocols, no more than 30 days prior to the start of construction for any phase of construction on the vacant portion of the site. If no Burrowing Owls are located during these surveys, then no additional action would be warranted. However, if breeding or resident owls are located on or immediately adjacent to the site, a construction-free buffer zone around the active burrow shall be established as determined by the ornithologist, in consultation with CDFG. No construction activities shall proceed that would disturb breeding owls.

(2) If resident or breeding owls are located on the site during pre-construction surveys, a site-specific mitigation plan shall be prepared. This plan could include: performing any construction in the vicinity of the nests outside the breeding season; or alternatively, establishing a construction-free buffer zone around the next. Construction shall only proceed after owl chicks have fledged and are independent of any immediate nesting area. No construction activities shall proceed that would disturb breeding owls.

(3) If it is necessary to relocate one or more owls off the site outside of the breeding season, either passive or active relocation shall be performed in conformance with a site-specific memorandum of understanding approved by CDFG.

(4) Any relocation site(s) shall be monitored at least three times during the breeding season for a period of three years following relocation. Monitoring results shall be provided to the CDFG and USFWS as part of permit requirements.

(5) The applicant shall not adversely impact any owl(s) on site or reduce the habitat values of the open field until the owl(s) has been properly relocated. Activities prohibited include: disking of the fields, ground squirrel control in the area and use of the field for activities that might adversely affect the owls. The applicant shall be allowed to mow grasses on the site in accordance with Fire Department requirements.

(6) Prior to issuance of a building permit, if a burrowing owl(s) is found on the site, the applicant will be required to relocate the owl(s) to a permanently protected site

shall include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions.

c) Finding. The implementation of this mitigation measure identified in the Final EIR would reduce this potential impact to a **less than significant level.**

I. Utilities and Service Systems

1. Sanitary Sewer System

a) Impact. There may be insufficient downstream capacity within the existing sanitary sewer system to serve the proposed project.

b) Mitigation. Should it be determined prior to issuance of a PD Permit that the existing sanitary sewer system does not contain sufficient capacity to serve the project, the project shall implement any or all of the following mitigation measures, as required.

(1) Upsize the existing 8-inch sanitary sewer that runs from Stevens Creek Boulevard to the existing 10-inch sewer line in Valley Fair.

(2) Redesign the project to connect to both the 10-inch line in Valley Fair, and the existing 6-inch line that runs under Route 280 from Dudley Avenue to Moorpark Avenue.

(3) Upsize the existing 10-inch line sanitary sewer line that runs through Valley Fair from Stevens Creek Boulevard to Forest Avenue.

(4) Construct a new sanitary sewer line along Winchester Boulevard from the project site to Forest Avenue.

c) Finding. The implementation of this mitigation measure identified in the Final EIR would reduce this potential impact to a **less than significant level.**

J. Cumulative Impacts

1. Traffic

a) Impact. Cumulatively, the project will impact the same six intersections as are impacted by Project traffic, and ten freeway segments would also be impacted cumulatively, as was the case for the project traffic.

b) Mitigation. The mitigations for the cumulative impacts to the Winchester/Moorpark, Winchester/Stevens Creek and Stevens Creek/Monroe intersections are the same as for the project impacts. With regard to the freeway segments, the Santa Clara County Congestion Management Plan identifies preparation of deficiency plans as an appropriate response to significant impacts on regional facilities. The VTA Congestion Management Program is preparing a Countywide Deficiency Plan, which will address many of the facilities in this area. Assuming that the Countywide Deficiency Plan will include a scenario for improving conditions on the regional facilities impacted by this cumulative traffic, participation in the implementation programs for these Deficiency Plans is the only mechanism identified which could mitigate some of the traffic impacts identified on the freeways from cumulative development.

