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November 7, 2018

Via Email

Chair Peter Allen and Planning Commissioners
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AGENDA ITEM: 7b

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**Re: Comments on the GP17-017 Initial Study/Addendum to the
Diridon Station Area Plan Final Environmental Impact Report**

Dear Chair Allen, Honorable Commissioners and Ms. Mahamood:

On behalf of San Jose Residents for Responsible Development, we submit these comments on the GP17-017 Initial Study/Addendum ("Addendum") to the Diridon Station Area Plan ("DSAP") Final Environmental Impact Report ("FEIR") prepared by the City of San Jose ("City") pursuant to the California Environmental Quality Act ("CEQA"). We are providing these comments in advance of the November 7 Planning Commission hearing on this Project.

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The 4.25-acre Project site is comprised of five non-contiguous parcels located on Dupont Street and McEvoy Street, between West San Carlos Street and Park Avenue, in the Diridon Station Area of the City. The Project proposes to change the General Plan land use designation on all five parcels to Transit Residential (“TR”) through a General Plan Amendment (“GPA”).¹ The TR designation allows a residential density of 50 to 250 dwelling units/acre (“DU/AC”) with a floor area ratio of 2.0 to 12.0 and buildings ranging from five to 25 stories. This change could result in a future development of 170 to 850 residential units.

As these comments demonstrate, the Addendum fails to comply with the requirements of CEQA and may not be used as the basis for approving the Project. It overwhelmingly fails to perform its function as an informational document that should provide public agencies and the public with detailed information about the effect that a proposed project is likely to have on the environment.

Substantial evidence shows that the Addendum contains fatal flaws under CEQA and that the Project is likely to cause significant adverse impacts that are not adequately analyzed and mitigated in the Addendum or in previous DSAP CEQA documents. Specifically, the Addendum improperly piecemeals review of development on the Project site. Furthermore, the Addendum fails to adequately identify, evaluate, and mitigate the following impacts:

- Failure to adequately disclose, analyze, and mitigate significant impacts related to hazardous site conditions;
- Failure to analyze health risk impacts;
- Failure to analyze energy impacts;
- Failure to analyze noise impacts

The Addendum must be withdrawn, and the City must address these errors and deficiencies. Because of the substantial omissions in the Addendum, and because of the potentially significant impacts associated with the Project, revisions that are necessary to comply with CEQA will be, by definition, significant. Therefore, an EIR will need to be circulated for public comment.

¹¹ Initial Study/Addendum, Dupont General Plan Amendment File No. GP17-017, October 2018 (hereinafter “Addendum”).

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We prepared our comments with the assistance of hazards expert James J.J. Clark of Clark & Associates.² Mr. Clark's comments are attached to this letter along with each expert's curriculum vitae. The City must respond to these expert comments separately and individually.

I. INTEREST OF THE COMMENTERS

San Jose Residents for Responsible Development ("San Jose Residents") is an unincorporated association of individuals and labor unions that may be adversely affected by the potential public and worker health and safety hazards, and environmental and public service impacts of the Project. The association includes local residents Kristopher Ugrin and Juan Gutierrez, as well as International Brotherhood of Electrical Workers Local 332, Plumbers & Steamfitters Local 393, Sheet Metal Workers Local 104 and Sprinkler Fitters Local 483, their members, their families and other individuals that live and/or work in the City of San Jose and Santa Clara County.

Individual members of San Jose Residents and the affiliated unions live, work, recreate and raise their families in the City of San Jose and Santa Clara County. They would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist onsite. San Jose Residents has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making it less desirable for businesses to locate and people to live there. Finally, San Jose Residents' members are concerned about projects that present environmental and land use impacts without providing countervailing economic and community benefits.

²See Letter from James J.J. Clark, Clark & Associates, to Laura del Castillo re: Comment Letter on Dupont Street General Plan Addendum Mixed-Use Initial Study/Addendum File No. GP17-017 November 6, 2018 (hereinafter, "Clark Comments"), **Attachment A**.

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II. THE CITY ILLEGALLY PIECEMEALS THE GENERAL PLAN AMENDMENT FROM THE PROJECT

CEQA prohibits a project proponent from seeking approval of a large project in a smaller pieces in order to take advantage of environmental exemptions or lesser CEQA review for smaller projects.³ California courts have repeatedly held that “an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient [CEQA document].”⁴ CEQA requires that a project be described with enough particularity that its impacts can be assessed.⁵ As articulated by the court in *County of Inyo v. City of Los Angeles*, “a curtailed, enigmatic or unstable project description draws a red herring across the path of public input.”⁶ Without a complete project description, the environmental analysis under CEQA is impermissibly limited, thus minimizing the project’s impacts and undermining meaningful public review.⁷

CEQA prohibits such a piecemeal approach and requires review of a Project’s impacts as a whole.⁸ “Project” is defined as “the whole of an action,” which has the potential to result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.⁹ CEQA mandates “that environmental considerations do not become submerged by chopping a large project into many little ones -- each with a minimal potential impact on the environment -- which cumulatively may have disastrous consequences.”¹⁰ Before undertaking a project, the lead agency must assess the environmental impacts of all reasonably foreseeable phases of a project.¹¹

³ *Arviv Enterprises, Inc. v. South Valley Area Planning Com.*, 101 Cal. App. 4th 1337, 1340 (2002).

⁴ *County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 CalApp.3d 185, 193.

⁵ *Id.* at 192.

⁶ *Id.* at 197-198.

⁷ See, e.g., *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376.

⁸ 14 Cal. Code Reg. § 15378, subd. (a); *Burbank- Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal.App.3d 577, 592.

⁹ 14 Cal. Code Reg., § 15378.

¹⁰ *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283-84; *City of Santee v. County of San Diego*, (1989) 214 Cal.App.3d 1438, 1452.

¹¹ *Laurel Heights Improvement Assoc. v. Regents of the Univ. of Calif.* (1988) 47 Cal.3d 376, 396-97, 253 Cal.Rptr. 426 (EIR held inadequate for failure to assess impacts of second phase of pharmacy school’s occupancy of a new medical research facility).

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Courts have found improper piecemealing where a lead agency conducts separate CEQA reviews for related activities proposed by the same applicant in the same vicinity. In *Plan for Arcadia v. City Council of Arcadia*, a developer submitted two applications for developments on a 400-acre property, first a 72-acre shopping center and then a parking lot to serve a racetrack on the property.¹² A site plan showed that the owner had plans to redevelop the entire property.¹³ Although both projects were exempt from CEQA because they predated CEQA's effective date, it was "clear" to the court that they were "related to each other and that in assessing their environmental impact they should be regarded as a single project under [CEQA]."¹⁴

In *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora*, the court articulated "general principles" for determining whether two actions are one CEQA project, including "how closely related the acts are to the overall objective of the project," and how closely related they are in *time, physical location, and the entity undertaking the action*.¹⁵ The court rejected arguments that a shopping center and nearby road alignment were "separate and independent" projects, and held that (1) separate approvals do not sever the connections between two activities; (2) the broad definition of a CEQA "project" extends beyond situations where a future activity is "necessitated by" an earlier one (noting that when actions "actually will be taken," the appropriate inquiry is whether they are related to one another, i.e. they comprise the "whole of an action" or "coordinated endeavor"); and (3) the applicable standard is not always whether two actions "could be implemented independently of each other."¹⁶

Here, the City improperly segmented the Project because the site had already been associated with a specific development project prior to the filing of the GPA application. The same Applicant identified in the Addendum for the General Plan Amendment also filed an application for a Planned Development Permit PDC17-057 ("PD permit") on December 13, 2017 for the exact same Project site at 205 Dupont

¹² *Plan for Arcadia v. City Council of Arcadia* (1974) 42 Cal.App.3d 712, 718, 721

¹³ *Id.* at 719.

¹⁴ *Id.* at 723, 726.

¹⁵ *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1226-1227 ("*Tuolumne*").

¹⁶ *Id.* at 1228-1230 (citing 14 Cal. Code Reg. § 15378(c) and analyzing *Sierra Club v. W. Side Irr. Dist.* (2005) 128 Cal.App.4th 690, 698-700).

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Street.¹⁷ That project, called “Dupont Village,” proposed to demolish nine existing commercial buildings and construct a 7-story 458-unit residential structure.¹⁸

The high-density residential development contemplated in the PD permit application could not be approved without this Project. Specifically, the GPA will change the land use designation from Mixed Use Commercial with a residential density of 50 DU/AC, which would not have allowed for the Dupont Village Project, to the TR designation which allows up to 250 DU/AC. For unknown reasons, the Applicant withdrew the Dupont Village application in February 2018,¹⁹ but remains the Applicant for the GPA. Based on this information, it is likely the Applicant intends to reapply for the Dupont Village permit or a permit for a similar development after the GPA is considered.

Not only did this decoupling of the GPA from the actual development project illegally segment the Project, but the Addendum itself contains fatal flaws that render it inadequate under CEQA. As described below, even if the Dupont Village project is no longer moving forward, the City is required to analyze project-level impacts when project-level development information is known, namely the maximum allowable capacity of 850 residential units. The City failed to do a project-level analysis of impacts, and instead simply provides a general program-level analysis in the Addendum.

The City’s segmentation of the GPA from the Dupont Village or any future development project violates CEQA. In addition, substantial evidence shows that any development on the site under either the Dupont Village plan or the maximum allowable capacity under the currently proposed GPA may result in potentially significant impacts. The City must withdraw the Addendum and prepare an EIR.

III. THE CITY MUST PREPARE A SUBSEQUENT OR SUPPLEMENTAL EIR FOR THIS PROJECT

CEQA has two basic purposes, neither of which is satisfied by the Project’s

¹⁷ See Addendum, p. 3 (Project Applicant - Salvador Caruso Design Corporation); 205 Dupont Street (“Dupont Village”) Application, PDF 11 (Salvatore Caruso Design Corporation), **Attachment B**; Email from Salvatore Caruso to Nizar Slim, Planner, San Jose (“When can we expect comments on both the GP and PD applications.”), **Attachment C**.

¹⁸ Dupont Village, Environmental Evaluation Application, **Attachment D**.

¹⁹ Dupont Village Application.

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Addendum. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental impacts of a project before harm is done to the environment.²⁰ The EIR is the “heart” of this requirement.²¹ The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.”²²

To fulfill this function, the discussion of impacts in an EIR must be detailed, complete, and “reflect a good faith effort at full disclosure.”²³ An adequate EIR must contain facts and analysis, not just an agency’s conclusions.²⁴ CEQA requires an EIR to disclose all potential direct, indirect, and cumulative significant environmental impacts of a project.²⁵

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring imposition of mitigation measures and by requiring the consideration of environmentally superior alternatives.²⁶ If an EIR identifies potentially significant impacts, it must then propose and evaluate mitigation measures to minimize these impacts.²⁷ CEQA imposes an affirmative obligation on agencies to avoid or reduce environmental harm by adopting feasible project alternatives or mitigation measures.²⁸ Without an adequate analysis and description of feasible mitigation measures, it would be impossible for agencies relying upon the EIR to meet this obligation.

Under CEQA, an EIR must not only discuss measures to avoid or minimize adverse impacts, but must ensure that mitigation conditions are fully enforceable

²⁰ 14 CCR § 15002(a)(1) (“CEQA Guidelines”); *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal.App.4th 1344, 1354 (“*Berkeley Jets*”); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

²¹ *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 84.

²² *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

²³ 14 CCR, § 15151; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 721-722.

²⁴ *See Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 568.

²⁵ PRC, § 21100(b)(1); 14 CCR, § 15126.2(a).

²⁶ 14 CCR, § 15002(a)(2) and (3); *Berkeley Jets*, 91 Cal.App.4th at 1354; *Laurel Heights Improvement Ass’n v. Regents of the University of Cal.* (1998) 47 Cal.3d 376, 400.

²⁷ PRC, §§ 21002.1(a), 21100(b)(3).

²⁸ *Id.*, §§ 21002-21002.1.

through permit conditions, agreements or other legally binding instruments.²⁹ A CEQA lead agency is precluded from making the required CEQA findings unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved; an agency may not rely on mitigation measures of uncertain efficacy or feasibility.³⁰ This approach helps “insure the integrity of the process of decision by precluding stubborn problems or serious criticism from being swept under the rug.”³¹

Following preliminary review of a project to determine whether an activity is subject to CEQA, a lead agency is required to prepare an initial study to determine whether to prepare an EIR or negative declaration, identify whether a program EIR, tiering, or other appropriate process can be used for analysis of the project’s environmental effects, or determine whether a previously prepared EIR could be used with the project, among other purposes.³² CEQA requires an agency to analyze the potential environmental impacts of its proposed actions in an EIR except in certain limited circumstances.³³ A negative declaration may be prepared instead of an EIR when, after preparing an initial study, a lead agency determines that a project “would not have a significant effect on the environment.”³⁴

When an EIR has previously been prepared that could apply to the Project, CEQA requires the lead agency to conduct subsequent or supplemental environmental review when one or more of the following events occur:

- (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report;
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report; or

²⁹ 14 CCR, § 15126.4(a)(2).

³⁰ *Kings County Farm Bur. v. County of Hanford* (1990) 221 Cal.App.3d 692, 727-28 (a groundwater purchase agreement found to be inadequate mitigation because there was no record evidence that replacement water was available).

³¹ *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935.

³² 14 CCR, §§ 15060, 15063(c).

³³ *See, e.g.*, PRC, § 21100.

³⁴ *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597; Pub. Resources Code § 21080(c).

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- (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.³⁵

The CEQA Guidelines explain that the lead agency must determine, on the basis of substantial evidence in light of the whole record, if one or more of the following events occur:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant effects or a substantial increase in the severity of previously identified effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are

³⁵ PRC, § 21166.
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considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.³⁶

Only where **none** of the conditions described above calling for preparation of a subsequent or supplemental EIR have occurred may the lead agency consider preparing a subsequent negative declaration, an Addendum or no further documentation.³⁷ For Addendums specifically, CEQA allows Addendums to a previously certified EIR if minor changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.³⁸ The City's decision not prepare a subsequent EIR must be supported by substantial evidence.³⁹

Here, the City lacks substantial evidence for its decision not to prepare a subsequent EIR because at least one of the triggering conditions in Section 15162 has occurred. As explained below, substantial evidence shows that the Project may have one or more significant effects not discussed in the previous EIR. Specifically, the Project may have significant impacts associated with hazardous site conditions, as described by Mr. Clark. Moreover, the Addendum completely fails to evaluate the Project's potentially significant impacts related to public health risks, energy, and noise.

Accordingly, Mr. Clark's substantial evidence, and the City's lack thereof, requires that the City prepare a subsequent or supplemental EIR to adequately address the Project's potentially significant impacts related to hazardous site conditions, public health, energy use, and noise.⁴⁰

³⁶ 14 CCR, § 15162(a)(1)-(3).

³⁷ 14 CCR, § 15162(b).

³⁸ 14 CCR, § 15164.

³⁹ *Id.* §§ 15162 (a), 15164(e), and 15168(c)(4).

⁴⁰ 14 CCR, § 15162 ("no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one of more of the following [triggering actions has occurred]"); § 15164 ("The [agency's] explanation [to not prepare a subsequent EIR pursuant to Section 15162] must be supported by substantial evidence.").

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A. The City Failed to Adequately Describe the Existing Setting for Hazards and Substantial Evidence Shows the Project Will Result in Significant Impacts Related to Hazardous Site Conditions

1. Failure to Identify All Relevant Hazardous Waste Sites Within One Mile of the Project Site

CEQA documents must describe the existing environmental setting in enough detail to enable a proper impact analysis,⁴¹ thus it is vital to the CEQA process that accurate information be compiled to describe the current conditions of the community in which the proposed project is to be sited. The Addendum lists a few sources of off-site contamination.⁴² However, according to Mr. Clark's review of the Geotracker website, maintained by the State Water Quality Control Board, there are 187 different cases of hazardous waste sites within a mile of the project site.⁴³ Furthermore, Mr. Clark notes that "[a]t least 26 of the sites are still open and may have active remediation or verification monitoring being performed."⁴⁴ According to Mr. Clark, the chemicals of concern at the active sites include "chlorinated solvents (perchloroethylene, trichloroethylene, 1,2-dichloroethylene, etc...), petroleum hydrocarbons from USTs releases (gasoline, diesel, waste oils), or polychlorinated biphenyls (PCBs)," with the closest active site being less than 900 feet away from the Project.⁴⁵ Mr. Clark provides detailed evidence of these sites in his comments.

Mr. Clark finds that the Addendum fails to accurately describe the conditions surrounding the site" and thus concludes that the "recognized environmental concerns (RECs) warrant a substantial analysis by the City in a revised EIR to ensure that workers, current residents, future residents, and sensitive receptors (e.g., Edge School below) are not adversely impacted by the identified wastes."⁴⁶

⁴¹ *Galante Vineyards v. Monterey Peninsula Water Management District* (1997) 60 Cal.App.4th 1109, 1121-22.

⁴² Addendum, p. 40.

⁴³ Clark Comments, p. 22.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Clark Comments, p. 22.

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2. *Inadequate Analysis of Significant Impacts*

CEQA requires an analysis of whether the Project would create a significant hazard to the public or the environment through the release of hazardous materials into the environment.⁴⁷ The Addendum describes the Project's potential impacts stating that contaminated soil and groundwater could "expose construction workers and future users of redevelopment sites to health risks through direct contact and/or inhalation of soil or groundwater vapors of volatile organic compounds."⁴⁸ The Addendum then refers to the previous DSAP FEIR and states that specific requirements would "be determined during the subsequent environmental review that would be required when a specific development project is submitted."⁴⁹ This is improper deferral where evidence shows that potentially significant impacts may occur.

The DSAP FEIR provided a general review of potential site hazards, stating that "prior to development or redevelopment of any parcel as part of implementation of DSAP, a Phase I site assessment shall be conducted by a qualified professional."⁵⁰ The DSAP FEIR also pointed to several other agencies and regulations and concluded that implementation of "General Plan policies, appropriate clean-up actions, and precautionary measures" would ensure that future development on the site would result in less-than-significant impacts related to hazards and hazardous materials.⁵¹ However, without a site-specific Phase I site assessment, the Addendum may not rely on the DSAP FEIR or other laws and regulations to evaluate and mitigate hazardous impacts.

Indeed, Mr. Clark finds several flaws with the Addendum's analysis. First, Mr. Clark explains that the Addendum gives "contradictory descriptions" of the potential for asbestos-containing materials ("ACMs") and lead-based paint that exist at the site.⁵² Mr. Clark reviewed site conditions and finds that "[g]iven the age of the buildings to be demolished and the nature of the project site it is clear that a high potential for industrial chemicals to be present in soils on site..."⁵³

⁴⁷ CEQA Guidelines App. G.

⁴⁸ Addendum, p. 39.

⁴⁹ *Id.*, at 40.

⁵⁰ DSAP FEIR, p. 246.

⁵¹ *Id.*, at 248.

⁵² Clark Comments, p. 11.

⁵³ *Id.*

Mr. Clark further explains that the disturbance of ACM and lead-based paint impacted soils is a significant impact “given the proximity of new and existing residential properties to the Site” and that “[e]ntrainment of the impacted dust generated during demolition and construction activities could have long lasting impacts on the community.”⁵⁴ Lead is listed by the State of California, under Proposition 65, as a carcinogen and cause for developmental health effects.⁵⁵ According to Mr. Clark, exposure to lead is a serious concern for decreases in intelligence scores for young children and for increased blood pressure in adults. Furthermore, exposure through impacted soils via incidental ingestion or dermal absorption and through the inhalation of fine dust (particulate matter) impacted with the chemicals is the primary route of exposure for workers, community members and sensitive receptors near the project site.⁵⁶

This issue is further exacerbated because of the Project site’s proximity to the Edge School (previously the Sunol Community School), which is located less than 50 meters from the site’s western boundary, according to Mr. Clark. He then states that “it is clear that the project will have a potential significant impact on the community that has not been adequately analyzed or mitigated,”⁵⁷ and that the City must evaluate the potential impacts from hazardous wastes generated at the existing site, including lead, asbestos on the Edge School in an EIR.⁵⁸

Mr. Clark thus finds that “given the volume of soils likely to be graded on site and the volume of soils to be excavated in the construction of any underground parking lots it is imperative that the public be given an opportunity to understand and assess the extent of any soil contamination prior to beginning the project, as required under CEQA.”⁵⁹ Mr. Clark concludes that the Project site “has not been adequately evaluated with regard to potential hazards” and the City cannot rely on the previous 2014 DSAP FEIR because it “defers evaluation and mitigation to other laws and agencies.”⁶⁰

⁵⁴ *Id.*

⁵⁵ OEHHA. 2018. Chemicals Known to the State to Cause Cancer or Reproductive Toxicity. State of California, Environmental Protection Agency, Office of Environmental Health Hazard Assessment. May 25, 2018

⁵⁶ Clark Comments, p. 11.

