

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT ENVIRONMENTAL IMPACTS AND RELATED MITIGATION MEASURES, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, MAKING FINDINGS CONCERNING ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE REPEAL OF THE EXISTING EVERGREEN DEVELOPMENT POLICY, TOGETHER WITH ALL REVISIONS THERETO, AND ADOPTION OF AN UPDATED EVERGREEN-EAST HILLS DEVELOPMENT POLICY, FOR WHICH A FINAL ENVIRONMENTAL IMPACT REPORT, TOGETHER WITH A SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT, HAS BEEN PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970, AS AMENDED

WHEREAS, the City of San José ("City"), acting as lead agency under the California Environmental Quality Act of 1970, as amended, prepared that certain Final Environmental Impact Report for the Evergreen-East Hills Vision Strategy Project (the "FEIR"), which FEIR was certified by the City Council of City on December 12, 2006 by that certain City Council Resolution No. _____; and

WHEREAS, subsequent to certification of the FEIR, City prepared and completed that certain Final Supplemental Environmental Impact Report ("Final SEIR") to supplement the analyses contained in the FEIR in order to make minor additions and changes to the FEIR to address environmental impacts related to the repeal of the existing Evergreen Development Policy, together with all revisions thereto, and the adoption of an Updated Evergreen-East Hills Development Policy Project, which project is more fully described within the Final SEIR ("Project"); and

WHEREAS, prior to the adoption of this Resolution, the Planning Commission of the City of San Jose has certified that the Final SEIR for the Project was completed in accordance with the requirements of the California Environmental Quality Act of 1970, together with related state and local guidelines, all as amended (collectively, "CEQA"); and

WHEREAS, the Project as a whole requires City approval of a repeal of the existing Evergreen Development Policy, together with all revisions thereto, including the repeal of ordinances establishing the procedure and methodology for transportation analyses in the Policy area, the adoption of an Updated Evergreen-East Hills Development Policy, and the adoption of a traffic impact fee for the Policy area; and

WHEREAS, a Draft Supplemental Environmental Impact Report ("Draft SEIR") was completed and released for public and agency review from August 29, 2008 to October 14, 2008; the Draft SEIR assesses the potential environmental effects of implementation of the Project, identifies means to eliminate or reduce potential adverse impacts, and evaluates a reasonable range of alternatives to the Project; and the Final SEIR comprises: the Draft SEIR together with that certain First Amendment to the Draft SEIR and that certain Second Amendment to the Draft SEIR, which Amendments include comments received on the Draft SEIR submitted by interested public agencies, organizations and members of the public, written responses to the environmental issues raised in those comments, amendments to the text of the Draft SEIR reflecting changes made in response to comments and other information, and other minor changes to the text of the Draft SEIR; and

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

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed Project; and

WHEREAS, the City Council of the City of San José intends to take approval actions related to the Project, specifically the repeal of the existing Evergreen Development Policy, together with all revisions thereto, the adoption of an updated Evergreen-East Hills Development Policy, and the adoption of a traffic impact fee for the Policy area; and

WHEREAS, the updated Evergreen-East Hills Development Policy will provide for traffic allocation for the future development of the following uses in the Project area described in the Final SEIR: (1) a pool of 500 residential dwelling units, (2) a pool of 500,000 square feet of commercial retail space, (3) a pool of 75,000 square feet of office space; and

WHEREAS, CEQA requires that in connection with the approval of a project for which an environmental impact report has been prepared which identifies one or more significant environmental effects, the decision - making body of a lead or responsible agency must make certain findings regarding those significant effects on the environment identified in the environmental impact report; and

WHEREAS, CEQA requires that in connection with the approval of a project for which a supplemental environmental impact report has been prepared which identified one or more significant environmental effects, the decision-making body of a lead or responsible agency shall make certain findings regarding the significant effects on the environment identified in the original environmental impact report, as revised by the supplemental environmental impact report.

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

THAT THE CITY COUNCIL hereby finds that it has independently reviewed and analyzed the FEIR, together with and as revised by the Final SEIR, and other information in the record and has considered the information contained in the FEIR and the Final SEIR, including the written and oral comments received at the public hearings on the Final SEIR and on the Project, prior to acting upon or approving the Project, and has found that the FEIR, together with and as revised by the Final SEIR, represents the independent judgment and analysis of the City of San José as Lead Agency for the Project, and designates the Director of Planning, Building and Code Enforcement at his office at 200 East Santa Clara Street, San José, California 95113-1905, as the custodian of documents and records of proceedings on which this decision is based; and

THAT THE CITY COUNCIL does hereby make the following findings with respect to the significant effects on the environment of such Project, as identified in the FEIR, together with and as revised by the Final SEIR, with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting the FEIR and Final SEIR, which full administrative record should be consulted for the full details supporting these findings; and

THAT THE CITY COUNCIL does hereby adopt and impose the mitigation measures set forth in Exhibit A to this Resolution as conditions of approval of the Project; and

THAT THE CITY COUNCIL does hereby adopt the Mitigation Monitoring and Reporting Program for the Project; and

THAT THE CITY COUNCIL does hereby make the following findings with respect to the significant effects on the environment of the Project as it is described more fully in the FEIR, together with and as revised by the Final SEIR:

I. FINDINGS CONCERNING SIGNIFICANT ENVIRONMENTAL EFFECTS

The following environmental impacts identified in the original FEIR will not occur under the Project described in the Final SEIR insofar as the currently proposed Project described in the Final SEIR is of a smaller scale than the project contemplated and described under the original FEIR. In addition, many of the impacts in the Original FEIR were from the development of the five specific opportunity sites described in the FEIR, which developments are not covered by or contemplated under the current Project SEIR:

LANDUSE:

EEHVS Scenarios II-V would reverse a 1980 General Plan amendment to designate the Berg/IDS and Legacy Partners properties for approximately 10,383 future jobs, a decision made for the purpose of reducing environmental impacts by locating jobs near housing. **[Significant Unavoidable Impact under FEIR; not occurring under Project analyzed in Final SEIR]**

TRANSPORTATION AND TRAFFIC

EEHVS Scenarios II-VI will result in significant near-term traffic impacts at the following two intersections on Capitol Expressway: Ocala Avenue and Capitol Avenue.

[Significant Unavoidable Impact under FEIR; not occurring under Project analyzed in Final SEIR]

EEHVS Scenarios II-VI will result in significant traffic impacts on the following segments of the U.S. 101, I-280, and I-680 freeways. **[Significant Unavoidable Impact]**

1. U.S. 101: Blossom Hill Rd. to Hellyer Avenue (AM, North Bound)
2. U.S. 101: Story Road to I-680 (PM, South bound)
3. U.S. 101: I-280/I-680 to Santa Clara St. (AM, North bound & PM, South bound)
4. U.S. 101 Santa Clara St. to McKee Road (AM, North bound & PM, South bound)
5. U.S. 101 McKee Road to Oakland Road (AM, North bound & PM, South bound)
6. U.S. 101: Oakland Road to I-880 (AM, North bound & PM, South bound)
7. I-680: U.S. 101 to King Road (AM, South bound)
8. I-680: King Road To Capitol Ave. (AM, South bound)
9. I-680: Capitol Ave. to Alum Rock Ave. (AM, South bound)

At a program-level (i.e., long-term), the proposed changes in land use under Scenarios II-VI will result in significant traffic impacts. **[Significant Unavoidable Impact under FEIR; not occurring under Project analyzed in Final SEIR]**

Adding the Capitol Avenue/Capitol Expressway intersection to the City's List of Protected Intersections would allow the intersection to operate at LOS E during the PM peak-hour.

[Significant Unavoidable Impact under FEIR; not occurring under Project analyzed in Final SEIR]

NOISE

Noise during construction will likely disturb nearby residents and will occur over multiple construction seasons. **[Significant Unavoidable Impact under FEIR; not occurring under Project analyzed in Final SEIR]**

Traffic generated by EEHVS development will increase noise along various roadways that are bordered by residences and other sensitive noise receptors. **[Significant Unavoidable Impact under FEIR; not occurring under Project analyzed in Final SEIR]**

AIR QUALITY

Scenarios II through VI conflict with current Clean Air planning efforts because they would result in an amount and intensity of growth in the EDP area that is not included in the projections used for the 2000 Bay Area Clean Air Plan or the 2005 Ozone Strategy.

[Significant Unavoidable Impact under FEIR; not occurring under Project analyzed in Final SEIR]

BIOLOGICAL RESOURCES

Development on the 81-acre Arcadia property will result in a significant loss of burrowing owl habitat.

If determined feasible, the measures described in Section 4.6.4 would mitigate this impact. Mitigation is not proposed as part of the project. **[Unless Mitigation is Determined to be Feasible & Made a Condition of Approval, Impact will be Significant & Unavoidable, but is not occurring under Project analyzed in Final SEIR]**

VISUAL AND AESTHETICS

Buildings with heights of up to six stories on the Arcadia property could block views of the scenic Diablo Range foothills and mountains from various locations in the adjacent single-family neighborhood to the west. **[Significant Unavoidable Impact under FEIR; not occurring under Project analyzed in Final SEIR]**

Development on the following sites would result in a significant change in the existing visual character: Arcadia Property, Pleasant Hills Golf Course Property, Berg/IDS Property, and Legacy Partners Property. **[Significant Unavoidable Impact under FEIR; not occurring under Project analyzed in Final SEIR]**

ENERGY

Given projections regarding future electricity and natural gas supplies, construction of the EEHVS under any of the scenarios addressed in this EIR will result in a significant energy impact. **[Unless Mitigation is Determined to be Feasible & Made a Condition of Approval, Impact will be Significant & Unavoidable; but Impact is Not Occurring under Project Analyzed in Final SEIR]**

Scenarios II-V would reverse a 1980s decision by the City to locate jobs in Evergreen near a substantial supply of housing. This could lead to longer commute trips and increased demand for gasoline. **[Significant Unavoidable Impact under FEIR; not occurring under Project analyzed in Final SEIR]**

POPULATION, JOBS, AND HOUSING

By eliminating 10,383 future jobs and adding housing, Scenarios II-V would, when compared to the existing General Plan, have an adverse effect on the City's jobs/housing balance. **[Significant Unavoidable Impact under FEIR; not occurring under Project analyzed in Final SEIR]**

CUMULATIVE IMPACTS

Cumulative impacts will be significant in the following areas: land use, transportation and traffic, noise, air quality, biological resources, visual & aesthetics, and energy.

