

RESOLUTION NO. 73739

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSÉ MAKING CERTAIN FINDINGS CONCERNING MITIGATION MEASURES, MAKING FINDINGS CONCERNING ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE RACE STREET GENERAL PLAN AMENDMENTS PROJECT (File Nos. GP05-06-01 and GP05-06-02), FOR WHICH AN ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970, AS AMENDED (“CEQA”)

WHEREAS, the Race Street General Plan Amendments Project (“Project”) requires the City of San Jose (“City”) to approve amendments to the City of San Jose 2020 General Plan (File Nos. GP05-06-01 and GP05-06-02); and

WHEREAS, prior to the adoption of this Resolution, the Planning Commission of the City of San José has certified that the Final Environmental Impact Report for the Race Street General Plan Amendments Project (the “FEIR”) was completed in accordance with the requirements of the California Environmental Quality Act of 1970, as amended (“CEQA”), and related state and local guidelines; and

WHEREAS, no appeal of the certification of the FEIR by the Planning Commission was filed with the City of San José; and

WHEREAS, the project analyzed under the FEIR consisted of General Plan Amendments from *Industrial Park* and *Combined Industrial/Commercial to High Density Residential (25-50 dwelling units per acre)*; and

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

WHEREAS, the City Council of the City of San José intends to take approval actions related to the Project, specifically certain amendments to the City’s 2020 General Plan, which constitute projects under CEQA; 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, such as the FEIR, the decision - making body of a lead or responsible agency must first make certain findings regarding those significant effects on the environment as identified in that environmental impact report; and

WHEREAS, this resolution has been prepared in accordance with the provisions of CEQA and related state and local implementation guidelines.

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

THAT THE CITY COUNCIL hereby finds that it has independently reviewed and analyzed the FEIR and other information in the record and has considered the information contained therein including the written and oral comments received at the public hearings on the FEIR and on the Project, prior to acting upon or approving the Project, and has found that the FEIR 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 the Project as it is described herein and in more detail in the FEIR:

I. FINDINGS CONCERNING SIGNIFICANT ENVIRONMENTAL EFFECTS

A. POPULATION AND HOUSING

1. Impacts

Implementation of the proposed General Plan Amendments to allow for the redevelopment of the site with residential uses would both reduce jobs and increase residents, increasing the existing imbalance between jobs and employed residents. This would conflict with City of San José policies regarding an overall jobs/housing balance.

Mitigation

There are no mitigation measures that would reduce this impact to a less than significant level.

Finding

The proposed General Plan Amendments would increase the existing imbalance between jobs and employed residents which conflicts with City policies regarding an overall jobs/housing balance. No mitigation measures would reduce this impact and therefore, the impact is **significant and unavoidable**.

B. TRANSPORTATION

1. Impact

The proposed General Plan amendments would result in a significant increase in traffic volumes on congested links in the proximity area during the PM peak hour.

This impact would occur under each GPA individually and under both of the proposed General Plan amendments.

The proposed General Plan amendments (Scenario 3) would result in significant increases in volumes at Link Set #1, the congested LOS E/F links south of Naglee Avenue, Jackson Street and Mabury Road, Bascom Avenue, Dana Avenue, Park Avenue, The Alameda, Stockton Avenue, Coleman Avenue and SR 87 during both the AM and PM peak hours.

Mitigation

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating transportation impacts resulting from planned development within the City. All future development addressed in the EIR will be subject to the transportation policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- *Transportation Policy # 1 (Thoroughfares)* states that inter-neighborhood movement of people and goods should occur on thoroughfares and is discouraged on neighborhood streets.
- *Transportation Policy #3 (Thoroughfares)* states that public street right-of-way dedication and improvements should be required as development occurs. Ultimate thoroughfare right-of-way should be no less than the dimensions as shown on the Land Use/Transportation Diagram except when a lesser right-of-way will avoid significant social, neighborhood or environmental impacts and perform the same traffic movement function.
- *Transportation Policy #8 (Thoroughfares)* states that vehicular, bicycle, and pedestrian safety should be an important factor in the design of streets and roadways.
- *Transportation Policy #9 (Impacts on Local Neighborhoods)* states that neighborhood streets should be designed to discourage through traffic and unsafe speeds. If neighborhood streets are used for through traffic or if they are traveled at unsafe speeds, law enforcement and traffic operations techniques should be employed to mitigate these conditions.
- *Transportation Policy #11 (Transit Facilities)* states that the City should cooperate with transportation agencies to achieve the following objectives for the County's public transit system:
 - Provide all segments of the City's population, including the handicapped, elderly, youth and economically disadvantaged, with adequate access to public transit. Public transit should be designed to be an attractive, convenient, dependable and safe alternative to the automobile.

