APPENDIX A
NOP and NOP Comments

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Planning, Building and Code Enforcement
CHRISTOPHER BURTON, DIRECTOR

NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE 1655 BERRYESSA ROAD MIXED USE PROJECT

FILE NOS: PDC18-036/PD21-009/PT21-030
PROJECT APPLICANT: TERRACOMMERICAL REAL ESTATE CORPORATION
APNS: 241-03-023, -024, -025

Project Description: The applicant seeks to rezone the project site from the *LI - Light Industrial* Zoning District to a *PD - Planned Development* Zoning District. In addition, the applicant is seeking approval of a Planned Development Permit to develop up to 850 residential units and up to 480,000 square feet of commercial, and to create an approximately 0.9-acre open space area. A Vesting Tentative Map to merge three parcels into one; and re-subdivide the merged parcel into 35 lots; and create up to 590 condominium units and new streets is also included in the project.

Under the project, the three existing industrial buildings and ancillary structures and parking lot would be demolished. Trees on the site would be removed and replaced.

Project Location: The project site is within the Berryessa BART Urban Village (BBUV) Plan area and is located at 1655 Berryessa Road, on the north side of Berryessa Road, immediately west of the BART/UPRR tracks.

As the Lead Agency, the City of San José will prepare an Environmental Impact Report (EIR) for the project identified above. The City welcomes your input regarding the scope and content of the environmental information that is relevant to your area of interest, or to your agency's statutory responsibilities in connection with the proposed project. If you are affiliated with a public agency, the EIR may be used by your agency when considering subsequent approvals related to the project.

A **joint community and environmental public scoping meeting** for this project will be held:

When: Thursday, August 12, 2021 from 6:30 p.m. to 8:00 p.m.
Where: This meeting will be held virtually over Zoom. Link to be made available on project webpage at: www.sanjoseca.gov/activeeirs

The project description, location and probable environmental impacts that will be analyzed in the EIR for the project can be found on the City's Active EIRs website at www.sanjoseca.gov/activeeirs, including the EIR scoping meeting information. According to State law, the deadline for your response is 30 days after receipt of this notice. However, responses earlier than 30 days are always welcome. The City will accept comments on the scope and content of the EIR until **5:00 p.m. on August 23, 2021**. If you have comments on this Notice of Preparation, please identify a contact person from your organization, and send your written response to:

City of San José, Department of Planning, Building and Code Enforcement
Attn: Reema Mahamood, Environmental Project Manager
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113-1905
Phone: (408) 535-6872, email: reema.mahamood@sanjoseca.gov

Christopher Burton
Director, Planning, Building and Code Enforcement

Deputy _____ Date 7-15-21

NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE 1655 BERRYESSA ROAD MIXED USE PROJECT

July 2021

A. INTRODUCTION

The purpose of an Environmental Impact Report (EIR) is to inform decision-makers and the general public of the environmental effects of a proposed project that an agency may implement or approve. The EIR process is intended to provide information sufficient to evaluate a project and its potential to have significant impacts on the environment; to examine methods of reducing significant impacts; and to consider alternatives to the project.

The EIR for the proposed project will be prepared and processed in accordance with the California Environmental Quality Act (CEQA) of 1970, as amended. In accordance with the requirements of CEQA, the EIR will include the following:

- Summary of the EIR;
- Project Description;
- Description of the existing environmental setting, discussion of environmental impacts of the proposed project, and mitigation measures to reduce environmental impacts of the project;
- Alternatives to the project as proposed; and
- Environmental consequences, including (a) any significant environmental effects which cannot be avoided if the project is implemented; (b) any significant irreversible environmental changes caused by the project, and irretrievable commitments of resources if the project is implemented; (c) the growth inducing impacts of the proposed project; and (d) cumulative impacts.

B. PROJECT LOCATION

The project site is within the Berryessa BART Urban Village (BBUV) Plan area. The site (Assessor's Parcel Numbers [APNs] 241-03-023, -024, and -025) is surrounded by the BART/Union Pacific Railroad (UPRR) tracks to the east, Berryessa Road, the San José Flea Market and surface parking lot to the south, and residential uses to the west and north (see Figures 1, 2 and 3).

C. DESCRIPTION OF THE PROJECT

The project proposes a Planned Development Zoning for development of up to 850 residential units and 480,000 square feet of commercial space, and 0.9-acre of open space at the project site. The residences would be located in the northeastern and central areas, and along the northern and western perimeter of the site. The proposed commercial space would be located in the southern area of the site, fronting Berryessa Road, and the open space would be located on the northwestern corner of the site (see Figure 4).

Vehicle access to the project site would be provided via driveways on Berryessa Road, which would connect to new internal streets on the project site. The proposed internal streets would provide access to the proposed residences and commercial space (see Figure 5).

Residential Development

The project proposes the development of a maximum of 850 residential units which would include a mix of market-rate and affordable multi-family dwelling units, townhouses, and single-family houses. The single-family houses will be located on parcels A and B. The townhouses would be located on Parcel C. The market-rate multi-family dwelling units would be located in buildings on Parcels D, F, and G. The affordable multi-

family dwelling units would be located on Parcel H. (refer to Figure 4). The single-family houses would be located on Parcels A and B, townhouses would on Parcel C, market rate multi-family units would be on Parcels D, F, and G, and affordable multi-family units would be on Parcel H. The single-family and townhouse units would be a maximum of two-stories with a height of up to 35 feet above the ground surface. The market rate multi-family buildings on Parcels D, F, and G would be a maximum of nine stories with a height of 90 feet above the ground surface and the affordable multi-family development on Parcel H would be a maximum of 10 stories with a height of 160 feet above the ground surface. The residential development would include up to two levels of underground parking and a maximum of 905 parking stalls.

Commercial Development

The proposed up to 480,000 square foot commercial building would consist of one of the following three scenarios:

- 465,000 square feet of medical office space and 15,000 square feet of retail/restaurant space;
- 465,000 square feet of commercial office space and 15,000 square feet of retail/restaurant space; or
- 165,000 square foot (165-unit) assisted living facility space and 315,000 square feet of medical office space.

The proposed commercial building would be a maximum of 10 stories at a height of 160 feet above the ground surface. The commercial building would include up to three levels of underground parking with a maximum of a 1,200 parking stalls.

For the purposes of this EIR, the 465,000 square feet of medical office space and 15,000 square feet of retail/restaurant space will be evaluated for the commercial use, given it would be the most intensive use of the three scenarios, as it would generate the most traffic trips and emissions when compared to the two other commercial scenarios. Evaluation of the 465,000 square feet of medical office space and 15,000 square feet of retail/restaurant space scenario will provide a conservative assessment of impacts related to the proposed commercial space.

Required Project Approvals

- Planned Development (PD) Rezoning
- PD Permit
- Tentative Vesting Map
- Tree Removal Permits
- Public Works clearances including grading

D. ENVIRONMENTAL EFFECTS OF THE PROJECT

The EIR will identify the environmental effects anticipated to result from development of the project as proposed. Mitigation measures will be identified for significant impacts, as warranted. The EIR will discuss the project's significant environmental impacts on the topic areas described below. A brief discussion of the potential environmental impacts is presented below.