⁵⁷ *Id.*, at 7.

⁵⁸ *Id.*

⁵⁹ *Id.*, at 11-12.

⁶⁰ *Id.*, at 12.

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The Addendum's reliance on regulations and laws outside of CEQA to mitigate the risks related to disposal of contaminated groundwater is misplaced. Indeed, case law has shown that compliance with applicable regulations does not automatically obviate the need for further analysis of impacts. In *Communities for a Better Env't v. California Res. Agency*, the court struck down a CEQA Guideline because it "impermissibly allow[ed] an agency to find a cumulative effect insignificant based on a project's compliance with some generalized plan rather than on the project's actual environmental impacts."⁶¹ The court concluded that "[i]f there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding that the project complies with the specified plan or mitigation program addressing the cumulative problem, an EIR must be prepared for the project."⁶² Thus, the ruling supports the notion that a lead agency still has an obligation to consider substantial evidence and analyze and mitigate potentially significant impacts despite assured compliance with applicable standard outside of the CEQA process.

In *Keep our Mountains Quiet v. County of Santa Clara*, neighbors of a wedding venue sued over the County's failure to prepare an EIR due to significant noise impacts. The court concluded that "a fair argument [exists] that the Project may have a significant environmental noise impact" and reasoned that although the noise levels would likely comply with local noise standards, "compliance with the ordinance does not foreclose the possibility of significant noise impacts."⁶³ The court ordered the County to prepare an EIR. The ruling demonstrates the possibility that a project may follow an applicable regulation and still have a significant impact.

In *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1355, the court held that conditions requiring compliance with regulations are proper "where the public agency had meaningful information reasonably justifying an expectation of mitigation of environmental effects." The ruling suggests that an agency that merely provides a bare assertion that the project will follow applicable regulations, without further explanation or enforceability, may not fulfill the requirements of CEQA.

⁶¹ *Communities for a Better Env't v. California Res. Agency* (2002) 126 Cal.Rptr.2d 441, 453.

⁶² *Id.*

⁶³ *Keep our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714.

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Here, the City fails to provide any information explaining how reliance on the DSAP FEIR and compliance with the outside laws and regulations, without a site-specific Phase I, would reduce the potentially significant risks related to contaminated groundwater and soil, including impacts to worker and public health. As a result, the Addendum is not supported by substantial, or any, evidence. As Mr. Clark found, the Project poses a significant risk to workers, community members, and local businesses if these issues are not adequately evaluated and mitigated. The City may not rely solely on compliance with regulations or laws as reducing impacts without a full analysis of impacts and enforceable mitigation.

IV. THE ADDENDUM FAILS TO COMPLY WITH CEQA'S REQUIREMENTS FOR PROGRAM-LEVEL ENVIRONMENTAL REVIEW

The City violated CEQA by failing to evaluate future development allowed by the General Plan Amendment. This approach has been expressly rejected by the Courts.

The Addendum suggests it is only a programmatic review document and future development will require project-level analysis. However, the City has stated in numerous other cases, that the City can approve subsequent projects as within the scope of the program covered by a prior environmental impact report, negative declaration or addendum – and ***not require further environmental review if the information regarding potentially significant impacts is known at the time the prior environmental review document was prepared.*** The legal standard to challenge that finding would require the public to provide substantial evidence that the subsequent project is larger than what was allowed by the prior document, that there are substantial changes in the circumstances under which the project is undertaken or that new information which was not known and could not be known at the time the negative declaration was prepared shows that there are new or more severe impacts or new mitigation measures to reduce those impacts, such as in the case of hazards above. Here, since the City has information now that future development allowed by the General Plan Amendment may result in significant impacts, the City is required to prepare an environmental impact report at this time.

The Addendum fails to comply with CEQA's requirements for a program level environmental review document. Courts have expressly rejected the Addendum's

approach of deferring analysis of reasonably foreseeable significant environmental impacts from a general plan amendment. CEQA Guidelines section 15146(b) specifically instructs agencies to consider the environmental effects of amending a local general plan, even though the specific impacts of future development projects are not yet known:

“An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption, or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.”

CEQA Guidelines section 15152 allows agencies to “tier” a project-specific analysis to a program EIR for a general plan amendment, but warns that “[t]iering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental effects” and “does not justify deferring” an analysis of the general plan amendment to a later CEQA document.

The Addendum explains that future development allowed under the proposed General Plan Amendment would allow up to 850 residential units on the site. However, the Addendum does not analyze impacts from the potential development.

A. The Addendum Fails to Consider and Analyze Significant Impacts from the General Plan Amendment

The General Plan amendment would allow for the future development of up to 850 dwelling units on a 4.25 acre site. Furthermore, a specific development project was proposed for this site before the GPA process began. However, the Addendum provides *no analysis whatsoever* of either the actual previously proposed development project, or the maximum development proposed through this GPA. Rather, the Addendum states that it is “a ‘Program’ level document that addresses only the impacts of changing the type of land use planned for the property. There is no specific development proposal.”⁶⁴ The Addendum then vaguely alludes to future zoning changes and environmental review.⁶⁵

⁶⁴ Addendum, p. 8.

⁶⁵ *Id.*

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Courts have rejected this position as improper deferral of the environmental analysis that is required upon the adoption or amendment of a general planning document.⁶⁶ It is well established that an agency must analyze the future development contemplated in a plan amendment.⁶⁷ CEQA requires analysis of the environmental effects of a project at the earliest possible stage in the planning process.⁶⁸ When a Court reviews whether there was an omission of required information from an environmental review document, it reviews whether (1) the document did not contain information required by law and (2) the omission precluded informed decisionmaking.⁶⁹ Failure to include the required information is a failure to comply with CEQA.

Here, by deferring analysis of future development contemplated by the Project, the City failed to comply with CEQA. Instead, the Addendum states that the project is a GPA and provides only limited analysis. However, there are several resources areas where the City is required to provide project-level analysis when project-level information, site conditions, and potentially significant impacts are known. The City's failure to analyze these impacts from future development contemplated by the Project violates CEQA as a matter of law.

1. Air Quality and Public Health Risks

The Addendum's air quality analysis defers assessment of the Project's impacts and, thus, fails to comply with CEQA. According to the Addendum, "[f]uture development under the DSAP may also involve new sources of [toxic air contaminants ("TACs")] that could contribute to community risks and hazards" but that "future redevelopment of the project site under the proposed GPA would be required to complete site-specific modeling and incorporate mitigation as appropriate."⁷⁰ However, despite the fact that health risk assessments were not conducted, the Addendum concludes that future development projects would comply

⁶⁶ *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 409 (citing *Christward Ministry v. Superior Ct.*, *supra*, 184 Cal.App.3d at 194).

⁶⁷ *City of Redlands v. San Bernardino County* (2002) 96 Cal.App.4th 398, 409; *Christian Ministry v. Superior Court* (1986) 184 Cal.App. 3d 180, 194; *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351, 370-371.

⁶⁸ *City of Redlands v. San Bernardino County*, 96 Cal.App.4th at 410.

⁶⁹ *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 76-77; *Clover Valley Found. v. City of Rocklin* (2011) 197 Cal.App.4th 200, 211 (courts "scrupulously enforce[e] all legislatively mandated CEQA requirements").

⁷⁰ Addendum, p. 20.

with Bay Area Air Quality Management District (“BAAQMD”) and City requirements, as well as General Plan Policies, and that both construction and operational impacts associated with public exposure to toxic air contaminants would be less than significant with mitigation.⁷¹

The Addendum’s air quality analysis fails to comply with CEQA in several ways. First, the Addendum’s deferral of a project-specific air quality assessment is an approach that has been rejected by the courts, as explained above.

Second, compliance with applicable BAAQMD and City regulations and policies does not automatically obviate the need for further analysis of impacts,⁷² again explained above.

Third, the City has not adequately incorporated compliance with these policies as enforceable mitigation. In *Lotus v. Department of Transportation*, the project proponents considered mitigation measures as “part of the project,” and the EIR concluded that because of the planned implementation of those measures, no significant impacts were expected.⁷³ The Appellate Court found that because the EIR had “compress[ed] the analysis of impacts and mitigation measures into a single issue, the EIR disregard[ed] the requirements of CEQA.”⁷⁴ Similarly, the Addendum for this Project indicates that the provisions of the outside laws and regulations would reduce the risks related to air quality without actually analyzing the impact.

Finally, the City’s own evidence shows that construction and operation of the Project may result in significant impacts, requiring preparation of an EIR. As highlighted above, the Addendum states that “[f]uture development under the DSAP may also involve new sources of TACs that could contribute to community risks and hazards.”⁷⁵ Despite this recognition of exposure of people to toxic air contaminants, the Addendum unlawfully defers preparation of construction and operational health risk assessments to identify potential health risks and mitigation measures.

⁷¹ *Id.*, at 20-21.

⁷² *Communities for a Better Env’t v. California Res. Agency* (2002) 126 Cal.Rptr.2d 441, 453.

⁷³ *Id.*, at 651.

⁷⁴ *Id.*, at 656.

⁷⁵ Addendum, p .20.

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Mr. Clark finds that there is potential for significant health risks, stating that “[g]iven the potential emissions from construction activities on site, the City must provide an estimate of construction emissions and a health risk assessment to assess the potential health risks posed to sensitive receptors in the surrounding community and among future residents.”⁷⁶ Furthermore, Mr. Clark finds that “[g]iven the potential emissions from increased traffic, and the existence of project-level information, such as the maximum build-out of the site, or at the very least the previously proposed project for the site, the City is required under CEQA to provide a health risk assessments based upon the operational emission of the project on sensitive receptors in the surrounding community and among future residents.”⁷⁷

Therefore, the City’s failure to analyze and mitigate the health risks from either the Dupont Village build-out or maximum build-out on the Project site violates CEQA.

2. *Energy Use*

Under CEQA, wasteful, uneconomic, inefficient or unnecessary consumption of energy means exceeding a threshold of significance in the energy use impact areas identified in Appendix F.⁷⁸ This includes asking whether the project’s energy requirements by amount and fuel type during construction, operation, maintenance and/or removal and from materials will be significant, whether the project complies with existing energy standards, whether the project will have a significant effect on energy resources and whether the project will have significant transportation energy use requirements, among other questions.

For each of these questions, CEQA Guidelines Appendix F asks whether the project decreases overall per capita energy consumption, decreases reliance on fossil fuels, and increases reliance on renewable energy sources. Appendix F explains that these are the means to ensure wise and efficient use of energy. If a project does not decrease overall per capita energy consumption, decrease reliance on fossil fuels, and increase reliance on renewable energy sources, then the Project does not ensure

⁷⁶ Clark Comments, p. 9.

⁷⁷ *Id.*, at 10.

⁷⁸ CEQA Guidelines Appendix F.

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wise and efficient use of energy and, therefore, results in a wasteful, inefficient and unnecessary consumption of energy.

Here, the Addendum fails to compare the Project energy use to CEQA's thresholds for measuring wasteful, uneconomic, inefficient or unnecessary consumption of energy in Appendix F. In fact, the only time energy use is mentioned is in the language of Policy MS-14.4 as part of the list of applicable General Plan policies to address greenhouse gas emissions.⁷⁹ Policy MS-14.4 requires implementation of the City's Green Building Policies which are intended to reduce energy consumption. However, this can hardly be considered an adequate analysis of and mitigation for project-specific energy use impacts from either the Dupont Village build-out or maximum build-out under the currently proposed GPA.

Furthermore, the Addendum contains no analysis of whether the energy use of development allowed under the GPA is carbon neutral under Governor Brown's Executive Order B-55-18. The question is, for example, whether the allowable development's energy requirements by amount and fuel type during construction, operation, maintenance and/or removal and transportation is carbon neutral. This analysis of carbon neutrality is consistent with Appendix F's explanation of the means to ensure wise and efficient use of energy. The Addendum contains no such analysis, and reliance on the 2014 DSAP FEIR is misguided given the DSAP FEIR's outdated information and failure to meet these energy evaluation standards.

Therefore, the City's failure to analyze and mitigate the energy use for either the Dupont Village build-out or maximum build-out on the Project site under the currently proposed GPA is inconsistent with the requirements of CEQA.

3. *Noise Impacts*

CEQA requires an evaluation of noise impacts from new development. However, the Addendum fails to provide a project-level noise evaluation during construction and during operation, which is crucial given the Project's proximity to CalTrain operations. Instead, the Addendum simply refers to the DSAP FEIR, which concluded that implementation of General Plan policies and other applicable regulations would "ensure that future development allowed under the DSAP would

⁷⁹ Addendum, p. 34.
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not be exposed to interior and exterior noise levels in excess of City standards.”⁸⁰ The Addendum then concludes that both construction and operational noise impacts will be less than significant.

However, as explained above, despite a project’s stated compliance with applicable regulations and policies, the lead agency still must evaluate and mitigate potentially significant impacts in a CEQA document.⁸¹ Furthermore, the City’s failure to provide a more detailed noise assessment is counter to the very language in the DSAP FEIR, which states clearly that future projects “with a residential component will need to complete additional studies, including.... [n]oise reports.”⁸²

Therefore, the City’s failure to analyze and mitigate the noise impacts from either the Dupont Village build-out or maximum build-out on the Project site is inconsistent with the requirements of CEQA.

V. CONCLUSION

It is essential that the City’s CEQA review adequately identify and analyze the Project’s foreseeable direct, indirect and cumulative impacts. It is also imperative that any and all feasible mitigation measures be presented and discussed. Indeed, CEQA requires nothing less. As discussed above, the Addendum fails to meet the informational and public participation requirements of CEQA, because it improperly segments environmental review, fails to comply with the requirements for program-level environmental review, fails to evaluate the project-level impacts in the areas of public health, energy use, and noise, and lacks substantial, if any, evidence to support the City’s environmental conclusions. Moreover, substantial evidence exists that the Project will result in significant impacts from hazardous site conditions requiring the City to prepare an EIR.

⁸⁰ Addendum, p. 54.

⁸¹ *Communities for a Better Env’t v. California Res. Agency* (2002) 126 Cal.Rptr.2d 441, 453.

⁸² DSAP FEIR, p. 75.

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Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, reading "Laura del Castillo". The signature is fluid and cursive, with the first name "Laura" and last name "del Castillo" clearly legible.

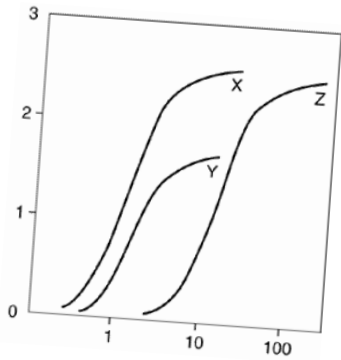
Laura E. del Castillo

Attachments

LEDC:acp

4425-001acp

ATTACHMENT A



November 6, 2018

Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080

Attn: Ms. Laura E. del Castillo

**Subject: Comment Letter on Dupont Street General Plan
Addendum Mixed-Use Initial Study/Addendum File No.
GP17-017**

OFFICE

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Dear Ms. Del Castillo:

At the request of San Jose Residents for Responsible Development (San Jose Residents), Clark and Associates (Clark) has reviewed materials related to the October, 2018 Dupont General Plan Addendum (File No. GP17-017), including the Addendum to the Diridon Station Area Plan Final Environmental Impact Report (SCH#2011092022). In addition, Clark has also reviewed materials related to the previously proposed 205 Dupont Street Mixed-Use Project ("Project"), including application materials and the City of San Jose Initial Response to Development Application dated January, 2018.

The Addendum to the Diridon Station Area Plan Final Environmental Impact Report (DSAP FEIR) has serious flaws regarding the potentially significant impacts from hazardous materials in construction debris, the presence of industrial chemical residues that are likely in place based upon the historical land use of the current structures and adjacent facilities, and a failure to accurately describe and analyze the potential construction and operational emissions from the Project on the surrounding community including future sensitive receptors within ¼ mile of the project site. These flaws must be addressed in a new EIR which must identify and analyze potentially significant impacts, including the level of contamination on the site, and proscribe clean up levels for the project apriori.

Project Description

According to the Addendum to the FEIR¹, in 2011, the City of San Jose approved the Envision San Jose 2040 General Plan, which was a long-range program for the development of the City. The General Plan FPEIR was a broad range analysis of the planned growth and *did not analyze specific development projects (emphasis added)*. The intent was for the General Plan FPEIR to be a program-level document from which subsequent development consistent with the General Plan could tier.

In 2014, the City of San Jose approved the Diridon Station Area Plan (DSAP)². The 250-acre DSAP area is generally bounded by Lenzen Avenue and the UPRR tracks to the north, Interstate 280 to the south, the Guadalupe River and Delmas Avenue to the east, and Sunol Avenue and the Diridon Station commuter rail tracks to the west. The DSAP allows up to 4,963,400 square feet of office/research and development/light industrial land uses, 424,100 square feet of retail/restaurant space, 2,588 residential units, and 900 hotel rooms. According to the Addendum³, the development allowed under the DSAP is consistent with the planned growth in the General Plan.

¹ City of San Jose. 2018. Addendum to the Diridon Station Area Plan Final Environmental Impact Report (SCH#2011092022), Envision San Jose 2040 General Plan Supplemental Environmental Impact Report and Addenda Thereto (SCH# 2009072096), dated October 29, 2018.

² City of San Jose. 2018. Addendum to the Diridon Station Area Plan Final Environmental Impact Report (SCH#2011092022), Envision San Jose 2040 General Plan Supplemental Environmental Impact Report and Addenda Thereto (SCH# 2009072096), dated October 29, 2018.

³ City of San Jose. 2018. Addendum to the Diridon Station Area Plan Final Environmental Impact Report (SCH#2011092022), Envision San Jose 2040 General Plan Supplemental Environmental Impact Report and Addenda Thereto (SCH# 2009072096), dated October 29, 2018.