[Significant Unavoidable Impact under FEIR; not occurring under Project analyzed in Final SEIR]

ENVIRONMENTAL IMPACTS RELATED TO PROPOSED PROJECT ANALYZED IN FEIR AS SUPPLEMENTED BY FINAL SEIR:

The environmental impacts identified in the FEIR, together with and as modified by the Final SEIR, related to the proposed Project are as follows:

A. TRANSPORTATION

IMPACT

Impact TRAN-1: Capitol Expressway and Silver Creek Road. This intersection would operate at an unacceptable level of service (LOS E) during the AM and PM peak hours under background conditions. The proposed residential uses would add one or more trips to this intersection. Based on the Evergreen Development Policy, this constitutes a significant Project impact.

MITIGATION MEASURE

MM TRAN-1: Project impact TRAN-1 would be mitigated to a **less-than-significant level** through the implementation of either of the following two mitigation alternatives, both of which are proposed by the Project. The Policy will insure implementation of one of the alternatives, but implementation of both measures is not required.

Option 1) The level of service impact could be mitigated to a less than significant level by converting the HOV lanes on Capitol Expressway between U.S. 101 and Nieman Boulevard to "mixed-flow" lanes, meaning their use during weekday peak commute periods would no longer be restricted to vehicles with two or more occupants. Or

Option 2) The impact at this intersection could be satisfactorily mitigated to a less than significant level by constructing a third left-turn lane on the westbound Silver Creek Road approach to southbound Capitol Expressway. (The following discussion assumes Capitol Expressway is aligned north-south and Silver Creek Road is east-west) This improvement would require the acquisition of right of way along the southwest side of Silver Creek Road, approximately five (5) feet wide and 300 linear feet. The resulting sidewalk width will be ten feet (10') and the landscaping would be reduced in width from 25 to 20 feet along the commercial frontage in the southwest quadrant. This improvement will also require the acquisition of commercial property along the southeast side of Silver Creek Road that would be 5 feet wide for 400 linear feet. In the southeast quadrant, the resulting sidewalk would be 10 feet wide and landscape width

would be reduced from 20 to 15 feet along the commercial frontage. No structures or parking spaces would be affected by the right-of-way take. Construction of this improvement would also require signal modification, including removing the porkchop islands at the northwest and southeast corners and relocating the traffic signal pole at the southwest corner.

The FEIR (Section 4.6) identifies tree removal mitigation and tree protection mitigation measures, as well as nesting raptor mitigation, which is included in the proposed Project to reduce any impacts from construction of the traffic improvements to a **less than significant level**.

The FEIR (Section 4.5, MM 4.5-2) identifies mitigation measures for impacts to cultural resources that are included in the proposed Project and would apply to any ground-disturbing activities associated with the traffic improvements. These measures would reduce potential impacts to cultural resources to a **less than significant level**.

FACTS

For Option 1: The mitigation would improve the intersection's operations to an acceptable level (LOS D). Based on the Evergreen Development Policy, this improvement would satisfactorily mitigate the significant Project impact. [Note: Independently of this Project, the planned and approved Capitol Expressway LRT extension will remove the HOV lanes on Capitol Expressway between I-680 and Nieman Boulevard.] Capitol Expressway is under the jurisdiction of the County of Santa Clara and it is not known at this time whether the County would allow the removal of the HOV lanes. For this reason, an alternate mitigation is proposed below, in the event the City is unable to implement the HOV lane conversion.

For Option 2: This left-turn lane addition would improve the intersection's operations to an acceptable level (LOS D). Based on the Evergreen Development Policy, this improvement would satisfactorily mitigate the significant Project impact.

FINDINGS

The implementation of one of the mitigation measures would reduce the impact to a less than significant level. [**Less than Significant Level with Mitigation.**]

IMPACT

Impact TRAN -2 Capitol Expressway and Nieman Boulevard This intersection would operate at LOS C during the PM peak hour under background conditions, and the added Project trips would cause the level of service to degrade to LOS D. Based on the existing Evergreen Development Policy, this constitutes a significant Project impact.

MITIGATION MEASURE

MM TRAN-2: At the intersection of Capitol Expressway and Nieman Boulevard, the improvement required to restore traffic LOS to background conditions consists of adding a second westbound right-turn lane.

FACTS

Double-right turn lanes are considered a design which is less desirable, as they increase the likelihood of pedestrian conflicts. They are not supported by City-wide standards for intersections within the acceptable LOS threshold under the City Transportation Policy promoting safe access for all travel modes, including bicycle and pedestrian. The degradation in LOS due to the Project is not considered an impact under either Citywide or County CMP criteria, since LOS D is still an acceptable level of operation. Under the proposed Evergreen-East Hills Development Policy, this LOS would be considered acceptable, due to the improvement's creation of undesirable conflicts with other modes of travel. Under the proposed Policy, the resulting LOS would be considered acceptable, and therefore the Project impact at this intersection would be less than significant. **(Less than Significant Impact)**

FINDINGS

Under the proposed Policy, the LOS at this intersection would be considered acceptable. **[Less than Significant Impact.]**

IMPACT

Impact TRAN -3: Capitol Expressway and Quimby Road This intersection would operate at an acceptable level (LOS D) during the AM and at an unacceptable level (LOS F) during the PM peak hour under background conditions. The proposed Project would cause the intersection to degrade to an unacceptable level (LOS E) during the AM peak hour. During the PM peak hour, the intersection would continue to operate at LOS F and the proposed residential uses would add one or more new trips. Based on the Evergreen Development Policy, this constitutes a significant Project impact.

MITIGATION MEASURE

MM TRAN-3: The impact could be mitigated by adding exclusive northbound and eastbound right-turn lanes. Adding exclusive northbound and eastbound right-turn lanes could be completed within the existing right-of-way.

FACTS

The mitigation would improve the intersection level of service to an acceptable level of service (LOS D) during the AM peak hour. During the PM peak hour, the intersection would continue to operate at an unacceptable level of service (LOS F); however, the mitigation would reduce the average intersection delay to 112.2 seconds per vehicle, which is better than the calculated LOS under background conditions. Based on the Evergreen Development Policy, these improvements would satisfactorily mitigate the significant Project impact. The FEIR included and provided Project-level environmental review for this mitigation measure. **(Less than Significant Impact with Mitigation)**

FINDINGS

The implementation of the mitigation measure would reduce the impact to a less than significant level. **[Less than Significant Level with Mitigation.]**

IMPACT

Impact TRAN-4: Capitol Expressway and Story Road. This intersection would operate at LOS D during the AM peak hours and unacceptable LOS E during the PM peak hour under background conditions. The proposed residential uses would add one or more trips to this intersection during the PM peak hour. Based on the Evergreen Development Policy, this constitutes a significant Project impact. During the AM peak period, the Project would have a less than significant impact and the LOS would remain at an acceptable LOS D.

MITIGATION MEASURE

MM TRAN-4: Mitigation for this impact would consist of constructing a grade separation at this location.

FACTS

This mitigation was studied as part of the Capitol Corridor LRT Project and was determined to be infeasible due to substantial right-of-way and relocation impacts. [Source: Capitol Corridor Final EIR, VTA, 2005, which discussion is incorporated herein by this reference.] Since the Capitol Expressway/Story Road intersection is a CMP intersection, its projected LOS E is acceptable under CMP standards. Therefore, a CMP deficiency plan would not be required for the Project. Further explanation of why mitigation at this intersection is infeasible is provided in the certified FEIR, which had the same significant unavoidable impact conclusion. A statement of overriding considerations would be required for this intersection impact. **(Significant Unavoidable Impact)**

FINDINGS

There are no feasible measures to reduce the above transportation impact to a less than significant level. **[Significant Unavoidable Impact]**

IMPACT

Impact TRAN-5: Evergreen Commons and Tully Road This intersection would operate at LOS A during the AM peak hour under background conditions, and the added Project trips would cause the level of service to degrade to LOS B. Based on the existing Evergreen Development Policy, this constitutes a significant Project impact.

MITIGATION MEASURE

MM TRAN-5: At this intersection, the improvement necessary to restore traffic LOS to background conditions would require adding a second westbound left-turn lane into an existing shopping center on the south side of Tully Road. To construct this

improvement, right-of-way would be required to widen the Tully Road bridge over Lower Silver Creek, along the north side of Tully Road, and from the landscaping at the shopping center to the south. The right-of-way necessary to add a lane across the Tully Road bridge is estimated to be a 12-foot wide section, approximately 500 feet in length. While Lower Silver Creek is generally channelized through the project area, it is likely that the necessary widening would affect riparian vegetation and possibly wetlands. Furthermore, without obtaining landscaping area from the shopping center parking lot, the site is too shallow to extend the double left turn lanes far enough into the site to operate effectively.