1) *Aesthetics*

The EIR will describe the existing aesthetic resources in the vicinity of the project site and will evaluate the project's impacts to scenic resources and public views. The project's light and glare and shade and shadow impacts will also be assessed.

2) *Air Quality*

The EIR will describe the existing air quality conditions in the Bay Area and will evaluate the air quality impacts of the project, based on a detailed air quality analysis prepared for the proposed project. Construction and operational air quality impacts will be evaluated consistent with the Bay Area Air Quality Management District Guidelines.

3) *Biological Resources*

The EIR will describe the existing biological resources on and nearby the site, impacts of the project on the existing biological resources, and compliance with the Santa Clara Valley Habitat Plan. A tree survey will inventory trees currently on the site.

4) *Cultural Resources*

The EIR will address any known impacts to potential subsurface archaeological resources (on or adjacent to the site) from project construction, based upon a records search and consultation with local Native American tribes. The existing industrial buildings on-site were constructed in 1974. The EIR will address impacts to historic structures (if any) near the site.

5) *Greenhouse Gas Emissions*

The EIR will address the project's consistency with the City's 2030 Greenhouse Gas Reduction Strategy (GHGRS). Proposed design measures to reduce energy consumption, which in turn would reduce GHG emissions, will also be discussed.

6) *Hazards and Hazardous Materials*

The site has a history of hazardous materials usage. Soil and groundwater quality investigations have been completed on the site. The EIR will address existing hazards or hazardous material conditions on and in the vicinity of the site, based upon an Environmental Site Assessment, and evaluate the potential for the project to disturb or otherwise release hazardous materials into the environment, and identify necessary mitigation measures.

7) *Land Use*

The project site is surrounded by residential, commercial, and BART uses. The EIR will describe the existing land uses adjacent to and within the project area. Land use impacts that would occur as a result of the proposed project will be analyzed, including the consistency of the project with land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect.

8) *Noise*

A noise analysis will be prepared to determine the existing ambient noise levels on the project site and project noise impacts. The EIR will address the compatibility of the proposed uses with the project site's existing and future noise exposure, offsite impacts resulting from on-site noise sources, project-generated traffic noise impacts to sensitive receptors in the area, and the temporary noise increase during project construction. The EIR will also address the potential for project construction to result in groundborne vibration impacts to surrounding uses, and identify necessary mitigation.

9) *Transportation and Traffic*

The EIR will describe the existing transportation network serving the project site and will evaluate the project's generated vehicle trips for the potential to cause impacts related to vehicle-miles-traveled (VMT) as well as whether project traffic would cause local intersection level of service to degrade below City standards. The EIR will identify mitigation for potential VMT impacts, as well as any improvements needed to restore the level of service to pre-project conditions and will describe whether the identified improvements would lead to adverse environmental impacts. The EIR will also assess the potential for the project to impact existing pedestrian, bicycle, and transit facilities in the vicinity of the site.

10) *Utilities and Service Systems*

The EIR will address the ability of existing and planned public facilities and service systems to meet the demands generated by the project. Physical impacts to the environment will be identified, such as the need to construct new utility facilities.

11) *Cumulative Impacts*

In conformance with CEQA, this section will address the impacts of implementing the project in combination with other past, present, and reasonably foreseeable future projects, including other development within the BBUV Plan area.

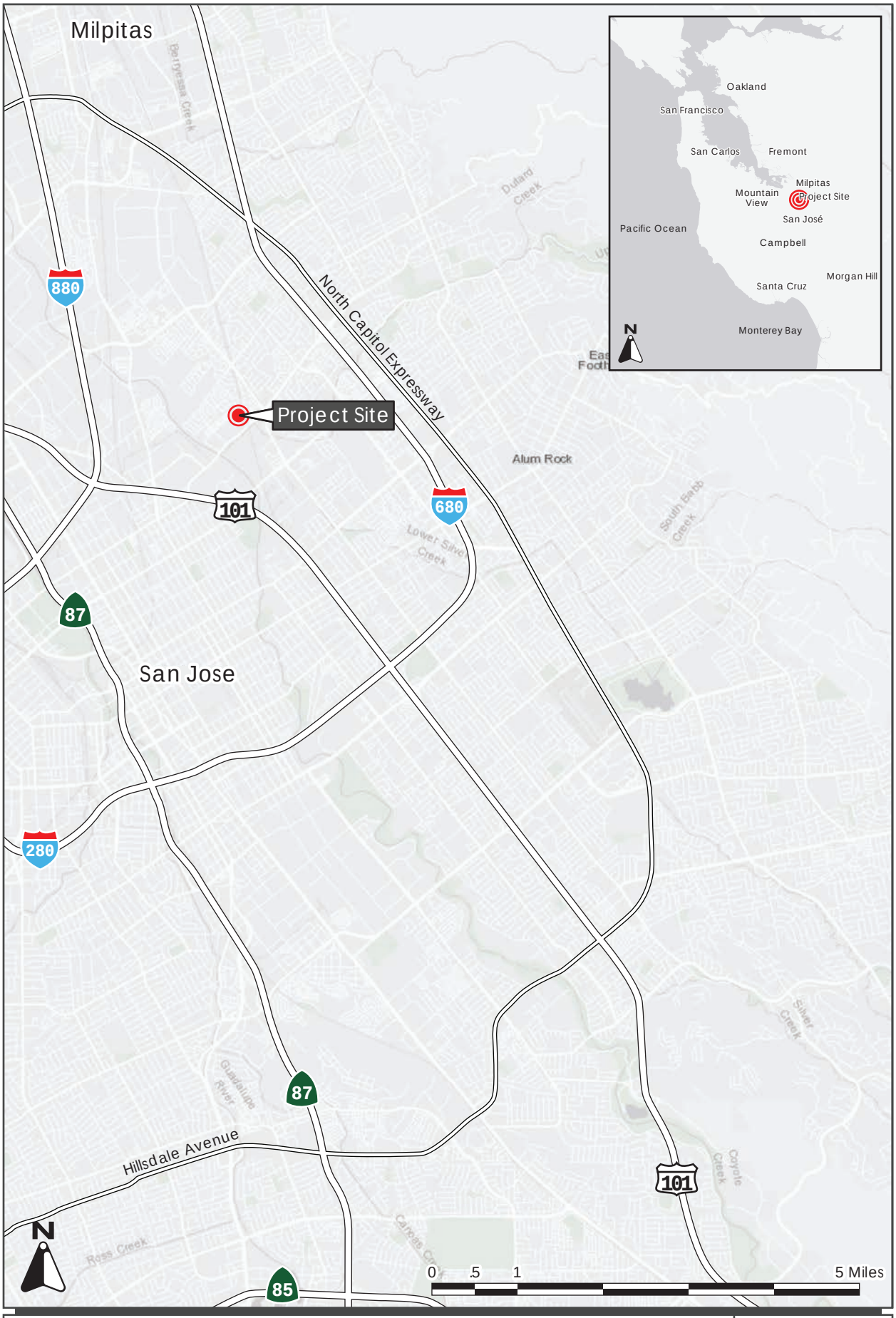
12) *Alternatives to the Project*

The EIR will evaluate Alternatives to the proposed project, including a "No Project" alternative. The alternatives analyzed will be selected based on their ability to avoid or lessen one or more significant impacts while still meeting most of the basic objectives of the proposed project.