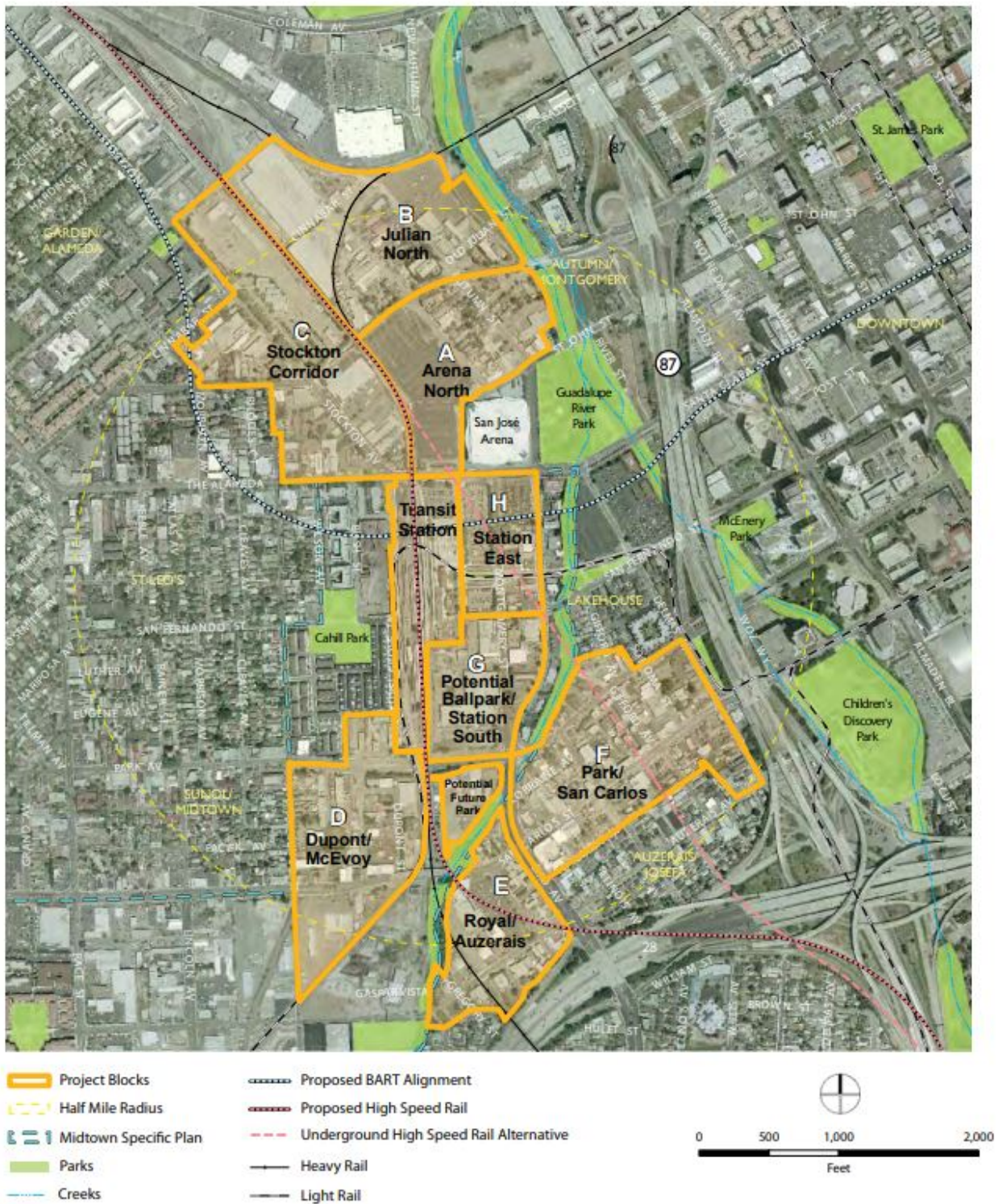


Figure 1: Diridon Station Area

The Diridon Station Area includes three distinct zones of development. The Dupont project site is located in the southern most zone of the Diridon Station Area. The overall development plan calls for this area to be designated as Transit-Residential, with up to 250 units of residences per acre. The 2014 DSAP⁴ called for up to 1,175 residential units in the Dupont project site and a total of 2,635 residential units in the southern zone of the Diridon Station Area.

The Dupont project site is described in the Addendum, as a 4.25 acre site comprised of five non-contiguous parcels located on Dupont Street and McEvoy Street, between West San Carlos Street and Park Avenue.⁵ The City has approached the project evaluation as a component of a program EIR rather than providing the necessary site specific information which would allow for a considered analysis of the impacts of the project.

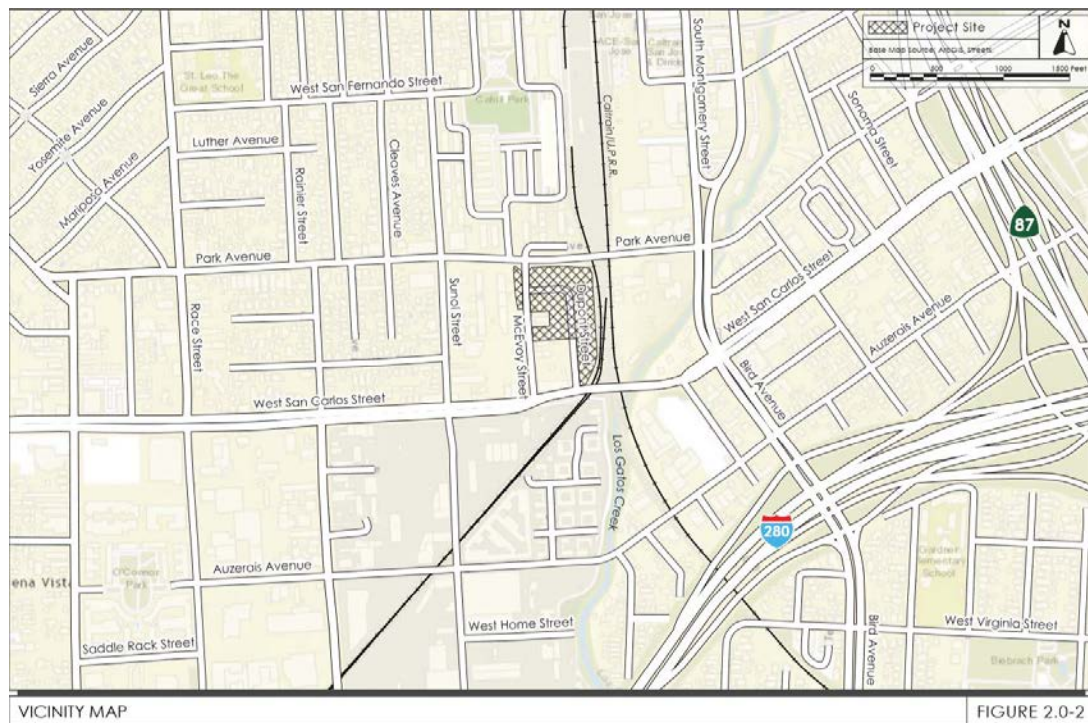


Figure 2: Vicinity Map

⁴ City of San Jose. 2018. Addendum to the Diridon Station Area Plan Final Environmental Impact Report (SCH#2011092022), Envision San Jose 2040 General Plan Supplemental Environmental Impact Report and Addenda Thereto (SCH# 2009072096), dated October 29, 2018.

⁵ City of San Jose. 2018. Addendum to the Diridon Station Area Plan Final Environmental Impact Report (SCH#2011092022), Envision San Jose 2040 General Plan Supplemental Environmental Impact Report and Addenda Thereto (SCH# 2009072096), dated October 29, 2018.

The 2014 DSAP FEIR does not analyze the Dupont project-specific impacts. The DSAP FEIR was certified in 2014 but recent developments such as approval of the Urban Village Implementation and Amenity Framework have changed the conditions for the development of the DSAP area, including the project site. The City prepared the Addendum to identify any changes to the physical environment on and around the project site since certification of the DSAP FEIR, and confirm the findings of the DSAP FEIR relative to the project site.⁶

The project proposes to change the General Plan land use designation on all five parcels from MUC - Mixed- Use Commercial to TR - Transit Residential. The TR designation allows a residential density of 50 to 250 dwelling units per acre with a floor area ratio of 2.0 to 12.0 and buildings ranging in height from 5 to 25 stories. This change in land use could result in a future development of 170 to 850 residential units on the project site.



Figure 3: Project Site and Zoning

⁶ City of San Jose. 2018. Addendum to the Diridon Station Area Plan Final Environmental Impact Report (SCH#2011092022), Envision San Jose 2040 General Plan Supplemental Environmental Impact Report and Addenda Thereto (SCH# 2009072096), dated October 29, 2018.

The action the City requesting is the change in the land use designation, as an Addendum to the City's General Plan. The Addendum was, therefore, an Addendum to a "Program" level document that addresses only the impacts of changing the type of land use planned for the property. According to the Addendum, when a specific development is proposed in the future, the City will prepare a new project-specific environmental analysis as required by CEQA including rezoning. However, our review has found that there was a specific development project previously proposed for the site that the City could base project-specific analysis upon. Moreover, even if this proposal is no longer applicable, the City also has the ability to evaluate project-specific impacts based on the maximum allowable development on the site under the Transit Residential land use.

Specific Comments:

1. THE CITY'S CEQA ANALYSIS FAILED TO IDENTIFY SENSITIVE RECEPTORS THAT COULD BE IMPACTED BY RELEASES OF HAZARDOUS WASTE FROM THE PROJECT SITE.

In the DSAP the City identifies one specific sensitive receptor, the Sunol Community School, as being present in the Diridon Station Area. The Sunol Community School, now known as the Edge School, is located less than 50 meters from the western boundary of the Dupont project site. Given the requirements for identifying significance for emissions of hazardous wastes it is clear that the project will have a potential significant impact on the community that has not been adequately analyzed or mitigated in the DEIR.

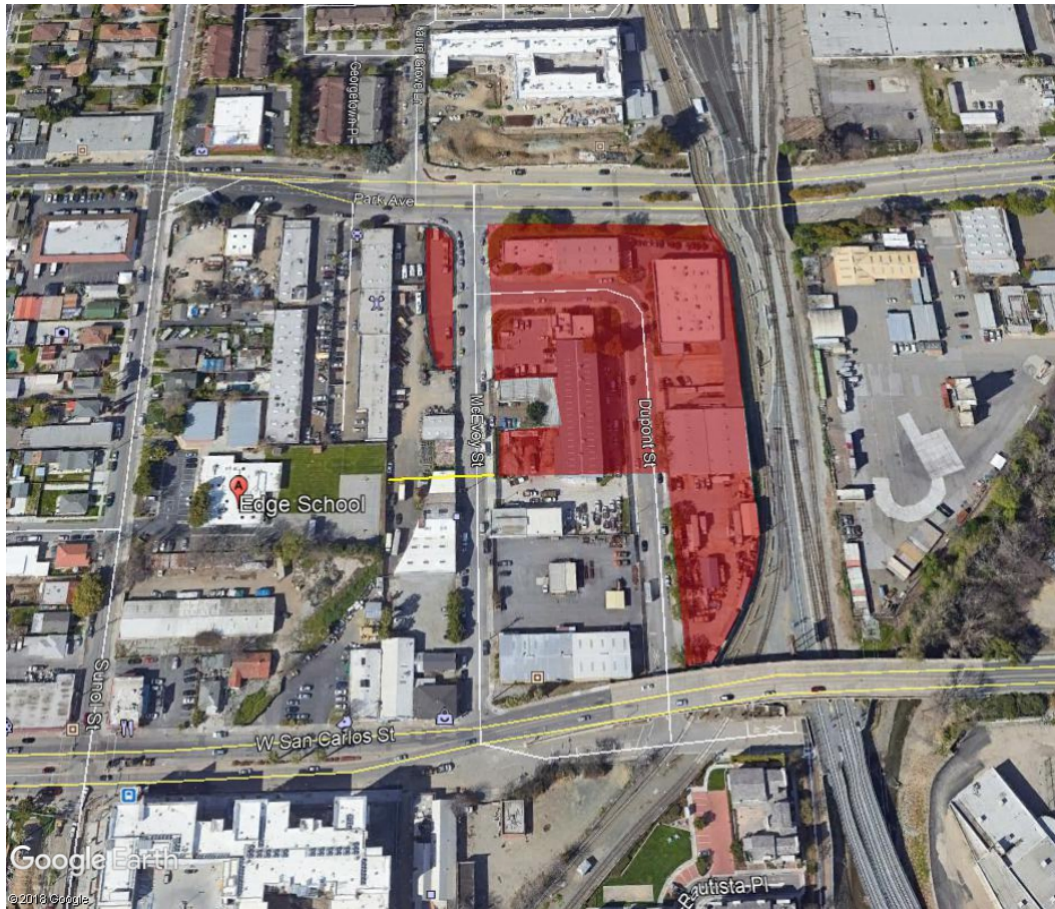


Figure 4: Location Of Nearest School To Project Site

The proponent must evaluate the potential impacts from hazardous wastes generated at the existing site, including lead, asbestos on the Edge School in a revised EIR. As noted previously, the generation of dusts containing toxic materials from the project site (e.g., lead in paints used on site, or asbestos bearing materials) can easily migrate to the nearby residences and to the school. Exposure to lead is a serious concern for decreases in intelligence scores for young children and for increased blood pressure in adults. Exposure through impacted soils via incidental ingestion or dermal absorption and through the inhalation of fine dust (particulate matter) impacted with the chemicals is the primary route of exposure for community members and sensitive receptors near the project site. Given the likely volume of soils to be disturbed on site and the volume of waste materials that will be generated during the demolition of existing buildings on site, it is imperative that the public be given an opportunity to understand and assess the extent of any contamination prior to beginning the project, as required under CEQA.

2. THE CITY'S CEQA FAILS TO ANALYSIS ANY OF THE POTENTIAL AIR QUALITY AND HEALTH RISK IMPACTS FROM CONSTRUCTION ACTIVITIES AT THE PROJECT SITE

The City has failed to adequately analyze and mitigate the considerable impact on nearby residences and businesses from construction air emissions. On page 75 of the DSAP FEIR the City states that in addition to completing a Phase I Environmental Assessment and Tree Survey for the project, residential projects will also include Noise Reports, Human Health Risk Assessments, and Air Quality Modeling to assess TAC exposure. Without further analysis of potential development on the site, including how the construction will be implemented, what mitigation measures may be appropriate, and how emissions from the Site will move through the surrounding community, the determination that future projects under the DSAP would not exceed the current average daily emissions thresholds for construction and operations is specious at best.

The City appears to be using the BAAQMD construction criteria pollutant screening level for mid-rise apartments, which is 240 units, as the justification for not doing an analysis of the construction impacts. The proposed General Plan Addendum would allow a minimum of 170 and a maximum of 850 units on-site. As noted previously, the 2014 Plan stated that up to 1,175 units in the same location. At the very least, it is clear from the previously proposed 205 Dupont project that the site will likely have a build-out of 458 units. From the City's analysis above one could reasonably conclude that they would be willing to allow a project 2 to 3.5 times larger without any further air quality analysis, violating the spirit of the BAAQMD guidance and failing to meet their requirement under CEQA to accurately describe the project and its impacts.

Given the potential emissions from construction activities on site, the City must provide an estimate of construction emissions and a health risk assessment to assess the potential health risks posed to sensitive receptors in the surrounding community and among future residents.

3. THE CITY'S CEQA ANALYSIS LACKS ANY ANALYSIS OF THE POTENTIAL AIR QUALITY AND HEALTH RISK IMPACTS ON EXISTING AND CURRENTLY DEVELOPING PROJECTS.

According to the Addendum⁷ to the DSAP FEIR, the estimated maximum build-out of the DSAP would include construction of approximately 8.54 million square feet of building space. The City justifies their analysis by assuming that over a 30-year period, this would equate to construction of approximately 284,000 square feet of building space per year. The DSAP FEIR concluded that future projects under the DSAP would not exceed the current average daily emissions thresholds during construction with implementation of the identified BMPs. The DSAP FEIR air quality analysis only evaluated the operational emissions and failed to include an analysis of the construction impacts on the community. The analysis estimates the reactive organic gases (ROGs), oxides of nitrogen (NOx), and particulate matter as PM10 and PM2.5. No analysis is provided of TACs or of diesel particulate emissions which will drive health impacts for receptors in the Diridon Station Area. This failure alone warrants the re-issuance of an EIR for this project to determine what the impacts will be as required under CEQA.

In addition, the pollution impacts from changing traffic patterns to and from the project site are not adequately evaluated and may have significant impacts on the existing and currently developing community. Prior to the development of the City's DSAP, the project area did not have a significant residential population. Given the rapid increase in residential properties in the area immediately north, south and west of the project site, the City must actually develop a clear description of the project and analysis to ensure that the construction and operational emissions do not impact the redeveloped surrounding community.

Given the potential emissions from increased traffic, and the existence of project-level information, such as the maximum build-out of the site, or at the very least the previously proposed project for the site, the City is required under CEQA to provide a health risk assessment based upon the operational emission of the project on sensitive receptors in the surrounding community and among future residents.

⁷ City of San Jose. 2018. Addendum to the Diridon Station Area Plan Final Environmental Impact Report (SCH#2011092022), Envision San Jose 2040 General Plan Supplemental Environmental Impact Report and Addenda Thereto (SCH# 2009072096), dated October 29, 2018.

4. THE FAILURE TO CONSIDER THE POTENTIALLY SIGNIFICANT IMPACTS FROM RESIDUAL INDUSTRIAL CHEMICALS, ASBESTOS, AND LEAD THAT MAY HAVE BEEN USED AT THE SITE

The Proponents of the Project have failed to adequately analyze and mitigate the considerable impact on nearby residences and businesses from the entrainment of industrial chemicals in impacted soils, as well as lead impacted or asbestos impacted dust that will be generated during construction activities. The Addendum gives contradictory descriptions of the potential for asbestos-containing materials (ACMs) and lead-based paint to exist at the site. “Given the age of development in the DSAP area, existing structures may have asbestos-containing materials and/or lead-based paint. The primary buildings on the project site are of recent construction and *would contain asbestos or lead-based paint* (emphasis added). The site could, however, have small accessor structures that pre-date the banning of these materials. Construction activities could also uncover buried structures, wells, burn areas, debris, or contaminated soil, based on the industrial/commercial history of the project area. If encountered, these materials may require special handling and disposal to avoid impacts to construction workers, the public, and the environment.”⁸ Given the age of the buildings to be demolished and the nature of the project site it is clear that a high potential for industrial chemicals to be present in soils on site as well.

The disturbance of ACM and lead-based paint impacted soils is a significant given the proximity of new and existing residential properties to the Site. Entrainment of the impacted dust generated during demolition and construction activities could have long lasting impacts on the community. Lead is listed by the State of California, under Proposition 65, as a carcinogen and cause for developmental health effects⁹. Exposure to lead is a serious concern for decreases in intelligence scores for young children and for increased blood pressure in adults. Exposure through impacted soils via incidental ingestion or dermal absorption and through the inhalation of fine dust (particulate matter) impacted with the chemicals is the primary route of exposure for workers, community members and sensitive receptors near the project site. Given the volume of soils likely to be graded on site and the volume of soils to be excavated in the construction of any underground parking lots it is imperative that the

⁸ City of San Jose. 2018. Addendum to the Diridon Station Area Plan Final Environmental Impact Report (SCH#2011092022), Envision San Jose 2040 General Plan Supplemental Environmental Impact Report and Addenda Thereto (SCH# 2009072096), dated October 29, 2018.

⁹ OEHHA. 2018. Chemicals Known to the State to Cause Cancer or Reproductive Toxicity. State of California, Environmental Protection Agency, Office of Environmental Health Hazard Assessment. May 25, 2018

public be given an opportunity to understand and assess the extent of any soil contamination prior to beginning the project, as required under CEQA. This site has not been adequately evaluated with regard to potential hazards and the City cannot rely on the previous 2014 DSAP FEIR because it defers evaluation and mitigation to other laws and agencies.

5. FAILURE TO IDENTIFY ALL RELEVANT HAZARDOUS WASTE SITES WITHIN ONE MILE OF THE PROJECT SITE

It is vital to the CEQA process that accurate information be to describe the current conditions of the community in which the proposed project is to be sited. In the Addendum the City minimizes the potential for hazardous waste sites.

In Appendix F of the 2014 DSAP FEIR, the City identifies 178 hazardous waste sites within 1-mile of the DSAP area. The source of the data is the Geotracker website, maintained by the State Water Quality Control Board (SWRQCB). The DSAP FEIR (Appendix F) goes on to identify 41 hazardous waste sites within the Diridon Station area, seven of which were identified as open. The open sites included the Diridon Cal Train Station, AC Label Company/Berryman Products, Dariano & Sons, San Jose Foundary, San Jose Glass Company, the Marian Johnson Property, and the Perrucci properties.

