

**ATTACHMENT A ALL PUBLIC COMMENTS TO IS/MND DURING
PUBLIC REVIEW PERIOD**



June 23, 2021

Maira Blanco
City of San Jose
200 E Santa Clara St
San Jose, CA 95113

Ref: Gas and Electric Transmission and Distribution

Dear Maira Blanco,

Thank you for submitting the Oakland Road Industrial Project plans for our review. PG&E will review the submitted plans in relationship to any existing Gas and Electric facilities within the project area. If the proposed project is adjacent/or within PG&E owned property and/or easements, we will be working with you to ensure compatible uses and activities near our facilities.

Attached you will find information and requirements as it relates to Gas facilities (Attachment 1) and Electric facilities (Attachment 2). Please review these in detail, as it is critical to ensure your safety and to protect PG&E's facilities and its existing rights.

Below is additional information for your review:

1. This plan review process does not replace the application process for PG&E gas or electric service your project may require. For these requests, please continue to work with PG&E Service Planning: https://www.pge.com/en_US/business/services/building-and-renovation/overview/overview.page.
2. If the project being submitted is part of a larger project, please include the entire scope of your project, and not just a portion of it. PG&E's facilities are to be incorporated within any CEQA document. PG&E needs to verify that the CEQA document will identify any required future PG&E services.
3. An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project and as it relates to any rearrangement or new installation of PG&E facilities.

Any proposed uses within the PG&E fee strip and/or easement, may include a California Public Utility Commission (CPUC) Section 851 filing. This requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851 filing is required.

This letter does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed. PG&E will provide a project specific response as required.

Sincerely,

Plan Review Team
Land Management



Attachment 1 – Gas Facilities

There could be gas transmission pipelines in this area which would be considered critical facilities for PG&E and a high priority subsurface installation under California law. Care must be taken to ensure safety and accessibility. So, please ensure that if PG&E approves work near gas transmission pipelines it is done in adherence with the below stipulations. Additionally, the following link provides additional information regarding legal requirements under California excavation laws: <https://www.usanorth811.org/images/pdfs/CA-LAW-2018.pdf>

1. **Standby Inspection:** A PG&E Gas Transmission Standby Inspector must be present during any demolition or construction activity that comes within 10 feet of the gas pipeline. This includes all grading, trenching, substructure depth verifications (potholes), asphalt or concrete demolition/removal, removal of trees, signs, light poles, etc. This inspection can be coordinated through the Underground Service Alert (USA) service at 811. A minimum notice of 48 hours is required. Ensure the USA markings and notifications are maintained throughout the duration of your work.
2. **Access:** At any time, PG&E may need to access, excavate, and perform work on the gas pipeline. Any construction equipment, materials, or spoils may need to be removed upon notice. Any temporary construction fencing installed within PG&E's easement would also need to be capable of being removed at any time upon notice. Any plans to cut temporary slopes exceeding a 1:4 grade within 10 feet of a gas transmission pipeline need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.
3. **Wheel Loads:** To prevent damage to the buried gas pipeline, there are weight limits that must be enforced whenever any equipment gets within 10 feet of traversing the pipe.

Ensure a list of the axle weights of all equipment being used is available for PG&E's Standby Inspector. To confirm the depth of cover, the pipeline may need to be potholed by hand in a few areas.

Due to the complex variability of tracked equipment, vibratory compaction equipment, and cranes, PG&E must evaluate those items on a case-by-case basis prior to use over the gas pipeline (provide a list of any proposed equipment of this type noting model numbers and specific attachments).

No equipment may be set up over the gas pipeline while operating. Ensure crane outriggers are at least 10 feet from the centerline of the gas pipeline. Transport trucks must not be parked over the gas pipeline while being loaded or unloaded.

4. **Grading:** PG&E requires a minimum of 36 inches of cover over gas pipelines (or existing grade if less) and a maximum of 7 feet of cover at all locations. The graded surface cannot exceed a cross slope of 1:4.
5. **Excavating:** Any digging within 2 feet of a gas pipeline must be dug by hand. Note that while the minimum clearance is only 12 inches, any excavation work within 24 inches of the edge of a pipeline must be done with hand tools. So to avoid having to dig a trench entirely with hand tools, the edge of the trench must be over 24 inches away. (Doing the math for a 24 inch



wide trench being dug along a 36 inch pipeline, the centerline of the trench would need to be at least 54 inches [$24/2 + 24 + 36/2 = 54$] away, or be entirely dug by hand.)