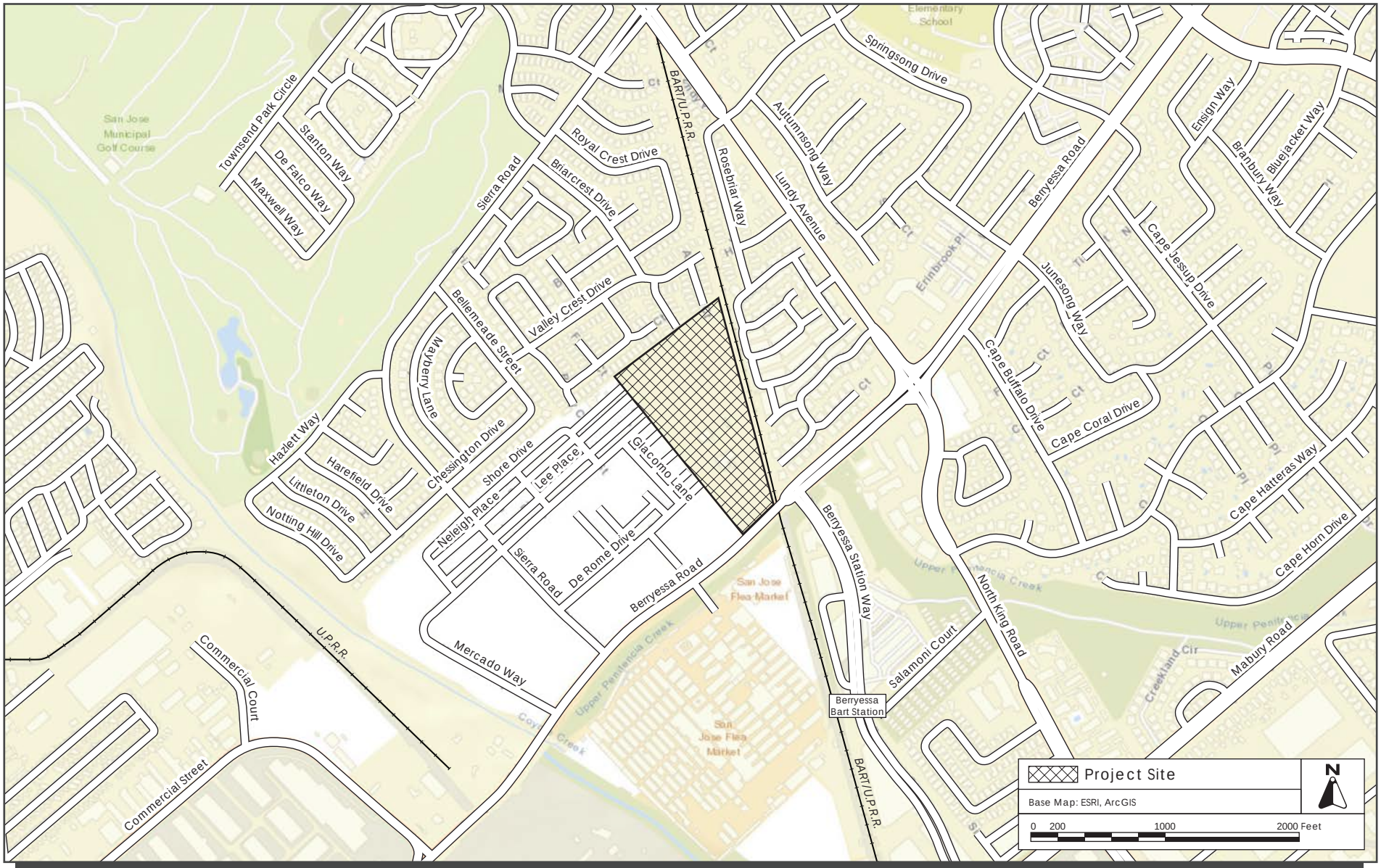
13) *Other CEQA Sections*

In addition to the resource sections noted above, the EIR will address the project's impacts on other topics included in the CEQA checklist, including agricultural and forestry resources, energy, geology and soils, hydrology and water quality, mineral resources, public services, recreation, and wildfire.

The EIR will include other sections required by CEQA, including growth inducing impacts, significant irreversible changes due to the proposed project, significant unavoidable impacts, authors and consultants, references, and technical appendices.