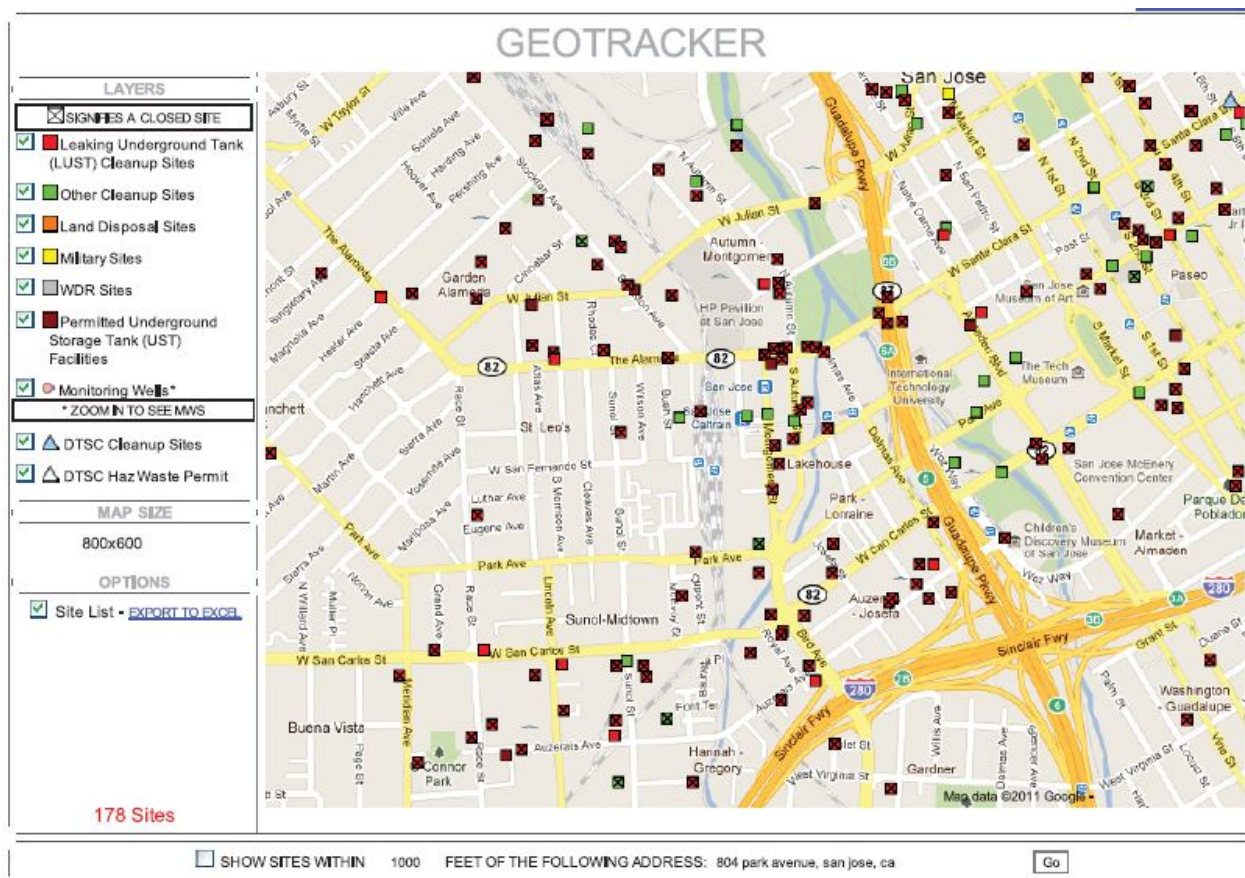


Figure 5: Hazardous Waste Sites Identified in DSAP FEIR

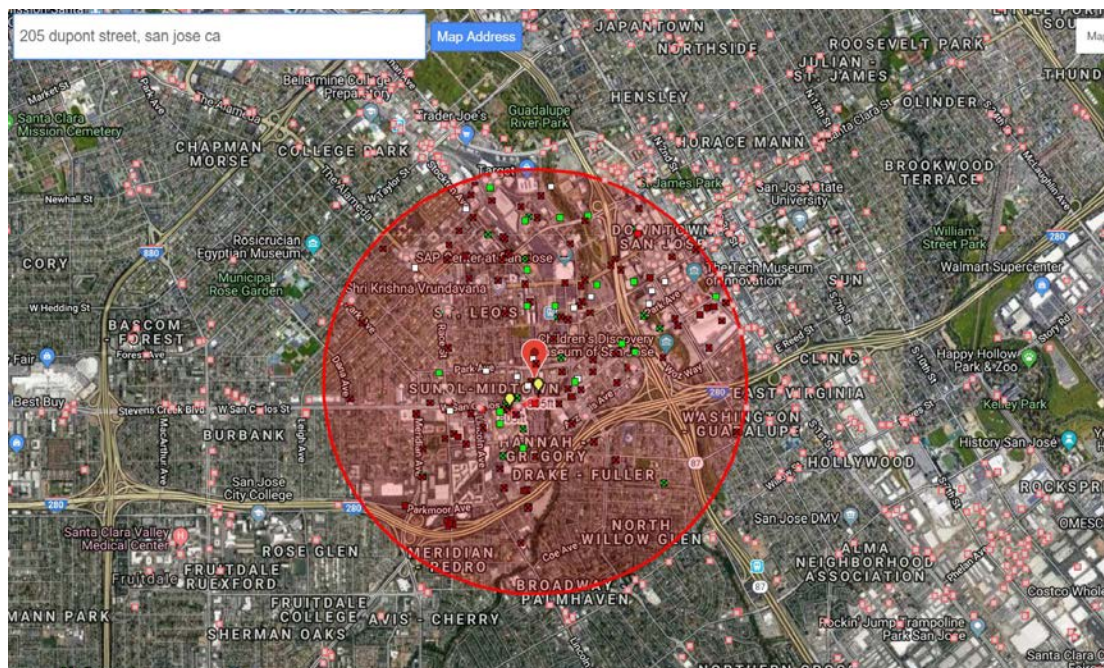


Figure 6: Hazardous Waste Sites Within 1-Mile of Project Site

Table 1: LUST Cleanup Sites, Cleanup Sites, and Permitted USTs Within 1-Mile of Project Site

GLOBAL ID	FAC ID	SITE_TYPE	STATUS	ADDRESS	CITY
T10000010091		CLEANUP PROGRAM SITE	OPEN - ELIGIBLE FOR CLOSURE	138 STOCKTON AVE	SAN JOSE
T10000009522		NON-CASE INFORMATION	INFORMATIONAL ITEM	298 LAUREL GROVE LANE	SAN JOSE
T10000011746		NON-CASE INFORMATION	INFORMATIONAL ITEM	282 S MONTGOMERY ST	SAN JOSE
T10000010282		CLEANUP PROGRAM SITE	OPEN - ASSESSMENT & INTERIM REMEDIAL ACTION	830 AUZERAIS AVE	SAN JOSE
T0608500085		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	404 MERIDIAN AVE	SAN JOSE
SL18217597		CLEANUP PROGRAM SITE	COMPLETED - CASE CLOSED - LAND USE RESTRICTIONS	350 NORTH MONTGOMERY ST	SAN JOSE
				170 W SAN CARLOS	SAN JOSE
T10000012042		CLEANUP PROGRAM SITE	OPEN - ASSESSMENT & INTERIM REMEDIAL ACTION	333 W SAN FERNANDO ST.	SAN JOSE
SL0608551278		NON-CASE INFORMATION	INFORMATIONAL ITEM	345 PARK AVE.	SAN JOSE
T0608500108		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	381 STOCKTON AVE	SAN JOSE
	43-060-402019			1455 THE ALAMEDA	SAN JOSE
T0608500116		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	870 SAVAKER ST	SAN JOSE
				2930 GAY AV	SAN JOSE
T10000008060		CLEANUP PROGRAM SITE	OPEN - INACTIVE	345 N MONTGOMERY	SAN JOSE
T0608523819		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	806 W HOME ST	SAN JOSE
	FA0258003			95 S ALMADEN AVE	SAN JOSE
T0608500198		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	77 S MONTGOMERY ST	SAN JOSE
T10000008303		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	437 W SAN CARLOS ST.	SAN JOSE
T0608500211		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	521 SANTA CLARA ST W	SAN JOSE
T0608501974		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	910 LINCOLN AVE	SAN JOSE
T0608591845		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	590 MERIDIAN AVE	SAN JOSE

GLOBAL ID	FAC ID	SITE_TYPE	STATUS	ADDRESS	CITY
T10000009560		NON-CASE INFORMATION	INFORMATIONAL ITEM	985 W JULIAN ST	SAN JOSE
T10000007732		NON-CASE INFORMATION	INFORMATIONAL ITEM	248 MCEVOY STREET	SAN JOSE
				395 BIRD AV	SAN JOSE
T0608548658		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	849 THE ALAMEDA	SAN JOSE
T0608534491		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	801 SAVAVER ST	SAN JOSE
T0608500278		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	510 W SAN FERNANDO ST	SAN JOSE
T0608501849		LUST CLEANUP SITE	OPEN - SITE ASSESSMENT	1098 W. SAN CARLOS	SAN JOSE
SL0608582748		CLEANUP PROGRAM SITE	OPEN - VERIFICATION MONITORING	65 CAHILL STREET	SAN JOSE
T0608527783		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	975 THE ALAMEDA	SAN JOSE
T10000007704		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	708 W JULIAN ST.	SAN JOSE
T10000003326		CLEANUP PROGRAM SITE	COMPLETED - CASE CLOSED - LAND USE RESTRICTIONS	76 NOTRE DAME	SAN JOSE
T0608500318		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	455-9 AUZERAIS AVE	SAN JOSE
T0608538385		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	701 VINE ST	SAN JOSE
T0608502358		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	800 W SAN CARLOS ST	SAN JOSE
T0608500326		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	800 W. SAN CARLOS STREET	SAN JOSE
T0608500403		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	955 THE ALAMEDA	SAN JOSE
T0608500362		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	222 W SAN CARLOS ST	SAN JOSE
T0608500380		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	395 BIRD AVE.	SAN JOSE
T0608591653		CLEANUP PROGRAM SITE	COMPLETED - CASE CLOSED	455 SUNOL ST	SAN JOSE
SL0608552906		CLEANUP PROGRAM SITE	COMPLETED - CASE CLOSED	875 CINNABAR STREET	SAN JOSE
T0608501998		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	333 W. SANTA CLARA ST.	SAN JOSE
				4420 MONTEREY HWY	SAN JOSE
T0608500148		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	695 SAN CARLOS ST	SAN JOSE
SL18381801		CLEANUP PROGRAM SITE	OPEN - VERIFICATION MONITORING - LAND USE RESTRICTIONS	483 COLEMAN AVE	SAN JOSE

GLOBAL ID	FAC ID	SITE_TYPE	STATUS	ADDRESS	CITY
T0608501999		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	291 AUZERAIS AVE	SAN JOSE
T0608500483		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	555 ST JOHN ST W	SAN JOSE
T0608500495		LUST CLEANUP SITE	OPEN - VERIFICATION MONITORING	638 AUZERAIS AVE.	SAN JOSE
T0608512274		CLEANUP PROGRAM SITE	COMPLETED - CASE CLOSED	801 AUZERAIS AVENUE	SAN JOSE
T0608500504		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	50 BUSH ST	SAN JOSE
T0608591714		CLEANUP PROGRAM SITE	OPEN - INACTIVE	50 BUSH	SAN JOSE
T0608500508		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	55 SUNOL ST	SAN JOSE
T0608500511		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	398 W SAN CARLOS ST	SAN JOSE
T10000010223		CLEANUP PROGRAM SITE	OPEN - SITE ASSESSMENT	398 W SAN CARLOS STREET	SAN JOSE
T0608500516		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	80 S MARKET ST	SAN JOSE
T0608501831		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	855 LENZEN AVE	SAN JOSE
T10000009352		CLEANUP PROGRAM SITE	OPEN - ASSESSMENT & INTERIM REMEDIAL ACTION	W SANTA CLARA ST AND DELMAS AVE	SAN JOSE
SL0608569528		NON-CASE INFORMATION	INFORMATIONAL ITEM	150 ALMADEN BLVD.	SAN JOSE
T0608500525		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	395 STOCKTON	SAN JOSE
T0608500530		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	405 SANTA CLARA ST W	SAN JOSE
	43-060-401615			1135 AUZERAIS AVE # B	SAN JOSE
T0608502014		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	1135 AUZERAIS ST	SAN JOSE
T10000008073		CLEANUP PROGRAM SITE	OPEN - INACTIVE	600 MERIDIAN AVENUE	SAN JOSE
T10000008199		NON-CASE INFORMATION	INFORMATIONAL ITEM	35 DELMAS AVENUE	SAN JOSE
T0608501108		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	598 W SAN CARLOS ST	SAN JOSE
T0608562859		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	1330 THE ALAMEDA	SAN JOSE
T0608500684		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	725 LENZEN AVE	SAN JOSE
T0608557509		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	245 S MONTGOMERY ST	SAN JOSE

GLOBAL ID	FAC ID	SITE_TYPE	STATUS	ADDRESS	CITY
T0608500628		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	861 AUZERAIS AVE.	SAN JOSE
T0608502306		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	861 AUZERAIS AVE	SAN JOSE
T0608500629		LUST CLEANUP SITE	OPEN - VERIFICATION MONITORING	1490 PARK AVENUE	SAN JOSE
SL20214832		CLEANUP PROGRAM SITE	OPEN - ELIGIBLE FOR CLOSURE - LAND USE RESTRICTIONS	333 WEST JULIAN STREET	SAN JOSE
T0608500737		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	1350 W SAN CARLOS ST	SAN JOSE
T10000011741		CLEANUP PROGRAM SITE	OPEN - SITE ASSESSMENT	1108 PARK AVE	SAN JOSE
T10000011874		CLEANUP PROGRAM SITE	OPEN - SITE ASSESSMENT	282 S MONTGOMERY ST	SAN JOSE
T0608504232		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	345 S 1ST ST	SAN JOSE
T0608500672		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	481 AUZERAIS AVE	SAN JOSE
T0608500685		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	479 AUZERAIS AVE	SAN JOSE
T0608500690		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	305 MERIDIAN AVE	SAN JOSE
T0608558752		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	860 LONUS	SAN JOSE
				860 LONUS ST	SAN JOSE
T0608584244		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	70 ALMADEN AVE	SAN JOSE
T0608502082		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	370 N MONTGOMERY	SAN JOSE
SL18260681		NON-CASE INFORMATION	INFORMATIONAL ITEM	I-880/I-280	SAN JOSE
				300 ALMADEN BL	SAN JOSE
T0608519818		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	1585 WEST SAN CARLOS STREET	SAN JOSE
T0608501910		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	236 MCEVOY ST	SAN JOSE
T0608500754		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	589 SANTA CLARA ST W	SAN JOSE
T0608500780		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	1295 SAN CARLOS ST.	SAN JOSE
T0608500229		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	555-561 SANTA CLARA ST W	SAN JOSE
T0608500814		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	696 AUZERAIS AVENUE	SAN JOSE
T0608500830		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	350 LINCOLN AVE	SAN JOSE
T0608501646		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	469 HOWARD ST	SAN JOSE
T0608500864		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	517 W SAINT JOHN ST	SAN JOSE
T0608500865		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	35 RIVER ST N	SAN JOSE

GLOBAL ID	FAC ID	SITE_TYPE	STATUS	ADDRESS	CITY
T0608591644		NON-CASE INFORMATION	INFORMATIONAL ITEM	59 SOUTH AUTUMN STREET	SAN JOSE
T0608500868		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	1353 W SAN CARLOS ST	SAN JOSE
T0608502391		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	136 RACE ST	SAN JOSE
	FA0211271			985 W JULIAN ST	SAN JOSE
T0608500904		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	150 N AUTUMN ST	SAN JOSE
T10000008378		NON-CASE INFORMATION	INFORMATIONAL ITEM	940 PARK AVENUE	SAN JOSE
T10000008407		NON-CASE INFORMATION	INFORMATIONAL ITEM	810 PARK AVENUE	SAN JOSE
				5260 MONTEREY HWY	SAN JOSE
T0608501412		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	341 N MONTGOMERY ST	SAN JOSE
T0608573680		CLEANUP PROGRAM SITE	COMPLETED - CASE CLOSED	395 STOCKTON AVENUE	SAN JOSE
SL0608543397		CLEANUP PROGRAM SITE	COMPLETED - CASE CLOSED	645 PARK AVE	SAN JOSE
	FA0252055			1150 W SAN CARLOS ST	SAN JOSE
T0608524442		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	1150 W SAN CARLOS	SAN JOSE
T10000008644		CLEANUP PROGRAM SITE	OPEN - ASSESSMENT & INTERIM REMEDIAL ACTION	860 WEST SAN CARLOS STREET	SAN JOSE
T10000008921		CLEANUP PROGRAM SITE	OPEN - ACTIVE	345 SUNOL STREET	SAN JOSE
T10000008922		CLEANUP PROGRAM SITE	OPEN - ACTIVE	861 AUZERIAS AVENUE	SAN JOSE
T0608591681		CLEANUP PROGRAM SITE	COMPLETED - CASE CLOSED	860 W SAN CARLOS ST	SAN JOSE
T0608501001		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	720 W SAN CARLOS ST	SAN JOSE
T0608501640		LUST CLEANUP SITE	OPEN - VERIFICATION MONITORING	95 S. ALMADEN AVE.	SAN JOSE
T10000009960		CLEANUP PROGRAM SITE	OPEN - REMEDIATION	PARK AVE AND WEST SAN CARLOS ST.	SAN JOSE
T10000009263		NON-CASE INFORMATION	INFORMATIONAL ITEM	1298 W SAN CARLOS ST	SAN JOSE

GLOBAL ID	FAC ID	SITE_TYPE	STATUS	ADDRESS	CITY
				1501 PARKMOOR AV	SAN JOSE
T10000008379		NON-CASE INFORMATION	INFORMATIONAL ITEM	1401 THE ALAMEDA	SAN JOSE
T0608591654		CLEANUP PROGRAM SITE	COMPLETED - CASE CLOSED	53 MONTGOMERY S	SAN JOSE
T0608500060		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	1407 SHASTA	SAN JOSE
T0608501053		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	655 LENZEN AVE	SAN JOSE
T0608517440		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	308 STOCKTON AVE	SAN JOSE
T0608521441		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	17 OTTERSON ST	SAN JOSE
	FA0208679			308 STOCKTON AV	SAN JOSE
T0608502012		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	735 THE ALAMEDA	SAN JOSE
T10000012200		CLEANUP PROGRAM SITE	OPEN - ACTIVE	440 W JULIAN ST	SAN JOSE
T0608501065		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	376 RACE ST	SAN JOSE
T0608501896		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	PRIVATE RESIDENCE	SAN JOSE
T10000006243		CLEANUP PROGRAM SITE	COMPLETED - CASE CLOSED	PRIVATE RESIDENCE	SAN JOSE
T10000008321		CLEANUP PROGRAM SITE	COMPLETED - CASE CLOSED	360 PARK AVENUE	SAN JOSE
T0608502451		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	690 SUNOL ST	SAN JOSE
	43-060- 403537			690 SUNOL ST	SAN JOSE
T0608500906		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	690 SUNOL ST	SAN JOSE
T10000008386		CLEANUP PROGRAM SITE	OPEN - SITE ASSESSMENT	60 RACE STREET	SAN JOSE
T0608591617		CLEANUP PROGRAM SITE	COMPLETED - CASE CLOSED	333 SAN CARLOS ST W	SAN JOSE
T0608589591		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	350 W JULIAN ST	SAN JOSE
T10000009349		LUST CLEANUP SITE	OPEN - REMEDIATION	740 W SAN CARLOS ST.	SAN JOSE
T0608501847		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	777 PARK AVE	SAN JOSE
T0608502143		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	454 W SANTA CLARA ST	SAN JOSE
	FA0264303			602 W SAN CARLOS ST	SAN JOSE

GLOBAL ID	FAC ID	SITE_TYPE	STATUS	ADDRESS	CITY
T0608500220		LUST CLEANUP SITE	COMPLETED - CASE CLOSED - LAND USE RESTRICTIONS	522 W SANTA CLARA ST.	SAN JOSE
T0608500632		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	575 SANTA CLARA ST W	SAN JOSE
T0608501982		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	80 MONTGOMERY ST N	SAN JOSE
T0608500733		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	443 SANTA CLARA ST W	SAN JOSE
T0608502031		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	70-90 MONTGOMERY N	SAN JOSE
T0608501983		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	90 MONTGOMERY ST N	SAN JOSE
T0608501981		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	60 MONTGOTMERY ST N	SAN JOSE
T0608500418		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	320 HARRON ST	SAN JOSE
T0608501164		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	507 W SAN CARLOS ST	SAN JOSE
	FA0209349			150 W SAN CARLOS ST	SAN JOSE
SL0608531982		CLEANUP PROGRAM SITE	OPEN - SITE ASSESSMENT	SOUTH MARKET STREET	SAN JOSE
T0608501867		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	454 AUZERAIS AVE	SAN JOSE
T0608559587		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	454 AUZERAIS AVE	SAN JOSE
T0608568177		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	454 AUZERAIS	SAN JOSE
T0608501177		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	525 W. SAINT JOHN ST.	SAN JOSE
T0608501756		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	425 AUZERAIS AVE.	SAN JOSE
	FA0256813			301 S MARKET ST	SAN JOSE
T0608502045		LUST CLEANUP SITE	OPEN - VERIFICATION MONITORING	211 W. SANTA CLARA ST.	SAN JOSE
T10000008881		CLEANUP PROGRAM SITE	COMPLETED - CASE CLOSED	777 W. SAN CARLOS	SAN JOSE
T0608501192		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	250 STOCKTON AVE	SAN JOSE
T0608502087		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	W SAN CARLOS ST & ALMADEN BLVD	SAN JOSE
				13235 MONTEREY RD	SAN MARTIN
T0608501209		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	976 LENZEN AVE	SAN JOSE
T0608501220		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	860 W. SAN CARLOS ST.	SAN JOSE
T0608500140		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	58 AUTUMN ST N	SAN JOSE
T0608501653		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	361 SANTA CLARA ST W	SAN JOSE
T0608502421		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	435 STOCKTON ST	SAN JOSE

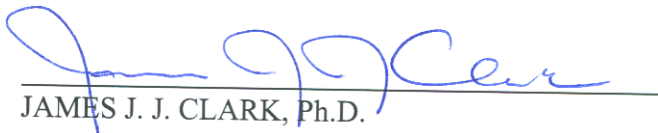
GLOBAL ID	FAC ID	SITE_TYPE	STATUS	ADDRESS	CITY
T0608501284		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	270 W SAN CARLOS ST	SAN JOSE
T0608501259		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	1455 THE ALAMEDA	SAN JOSE
T0608502406		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	1455 THE ALAMEDA	SAN JOSE
T0608502011		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	S MARKET ST @ VIOLA AVE	SAN JOSE
	FA0250796			1 WASHINGTON SQ	SAN JOSE
T10000005262		CLEANUP PROGRAM SITE	COMPLETED - CASE CLOSED	250 STOCKTON AVENUE	SAN JOSE
T0608518342		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	488 ALMADEN AVE	SAN JOSE
T0608501340		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	595 LENZEN AVE	SAN JOSE
T0608501373		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	331 GIFFORD AVE	SAN JOSE
T10000007790		NON-CASE INFORMATION	INFORMATIONAL ITEM	465 STOCKTON AVENUE	SAN JOSE
T0608501433		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	534 PARK AVE	SAN JOSE
T0608524383		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	175 W SAINT JOHN ST	SAN JOSE
T0608591864		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	369 STOCKTON AVE	SAN JOSE
SL0608530095		NON-CASE INFORMATION	INFORMATIONAL ITEM	151 ALMADEN BLVD.	SAN JOSE
T0608570600		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	1027 THE ALAMEDA	SAN JOSE
T0608501530		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	500 STOCKTON AVE	SAN JOSE
T0608501532		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	602 W SAN CARLOS ST	SAN JOSE
T0608501566		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	52 AUTUMN ST S	SAN JOSE
T0608595685		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	52 S AUTUMN ST	SAN JOSE
T0608501845		LUST CLEANUP SITE	COMPLETED - CASE CLOSED	615 BIRD AVE	SAN JOSE

Our review of the Geotracker website indicates a 187 different cases of hazardous waste sites within onemile of the Dupont project site. Twenty-six of the 187 sites identified have open cases or have active remedial activities. Seventy of the 187 sites were identified as being within the confines of the Diridon Station Area. The chemicals of concern at the active sites include chlorinated solvents (perchloroethylene, trichloroethylene, 1,2-dichloroethylene, etc...), petroleum hydrocarbons from USTs releases (gasoline, diesel, waste oils), or polychlorinated biphenyls (PCBs). The closest active site is less than 900 feet away from the project site boundary. Immediately across the street from the project site is a former chrome plating operation that is listed as inactive but needs evaluation. These recognized environmental concerns (RECs) warrant a substantial analysis by the City in a revised EIR to ensure that workers, current residents, future residents, and sensitive receptors (e.g., Edge School) are not adversely impacted by the identified wastes.

Conclusion

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant unmitigated impacts that were not identified in the Addendum of the FEIR. To protect public health the City must prepare a new EIR for the Project to address the deficiencies identified above.

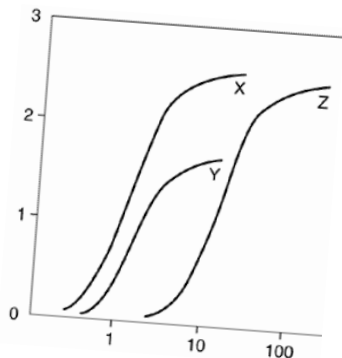
Sincerely,



JAMES J. J. CLARK, Ph.D.

Exhibit A

Curriculum Vitae



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Environmental Consulting, Inc

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Phone
310-907-6165

Fax
310-398-7626

Email
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James J. J. Clark, Ph.D.

Principal Toxicologist

Toxicology/Exposure Assessment Modeling

Risk Assessment/Analysis/Dispersion Modeling

Education:

Ph.D., Environmental Health Science, University of California, 1995

M.S., Environmental Health Science, University of California, 1993

B.S., Biophysical and Biochemical Sciences, University of Houston, 1987

Professional Experience:

Dr. Clark is a well-recognized toxicologist, air modeler, and health scientist. He has over 25 years of experience in conducting and managing human health risk assessments for Federal and State regulatory compliance; development of sampling and analyses programs for multi-media environmental investigations; statistical analyses of analytical data sets using SAS and ProUCL; environmental fate and transport modeling (SCREEN3, AEROMOD, ISCST3, AT123D, SESOIL, Johnson-Ettinger Vapor Intrusion Modeling, RESRAD, GENII); exposure assessment modeling (partitioning of contaminants in the environment as well as PBPK modeling); incorporation of Monte Carlo Analyses into risk estimates; derivation of risk-based clean-up levels for Federal and State regulatory compliance; and toxicological and medical literature research.

Significant projects performed by Dr. Clark include the following:

EXPOSURE ANALYSES/RISK ASSESSMENTS FOR FEDERAL AND STATE COMPLIANCE

Client: Ameren Services, St. Louis, Missouri

Managed the preparation of a comprehensive human health risk assessment of workers and residents at or near an NPL site in Missouri. The former operations at the Property included the servicing and repair of electrical transformers, which resulted in soils and groundwater beneath the Property and adjacent land becoming impacted with PCB and chlorinated solvent compounds. The evaluation included the review and analysis of thousands of data points to determine the most probable exposure concentrations and resultant risks. The results were submitted to U.S. EPA for evaluation and were used in the final ROD.

IT Corporation, North Carolina

Prepared comprehensive evaluation of potential exposure of workers to air-borne VOCs at hazardous waste storage facility under SUPERFUND cleanup decree. Assessment used in developing health based clean-up levels.

Client: Confidential, Los Angeles, California

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally cadmium) and VOCs from soil and soil vapor at 12-acre former crude oilfield and municipal landfill. The site is currently used as a middle school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and was used as the basis for regulatory closure of site.

Client: Confidential, Los Angeles, California

Managed remedial investigation (RI) of heavy metals and volatile organic chemicals (VOCs) for a 15-acre former manufacturing facility. The RI investigation of the site included over 800 different sampling locations and the collection of soil, soil gas, and groundwater samples. The site is currently used as a year round school housing approximately 3,000 children. The Remedial Investigation was performed in a manner that did not interrupt school activities and met the time restrictions placed on the project by the overseeing regulatory agency. The RI Report identified the off-site source of metals that impacted groundwater beneath the site and the sources of VOCs in soil gas and groundwater. The RI included a numerical model of vapor intrusion into the buildings at the site from the vadose zone to determine exposure concentrations and an air dispersion model of VOCs from the proposed soil vapor treatment system. The Feasibility Study for the Site is currently being drafted and may be used as the basis for granting closure of the site by DTSC.

Client: Confidential, Los Angeles, California

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally lead), VOCs, SVOCs, and PCBs from soil, soil vapor, and groundwater at 15-acre former manufacturing facility. The site is currently used as a year round school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and will be basis for regulatory closure of site.

Client: Confidential, Los Angeles, California

Prepared comprehensive evaluation of VOC vapor intrusion into classrooms of middle school that was former 15-acre industrial facility. Using the Johnson-Ettinger Vapor Intrusion model, the evaluation determined acceptable soil gas concentrations at the site that did not pose health threat to students, staff, and residents. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

Kaiser Ventures Incorporated, Fontana, California

Prepared health risk assessment of semi-volatile organic chemicals and metals for a fifty-year old wastewater treatment facility used at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

Client: Confidential, Bogotá, Columbia

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of a 13.7 hectares plastic manufacturing facility in Bogotá, Colombia. The risk assessment was used as the basis for the remedial goals and closure of the site.

ANR Freight - Los Angeles, California

Prepared a comprehensive Preliminary Endangerment Assessment (PEA) of petroleum hydrocarbon and metal contamination of a former freight depot. This evaluation was as the basis for reaching closure of the site with lead regulatory agency.

Kaiser Ventures Incorporated, Fontana, California

Prepared comprehensive health risk assessment of semi-volatile organic chemicals and metals for 23-acre parcel of a 1,100-acre former steel mill. The health risk assessment was used to determine clean up goals and as the basis for granting closure of the site by lead regulatory agency. Air dispersion modeling using ISCST3 was performed to determine downwind exposure point concentrations at sensitive receptors within a 1 kilometer radius of the site. The results of the health risk assessment were presented at a public meeting sponsored by the Department of Toxic Substances Control (DTSC) in the community potentially affected by the site.

Client: Confidential, Atlanta, Georgia

Researched potential exposure and health risks to community members potentially exposed to creosote, polycyclic aromatic hydrocarbons, pentachlorophenol, and dioxin compounds used at a former wood treatment facility. Prepared a comprehensive toxicological summary of the chemicals of concern, including the chemical characteristics, absorption, distribution, and carcinogenic potential. Prepared risk characterization of the carcinogenic

and non-carcinogenic chemicals based on the exposure assessment to quantify the potential risk to members of the surrounding community. This evaluation was used to help settle class-action tort.

Client: Confidential, Escondido, California

Prepared comprehensive Preliminary Endangerment Assessment (PEA) of dense non-aqueous liquid phase hydrocarbon (chlorinated solvents) contamination at a former printed circuit board manufacturing facility. This evaluation was used for litigation support and may be used as the basis for reaching closure of the site with the lead regulatory agency.

Client: City of Santa Clarita, Santa Clarita, California

Dr. Clark is managing the oversight of the characterization, remediation and development activities of a former 1,000 acre munitions manufacturing facility for the City of Santa Clarita. The site is impacted with a number of contaminants including perchlorate, unexploded ordinance, and volatile organic compounds (VOCs). The site is currently under a number of regulatory consent orders, including an Imminent and Substantial Endangerment Order. Dr. Clark is assisting the impacted municipality with the development of remediation strategies, interaction with the responsible parties and stakeholders, as well as interfacing with the regulatory agency responsible for oversight of the site cleanup.

Client: Confidential, Los Angeles, California

Prepared physiologically based pharmacokinetic (PBPK) assessment of lead risk of receptors at middle school built over former industrial facility. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

Client: Kaiser Venture Incorporated, Fontana, California

Prepared PBPK assessment of lead risk of receptors at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

Client –Dominguez Energy, Carson, California

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of 6-acre portion of a 500-acre oil and natural gas production facility in Carson, California. The risk assessment was used as the basis for closure of the site.

Unocal Corporation - Los Angeles, California

Prepared comprehensive assessment of petroleum hydrocarbons and metals for a former petroleum service station located next to sensitive population center (elementary school). The assessment used a probabilistic approach to estimate risks to the community and was used as the basis for granting closure of the site by lead regulatory agency.

Client: Confidential, Los Angeles, California

Managed oversight of remedial investigation most contaminated heavy metal site in California. Lead concentrations in soil excess of 68,000,000 parts per billion (ppb) have been measured at the site. This State Superfund Site was a former hard chrome plating operation that operated for approximately 40-years.

Client: Confidential, Minneapolis, Minnesota

Prepared human health risk assessment of workers exposed to VOCs from neighboring petroleum storage/transport facility. Reviewed the systems in place for distribution of petroleum hydrocarbons to identify chemicals of concern (COCs), prepared comprehensive toxicological summaries of COCs, and quantified potential risks from carcinogens and non-carcinogens to receptors at or adjacent to site. This evaluation was used in the support of litigation.

PUBLIC HEALTH/REGULATORY GUIDANCE DEVELOPMENT**Client – Ministry of Environment, Lands & Parks, British Columbia**

Dr. Clark assisted in the development of water quality guidelines for methyl tertiary-butyl ether (MTBE) to protect water uses in British Columbia (BC). The water uses to be considered includes freshwater and marine life, wildlife, industrial, and agricultural (e.g., irrigation and livestock watering) water uses. Guidelines from other jurisdictions for the protection of drinking water, recreation and aesthetics were to be identified.

Client: Omnitrans, San Bernardino, California

Dr. Clark managed a public health survey of three communities near transit fueling facilities in San Bernardino and Montclair California in compliance with California Senate Bill 1927. The survey included an epidemiological survey of the effected communities, emission surveys of local businesses, dispersion modeling to determine potential emission concentrations within the communities, and a comprehensive risk assessment of each community. The results of the study were presented to the Governor as mandated by Senate Bill 1927.

Client: Confidential, Los Angeles, California

Prepared comprehensive evaluation of perchlorate in environment. Dr. Clark evaluated the production, use, chemical characteristics, fate and transport, toxicology, and remediation of perchlorate. Perchlorates form the basis of solid rocket fuels and have recently been detected in water supplies in the United States. The results of this research were presented to the USEPA, National GroundWater, and ultimately published in a recent book entitled *Perchlorate in the Environment*.

Client – United Kingdom Environmental Agency

Dr. Clark is part of team that performed comprehensive evaluation of soil vapor intrusion of VOCs from former landfill adjacent residences for the United Kingdom's Environment Agency. The evaluation included collection of liquid and soil vapor samples at site, modeling of vapor migration using the Johnson Ettinger Vapor Intrusion model, and calculation of site-specific health based vapor thresholds for chlorinated solvents, aromatic hydrocarbons, and semi-volatile organic compounds. The evaluation also included a detailed evaluation of the use, chemical characteristics, fate and transport, and toxicology of chemicals of concern (COC). The results of the evaluation have been used as a briefing tool for public health professionals.

Client – Confidential, Los Angeles, California

Dr. Clark is performing a comprehensive review of the potential for pharmaceuticals and their by-products to impact groundwater and surface water supplies. This evaluation will include a review if available data on the history of pharmaceutical production in the United States; the chemical characteristics of various pharmaceuticals; environmental fate and transport; uptake by xenobiotics; the potential effects of pharmaceuticals on water treatment systems; and the potential threat to public health. The results of the evaluation may be used as a briefing tool for non-public health professionals.

Client – United Kingdom Environmental Agency

Oversaw a comprehensive toxicological evaluation of methyl-*tertiary* butyl ether (MtBE) for the United Kingdom's Environment Agency. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MtBE. The results of the evaluation have been used as a briefing tool for public health professionals.

Client: Confidential, San Francisco, California

Summarized epidemiological evidence for connective tissue and autoimmune diseases for product liability litigation. Identified epidemiological research efforts on the health effects

of medical prostheses. This research was used in a meta-analysis of the health effects and as a briefing tool for non-public health professionals.

Client: Covanta Energy, Westwood, California

Evaluated health risk from metals in biosolids applied as soil amendment on agricultural lands. The biosolids were created at a forest waste cogeneration facility using 96% whole tree wood chips and 4 percent green waste. Mass loading calculations were used to estimate Cr(VI) concentrations in agricultural soils based on a maximum loading rate of 40 tons of biomass per acre of agricultural soil. The results of the study were used by the Regulatory agency to determine that the application of biosolids did not constitute a health risk to workers applying the biosolids or to residences near the agricultural lands.

Client: Confidential, San Francisco, California

Summarized major public health research in United States. Identified major public health research efforts within United States over last twenty years. Results were used as a briefing tool for non-public health professionals.

Client: Confidential, San Francisco, California

Identified and analyzed fifty years of epidemiological literature on workplace exposures to heavy metals. This research resulted in a summary of the types of cancer and non-cancer diseases associated with occupational exposure to chromium as well as the mortality and morbidity rates.

Client – Confidential, Los Angeles, California

Prepared comprehensive evaluation of methyl *tertiary* butyl ether (MTBE) in municipal drinking water system. MTBE is a chemical added to gasoline to increase the octane rating and to meet Federally mandated emission criteria. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MTBE. The results of the evaluation have been used as a briefing tool for non-public health professionals.

Client – Confidential, Los Angeles, California

Prepared comprehensive evaluation of *tertiary* butyl alcohol (TBA) in municipal drinking water system. TBA is the primary breakdown product of MTBE, and is suspected to be the primary cause of MTBE toxicity. This evaluation will include available information on the production, use, chemical characteristics, fate and transport in the environment, absorption, distribution, routes of detoxification, metabolites, carcinogenic potential, and remediation

of TBA. The results of the evaluation were used as a briefing tool for non-public health professionals.

SELECTED AIR MODELING RESEARCH/PROJECTS

Client – Confidential

Dr. Clark performed a comprehensive evaluation of criteria pollutants, air toxins, and particulate matter emissions from a carbon black production facility to determine the impacts on the surrounding communities. The results of the dispersion model will be used to estimate acute and chronic exposure concentrations to multiple contaminants and will be incorporated into a comprehensive risk evaluation.

Client: Confidential, San Francisco, California

Coordinator of regional monitoring program to determine background concentrations of metals in air. Acted as liaison with SCAQMD and CARB to perform co-location sampling and comparison of accepted regulatory method with ASTM methodology.

Client: Confidential, San Francisco, California

Analyzed historical air monitoring data for South Coast Air Basin in Southern California and potential health risks related to ambient concentrations of carcinogenic metals and volatile organic compounds. Identified and reviewed the available literature and calculated risks from toxins in South Coast Air Basin.

Client – Confidential

Dr. Clark performed a comprehensive evaluation of air toxins and particulate matter emissions from a railroad tie manufacturing facility to determine the impacts on the surrounding communities. The results of the dispersion model have been used to estimate acute and chronic exposure concentrations to multiple contaminants and have been incorporated into a comprehensive risk evaluation.

Client – Los Angeles Alliance for a New Economy (LAANE), Los Angeles, California

Dr. Clark advised the LAANE on air quality issues related to current flight operations at the Los Angeles International Airport (LAX) operated by the Los Angeles World Airport (LAWA) Authority. He worked with the LAANE and LAX staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

Client – City of Santa Monica, Santa Monica, California

Dr. Clark advised the City of Santa Monica on air quality issues related to current flight operations at the facility. He worked with the City staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

Client: Confidential, San Francisco, California

Summarized cancer types associated with exposure to metals and smoking. Researched the specific types of cancers associated with exposure to metals and smoking. Provided causation analysis of the association between cancer types and exposure for use by non-public health professionals.

Professional Associations

American Public Health Association (APHA)

Association for Environmental Health and Sciences (AEHS)

American Chemical Society (ACS)

International Society of Environmental Forensics (ISEF)

Society of Environmental Toxicology and Chemistry (SETAC)

Publications and Presentations:**Books and Book Chapters**

Sullivan, P., **J.J. J. Clark**, F.J. Agardy, and P.E. Rosenfeld. (2007). *Synthetic Toxins In The Food, Water and Air of American Cities*. Elsevier, Inc. Burlington, MA.

Sullivan, P. and **J.J. J. Clark**. 2006. *Choosing Safer Foods, A Guide To Minimizing Synthetic Chemicals In Your Diet*. Elsevier, Inc. Burlington, MA.

Sullivan, P., Agardy, F.J., and **J.J.J. Clark**. 2005. *The Environmental Science of Drinking Water*. Elsevier, Inc. Burlington, MA.

Sullivan, P.J., Agardy, F.J., **Clark, J.J.J.** 2002. *America's Threatened Drinking Water: Hazards and Solutions*. Trafford Publishing, Victoria B.C.

Clark, J.J.J. 2001. "TBA: Chemical Properties, Production & Use, Fate and Transport, Toxicology, Detection in Groundwater, and Regulatory Standards" in *Oxygenates in the Environment*. Art Diaz, Ed.. Oxford University Press: New York.