Water jetting to assist vacuum excavating must be limited to 1000 psig and directed at a 40° angle to the pipe. All pile driving must be kept a minimum of 3 feet away.

Any plans to expose and support a PG&E gas transmission pipeline across an open excavation need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

6. Boring/Trenchless Installations: PG&E Pipeline Services must review and approve all plans to bore across or parallel to (within 10 feet) a gas transmission pipeline. There are stringent criteria to pothole the gas transmission facility at regular intervals for all parallel bore installations.

For bore paths that cross gas transmission pipelines perpendicularly, the pipeline must be potholed a minimum of 2 feet in the horizontal direction of the bore path and a minimum of 12 inches in the vertical direction from the bottom of the pipe with minimum clearances measured from the edge of the pipe in both directions. Standby personnel must watch the locator trace (and every ream pass) the path of the bore as it approaches the pipeline and visually monitor the pothole (with the exposed transmission pipe) as the bore traverses the pipeline to ensure adequate clearance with the pipeline. The pothole width must account for the inaccuracy of the locating equipment.

7. Substructures: All utility crossings of a gas pipeline should be made as close to perpendicular as feasible ($90^\circ \pm 15^\circ$). All utility lines crossing the gas pipeline must have a minimum of 12 inches of separation from the gas pipeline. Parallel utilities, pole bases, water line 'kicker blocks', storm drain inlets, water meters, valves, back pressure devices or other utility substructures are not allowed in the PG&E gas pipeline easement.

If previously retired PG&E facilities are in conflict with proposed substructures, PG&E must verify they are safe prior to removal. This includes verification testing of the contents of the facilities, as well as environmental testing of the coating and internal surfaces. Timelines for PG&E completion of this verification will vary depending on the type and location of facilities in conflict.

8. Structures: No structures are to be built within the PG&E gas pipeline easement. This includes buildings, retaining walls, fences, decks, patios, carports, septic tanks, storage sheds, tanks, loading ramps, or any structure that could limit PG&E's ability to access its facilities.

9. Fencing: Permanent fencing is not allowed within PG&E easements except for perpendicular crossings which must include a 16 foot wide gate for vehicular access. Gates will be secured with PG&E corporation locks.

10. Landscaping: Landscaping must be designed to allow PG&E to access the pipeline for maintenance and not interfere with pipeline coatings or other cathodic protection systems. No trees, shrubs, brush, vines, and other vegetation may be planted within the easement area. Only those plants, ground covers, grasses, flowers, and low-growing plants that grow unsupported to a maximum of four feet (4') in height at maturity may be planted within the easement area.



11. Cathodic Protection: PG&E pipelines are protected from corrosion with an “Impressed Current” cathodic protection system. Any proposed facilities, such as metal conduit, pipes, service lines, ground rods, anodes, wires, etc. that might affect the pipeline cathodic protection system must be reviewed and approved by PG&E Corrosion Engineering.

12. Pipeline Marker Signs: PG&E needs to maintain pipeline marker signs for gas transmission pipelines in order to ensure public awareness of the presence of the pipelines. With prior written approval from PG&E Pipeline Services, an existing PG&E pipeline marker sign that is in direct conflict with proposed developments may be temporarily relocated to accommodate construction work. The pipeline marker must be moved back once construction is complete.

13. PG&E is also the provider of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E’s facilities must be reviewed and approved by PG&E to ensure that no impact occurs which may endanger the safe operation of its facilities.