c) Finding. Partial mitigation of cumulative traffic impacts would result from the project mitigations discussed above. With regard to the freeway segments, there is no feasible mitigation that can be imposed on this project at this time. Since there is no mechanism in place to achieve complete mitigation of all identified cumulative traffic impacts, this would be a **significant unavoidable cumulative impact.**

2. Regional Air Quality

a) Impact. Project-related regional emissions exceed the significance thresholds for ozone precursors (NOx) and PM_{10}. BAAQMD guidance states that any proposed project that would individually have a significant air quality impact (based on BAAQMD thresholds of significance) would also be considered to have a significant cumulative air quality impact. Thus, since the project would have a significant regional impact, it would also have a cumulatively significant regional air quality impact.

b) Mitigation. Air quality impacts are primarily a result of traffic impacts in the area. Improvements to reduce pollution sources would ultimately result in conformance with air quality standards.

c) Finding. Approval of all proposed developments would contribute to near-term air quality standard exceedances. This would be a significant unavoidable impact. If some pending development is not assumed within the Bay Area Clean Air Plan, cumulative air quality impacts may delay attainment of long-term air quality standards. This would be a **significant unavoidable cumulative impact.**

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3. Burrowing Owls

a) Impact. With each loss of potential Burrowing Owl habitat, the value of the remaining habitat increases to the point where any loss is cumulatively significant. The project's approximate 4.5-acre loss of Burrowing Owl habitat would incrementally contribute to a cumulatively significant loss of Burrowing Owl habitat.

b) Mitigation. Mitigation for the cumulative loss of Burrowing Owl habitat could in the future include the establishment of a Countywide program to set aside a large area(s) of publicly owned, permanent open space and improvement of this habitat for use by Burrowing Owls. Each individual project resulting in a loss of Burrowing Owl habitat could contribute to the improvement and maintenance of this permanent habitat through payment of an impact fee. The project shall make a $5,000 monetary contribution to the City of San Jose to be used for the enhancement of permanent, future Burrowing Owl habitat.

c) Finding. Until there is a mechanism in place to achieve mitigation of identified impacts to Burrowing Owl foraging habitat, this would contribute incrementally to a **significant unavoidable cumulative impact.**

II. ALTERNATIVES TO THE PROPOSED PROJECT

1. No Project Alternative

a) Description. Under the No Project alternative, the project site would remain as a 285,000 square foot shopping center and a car dealership on 39 acres.

b) Comparison to Proposed Project. This alternative would avoid all significant impacts of the Proposed Project. The No Project alternative would not meet the primary objective of redeveloping the Town and Country Village site with additional leasable floor area and providing residential uses in a mixed-use environment. It also would mean that the traffic mitigation benefits of the Proposed Project would not be achieved, so that there would not be a lessening of cumulative traffic impacts from other development.

c) Finding. This alternative is environmentally superior to the Proposed Project, since it avoids the impacts of the project. However, the No Project alternative is rejected as infeasible because it does not meet any of the objectives of the project, does not provide needed new housing, and does not achieve the traffic mitigation benefits of the Proposed Project.

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2. **Reduced Scale Alternative**

a) Description. A design alternative to the project as presently proposed would be a smaller development, representing a less intense use of the site. A possible development scenario would be 487,500 square feet of commercial/retail uses, 900 multi-family residential units, and one 100-room hotel. This represents a reduction by approximately 25 percent of the proposed project size.

b) Comparison to Proposed Project. This alternative would not eliminate any of the significant impacts of the Proposed Project, although the traffic and air quality impacts would be slightly reduced due to the lesser level of development.

c) Finding. This alternative is marginally superior environmentally to the Proposed Project, due to the reduction in traffic and regional air quality impacts. However, it fails fully to meet the City's objective in the General Plan of higher density residential and commercial development along the Stevens Creek and Winchester intensification corridors.