FACTS

The necessary improvement would create unacceptable impacts to biological resources; therefore, the proposed revised Evergreen-East Hills Development Policy includes an exemption from this impact requiring mitigation. Under the proposed Policy, the resulting LOS would be considered acceptable, and therefore, the Project impact at this intersection would be less than significant. **(Less than Significant Impact)**

FINDINGS

Under the proposed Policy, the LOS at this intersection would be considered acceptable. **[Less than Significant Impact.]**

IMPACT

Impact TRAN-6: White Road and Quimby Road This intersection would operate at LOS D during the PM peak hour under background conditions, and the added Project trips would cause the level of service to degrade to LOS F. Based on the Evergreen Development Policy, this constitutes a significant Project impact.

MITIGATION MEASURE

MM TRAN-6: The level of service impact could be mitigated by adding a second northbound left-turn lane.

FACTS

The mitigation could be completed within the existing right-of-way and would improve the intersection level of service to LOS D. Based on the Evergreen Development Policy, this improvement would satisfactorily mitigate the significant Project impact. The certified FEIR included and provided Project-level environmental review for this mitigation measure. **(Less than Significant Impact with Mitigation)**

FINDINGS

The implementation of the mitigation measure would reduce the impact to a less than significant level. **[Less than Significant Level with Mitigation.]**

IMPACT

Impact TRAN-7: White Road and Stevens Lane This intersection would operate at LOS A during the PM peak hour under background conditions and the added Project trips would cause the level of service to degrade to LOS B. Based on the Evergreen Development Policy, this constitutes a significant Project impact.

MITIGATION MEASURE

MM TRAN-7: The level of service impact could be mitigated by adding a second westbound left-turn lane. Adding a second westbound left-turn lane would require the acquisition and demolition of four single-family homes along the north side of Stevens Lane. The mitigation would improve the intersection level of service to LOS A. Based on the Evergreen Development Policy, this improvement would satisfactorily mitigate the significant Project impact.

FACTS

This mitigation measure is considered infeasible, due to the demolition of four homes required to implement it, and LOS B is an acceptable level of intersection operation based on Citywide LOS criteria. For these reasons, the mitigation is considered infeasible and a statement of overriding considerations would be required. **[Significant Unavoidable Impact]**

FINDINGS

There are no feasible measures to reduce the above transportation impact to a less than significant level. **[Significant Unavoidable Impact]**

IMPACT

Impact TRAN-8: White Road and Aborn Road This intersection would operate at LOS D during the PM peak hour under background conditions and the added Project trips would cause the level of service to degrade to LOS E. Based on the Evergreen Development Policy, this constitutes a significant Project impact.

MITIGATION MEASURE

MM TRAN-8: The level of service impact could be mitigated by adding a second westbound left-turn lane.

FACTS

The mitigation could be built within the existing ROW and would improve the intersection level of service to LOS D. The mitigation would improve the intersection level of service to LOS D. Based on the Evergreen Development Policy, this improvement would satisfactorily mitigate the significant project impact. **(Less than Significant Impact with Mitigation)**

FINDINGS

The implementation of the mitigation measure would reduce the impact to a less than significant level. **[Less than Significant Level with Mitigation.]**

IMPACT

Impact TRAN-9: San Felipe Road and Yerba Buena Avenue (North) This intersection would operate at LOS A during the PM peak hour under background conditions and the added Project trips would cause the level of service to degrade to LOS B. Based on the existing Evergreen Development Policy, this constitutes a significant Project impact.

MITIGATION MEASURE

MM TRAN-9: At this intersection, the improvement required to restore traffic LOS to background conditions includes adding an exclusive southbound right-turn lane.

FACTS

Double right-turn lanes are considered a less desirable design, due to the potential for pedestrian conflicts. They are not supported by City standards for intersections within the acceptable LOS threshold under the City Transportation Policy for promoting safe access for all travel modes, including bicycle and pedestrian. This is particularly important at this location, proximate to two elementary schools. The degradation in LOS due to the Project is not considered an impact under the Citywide criteria, because LOS B is an acceptable level of intersection operation with more than enough traffic capacity. Under the proposed Evergreen-East Hills Development Policy, this LOS would be considered acceptable, due to the improvement's creation of undesirable conflicts with other modes of travel. Under the proposed Policy, the resulting LOS would be considered acceptable, and therefore, the Project impact at this intersection would be less than significant. **(Less than Significant Impact)**

FINDINGS

Under the proposed Policy, the Project LOS at this intersection would be considered acceptable. **[Less than Significant Impact.]**

IMPACT

Impact TRAN-10: San Felipe Road and Delta Road This intersection would operate at LOS B during the AM peak hour under background conditions, and the added Project trips would cause the level of service to degrade to LOS C. Based on the existing Evergreen Development Policy, this constitutes a significant Project impact.

MITIGATION MEASURE

MM TRAN-10: At this intersection, the improvement required to restore traffic LOS to background conditions includes either adding a second westbound left-turn lane or by adding a second southbound left-turn lane. Adding lanes to intersections can be

detrimental to pedestrian movement and City policies strive to find a balance between all modes of circulation and promote safe access for all travel modes, including bicycle and pedestrian. This is particularly important at this location, proximate to several schools.

FACTS

The degradation in LOS due to the Project is not considered an impact under the Citywide criteria, because LOS C is an acceptable level of intersection operation with adequate traffic capacity. Under the proposed Evergreen-East Hills Development Policy, this impact would be exempt from requiring mitigation, due to its creation of undesirable conflicts with other modes of travel. Under the proposed Policy, the Project LOS at this intersection would be acceptable. **(Less than Significant Impact)**

FINDINGS

Under the proposed Policy, the Project LOS at this intersection would be considered acceptable. **[Less than Significant Impact.]**

IMPACT

Impact TRAN-11: San Felipe Road and Yerba Buena Road (South) This intersection would operate at LOS E with a V/C of 1.136 during the AM peak hour under background conditions, and the added Project trips would cause the level of service to degrade to LOS F. Based on the Evergreen Development Policy, this constitutes a significant Project impact.

MITIGATION MEASURE

MM TRAN-11: The level of service impact could be mitigated by adding a second eastbound left-turn lane and a second southbound left-turn lane.

FACTS

The mitigation could be done within the existing ROW and would improve the intersection level of service to LOS E with a V/C of 1.076, which is better than that calculated under background conditions. Based on the Evergreen Development Policy, these improvements would satisfactorily mitigate the significant Project impact. The certified FEIR included and provided Project-level environmental review for this mitigation measure. **(Less than Significant Impact with Mitigation)**

FINDINGS

The implementation of the mitigation measure would reduce the impact to a less than significant level. **[Less than Significant Level with Mitigation.]**

IMPACT

Impact TRAN-12: Nieman Boulevard and Aborn Road This intersection would operate at LOS C during the PM peak hour under background conditions, and the added Project trips would cause the level of service to degrade to LOS D. Based on the Evergreen Development Policy, this constitutes a significant Project impact.

MITIGATION MEASURE

MM TRAN-12: The level of service impact could be mitigated by converting a southbound through lane into a second southbound left-turn lane.

FACTS

The mitigation could be done within the existing right-of-way and would improve the intersection level of service to LOS C. Based on the Evergreen Development Policy, this improvement would satisfactorily mitigate the significant Project impact. **(Less than Significant Impact with Mitigation)**

FINDINGS

The implementation of the mitigation measure would reduce the impact to a less than significant level. **[Less than Significant Level with Mitigation.]**

IMPACT

Impact TRAN-13: Nieman Boulevard and Yerba Buena Road This intersection would operate at LOS D during the AM peak hour under background conditions, and the added Project trips would cause the level of service to degrade to LOS E. Based on the Evergreen Development Policy, this constitutes a significant Project impact.

MITIGATION MEASURE

MM TRAN-13: The level of service impact could be mitigated by adding a second westbound left-turn lane.

FACTS

The mitigation could be done within the existing ROW and would improve the intersection level of service to LOS D. Based on the Evergreen Development Policy, this improvement would satisfactorily mitigate the significant Project impact. The certified FEIR included and provided Project-level environmental review for this mitigation measure. **(Less than Significant Impact with Mitigation)**

FINDINGS

The implementation of the mitigation measure would reduce the impact to a less than significant level. **[Less than Significant Level with Mitigation.]**

IMPACT

Impact TRAN-14: Capitol Expressway and Aborn Road This intersection would operate at an unacceptable level of service (LOS E) during the PM peak hour under

background conditions. The proposed Project residential uses would add one or more trips to this intersection. Based on the Evergreen Development Policy, this constitutes a significant Project impact.

MITIGATION MEASURE

MM TRAN-14: Project impact TRAN-14 would be mitigated to a less-than significant level through the implementation of either of the following two mitigation alternatives, both of which are proposed by the Project. The Policy will ensure implementation of one of the alternatives, but implementation of both measures is not required.

Option 1) The level of service impact could be mitigated by converting the HOV lanes on Capitol Expressway between U.S. 101 and Nieman Boulevard to "mixed-flow" lanes, meaning their use during weekday peak commute periods would no longer be restricted to vehicles with two or more occupants, and adding a second leftturn lane on northbound Capitol Expressway to westbound Aborn Road. Or

Option 2) The impact could be mitigated by constructing a third eastbound through lane on Aborn Road, while retaining the dedicated right turn lane. (The following discussion assumes Capitol Expressway is aligned north-south and Aborn Road is east-west). This improvement would require the acquisition of additional right of way along the south side (west leg) of Aborn Road, approximately five (5) feet deep. The resulting sidewalk width would be seven (7) feet and the landscape width would be reduced from 22 to 17 feet along the adjacent commercial frontage. It is possible that the landscape area could be replaced to the east by removing the existing pork-chop island. No structures or parking spaces would be affected by the right-of-way take. This improvement would also require signal modification, including removal of the porkchop islands on the southwest and southeast corners of the intersection.