- Enhance transit service in major commute corridors, and provide convenient transfers between public transit systems and other modes of travel.
- *Transportation Policy #16 (Pedestrian Facilities)* states that pedestrian travel should be encouraged as a viable mode of movement between high density residential and commercial areas throughout the City and in activity areas such as schools, parks, transit stations, and in urban areas, particularly the Downtown Core Area and neighborhood business districts by providing safe and convenient pedestrian facilities.
- *Transportation Policy #41 (Bicycling)* states that the City should develop a safe, direct, and well-maintained transportation bicycle network linking residences, employment centers, schools, parks and transit facilities and should promote bicycling as an alternative mode of transportation for commuting as well as for recreation.
- *Transportation Policy #42 (Bicycling)* states that bike lanes are considered generally appropriate on arterial and major collector streets. Right-of-way requirements for bike lanes should be considered in conjunction with planning the major thoroughfares network and in implementing street improvement projects.
- *Transportation Policy #43 (Bicycling)* states that priority improvements to the Transportation Bicycle Network should include:
 - Bike routes linking light rail stations to nearby neighborhoods.
 - Bike paths along designated trails and pathways corridors.
 - Bike paths linking residential areas to major employment centers.

Finding

The implementation of the proposed General Plan amendments, individually, or in conjunction, would result in significant transportation impacts due to an increase in peak hour traffic volumes on congested links in proximity to the site. Implementation of the proposed General Plan amendments would also result in a significant increase in volume to capacity ratios at congested links on an affected screenline. Although implementation of the General Plan policies identified above would reduce the impacts of the proposed amendments, the impacts would remain at a **significant and unavoidable level**.

C. AIR QUALITY

1. Impact

Construction activities such as demolition, clearing, excavation and grading operations, construction vehicle traffic and wind blowing over exposed earth would generate fugitive particulate matter emissions that could temporarily affect local air quality.

Mitigation

The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a less than significant level. The following dust control measures shall be implemented by project contractors during demolition and on-site recycling of materials and shall be reflected as notes on the project plans prior to issuance of demolition permits:

- Water to control dust generation during demolition of structures and break-up of pavement. Concrete crusher should add water to materials at point(s) of entry and whenever materials will be dropped or dumped;
- Cover all trucks hauling demolition debris from the site;
- Use dust-proof chutes to load debris into trucks whenever feasible. Watering should be used to control dust generation during transport and handling of recycled materials;
- All crushing or screening equipment used on site for the recycling of materials will be permitted by the Bay Area Air Quality Management District or the state's portable equipment statewide registration program, and utilize Best Available Control Technology for that type of equipment.

The following construction practices shall be implemented during all phases of construction on the project site and shall be reflected as notes on the project plans prior to issuance of grading or building permits:

- Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non toxic stabilizers or dust palliatives;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two (2) feet of freeboard;
- Pave, apply water three times daily, or apply (non toxic) soil stabilizers on all parking areas and staging areas at construction sites;
- Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff related impacts to water quality;
- Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets;
- Apply non toxic soil stabilizers to inactive construction areas;
- Enclose, cover, water twice daily, or apply non toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;

- Replant vegetation in disturbed areas as quickly as possible;
- Minimize idling time (5 minutes maximum);
- Maintain properly tuned equipment;
- Limit the hours of operation of heavy equipment and/or the amount of equipment in use.

Finding

Implementation of the above program mitigation measures would reduce the construction impacts from future redevelopment of the site to a **less than significant level**.

D. NOISE AND VIBRATION

1. Impact

Outdoor environmental noise levels will exceed the 60 dBA Ldn screening threshold for multiple family residences set forth in the State Building Code. Interior noise levels could exceed 45 dBA Ldn without the incorporation of noise insulation features into project design.