Clark, J.J.J. 2000. "Toxicology of Perchlorate" in *Perchlorate in the Environment*. Edward Urbansky, Ed. Kluwer/Plenum: New York.

Clark, J.J.J. 1995. Probabilistic Forecasting of Volatile Organic Compound Concentrations At The Soil Surface From Contaminated Groundwater. UMI.

Baker, J.; **Clark, J.J.J.**; Stanford, J.T. 1994. Ex Situ Remediation of Diesel Contaminated Railroad Sand by Soil Washing. Principles and Practices for Diesel Contaminated Soils, Volume III. P.T. Kostecki, E.J. Calabrese, and C.P.L. Barkan, eds. Amherst Scientific Publishers, Amherst, MA. pp 89-96.

Journal and Proceeding Articles

- Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008) A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. Organohalogen Compounds, Volume 70 (2008) page 002254.
- Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008) Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. Organohalogen Compounds, Volume 70 (2008) page 000527
- Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** (2007). "Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." *Environmental Research*. 105:194-199.
- Rosenfeld, P.E., **Clark, J. J.**, Hensley, A.R., and Suffet, I.H. 2007. "The Use Of An Odor Wheel Classification For The Evaluation of Human Health Risk Criteria For Compost Facilities" *Water Science & Technology*. 55(5): 345-357.
- Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** 2006. "Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006, August 21 – 25, 2006. Radisson SAS Scandinavia Hotel in Oslo Norway.
- Rosenfeld, P.E., **Clark, J. J.** and Suffet, I.H. 2005. "The Value Of An Odor Quality Classification Scheme For Compost Facility Evaluations" The U.S. Composting Council's 13th Annual Conference January 23 - 26, 2005, Crowne Plaza Riverwalk, San Antonio, TX.
- Rosenfeld, P.E., **Clark, J. J.** and Suffet, I.H. 2004. "The Value Of An Odor Quality Classification Scheme For Urban Odor" WEFTEC 2004. 77th Annual Technical Exhibition & Conference October 2 - 6, 2004, Ernest N. Morial Convention Center, New Orleans, Louisiana.
- Clark, J.J.J.** 2003. "Manufacturing, Use, Regulation, and Occurrence of a Known Endocrine Disrupting Chemical (EDC), 2,4-Dichlorophenoxyacetic Acid (2,4-D) in California Drinking Water Supplies." National Groundwater Association Southwest Focus Conference: Water Supply and Emerging Contaminants. Minneapolis, MN. March 20, 2003.

- Rosenfeld, P. and **J.J.J. Clark**. 2003. "Understanding Historical Use, Chemical Properties, Toxicity, and Regulatory Guidance" National Groundwater Association Southwest Focus Conference: Water Supply and Emerging Contaminants. Phoenix, AZ. February 21, 2003.
- Clark, J.J.J.**, Brown A. 1999. Perchlorate Contamination: Fate in the Environment and Treatment Options. In Situ and On-Site Bioremediation, Fifth International Symposium. San Diego, CA, April, 1999.
- Clark, J.J.J.** 1998. Health Effects of Perchlorate and the New Reference Dose (RfD). Proceedings From the Groundwater Resource Association Seventh Annual Meeting, Walnut Creek, CA, October 23, 1998.
- Browne, T., **Clark, J.J.J.** 1998. Treatment Options For Perchlorate In Drinking Water. Proceedings From the Groundwater Resource Association Seventh Annual Meeting, Walnut Creek, CA, October 23, 1998.
- Clark, J.J.J.**, Brown, A., Rodriguez, R. 1998. The Public Health Implications of MtBE and Perchlorate in Water: Risk Management Decisions for Water Purveyors. Proceedings of the National Ground Water Association, Anaheim, CA, June 3-4, 1998.
- Clark J.J.J.**, Brown, A., Ulrey, A. 1997. Impacts of Perchlorate On Drinking Water In The Western United States. U.S. EPA Symposium on Biological and Chemical Reduction of Chlorate and Perchlorate, Cincinnati, OH, December 5, 1997.
- Clark, J.J.J.**; Corbett, G.E.; Kerger, B.D.; Finley, B.L.; Paustenbach, D.J. 1996. Dermal Uptake of Hexavalent Chromium In Human Volunteers: Measures of Systemic Uptake From Immersion in Water At 22 PPM. Toxicologist. 30(1):14.
- Dodge, D.G.; **Clark, J.J.J.**; Kerger, B.D.; Richter, R.O.; Finley, B.L.; Paustenbach, D.J. 1996. Assessment of Airborne Hexavalent Chromium In The Home Following Use of Contaminated Tapwater. Toxicologist. 30(1):117-118.
- Paulo, M.T.; Gong, H., Jr.; **Clark, J.J.J.** (1992). Effects of Pretreatment with Ipratropium Bromide in COPD Patients Exposed to Ozone. American Review of Respiratory Disease. 145(4):A96.
- Harber, P.H.; Gong, H., Jr.; Lachenbruch, A.; **Clark, J.**; Hsu, P. (1992). Respiratory Pattern Effect of Acute Sulfur Dioxide Exposure in Asthmatics. American Review of Respiratory Disease. 145(4):A88.
- McManus, M.S.; Gong, H., Jr.; Clements, P.; **Clark, J.J.J.** (1991). Respiratory Response of Patients With Interstitial Lung Disease To Inhaled Ozone. American Review of Respiratory Disease. 143(4):A91.
- Gong, H., Jr.; Simmons, M.S.; McManus, M.S.; Tashkin, D.P.; Clark, V.A.; Detels, R.; **Clark, J.J.** (1990). Relationship Between Responses to Chronic Oxidant and Acute

Ozone Exposures in Residents of Los Angeles County. American Review of Respiratory Disease. 141(4):A70.

Tierney, D.F. and **J.J.J. Clark**. (1990). Lung Polyamine Content Can Be Increased By Spermidine Infusions Into Hyperoxic Rats. American Review of Respiratory Disease. 139(4):A41.

ATTACHMENT B

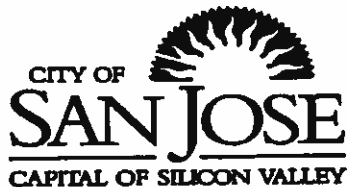
City of San Jose - PBCE – Planning Division - Imaging Index Cover Sheet

Address/Location: southeast corner of Park Avenue and McEvoy Street (205 DUPONT ST)

Permit/Project No.: PDC17-057 Issuance Date: 10/10 2/27/18

Prepped By: NSLIM Closed By: JPROVEDO RSN: 1745527

Category	Document Type	Sub Document Type
<input type="checkbox"/> (EF) Environmental Files (203)	<input type="checkbox"/> (PP) Public Project Files (203-03)	<input type="checkbox"/> (EN) EIR <input type="checkbox"/> (DA) Approved Document <input type="checkbox"/> (EM) Maps <input type="checkbox"/> (AE) Application <input type="checkbox"/> (AG) Agency Correspondence <input type="checkbox"/> (EG) General Correspondence <input type="checkbox"/> (TR) Technical Reports <input type="checkbox"/> (RE) Archaeological Reports <input type="checkbox"/> (EP) Plans
<input type="checkbox"/> (GP) General Plan (204)	<input type="checkbox"/> (GA) General Plan Amendments (204-02)	<input type="checkbox"/> (AM) Amendment <input type="checkbox"/> (AA) Application <input type="checkbox"/> (CG) Correspondence
	<input type="checkbox"/> (GE) Environmental Review (for 204 series GP Amendments)	<input type="checkbox"/> (GD) Approved Document <input type="checkbox"/> (GI) EIR <input type="checkbox"/> (GS) Supporting Documents <input type="checkbox"/> (GT) Technical Reports <input type="checkbox"/> (GR) Archaeological
<input checked="" type="checkbox"/> (DR) Development Review (207)	<input checked="" type="checkbox"/> (PR) Projects (207-02, 207-03, etc.)	<input type="checkbox"/> (ZN) Zoning <input type="checkbox"/> (PE) Permit <input type="checkbox"/> (MP) Maps <input checked="" type="checkbox"/> (AP) Application <input type="checkbox"/> (AC) Agency Correspondence <input type="checkbox"/> (GC) General Correspondence <input type="checkbox"/> (PL) Plans <input type="checkbox"/> ST Approved Storm-Water Ctrl Plans
	<input type="checkbox"/> (ER) Environmental Review (for 207 series Project Files)	<input type="checkbox"/> (EA) Approved Document <input type="checkbox"/> (EI) EIR <input type="checkbox"/> (ES) Supporting Documents <input type="checkbox"/> (ET) Technical Reports <input type="checkbox"/> (AR) Archaeological
	<input type="checkbox"/> (AD) Adjustments (207-12)	<input type="checkbox"/> (DO) Documents <input type="checkbox"/> (PA) Plans <input type="checkbox"/> SW Approved Storm-Water Ctrl Plan <input type="checkbox"/> PK Parking Analysis
	<input type="checkbox"/> (PI) Public Info Letters (207-29)	<input type="checkbox"/> (LE) Letter <input type="checkbox"/> (LS) Supporting Docs



Department of Planning, Building and Code Enforcement

File Number: PDC17-057 Council District 6 Planning Area Central
Filing Date 12/13/17 Project Manager Nizar Slim Tech Michelle Flores
Initial Envir Clearance Appl. Exemption
Annexation Sunol No 51 18-APR-85

Description

Planned Development Zoning from HI Heavy Industrial Zoning District and LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow for 458 residential units on a 3.87-gross acre site

Address:

205 DUPONT ST



Location

southeast corner of Park Avenue and McEvoy Avenue

Owner Autumn Llc

Previous Files:

APN 26138067 Census Tract 5019.00 Proposed Zoning A(PD)
General Plan Mixed Use Commer Proposed GP Designation
Gross Acres 3.87 Net Acres
Planned Community Midtown Zoning HI

Existing use Vacant Proposed Use Multi-Family Residential

No. Existing Lots No. of lots Proposed

Est. Occupancy Date Initial Processing Fee \$ 50,172.00

Elem. School District San Jose Unified School District

Environmental Checklist:

Historic Resource Inv	No	GeoHazard Zone	No
Flood Zone	No	Historic Conservation Area	No
Road Noise	70-74, 65-69, 65-69 FWY	Near a Waterway (<300ft)	No
Archeology	No		

Internal Referrals:

Referrals:

Public Works Department - Development Services Division
Environmental Compliance Officer, Environmental Services Dept.
Dept. Of Transportation - Local Policy And Planning Division
San Jose Fire Dept.
Parks Development Division
Vta - Environmental Review Dept.
Airport Planners - Csj
San Jose Arena Authority
San Jose Unified School District
San Jose Water Company
Building Code Conformance Reviewer, Building Division
Housing Department

12/14/2017

Project Application Summary

Page 1 of 1

200 East Santa Clara Street, 3rd Floor Tower, San Jose CA 95113
www.sanjoseca.gov

Tel (408) 535-7800

Fax (408) 292-6055

WITHDRAWN

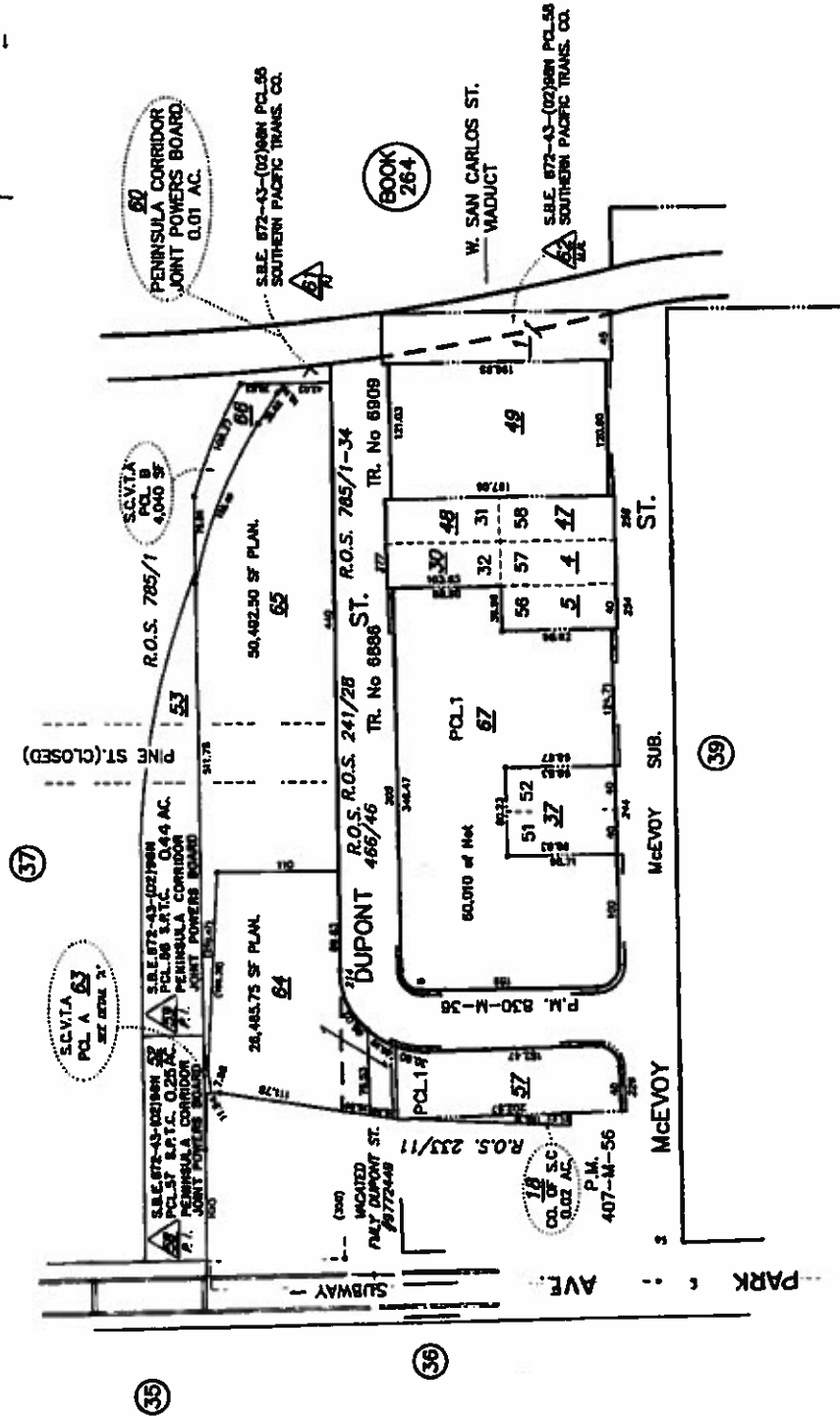
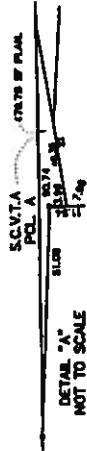
ORDER NO. : 0616015730

EXHIBIT A

The land referred to is situated in the County of Santa Clara, City of San Jose, State of California, and is described as follows:

All of Parcels 11-B and 12-B, as said parcels are shown upon that certain Map of Record of Survey, being a portion of Rancho de Los Coches, etc., filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on February 8, 1968 in Book 233 of Maps, at Page 11.

APN: 261-38-057



LAURENCE E. STONE - ASSESSOR
County of Santa Clara
Created under S. & T. Code, Sec. 371
Effective Feb. Year 2000-2001

EXHIBIT A

The land referred to is situated in the County of Santa Clara, City of San Jose, State of California, and is described as follows:

PARCEL ONE:

Beginning at the point of intersection of the Easterly line of Dupont Street with the Southerly line of Park Avenue; thence Easterly along the Southerly line of Park Avenue 125 feet; thence Southerly along the line parallel with the Easterly line of Dupont Street 100.00 feet; thence Southerly deflecting 3' 26' to the right from the last described course, 250.47 feet; thence Westerly along a line parallel with the Southerly line of Park Avenue 110.00 feet to a point on the Easterly line of Dupont Street; thence Northerly along the Easterly line of Dupont Street, 350.00 feet to the point of beginning.

EXCEPTING THEREFROM PARCEL 8-A" on that certain Nap entitled, "RECORD OF SURVEY, BEING A PORTION OF RANCHO DE LOS COCRES, ETC.", and filed for record on February 8, 1968 in Book 233 of Maps at Page 11, Santa Clara County Records, as conveyed to the County of Santa Clara by Deed recorded August 21, 1968 in Book 8242, Page 443, of Official Records.

ALSO EXCEPTING THEREFROM that portion conveyed to Santa Clara Valley Transportation Authority in that certain Deed recorded March 28, 2003 under Recorder's Serial Number 16919900, Santa Clara County Records.

PARCEL TWO:

Those portions of Dupont Street as vacated pursuant to that "Resolution and Order Proclaiming the Vacation of a Portion of Dupont Street" recorded June 27, 1988 in Book K618, Page 864 under Recorder's Serial Number 9772449, Santa Clara County Records.

APN: 261-38-064

EXHIBIT A

The land referred to is situated in the County of Santa Clara, City of San Jose, State of California, and is described as follows:

PARCEL ONE:

Beginning at a point in the Easterly line of Dupont Street, distant thereon Southerly 350.00 feet from the Southerly line of Park Avenue; said point of beginning being the Southwesterly corner of that certain 41,875 square foot parcel of land described in the Deed from Southern Pacific Company, a Corporation to Theodore E. and Eva Eggers dated April 27, 1943, recorded September 14, 1943 in Book 1160 Official Records, Page 312, Santa Clara County Records; thence Southerly along the Easterly line of Dupont Street 440.00 feet; thence at a right angle Easterly 68.80 feet; thence Northeasterly deflecting $68^{\circ} 17'$ to the left 151.88 feet to a point on a line drawn parallel with and distant Easterly 125.00 feet, measured at right angles, from said Easterly line of Dupont Street; thence Northerly along said parallel line 549.05 feet to a point in the Easterly line of said parcel of land described in the Deed dated April 27, 1943; thence Southerly deflecting $176^{\circ} 34'$ to the left along said Easterly line of said parcel of land 250.47 feet; thence Westerly, deflecting $86^{\circ} 29' 45''$ to the right and following the Southerly line of said parcel of land 110.00 feet to the point of beginning.

PARCEL TWO:

Commencing at the Southwesterly corner of that certain 52,920 square foot parcel of land described in Deed dated July 5, 1945 from Southern Pacific Company to Theodore H. Eggers, et ux, at the Easterly line of Dupont Street, distant thereon Southerly 790.00 feet from the Southerly line of Park Avenue; thence Easterly at right angles from said Easterly line of Dupont Street, along the Southerly line of land described in said Deed 68.80 feet to the Southeasterly corner thereof and the actual point of beginning of the parcel land described; thence continuing Easterly at right angles from said Easterly line of Dupont Street, 12.26 feet to a point in a line concentric with and distant 15 feet Northwesterly, measured radially from the center line of Southern Pacific Company's Los Gatos Branch Main Track; thence Northeasterly along said concentric line, on a curve to the left, having a radius of 489.22 feet; through a central angle of $12^{\circ} 47' 49''$ an arc distance of 109.27 feet to a point in a line parallel with and distant 125 feet Easterly measured at right angles from said Easterly line of Dupont Street; thence Northerly along said parallel line 41.31 feet to an angle point in the Easterly line of land described in said Deed; thence Southwesterly along said Easterly line, deflecting $21^{\circ} 43'$ to the right from last described course, 151.88 feet to the actual point of beginning.

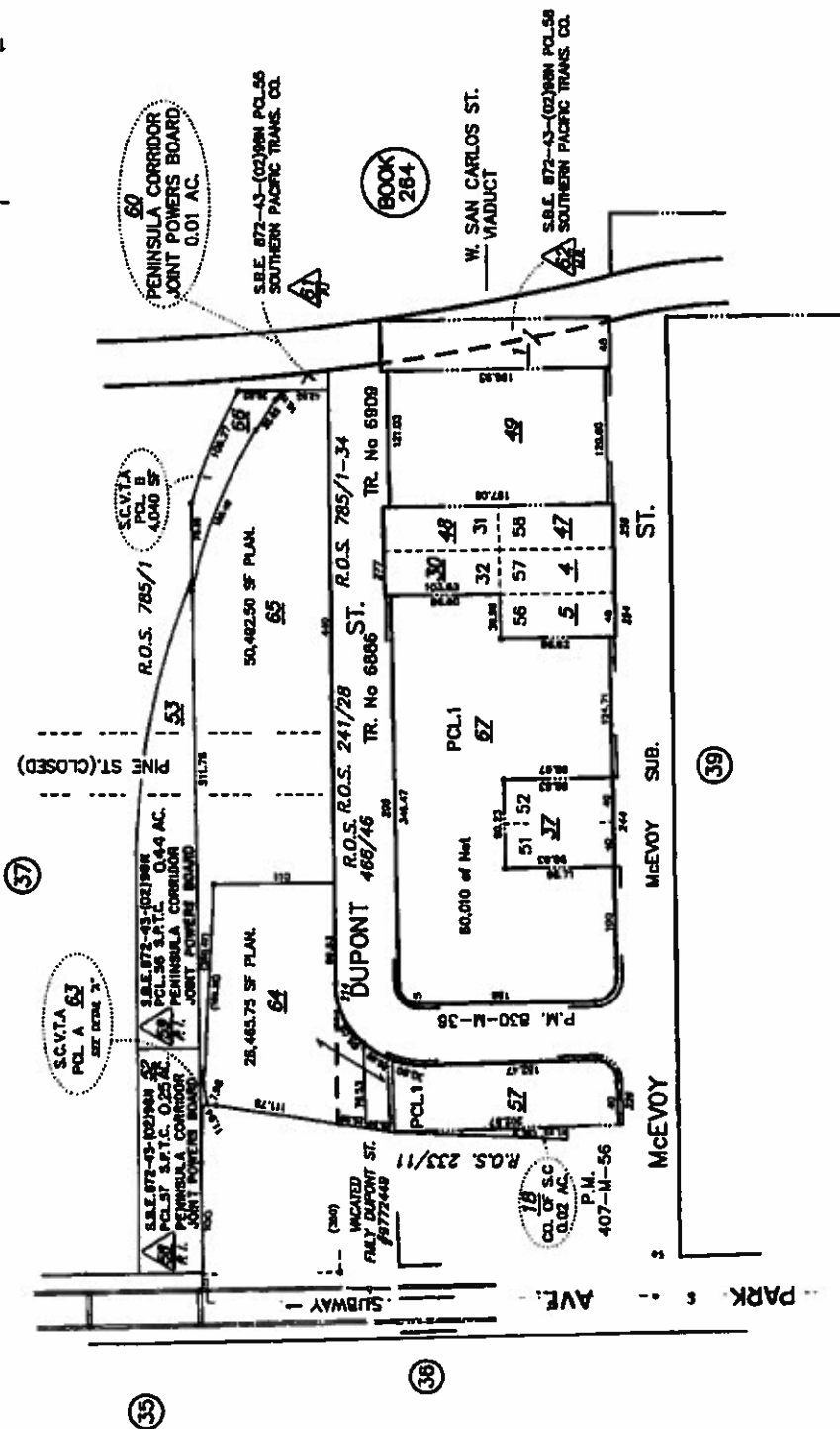
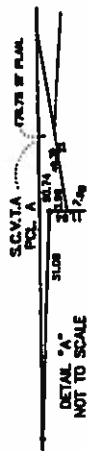
EXCEPTING FROM PARCELS One and Two, the title and exclusive right to all of the minerals and mineral ores of every kind and character now known to exist or hereafter discovered upon, within or underlying said land or that may be produced therefrom including, without limiting the generality of the foregoing all petroleum, oil, natural gas and other hydrocarbon substances and products derived therefrom, together with the exclusive and perpetual right of ingress, and egress beneath the surface of said land to explore for, extract, mine and remove the same, and to make sure use of said land beneath the surface as is necessary or useful in connection therewith, which use may include lateral or slant drilling, boring, digging or sinking of wells,

shafts and tunnels; provided, however that, Southern Pacific Company, a Delaware corporation, its successors and assigns, shall not use the surface of said land in the exercise of any of said rights.

AS RESERVED in the Deed from Southern Pacific Company, a Delaware Corporation, to Theodore H. Eggers and Eva Eggers, his wife, dated September 3, 1957 and recorded October 14, 1957, in Book 3912 of Official Records, Page 254.

Further excepting from both Parcels One and Two those portions conveyed to Santa Clara Valley Transportation Authority in that certain deed recorded March 28, 2003 under Recorder's Serial Number 16919900, Santa Clara County Records.

APN: 261-38-065



LAWRENCE E. STONE - ASSESSOR
 Delisted map for assessment purposes only
 Compiled under R. & I. Code, Sec. 327.
 Effective Roll Year 2010-2011



CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street, San Jose, CA 95113
(408) 535-3555

UNIVERSAL PLANNING APPLICATION

FILE NUMBER:

PDC17-057-064-065-067-020

RSN:

TO BE COMPLETED BY APPLICANT

APN: 261-38-057, 261-38-064, 261-38-065,
261-38-067

PROPERTY ADDRESS/LOCATION:

214, 214D, 205 Dupont St., 226 McEvoy St., San Jose, CA 95126

PLEASE CHECK ALL THAT APPLY:

- | | |
|--|--|
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Rezoning (Non-PD) (From _____ to _____) |
| <input type="checkbox"/> Conditional Use Permit/Amendment | <input type="checkbox"/> Site Development Permit/Amendment |
| <input type="checkbox"/> General Plan Amendment (From _____ to _____) | <input type="checkbox"/> Special Use Permit/Amendment |
| <input checked="" type="checkbox"/> Planned Development Permit/Amendment | <input type="checkbox"/> Variance/Exception (code section _____) |
| <input checked="" type="checkbox"/> Planned Development (PD) Rezoning | |

Note: For other application forms for permits not listed above such as Permit Adjustments, Sign Permits, Tree Removal Permits, Preliminary Review, etc., please see website: <http://www.sanjoseca.gov/index.aspx?nid=3839>

PROJECT USE:

- ☒ Residential ☐ Commercial ☐ Industrial ☐ Mixed Use

PROJECT PROPOSAL AND DESCRIPTION: If the project includes multiple dwelling units, you may use GreenTRIP Connect to calculate savings in money and reductions in greenhouse gas emissions through implementing various strategies. Link to <http://connect.greentrip.org> or contact TransForm at (510) 740-3150

Proposed PD zoning and PD permit for 458 multi family residential development on this property. 5 story residential development over 2 story parking.

A GP amendment application is on file for this project. Project # GP17-017

PLEASE INDICATE IF PROPOSAL INVOLVES ANY OF THE FOLLOWING: (see link to supplemental form)

- | | |
|--|---|
| <input type="checkbox"/> Building Mounted Wireless Communication Antenna | <input type="checkbox"/> Late Night Use (Midnight – 6 a.m.) until _____ |
| <input type="checkbox"/> Changes to Legal Non-Conforming Use/Structure | <input type="checkbox"/> Off-Sale of Alcohol |
| <input type="checkbox"/> Child Care Center | <input type="checkbox"/> Off-Site or Alternate Parking Arrangement |
| <input checked="" type="checkbox"/> Demolition of Buildings | <input type="checkbox"/> On-Sale of alcohol (Drinking Establishment) |
| <input type="checkbox"/> Development Within 100 feet of Streambed | <input type="checkbox"/> Outdoor Uses |
| <input type="checkbox"/> Drive-Through Use | <input type="checkbox"/> Removal of Trees (How many? _____) |
| <input type="checkbox"/> Electrical Power Generator | <input type="checkbox"/> Residential Care/Service Facility |
| <input type="checkbox"/> Freestanding Wireless Communication Antenna | <input type="checkbox"/> Slope Greater than 5% |
| <input type="checkbox"/> Gas Station Conversion | <input type="checkbox"/> Temporary Trailer (other than construction office) |
| <input type="checkbox"/> House Conversion to Non-Residential Use | <input type="checkbox"/> Wireless Communication Facility |

Note: For other applications forms for permits not listed above such as Single-Family House Permits, Administrative Permits, Permit Adjustments, Sign Permits, Tree Removal Permits, Preliminary Review, etc., please see website: <http://www.sanjoseca.gov/index.aspx?nid=3839>

PROJECT AND SITE DATA:

Site Acreage: Gross: 3.87 Net: 3.87

This application is accepted by APPOINTMENT ONLY. To arrange an appointment, please visit the Planning Division's website: <http://www.sanjoseca.gov/index.aspx?nid=1725>. For assistance, call (408) 535-3555.

PROJECT AND SITE DATA (continue):				
Residential Units:	Existing: <u>0</u>	Proposed: <u>452</u>		
Commercial Square Footage:	Existing: <u>~48,700</u>	Proposed: _____		
Industrial Square Footage:	Existing: <u>0</u>	Proposed: _____		
CONTACT INFORMATION				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>Applicant Name: <u>Autumn LLC</u></p> <p>Mailing Address: <u>1550 Hicks Ave.</u> <u>San Jose, CA 95125</u></p> <p>Property Owner's Name: <u>Autumn LLC.</u></p> <p>Mailing Address: <u>1550 Hicks Ave</u> <u>San Jose, CA 95125</u></p> <p>Engineer's Name: <u>BKF Engineers</u></p> <p>Mailing Address: <u>1730 N First Street, Suite 600</u> <u>San Jose, CA 95112</u></p> <p>Architect's Name: <u>Salvatore Caruso Design Corporation</u></p> <p>Mailing Address: <u>980 El Camino Real, Suite 200</u> <u>Santa Clara, CA 95050</u></p> <p>Contact Person's Name: <u>Sal Caruso / Christian Frederiksen</u></p> <p>Mailing Address: <u>980 El Camino Real, Suite 200</u> <u>Santa Clara, CA 95050</u></p> </td> <td style="width: 50%; vertical-align: top;"> <p style="text-align: right; font-size: small;">mindspring.com</p> <p>Email <u>RM007@mindspring.com</u></p> <p>Telephone (<u>408</u>) <u>288-8278</u></p> <p style="text-align: right; font-size: small;">mindspring.com</p> <p>Email <u>RM007@mindspring.com</u></p> <p>Telephone (<u>408</u>) <u>288-8278</u></p> <p>Email <u>pchan@bkf.com</u></p> <p>Telephone (<u>408</u>) <u>467-9188</u></p> <p>Email <u>scaruso@caruso-designs.com</u></p> <p>Telephone (<u>408</u>) <u>998-4087</u></p> <p style="text-align: right; font-size: small;">scaruso@caruso-designs.com cfrederiksen@caruso-designs.com</p> <p>Email _____</p> <p>Telephone (<u>408</u>) <u>998-4087</u></p> </td> </tr> </table>			<p>Applicant Name: <u>Autumn LLC</u></p> <p>Mailing Address: <u>1550 Hicks Ave.</u> <u>San Jose, CA 95125</u></p> <p>Property Owner's Name: <u>Autumn LLC.</u></p> <p>Mailing Address: <u>1550 Hicks Ave</u> <u>San Jose, CA 95125</u></p> <p>Engineer's Name: <u>BKF Engineers</u></p> <p>Mailing Address: <u>1730 N First Street, Suite 600</u> <u>San Jose, CA 95112</u></p> <p>Architect's Name: <u>Salvatore Caruso Design Corporation</u></p> <p>Mailing Address: <u>980 El Camino Real, Suite 200</u> <u>Santa Clara, CA 95050</u></p> <p>Contact Person's Name: <u>Sal Caruso / Christian Frederiksen</u></p> <p>Mailing Address: <u>980 El Camino Real, Suite 200</u> <u>Santa Clara, CA 95050</u></p>	<p style="text-align: right; font-size: small;">mindspring.com</p> <p>Email <u>RM007@mindspring.com</u></p> <p>Telephone (<u>408</u>) <u>288-8278</u></p> <p style="text-align: right; font-size: small;">mindspring.com</p> <p>Email <u>RM007@mindspring.com</u></p> <p>Telephone (<u>408</u>) <u>288-8278</u></p> <p>Email <u>pchan@bkf.com</u></p> <p>Telephone (<u>408</u>) <u>467-9188</u></p> <p>Email <u>scaruso@caruso-designs.com</u></p> <p>Telephone (<u>408</u>) <u>998-4087</u></p> <p style="text-align: right; font-size: small;">scaruso@caruso-designs.com cfrederiksen@caruso-designs.com</p> <p>Email _____</p> <p>Telephone (<u>408</u>) <u>998-4087</u></p>
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FOR OFFICE USE ONLY:				
<p>Fees Collected: _____ By: _____ (Staff)</p> <p>Project Manager: _____</p> <p>Zoning: _____ General Plan: _____ Council District: _____</p> <p>Previous Planning Permit(s): _____</p> <p>Staff Comments:</p> <p>_____</p> <p>_____</p> <p>_____</p>				

This application is accepted by APPOINTMENT ONLY. To arrange an appointment, please visit the Planning Division's website: <http://www.sanjoseca.gov/index.aspx?nld=1725>. For assistance, call (408) 535-3555.

AFFIDAVIT OF OWNERSHIP

THE UNDERSIGNED HEREBY DECLARE THAT THE FOLLOWING IS TRUE AND CORRECT:

1. The undersigned are all the owners of all the property described in Exhibit A – Legal Description of Subject Property, or tenants of the entire subject site with a recorded lease and a term remaining of at least five years.
2. The development plans a part of this application show the exact location, size, and use of all easements on the subject site and all easement on surrounding properties benefiting the subject property.
3. If there are any existing active or deactivated water wells on your property, they must be shown on your plans. The property which is the subject of this application:

☐ does contain existing active or deactivated water wells and they are shown on the plans accompanying this application

☒ does not contain existing active or deactivated water wells.

4. In conformance with Section 65962.5 of the California Government Code, and as owner(s) of the property referenced below, I(we) hereby certify that I(we) have reviewed the list of Hazardous Waste and Substance Sites within the City of San Jose, as compiled by the State Office of Planning and Research. The property which is the subject of the above-referenced application is ☐ is not ☒ included on said list.

If included on the List, the listed item reads as follows:

THE UNDERSIGNED HEREBY DECLARE THAT THEY UNDERSTAND THE FOLLOWING APPLIES TO THEIR PROJECT:

5. Notice to Applicants regarding effect of Wastewater treatment capacity on land development approvals. Part 2.75 of Chapter 15.12 of the San Jose Municipal Codes requires that an applicant acknowledge the effect of Wastewater treatment capacity on Land development approvals at the time of application. As owner(s) of the property subject to this development application, I(we) hereby acknowledge the requirements of the Municipal Code, as stated below, and understand that these requirements will apply to the development permit for which I(we) am(are) applying.

Pursuant to Part 2.75 of Chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on San Jose-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.

PRINT NAME OF PROPERTY OWNER Autumn LLC.		DAYTIME TELEPHONE: (408) 288-8278	FAX TELEPHONE: ()
ADDRESS 1550 Hicks Ave	CITY San Jose	STATE CA	ZIP CODE 95125
NAME OF FIRM, IF APPLICABLE		TITLE OR OTHER OFFICIAL CAPACITY*	
SIGNATURE (PRINT NAME IF DIFFERENT THAN THE ABOVE PROPERTY OWNER) <i>Roger Moore</i>		DATE 12-11-17	

*Please state if you are a partner, president, vice-president, etc.....

IF THERE ARE ADDITIONAL PROPERTY OWNERS, PLEASE USE THE FOLLOWING PAGE TO PROVIDE THE ABOVE INFORMATION.

This application is accepted by APPOINTMENT ONLY. To arrange an appointment, please visit the Planning Division's website: <http://www.sanjoseca.gov/index.aspx?nid=1725>. For assistance, call (408) 635-3555.

AFFIDAVIT OF OWNERSHIP

(ONLY FOR ADDITIONAL PROPERTY OWNERS)

THE UNDERSIGNED HEREBY DECLARE THAT ALL ITEMS ON THIS APPLICATION ARE TRUE AND CORRECT, AND DECLARE THAT THEY UNDERSTAND THAT ALL ITEMS ON THE FIRST PAGE OF THIS AFFIDAVIT OF OWNERSHIP APPLY TO THEIR PROJECT:			
PRINT NAME OF PROPERTY OWNER		DAYTIME TELEPHONE: ()	FAX TELEPHONE: ()
ADDRESS		CITY	STATE ZIP CODE
NAME OF FIRM, IF APPLICABLE		TITLE OR OTHER OFFICIAL CAPACITY*	
SIGNATURE (PRINT NAME IF DIFFERENT THAN THE ABOVE PROPERTY OWNER)			DATE
PRINT NAME OF PROPERTY OWNER		DAYTIME TELEPHONE: ()	FAX TELEPHONE: ()
ADDRESS		CITY	STATE ZIP CODE
NAME OF FIRM, IF APPLICABLE		TITLE OR OTHER OFFICIAL CAPACITY*	
SIGNATURE (PRINT NAME IF DIFFERENT THAN THE ABOVE PROPERTY OWNER)			DATE adf
PRINT NAME OF PROPERTY OWNER		DAYTIME TELEPHONE: ()	FAX TELEPHONE: ()
ADDRESS		CITY	STATE ZIP CODE
NAME OF FIRM, IF APPLICABLE		TITLE OR OTHER OFFICIAL CAPACITY*	
SIGNATURE (PRINT NAME IF DIFFERENT THAN THE ABOVE PROPERTY OWNER)			DATE
PRINT NAME OF PROPERTY OWNER		DAYTIME TELEPHONE: ()	FAX TELEPHONE: ()
ADDRESS		CITY	STATE ZIP CODE
NAME OF FIRM, IF APPLICABLE		TITLE OR OTHER OFFICIAL CAPACITY*	
SIGNATURE (PRINT NAME IF DIFFERENT THAN THE ABOVE PROPERTY OWNER)			DATE
* PLEASE STATE IF YOU ARE A PARTNER, PRESIDENT, VICE-PRESIDENT, ETC.....			
IF THERE ARE ADDITIONAL PROPERTY OWNERS, PLEASE ATTACH SEPARATE COPIES OF THIS PAGE TO PROVIDE THE ABOVE INFORMATION.			

This application is accepted by APPOINTMENT ONLY. To arrange an appointment, please visit the Planning Division's website: <http://www.sanjoseca.gov/index.aspx?nld=1725>. For assistance, call (408) 535-3555.

**INDEMNIFICATION AGREEMENT
FOR DEVELOPMENT APPLICATIONS**

Applicant submitted an application to the City of San José Planning Division on December 13, 2017 for the following development approval(s):

PD Zoning and PD Permit

(the "Project"). For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Applicant hereby expressly agrees in connection with the processing of Applicant's Project application(s) to each and every one of the following terms and conditions:

1. Applicant agrees, as part of and in connection with each and any of the application(s), to defend, indemnify, and hold harmless the City of San José ("City") and its officers, contractors, consultants, attorneys, employees and agents from any and all claim(s), action(s), or proceeding(s) (collectively referred to as "proceeding") brought against City or its officers, contractors, consultants, attorneys, employees, or agents to challenge, attack, set aside, void, or annul:

- a. Any approvals issued in connection with any of the above described application(s) by City; and/or
- b. Any action taken to provide related environmental clearance under the California Environmental Quality Act of 1970, as amended ("CEQA") by City's advisory agencies, boards or commissions; appeals boards or commissions; Planning Commission, or City Council.

Applicant's indemnification is intended to include, but not be limited to, damages, fees and/or costs awarded against or incurred by City, if any, and costs of suit, claim or litigation, including without limitation attorneys' fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by Applicant, City, and/or parties initiating or involved in such proceeding.

2. Applicant agrees to indemnify City for all of City's costs, fees, and damages incurred in enforcing the indemnification provisions of this Agreement.

3. Applicant agrees to defend, indemnify and hold harmless City, its officers, contractors, consultants, attorneys, employees and agents from and for all costs and fees incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (such as an environmental impact report, negative declaration, specific plan, or general plan amendment) if made necessary by said proceeding and if Applicant desires to pursue such City approvals and/or clearances, after initiation of the proceeding and that are conditioned on the approval of these documents.

4. In the event that Applicant is required to defend City in connection with such proceeding, City shall have and retain the right to approve:

- a. The counsel to so defend City; and
- b. All significant decisions concerning the manner in which the defense is conducted; and
- c. Any and all settlements, which approval shall not be unreasonably withheld.