3. **Remodel/Residential Alternative**

a) Description. Under this alternative, the project would involve updating and remodeling the existing shopping center, and development of residential uses on the vacant portion of the site. The existing uses, an auto dealership and retail commercial development that includes a theater, would remain for at least the short-term, with new uses allowed subject to the existing C-3 Regional Commercial zoning of the property. The remodel would involve the approximately 285,000 square feet of existing retail commercial uses, and development of a maximum of 250 multi-family dwelling units on approximately 9.5 acres.

b) Comparison to Proposed Project. All the significant traffic impacts of the Proposed Project are avoided, as is the impact on regional air quality. It would still contribute to regionally significant traffic impacts on freeways, to cumulatively significant congestion at the intersection of Stevens Creek/Monroe, and to the cumulatively significant loss of Burrowing Owl habitat.

c) Finding. This alternative is environmentally superior to the project as proposed in that it would reduce traffic and air quality impacts to a less than significant level. The alternative would, however, contribute to cumulatively significant traffic congestion and Burrowing Owl habitat loss. This alternative is rejected as infeasible because it would not meet the primary project objectives, nor does it meet the Major Strategies,

Economic Development and Urban Design goals and policies of the General Plan.

III. STATEMENT OF OVERRIDING CONSIDERATIONS

After review of the entire administrative record, including the Final EIR, the staff report, and the oral and written testimony and evidence presented at public hearings, the City Council finds that specific economic, legal, social, technological and other considerations justify the approval of this project in spite of the existence of unavoidable environmental effects that are deemed significant and that cannot be completely mitigated to a level of insignificance.

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

A. The project is consistent with the Economic Development Strategy of the General Plan and will generate an estimated six million dollars a year in revenues for the City of San Jose.

B. The project will help satisfy the projected demand for an additional four million square feet of retail space in San Jose.

C. The project will provide service sector jobs for a variety of income types including entry-level positions and part-time jobs for youth in the area.

D. The project is consistent with the Housing Strategy of the General Plan and will provide 1200 units of housing to help satisfy the demand in Santa Clara County for new housing, which is currently estimated to be for 25,000 units.

E. The project will provide traffic improvements at several key intersections which should reduce existing congestion in the area.

F. The project is located along an Intensification Corridor and will achieve key General Plan objectives including the location of high intensity mixed use development adjacent to major transit lines and the provision of efficient delivery of urban services.

G. The project will complement downtown development by making it easier for new residents to work, shop or seek entertainment downtown.

H. The project will implement the Economic Development, City Concept and Housing Goals and Policies of the General Plan by providing a high-quality, mixed-use development.

ADOPTED this 16th day of June, 1998, by the following vote:

AYES: DIAZ, FERNANDES, FISCALINI, POWERS, SHIRAKAWA, WOODY; HAMMER

NOES: DANDO, PANDORI

ABSENT: DIQUISTO, JOHNSON

Susan Hammer, Mayor

ATTEST

Patricia L. O'Hearn, City Clerk

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G. The project will complement downtown development by making it easier for new residents to work, shop or seek entertainment downtown.

H. The project will implement the Economic Development, City Concept and Housing Goals and Policies of the General Plan by providing a high-quality, mixed-use development.

ADOPTED this 16th day of June, 1998, by the following vote:

AYES: DIAZ, FERNANDES, FISCALINI, POWERS, SHIRAKAWA, WOODY; HAMMER

NOES: DANDO, PANDORI

ABSENT: DIQUISTO, JOHNSON

Susan Hammer

Susan Hammer, Mayor

ATTEST

Patricia L. O'Hearn

Patricia L. O'Hearn, City Clerk

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MITIGATION MONITORING AND REPORTING PROGRAM			
Impact	**Mitigation**	**Implementation Responsibility**	**Oversight Responsibility and Implementation Mechanism**
Traffic Impacts			
Development of the project will increase the critical movement delay at an intersection already operating below LOS D by one percent during the AM peak hour on weekdays. **Significant Impact**	The project will improve the west leg of the intersection of Moorpark / Winchester to include the addition of a second exclusive left-turn and the conversion of the existing shared through-left-turn lane to an exclusive through lane.	Project Proponent and Director of Public Works	Director of Public Works will require financial commitment to construct improvements from the project proponent prior to issuance of building permits, and will oversee construction of all street improvements
The proposed project will increase critical movement delay by more than one percent in the PM peak hour on weekdays at an intersection already operating below LOS D. **Significant Impact**	The project proposes to improve the north leg of the intersection of Winchester Boulevard and Stevens Creek Boulevard to include the addition of a second southbound left-turn, and improve the south leg of this intersection to include the addition of a second northbound left-turn lane. Implementation of part of this mitigation requires improvements in the City of Santa Clara. The mitigation is therefore outside the jurisdiction of the City of San Jose to implement.	Project Proponent and Director of Public Works	Director of Public Works (DPW) will require financial commitment to construct improvements from the project proponent prior to issuance of building permits, and will oversee construction of all street improvements in San Jose. DPW will also negotiate with the City of Santa Clara to complete these improvements. The financial commitment will be used to pay for these improvements in Santa Clara or will be held for five years and returned to the project proponent.

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MITIGATION MONITORING AND REPORTING PROGRAM			
Impact	**Mitigation**	**Implementation Responsibility**	**Oversight Responsibility and Implementation Mechanism**
Traffic Impacts, Continued			
Project traffic will cause an intersection to deteriorate to LOS E in the Saturday peak hour. **Significant Impact**	The project will add a fourth eastbound through lane at Stevens Creek Boulevard and Monroe Street that transitions into a second southbound on-ramp to I-880.	Project Proponent and Director of Public Works	Director of Public Works will require financial commitment to construct improvements from the project proponent prior to issuance of building permits, and will oversee construction of all street improvements
Air Quality Impacts			
Total project emissions of regional pollutants exceed BAAQMD thresholds and would have a significant impact on regional air quality. **Significant Impact**	The project will implement site planning measures to encourage use of transit and other commute options.	Project Proponent and Director of Planning, Building and Code Enforcement	Director of Planning, Building, and Code Enforcement will ensure that the approved development plan will include secure and convenient bicycle parking, bus turnouts, benches and shelters along public streets, and information kiosks for transit information on-site.

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MITIGATION MONITORING AND REPORTING PROGRAM			
Impact	**Mitigation**	**Implementation Responsibility**	**Oversight Responsibility and Implementation Mechanism**
Air Quality Impacts, Continued			
Air quality impacts resulting from construction, particularly generation of construction dust, could cause significant adverse effects to the adjacent land uses. **Significant Impact**	The project will implement standard construction dust control measures as identified in the Final EIR to reduce generation of particulates to a less than significant level.	Project Proponent, Director of Planning, Building and Code Enforcement, and Director of Public Works	Director of Planning, Building and Code Enforcement will condition the PD Permit to include a dust control program and will ensure that dust control measures associated with demolition are implemented. Director of Public Works will ensure that dust control measures are implemented during grading.
Noise Impacts			
The project proposes commercial development on Stevens Creek Boulevard that would be exposed to exterior noise levels exceeding 60 dB LDN. Special building practices may be required to reduce the interior noise levels to 45 dB LDN or less. **Significant Impact**	Prior to approval of the building permits for specific building designs, a detailed acoustical analysis will be prepared and appropriate recommendations for noise attenuation to reduce interior noise levels to 45 dB LDN will be incorporated into the design of the commercial structures.	Project Proponent and Director of Planning, Building and Code Enforcement	Director of Planning, Building & Code Enforcement will condition the PD Permit to ensure that appropriate attenuation will be included in building permit plans.

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MITIGATION MONITORING AND REPORTING PROGRAM			
Impact	**Mitigation**	**Implementation Responsibility**	**Oversight Responsibility and Implementation Mechanism**
Noise Impacts, Continued			
The proposed project includes multi-family residential development, commercial development, and a hotel on Winchester Boulevard would be exposed to exterior noise levels exceeding 60 dB LDN. Special building practices may be required to reduce the interior noise levels to 45 dB LDN or less. **Significant Impact**	Prior to approval of the building permits for specific building designs, a detailed acoustical analysis will be prepared and the recommendations for noise attenuation will be incorporated into the design of the commercial and residential structures proposed on the project site to reduce the interior noise levels to 45 dB LDN. Design features which could provide noise attenuation include sound rated windows, forced air mechanical ventilation so windows could be kept closed, and special building construction techniques such as insulation and soundproofing.	Project Proponent and Director of Planning, Building and Code Enforcement	Director of Planning, Building & Code Enforcement will condition the PD Permit to reduce the noise impacts to residences and businesses, and will ensure that appropriate noise attenuation is included in applications for building permits.

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MITIGATION MONITORING AND REPORTING PROGRAM			
Impact	**Mitigation**	**Implementation Responsibility**	**Oversight Responsibility and Implementation Mechanism**
Noise Impacts, Continued			
Construction of the project would create significant noise impacts on the adjacent residences and businesses.	The project will implement noise reduction techniques during construction, including use of proper mufflers, scheduling, and use of quieter equipment where appropriate as identified in the Final EIR.	Project Proponent and Director of Planning, Building and Code Enforcement	Director of Planning, Building & Code Enforcement will condition the PD Permit to include the implementation of noise reduction techniques during construction.
Geology and Soils			
Development of the project as proposed would expose structures and occupants to significant seismic impacts. **Significant Impact**	A design level geotechnical investigation for the project site will be completed to address potential geologic hazards on the site. The geotechnical investigation for individual buildings will be completed prior to issuance of a Public Works Clearance. The investigation will include recommendations for proper foundation design, site preparation, and grading, which will be incorporated into project design.	Project Proponent, Director of Planning, Building and Code Enforcement, and Director of Public Works	City Geologist and Director of Public Works will review prior to issuance of grading permits and will ensure that report recommendations are incorporated into project design. Director of Planning, Building and Code Enforcement will ensure that foundation permits conform to recommendations of geotechnical investigations.

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MITIGATION MONITORING AND REPORTING PROGRAM			
Impact	**Mitigation**	**Implementation Responsibility**	**Oversight Responsibility and Implementation Mechanism**
Hydrology Impacts			
Development of the site would increase the amount of contamination of storm water runoff. **Significant Impact**	The project will implement regular site maintenance activities during construction, including sweeping the streets and on-site retention, to reduce potential contamination in storm runoff. The project will comply with NPDES General Construction Activity Storm Water Permit requirements, including preparation of a Storm Water Pollution Prevention Plan. As part of the mitigation for post-construction runoff impacts addressed in the SWPPP, the project will include post-construction best management practices such as swales or inlet filters, and will implement regular maintenance activities (i.e., sweeping, litter control) at the site to prevent soil, grease, and litter from accumulating on the project site and contamination surface runoff.	Project Proponent and Director of Public Works	Prior to the issuance of a grading permit, the Director of Public Works would review and approve the draft SWPPP. The Director of Public Works will ensure that project complies with NPDES requirements and implements regular maintenance activities. Grading permit will include construction management practices whose implementation will be ensured by DPW.

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MITIGATION MONITORING AND REPORTING PROGRAM			
Impact	**Mitigation**	**Implementation Responsibility**	**Oversight Responsibility and Implementation Mechanism**
Biological Impacts			
Should Burrowing Owls remain on the site, and/or breed there prior to the start of grading, individual birds and/or their eggs could be destroyed. **Significant Impact**	A pre-construction survey will be done for Burrowing Owls, in conformance with federal and state regulations for protection of raptors. Should Burrowing Owls be found on the property at that time, they will be relocated in conformance with federal and state requirements. The applicant shall not adversely impact any owl(s) on site or reduce the habitat values of the open field until the owl(s) has been properly relocated. Activities prohibited include: disking of the fields, ground squirrel control in the area and use of the field for activities that might adversely affect the owls. The applicant shall be allowed to mow grasses on the site in accordance with Fire Department requirements.	Project Proponent and Director of Planning, Building and Code Enforcement	Director of Planning, Building & Code Enforcement will condition the PD Permit to implement mitigation measures to avoid and/or reduce significant biological impacts. A letter report prepared a qualified biologist will be submitted to the Director by the project proponent which describes the results of the pre-construction survey.

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MITIGATION MONITORING AND REPORTING PROGRAM			
Impact	**Mitigation**	**Implementation**	**Oversight Responsibility and Implementation Mechanism**
Biological Impacts, Continued			
Development of the site would result in the removal of 32 ordinance sized trees. **Significant Impact**	Any trees that are removed will be replaced in accordance with City standards and the City's Residential and Commercial Design Guidelines.	Project Proponent	Director of Planning, Building & Code Enforcement will ensure that the landscaping plans include new trees to offset the loss of existing trees.
Hazardous Materials			
The extent of the potential environmental hazards identified on the Courtesy Chevrolet portion of the project site have not been determined and may create a health hazard, particularly if residential uses are developed on this portion of the site. **Significant Impact**	An environmental site assessment will be conducted on the Courtesy Chevrolet portion of the site prior to the issuance of a PD Permit for this portion of the site. The assessment will include remediation measures in conformance with local, state, and federal regulations.	Project Proponent and Director of Planning, Building and Code Enforcement	Director of Planning, Building & Code Enforcement will condition the PD Permit to implement mitigation measures to reduce significant hazardous materials impacts, in conformance with site specific Phase I and/or Phase II reports on the Courtesy Chevrolet site.

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MITIGATION MONITORING AND REPORTING PROGRAM			
Impact	**Mitigation**	**Implementation**	**Oversight Responsibility and Implementation Mechanism**
Soil contamination on the project site would result in the exposure of future project residents to significant risks to human health and safety. **Significant Impact**	A Removal Action Workplan will be followed which includes measures such as capping the contaminated soil and/or removing all or a portion or the contaminated soil.	Project Proponent, Director of Planning, Building and Code Enforcement, Director of Public Works, and State Department of Toxic Substance Control	Director of Planning, Building & Code Enforcement will condition the PD Permit to implement mitigation measures to reduce significant hazardous materials impacts. A Removal Action Workplan will be developed and implemented in conjunction with the Department of Toxic Substance Control and the City of San Jose's Office of Environmental Management.
Cultural Resources Impacts			
Development of the proposed project may uncover buried archaeological or cultural resources. **Significant Impact**	In the event that an archaeological resource is found during construction, a mitigation program will be implemented in conformance with the standards described in Appendix K of the CEQA Guidelines.	Project Proponent and Director of Planning, Building and Code Enforcement	Director of Planning, Building & Code Enforcement will condition PD Permit to require a mitigation program, in conformance with the standards described in Appendix K of the CEQA Guidelines.

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MITIGATION MONITORING AND REPORTING PROGRAM			
Impact	**Mitigation**	**Implementation**	**Oversight Responsibility and Implementation Mechanism**
Utilities and Service Systems Impacts			
There may be insufficient downstream capacity within the existing sanitary sewer system to serve the proposed project. **Potentially Significant Impact**	Should adequate capacity in the existing sanitary sewer system not be available to serve the proposed project, the project would include improvements to the sewer system to maintain the level of service D standard within the system.	Project Proponent and Director of Public Works	Prior to the issuance of a PD Permit the DPW will determine whether any improvements to the public sanitary sewer system are necessary to serve the project. If improvements are necessary, finanicial commitments will be required. The DPW will oversee construction of sewer improvements.

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