Mitigation

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating noise impacts resulting from planned development within the City. All future development addressed in the EIR will be subject to the noise policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- *Noise Policy #1* states that the City's acceptable noise level objectives are 55 Ldn as the long-range exterior noise quality level, 60 dBA Ldn as the short-range exterior noise quality level, 45 Ldn as the interior noise quality level, and 76 Ldn as the maximum exterior noise level necessary to avoid significant adverse health effects. These objectives are established for the City recognizing that the attainment of exterior noise quality levels in the environs of the San José International Airport, the downtown core area, and along major roadways may not be achieved in the time frame of this plan. To achieve the noise objectives, the City should require appropriate site and building design, building construction, and noise attenuation techniques in new residential development.

Finding

Implementation of the identified General Plan policies would reduce the impacts to interior noise levels to a **less than significant level**.

2. Impact

Existing and proposed noise-sensitive land uses would be exposed to construction noise levels in excess of the significance thresholds for a period of more than one construction season.

Mitigation

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating noise impacts resulting from planned development within the City. All future development addressed in the EIR will be subject to the noise policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- *Noise Policy #9* states construction operations should use available noise suppression devices and techniques.

Finding

Implementation of construction noise controls would reduce the construction noise impact to nearby noise-sensitive land uses; however, due to the fact that the duration of construction activities will likely extend to multiple construction seasons, the impact of construction noise will remain **significant and unavoidable**.

E. HYDROLOGY, DRAINAGE, AND WATER QUALITY

1. Impact

Due to increased activity on the site, the project could result in additional pollutant loads in storm water runoff from the site.

Mitigation

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating hydrology impacts resulting from planned development within the City. All future development addressed in the EIR will be subject to the hydrology policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- *Water Resources Policy #8* states the City should establish policies, programs and guidelines to adequately control the discharge of urban runoff and other pollutants into the City's storm drains.
- *Water Resources Policy #9* states the City should take a proactive role in the implementation of the Santa Clara Valley Urban Runoff Pollution Prevention Program.

- *Water Resources Policy #12* states for all new discretionary development permits for projects incorporating large paved areas or other hard surfaces (e.g., building roofs), or major expansion of a building or use, the City should require specific construction and post-construction measures to control the quantity and improve the water quality of urban runoff.

Finding

Implementation of the policies identified above would reduce post-construction water quality impacts from redevelopment of the site to a **less than significant level**.

2. Impact

Construction of a proposed project on the site could cause a significant temporary increase in the amount of contaminants in storm water runoff during construction.

Mitigation

Prior to construction of any phase of the project, the City will require the applicant(s) to submit a Storm Water Pollution Prevention Plan (SWPPP) and a Notice of Intent (NOI) to the State of California Water Resource Quality Control Board to control the discharge of storm water pollutants including sediments associated with construction activities. Along with these documents, the applicant may also be required to prepare an Erosion Control Plan. The Erosion Control Plan may include Best Management Practices (BMPs) as specified in the California Storm Water Best Management Practice Handbook for reducing impacts on the City's storm drainage system from construction activities. The SWPPP shall include control measures during the construction period for:

- Soil stabilization practices;
- Sediment control practices;
- Sediment tracking control practices;
- Wind erosion control practices; and
- Non-storm water management and waste management and disposal control practices.

Prior to issuance of a grading permit, the applicant shall be required to submit copies of the NOI and Erosion Control Plan (if required) to the City Project Engineer, Department of Public Works. The applicant shall also be required to maintain a copy of the most current SWPPP on-site and provide a copy to any City representative or inspector on demand.

Each phase of development shall comply with the City of San José Grading Ordinance, including erosion- and dust-control during site preparation, and with

the City of San José Zoning Ordinance requirement for keeping adjacent streets free of dirt and mud during construction.

Finding

Preparation of a SWPPP and NOI will reduce the water quality impacts during construction to a **less than significant level**.

F. BIOLOGICAL RESOURCES

1. Impact

Redevelopment of the site with the proposed land uses could result in direct impacts to nesting raptors.