The certified FEIR (Section 4.6) identifies tree removal mitigation and tree protection mitigation measures, as well as nesting raptor mitigation, which is included in the proposed Project to reduce any impacts from construction of the traffic improvements to a **less than significant level**. The certified FEIR (Section 4.5, MM 4.5-2) identifies mitigation measures for impacts to cultural resources that are included in the proposed Project and would apply to any ground-disturbing activities associated with the traffic improvements. These measures would reduce potential impacts to cultural resources to a **less than significant level**.

FACTS

For Option 1: This improvement could be constructed within the existing right-of-way, with signal modification at the northeast and southeast corners. Although the intersection would continue to operate at an unacceptable LOS E, the mitigation would reduce the average intersection delay to 58.3 seconds per vehicle, which is better than that calculated under background conditions. Based on the Evergreen Development Policy, this improvement would satisfactorily mitigate the significant Project impact.

[Note: Independently of this Project, the planned and approved Capitol Expressway LRT

extension will remove the HOV lanes on Capitol Expressway between I-680 and Nieman Boulevard.] Capitol Expressway is under the jurisdiction of the County of Santa Clara and it is not known at this time whether the County would allow the removal of the HOV lanes. For this reason, an alternate mitigation is proposed below, in the event the City is unable to implement the HOV lane conversion

For Option2: With this improvement, the intersection would continue to operate at an unacceptable level of service (LOS E); however, the average delay would be reduced to 58.6 seconds per vehicle, which is better than that calculated under background conditions.

FINDINGS

The implementation of one of the mitigation measures would reduce the impact to a less than significant level. **[Less than Significant Level with Mitigation.]**

IMPACTS

Project Impacts on Freeway Operations. In addition to the analysis of study intersections, the effect of Project traffic on nearby freeways was evaluated. The results of the CMP freeway level of service analysis are summarized in Table 2.1-11 in the Final SEIR. Traffic volumes on the study freeway segments under Project conditions were estimated by adding the results show that the Project would cause significant increases in traffic volumes (more than one percent of freeway capacity) on the following nine freeway segments:

1. US 101, northbound between Yerba Buena Road and Capitol Expressway – AM peak hour
2. US 101, northbound between Capitol Expressway and Tully Road – AM peak hour
3. US 101, southbound between Capitol Expressway and Tully Road – PM peak hour
4. US 101, southbound between Tully Road and Story Road – PM peak hour
5. US 101, southbound between Story Road and I-280 – PM peak hour
6. I-280, eastbound between SR 87 and Tenth Street – PM peak hour
7. I-280, westbound between SR 87 and Tenth Street – AM peak hour
8. I-280, westbound between Tenth Street and McLaughlin Avenue – AM peak hour
9. I-280, westbound between McLaughlin Avenue and US 101 – AM peak hour

MITIGATION MEASURE

Mitigation Measures for Project Freeway Impacts

Freeways are regional facilities whose capacity and operation are substantially greater than the demands of a single jurisdiction. Mitigation of freeway segment impacts would require widening of the freeways for the purpose of adding new through lanes, which would constitute a major capital improvement to state facilities.

FACTS:

The construction of additional through lanes on these impacted segments of U.S. 101 and I-280 would require additional right-of-way. The additional right-of-way would, in turn, result in the relocation of hundreds of residences and businesses that are immediately adjacent to these freeways. These significant impacts, along with the associated costs, make this mitigation infeasible. Additionally, such improvements are beyond the control of the City of San José as the freeways are under the jurisdiction of Caltrans. **(Significant Unavoidable Impact)**

FINDINGS

There are no feasible measures as described, to reduce the above transportation impact to a less than significant level. **[Significant Unavoidable Impact]**

B. NOISE

Impact

Traffic noise generated by future development that would be allowed under the proposed Evergreen Development Policy revision would not result in a significant long-term noise level increase. **(Less than Significant Impact)**

Mitigation Measure

No mitigation is required or proposed.

C. AIR QUALITY

IMPACT

IMPACT Air-1: The vehicle trips allowed by the proposed Evergreen Development Policy revision would generate regional pollutants in excess of BAAQMD significance thresholds. **(Significant Impact)**

MITIGATION MEASURE

Mitigation for Long-Term Air Quality Impacts

The following measures applied to the EEHVS Scenarios and would apply to development allowed by the proposed Evergreen Development Policy revision. These measures, which are included as part of the Project, would partially reduce long-term air quality impacts, but *not* to a less-than-significant level:

MM AIR-1.1 New bus stops shall be constructed at convenient locations with pedestrian access to the Project sites. Pullouts will be designed so that normal traffic flow on arterial roadways would not be impeded when buses are pulled over to serve riders. Improvements to infrastructure near existing bus stops, including bus pads, lighting, sidewalks, shelter pads, benches and shelters, shall also be constructed as budgets permit and as developments occur. Developers will be responsible for frontage improvements with individual project approvals. The City and VTA will coordinate on specific improvements as developments are proposed.

MM AIR-1.2 Bicycle amenities shall be provided on each of the Evergreen Development Policy revision pool sites. Each site will be reviewed and appropriate bicycle amenities shall be included. As appropriate, this shall include secure bicycle parking for office and retail employees, bicycle racks for retail customers and bike lane connections throughout each project site.

MM AIR-1.3 All buildings shall include outdoor electrical outlets so as to encourage the use of electrical landscape maintenance equipment.

MM AIR-1.4 All fireplaces to be installed in residences shall comply with the San José Wood-Burning Appliance Ordinance (#26133).

MM AIR-1.5 For non-residential development sites, shuttle bus service, where feasible, shall be provided to regional transit centers.

MM AIR-1.6 For non-residential development sites, all feasible and reasonable TDM measures such as ride-matching programs or guaranteed ride home programs shall be implemented. Future development allowed by the EDP revision would be required to implement all feasible and reasonable TDM measures, such as one or more of the following measures:

- Direct or Indirect Payments for Taking Alternate Modes
- Transit Fare Incentives such as Eco Pass and Commuter Checks
- Employee Carpool Matching
- Vanpool Program
- Preferentially Located Carpool Parking
- Bicycle Lockers and Bicycle Racks
- Showers and Clothes Lockers for Bicycle Commuters
- On-site or Walk-Accessible Employee Services (day-care, dry-cleaning, fitness, banking, convenience store)
- On-site or Walk-Accessible Restaurants
- Guaranteed Ride Home Program
- Car sharing
- Provision of preferentially located electric vehicle parking with charging stations at work and shopping locations
- New bus stops
- Improvements to existing bus stops
- All buildings shall include outdoor electrical outlets to encourage the use of electric landscape maintenance equipment
- All fireplaces installed in residences shall comply with San Jose Ordinance #26133
- For non-residential development, shuttle bus service, where feasible, shall be provided to regional transit centers.
- For non-residential development, feasible and reasonable TDM measures such as ride-matching programs or guaranteed ride home programs shall be implemented

FINDINGS:

Development allowed by the proposed Evergreen Development Policy revision will result in increases in regional pollutants (e.g., ROG, NOx, and PM10) that are in excess of BAAQMD thresholds. Measures to reduce this impact are proposed, but the impact cannot be reduced to a less-than- significant level. **(Significant Unavoidable Impact)**

II. CUMULATIVE IMPACTS

IMPACTS

The Project itself is the local cumulative development for the Evergreen Development Policy area, above and beyond the cumulative development that was already evaluated in the previously certified FEIR. There are no pending development applications that require traffic reports adjacent to the EEHDP boundaries. The proposed Project would not contribute to significant cumulative impacts of traffic or traffic-generated noise or air quality impacts beyond the Project's individual impacts in these areas. **(Less than Significant Cumulative Impact)**

Global Climate Change Impacts

The Project would result in an increase in greenhouse gas emissions, in terms of carbon dioxide equivalents, but through its consistency with many of the City's Green Vision policies and the state recommended CHG reduction measures, it is not expected to impede local, regional or statewide efforts to reduce overall greenhouse gas emissions to 1990 levels. **(Less than Significant Cumulative Impact)**

The Project would result in an increase in greenhouse gas emissions; however, the provision of infill development within an urbanized area, is consistent with many of the City's Green Vision goals, and is not expected to make a cumulatively considerable contribution to a significant cumulative global climate change impact. **(Less than Significant Cumulative Impact)**

MITIGATION MEASURE

All future development allowed by the Project would be subject to the City policies and regulations in place at the time they are proposed, including policies related to recycled water use, stormwater quality, alternative energy, and other "green" policies currently being considered by the City.

III. ALTERNATIVES TO THE PROPOSED PROJECT

A. "NO PROJECT" ALTERNATIVE

1. Description

The No Project Alternative would not allow the development associated with the proposed Evergreen Development Policy revision traffic allocation. This means that little to no additional development would be allowed in the Evergreen • East Hills area area

beyond what currently exists or is already approved. The largest approved, but not constructed development in the Evergreen East Hills area is 4.66 million square feet of campus industrial development on the Legacy and Berg Sites. Additionally, the Arcadia property could be developed with 217 dwelling units based on current entitlements.

The No Project Alternative was evaluated as Scenario I in the previously certified FEIR, and is reflected in the Background Conditions scenario in this Final SEIR traffic impact analysis. The intersection levels of service under background (No Project) conditions are shown in Table 2.1-7 of the Final SEIR. The No Project Alternative would avoid all the impacts of the proposed Project, because it would not allow *any* additional development to occur in the Evergreen East Hills area. The No Project Alternative would not meet any of the objectives of the Project to increase commercial and office development in the area to reduce vehicle trips leaving the area, and it would not allow any additional residential development on vacant, underutilized and infill parcels.

2. Comparison to Environmental Impacts

The No Project Alternative is reflected in the Background Conditions scenario in this Final SEIR traffic impact analysis, Section 2.1, *Transportation*. The intersection levels of service under background (No Project) conditions are shown in Table 2.1-7 of the Final SEIR. The No Project Alternative would avoid all the impacts of the proposed Project, because it would not allow *any* additional development to occur in the Evergreen East Hills area. The No Project Alternative would not meet any of the objectives of the Project to increase commercial and office development in the area to reduce vehicle trips leaving the area, and it would not allow any additional residential development on vacant, underutilized and infill parcels.

3. Finding

Although all impacts would be reduced, development under the No Project alternative would not meet any of the objectives of the Project to increase commercial and office development in the area to reduce vehicle trips leaving the area, and it would not allow any additional residential development on vacant, underutilized and infill parcels.

B. REDUCED SCALE ALTERNATIVE

1. Description

A Reduced Scale Alternative was considered to avoid the proposed Project's significant unavoidable freeway impacts, and the significant unavoidable impact to the intersection of Capitol Expressway and Story Road. The proposed traffic allocation would need to be reduced to 60% of its current size, in order to avoid the significant freeway impacts; and the Project would need to be reduced to 55% of its current size, in order to avoid the significant unavoidable traffic impact to the intersection of Capitol Expressway and Story Road. This level of reduction would result in an alternative traffic allocation for 275 dwelling units, 275,000 square feet of commercial development, and 41,250 square feet of office space. The Reduced Scale Alternative would reduce, but not avoid, the Project's significant regional air quality impact.

2. Comparison to Environmental Impacts

As noted above, the Reduced Scale Alternative was sized to avoid the Project's significant unavoidable freeway segment impacts, and the impact at the intersection of Capitol Expressway and Story Road. It is estimated that the Reduced Scale Alternative would generate approximately 26,628 average daily trips (ADT). This ADT is 55% of the Project's ADT and is 67% of the Background (No Project) scenario ADT, which includes the already approved 4.66 million square feet of campus industrial uses and 217 dwelling units. The Reduced Scale Alternative ADT is estimated to generate approximately 162 pounds per day Reactive Organic Gases (ROG), 163 pounds per day nitrogen oxides, and 334 pounds per day of particulate matter (PM10). The BAAQMD threshold of significance for each of these regional pollutants is 80 pounds per day. The Reduced Scale Alternative, therefore, would reduce, but not avoid, the Project's significant regional air quality impact.

3. Finding

As described above, although the impacts to freeways and Capitol/Story would be less than significant and regional air quality impact would be reduced, development of the Project under this alternative would not avoid or reduce to a less than significant level any of the Project's other impacts. The level of development allowed by the Reduced Scale Alternative does not fully meet the Project objectives established by the City Council.

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The CEQA Guidelines state that an environmental impact report shall identify an environmentally superior alternative. Based on the above discussions, the environmentally superior alternative is the Reduced Scale Alternative, because it would avoid the Project's significant unavoidable freeway segment impacts, as well as the significant impact to the intersection of Capitol Expressway and Story Road. The Reduced Scale Alternative would reduce, but not avoid, the Project's significant unavoidable regional air quality impact.

The level of development allowed by the Reduced Scale Alternative does not fully meet the Project objectives established by the City Council.

IV. MITIGATION MONITORING AND REPORTING PROGRAM

CEQA Guidelines Section 15097(b) states, "Where the project at issue is the adoption of a general plan, specific plan, community plan or other plan-level document (zoning, ordinance, regulation, policy), the monitoring plan shall apply to policies and any other portion of the plan that is a mitigation measure or adopted alternative. The monitoring plan may consist of policies included in plan-level documents."

Attached to this Resolution and incorporated herein as **EXHIBIT "A"**, and adopted as a part of this Resolution, is the Mitigation Monitoring and Reporting Program for the Project. The Program identifies impacts of the Project, corresponding mitigation,

designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

V. STATEMENT OF OVERRIDING CONSIDERATIONS

The City Council of the City of San José adopts and makes the following Statement of Overriding Considerations regarding the significant, unavoidable impacts of the Project and the anticipated benefits of the Project.

A. SIGNIFICANT UNAVOIDABLE IMPACTS

With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the Project will result in significant unmitigated impacts to transportation and air quality as disclosed in the FEIR together with the Final SEIR prepared for this Project. The impacts would not be reduced to a less than significant level by feasible changes or alterations to the Project.

B. OVERRIDING CONSIDERATIONS

After review of the entire administrative record, including - but not limited to - the FEIR together with Final SEIR and the oral and written testimony and evidence presented at public hearings, the City Council finds that specific economic, legal, social, technological and other anticipated benefits of the Project outweigh the unavoidable adverse environmental impacts, and therefore justify the approval of this Project. The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible (including the incorporation of feasible mitigation measures), and finds that the remaining significant, unmitigated or unavoidable impacts of the Project described above are acceptable because the benefits of the Project outweigh them. The City Council finds that each of the overriding considerations expressed as benefits and set forth below constitutes a separate and independent ground for such a finding. The Project will result in the following substantial benefits, which constitute the specific economic, legal, social, technological and other considerations that justify the approval of the Project:

C. BENEFITS OF THE PROJECT

1. There is very limited development capacity left under the existing Evergreen Development Policy. Specifically, there are only 446 units of existing residential allocation which have not been built in the existing Evergreen Development Policy. There are many property owners who have a desire to develop their properties consistent with the General Plan but have no traffic allocations and would not be able to develop under the existing policy. This proposed Project will provide opportunities for development consistent with the General Plan on vacant, underutilized and infill parcels.
2. Given that the proposed Policy will also allow additional capacity for 500,000 square feet of commercial retail and 75,000 square feet of office development, this will help to correct the jobs/housing imbalance in the Evergreen-East Hills area.
3. The addition of commercial and office uses in the Evergreen-East Hills area allows these services to be accessible to Evergreen-East Hills residents.
4. The Project will create new job opportunities including near-term jobs in construction.
5. The Project will further San Jose 2020 General Plan's Growth Management Major Strategy. The proposed update to the Evergreen Development Policy allowing additional residential, commercial, and retail development in the area would be consistent with this Strategy in that it allows for additional development within an already developed portion of the City.

///

///

///

///

///

///

///

EXHIBIT "A"
To EIR Findings Resolution

MITIGATION MONITORING AND REPORTING PROGRAM

Revisions of the Evergreen Development Policy
PP08-121



December 2008

PREFACE

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

On December 3, 2008, the Environmental Impact Report for the project was certified by the Planning Commission. The Environmental Impact Report concluded that the implementation of the project could result in significant effects on the environment, and where feasible, mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring and Reporting Program outlines these measures and how, when, and by whom they will be implemented.



Department of Planning, Building and Code Enforcement
JOSEPH HORWEDEL, DIRECTOR

MITIGATION MONITORING AND REPORTING PROGRAM
 For Revisions of the Evergreen Development Policy
 (File no.: PP08-121)

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|--|---|--|--|--|
| Transportation and Traffic | | | | |
| <p>Capitol Expressway and Silver Creek Road. This intersection would operate at an unacceptable level of service (LOS E) during the AM and PM peak hours under background conditions. The proposed residential uses would add one or more trips to this intersection. Based on the Evergreen Development Policy, this constitutes a significant project impact.</p> | <p>Project impact TRAN-1 would be mitigated to a less-than-significant level through the implementation of either of the following two mitigation alternatives, both of which are proposed by the project. The Policy will insure implementation of one of the alternatives, but not both.</p> <p>1) The level of service impact could be mitigated by converting the HOV lanes on Capitol Expressway between U.S. 101 and Nieman Boulevard to "mixed-flow" lanes, meaning their use during weekday peak commute periods would no longer be restricted to vehicles with two or more occupants. The mitigation would improve the intersection's operations to an acceptable level (LOS D). Based on the Evergreen Development Policy, this improvement would satisfactorily mitigate the significant project impact. [Note: Independently of this project, the planned and approved Capitol Expressway LRT extension will remove the HOV lanes on Capitol Expressway between I-680 and Nieman Boulevard.] Capitol Expressway is under the jurisdiction of the County of Santa Clara and it is not known at this time whether the County would allow the removal of the HOV lanes. For this reason, an alternate mitigation is proposed below, in the event the City is unable to implement the HOV lane conversion.</p> <p>OR</p> <p>2) The impact at this intersection could be satisfactorily mitigated by constructing a third left-turn lane on the</p> | <p>Every new development will pay the applicable traffic impact fee prior to issuance of Public Works clearance.</p> | <p>Payment of traffic impact fees.</p> | <p>Director of Planning, Building and Code Enforcement, Department of Transportation</p> |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|-----------------------------------|---|---|----------------------|-----------------------------|
| Transportation and Traffic | | | | |
| | <p>westbound Silver Creek Road approach to southbound Capitol. (The following discussion assumes Capitol is aligned north-south and Silver Creek is east-west) This improvement would require the acquisition of right of way along the southwest side of Silver Creek Road, approximately five (5) feet wide and 300 linear feet. The resulting sidewalk width will be ten feet (10') and the landscaping would be reduced in width from 25 to 20 feet along the commercial frontage in the southwest quadrant. This improvement will also require the acquisition of commercial property along the southeast side of Silver Creek that would be 5 feet wide for 400 linear feet. In the southeast quadrant, the resulting sidewalk would be 10 feet wide and landscape width would be reduced from 20 to 15 feet along the commercial frontage. No structures or parking spaces would be affected by the right-of-way take. Construction of this improvement would also require signal modification, including removing the porkchop islands at the northwest and southeast corners and relocating the traffic signal pole at the southwest corner. This left-turn lane addition would improve the intersection's operations to an acceptable level (LOS D). Based on the Evergreen Development Policy, this improvement would satisfactorily mitigate the significant project impact.</p> <p>The certified EEHVS EIR (Section 4.6) identifies tree removal mitigation and tree protection mitigation measures, as well as nesting raptor mitigation, which is included in the proposed project to reduce any impacts from construction of the traffic improvements to a less than significant level. The certified EEHVS EIR (Section 4.5, MM 4.5-2) identifies mitigations measures for impacts to cultural resources that are included in the proposed project and would apply to any ground-disturbing activities associated with the traffic improvements. These measures would reduce potential impacts to cultural resources to a less than significant level.</p> | | | |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation | | | | | | | | | | | | | | | | | | | | | | | |
|--------------------------------|--|---|----------------------------|---------------------------------------|--|---------------------------------------|--------|------------|---------|----------------------|-----|-----|-----|-------------|----------------|-----|-----|------|-------------|---------------------|-----|-----|------|---------------------|--|--|--|
| | <p style="text-align: center;">Transportation and Traffic</p> <p>Mitigation Measure MM 4.6. MM 4.6-1 The site design and PD Permit approval, as well as any public improvements, shall incorporate preservation of existing trees to the maximum extent practicable, to the satisfaction of the City's Director of Planning, Building, and Code Enforcement (PBCE). MM 4.6-2 In locations where preservation of existing trees is not feasible due to site constraints, trees to be removed by the project shall be replaced at the ratios shown below.</p> <table border="1" data-bbox="511 556 998 1165"> <thead> <tr> <th rowspan="2">Diameter of Tree to be Removed</th> <th colspan="3">Type of Tree to be Removed</th> <th rowspan="2">Minimum Size of Each Replacement Tree</th> </tr> <tr> <th>Native</th> <th>Non-Native</th> <th>Orchard</th> </tr> </thead> <tbody> <tr> <td>18 inches or greater</td> <td>5:1</td> <td>4:1</td> <td>3:1</td> <td>24-inch box</td> </tr> <tr> <td>12 - 18 inches</td> <td>3:1</td> <td>2:1</td> <td>none</td> <td>24-inch box</td> </tr> <tr> <td>less than 12 inches</td> <td>1:1</td> <td>1:1</td> <td>none</td> <td>15-gallon container</td> </tr> </tbody> </table> <p>x:x = tree replacement to tree loss ratio</p> <p>MM 4.6-3 The species and exact number of trees to be planted on the site during the construction phase shall be determined in consultation with the City Arborist and to the satisfaction of the Director of the Department of PBCE. MM 4.6-4 In the event the developed portion of the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented: • An alternative site(s) shall be identified for additional tree planting. Alternative sites may include local parks or</p> | Diameter of Tree to be Removed | Type of Tree to be Removed | | | Minimum Size of Each Replacement Tree | Native | Non-Native | Orchard | 18 inches or greater | 5:1 | 4:1 | 3:1 | 24-inch box | 12 - 18 inches | 3:1 | 2:1 | none | 24-inch box | less than 12 inches | 1:1 | 1:1 | none | 15-gallon container | | | |
| Diameter of Tree to be Removed | Type of Tree to be Removed | | | Minimum Size of Each Replacement Tree | | | | | | | | | | | | | | | | | | | | | | | |
| | Native | Non-Native | Orchard | | | | | | | | | | | | | | | | | | | | | | | | |
| 18 inches or greater | 5:1 | 4:1 | 3:1 | 24-inch box | | | | | | | | | | | | | | | | | | | | | | | |
| 12 - 18 inches | 3:1 | 2:1 | none | 24-inch box | | | | | | | | | | | | | | | | | | | | | | | |
| less than 12 inches | 1:1 | 1:1 | none | 15-gallon container | | | | | | | | | | | | | | | | | | | | | | | |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|-----------------------------------|--|---|----------------------|-----------------------------|
| Transportation and Traffic | | | | |
| | <p>schools, or installation of trees on adjacent properties for screening purposes, to the satisfaction of the Director of PBCE.</p> <ul style="list-style-type: none"> A donation equal to the replacement/installation cost per replacement tree shall be made to <i>Our City Forest</i> for in-lieu off-site tree planting in the community. These funds shall be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the City's Environmental Principal Planner, Department of PBCE prior to removal of the trees. <p>Tree Protection Measures: The following measures will protect trees to be preserved from harm that could occur during the construction phase:</p> <p>MM 4.6-5 The applicant shall retain a consultant arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection.</p> <p>MM 4.6-6 All trees to be retained shall be fenced to completely enclose the tree protection zone prior to demolition, grubbing, or grading. Fences shall be as approved by the consulting arborist and are to remain until all grading and construction is completed.</p> <p>MM 4.6-7 Trees to be preserved shall be pruned to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.</p> <p>MM 4.6-8 No grading, construction, demolition or other work shall occur within the tree protection zone. Any modifications must be approved and monitored by the consulting arborist.</p> <p>MM 4.6-9 Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.</p> <p>MM 4.6-10 Supplemental irrigation shall be applied as determined by the consulting arborist.</p> <p>MM 4.6-11 If injury should occur to any tree during</p> | | | |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|-----------------------------------|---|---|----------------------|-----------------------------|
| Transportation and Traffic | | | | |
| | <p>construction, it shall be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied.</p> <p>MM 4.6-12 No excess soil, chemicals, debris, equipment, or other materials shall be dumped or stored within the tree protection zone.</p> <p>MM 4.6-13 Any additional tree pruning needed for clearance during construction must be performed or supervised by an arborist.</p> <p>MM 4.6-14 As trees withdraw water from the soil, expansive soils may shrink within the root area. Therefore, foundations, footings and pavements on expansive soils near the trees shall be designed to withstand differential displacement.</p> <p>MM 4.6-15 A final report on tree protection measures, and the health of the protected trees, shall be submitted to the Environmental Principal Planner, Department of PBCE after grading and construction have been completed.</p> <p>Nesting Raptor Mitigation: The following measures will avoid potentially significant impacts to nesting raptors during the construction phase:</p> <p>MM 4.6-16 A qualified ornithologist shall conduct a protocol-level, pre-construction survey for nesting raptors onsite not more than 30 days prior to the onset of ground disturbance or tree removal, if disturbance is to occur during the breeding season (Feb. 1 to Aug. 31).</p> <p>MM 4.6-17 If a nesting raptor is detected, an appropriate construction buffer shall be established. Actual size of buffer will be determined by the ornithologist and will depend on species, topography, and type of construction activity that would occur in the vicinity of the nest but would be a minimum of 250 feet.</p> <p>MM 4.6-18 A report summarizing the results of the pre-construction survey and subsequent efforts to protect nesting raptors (if found to be present) shall be submitted to the Environmental Principal Planner, Department of PBCE.</p> | | | |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|--|---|---|--|--|
| Transportation and Traffic | | | | |
| <p>Capitol Expressway and Quimby Road This intersection would operate at an acceptable level (LOS D) during the AM and at an unacceptable level (LOS F) during the PM peak hour under background conditions. The proposed project would cause the intersection to degrade to an unacceptable level (LOS E) during the AM peak hour. During the PM peak hour, the intersection would continue to operate at LOS F and the proposed residential uses would add one or more new trips. Based on the Evergreen Development Policy, this constitutes a significant project impact.</p> | <p>Mitigation Measure MM 4.5-2: Cultural Resources During construction, ground-disturbing activities shall be monitored by a qualified archaeologist. If suspected human bone or important archaeological features are encountered, work in the immediate area of the discovery shall be halted. The finds shall be exposed, recorded, and removed by an archaeologist. Any human remains encountered shall be handled in accordance with State law and any applicable Native American agreements. All human remains and burial-associated artifacts shall be repatriated in a location that will not be subject to further disturbance. Using professionally-accepted methods, all archaeological resources shall be catalogued and analyzed and a report summarizing such work shall be prepared and provided to the City's Director of Planning, Building, & Code Enforcement.</p> | <p>Every new development will pay the applicable traffic impact fee prior to issuance of Public Works clearance.</p> | <p>Payment of traffic impact fees.</p> | <p>Director of Planning, Building and Code Enforcement, Department of Transportation</p> |
| <p>White Road and Quimby Road This intersection would operate at LOS D</p> | <p>The impact could be mitigated by adding exclusive northbound and eastbound right-turn lanes. Adding exclusive northbound and eastbound right-turn lanes could be completed within the existing right-of-way. The mitigation would improve the intersection level of service to an acceptable level of service (LOS D) during the AM peak hour. During the PM peak hour, the intersection would continue to operate at an unacceptable level of service (LOS F); however, the mitigation would reduce the average intersection delay to 112.2 seconds per vehicle, which is better than the calculated LOS under background conditions. Based on the Evergreen Development Policy, these improvements would satisfactorily mitigate the significant project impact. The certified FEIR included and provided project-level environmental review for this mitigation measure.</p> | <p>The level of service impact could be mitigated by adding a second northbound left-turn lane. The mitigation could be</p> | <p>Payment of traffic impact fees.</p> | <p>Director of</p> |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|--|---|--|--|--|
| Transportation and Traffic | | | | |
| <p>during the PM peak hour under background conditions, and the added project trips would cause the level of service to degrade to LOS F. Based on the Evergreen Development Policy, this constitutes a significant project impact.</p> | <p>completed within the existing right-of-way and would improve the intersection level of service to LOS D. Based on the Evergreen Development Policy, this improvement would satisfactorily mitigate the significant project impact. The certified FEIR included and provided project-level environmental review for this mitigation measure.</p> | <p>development will pay the applicable traffic impact fee prior to issuance of Public Works clearance.</p> | | <p>Planning, Building and Code Enforcement, Department of Transportation</p> |
| <p>White Road and Aborn Road This intersection would operate at LOS D during the PM peak hour under background conditions and the added project trips would cause the level of service to degrade to LOS E. Based on the Evergreen Development Policy, this constitutes a significant project impact.</p> | <p>The level of service impact could be mitigated by adding a second westbound left-turn lane. The mitigation could be done within the existing ROW and would improve the intersection level of service to LOS D. The mitigation would improve the intersection level of service to LOS D. Based on the Evergreen Development Policy, this improvement would satisfactorily mitigate the significant project impact.</p> | <p>Every new development will pay the applicable traffic impact fee prior to issuance of Public Works clearance.</p> | <p>Payment of traffic impact fees.</p> | <p>Director of Planning, Building and Code Enforcement, Department of Transportation</p> |
| <p>San Felipe Road and Yerba Buena Road (South) This intersection would operate at LOS E with a V/C of 1.136 during the AM peak hour under background conditions, and the added project trips would cause the level of service to degrade to LOS F. Based on the Evergreen Development Policy, this constitutes a significant project impact.</p> | <p>The level of service impact could be mitigated by adding a second eastbound left-turn lane and a second southbound left-turn lane. The mitigation could be done within the existing ROW and would improve the intersection level of service to LOS E with a V/C of 1.076, which is better than that calculated under background conditions. Based on the Evergreen Development Policy, these improvements would satisfactorily mitigate the significant project impact. The certified FEIR included and provided project-level environmental review for this mitigation measure.</p> | <p>Every new development will pay the applicable traffic impact fee prior to issuance of Public Works clearance.</p> | <p>Payment of traffic impact fees.</p> | <p>Director of Planning, Building and Code Enforcement, Department of Transportation</p> |
| <p>Nieman Boulevard and Aborn Road</p> | <p>The level of service impact could be mitigated by</p> | | | |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|--|---|--|--|--|
| Transportation and Traffic | | | | |
| <p>This intersection would operate at LOS C during the PM peak hour under background conditions, and the added project trips would cause the level of service to degrade to LOS D. Based on the Evergreen Development Policy, this constitutes a significant project impact.</p> | <p>converting a southbound through lane into a second southbound left-turn lane. The mitigation could be done within the existing right-of-way and would improve the intersection level of service to LOS C. Based on the Evergreen Development Policy, this improvement would satisfactorily mitigate the significant project impact.</p> | <p>Every new development will pay the applicable traffic impact fee prior to issuance of Public Works clearance.</p> | <p>Payment of traffic impact fees.</p> | <p>Director of Planning, Building and Code Enforcement, Department of Transportation</p> |
| <p>Nieman Boulevard and Yerba Buena Road This intersection would operate at LOS D during the AM peak hour under background conditions, and the added project trips would cause the level of service to degrade to LOS E. Based on the Evergreen Development Policy, this constitutes a significant project impact.</p> | <p>The level of service impact could be mitigated by adding a second westbound left-turn lane. The mitigation could be done within the existing ROW and would improve the intersection level of service to LOS D. Based on the Evergreen Development Policy, this improvement would satisfactorily mitigate the significant project impact. The certified FEIR included and provided project-level environmental review for this mitigation measure.</p> | <p>Every new development will pay the applicable traffic impact fee prior to issuance of Public Works clearance.</p> | <p>Payment of traffic impact fees.</p> | <p>Director of Planning, Building and Code Enforcement, Department of Transportation</p> |
| <p>Capitol Expressway and Aborn Road This intersection would operate at an unacceptable level of service (LOS E) during the PM peak hour under background conditions. The proposed residential uses would add one or more trips to this intersection. Based on the Evergreen Development Policy, this constitutes a significant project impact.</p> | <p>Project impact would be mitigated to a less-than significant level through the implementation of either of the following two mitigation alternatives, both of which are proposed by the project.</p> <p>1) The level of service impact could be mitigated by converting the HOV lanes on Capitol Expressway between U.S. 101 and Nieman Boulevard to "mixed-flow" lanes, meaning their use during weekday peak commute periods would no longer be restricted to vehicles with two or more occupants, and adding a second leftturn lane on northbound Capitol Expressway to westbound Aborn Road. This improvement could be constructed within the existing right-of-way, with signal modification at the northeast and southeast corners. Although the intersection would continue to operate at an unacceptable LOS E, the mitigation would reduce the average intersection delay to 58.3 seconds per vehicle, which is better than that calculated under background conditions. Based on the Evergreen Development Policy,</p> | <p>Every new development will pay the applicable traffic impact fee prior to issuance of Public Works clearance.</p> | <p>Payment of traffic impact fees.</p> | <p>Director of Planning, Building and Code Enforcement, Department of Transportation</p> |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|-----------------------------------|--|---|----------------------|-----------------------------|
| Transportation and Traffic | | | | |
| | <p>this improvement would satisfactorily mitigate the significant project impact. [Note: Independently of this project, the planned and approved Capitol Expressway LRT extension will remove the HOV lanes on Capitol Expressway between I-680 and Nieman Boulevard.] Capitol Expressway is under the jurisdiction of the County of Santa Clara and it is not known at this time whether the County would allow the removal of the HOV lanes. For this reason, an alternate mitigation is proposed below, in the event the City is unable to implement the HOV lane conversion. Or</p> <p>2) The impact could be mitigated by constructing a third eastbound through lane on Aborn Road, while retaining the dedicated right turn lane. (The following discussion assumes Capitol is aligned north-south and Aborn is east-west). This improvement would require the acquisition of additional right of way along the south side (west leg) of Aborn Road, approximately five (5) feet deep. The resulting sidewalk width would be seven (7) feet and the landscape width would be reduced from 22 to 17 feet along the adjacent commercial frontage. It is possible that the landscape area could be replaced to the east by removing the existing pork-chop island. No structures or parking spaces would be affected by the right-of-way take. This improvement would also require signal modification, including removal of the porkchop islands on the southwest and southeast corners of the intersection. With this improvement, the intersection would continue to operate at an unacceptable level of service (LOS E); however, the average delay would be reduced to 58.6 seconds per vehicle, which is better than that calculated under background conditions.</p> <p>The certified EEHVS EIR (Section 4.6) identifies tree removal mitigation and tree protection mitigation measures, as well as nesting raptor mitigation, which is included in the proposed project to reduce any impacts from construction of the traffic improvements to a less</p> | | | |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation | | | | | | | | | | | | | | | | | | | | | | | |
|-----------------------------------|---|---|----------------------------|---------------------------------------|--|---------------------------------------|--------|------------|---------|----------------------|-----|-----|-----|-------------|----------------|-----|-----|------|-------------|---------------------|-----|-----|------|---------------------|--|--|--|
| Transportation and Traffic | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | <p>than significant level. The certified EHVS EIR (Section 4.5; MM 4.5-2) identifies mitigations measures for impacts to cultural resources that are included in the proposed project and would apply to any ground-disturbing activities associated with the traffic improvements. These measures would reduce potential impacts to cultural resources to a less than significant level.</p> <p>Mitigation Measure MM 4.6.</p> <p>MM 4.6-1 The site design and PD Permit approval, as well as any public improvements, shall incorporate preservation of existing trees to the maximum extent practicable, to the satisfaction of the City's Director of Planning, Building, and Code Enforcement (PBCE).</p> <p>MM 4.6-2 In locations where preservation of existing trees is not feasible due to site constraints, trees to be removed by the project shall be replaced at the ratios shown below.</p> <table border="1" data-bbox="300 556 787 1155"> <thead> <tr> <th rowspan="2">Diameter of Tree to be Removed</th> <th colspan="3">Type of Tree to be Removed</th> <th rowspan="2">Minimum Size of Each Replacement Tree</th> </tr> <tr> <th>Native</th> <th>Non-Native</th> <th>Orchard</th> </tr> </thead> <tbody> <tr> <td>18 inches or greater</td> <td>5:1</td> <td>4:1</td> <td>3:1</td> <td>24-inch box</td> </tr> <tr> <td>12 - 18 inches</td> <td>3:1</td> <td>2:1</td> <td>none</td> <td>24-inch box</td> </tr> <tr> <td>less than 12 inches</td> <td>1:1</td> <td>1:1</td> <td>none</td> <td>15-gallon container</td> </tr> </tbody> </table> <p>x:x = tree replacement to tree loss ratio</p> <p>MM 4.6-3 The species and exact number of trees to be planted on the site during the construction phase shall be determined in consultation with the City Arborist and to the satisfaction of the Director of the Department of PBCE.</p> | Diameter of Tree to be Removed | Type of Tree to be Removed | | | Minimum Size of Each Replacement Tree | Native | Non-Native | Orchard | 18 inches or greater | 5:1 | 4:1 | 3:1 | 24-inch box | 12 - 18 inches | 3:1 | 2:1 | none | 24-inch box | less than 12 inches | 1:1 | 1:1 | none | 15-gallon container | | | |
| Diameter of Tree to be Removed | Type of Tree to be Removed | | | Minimum Size of Each Replacement Tree | | | | | | | | | | | | | | | | | | | | | | | |
| | Native | Non-Native | Orchard | | | | | | | | | | | | | | | | | | | | | | | | |
| 18 inches or greater | 5:1 | 4:1 | 3:1 | 24-inch box | | | | | | | | | | | | | | | | | | | | | | | |
| 12 - 18 inches | 3:1 | 2:1 | none | 24-inch box | | | | | | | | | | | | | | | | | | | | | | | |
| less than 12 inches | 1:1 | 1:1 | none | 15-gallon container | | | | | | | | | | | | | | | | | | | | | | | |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|-----------------------------------|---|---|----------------------|-----------------------------|
| Transportation and Traffic | | | | |
| | <p>MM 4.6-4 In the event the developed portion of the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented:</p> <ul style="list-style-type: none"> • An alternative site(s) shall be identified for additional tree planting. Alternative sites may include local parks or schools, or installation of trees on adjacent properties for screening purposes, to the satisfaction of the Director of PBCE. • A donation equal to the replacement/installation cost per replacement tree shall be made to <i>Our City Forest</i> for in-lieu off-site tree planting in the community. These funds shall be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the City's Environmental Principal Planner, Department of PBCE prior to removal of the trees. <p>Tree Protection Measures: The following measures will protect trees to be preserved from harm that could occur during the construction phase:</p> <p>MM 4.6-5 The applicant shall retain a consultant arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection.</p> <p>MM 4.6-6 All trees to be retained shall be fenced to completely enclose the tree protection zone prior to demolition, grubbing, or grading. Fences shall be as approved by the consulting arborist and are to remain until all grading and construction is completed.</p> <p>MM 4.6-7 Trees to be preserved shall be pruned to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.</p> <p>MM 4.6-8 No grading, construction, demolition or other work shall occur within the tree protection zone. Any modifications must be approved and monitored by the consulting arborist.</p> | | | |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|-----------------------------------|--|---|----------------------|-----------------------------|
| Transportation and Traffic | | | | |
| | <p>MM 4.6-9 Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.</p> <p>MM 4.6-10 Supplemental irrigation shall be applied as determined by the consulting arborist.</p> <p>MM 4.6-11 If injury should occur to any tree during construction, it shall be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied.</p> <p>MM 4.6-12 No excess soil, chemicals, debris, equipment, or other materials shall be dumped or stored within the tree protection zone.</p> <p>MM 4.6-13 Any additional tree pruning needed for clearance during construction must be performed or supervised by an arborist.</p> <p>MM 4.6-14 As trees withdraw water from the soil, expansive soils may shrink within the root area. Therefore, foundations, footings and pavements on expansive soils near the trees shall be designed to withstand differential displacement.</p> <p>MM 4.6-15 A final report on tree protection measures, and the health of the protected trees, shall be submitted to the Environmental Principal Planner, Department of PBCE after grading and construction have been completed.</p> <p>Nesting Raptor Mitigation: The following measures will avoid potentially significant impacts to nesting raptors during the construction phase:</p> <p>MM 4.6-16 A qualified ornithologist shall conduct a protocol-level, pre-construction survey for nesting raptors onsite not more than 30 days prior to the onset of ground disturbance or tree removal, if disturbance is to occur during the breeding season (Feb. 1 to Aug. 31).</p> <p>MM 4.6-17 If a nesting raptor is detected, an appropriate construction buffer shall be established. Actual size of buffer will be determined by the ornithologist and will depend on species, topography, and type of construction activity that would occur in the vicinity of the nest but would be a minimum of 250 feet.</p> | | | |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|-----------------------------------|---|---|----------------------|-----------------------------|
| Transportation and Traffic | | | | |
| | <p>MM 4.6-18 A report summarizing the results of the pre-construction survey and subsequent efforts to protect nesting raptors (if found to be present) shall be submitted to the Environmental Principal Planner, Department of PBCE.</p> <p>Mitigation Measure MM 4.5-2: Cultural Resources During construction, ground-disturbing activities shall be monitored by a qualified archaeologist. If suspected human bone or important archaeological features are encountered, work in the immediate area of the discovery shall be halted. The finds shall be exposed, recorded, and removed by an archaeologist. Any human remains encountered shall be handled in accordance with State law and any applicable Native American agreements. All human remains and burial-associated artifacts shall be repatriated in a location that will not be subject to further disturbance. Using professionally-accepted methods, all archaeological resources shall be catalogued and analyzed and a report summarizing such work shall be prepared and provided to the City's Director of Planning, Building, & Code Enforcement.</p> | | | |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|--|---|---|--|---|
| Air Quality | | | | |
| <p>The vehicle trips allowed by the proposed Evergreen Development Policy revision would generate regional pollutants in excess of BAAQMD significance thresholds.</p> | <p>Mitigation for Long-Term Air Quality Impacts The following measures applied to the EHVVS Scenarios and would apply to development allowed by the proposed Evergreen Development Policy revision. These measures, which are included as part of the project, would partially reduce long-term air quality impacts, but <i>not</i> to a less-than-significant level: MM AIR-1.1 New bus stops shall be constructed</p> | <p>Every development shall include measures where feasible prior to the issuance of a Development Permit.</p> | <p>Incorporation of the selected measures into the Development Permit.</p> | <p>Director of Planning, Building, and Code Enforcement</p> |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|-----------------------|---|---|----------------------|-----------------------------|
| | <p style="text-align: center;">Air Quality</p> <p>at convenient locations with pedestrian access to the project sites. Pullouts will be designed so that normal traffic flow on arterial roadways would not be impeded when buses are pulled over to serve riders. Improvements to infrastructure near existing bus stops, including bus pads, lighting, sidewalks, shelter pads, benches and shelters, shall also be constructed as budgets permit and as developments occur. Developers will be responsible for frontage improvements with individual project approvals. The City and VTA will coordinate on specific improvements as developments are proposed.</p> <p>MM AIR-1.2 Bicycle amenities shall be provided on each of the Evergreen Development Policy Revision pool sites. Each site will be reviewed and appropriate bicycle amenities shall be included. As appropriate, this shall include secure bicycle parking for office and retail employees, bicycle racks for retail customers and bike lane connections throughout each project site.</p> <p>MM AIR-1.3 All buildings shall include outdoor electrical outlets so as to encourage the use of electrical landscape maintenance equipment.</p> <p>MM AIR-1.4 All fireplaces to be installed in residences shall comply with the San José Wood-Burning Appliance Ordinance (#26133).</p> <p>MM AIR-1.5 For non-residential development sites, shuttle bus service, where feasible, shall be provided to regional transit centers.</p> <p>MM AIR-1.6 For non-residential development sites, all feasible and reasonable TDM measures such as ride-matching programs or guaranteed ride home programs shall be implemented. Future development allowed by the EDP revision would</p> | | | |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|-----------------------|---|---|----------------------|-----------------------------|
| Air Quality | | | | |
| | <p>be required to implement all feasible and reasonable TDM measures, such as one or more of the following measures:</p> <ul style="list-style-type: none"> • Direct or Indirect Payments for Taking Alternate Modes • Transit Fare Incentives such as Eco Pass and Commuter Checks • Employee Carpool Matching • Vanpool Program • Preferentially Located Carpool Parking • Bicycle Lockers and Bicycle Racks • Showers and Clothes Lockers for Bicycle Commuters • On-site or Walk-Accessible Employee Services (day-care, dry-cleaning, fitness, banking, convenience store) • On-site or Walk-Accessible Restaurants • Guaranteed Ride Home Program • Car sharing • Provision of preferentially located electric vehicle parking with charging stations at work and shopping locations • New bus stops • Improvements to existing bus stops • All buildings shall include outdoor electrical outlets to encourage the use of electric landscape maintenance equipment • All fireplaces installed in residences shall comply with San Jose Ordinance #26133 • For non-residential development, shuttle bus service, where feasible, shall be provided to regional transit centers • For non-residential development, feasible and reasonable TDM measures such as ride-matching programs or guaranteed ride home programs shall be implemented | | | |
| | <p>Development allowed by the proposed Evergreen Development Policy revision will result in</p> | | | |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|-----------------------|---|---|----------------------|-----------------------------|
| Air Quality | | | | |
| | Increases in regional pollutants (e.g., ROG, NOx, and PM10) that are in excess of BAAQMD thresholds. Measures to reduce this impact are proposed, but the impact cannot be reduced to a less-than-significant level. (Significant Unavoidable Impact) | | | |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|--|---|---|--|--|
| Cumulative Impacts | | | | |
| <p>The project itself is the local cumulative development for the Evergreen Development Policy area, above and beyond the cumulative development that was already evaluated in the previously certified FEIR (incorporated here by reference). There are no pending development applications that require traffic reports adjacent to the EHDP boundaries. For this reason, there is no further discussion of cumulative traffic impacts in this SEIR. The proposed project would not contribute to significant cumulative impacts of traffic or traffic-generated noise or air quality impacts. (Less than Significant Cumulative Impact)</p> | <p>All future development allowed by the project would be subject to the City policies and regulations in place at the time they are proposed, including policies related to recycled water use, stormwater quality, alternative energy, and other "green" policies currently being considered by the City.</p> | <p>Every development shall be subject to applicable policies prior to the issuance of a Development Permit.</p> | <p>Incorporation of the applicable policies into the Development Permit.</p> | <p>Department of Planning, Building and Code Enforcement</p> |
| <p>Global Climate Change Impacts The project would result in an increase in greenhouse gas emissions, in terms of carbon dioxide equivalents, but through its consistency with many of the City's Green Vision policies and the state recommended CHG reduction measures, it is not expected to impede local,</p> | | | | |

| Environmental Impacts | Mitigation Measures | Timeframe and Responsibility for Implementation | Method of Compliance | Oversight of Implementation |
|---|---------------------|---|----------------------|-----------------------------|
| Cumulative Impacts | | | | |
| <p>regional or statewide efforts to reduce overall greenhouse gas emissions to 1990 levels. (Less than Significant Cumulative Impact)</p> <p>The projects would result in an increase in greenhouse gas emissions; however, the provision of infill development within an urbanized area, is consistent with many of the City's Green Vision goals, and is not expected to contribute to a significant cumulative global climate change impact. (Less than Significant Cumulative Impact)</p> | | | | |