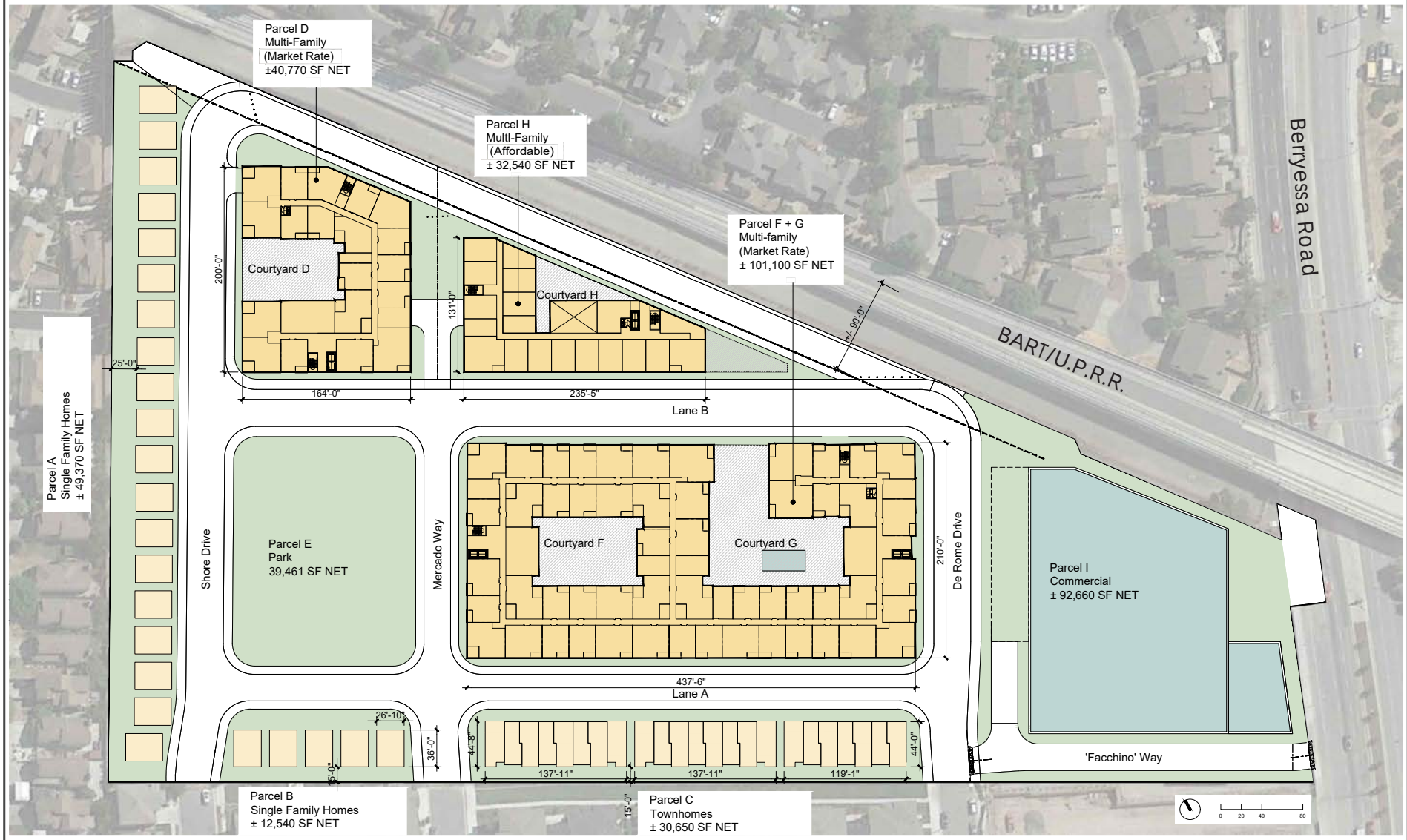
REGIONAL MAP | FIGURE 1



VICINITY MAP

FIGURE 2

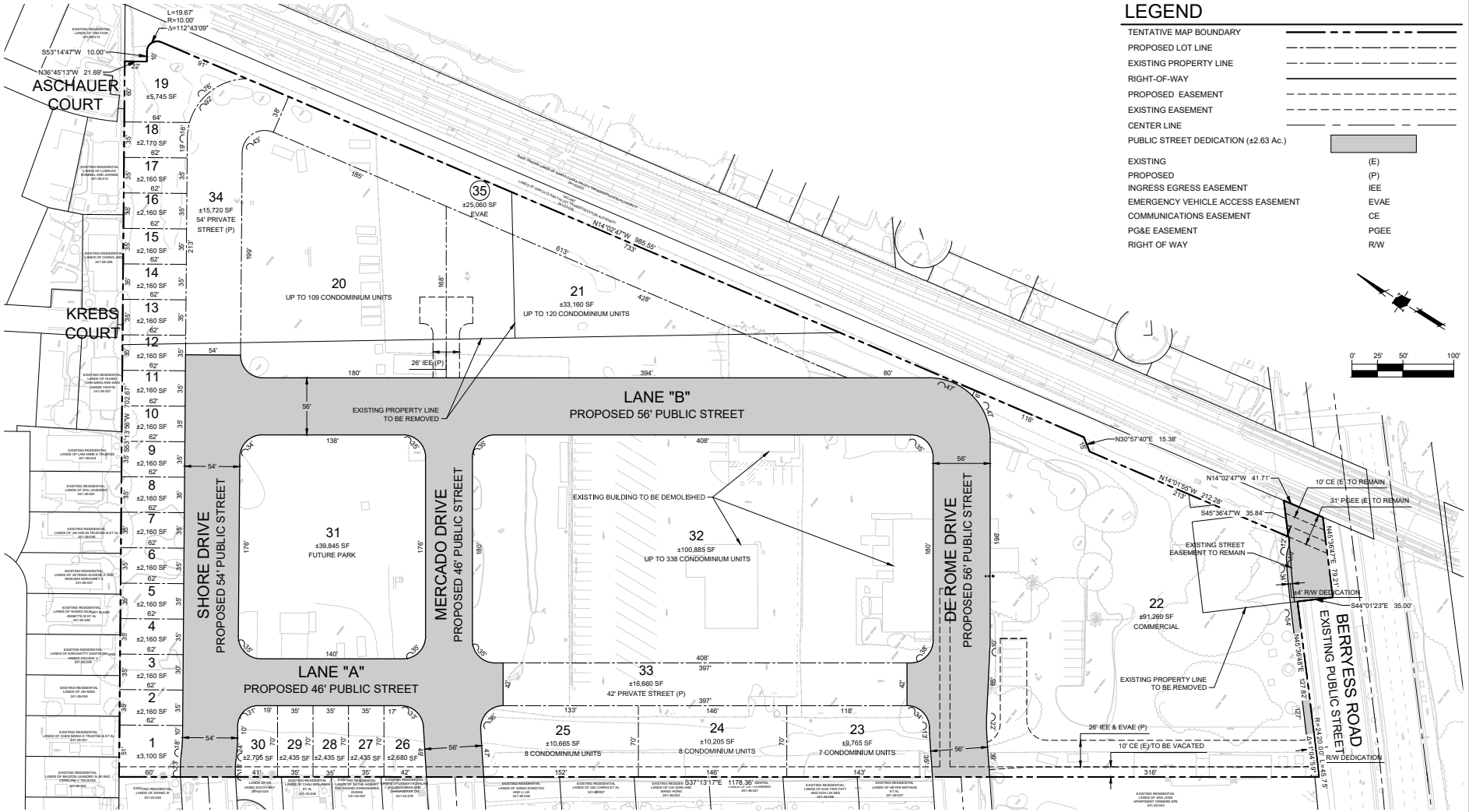
AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 3



Source: KTGY Architecture + Planning, June, 2021.

CONCEPTUAL SITE PLAN

FIGURE 4



Source: HMH Engineers, June 21, 2021.

PROPOSED VESTING TENTATIVE MAP

FIGURE 5

California Department of Transportation

DISTRICT 4
OFFICE OF TRANSIT AND COMMUNITY PLANNING
P.O. BOX 23660, MS–10D | OAKLAND, CA 94623-0660
www.dot.ca.gov

August 19, 2021

SCH #: 2021070467
GTS #: 04-SCL-2019-00924
GTS ID: 15206
Co/Rt/Pm: SCL/101/37.4

Reema Mahamood
Environmental Project Manager
City of San Jose
200 East Santa Clara St, T-3
San Jose, CA 95113

Re: Berryessa Road Mixed-Use Project Notice of Preparation (NOP) for Draft Environmental Impact Report (DEIR)

Dear Reema Mahamood:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Berryessa Road Mixed-Use Project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the July 2021 NOP.

Project Understanding

The project is located in San Jose, CA within the Berryessa BART Urban Village Plan Area. The proposed project would demolish three existing industrial buildings and associated parking to allow for the construction of up to 850 residential units, up to 480,00 square feet of commercial space, and an approximately 0.9-acre open space area.

Travel Demand Analysis

With the enactment of Senate Bill (SB) 743, Caltrans is focused on maximizing efficient development patterns, innovative travel demand reduction strategies, and multimodal improvements. For more information on how Caltrans assesses Transportation Impact Studies, please review Caltrans' Transportation Impact Study Guide (*link*).

If the project meets the screening criteria established in the City's adopted Vehicle Miles Traveled (VMT) policy to be presumed to have a less-than-significant VMT impact and exempt from detailed VMT analysis, please provide justification to support the exempt status in align with the City's VMT policy. Projects that do not meet the screening criteria should include a detailed VMT analysis in the DEIR, which should include the following:

- VMT analysis pursuant to the City's guidelines. Projects that result in automobile VMT per capita above the threshold of significance for existing (i.e. baseline) city-wide or regional values for similar land use types may indicate a significant impact. If necessary, mitigation for increasing VMT should be identified. Mitigation should support the use of transit and active transportation modes. Potential mitigation measures that include the requirements of other agencies such as Caltrans are fully enforceable through permit conditions, agreements, or other legally-binding instruments under the control of the City.

- A schematic illustration of walking, biking and auto conditions at the project site and study area roadways. Potential safety issues for all road users should be identified and fully mitigated.

- The project's primary and secondary effects on pedestrians, bicycles, travelers with disabilities and transit performance should be evaluated, including countermeasures and trade-offs resulting from mitigating VMT increases. Access to pedestrians, bicycle, and transit facilities must be maintained.

- Clarification of the intensity of events/receptions to be held at the location and how the associated travel demand and VMT will be mitigated.

Highway Operations

The project is located within the vicinity of I-880, I-680, and US-101. Caltrans recommends the traffic analysis include the applicable freeway ramps and segments of these facilities in the Transportation Impact Study. Any vehicle queues due to project-added traffic shall be accommodated within the ramps. If the project generated traffic impacts the above facilities, impacts shall be mitigated, or a fair share fee shall be allocated for mitigation. The project applicant shall coordinate with the City of San Jose and Caltrans for any proposed mitigation measures.

Transportation Impact Fees
Please identify project-generated travel demand and estimate the costs of transit and active transportation improvements necessitated by the proposed project; viable funding sources such as development and/or transportation impact fees should also be identified. We encourage a sufficient allocation of fair share contributions toward multi-modal and regional transit improvements to fully mitigate cumulative impacts to regional transportation. We also strongly support measures to increase sustainable mode shares, thereby reducing VMT.

Lead Agency
As the Lead Agency, the City of San Jose is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN). The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Llisel Ayon at Llisel.Ayon@dot.ca.gov. Additionally, for future notifications and requests for review of new projects, please email LDIGR-D4@dot.ca.gov.

Sincerely,

Mark Leong

MARK LEONG
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

NATIVE AMERICAN HERITAGE COMMISSION

July 26, 2021

Reema Mahamood
City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113

Re: 2021070467, Berryessa Road Mixed-Use Project, Santa Clara County

Dear Ms. Mahamood:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- **a.** A brief description of the project.
- **b.** The lead agency contact information.
- **c.** Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
- **d.** A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).

- **a.**, For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- **a.** Alternatives to the project.
- **b.** Recommended mitigation measures.
- **c.** Significant effects. (Pub. Resources Code §21080.3.2 (a)).

4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:

- **a.** Type of environmental review necessary.
- **b.** Significance of the tribal cultural resources.
- **c.** Significance of the project's impacts on tribal cultural resources.
- **d.** If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- **a.** Whether the proposed project has a significant impact on an identified tribal cultural resource.
- **b.** Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:

a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or

b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).

8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).

9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).

10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

a. Avoidance and preservation of the resources in place, including, but not limited to:

i. Planning and construction to avoid the resources and protect the cultural and natural context.

ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.

b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:

i. Protecting the cultural character and integrity of the resource.

ii. Protecting the traditional use of the resource.

iii. Protecting the confidentiality of the resource.

c. 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.

d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).

e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).

f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).

11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.

b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.

c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
    a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
    b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: http://nahc.ca.gov/resources/forms/.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
    a. If part or all of the APE has been previously surveyed for cultural resources.
    b. If any known cultural resources have already been recorded on or adjacent to the APE.
    c. If the probability is low, moderate, or high that cultural resources are located in the APE.
    d. If a survey is required to determine whether previously unrecorded cultural resources are present.

2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
    a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. 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.
    b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
   a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
   b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
   a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
   b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
   c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: Katy.Sanchez@nahc.ca.gov.

Sincerely,

Katy Sanchez

Katy Sanchez
Associate Environmental Planner

cc: State Clearinghouse

Pacific Gas and Electric Company

Plan Review Team
Land Management

PGEPlanReview@pge.com

6111 Bollinger Canyon Road 3370A
San Ramon, CA 94583

July 27, 2021

Reema Mahamood
City of San Jose
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113

Ref: Gas and Electric Transmission and Distribution

Dear Reema,

Thank you for submitting the Berryessa Road Mixed-Use Project (PDC18-036/PD21-009/PT21-030) 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 851filing 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° +/- 15°). 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&'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.

Pacific Gas and Electric Company

Plan Review Team
Land Management

PGEPlanReview@pge.com

6111 Bollinger Canyon Road 3370A
San Ramon, CA 94583

August 11, 2021

Reema Mahamood
City of San Jose
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113

Re: Berryessa Road Mixed-Use Project (PDC18-036/PD21-009/PT21-030)
1655 Berryessa Road, San Jose

Dear Reema:

Thank you for providing PG&E the opportunity to review your proposed plans for Berryessa Road Mixed-Use Project (PDC18-036/PD21-009/PT21-030) dated 7-23-2021. Our review indicates your proposed improvements do not appear to directly interfere with existing PG&E facilities or impact our easement rights.

Please note this is our preliminary review and PG&E reserves the right for additional future review as needed. This letter shall not in any way alter, modify, or terminate any provision of any existing easement rights. If there are subsequent modifications made to your design, we ask that you resubmit the plans to the email address listed below.

If you require PG&E gas or electrical service in the future, please continue to work with PG&E's Service Planning department: https://www.pge.com/cco/.

As a reminder, before any digging or excavation occurs, please contact Underground Service Alert (USA) by dialing 811 a minimum of 2 working days prior to commencing any work. This free and independent service will ensure that all existing underground utilities are identified and marked on-site.

If you have any questions regarding our response, please contact the PG&E Plan Review Team at (877) 259-8314 or pgeplanreview@pge.com.

Sincerely,

PG&E Plan Review Team
Land Management

Santa Clara Valley Transportation Authority

May 14, 2019

City of San Jose
Department of Planning and Building
200 East Santa Clara Street
San Jose, CA 95113

Attention: Reema Mahamood

Subject: City File No. GP17-016 / Berryessa Road Residential and Office Project

Dear Ms. Mahamood:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the NOP for changing the land use designation to Urban Village for a 13-acre site at 1655 Berryessa Road . We have the following comments.

Land Use & Locational Significance

- The VTA BART Silicon Valley Phase I project to Santa Clara County will bring unparalleled mobility and economic benefits to the region.
- VTA recommends that the Berryessa Residential and Commercial project take a holistic approach to:
    - create a mixed-use station destination centered on the regional transit investment;
    - ensure a world-class, walkable, urban destination
    - maximize the $2.4 billion public investment made to deliver VTA's BART Silicon Valley Phase I project to Santa Clara County.
- VTA supports the Option 2 (Maximum Development) Development Scenario, which includes 910 homes and 658,000 sq. ft. of commercial use. This scenario intensifies land uses surrounding the Berryessa BART station, with the potential to create a vibrant community and provide more opportunities for those who live or work in the area to take modes of transportation other than a single-occupancy vehicle.

Bicycle and Pedestrian Accommodations

- VTA recommends that the Project strengthen the BART station as a focal point. The analysis should clearly document the walking paths and bicycling access to show the most concise and direct routes to the station. Internal streets should provide clear and direct connectivity, and lines of sight to the station.
- VTA requests that the DEIR/TIA analysis of Pedestrian and Bicycle Accommodations consider the completeness of the pedestrian and bicycle network on roadways and intersections adjacent to and nearby the Project site. The analysis should address internal

pedestrian circulation within the site as well as pedestrian conditions on streets adjacent to the Project site.

- The Project should include exceptional pedestrian and bicycle accommodations, internally and along arterial roadways, to support the volumes of trips expected to, from, and within the area. This includes the study of opportunities to connect the site to the trail access points for the Coyote Creek Trail and the Upper Penitencia Creek Trail.
- VTA supports bicycling as an important transportation mode and provides a wide range of guidance on bicycle facilities, which may be downloaded from www.vta.org/bikeprogram.

CMP Congestion Impacts/Travel Delay Analysis

- Per the *TIA Guidelines* (Section 9.2 – Transit), the TIA should address the project's potential congestion impacts to transit travel times on Mabury Road, King Road, Berryessa Road, McKee Road and surrounding vicinity, as well as evaluate transit access and facilities.
- VTA recommends that the DEIR analyze all roadway modifications and signal operational changes surrounding the project site that may affect transit speed, reliability and safety.
- If increased transit delay is found, transit priority measures, such as improving transit travel times, and improvements to transit stops and passenger amenities, would constitute appropriate offsetting measures. Once the transit delay analysis results are available, VTA requests a consultation with the City regarding the appropriate offsetting measures.

Potential Transportation Improvements

- Per the *TIA Guidelines* (Chapter 12. Special Project Types) VTA recommends that the DEIR/TIA analyze anticipated transit demand and capacity in the project vicinity. Improvements to transit service may be necessary to accommodate the increased transit demand in the area.

Transportation and Traffic Analysis

- VTA recommends a comprehensive access analysis for the Berryessa BART station and surrounding developments (e.g. the subject Project, Market Park development and others proposed developments in the Berryessa Urban Village). The Berryessa Urban Village Plan is anticipated to have a companion Multimodal Transportation Improvement Plan (MTIP).
- VTA requests that the following scenarios be included to the DEIR/TIA work scope, which are anticipated to be included as part of the MTIP analysis:
    - A scenario with a second vehicle access point to Berryessa Road in addition to the Sierra Road Extension/Berryessa Road connection and Sierra Road Extension Mabury Road connection. Currently only a pedestrian/bicycle bridge (non-auto) is envisioned over Upper Penitencia Creek as part of the Market Park development.

  - A scenario with one access point and a second scenario with two access points (including automobiles bicycles and pedestrians) between Berryessa Station Way and the Sierra Road Extension, underneath the BART aerial guideway.
- Recognizing these scenarios now, will better inform staff, policy makers and the public on potential options for movement in the Berryessa Urban Village area, and further inform operational constraints and potential opportunity locations for access.

CMP Facilities

- The DEIR/TIA should include analysis of all freeway segments that may be impacted. For CMP guidance on the analysis of freeway segments, see Section 2.2.2 of the TIA Guidelines. If the freeway analysis indicates that there will be significant impacts according to CMP criteria, VTA recommends identifying potential mitigation measures and voluntary contribution opportunities for transportation improvements included in the Valley Transportation Plan (VTP) the project area. VTA requests early coordination with the appropriate agencies to discuss the mitigation measures before the DEIR is released for public review.

Trip Generation Assumptions

- All auto trip reductions must be clearly explained, documented, and justified in the project's TIA Report. Lead Agencies must state which approach is being used to develop auto trip reductions, if any reductions are claimed. Trip reductions shall be summarized in an Auto Trip Reduction Statement in the Executive Summary of the TIA Report, using the form provided in Appendix C.

Construction Impacts and Roadway Design

- The DEIR/TIA should consider how temporary road closures and detour routes in connection with project construction would affect access for public transit vehicles and shuttles (VTA bus, paratransit and private operators), pedestrians and bicycles. The DEIR/TIA should describe all measures to preserve or enhance such access.

Transportation Demand Management/Trip Reduction

- VTA recommends a TDM plan that establishes a trip reduction target, and third-party monitoring and enforcement. VTA recommends that the City consider the following TDM/Trip Reduction strategies:
  - Project design to encourage walking, bicycling, and convenient access to transit
  - Parking pricing and parking cash-out programs
  - Transit fare incentives such as free or discounted transit passes on a continuing basis or pre-tax commuter benefits
  - Dockless scooters, bicycles, and other micro-transit solutions
  - Bicycle lockers and bicycle racks

- Bicycle storage integrated into the residential units
- Showers and clothes lockers for bicycle commuters
- On-site or walk-accessible services (day-care, dry-cleaning, fitness, banking, convenience store)
- Preferentially located carpool parking
- Employee carpool matching services
- Parking for car-sharing vehicles
- First/last mile ride sharing services voucher

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

Roy Molseed
Senior Environmental Planner

cc: Ryan Do, San Jose Development Services
Patricia Maurice, Caltrans
Brian Ashurst, Caltrans

SJ1910

VTA DEVELOPMENT REVIEW PROGRAM CONTACT LIST

Last Updated: 2/27/2019

PURPOSE OF THIS DOCUMENT: As part of the VTA Congestion Management Program (CMP), the VTA Development Review Program provides the review of Transportation Impact Analysis (TIA) notifications and reports for proposed projects and plans required to conform with CMP requirements. VTA also reviews California Environmental Quality Act (CEQA) environmental documents, site plans, and other miscellaneous referrals provided to VTA by other agencies. This document identifies the appropriate VTA points of contact for referrals and special topics.

REFERRAL ROUTING

Transportation Impact Analysis (TIA) Reports and Notification Forms		**Environmental (CEQA) Documents, Site Plans, other miscellaneous referrals**
Brent Pearse Brent.Pearse@vta.org 408.546.7985	Eugene Maeda Eugene.Maeda@vta.org 408.952.4298	Roy Molseed Roy.Molseed@vta.org 408.321.5784
Please email (preferred) electronic development referrals to the above. Hardcopy documents may be sent to: [Name of recipient(s) as detailed above, depending on type of document] Planning & Programming Division, 3331 North First Street, Building B-2, San Jose, CA 95134-1906		

VTA CONTACTS – SPECIAL TOPICS

General Questions - VTA Comments Roy Molseed Roy.Molseed@vta.org 408.321.5784	Transportation Impact Analysis (TIA) Guidelines Brent Pearse Brent.Pearse@vta.org 408.546.7985	Auto LOS Methodology - VTA Highway Projects & Freeway Ramp Metering Shanthi Chatradhi Shanthi.Chatradhi@vta.org 408.952.4224
VTA Permits (Construction Access Permit, Restricted Access Permit) Victoria King-Dethlefs Victoria.King-Dethlefs@vta.org 408.321.5824 Cheryl D. Gonzales Cheryl.gonzales@vta.org 408.546.7608	Bicycle & Pedestrian Projects Lauren Ledbetter Lauren.Ledbetter@vta.org 408.321.5716	Vehicle-Miles-Traveled (VMT) Analysis Robert Swierk Robert.Swierk@vta.org 408.321.5949
VTA Real Estate Kevin Balak Kevin.Balak@vta.org 408.321.7516 Jessie O'Malley Solis Jessie.Thielen@vta.org 408.321.5950	VTA System Safety Denise Patrick Denise.Patrick@vta.org 408.321.5714 Antonio Tovar Antonio.Tovar@vta.org 408.321.5944	VTA SmartPass Program SmartPass Team SmartPass@vta.org
Transit Service, Ridership & Bus Stops Nikki Diaz Nikki.Diaz@vta.org 408.321.5939 Michael Catangay Michael.Catangay@vta.org 408.321.7072	BART Silicon Valley Extension Kevin Kurimoto Kevin.Kurimoto@vta.org 408.942.6126	

May 22, 2019

City of San Jose
Department of Planning and Building
200 East Santa Clara Street
San Jose, CA 95113

Attention: Reema Mahamood

Subject: City File No. GP17-016 / Berryessa Road Residential and Office Project

Dear Ms. Mahamood:

We would like to offer supplemental comments on the Berryessa Road Residential and Office Project located at 1655 Berryessa Road. These additional comments support VTA's previous guidance on transportation analyses and site plans related to developments located within the Berryessa Urban Village[1].

Safety, Security and Access

VTA would like to inform the project sponsor of the following context when considering any transportation or traffic analysis for the project. VTA engages with its partners at Bay Area Rapid Transit (BART), the Federal Transit Administration (FTA), the Department of Homeland Security (DHS), and the California Public Utilities Commission (CPUC) concerning existing and future access underneath the BART guideway. New access points beneath the BART guideway are not recommended and would be subject to the regulatory requirements of the FTA, DHS and the CPUC. All parties are currently proceeding through the Safety Certification process for the system as it is designed and constructed today

Two access easements between the station and the existing Flea Market were negotiated to provide pedestrian access between the BART station's north and south entrances and the existing Flea Market vendor area. Additionally, VTA has constructed a segment of the Penitencia Creek Trail which extends across the station/Flea Market property line in conjunction with the Santa Clara Valley Water District flood control project and future Market Park development. These easements and trail are the subject of an agreement and have been certified and approved by the agencies mentioned above.

While VTA has requested additional transportation analysis scenarios be considered in the DEIR/TIA work scope, VTA is not prepared to support additional vehicular access points underneath the BART guideway at this time. By considering these transportation analysis scenarios for long-range planning purposes we will be better informed of the potential effects this project will have on traffic and mobility in the Berryessa Urban Village area. This information will continue to inform the development of the transportation network required to support the full vision and buildout of the Berryessa Urban Village Plan.

[1] Brent Pearse (personal communication, November 6,2018): VTA Comments on TIA Notification for Market Park, and VTA Letter (January 30,2019) VTA Comments on Market Park 2nd Site Plan Submittal

Santa Clara Valley Transportation Authority

Again, thank you for the opportunity to review this project. If you have any questions, please call me at (408) 546-7985.

Sincerely,

Brent Pearse
Transportation Planner

cc: Ryan Do, San Jose Development Services
Patricia Maurice, Caltrans
Brian Ashurst, Caltrans

SJ1910

Santa Clara Valley Transportation Authority

August 23, 2021

City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San Jose, CA 95113

Attn: Reema Mahamood, Environmental Project Manager

Subject: City File No. PDC18-036/PD21-009/PT21-030, 1655 Berryessa Road Mixed Use Project Notice of Preparation (NOP)

Dear Reema,

In order to ensure that the combined benefits of the regional rail investment and area land use changes are fully maximized, VTA is prepared to work closely with the City of San Jose, the developer, and others, beginning at this early planning stage to create a successful station area.

This site is strategically located near one of Santa Clara County's first BART stations, Berryessa/North San Jose Station. This site presents an exciting, once-in-a-lifetime opportunity to achieve a world-class, walkable, urban destination that maximizes the $2.4 billion public investment made to deliver VTA's BART Silicon Valley Phase I project to Santa Clara County. The Phase I Extension project brings unparalleled mobility and economic benefits to the region.

VTA reviewed the NOP for the Berryessa Mixed-Use Project, and has the following comments.

Transportation Impact Analysis (TIA)
Consistent with the City's Transportation Analysis Handbook (page 39) and the practices of the Congestion Management Program (CMP) administered by VTA, the City should perform operations analysis of key intersections near the project site and CMP intersections that may be affected the project. This will likely include several intersections along Berryessa Road, Mabury Road, and several US-101 ramp intersections. The Local Transportation Analysis (LTA) performed should examine if any localized improvements can be done to these intersections to address these operational issues without any widening if possible.

Transportation Analysis
The project TIA and/or LTA should analyze the impacts to ramp metering operations at US 101/Old Oakland interchange, the future US 101 interchange at Mabury Road or Berryessa Road, and Berryessa Road/I-680 interchange.

Mitigations to Address CMP Standards
The City is still required to conform to the requirements of the VTA CMP, which is governed by state CMP legislation. While VTA is supportive of the City's use of Vehicle Miles Traveled as CEQA methodology for transportation impacts in conformance with SB 743, the CMP guidelines currently refer to an LOS standard for CMP purposes. The TIA shall include a discussion of mitigation measures to address any impacts per CMP standards identified in the analysis.

3331 N
San Jos

Noise and Vibration

The NOP does not include studying existing ambient vibration. The Draft Environmental Impact Report (DEIR) should analyze the impacts of noise and vibration on the mixed-use project. The DEIR should identify any impacts and propose mitigations for the project based on current and future conditions. BART currently operates trains throughout the day as part of VTA's BART Silicon Valley Phase I project directly adjacent to the proposed site.

Transportation Demand Management

VTA recommends that the DEIR analyze the potential for the project to reduce its VMT and intersection operational effects through a comprehensive Transportation Demand Management (TDM) program, including setting a target, third-party monitoring, and an enforcement framework. Chapter 8 of VTA's TIA Guidelines includes recommendations for such Target-Based Trip Reduction programs. VTA supports trip caps and aggressive parking management strategies to help reach these TDM goals.

Central Bikeway

VTA is currently leading a feasibility study on the region's first bicycle superhighway. Conceptual 10% design and engineering plans are currently being created in partnership with City of San Jose's Department of Transportation. The highest scoring alternative and preferred alternative for the bikeway route in the project vicinity is along Mabury Road across US-101. The Central Bikeway will include proposed designs for a separated one-way and two-way bike facilities along Mabury Road. VTA reccomends any long-range transportation analysis considers the potential of a high quality low stress bikeway facility on Mabury Road.

BART Silicon Valley

The project is adjacent to a BART maintenance/access road is utilized for trackway maintenance, emergency access and evacuation egress, with a track access gate and hi-rail set-on area on the north end of Berryessa Road. Clearances on the access road needs to be maintained during construction to ensure hi-rail vehicles, maintenance trucks, and emergency vehicles can still operate safely.

Cultural Resources

The Upper Penitencia Creek is a highly sensitive area for buried prehistoric resources. For specific details or questions please contact Samantha Swan at (408) 321-5785.

VTA looks forward to continuing and improving our coordinated planning efforts with the City of San Jose to contribute toward the sustainable future of the Berryessa Urban Village area. Thank you for the opportunity to review this project. If you have any questions, please contact Brent Pearse at (408) 550-4559.

Sincerely,

Brent Pearse
Transportation Planner

CC: Charla Gomez, City of San Jose

Mahamood, Reema

From: canutes@verizon.net
Sent: Wednesday, April 17, 2019 8:16 PM
To: Mahamood, Reema
Subject: Re: Notice of Preparation for the Berryessa Road Residential and Commercial Project

Marcos,

We did some work in this area. We had burials near the Berryessa Flea Market.

K.Perez

-----Original Message-----
From: Mahamood, Reema <reema.mahamood@sanjoseca.gov>
To: Mahamood, Reema <reema.mahamood@sanjoseca.gov>
Sent: Mon, Apr 15, 2019 10:22 am
Subject: Notice of Preparation for the Berryessa Road Residential and Commercial Project

NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE BERRYESSA ROAD RESIDENTIAL AND OFFICE PROJECT

FILE NOS: GP17-016 and PDC18-036
PROJECT APPLICANT: TERRACOMMERCIAL REAL ESTATE CORPORATION
APNS: 241-03-023, -024, -025

Project Description: The project includes a General Plan Amendment and Planned Development rezoning on the 13.02-acre site. Under the project, the site's existing Industrial Park land use designation would be changed to Urban Village, consistent with the City's planned Berryessa BART Urban Village Area Plan. Two development scenarios will be evaluated in this EIR: Option 1 includes up to 320 high-density dwelling units, 95 multi-family affordable dwelling units, and up to 200,000 square feet of commercial office use. Option 2 includes up to 910 dwelling units which may include affordable dwelling units, and up to 658,000 square feet of commercial office space.

Project Location: 1655 Berryessa Road

As the Lead Agency, the City of San José will prepare an Environmental Impact Report (EIR) for the project identified above. The City welcomes your input regarding the scope and content of the environmental information that is relevant to your area of interest, or to your agency's statutory responsibilities in connection with the proposed project. If you are affiliated with a public agency, the EIR may be used by your agency when considering subsequent approvals related to the project.

A **Community and EIR Public Scoping Meeting** will be held for this project:

When: Monday, April 29, 2019 from 6:30 p.m. to 8:00 p.m.
Where: Educational Park Branch Library
1772 Educational Park Drive, San José, CA 95133.

The project description, location and probable environmental impacts that will be analyzed in the EIR for the project can be found on the City's Active EIRs website at www.sanjoseca.gov/activeeirs.

According to State law, the deadline for your response is 30 days after receipt of this notice. The City will accept comments on the Scope of the EIR until **5:00 p.m. on May 14, 2019**. If you have comments on this Notice of Preparation, please identify a contact person, and send your written response to:

City of San José, Department of Planning, Building and Code Enforcement
Attn: Reema Mahamood, Environmental Project Manager
200 East Santa Clara Street, 3rd Floor Tower, San José CA 95113-1905
Phone: (408) 535-6872, email: reema.mahamood@sanjoseca.gov

Reema Mahamood
Planner III, Environmental Review

City of San José | Planning, Building & Code Enforcement
200 E. Santa Clara St., T-3
San José, CA 95113
d - 408.535.6872 | f - 408.292-6240
reema.mahamood@sanjoseca.gov

Mahamood, Reema

From: Srini Venkat <msrvenkat@gmail.com>
Sent: Tuesday, April 30, 2019 10:23 AM
To: Mahamood, Reema
Subject: Regarding the new proposal to convert 1655 Berryessa re-zoning

Hi,

I would like to send my comments as I could not join yesterday for the public opinion at educational park library. I would like you to please consider the quality of life for the current residents before making this decision. There were already hundreds of units on both Berryessa and Mabury around the new berryessa transit center. There are no new employers or other big retail development yet near the sites. There are just houses and houses crowding the road making it miserable to drive.
The time it takes to reach 101 from Lundy avenue has doubled due to too many people in the morning commuting towards 101 north. This is all because there are more and more houses but not even a single corporate office in the vicinity.
Is this move a failure to bring new employers to the location? Please look at the shopping center at the corner of Hostetter and Oakland rd, which is the primary shopping area for local residents as it has banks, cable, eateries, sprouts etc. , But finding a parking spot in the shopping center on a weekend takes at least 15 minutes with lot of frustration. Is this the quality of life you strive to provide to the residents? Is more houses the solution?
Real transit oriented development should involve both housing, retail and employment opportunities. Not just the housing .

Thanks,
-Srinivas Venkata

FW: Notice of Preparation for the Berryessa Road Residential and Commercial Project

Aghegnehu, Ben <ben.aghegnehu@rda.sccgov.org>

Tue 5/14/2019 4:03 PM

To: Van Der Zweep, Cassandra <Cassandra.VanDerZweep@sanjoseca.gov>;

Cc: Talbo, Ellen <Ellen.Talbo@rda.sccgov.org>;

Forwarding because Reema Mahamood is out.

Thank you,

Ben Aghegnehu
Associate Transportation Planner
County of Santa Clara | Roads & Airports
101 Skyport Rd | San Jose, CA, 95110
408-573-2462 (o)

From: Aghegnehu, Ben
Sent: Tuesday, May 14, 2019 4:01 PM
To: Mahamood, Reema <reema.mahamood@sanjoseca.gov>
Cc: Talbo, Ellen <Ellen.Talbo@rda.sccgov.org>
Subject: RE: No ce of Prepara on for the Berryessa Road Residen al and Commercial Project

May 14, 2019

Reema Mahamood
Planner III
Planning, Building & Code Enforcement
200 E. Santa Clara St.
City of San José, CA 95113

SUBJECT: No ce of Prepara on for the Berryessa Road Residen al and Commercial Project

Dear Reema Mahamood:

The County of Santa Clara Roads and Airports Department (The County) appreciates the opportunity to review the No ce of Prepara on for the Berryessa Road Residen al and Commercial Project and the County and is submi. ng the following comment:

- Local Transporta□on Analysis (LTA) to include Montague intersec□ons at
  - Main/Oakland Rd
  - Trade Zone
  - Capitol Ave
- and Capitol Expressway/Capitol Ave