Mitigation

At the time of site redevelopment, a project shall implement the following measures:

- A qualified ornithologist shall conduct a protocol-level, preconstruction survey for nesting raptors on-site not more than 30 days prior to the onset of ground disturbance or tree removal, if disturbance is to occur during the breeding season (February 1 to August 31).
- If a nesting raptor is detected, an appropriate construction buffer shall be established. The actual size of the buffer will be determined by the project ornithologist and will depend on species and type of construction activity that would occur in the vicinity of the nest.
- 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 Director of Planning, Building and Code Enforcement.
- All future development on the site would be required to conform to the California State Fish and Game Code and the provisions of the Migratory Bird Treaty Act.

Finding

Implementation of the identified program mitigation measures would reduce impacts to nesting raptors to a **less than significant level**.

2. Impact

Redevelopment of the site would result in the removal of 119 ordinance-size trees and 436 trees.

Mitigation

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating biological resource impacts resulting from planned development within the City. All future development addressed in the EIR will be subject to the biological resource policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- *Urban Forest Policy #2* states that development project should include the preservation of ordinance-sized, and other significant trees. Any adverse affect on the health and longevity of native oaks, ordinance-sized or other significant trees should be avoided through appropriate design measures and construction practices. When tree preservation is not feasible, the project should include appropriate design measures and construction practices. When tree preservation is not feasible, the project should include appropriate tree replacement.
- *Urban Forest Policy #3* states the City encourages the maintenance of mature trees on public and private property as an integral part of the urban forest. Prior to allowing the removal of any mature tree, all reasonable measures which can effectively preserve the tree should be pursued.
- *Urban Forest Policy #5* states the City should encourage the selection of trees appropriate for a particular urban site. Tree placement should consider energy saving values, nearby power lines, and root characteristics.
- *Urban Forest Policy #6* states trees used for new plantings in urban areas should be selected primarily from species with low water requirements.
- *Urban Forest Policy #7* states where appropriate, trees that benefit urban wildlife species by providing food or cover should be incorporated in urban plantings.

Finding

Implementation of the identified General Plan policies will reduce the impacts of the project on biological resources to a **less than significant level**.

G. CULTURAL RESOURCES

1. Impact

Due to the historic use of the site, deposits of historic materials could be present. Grading and excavation for the proposed redevelopment could result in a significant impact to buried historic resources.

Mitigation

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating cultural resource impacts resulting from planned development within the City. All future development addressed in the EIR will be subject to the cultural resource policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- *Historic, Archaeological and Cultural Resources Policy #9* states recognizing that Native American burials may be encountered at unexpected locations, the City should impose a requirement on all development permits and tentative subdivision maps that, upon discovery of such burials during construction, development activity will cease until professional archaeological examination and reburial in an appropriate manner is accomplished.

Finding

With implementation of the above identified General Plan policy, impacts to buried prehistoric and/or historic resources from redevelopment of the site would be reduced to a **less than significant level**.

H. CUMULATIVE IMPACTS

1. Impact

The proposed cumulative GPAs would result in a further reduction of the jobs/housing balance which is currently below one job per employed resident.

Mitigation

There are no mitigation measures that would reduce the project's contribution to the cumulative population and housing impact to a less than significant level.

Finding

The proposed project would result in a cumulatively considerable contribution to cumulative population and housing impacts which would be **significant and unavoidable**.

2. Impacts

The proposed GPAs on the project site would result in a cumulatively considerable contribution under both cumulative scenarios to cumulative increases in traffic volumes across the North San José subarea.

The proposed GPAs would result in a cumulatively considerable contribution to significant cumulative impacts at four screenlines.

The cumulative General Plan amendments would result in significant increases in overall VMT and VMT on congested roadway links within the Proximity Area for the project. The proposed GPAs on the project site would significantly contribute to the VMT impact on congested roadway links during the PM peak hour.

Mitigation

Consistent with City policies and practice, the CUBE model used to evaluate cumulative traffic impacts includes all major transportation infrastructure identified in the General Plan Land Use/Transportation Diagram, including infrastructure that is not yet built and/or funded and transit capacity and transit travel. No feasible mitigation measures would reduce the impacts of the GPAs to a less than significant level.

Finding

The proposed Race Street GPAs would result in a considerable contribution to significant cumulative impacts at one screenline and to LOS E/F links within the proximity area analyzed under both cumulative scenarios. The proposed Race Street GPAs would also result in cumulatively considerable contributions to the North San José subarea impact under both cumulative scenarios. No feasible mitigation has been identified to reduce these impacts; therefore, these cumulative impacts would be **significant and unavoidable**.