Attachment 2 – Electric Facilities

It is PG&E's policy to permit certain uses on a case by case basis within its electric transmission fee strip(s) and/or easement(s) provided such uses and manner in which they are exercised, will not interfere with PG&E's rights or endanger its facilities. Some examples/restrictions are as follows:

1. **Buildings and Other Structures:** No buildings or other structures including the foot print and eave of any buildings, swimming pools, wells or similar structures will be permitted within fee strip(s) and/or easement(s) areas. PG&E's transmission easement shall be designated on subdivision/parcel maps as **"RESTRICTED USE AREA – NO BUILDING."**
2. **Grading:** Cuts, trenches or excavations may not be made within 25 feet of our towers. Developers must submit grading plans and site development plans (including geotechnical reports if applicable), signed and dated, for PG&E's review. PG&E engineers must review grade changes in the vicinity of our towers. No fills will be allowed which would impair ground-to-conductor clearances. Towers shall not be left on mounds without adequate road access to base of tower or structure.
3. **Fences:** Walls, fences, and other structures must be installed at locations that do not affect the safe operation of PG&E's facilities. Heavy equipment access to our facilities must be maintained at all times. Metal fences are to be grounded to PG&E specifications. No wall, fence or other like structure is to be installed within 10 feet of tower footings and unrestricted access must be maintained from a tower structure to the nearest street. Walls, fences and other structures proposed along or within the fee strip(s) and/or easement(s) will require PG&E review; submit plans to PG&E Centralized Review Team for review and comment.
4. **Landscaping:** Vegetation may be allowed; subject to review of plans. On overhead electric transmission fee strip(s) and/or easement(s), trees and shrubs are limited to those varieties that do not exceed 15 feet in height at maturity. PG&E must have access to its facilities at all times, including access by heavy equipment. No planting is to occur within the footprint of the tower legs. Greenbelts are encouraged.
5. **Reservoirs, Sumps, Drainage Basins, and Ponds:** Prohibited within PG&E's fee strip(s) and/or easement(s) for electric transmission lines.
6. **Automobile Parking:** Short term parking of movable passenger vehicles and light trucks (pickups, vans, etc.) is allowed. The lighting within these parking areas will need to be reviewed by PG&E; approval will be on a case by case basis. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications. Blocked-up vehicles are not allowed. Carports, canopies, or awnings are not allowed.
7. **Storage of Flammable, Explosive or Corrosive Materials:** There shall be no storage of fuel or combustibles and no fueling of vehicles within PG&E's easement. No trash bins or incinerators are allowed.



8. Streets and Roads: Access to facilities must be maintained at all times. Street lights may be allowed in the fee strip(s) and/or easement(s) but in all cases must be reviewed by PG&E for proper clearance. Roads and utilities should cross the transmission easement as nearly at right angles as possible. Road intersections will not be allowed within the transmission easement.

9. Pipelines: Pipelines may be allowed provided crossings are held to a minimum and to be as nearly perpendicular as possible. Pipelines within 25 feet of PG&E structures require review by PG&E. Sprinklers systems may be allowed; subject to review. Leach fields and septic tanks are not allowed. Construction plans must be submitted to PG&E for review and approval prior to the commencement of any construction.

10. Signs: Signs are not allowed except in rare cases subject to individual review by PG&E.

11. Recreation Areas: Playgrounds, parks, tennis courts, basketball courts, barbecue and light trucks (pickups, vans, etc.) may be allowed; subject to review of plans. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications.

12. Construction Activity: Since construction activity will take place near PG&E's overhead electric lines, please be advised it is the contractor's responsibility to be aware of, and observe the minimum clearances for both workers and equipment operating near high voltage electric lines set out in the High-Voltage Electrical Safety Orders of the California Division of Industrial Safety (<https://www.dir.ca.gov/Title8/sb5g2.html>), as well as any other safety regulations. Contractors shall comply with California Public Utilities Commission General Order 95 (http://www.cpuc.ca.gov/gos/GO95/go_95_startup_page.html) and all other safety rules. No construction may occur within 25 feet of PG&E's towers. All excavation activities may only commence after 811 protocols has been followed.

Contractor shall ensure the protection of PG&E's towers and poles from vehicular damage by (installing protective barriers) Plans for protection barriers must be approved by PG&E prior to construction.

13. PG&E is also the owner of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed and approved by PG&E to ensure that no impact occurs that may endanger the safe and reliable operation of its facilities.

The traffic analysis by Robert Del Rio, Hexagon Transportation Consultants, prepared for OOL, LLC contains a number of mistakes, important omissions, unclear statements and unsubstantiated claims that require responses, corrections, and/or amendments. Particular the VMT analysis and the suggested mitigation is problematic and partly without substantial evidence.

It is also in parts inconsistent with the traffic analysis done by Robert Del Rio, Hexagon Transportation Consultants, for the Charcot Extension project, which itself has been deeply flawed (see Santa Clara County Superior Court Case No. 20CV370153).

SJ TA handbook edition

The analysis consistently refers to the City of San Jose's "Transportation Analysis Handbook, 2018"¹ The handbook has been updated in April 2020². The analysis needs to be updated to ensure consistency with the 2020 guidelines.

Screening criteria

The analysis falsely claims that the 24,100 s.f. of industrial space are screened from CEQA- and VMT-analysis.³ The handbook clearly states:

"In no case should a small infill project be screened out if it is a part of a larger project or "site".⁴

Recommendations

The analysis recommends:

"Provide a standard 12-foot wide sidewalk with tree wells along the project frontage on Oakland Road."⁵

The site plan⁶ does not show such a sidewalk configuration.

The analysis further recommends:

"Provide a new solar powered Braco shelter at the existing bus stop located 500 feet south of the project site on southbound Oakland Road. The City of San Jose and Santa Clara VTA are in support of these bus stop improvements."⁷

It is unclear what a "Braco" shelter is. Presumably, this refers to a shelter made by the company "Brasco". It is unclear, why the shelter has be from a specific brand. The claim that City and VTA are in support of the bus stop improvement is unsubstantiated.

"Oakland Road" name

The analysis inconsistently uses "Old Oakland" and "Oakland" as name for the same roadway.

¹ E.g. page iii

² Can be found at <https://www.sanjoseca.gov/home/showdocument?id=28461>

³ E.g. page iii.

⁴ Transportation Analysis Handbook, p. 10

⁵ Page vi

⁶ Figure 2

⁷ Page vi

Discussion of General Plan policies

The analysis cites General Plan policy TR-2.1.:

“Coordinate the planning and implementation of citywide bicycle and pedestrian facilities and supporting infrastructure. Give priority to bicycle and pedestrian safety and access improvements at street crossings and near areas with higher pedestrian concentrations (school, transit, shopping, hospital, and mixed-use areas) (TR-2.1);”⁸

According to the City’s Bike Plan, the installation of protected bike lanes on Oakland Road is a priority project for the City. The analysis fails to mention or considers this at all and provides no indication how the proposed development would be coordinated with the implementation of these bike facilities.

Instead it simply and boldly states: “The project would not [...] conflict with any adopted plans or policies for new bicycle facilities.”

The analysis further cites General Plan policy TR-8.4.

“Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use (TR-8.4);”⁹

According to the analysis itself, the project will provide significantly more parking space than required (21 spaces above requirement/~20%).¹⁰ The analysis provides no discussion of how this substantial violation TR-8.4. will be addressed.

The analysis further cites General Plan policy LU-9.1.:

“Create a pedestrian-friendly environment by connecting new residential development with safe, convenient, accessible, and pleasant pedestrian facilities. Provide such connections between new development, its adjoining neighborhood, transit access points, schools, parks, and nearby commercial areas”¹¹

Yet, the project and analysis fail policy LU-9.1. as the project does not provide a pedestrian-friendly environment as it is not providing convenient pedestrian connections to the immediately adjacent shopping center. The analysis fails to address the violation of policy LU-9.1.

Inconsistency in CSJ VMT map and tool

Figure 3¹² clearly shows the project site to be in an area declared “Immitigable VMT Area” by the City of San Jose. Yet in the further analysis the project is shown to be able to sufficiently mitigate VMT. Either the VMT heat map provided by the City is wrong or the VMT mitigation analysis is wrong. Which one is it? The analysis fails to address and solve this contradiction.

⁸ Page 4

⁹ Page 5

¹⁰ Page 40

¹¹ Page 5

¹² Page 7

Background conditions

The analysis claims to incorporate background conditions from “approved but not yet completed developments”.¹³ The analysis however fails to incorporate changes in traffic patterns from the approved but not yet completed Charcot Extension project. The analysis should have worked with the City to ensure that this obviously missing data in the Approved Trips Inventory (ATI) is provided. Especially since the author of this traffic analysis was also the lead traffic consultant for the Charcot Extension.

Non-vehicle counts

According to General Plan Policy TR-2.22 pedestrian and bicyclist counts should be collected in addition to traffic counts. The analysis provides no pedestrian and bicyclist counts and therefore fails to adequately assess the impact on pedestrian and bicyclists.

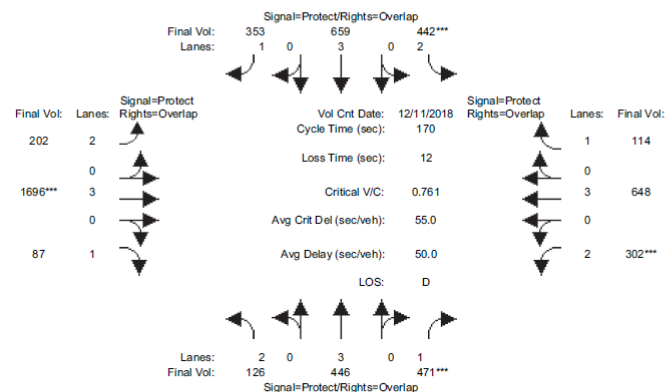
Intersection analysis Oakland/Brokaw

The intersection analysis is incurably flawed as it use unsubstantiated vehicle flow conditions in its modelling, specifically for the eastbound left turn lane from Oakland into Brokaw/Murphy. The model assumes a maximum capacity of 3150 cars/h for the two left lanes combined. Adjusted for a green time of 31.4 seconds per cycle this suggests that the model believes that ~26.25 cars are able to make a left turn per cycle. This is empirically wrong. Based on actual observations on January 29, 2019, a maximum of 16 cars is able to make a left-turn at the intersection per cycle during congested PM peak hour conditions. That means that the model is significantly underestimating the current and future delay at the intersection.

Similar to how the church rejected empirical claims by Galileo and Copernicus because they conflicted with beliefs and previous writings and teachings, it seems likely that the applicant and their traffic consultant will argue that their theoretical modelling based on historic manuals should take precedence over clearly observable empirical fact. This is nonsense.

This commentator is willing to wager \$200 made payable to a non-profit of the City’s choosing, if the applicant, traffic consultant or the City is able to practically demonstrate that 25 or more drivers are able to safely make a left-turn from Oakland Road into eastbound Murphy at this intersection during a 31.4 second green time.

¹³ Page 8



Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Min. Green:	7	10	10	7	10	10	7	10	10	7	10	10
Y+R:	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Volume Module: >> Count Date: 11 Dec 2018 << 5:15-6:15												
Base Vol:	126	446	471	442	659	353	202	1696	87	302	648	114
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	126	446	471	442	659	353	202	1696	87	302	648	114
Added Vol:	0	0	0	0	0	0	0	0	0	0	0	0
PasserByVol:	0	0	0	0	0	0	0	0	0	0	0	0
Initial Fut:	126	446	471	442	659	353	202	1696	87	302	648	114
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Volume:	126	446	471	442	659	353	202	1696	87	302	648	114
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	126	446	471	442	659	353	202	1696	87	302	648	114
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
FinalVolume:	126	446	471	442	659	353	202	1696	87	302	648	114
Saturation Flow Module:												
Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	0.83	1.00	0.92	0.83	1.00	0.92	0.83	1.00	0.92	0.83	1.00	0.92
Lanes:	2.00	3.00	1.00	2.00	3.00	1.00	2.00	3.00	1.00	2.00	3.00	1.00
Final Sat.:	3150	5700	1750	3150	5700	1750	3150	5700	1750	3150	5700	1750
Capacity Analysis Module:												
Vol/Sat:	0.04	0.08	0.27	0.14	0.12	0.20	0.06	0.30	0.05	0.10	0.11	0.07
Crit Moves:	****											
Green Time:	16.1	38.7	60.1	31.4	53.9	85.6	31.7	66.5	82.6	21.4	56.2	87.6
Volume/Cap:	0.42	0.34	0.76	0.76	0.36	0.40	0.34	0.76	0.10	0.76	0.34	0.13
Delay/Veh:	73.5	55.2	54.1	71.6	44.9	26.5	60.5	46.4	23.7	80.2	43.1	21.4
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	73.5	55.2	54.1	71.6	44.9	26.5	60.5	46.4	23.7	80.2	43.1	21.4
LOS by Move:	E	E	D	E	D	C	E	D	C	F	D	C
HCM2k95thQ:	8	12	40	26	16	22	10	41	5	20	15	6

Note: Queue reported is the number of cars per lane.

“Standard bike lanes”

The analysis describes Brokaw Road as having “standard bike lanes”.¹⁴ But, the analysis provides no definition of what a standard bike lane is. The City’s Bike Plan 2025 defines separated bike lanes as the intended standard for San Jose. Brokaw currently does not have separated bike lanes.

¹⁴ Page 15

Inconsistency with statements made by Robert Del Rio in Charcot EIR

The analysis shows that the intersection of Ridder Park Drive and Brokaw Road causes back ups to the I-880 off-ramp in PM peak hours. Further, it states

“Currently, there are no queuing issues along Brokaw Road at the I-880 freeway ramps. During both the AM and PM peak periods, the westbound left-turn movement at the I-880 Northbound Ramps/Brokaw Road intersection is heavy, but no queuing issues occur and the queues clear in one signal cycle.”

Both is inconsistent with the arguments made by Robert Del Rio in the Charcot Extension traffic analysis that blamed the Brokaw/I-880 interchange itself for causing congestion in the area.

The statements are even more surprising given the fact that this traffic analysis shows much higher traffic counts along Brokaw Road than the Charcot EIR did.

The TA further writes: Overall, the network of sidewalks and bike lanes exhibits good connectivity and would provide employees of the project with safe routes to transit stops and other points of interest in the area.¹⁵ This seems highly inconsistent with the Charcot EIR which claims there is limited connectivity especially for pedestrians and bicyclists in the area. It is baffling that a licensed engineer could come to such two widely differing conclusions about the same area in the timeframe of about 12 months.

NSJADP fee as mitigation measure

The analysis suggests that as the project will pay the NSJADP impact fee and since those fees could go toward pedestrian facility improvements, that the project is providing pedestrian improvements outside of the project area. This is wrong. There is no substantial evidence that significant amounts of the NSJADP impact fees will actually go towards pedestrian facility improvements. Quite contrary, even City staff as argued that the NSJADP is heavily car centric and too little focused on active transportation modes. Further, the City is planning to retire the NSJADP and the associated impact fee in the near future. Depending on the project approval process that might mean that the project will not be required to pay those impact fees anymore. It would therefore cease to be a mitigation measure and would need to be replaced with a different mitigation measure.

Raised median as pedestrian improvement and assessment of pedestrian facilities

The analysis further recommends that the project installs a raised median on Oakland Road to prevent left turns into and out of the project driveway as a traffic calming measure. The analysis further argues that this would improve pedestrian and bicycle safety. This claim is unsubstantiated. Installing a median would not eliminate any turn-movements that conflict with pedestrian movements.

Furthermore, median islands are typically installed to facilitate pedestrian crossing. Oakland Road is a fast-moving 6-lane arterial road. Installing a median island would likely encourage additional pedestrian crossings of this arterial road mid-block without any marked crosswalk. It is completely unsubstantiated

¹⁵ Page 39

how this would increase pedestrian safety. In fact, it would likely lead to more and importantly, preventable traffic deaths.

It is also unsubstantiated how this would lead to calmer and slower traffic on Oakland Road. It is also inconsistent with a later statement in the TA.¹⁶

It is more than disappointing that the analysis completely fails to mention anywhere that in December 2019 a pedestrian died in this section of Oakland Road. The analysis is also superficial in its general assessment of the pedestrian infrastructure and activity in the project area. The analysis should have noted that the Oakland/McKay intersection is missing a crosswalk on its south leg, limiting easy access to the northbound VTA bus stop across the street from the project.

The analysis claims that the existing pedestrian facilities provide good connectivity between the site and the surrounding land uses and transit stops in the study area.¹⁷ This is unsubstantiated and “good connectivity” is undefined. It is surprising given the missing crosswalks at intersections,¹⁸ pedestrian-unfriendly slip lanes,¹⁹ limited sidewalks on Oakland Road towards Fox Lane, and limited pedestrian connectivity to the adjacent shopping center.

Bus stop improvement

There is no substantial discussion or evidence of why the southbound bus stop is in “much need” of improvement, while the northbound bus stop isn’t.

TDM as mitigation measure

The analysis further recommends that the project “should” implement TDM program. There is no substantial evidence that a) such TDM program would lead to the necessary reductions in VMT, b) the City of San Jose will enforce the TDM mitigation as there is no publicly available information on any past enforcement and c) could enforce the TDM mitigation even if the City were to try to do so as there are no penalties for failing to implement and maintain a TDM program. For these reason, implementing a TDM program is not an allowable mitigation measure and should not count towards VMT reduction goals.

U-turn inconsistencies

The analysis is inconsistent in describing where U-turns would happen for vehicles wanting to go north on Oakland Road. It is sometimes described as Oakland/Brokaw and sometimes as Oakland/N. Front Way

280 & Brokaw Road

The analysis provides traffic data for I-280 Ramps & Brokaw Road.²⁰ This is impossible.

¹⁶ Page 29: “Note that since the project driveway would be restricted to right turns in and out due to the center median (i.e., striped median with chatter bars) along Oakland Road, some U-turns would occur at the study intersections of Oakland Road/McKay Drive and Oakland Road/Brokaw Road.

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¹⁸ Oakland/Fox and Oakland/McKay

¹⁹ Oakland/Brokaw

²⁰ Page 34

Intersection traffic operations LOS

The intersection analysis results on page 34 seem inconsistent with the 2018 VTA CMP report observations. There is no substantial evidence that the traffic model used is sufficiently accurate in describing reality in San Jose.

Design speed / stopping sight distance

Although outside of the scope of the project, it should be noted that the analysis describes Oakland Road as having a design speed of 45 mph despite its posted speed limit of 40mph.²¹ This implies that SJ DOT road design entices drivers to go five miles above the speed limit at all times.

Even worse, according to the City of San José Complete Streets Design Standards & Guidelines, Oakland Road as a City Collector road should have a design and target speed of not higher than 30mph, not 40mph and most definitely not 45mph.

This is unacceptable for a “Vision Zero” City.

²¹ Page 37



TAMIEN NATION
of the Greater Santa Clara County
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(707) 295-4011 tamien@tamien.org

June 28, 2021

Maira Blanco, Planner II
City of San Jose
Sent Via Email: maira.blanco@sanjoseca.gov

RE: Formal Request for Tribal Consultation Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code section 21080.3.1, subds. (b),(d) and (e) INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION, Oakland Road Industrial Project File No.: H20-018

Dear Ms. Blanco,

This letter constitutes a formal request for tribal consultation under the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21080.3.1 subdivisions (b), (d) and (e)) for the mitigation of potential project impacts to tribal cultural resource for the above referenced project. Tamien Nation requested formal notice and information for all projects within your agency's geographical jurisdiction and received notification on June 9, 2021, regarding the above referenced project.

Tamien Nation requests consultation on the following topics checked below, which shall be included in consultation if requested (Public Resources Code section 21080.3.2, subd. (a):

☐ Alternatives to the project

☒ Recommended mitigation measures

☒ Significant effects of the project

Tamien Nation also requests consultation on the following discretionary topics checked below (Public Resources Code section 21080.3.2, subd. (a):

☒ Type of environmental review necessary

☒ Significance of tribal cultural resources, including any regulations, policies or standards used by your agency to determine significance of tribal cultural resources

☒ Significance of the project's impacts on tribal cultural resources

☒ Project alternatives and/or appropriate measures for preservation or mitigation that we may recommend, including, but not limited to:

- (1) Avoidance and preservation of the resources in place, pursuant to Public Resources Code section 21084.3, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks or other open space, to incorporate the resources with culturally appropriate protection and management criteria;
- (2) Treating the resources with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resources, including but not limited to the following:
 - a. Protecting the cultural character and integrity of the resource;
 - b. Protection the traditional use of the resource; and
 - c. Protecting the confidentiality of the resource.
- (3) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- (4) Protecting the resource.

Additionally, Tamien Nation would like to receive any cultural resources assessments or other assessments that have been completed on all or part of the project's potential "area of project effect" (APE), including, but not limited to:

1. The results of any record search that may have been conducted at an Information Center of the California Historical Resources Information System(CHRIS), including, but not limited to:
 - A listing of any and all known cultural resources have already been recorded on or adjacent to the APE;
 - Copies of any and all cultural resource records and study reports that may have been provided by the Information Center as part of the records search response;
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - Whether the records search indicates a low, moderate or high probability that unrecorded cultural resources are located in the potential APE; and
 - If a survey is recommended by the Information Center to determine whether previously unrecorded cultural resources are present.
2. The results of any archaeological inventory survey that was conducted, including:
 - Any report that may contain site forms, site significance, and suggested mitigation measures.

All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure in accordance with Government Code Section 6254.10.

3. The results of any Sacred Lands File (SFL) check conducted through Native American Heritage Commission. The request form can be found at http://www.nahc.ca.gov/slf_request.html. USGS 7.5-minute quadrangle name, township, range, and section required for the search.
4. Any ethnographic studies conducted for any area including all or part of the potential APE; and
5. Any geotechnical reports regarding all or part of the potential APE.

We would like to remind your agency that CEQA Guidelines section 15126.4, subdivision (b)(3) states that preservation in place is the preferred manner of mitigating impacts to archaeological sites. Section 15126.4, subd. (b)(3) of the CEQA Guidelines has been interpreted by the California Court of Appeal to mean that “feasible preservation in place must be adopted to mitigate impacts to historical resources of an archaeological nature unless the lead agency determines that another form of mitigation is available and provides superior mitigation of impacts.” *Madera Oversight Coalition v. County of Madera* (2011) 199 Cal.App.4th 48, disapproved on other grounds, *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439.

Tamien Nation expects to begin consultation within 30 days of your receipt of this letter. Please contact Tamien Nation’s lead contact person identified in the attached request for notification.

Quirina Geary
Chairwoman
PO Box 8053
San Jose, CA 95155
(707) 295-4011
qgeary@tamien.org

Please refer to identification number TN-20210622-01 in any correspondence concerning this project. Thank you for providing us with this notice and the opportunity to comment.

Sincerely,



Quirina Geary
Chairwoman

cc: Native American Heritage Commission

Connor Tutino

From: Torney, Lola <lola.torney@vta.org>
Sent: Monday, July 12, 2021 11:44 AM
To: Blanco, Maira
Cc: plan.review
Subject: VTA Comments on Oakland Road Industrial Project (H20-018)

[External Email]

Hi Maira,

Below are VTA's comments on the Oakland Road Industrial project. Please let me know if you have any questions. Thanks!

Bus Stop Impacts and Pedestrian Access

Local transit services are provided by VTA Route 66 along Oakland Road with a nearside northbound stop at the corner of Oakland Road and McKay Drive, and a southbound stop approximately 500 feet south of the development and by VTA Route 60 along Brokaw Road/Murphy Avenue with farside east/westbound stops in the intersection with Oakland Road. The northbound Route 66 bus stop currently is a pole with no amenities and there is no crosswalk in the southside of the intersection. In the plan set, there is a recommendation to upgrade stop amenities but there are no specifics given. We recommend to either install a south signalized crosswalk or to move the bus stop to the farside with a concrete landing for ADA ramp deployment through the landscaping and sidewalk tree removal to prevent jaywalking, and that any amenities added does not impede on pedestrian circulation, ADA accessibility, or fall within the bus's dynamic envelope. Southbound Route 66 bus stop currently has a bench and is planned to have a solar powered shelter installed. Similar considerations should apply to prevent any negative impacts.

During the construction, we recommend ensuring that provisions be made to minimize impact to the flow of traffic and preserve pedestrian and bike ROW. For construction VTA has a Bus Stop Placement, Closures and Relocations Policy (<https://www.vta.org/sites/default/files/documents/busstoppolicy.pdf>). Prior to any construction or bus stop impact, please contact bus.stop@vta.org.

~Lola Torney

Lola Torney | She/Her
Transportation Planner III
Bicycle and Pedestrian Program

Santa Clara Valley Transportation Authority
3331 North First Street, Building B
San José, CA 95134-1927
Phone **408-321-5830**