City shall also have and retain the right to not participate in the defense, except that City agrees to reasonably cooperate with Applicant in the defense of the proceeding. If City chooses to have counsel of its own defend any proceeding where Applicant has already retained counsel to defend City in such matters, the fees and expenses of the additional counsel selected by City shall be paid by City. Notwithstanding the immediately preceding sentence, if City's Attorney's Office participates in the defense, all City Attorney fees and costs shall be paid by Applicant.

5. Applicant's defense and indemnification of City set forth herein shall remain in full force and effect throughout all stages of litigation including any and all appeals of any lower court judgments rendered in the proceeding.

After review and consideration of all of the foregoing terms and conditions, Applicant, by its signature below, hereby agrees to be bound by and to fully and timely comply with all of the foregoing terms and conditions.

APPLICANT:

By:

(Signature)

(Print)

Date: 12/13/2017

Its:

(Title, if any)

ENVIRONMENTAL EVALUATION APPLICATION

INSTRUCTIONS

Please prepare the application form, environmental analysis, and other required information listed below and return them, in conjunction with other required forms for your project (i.e., Planned Development Permit/Amendment, Conditional Use Permit/Amendment, Rezoning, etc.). This application is accepted by Appointment only. Please visit the Planning Division's website: <http://www.sanjoseca.gov/index.aspx?nid=1725> to set up an appointment.

1. **Completed Application Form.** Each application shall be signed by the preparer of the application. Original wet signatures (not Xeroxed) are required. One copy of the application shall be submitted for each site.

The application must contain the following:

- (a) Aerial photograph (8 1/2" x 11" or 11" x 17")
 - Minimum scale 1" = 200'
 - Include a north arrow and the scale of the photograph
 - Include date of the photograph
 - The site shown in the center of the photograph
 - Clearly outline and identify the site
- (b) Site Plan (drawn to scale) showing the proposed project. (8 1/2" X 11" or 11" X 17")
- (c) Vicinity Map that shows the surrounding roadways, schools, etc., (8 1/2" X 11")
 - Include a north arrow
 - Site in the center of the map with North at the top of the page
 - Clearly outline and identify the site
 - Name each surrounding street
 - Label all land uses within 500 feet of the site
- (d) Photographs of the site and surrounding properties
 - Snapshots or Polaroid photos will be accepted
 - Mount on (8 1/2" X 11") paper
 - Identify the subject of each photograph

3. **Noticing the Neighborhood.** Refer to the Public Outreach Policy for a full description of the City's public notification procedures. Public Hearing

notices will be mailed for development proposals at least 10 calendar days before the date set for hearing for a project. Notices will be sent to all property owners and residents within 300 feet for Very Small projects, 500 feet for Standard Development Proposals and a minimum of 1,000 feet for large or controversial projects as detailed in the Public Outreach Policy.

4. **HUD Federal Funding and Environmental Compliance with the National Environmental Policy Act (NEPA).** Compliance with the National Environmental Policy Act (NEPA) is required for all projects anticipating the use of federal funding from the Department of Housing and Urban Development (HUD), for any portion of the project. Additional review, reports, and/or referrals may be necessary. Additional fees will be required for projects not funded by the Community Development Block Grant (CDBG) program. Please contact the Environmental Review Team for more information.

5. **Santa Clara Valley Habitat Conservation Plan (HCP).** Please provide HCP information for the project below, and refer to the HCP Geobrowser at <http://www.hcpmaps.com> as needed. To determine if a project eligible for coverage under the HCP, complete the Coverage Screen Form and as needed, the Fees and Conditions Worksheet. Both are available on the HCP Website at <http://scv-habitatagency.org>.

Land Cover Designation: Urban-Suburban
Private Development Area: Area 4
Permanently Disturbed Footprints (in acres): _____
Fee Zone(s): no land cover fees: Urban Area
Wildlife Survey Area(s): N/A
Plant Survey Area(s): N/A
Streams and Setback: N/A

6. **Fees.** An application fee, associated Public Noticing fee(s), and the appropriate Environmental application fees are due at the time of filing (see fee schedule). Checks are made payable to the "City of San Jose".

This application is accepted by APPOINTMENT ONLY. To arrange an appointment, please visit the Planning Division's website: <http://www.sanjoseca.gov/index.aspx?nid=1725>. For assistance, call (408) 535-3555.

ATTACHMENT C

Slim, Nizar

From: Salvatore Caruso <scaruso@caruso-designs.com>
Sent: Tuesday, January 16, 2018 2:51 PM
To: Slim, Nizar
Cc: Kelly, Patrick (PBCE); Christian Frederiksen; Carl Curran; Archana Jain; Vacca, Kimberly
Subject: RE: PD17-028 and PDC17-057 205 DUPONT ST

Hi Kimberly,
Please let me know.
Thanks
Sal

Salvatore Caruso A.I.A.
[Salvatore Caruso Design Corporation](#)
980 El Camino Real, Suite 200
Santa Clara, CA 95050
Tel: (408) 998-4087
Fax: (408) 998-4088
Cell: (408) 640-1001

From: Slim, Nizar [mailto:Nizar.Slim@sanjoseca.gov]
Sent: Tuesday, January 16, 2018 2:45 PM
To: Salvatore Caruso <scaruso@caruso-designs.com>
Cc: Kelly, Patrick (PBCE) <patrick.kelly@sanjoseca.gov>; Christian Frederiksen <cfrederiksen@caruso-designs.com>; Carl Curran <ccurran@caruso-designs.com>; Archana Jain <ajain@caruso-designs.com>; Vacca, Kimberly <kimberly.vacca@sanjoseca.gov>
Subject: RE: PD17-028 and PDC17-057 205 DUPONT ST

Sal,
Good question for the Planner working on that end of things. I have cc'ed her on this email chain. Her name is Kimberly Vaca.
Please feel free to communicate directly with her, since she is best equipped to answer questions pertaining to the GP amendment.
Thanks,
Nizar

From: Salvatore Caruso [mailto:scaruso@caruso-designs.com]
Sent: Tuesday, January 16, 2018 1:13 PM
To: Slim, Nizar <Nizar.Slim@sanjoseca.gov>
Cc: Kelly, Patrick (PBCE) <patrick.kelly@sanjoseca.gov>; Christian Frederiksen <cfrederiksen@caruso-designs.com>; Carl Curran <ccurran@caruso-designs.com>; Archana Jain <ajain@caruso-designs.com>
Subject: RE: PD17-028 and PDC17-057 205 DUPONT ST

Nizar,

What exactly is the high level discussions about? IS it about the previously designated Transit residential and then changed on the map more recently to Commercial?

Are they considering changing it sooner to Transit to be consistent with the Diridon Plan? Or let me know what is the discussion please.

Thanks,
Sal

Salvatore Caruso A.I.A.

Salvatore Caruso Design Corporation

980 El Camino Real, Suite 200

Santa Clara, CA 95050

Tel: (408) 998-4087

Fax: (408) 998-4088

Cell: (408) 640-1001

From: Slim, Nizar [<mailto:Nizar.Slim@sanjoseca.gov>]

Sent: Tuesday, January 16, 2018 1:00 PM

To: Salvatore Caruso <scaruso@caruso-designs.com>

Cc: Kelly, Patrick (PBCE) <patrick.kelly@sanjoseca.gov>; Christian Frederiksen <cfrederiksen@caruso-designs.com>; Carl Curran <ccurran@caruso-designs.com>; Archana Jain <ajain@caruso-designs.com>

Subject: RE: PD17-028 and PDC17-057 205 DUPONT ST

Sal,

That is a fair question. I wish I had an equally appropriate response.

My understanding is that there are some high level discussions on the findings and circumstances surrounding the previous review process. Any conclusions to the GP case would be derived from those aforementioned discussions. I have not gotten word on a timeline for that to happen. I do know it is being vigorously pursued by our staff.

I am also checking on that progress as my workload (and your concern) is also my priority.

Hope that helps.

Nizar

From: Salvatore Caruso [<mailto:scaruso@caruso-designs.com>]

Sent: Tuesday, January 16, 2018 12:51 PM

To: Slim, Nizar <Nizar.Slim@sanjoseca.gov>

Cc: Kelly, Patrick (PBCE) <patrick.kelly@sanjoseca.gov>; Christian Frederiksen <cfrederiksen@caruso-designs.com>; Carl Curran <ccurran@caruso-designs.com>; Archana Jain <ajain@caruso-designs.com>

Subject: RE: PD17-028 and PDC17-057 205 DUPONT ST

Hello Nizar,

Thank you for your email. When can we expect comments on both the GP and PD applications.

Thanks,
Sal

Salvatore Caruso A.I.A.

Salvatore Caruso Design Corporation

980 El Camino Real, Suite 200

Santa Clara, CA 95050

Tel: (408) 998-4087

Fax: (408) 998-4088

Cell: (408) 640-1001

From: Slim, Nizar [<mailto:Nizar.Slim@sanjoseca.gov>]

Sent: Tuesday, January 16, 2018 12:47 PM

To: Salvatore Caruso <scaruso@caruso-designs.com>

Cc: Kelly, Patrick (PBCE) <patrick.kelly@sanjoseca.gov>

Subject: PD17-028 and PDC17-057 205 DUPONT ST

Hello Mr. Caruso,

This email is in lieu of a "30-DayLetter". At this stage of review, we would ordinarily send out a letter highlighting the outstanding issues and concerns with your project with direction on correcting those items. However, there are other Land Use reviews (File No. GP17-017 General Plan Amendment request to change the General Plan Land Use/Transportation Diagram land use designation from Mixed Use Commercial to Transit Residential) that are pending final decisions. Therefore, any specific information relating to this project may not be accurate and ultimately mute. Your patience is appreciated as we work to resolve the current review affecting this proposal.

If you have any questions, please feel free to contact me.

Nizar Slim

Planner III

Nizar.slim@sanjoseca.gov

(408)535-7829

ATTACHMENT D

City of San Jose - PBCE – Planning Division - Imaging Index Cover Sheet

Address/Location: southeast corner of Park Avenue and McEvoy Street (205 DUPONT ST)

Permit/Project No.: PDC17-057 Issuance Date: W/D 2/22/18

Prepped By: NSLIM Closed By: JPROVEDO RSN: 1745527

Category	Document Type	Sub Document Type
<input type="checkbox"/> (EF) Environmental Files (203)	<input type="checkbox"/> (PP) Public Project Files (203-03)	<input type="checkbox"/> (EN) EIR <input type="checkbox"/> (DA) Approved Document <input type="checkbox"/> (EM) Maps <input type="checkbox"/> (AE) Application <input type="checkbox"/> (AG) Agency Correspondence <input type="checkbox"/> (EG) General Correspondence <input type="checkbox"/> (TR) Technical Reports <input type="checkbox"/> (RE) Archaeological Reports <input type="checkbox"/> (EP) Plans
<input type="checkbox"/> (GP) General Plan (204)	<input type="checkbox"/> (GA) General Plan Amendments (204-02)	<input type="checkbox"/> (AM) Amendment <input type="checkbox"/> (AA) Application <input type="checkbox"/> (CG) Correspondence
	<input type="checkbox"/> (GE) Environmental Review (for 204 series GP Amendments)	<input type="checkbox"/> (GD) Approved Document <input type="checkbox"/> (GI) EIR <input type="checkbox"/> (GS) Supporting Documents <input type="checkbox"/> (GT) Technical Reports <input type="checkbox"/> (GR) Archaeological
<input checked="" type="checkbox"/> (DR) Development Review (207)	<input type="checkbox"/> (PR) Projects (207-02, 207-03, etc.)	<input type="checkbox"/> (ZN) Zoning <input type="checkbox"/> (PE) Permit <input type="checkbox"/> (MP) Maps <input type="checkbox"/> (AP) Application <input type="checkbox"/> (AC) Agency Correspondence <input type="checkbox"/> (GC) General Correspondence <input type="checkbox"/> (PL) Plans <input type="checkbox"/> ST Approved Storm-Water Ctrl Plans
	<input checked="" type="checkbox"/> (ER) Environmental Review (for 207 series Project Files)	<input type="checkbox"/> (EA) Approved Document <input type="checkbox"/> (EI) EIR <input checked="" type="checkbox"/> (ES) Supporting Documents <input type="checkbox"/> (ET) Technical Reports <input type="checkbox"/> (AR) Archaeological
	<input type="checkbox"/> (AD) Adjustments (207-12)	<input type="checkbox"/> (DO) Documents <input type="checkbox"/> (PA) Plans <input type="checkbox"/> SW Approved Storm-Water Ctrl Plan <input type="checkbox"/> PK Parking Analysis
	<input type="checkbox"/> (PI) Public Info Letters (207-29)	<input type="checkbox"/> (LE) Letter <input type="checkbox"/> (LS) Supporting Docs

WITHDRAWN

ENVIRONMENTAL EVALUATION APPLICATION

TO BE COMPLETED BY APPLICANT (PLEASE PRINT OR TYPE)			
GENERAL INFO		TO BE COMPLETED BY STAFF:	
FILE NUMBER <u>PDC 17-057</u>		Staff: _____	
NAME OF PROJECT <u>DuPont Village</u>	PROJECT LOCATION <u>214, 214D, 205 Dupont 226 McEvoy St</u>	Date: _____	
ZONING <u>LI, HI, IP</u>	GENERAL PLAN <u>MUC</u>	Amount Paid: _____	
ASSESSOR'S PARCEL NUMBER(S) <u>261-38-057, 261-38-064, 261-38-065, 261-38-067</u>			
WRITTEN DESCRIPTION OF PROJECT: <u>PD Zoning and PD Permit</u> (attach additional sheets as necessary)			
GROSS ACREAGE <u>3.87</u>	BUILDING SQUARE FOOTAGE <u>710,941</u>	NUMBER OF FLOORS <u>7</u>	
FLOOR AREA RATIO <u>4.22</u>	BUILDING HEIGHT <u>95'</u>	AMOUNT OF OFF-STREET PARKING PROVIDED: <u>631</u> spaces	
PROPOSED USE OF SITE (Project for which this form is filed): <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>CURRENT USE: <u>Commercial</u></p> <p>(Please check all that apply)</p> <p><input checked="" type="checkbox"/> Change of Use <input type="checkbox"/> Minor Alterations</p> <p><input checked="" type="checkbox"/> Change of Hours <input checked="" type="checkbox"/> Demolition</p> <p><input checked="" type="checkbox"/> New Construction</p> <p><input type="checkbox"/> Other: <u>Please clarify</u></p> </div> <div style="width: 45%;"> <p>PROPOSED USE: <u>Residential</u></p> <p>Additions to Building:</p> <p><input type="checkbox"/> Rear</p> <p><input type="checkbox"/> Front</p> <p><input type="checkbox"/> Height</p> <p><input type="checkbox"/> Side Yard</p> </div> </div>			
PROPOSED SCHEDULING			
IF THE PROJECT INCLUDES RESIDENTIAL PROVIDE THE INFORMATION BELOW: Type of units: (i.e., single-family detached, multi-family, etc.) <u>Multifamily</u> Number of each type of unit: <u>458</u> Density per net acre: <u>119 du/acre</u>			
IF THE PROJECT INCLUDES COMMERCIAL PROVIDE THE INFORMATION BELOW: Neighborhood or Regionally oriented: _____ Number and type of establishments: (i.e., restaurant, department store, etc.) _____ Square footage each: _____ Number of shifts per workday: _____ Number of employees per shift: _____ Hours of Operation: _____ Drive-through uses: _____			
IF THE PROJECT INCLUDES INDUSTRIAL PROVIDE THE INFORMATION BELOW: Number and type of establishments: _____ Square footage of each: _____ Number of shifts per workday: _____ Number of employees per shift: _____ Hours of Operation: _____			
IF THE PROJECT INCLUDES INSTITUTIONAL PROVIDE THE INFORMATION BELOW: Major functions: _____ Square footage and other relevant characteristics: _____ Number of shifts per workday: _____ Number of employees per shift: _____ Service area: _____ Hours of Operation: _____			

This application is accepted by APPOINTMENT ONLY. To arrange an appointment, please visit the Planning Division's website: <http://www.sanjoseca.gov/index.aspx?nid=1725>. For assistance, call (408) 535-3555.

Are the following items applicable to the project or its effects? Discuss below all items checked yes (attach additional sheets as necessary):		
YES	NO	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the project involve or whether the use of Federal funding is anticipated?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Does the project propose the demolition or alteration of any existing structures on the project site?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the project change existing features of any bays, tidelands, beaches, lakes or hills or substantial alteration of ground contours?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the project change scenic views or vistas from existing residential areas or public lands or roads?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the project change pattern, scale or character of the general area of the project?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the project create a significant amount of solid waste or litter?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the project change the amount of dust, ash, smoke, fumes or odors in the vicinity?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the project propose to locate a feature within a riparian corridor or area subject to flooding?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the project propose a substantial change in existing noise or vibration levels in the vicinity?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the project propose to develop on land or on a slope of 15 percent or more?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the project propose the use of hazardous materials to be used as part of the operation of any of the establishments on the project site?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the project propose a substantial change in the demand for municipal services (police, fire, water, sewage, etc.)?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the project propose a substantial increase in fossil fuel consumption (electricity, oil, natural gas, etc.)?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the project have a relationship with a larger project or series of projects?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Does the project create one acre or more of impervious surface on the site?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the project site include any structures listed as City Landmarks, Candidate City Landmarks, Structures of Merit, or listed Determined Eligible for Listing on the National or California Register of Historic Places?

WITHDRAWN

ENVIRONMENTAL EVALUATION APPLICATION

TO BE COMPLETED BY APPLICANT

NAME OF APPLICANT Autumn LLC	E-MAIL ADDRESS RM007@mindeling.com mindspring.com
MAILING ADDRESS 1550 Hicks, San Jose, CA 95125	DAYTIME PHONE NUMBER (408) 288-8278

TO BE COMPLETED BY PROPERTY OWNER* (IF DIFFERENT FROM APPLICANT)

NAME OF PROPERTY OWNER Autumn LLC	DATE December 13
MAILING ADDRESS 1550 Hicks Ave, San Jose, CA 95125	DAYTIME PHONE NUMBER 408-288-8278

TO BE COMPLETED BY ENVIRONMENTAL CONSULTANT

NAME OF DOCUMENT PREPARER OR ENVIRONMENTAL CONSULTANT David J. Powers & Associates	DATE 12/13/2017
MAILING ADDRESS 1871 The Alameda, Suite 200 San Jose, CA 95126	DAYTIME PHONE NUMBER 408-454-3402

CERTIFICATION AND DISCLOSURE STATEMENT FOR THE APPLICATION FOR ENVIRONMENTAL EVALUATION

The attached Application for Environmental Evaluation has been prepared by Royce Moore doing Business as (indicate the legal name for dba designation, such as individual, "a partnership", "a corporation", etc.)

The above-named, now has or will have the following direct or indirect economic interest in the development of, or, after its completion, the operation of the project for which the Application for Environmental Evaluation has been submitted.

I/We declare, under penalty of perjury, that the statements furnished above, and in the attached exhibits, pertaining to the environmental information of the proposed project and to my/our economic interest or interests in that project are complete, true and correct to the best of my/our knowledge and belief.

If any of the facts represented here change it is my responsibility to inform the City of San Jose.

Executed _____ at _____, California

PREPARER'S
SIGNATURE(S)

TO BE COMPLETED BY PLANNING DIVISION STAFF

FILE NUMBER	STAFF	DATE RECEIVED
Required Copies	DOCUMENTS	
1	APPLICATION FORM correctly filled out <input type="checkbox"/> Aerial Photo (8 1/2' x 11' or 11' x 17') <input type="checkbox"/> Site Plan (8 1/2' x 11' or 11' x 17') <input type="checkbox"/> Vicinity Map (8 1/2' x 11' or 11' x 17') <input type="checkbox"/> Photographs of site and surrounding properties <input type="checkbox"/> Certification and Disclosure Statements signed by preparer	

*Property Owner is defined as the person(s) who owns the land/property or the Property Management Company who maintains the subject building/space and has authority or power of attorney to sign legal documents on behalf of the property owner(s)

This application is accepted by APPOINTMENT ONLY. To arrange an appointment, please visit the Planning Division's website: <http://www.sanjoseca.gov/index.aspx?nid=1725>. For assistance, call (408) 535-3555.