3. Impact

The redevelopment allowed under the proposed General Plan amendments would result in an increase in daily trips and vehicle miles traveled. The project, therefore, would make a cumulatively considerable contribution to a cumulative air quality impact from pending General Plan amendments within the City of San José.

Mitigation

The BAAQMD has identified mitigation measures for reducing vehicle emissions from projects. Feasible mitigation measures to reduce vehicle and other emissions include:

- Provide secure and conveniently placed bicycle parking and storage facilities.
- Allow only natural gas fireplaces.
- Construct transit amenities such as bus turnouts/bus bulbs, benches, shelters, etc.
- Provide direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development.

- Utilize reflective (or high albedo) and emissive roofs and light colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand.
- Provide physical improvements, such as sidewalk improvements, landscaping and bicycle parking that would act as incentives for pedestrian and bicycle modes of travel.

Finding

The identified mitigation program would be expected to reduce project emissions by five to ten percent. Since trip generation under the proposed uses is more than double that under the existing uses and there would be a roughly corresponding increase in emissions, the cumulative impact of the project on air quality would not be substantially reduced with implementation of BAAQMD feasible mitigation measures. The project, therefore, would contribute to cumulative air quality impacts that are **significant and unavoidable**.

II. ALTERNATIVES TO THE PROPOSED PROJECT

A. NO PROJECT ALTERNATIVE

1. Description

The CEQA Guidelines stipulate that an EIR specifically include a “No Project” Alternative, which should address both “the existing conditions, as well as what will be reasonably expected to occur in the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services.”

2. Comparison to Proposed Project

The project site is fully developed at this time. Under a “No Project/No Redevelopment” Alternative, the site could remain developed with the existing office/R&D buildings. This would avoid all of the proposed project’s significant impacts.

Overall, the No Project/No Redevelopment Alternative (assuming the continued use of the existing office/R&D buildings on-site) would be environmentally superior to the project because it would avoid all environmental impacts.

3. Finding

The City finds that this Alternative is infeasible for the following reasons: In general, the No Project/No Redevelopment Alternative would, by definition, not meet the project's objectives as described in the EIR. This Alternative would not achieve the objectives of allowing for residential development on the site or supporting transit ridership on the adjacent VTA light rail line. This alternative would not meet any of the applicant's objectives for the site.

B. NO PROJECT/REDEVELOPMENT ALTERNATIVE

1. Description

If the proposed GPAs are not approved, the site could be redeveloped with office/R&D uses in a more urban form. Due to the site's location within a transit area allowed building heights on the site could reach 120 feet and up to 936,540 square feet of office/R&D uses could be developed on the site under the existing land use designation. This would increase the office/R&D development on the site by approximately 588,000 square feet.

2. Comparison to Proposed Project

The No Project/Redevelopment Alternative would avoid the population and housing impacts of the project related to the City's jobs/housing balance. Under this alternative, sensitive receptors would not be exposed to elevated exterior noise levels. Significant impacts related to redevelopment of the site including, water quality, biology, cultural resources, and construction (air quality, noise, and water quality) would be similar with redevelopment of office/R&D uses on the site.

Although this alternative would substantially increase vehicle trips to and from the site, it would not require a General Plan amendment and would not contribute to cumulative air quality impacts associated with implementation of pending General Plan amendments.

3. Finding

The City finds under the No Project/Redevelopment Alternative, redevelopment with new and larger office/R&D buildings on the site, may result in impacts to cumulative air quality, cumulative traffic, water quality, biological resources (trees), cultural resources, energy, and construction (air quality, noise, and water quality). This Alternative would avoid noise impacts since the office/R&D buildings would not be a sensitive use and design measures could adequately reduce interior noise levels. This Alternative would also avoid population and

housing impacts since no planned jobs would be lost within the City. The City finds this alternative infeasible since it would not allow for residential uses on the site and does not meet most of the project objectives. This alternative would not provide housing support along a light rail transit line for the downtown central business district, or for the West San Carlos Street or Lincoln Avenue neighborhood business districts. This alternative would also not provide for the possibility of development of a neighborhood park in the near vicinity in that the project's PIO fees would not be directed to the identified public park priority in the neighborhood.

C. REDUCED SCALE ALTERNATIVE

1. Description

The goal of a "Reduced Scale" alternative would be to reduce environmental impacts by proposing less development on the site. In order to avoid the freeway LOS impacts of the project, the amount of development allowed on the site would be reduced to approximately 370 units. This would be approximately 38 percent of the units proposed by the project. This alternative would require a General Plan land use designation change to *Medium High Density Residential (12-25 DU/AC)*. This land use designation is typified by two-story apartments and condominiums with surface parking, although structures of greater height with compensating amounts of open space would be possible. This designation is planned primarily for locations on major streets and near major activity centers.

2. Comparison to Proposed Project

This alternative would result in similar population and housing impacts as the proposed project due to the loss of planned jobs and an increase in housing within the City. The General Plan amendment required to implement this alternative would likely result in reduced General Plan transportation impacts. Like the proposed project interior noise levels in residential units could be reduced to 45 dBA Ldn or less through appropriate design and construction. Significant impacts related to redevelopment of the site including, water quality, biological resources, cultural resources, and construction (air quality and water quality) would be similar with redevelopment of the site, although additional landscape trees may be retained on the site due to reduced density. Construction noise impacts would likely be avoided because the project would not take as long to construct at this density.

The cumulative transportation impacts of the project would be reduced under the Reduced Scale Alternative. This alternative could likely result in a cumulative air quality impact since the VMT would increase in the proximity area, although the cumulative air quality impacts would be reduced.

3. Finding

The Reduced Scale Alternative would require General Plan amendments to allow redevelopment of the site with residential uses. Details of the economic feasibility of developing the site at the reduced density are not known at this time. The Reduced Scale Alternative would reduce or avoid cumulative General Plan transportation and air quality impacts and construction noise impacts of the project. This Alternative, however, would not meet project objectives related to the development of high density, transit-oriented residential uses located adjacent to a light rail transit line that support central business district and nearby neighborhood business district commercial development and is therefore found to be infeasible.

D. REDUCED DEVELOPMENT SITE ALTERNATIVE – AREAS 1 AND 2 ONLY

1. Description

The purpose of a “Reduced Development Site” alternative would be to allow the proposed land uses in Areas 1 and 2 only. The project site would be reduced in size to 16.1 acres and the General Plan designation and zoning of Area 3 would not change. The General Plan designation on Areas 1 and 2 would be changed to *Transit Corridor Residential (20+ DU/AC)* which would allow redevelopment at a density of approximately 60 dwelling units per acre. This Transit Corridor Residential land use designation is intended for medium high and high density residential uses within, or very near, Transit-Oriented Development Corridors and BART Station Area Nodes, Housing Initiative Area, or major bus routes. Residential development should occur at densities of 20 units or more per acre.

2. Comparison to Proposed Project

This alternative would result in similar population and housing impacts as the proposed project due to the loss of some potential jobs and an increase in housing within the City. Allowing the same number of units on a reduced development site would result in the same General Plan transportation impacts. Like the proposed project interior noise levels in residential units could be reduced to 45 dBA Ldn or less through appropriate design and construction. This alternative would move residential development further from I-280 and thereby avoid exposing residents to freeway noise. Significant impacts related to redevelopment of the site including, water quality, biological resources, cultural resources, and construction (air quality, noise, and water quality) would be similar with redevelopment of the majority of the site.

Most of the cumulative impacts of the project would not be avoided with the Reduced Development Site Alternative. The traffic generated by this alternative would result in similar General Plan transportation impacts. This alternative

could also result in a cumulative air quality impact since the VMT would increase in the proximity area.

3. Finding

This Reduced Development Site Alternative would require General Plan amendments to allow redevelopment of Areas 1 and 2 with residential uses. This alternative is infeasible due to the additional construction cost related to a different construction type and one additional level of underground parking,. This Alternative would also result in buildings taller by two stories at Areas 1 and 2 in order to balance out the number of units proposed by the project proponent. This condition would create building massing out of character with the surrounding recently-developed high-density residential structures on surrounding parcels.

E. FLOATING PARK DESIGNATION ALTERNATIVE

1. Description

The purpose of the “Floating Park” land use designation alternative would be to amend the General Plan to allow the proposed General Plan land uses on the site as well as designate a *Floating Park* land use designation on the 21.55 acre General Plan amendments site (refer to Figure 3). The *Floating Park* land use designation implies that a park is needed in the general area, but details of the size, location, and configuration of the park and surrounding development have not been specified. This alternative assumes that the *Floating Park* designation on the site would result in development of a park site within a portion of the General Plan amendments site. However, per the General Plan land use designation of *Floating Park*, such designation is only intended to indicate a general area including and surrounding the project site within which a park site would be located. Therefore, the park site would not necessarily be located within the project site. This analysis assumes the development of a park on the General Plan amendment site would reduce the number of units developed on the site in proportion to the size of the park.

2. Comparison to Proposed Project

The General Plan transportation impacts may be significant but can not be determined until the size of the park is known. A park on the General Plan amendments site would likely require shielding by residential structures and/or soundwalls in order to meet the City’s noise level standards. Development of a park on property surrounding the site may be impacted by existing contamination depending upon the specific location of the park. Significant impacts related to redevelopment of the site with a park such as water quality and biological resources impacts may be reduced due to less impervious surfaces on the site and the possibility of retaining additional trees or planting trees; however, these impacts would likely remain significant but can not be determined at this time. The cultural resources and construction (air quality, noise, and water quality)

impacts would be similar with redevelopment of a portion of the site with a park. The population and housing impacts of the project would be similar to the proposed project with this alternative.

Most of the cumulative impacts of the project would not be avoided with the Floating Park Designation Alternative. The traffic generated by this alternative could, depending upon the size of the park, result in similar General Plan transportation impacts. This alternative could also result in a cumulative air quality impact since the VMT would increase in the project area.

3. Finding

The Floating Park Designation Alternative may not meet the applicant’s objective for developing high density residential on the entire site but would meet the City’s objectives for parkland in the vicinity of the site. This Floating Park Designation Alternative would not reduce any of the General Plan amendments impacts to a less than significant level. This alternative may allow additional amenities in the project vicinity for existing and proposed new residents. This alternative may meet some of the City’s objectives; however, it would not meet the objectives of the applicant.

III. MITIGATION MONITORING AND REPORTING PROGRAM

CEQA allows for the annual report on general plan status required pursuant to the Government Code to constitute the reporting program for adoption of a City general plan. 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. The annual report on general plan status required pursuant to the Government Code is one example of a reporting program for adoption of a city or county general plan.

IV. 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.

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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 population and housing (project and cumulative), transportation (project and cumulative), and air quality (project and cumulative) as disclosed in the FEIR 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, the staff report, applicant submittals, 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. The Project will further the City's Smart Growth Policies by being located near public transit and other existing neighborhood services thereby maximizing the existing public infrastructure investments made by the City and other public agencies.
2. The Project will develop two (2), under-utilized, industrial park, in-fill sites into a high-density residential development that takes advantage of nearby transit facilities.
3. The Project will support investments in current transit by generating more ridership at nearby light rail and bussing stations than the current industrial park uses.
4. The Project will create high-density market rate homes that meet the goals for transit-oriented development to support the existing adjacent light rail transit station.

5. The Project will create a new mix of workforce housing opportunities proximate to the downtown employment center and West San Carlos and Lincoln Avenue retail corridors.
6. The Project will help address the City's substantial unmet affordable housing demand by providing affordable housing consistent with Inclusionary Housing Policy and with the General Plan Housing Element goals.
7. The Project will help to revitalize an unused and dilapidated industrial property and help rejuvenate this part of Midtown San José.
8. The Project provides an opportunity to expand a burgeoning residential neighborhood and create a sense of community.
9. The Project eliminates the potential for blight in a mixed-use area of Midtown by replacing vacant industrial park buildings on underutilized lots.
10. The Project through its future residents will help support the hundreds of surrounding neighborhood serving businesses.

ADOPTED this 24th day of April 2007, by the following vote:

AYES:	CAMPOS, CHIRCO, CONSTANT, CORTESE, LICCARDO, NGUYEN, OLIVERIO, PYLE, WILLIAMS; REED
NOES:	NONE
ABSENT:	NONE
DISQUALIFIED:	NONE
VACANT	DISTRICT 4

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk