RESOLUTION NO. 73814

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS CONCERNING MITIGATION MEASURES, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, MAKING FINDINGS CONCERNING ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR THE SAN JOSE LOWE'S STORE PROJECT (FILE NO. PDC06-003) FOR WHICH AN ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the San Jose Lowe's Store Project ("Project") requires the City of San Jose ("City") to approve a Rezone, Vesting Tentative Map, Planned Development Permits, Building and Grading Permits, various permits and approvals necessary for the onsite and offsite infrastructure, and other permits and approvals;

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 ("FEIR"), for the San Jose Lowe's Store Project was completed in accordance with the requirements of the California Environmental Quality Act ("CEQA") of 1970, as amended, and 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 Jose; and

WHEREAS, the project analyzed under the FEIR consisted of the following components: A rezoning on the site, from the existing *Industrial Park (IP)* zoning designation to *Industrial Park Planned Development Zoning District* to allow for the additional retail uses proposed on the project site; and

WHEREAS, the City Council of the City of San José is the decision-making body for the San Jose Lowe's Store Project ("Project"); and

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

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 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 all of this is described in the FEIR , taken together with the oral and written testimony submitted to the City Council in connection with the FEIR and/or the Project:

I. FINDINGS CONCERNING SIGNIFICANT ENVIRONMENTAL EFFECTS

A. TRANSPORTATION, CIRCULATION AND PARKING

1. Impact

The proposed project would result in significant traffic impacts associated with project traffic (under both the City of San Jose level of service standard and the CMP level of service standard) at intersection #11 US Highway 101 SB Off-ramp/Blossom Hill Road (AM and PM peak hour).

Mitigation

Implementation of the planned EADP Gateway improvements would mitigate the project's impact to the #11 US Highway 101 SB Off-ramp/Blossom Hill Road intersection. The project applicant will be required to make a fair-share contribution toward the planned EADP Gateway improvements, to the satisfaction of the Director of Public Works. The dollar amount of the fair-share contribution will be determined prior to issuance of a final Public Works memo for the proposed project. The improvement would provide acceptable operations (LOS C or better) during the AM and PM peak hours. No further mitigation measures are required.

Finding

The implementation of the above FEIR mitigation measure will reduce the potentially significant impact to less than significant levels.

2. Impact

The proposed project would result in significant traffic impacts associated with project traffic (under both the City of San Jose level of service standard and the

CMP level of service standard) at intersection #12 US Highway 101 NB Off-ramp/Silver Creek Valley Road (PM peak hour only).

Mitigation
Implementation of the planned EADP Gateway improvements would mitigate the project's impact to the #12 US Highway 101 NB Off-ramp/Silver Creek Valley Road intersection. The project applicant will be required to make a fair-share contribution toward the planned EADP Gateway improvements, to the satisfaction of the Director of Public Works. The dollar amount of the fair-share contribution will be determined prior to issuance of a final Public Works memo for the proposed project. The improvement would provide acceptable operations (LOS C) during the AM peak hour. The intersection would still operate at LOS E during the PM peak hour, but the EADP improvements would mitigate the project's impact to a less than significant level. No further mitigation measures are required.

Finding
The implementation of the above FEIR mitigation measure will reduce the potentially significant impacts to less than significant levels.

B. AIR QUALITY

1. Impact
Demolition and construction period activities could generate significant dust, exhaust, and organic emissions.

Mitigation
Consistent with guidance from the BAAQMD, the following actions shall be required of construction contracts and specifications for the project.

Demolition. The following controls shall be implemented during demolition:

- Water during demolition of structures and break-up of pavement to control dust generation;
- Cover all trucks hauling demolition debris from the site; and
- Use dust-proof chutes to load debris into trucks whenever feasible.

Materials Crushing and Recycling. The following action shall be required for the project.

- All crushing and screening equipment used on site for the recycling of materials shall be permitted by the Bay Area Air Quality Management District and shall utilize Best Available Control Technology (BACT). BACT measures could include the regular watering of debris piles and use of continuous water sprays on crushing equipment; and
- Prior to issuance of a Planned Development Permit, the applicant shall submit a program and site plan for on-site recycling of construction debris.

Construction. The following controls shall be implemented at all construction sites:

- 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 to control dust;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;
- Sweep daily (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 (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.);
- Limit traffic speeds on unpaved roads to 15 mph;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- Replant vegetation in disturbed areas as quickly as possible.
- Install baserock at entryways for all exiting trucks, and wash off the tires or tracks of all trucks and equipment in designated areas before leaving the site; and
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.

Implementation of this mitigation measure would reduce construction period air quality impacts to a less than significant level.

Finding
The implementation of the above FEIR mitigation measures will reduce the potentially significant impact to less than significant levels.

C. NOISE

1. Impact

Local traffic and train activity will generate long-term noise exceeding Normally Acceptable and Conditionally Acceptable levels on the project site, and interior noise levels on the project site could exceed General Plan standards.

Mitigation
An acoustical study must be prepared prior to issuance of a building permit for the Phase 2 commercial buildings on the project site. The report must show how the design will achieve the City's interior noise standard of 45 dBA L_{dn}.

To maintain the interior noise levels below 45 dBA for the Lowe's building, it should be mechanically ventilated and the design should exclude open doors and windows facing the railroad tracks.

Finding
The implementation of the above FEIR mitigation measures will reduce the potentially significant impact to a less than significant level.

2. Impact
On-site construction activities would potentially result in short-term noise impacts on adjacent residential uses.

Mitigation
The project shall comply with the following noise reduction measures:

- General construction activities for any work within 500 feet of any residential unit shall be limited to weekdays from 7:00 a.m. to 7:00 p.m., as required by City ordinance. Construction outside of these hours may be approved though a development permit based on a site-specific construction noise mitigation plan, and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- All heavy construction equipment used on the project site shall be maintained in good operating condition, with all internal combustion, engine-driven equipment equipped with intake and exhaust mufflers that are in good condition.
- All stationary noise-generating equipment shall be located as far away as possible from neighboring property lines, especially residential uses.
- Prohibit and post signs prohibiting unnecessary idling of internal combustion engines.
- Designate a "noise disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.

- Utilize “quiet” models of air compressors and other stationary noise sources where such technology exists.

Finding
The implementation of the above FEIR mitigation measures will reduce the potentially significant impact to a less than significant level.

D. CULTURAL RESOURCES

1. Impact
Construction activities associated with the proposed project could adversely affect previously unidentified unique archaeological resources.

Mitigation
In the event that either prehistoric or historic archaeological materials are exposed or discovered during site preparation or subsurface construction, operations within a 25-foot radius of the find shall be halted, until the find can be inspected by a qualified professional archaeologist. If the archaeologist concludes that the find may be of significance, a plan for evaluating the significance of the resource and recommending appropriate mitigation shall be prepared by the archaeologist and submitted to the Director of Planning, Building and Code Enforcement.

Mitigation for impacts to historic and prehistoric materials may include monitoring combined with data retrieval, or may require a program of hand excavation to record and/or remove materials for further analysis. The appropriate program for mitigating the impacts to any buried resources found on the site will be implemented, a report documenting the process and findings of the program shall be transmitted to the Director of Planning, Building and Code Enforcement.

Finding
The implementation of the above FEIR mitigation measures will reduce the potentially significant impact to a less than significant level.

2. Impact
Ground-disturbing activities associated with the proposed project could disturb human remains, including those interred outside of formal cemeteries.

Mitigation
If human remains are discovered, the Santa Clara County Coroner shall be notified. The Coroner would determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, the Native American Heritage Commission would be notified and would identify a most likely descendant (MLD) to make recommendations to the land owner for dealing with the human remains and any associated grave goods, as provided in Public Resources Code Section 5097.98.

Finding
The implementation of the above FEIR mitigation measure will reduce the potentially significant impact to a less than significant level.

3. Impact
Implementation of the proposed project would result in the demolition of Building 025, a significant historic resource and a contributing building to a potential historic district associated with the IBM Central Campus.

Mitigation
The following components of Mitigation Measure CULT-3 would reduce the impact associated with the removal of Building 025.

- *Preservation of Sculpture:* Retain and relocate (on-site) the Gurdon Woods sculpture where it can be refurbished and seen by the public. Alternatively, donate the sculpture to an appropriate facility for refurbishing and preservation. The project applicant shall retain a qualified conservator to rehabilitate and relocate Gurdon Woods' sculpture "Research" to an appropriate comparable setting. Install sculpture in new reflecting pool or on polished stone slab. Installation should include existing and additional new plaque. Prior to relocation, document this feature photographically to HABS (the *Historic American Buildings Survey)* standards.
- *Documentation of Ceramic Mosaic Veneer:* There is no practical reuse for Lucienne Bloch's ceramic mosaic veneer panels that finish the roof fascia around Building 025. Prior to removal, document this feature photographically to HABS standards. Contact Historic San Jose to determine if they have any interest in this feature. If there is no interest, make the feature available for salvage.
- *Historical Record of IBM's Technological Innovations at Building 025 and the Cottle Road Campus:* The project sponsor and the IBM Corporation shall make available for research or contribute materials that describe the use of the property, and to the extent that they exist, documents relating to social, civic, and economic conditions that were present and affected changes at Building 025 and its context. Any facility plans, architectural or engineering drawings or photographs or unrestricted research records pertaining to Building 025 that are retained by IBM Corporation shall be offered for the archives at History San Jose, or other appropriate repository, as designated by the City of San Jose.
- *Documentation:* If demolition of the building is approved, documentation in accordance with HABS standards is required. Still photographic recordation, video or other appropriate medium shall be required of the project sponsor. Existing architectural and engineering drawings shall also be offered to the

The documentation shall be conducted by a qualified consultant as described in the Professional Qualification Standards of the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.*

- *HABS Photography:* This shall consist of selected large format, black-and-white views of the existing building, to HABS standards. Views will include at a minimum:
  - Six to eight views of exterior (including the courtyards and concrete block divider screens).
  - Three views of setting.
  - Six to eight views of interior.
  - Three to four selected details (including the sculpture, ceramic mosaic veneer mural, etc.)
- *Drawings:* Copies of selected John S. Bolles drawings shall be reproduced from microfiche on archival media. A preliminary selection of 10 drawings has been made. A search of materials at U.C. Berkeley Environmental Design Archives shall be conducted as related to Building 025 project drawings and documents and Douglas Baylis, Landscape Architect. Copies shall be made, as appropriate, for the project file at History San Jose and for the City of San Jose's records. Since an extensive collection of original design and construction drawings exists on microfilm in the collection of IBM, it is not necessary to record the existing conditions with measured drawings.
- *Historic Photographs:* There are a number of high quality historic photographs in IBM's possession that were taken before, during and after construction that provide an important part of Building 025's history. With the cooperation of IBM, the applicant shall make 8x10 black-and-white prints, on archival paper, of nine selected photographs of historic and contemporary views (as shown in Appendix A of the Hardy report in Appendix E of this EIR). Included shall be at least one aerial view of the site prior to construction or before major development in the area**.**

  Three copies of the HABS level photography, historic photographs, drawings, and written reports shall be packaged as one document recording the history and significance of the site and provided to the Historic Preservation Officer in the Department of Planning, Building and Code Enforcement for distribution to History San Jose, the California Room of the Martin Luther King, Jr. Library, the Northwest Information Center at Sonoma State University, and the Loeb Library at the Harvard Graduate School of Design.

In addition, the project applicant shall present the documents compiled from the above recordation tasks to the U.C. Berkeley Environmental Design Archives.

- *Incorporating Historical Information in the Future Development:* When naming future developments, buildings, streets, gardens, or parks, use names that identify the historic activities or individuals that were important in the history of the IBM Cottle Road Campus and the research that was conducted in Building 025. In conjunction with the naming of new streets or other public facilities in the vicinity of the former IBM Cottle Road campus, the City of San Jose shall seek opportunities to use names of historically significant persons and/or important research activities directly associated with Building 025.
- *Public Exhibit:* With the assistance of History San Jose or other professionals experienced in creating historical exhibits, create a documentary display that may include historic photographs and records to "tell the story" of the research activities and high technology and the importance of Building 025 and the Cottle Road Campus to the history of San Jose. Install the display where it will be available to the public.

  Prior to demolition of Building 025, the project applicant shall retain a qualified historian to develop a public exhibit regarding the IBM Campus and Building 025 in consultation with History San Jose. The historian shall be a qualified consultant as described in the Professional Qualification Standards of the *Secretary of the Interior's Standards and Guidelines/or Archeology and Historic Preservation.*
- *Salvage:* Prior to issuance of Public Works Clearance for a Planned Development Permit affecting Building 025, the structure shall be retained and made available for salvage. The project applicant shall coordinate a salvage tour with History San Jose, Preservation Action Council of San Jose, and the Historic Landmarks Commission by placing the salvage tour on a Historic Landmarks Commission agenda. Representatives shall tour the site in order to identify elements that warrant salvage for public information or for reuse in other locations. It will be the applicant's responsibility to provide access to the site, including lighting, prior to the removal of any elements from the site, and to facilitate removal and transfer for the identified elements to the above entities. Any elements not identified through this effort for salvage shall be made available to salvage companies facilitating the reuse of historic building materials.

The demolition of Building 025 in conjunction with the project represents a significant unavoidable impact. While the mitigation measure would lessen the severity of the impact on historic resources and a potential historic district, it would not reduce the impact to a less than significant level.

Finding
The implementation of the above FEIR mitigation measures will lessen the significant impact, but not to a less than significant level. This impact, therefore, will be significant and unavoidable.

E. BIOLOGICAL RESOURCES

1. Impact

Demolition of the existing buildings and the removal of trees onsite could result in harm or injury to special-status bats.

Mitigation

Implementation of the following three-part mitigation measure would reduce the potential impact to special-status bats which could be roosting on the site at the time of building demolition and tree removal to a less than significant level.

- 1a. To prevent entry by bats into the existing buildings, all doors, windows, and exterior surfaces shall be maintained to remain intact and absent of openings.
- 1b. To avoid take of bats which could potentially be roosting under the wood shakes on the mansard roofs of Buildings 024 and 030, the mansard roofs shall be dismantled first, starting with the roof sections found to be in the best condition, and moving toward those sections with decayed and missing shakes where bats are most likely to be found. (The disturbance created by removing the roof sections least likely to contain roosting bats would cause any bats occupying the damaged roof sections to evacuate the roost.)
- 1c. To avoid potential take of bats during tree removal, the smaller trees surrounding the large trees shall be removed before the adjacent large trees where bats may be roosting. (The systematic removal of smaller trees would likely create enough disturbance to cause any bats occupying larger trees to evacuate any nearby roosts.) The smaller trees shall be removed no less than one day prior and no more than two days prior to removal of the larger adjacent trees. This timing of activities would allow one nightly emergence period for the bats to abandon their roosts prior to removal of the larger trees. (The short period between removal of the smaller trees and the removal of the larger trees would minimize the likelihood of bats returning to the larger trees prior to removal.)

Finding

The implementation of the above FEIR mitigation measures will reduce the potentially significant impact to a less than significant level.

2. Impact

Implementation of the proposed project could impact the burrowing owl if the species occupies the project site prior to the start of demolition and construction.

Mitigation
Implementation of the following three-part mitigation measure would reduce potential impacts to burrowing owl to a less than significant level.

- 2a. In conformance with federal and State regulations protecting raptors against direct "take," pre-construction surveys for burrowing owls shall be conducted by a qualified ornithologist prior to any soil-altering activity or development occurring within the project area. The preconstruction surveys shall be conducted per CDFG guidelines, no more than 30 days prior to the start of site grading, regardless of the time of year in which grading occurs. If no burrowing owls are found, then no further mitigation would be warranted. If breeding owls are located on or immediately adjacent to the site, a construction-free buffer zone around the active burrow must be established as determined by the ornithologist in consultation with CDFG. No activities that may disturb breeding owls, including grading or other construction work or evictions of owls, shall proceed.
- 2b. If preconstruction surveys determine that burrowing owls occupy the site, and avoiding development of occupied areas is not feasible, then the owls may be evicted outside of the breeding season, with the authorization of the California Department of Fish and Game (CDFG). The CDFG typically only allows eviction of owls outside of the breeding season (only during the non-breeding season [September 1 to January 31]) by a qualified ornitholo-gist, and generally requires habitat compensation on off-site mitigation lands.
- 2c. A final report of burrowing owls, including any protection measures, shall be submitted to the Director of Planning, Building and Code Enforcement and must be determined adequate, to the satisfaction of the Director, prior to start of grading.

Finding
The implementation of the above FEIR mitigation measures will reduce the potentially significant impact to a less than significant level.

3. Impact
Implementation of the proposed project could adversely effect nesting raptors (hawks and owls) which could be established on-site prior to site development activities.

Mitigation

The implementation of the following two-part mitigation measure would ensure that raptors (hawks and owls) are not disturbed during the breeding season and would reduce potential impacts to a less than significant level.

- 3a. A qualified ornithologist shall conduct a pre-construction survey for nesting raptors (including both tree and ground nesting raptors) on the site no more than 30 days prior to the onset of ground disturbance. These surveys shall be based on accepted methods (e.g., as for the burrowing owl) for the various target species (e.g., up to four pedestrian surveys of the site).
- 3b. If nesting raptors are identified during the nesting season (February 1 through August 31) on or adjacent to the site, then the ornithologist shall, in consultation with an authorized representative of CDFG, determine a ground disturbance-free setback zone around the nest (usually a minimum of 250 feet). The actual distance of the ground disturbance-free zone will depend on the species, location of the nest, and local topography. This setback must be temporarily fenced, and construction equipment and workers precluded from entering the enclosed setback area until the conclusion of the breeding season.

Finding
The implementation of the above FEIR mitigation measures will reduce the potentially significant impact to a less than significant level.

4. Impact
Implementation of the proposed project would result in the removal of the majority of trees on the project site, including ordinance-sized trees.

Mitigation
Implementation of the following two-part mitigation measure would reduce the potential impact related to removal of trees.

- 4a. Prior to approval of a Planned Development Permit for any phase of development on the project site, a comprehensive tree survey for the parcel(s) being developed shall be required. The site design and PD Permit approval shall incorporate preservation of existing trees to the maximum extent practicable, to the satisfaction of the Director of Planning, Building, and Code Enforcement (PBCE). In locations where preservation of existing trees is not feasible due to site constraints, relocation and replanting of significant existing trees (especially native species) shall be incorporated into the project, where feasible and appropriate, to the satisfaction of the Director of PBCE. The applicant shall develop a landscape plan that incorporates the following replacement ratios for each tree removed (per Table V.I-3):

- Up to five replacement trees for every tree removed that is 18 inches or greater in diameter.
- Up to three replacement trees for every tree removed that is 12 to 18 inches in diameter.
- One replacement tree for every tree remove that is less than 12 inches in diameter.

- 4b. In the event the developed portion of the project site does not have sufficient area to accommodate the required tree replacement, one or more of the following measures shall be implemented at the permit stage:
  - An alternative site(s) will 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 the Department of Planning, Building, and Code Enforcement.
  - An in-lieu donation of $300 per tree to San Jose Beautiful or Our City Forest for in-lieu off-site tree planting in the community. These funds would 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 Planning Project Manager prior to issuance of a development permit.

The above mitigation would lessen the severity of the impact, but not to a less than significant level. The removal of 385 trees would be a significant impact to biological resources.

Finding
The implementation of the above FEIR mitigation measures will lessen the significant impact, but not to a less than significant level. This impact, therefore, will be significant and unavoidable.

5. Impact
Implementation of the proposed project would result in damage to trees that will be maintained as part of the landscape plan.

Mitigation
The following tree protection measures would be implemented in order to protect trees to be retained during construction and would reduce potential impacts to a less than significant level:

Design Measures

- Any plan affecting trees should be reviewed by a consulting arborist with regard to tree impacts. These include, but are not limited to, improvement plans, utility and drainage plans, grading plans, landscape and irrigation plans, and demolition plans.
- The consulting arborist will identify a Tree Protection Zone for trees to be preserved in which no soil disturbance is permitted (typically the edge of the dripline). Where approved site improvements encroach within the dripline, the consulting arborist will determine where a smaller Tree Protection Zone is to be placed, and make recommendations to reduce the impacts of construction in those areas.
- The Tree Protection Zone of trees to be preserved may allow for approved site improvements near, and in some cases, within the dripline. Future refinements to the design, such as lighting and landscaping, should not require grading within the Tree Protection Zone.
- Prior to issuance of a Planned Development permit, the consulting arborist will submit to the satisfaction of the Director of Planning a Tree Fencing Plan detailing the location of all protective fencing enclosing the Tree Protection Zone.
- No underground services including utilities, sub-drains, water or sewer shall be placed in the Tree Protection Zone.
- Any herbicides placed under paving materials must be safe for use around trees and labeled for that use.
- Irrigation systems must be designed so that no trenching will occur within the Tree Protection Zone.

Pre-Construction Treatments

- Fence all trees to be retained to completely enclose the Tree Protection Zone prior to demolition, grubbing or grading. Fences shall be 6-foot chain link or equivalent as approved by consulting arborist. Fencing shall be placed at the dripline. Fences are to remain until all grading and construction is completed.
- Prune trees to be preserved to clean and elevate the crown, providing a level of clearance for vehicles to be determined in consultation with Fehr and Peers Associates, Inc., based on the likely vehicle use patterns in the various parking areas. All pruning shall be completed by a certified arborist or tree worker and adhere to the 'Tree Pruning Guidelines' of the International Society of Arboriculture.

Tree Protection During Construction
No grading, parking, construction, demolition or other work shall occur within the Tree Protection Zone. Any modifications must be approved and monitored by the consulting arborist.

- Tree health and structural condition shall be monitored throughout the construction period. Any needed treatments shall be applied. These treatments may include, but are not limited to, irrigation, pest control, weed control, and mulch treatment.
- Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.
- If injury should occur to any tree during construction, it should be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied.
- Root-injured trees have a limited capacity to absorb water. Therefore, it is important to ensure adequate soil moisture in the area of active roots. One to several irrigations may be needed for trees that are at risk. Irrigations should be specified by the consulting arborist.
- No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the Tree Protection Zone.

Trees to be Relocated. The following measures shall be implemented by the applicant to ensure vigor and survival of trees selected for relocation:

- A qualified arborist shall be retained to plan and manage the tree transplanting program.
- The arborist's plan for transplanting trees shall be submitted to the City prior to the issuance of a PD Permit, and the arborist shall implement the plan as approved.
- The arborist shall ensure that transplanted trees are properly handled and cared for during excavation, moving, storage, maintenance, replanting, and establishment. The project arborist shall provide appropriate recommendations to ensure vigor and survival of the trees throughout the transplantation and establishment process.
- In the event that any of the transplanted trees fail within the first 12 months of relocation, they shall be replaced in accordance with the City of San Jose tree replacement requirements.

Finding
The implementation of the above FEIR mitigation measures will reduce the potentially significant impact to a less than significant level.

F. VISUAL RESOURCES

1. Impact

The proposed project would degrade the existing visual character of the site.

Mitigation

The application of the City's Commercial Design Guidelines and landscaping requirements would enhance project aesthetics; however, this would not be sufficient to reduce the visual and aesthetic impacts of the project to a less than significant level.

Finding

The implementation of the above FEIR mitigation measures will lessen the significant impact, but not to a less than significant level. This impact, therefore, will be significant and unavoidable.

2. Impacts

The proposed project would substantially damage scenic resources, including trees and a historic building.

Mitigation
Implement the mitigation measure for the Biological Resources Impact 4, described above.

Finding
The implementation of the above FEIR mitigation measures will lessen the significant impact, but not to a less than significant level. This impact, therefore, will be significant and unavoidable.

G. HYDROLOGY AND WATER QUALITY

1. Impact
Alteration of the local drainage patterns could potentially result in exceedance of the capacity of downstream storm water conveyance structures, resulting in localized flooding.

Mitigation
As a condition of approval of the final grading and drainage plans for the project at the Planning Development Permit stage, the applicant shall be responsible for design and replacement of the existing 15-inch storm drain in Cottle Road with a 30-inch storm drain and the proposed 24-inch off-site connection pipe with a 30-inch storm drain. These improvements are necessary to ensure that the on-site and off-site storm drain system is adequate for a 10-year storm. The applicant shall demonstrate through detailed hydraulic analysis that implementation of all on-site and off-site proposed drainage improvements are designed in compliance with City of San Jose standards, and the final design shall include a Conceptual Storm Water Control Plan showing all calculations. The grading and drainage plans shall be reviewed for compliance with these requirements by the City of San Jose Department of Public Works. Any improvements deemed necessary by the City shall be made a part of the conditions of approval.

Implementation of this mitigation measure would reduce potential impacts associated with off-site storm drainage capacity to a less than significant level.

Finding
The implementation of the above FEIR mitigation measures will reduce the potentially significant impact to a less than significant level.

2. Impact
Construction activities on the project site could result in degradation of water quality in the Guadalupe River and the Bay by reducing the quality of storm water runoff.

Mitigation

The project proponent shall prepare a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality through the construction-period of the project. The SWPPP must be maintained on-site and made available to RWQCB staff upon request.

- The SWPPP shall include specific and detailed BMPs designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly-designed storage areas that keep these materials out of the rain.
- 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.

  Along with these practices and control measures, at the discretion of the City Public Works Department, the applicant may also be required to prepare an Erosion Control Plan. The Erosion Control Plan shall 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 potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control, that is, keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. If hydroseeding is selected as the primary soil stabilization method, then these areas shall be seeded by the last week of September and irrigated as necessary to ensure that adequate root development has occurred prior to October 15. Entry and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions.
- An important component of the storm water quality protection effort is the knowledge of the site supervisors and workers. To educate on-site personnel and maintain awareness of the importance of storm water quality protection,

site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP.

- The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and must include both dry and wet weather inspections. In addition, in accordance with State Water Resources Control Board Resolution No. 2001-046, monitoring would be required during the construction period for pollutants that may be present in the runoff that are "not visually detectable in runoff." The developer shall retain an independent monitor to conduct weekly inspections and provide written monthly reports to the City of San Jose Department of Public Works to ensure compliance with the SWPPP. RWQCB personnel, who may make unannounced site inspections, are empowered to levy considerable fines if it is determined that the SWPPP has not been properly prepared and implemented.

Finding
The implementation of the above FEIR mitigation measures will reduce the potentially significant impact to a less than significant level.

3. Impact
Post-construction site uses could result in degradation of water quality in the Guadalupe River and the Bay by reducing the quality of storm water runoff.

Mitigation
The project proponent shall design project features and operational Best Management Practices (BMPs) to reduce potential impacts to surface water quality associated with operation of the project. These features shall be included in the project grading and drainage plan and final development drawings. Specifically, the final design shall include measures designed to mitigate potential water quality degradation of runoff from all portions of the completed development that are subject to the City of San Jose's C.3 permit requirements. In general, passive, low-maintenance BMPs (e.g., grassy swales, porous pavements) are preferred in areas where year-round irrigation is already planned. If the design includes higher maintenance BMPs (e.g., sedimentation basins, hydrocarbon interceptors), then funding for long-term maintenance needs must be specified by the developer because the City will not assume maintenance responsibilities for these features. This mitigation will conform to the requirements of Policy 6-29.

BMPs to reduce the volume of runoff from the site, such as detention/retention units or infiltration structures, shall be designed to treat storm water runoff equal to:

- The maximized storm water quality capture volume for the area, based on the City of San José precipitation gage with adjustments made directly proportionate to Mean Annual Precipitation; or
- The volume of annual runoff required to achieve 80 percent or more capture, determined in accordance with the methodology set forth in Appendix D of the *California Storm water Best Management Practices Handbook*, (1993), using local rainfall data.

BMPs designed to increase flow capacity, such as swales, sand filters, or wetlands, shall be sized to treat:

- 10 percent of the 50-year peak flow rate; or
- The flow of runoff produced by a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the applicable area, based on historical records of hourly rainfall depths; or
- The flow of runoff resulting from a rain event equal to at least 0.2 inches per hour intensity.
- The selected BMPs must:
- Address significant erosion potential and sediment control (C.3.a.iv).
- Reduce post-development pollutant loads from a site to the maximum extent practicable (C.3.b.i).
- Ensure that post-project runoff pollutant levels do not exceed pre-project pollutant levels for projects that discharge directly to listed impaired water bodies under Clean Water Act Section 303(d)(C.3.b.ii).

The final design for the development project shall incorporate into the project as many concepts as practicable from *Start at the Source*, *Design Guidance Manual for Stormwater Quality Protection.*[1] The final design may also include "end-of-pipe" treatment systems on the project site, including, but not limited to baffle boxes, catch basins, and hydrodynamic separators. All end of pipe treatments would be on private property and maintained by the land owner. Any use of end-of-pipe treatment systems must be accompanied by a viable maintenance program to be administered by the project owner(s).

The specific BMPs to be used in each phase of development will be determined based on design and site-specific considerations and will be determined prior to issuance of Planned Development Permits. Post-construction BMPs and design features could include, but are not limited to, the following:

[1] Bay Area Stormwater Management Agencies Association. 1999. *Start at the Source, Design Guidance Manual for Stormwater Quality Protection.*

- Infiltration basins – shallow impoundments designed to collect and infiltrate storm water into subsurface soils.
- Infiltration trenches – long, narrow trenches filled with permeable materials designed to collect and infiltrate storm water into subsurface soils.
- Permeable Pavements – permeable hardscape that allows storm water to pass through and infiltrate subsurface soils.
- Vegetated Filter Strips – linear strips of vegetated surface designed to treat surface sheet flow from adjacent surfaces.
- Vegetated Swales – shallow, open channels with vegetated sides and bottom designed to collect, slow, and treat storm water as it is conveyed to downstream discharge point.
- Flow-through Planter Boxes – structures designed to intercept rainfall and slowly drain it through filter media and out of planter.
- Hydromodification Separators – flow through structures with a settling or separation unit that removes sediments and other pollutants.
- Media Filtration Devices – two chamber system including a pretreatment settling basin and a filter bed.
- Green Roofs – vegetated roof systems that retain and filter storm water prior to drainage off building rooftops.
- Wet Vaults – subsurface storage system designed to fill with storm water during larger storm events and slowly release it into the conveyance system over a number of hours.

To protect groundwater from pollutant loading of urban runoff, BMPs which are primarily infiltration devices (such as infiltration trenches and infiltration basins) must meet, at a minimum, the following conditions:

- Pollution prevention and source control BMPs must also be implemented to protect groundwater;
- Use of infiltration BMPs cannot cause or contribute to degradation of groundwater;
- Infiltration BMPs must be adequately maintained;
- Vertical distance from the base of any infiltration device to the seasonal high groundwater mark must be at least 10 feet. In areas of highly porous soils and/or high groundwater table, BMPs should be subject to a higher level of analysis (considering potential for pollutants such as on-site chemical use, level of pretreatment, similar factors);

- Unless storm water is first treated by non-infiltration means, infiltration devices shall not be recommended for areas of industrial or light industrial activity; areas subject to high vehicular traffic (25,000 or greater average daily traffic trips on main roadway or 15,000 or more average daily traffic trips on any intersecting roadway); automotive repair shops; car washes; fleet storage areas (bus, truck, etc); nurseries; and other land uses and activities considered by the City as high threats to water quality; and
- Infiltration devices must be located a minimum of 100 feet horizontally from any water supply wells.

The City of San Jose Department of Planning, Building, and Code Enforcement shall ensure that the SWPPP and drainage plan are prepared and adequate prior to approval of the grading plan. Implementation of this mitigation would reduce the level of significance of this impact to a less than significant level.

Finding
The implementation of the above FEIR mitigation measures will reduce the potentially significant impact to a less than significant level.

H. GEOLOGY

1. Impact
Employees and customers of the proposed retail development would be subject to seismic hazards.

Mitigation
Prior to the issuance of any site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San Jose Public Works Department for review and confirmation that the proposed development fully complies with the California Building Code. The report shall determine the project site's surface geotechnical conditions and address potential seismic hazards such as liquefaction and subsidence. The report shall identify building techniques appropriate to minimize seismic damage. The report shall also address site specific soil conditions. In addition, the following requirement for the geotechnical and soils report shall be met:

- Analysis presented in the geotechnical report shall conform with the California Division of Mines and Geology recommendations presented in the *Guidelines for Evaluating Seismic Hazards in California*.[2]

[2] California Division of Mines and Geology (CDMG), 1997. *Guidelines for Evaluating Seismic Hazards in California*, CDMG Special Publication 117, 74 p.

All mitigation measures, design criteria, and specifications set forth in the geotechnical and soils report shall be followed.

Finding
The implementation of the above FEIR mitigation measures will reduce the potentially significant impact to a **less than significant level.**

2. Impact
Damage to structures or property related to soil expansion could occur.

Mitigation
The following three-part mitigation measure would reduce this impact to a less than significant level:

- 2a. Non-expansive fill materials shall be used to raise the building pads as well as to mitigate the effects of the expansive clays upon the building foundations and footings.
- 2b. To minimize the potential for water collection or ponding, the project plans shall include roof drainage that shall be conveyed via downspouts directly to the project's underground storm drain system.
- 2c. Positive surface drainage shall be included in the project designs around the building to direct water away from the building foundation.

Finding
The implementation of the above FEIR mitigation measures will reduce the potentially significant impact to a less than significant level.

I. HAZARDOUS MATERIALS

1. Impact
Demolition of any structures containing lead-based paint, mercury, PCBs, or asbestos-containing building materials may affect construction workers and the public.

Mitigation
Prior to the issuance of a demolition permit for any structure on-site, an asbestos and lead-based paint survey shall be performed. Where asbestos-containing materials are determined to be present, the materials shall be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District where lead-based paint is identified, then federal and State construction worker health and safety regulations shall be followed during renovation or demolition activities. Where loose or peeling lead-based paint is identified, they shall be removed by a

qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations. Other hazardous wastes generated during demolition activities, such as fluorescent light tubes and mercury switches, shall be managed and disposed of in accordance with existing hazardous waste regulations. Implementation of this measure would reduce this impact to a less than significant level.

Finding
The implementation of the above FEIR mitigation measures will reduce the potentially significant impact to a less than significant level.

J. CUMULATIVE IMPACTS

1. Impact
The combined impacts to historic resources as a result of full implementation of the proposed projects would result in a cumulatively significant loss of historic resources. The proposed project would contribute to that cumulative significant impact.

Mitigation
No feasible mitigation has been identified to reduce the project's contribution to a significant cumulative impact to historic resources.

Finding
There are no feasible mitigation measures to reduce this impact; therefore, this impact will be significant and unavoidable.

2. Impact
The combined impacts of the tree removal at various sites in San Jose would contribute to a significant cumulative biological impact.

Mitigation
Mitigation Measure BIO-4 would help to reduce the tree removal impact. However, this impact would still be considered a significant and unavoidable cumulative impact. No other feasible mitigation has been identified to reduce the project's contribution to a significant cumulative impact to biological resources.

Finding
There are no feasible mitigation measures to reduce this impact; therefore, this impact will be significant and unavoidable.

3. Impact
Implementation of the proposed projects would change the visual character of the sites and would obstruct scenic views. The proposed project would contribute to a cumulative significant impact.

Mitigation
No feasible mitigation has been identified to reduce the project's contribution to a significant cumulative impact to visual resources.

Finding
There are no feasible mitigation measures to reduce this impact; therefore, this impact will be significant and unavoidable.

II. ALTERNATIVES TO THE PROPOSED PROJECT

A. NO PROJECT ALTERNATIVES

1. No Development Alternative

a. Description. The No Development alternative consists of the project site remaining in its current state. The existing buildings, parking area, and trees would remain, but the site would remain unused. Although the existing buildings could be sold or leased for permitted land uses under the IP zoning, it was assumed for purposes of this analysis that the buildings would remain vacant in order to reflect existing conditions. The Existing Zoning alternative below considers potential reuse of the project site under the existing zoning.

b. Comparison to Proposed Project. Since no traffic would be generated under this alternative, there would be no significant impacts to circulation and parking as would result from the proposed project. The existing structures would not be removed, so the significant historic resource impacts that would occur with the removal of Building 025 under the proposed project would not occur under the No Development alternative. The existing trees on the site would remain, so the tree removal impacts, and the corresponding visual impacts associated with the proposed project, would be avoided under this alternative. The existing buildings on the site contain substantial amounts of hazardous materials in the form of building materials that contain asbestos, lead-based paint, mercury, and PCBs. However, since these buildings would not be demolished or used under this alternative, there would be little or no actual human exposure to these hazardous materials.

c. Finding. The City finds that this Alternative is infeasible. The No Development alternative would avoid the significant traffic, historic, tree removal, and visual impacts associated with the proposed project, and therefore is environmentally superior to the proposed project. However, the No Development alternative would not achieve any of the project objectives, including the objectives of establishing a commercial use on the site, conformance with the City's Economic Development Major Strategy, and complementing the adjacent approved Urban Transit Village on the Hitachi site.

2. Existing Zoning Alternative

a. Description. The Existing Zoning alternative consists of utilization of the site under its current General Plan and zoning designations. If the Lowe's project is not approved as proposed, the landowner's representative has indicated that they would continue to market the property for development consistent with the General Plan and zoning. The current Land Use designation on the site is Industrial Park with a *Mixed Industrial Overlay*, under which the allowable land uses include a light industrial, research and development, and compatible commercial uses such as big box retail, as well as public and quasi-public uses such as schools and community centers. However, given that the zoning designation for the site is *IP Industria1 Park*, any proposal for non-industrial use

would require discretionary approval likely consisting of a Conditional Use Permit.

b. Comparison to Proposed Project. Apart from the big box retail development proposed by the project, the remaining alternative land uses allowed under the General Plan would consist of some form of light industrial, R&D office, other research and development use, or public or quasi-public use such as a school or community center. For any of these uses, the development configuration would likely consist of low-profile buildings surrounded by landscaped parking lots. Since these land uses would not require high visibility from the street, as would be the case with retail development, the existing dense stands of trees along Cottle Road could be retained and incorporated into the development. This alternative would likely result in reduced tree removal impacts and fewer visual impacts than would occur with the proposed project.

The impacts to historic resources under this alternative would depend on whether the existing Building 025 would or could be incorporated into such a project. If Building 025 could be rehabilitated and reused consistent with existing zoning without substantial adverse impacts to its historic setting, then this alternative would avoid the significant historic impacts associated with the proposed project. If Building 025 could not be feasibly upgraded and made attractive to industrial, R&D or a non-profit tenant, it would not avoid the significant historic impacts associated with the project.

c. Finding. The City finds that this Alternative is infeasible. The Existing Zoning alternative would avoid the significant visual impacts associated with the proposed project, could also reduce significant loss of trees, and might avoid significant historic impacts if Building 025 were rehabilitated and reused without adverse effects to its historic architectural character and setting. As such, this alternative would be environmentally superior to the project as proposed. However, this finding assumes that Building 025 were rehabilitated. The feasibility of rehabilitating Building 025 was evaluated in, among other places, an independent third party report by CB Richard Ellis. Analyses and testimony provided in the record demonstrate that rehabilitation of Building 025 for any use would require extensive and costly alterations and upgrades to both the interior and exterior of the building. Additionally, testimony was provided indicating that these alterations could have a significant adverse impact on many of the building elements identified as historically significant.

B. HISTORIC RESOURCES MITIGATION ALTERNATIVES

1. Alternative Uses for Building 025

a. Description. A variety of alternative uses for Building 025 were considered which would allow the existing facilities (including the landscaping) to remain within their current configuration and would be allowed under the current and proposed General Plan and zoning designations for the site. These uses include: light industrial, office/research and development, retail, and public and quasi-public uses such as a school, community college, or park community center.

The feasibility of rehabilitating Building 025 for retail and or land uses, other than a Lowe's store, was evaluated in, among other places, an independent, third-party report by CB Richard Ellis Consulting/Sedway Group (CBRE). Determining the feasibility of retaining Building 025 for a new use includes a consideration of the cost of rehabilitation of the historic structure and market support for the reuse of the building. Analyses and testimony provided demonstrates that an extensive scope of work and alterations would be required to the building interior and exterior, as well as to the grounds surrounding the building, to rehabilitate it for any of the proposed new uses.

Testimony provided shows that these alterations could have a significant adverse impact on many of the building elements identified as being historically significant, and the modifications necessary to make Building 025 viable for a new use and code compliant would adversely affect the building's integrity as a cultural resource, both in terms of its setting and the building structure itself based upon the information and analyses provided.

b. Comparison to Proposed Project. By rehabilitating and reusing Building 025 within its campus setting, this alternative would avoid the significant impact related to the removal of the historic structure, and associated landscaping. However, there could be other historic impacts associated with alteration of the exterior of Building 025 depending on the use that would be located within the structure.

c. Finding. The City finds that the rehabilitation and reuse of Building 025 for light industrial, office/condominium, non-profit use (e.g., a school or community center), office/R&D, retail or a Lowe's store is infeasible. Building 025 was not designed for many of these uses and the revisions necessary to allow for these uses and/or to rehabilitate the structure to comport with current structural and building codes and requirements are cost prohibitive, when compared to the market support for such reuses, and such renovations would adversely affect the historic significance of Building 025 and its setting. Building 025 has been vacant for several years, and is in poor condition, as described in fuller detail in reports and other testimony provided.

Light Industrial: The building is ill-suited for light industrial because it has low ceilings, low floor loading capacity, inadequate power and HVAC systems, and no loading docks.

Retail: A retail feasibility analysis performed by CBRE as well as other testimony provided shows that experts have concluded that Building 025's multiple H-shaped floor is not feasible for retail use. The building's unusual shape would create poor retail frontages, i.e. poor visibility, and poor customer circulation. Also, the building would require landscape removal, installation of loading areas and walkways, and extensive renovations to exterior walls, including the addition of store entrances and signage, which would damage the building's historic character.

Additionally, testimony such as the RMW Building Re-Use Evaluation Report shows that required renovations to Building 025 would include a complete gut and rehabilitation in the interior, compliance with handicap and Title 24 energy standards; seismic upgrades; and additional interior and exterior improvements to suit individual retail tenants.

The total cost of development would be $18.0 to $18.3 million. To cover these significant costs, the retail rents would have to be nearly double the prevailing market rents for retail in San Jose.

Finally, the CBRE report and other testimony provided shows that the reuse of Building 025 for retail would make the recruiting of tenants to the building difficult because its layout and impaired access and visibility deviate from the typical efficient configuration of a strip center.

Office/R&D: Reuse of Building 025 for office/R&D would require renovations that would include a complete gut and rehabilitation in the interior, compliance with handicap and Title 24 energy standards; seismic upgrades; and additional interior and exterior improvements. The total costs of development would necessitate rents that far exceed the prevailing market rents for office/R&D space in San Jose. The parking areas for both the Lowe's retail and office users becomes totally disjointed and inadequate. Additionally, the renovations required would significantly damage the building's historic character.

Office Condominiums: If Building 025 were to be used for office condominiums, the building would have to be divided into discrete, saleable units. According to reports, such as the CBRE supplemental report dated June 28, 2006 and other testimony, this reuse would entail the same retrofit costs as an ordinary office/R&D renovation, plus additional costs involved with dividing walls between condo units and individual facilities (e.g. bathrooms) for each unit. The cost of retrofitting would result in necessary rents that far exceed prevailing

market sales prices. In addition, as noted in testimony, such as that of Michael J. Phillips of Cornish and Carey Commercial, the office condos would be unmarketable because of poor visibility of each individual unit (due to the unusual building layout), parking problems (due to the proximity of a Lowe's – type building), and difficulties involved with inventory deliveries. Finally, as noted in the Fehr and Peers report, the parking supply associated with the Lowe's store in conjunction with reuse of Building 025 as office space will not be sufficient to serve the weekday demand.

Reuse as a Lowe's Store: Testimony provided shows that Lowes operation requires a completely different building type. Lowes' building model requires a simple rectangular building of 138,000 or 170,000 square feet with a large open space, 22-foot ceilings, and a heavy concrete slab floor that allow for the stacking, display, and storage of the large, heavy, bulky items that Lowe's sells. In contrast, Building 025 has a non-rectangular configuration of multiple wings along a narrow spine, 10-foot ceilings, 69,000 square feet, and a floor spanning a mechanical basement that was designed for much lighter loads.

School/Park: According to information provided, the Oak Grove School District has no need for or interest in additional school sites. The City of San José Department of Parks, Recreation, and Neighborhood Services indicated that it would be unable to acquire some or all of the site for park or community center uses due to tight budget constraints. As explained above, the costs of purchase and retrofit are prohibitive. Additionally, re-use of Building 025 for this purpose would not meet the applicant's or the City's objectives for use of the property. Traffic and safety concerns, among other concerns, make it infeasibile for a large home improvement store to co-exist on the property with Building 025 rehabilitated for these uses*.*

2. Two-Story 170,000 Square Foot Lowe's with Parking Structure.

a. Description. This alternative consists of a reconfigured site plan which would accommodate both a rehabilitated and reused Building 025 and a Lowe's store sized similarly to that which is proposed for the project. This alternative would consist of an approximately 148,500 square foot home improvement center and an approximately 21,500 square foot garden center. Due to the parcel size and site plan limitations and the need to accommodate the full square footage and parking supply for the Lowe's store and Building 025, the Lowe's store was designed as a two-story structure with an adjacent parking structure to the southeast of the building.

b. Comparison to Proposed Project. This alternative configuration would avoid direct impacts to Building 025 and would retain the courtyards and immediate landscaping around the building. Building 025 would remain in its

original location and most of the character-defining architectural and landscape features would remain intact, if the building were to be renovated and reused for office/R&D or retail. The building's important orientation to nature and the outdoors, as demonstrated in part by its glass walls and multiple courtyards, would be preserved, and the immediate setting of the building would be retained.

However, this alternative would cause some loss of the overall setting of the building on the site. The character of Building 025 as a low, one-story building in its landscape would be changed to one where it shares half the site with two structures (one 50 feet high and the other 14 feet high) and a new row of trees blocking historically open views to the east. Changes to the building's surroundings by the addition of a roughly 170,000 square foot structure and a parking structure would result in some loss of the resource's integrity, both to its setting and to its expression of the aesthetic of its period of significance. However, these changes would not adversely impact the setting and feeling of the site to such an extent that Building 025 would entirely lose its historic integrity and significance.

With respect to visual impacts, this alternative would retain Building 025 and the landscaping around the building. Approximately the same number of trees would be retained along the periphery of the site as could be retained under the project, and therefore the adverse and unavoidable visual impacts associated with the project would not be avoided by this alternative.

c. Findings. The City finds that this alternative is infeasible. As explained in the reports prepared, such as reports by Nolte Associates, Inc., Armstrong, Newman, and CBRE, this alternative is functionally infeasible. The layout of the Lowe's-type store must be and elsewhere is a one-story, rectangular shape to allow for safe and efficient stocking and display of heavy and bulky items. For purposes of customer/staff convenience and public safety, a one-story building with ground-level parking is necessary. Customers and staff cannot be expected to transport large, bulky merchandise through a two story store and/or parking structure. It is noted that Lowe's does not have two-story stores anywhere in the U.S.

Additionally, as explained in writings such as the Kimley Horn & Associates report, this alternative results in on-site traffic and site-circulation impacts. As examples, the location of the parking garage will create driver confusion as to the parking area for the store causing drivers to park in the spaces for Building 025. Most traffic for the home improvement store must pass near the front of the store to reach the parking garage which will trigger increased traffic congestion and conflicts between vehicles and pedestrians. Many drivers that formally used Poughkeepsie/Boulder access to exit the site will divert to the Boulder access thereby causing queuing and stacking issues near the front of the store.

Additionally, the building is pushed closer to Endicott Boulevard which it makes it difficult for large trucks to conveniently enter and exit the site.

3. L-Shaped 170,000 Square Foot Lowe's with Underground Parking

a. Description. This alternative consists of a reconfigured site plan which would accommodate all of both a rehabilitated and reused Building 025 and a full-sized (approximately 170,000 square foot) L-shaped Lowe's store with parking underneath the Lowe's store. This alternative would consist of an approximately 150,000 square foot home improvement center and an approximately 20,000 square foot garden center. Due to the parcel size and site plan limitations and the need to accommodate the full square footage and parking supply for the Lowe's store and Building 025, the Lowe's store was designed as a two-story structure with underground parking as the lower floor.

b. Comparison to Proposed Project. This alternative configuration would avoid direct impacts to Building 025 and would retain some of its setting. Building 025 would stay in its original location and most of the character-defining architectural features would remain intact, if the building were to be renovated and reused for office/R&D or retail. The building's important orientation to nature and the outdoors, as demonstrated in part by its glass walls and multiple courtyards, is preserved, and the immediate setting of the building would be retained. However, some of the overall setting of the building would be lost. Changes to the building's surroundings by the addition of a roughly 170,000 square foot retail structure would result in some loss of the resource's integrity, both to its setting and to its expression of the aesthetic of its period of significance.

With respect to visual impacts, this alternative would retain Building 025 and the landscaping immediately around the building. However, approximately the same number of trees would be retained along the periphery of the site as could be retained under the project, and therefore the adverse and unavoidable visual impacts associated with the project would not be avoided by this alternative.

c. Findings. The City finds that this alternative is infeasible. This alternative is functionally infeasible because, as explained in reports such as the CBRE, Newman Development Group and Armstrong Development Properties, Inc. reports, the home improvement store building must be rectangular in shape to allow for proper customer/staff circulation, and the stacking and displaying of the large, bulky items that typical home improvement stores sell. As noted above, it is functionally infeasible and potentially unsafe for customers and staff to transport heavy items by elevator to a lower-level parking structure.

Additionally, as explained in documents such as the Kimley Horn report, this alternative results in on-site traffic and site circulation impacts. For example, most of the home improvement store traffic must pass near the front of the store to reach the underground entrance which will trigger increased congestion and conflicts between vehicles and pedestrians. The lack of an on-site truck turnaround area and truck circulating road behind the building make it difficult to service the docks.

4. L-Shaped 138,000 Square Foot Lowe's.

a. Description. To fit a smaller, single-story Lowe's on the site with a rehabilitated and reused Building 025, this alternative consists of an L-shaped, single-story Lowe's of approximately 138,000 square feet in size, roughly equivalent to the square footage of the Smaller Lowe's Prototype. The Lowe's store would consist of an 116,700 square foot home improvement store and 21,300 square foot garden center. This alternative would preserve Building 025 and its immediately surrounding landscaping, including most of the mature trees along the Cottle Road frontage. Building 025 would be reused as office/R&D or retail. The existing Buildings 024 and 030 would be removed and replaced with parking. No free-standing Phase 2 retail pad buildings would be provided under this alternative. Approximately 571 parking spaces would be provided to serve all of the uses on the site. Due to the parcel size and site plan limitations the distance between the two buildings would be approximately 90 feet.

b. Comparison to Proposed Project. This alternative configuration would avoid direct impacts to Building 025 and would retain some of its setting. Building 025 would stay in its original location and most of the character-defining architectural features would remain intact, if the building were to be renovated and reused for office/R&D or retail. The building's important orientation to nature and the outdoors, as demonstrated in part by its glass walls and multiple courtyards, is preserved, and the immediate setting of the building would be retained. A substantial part of the significance of Building 025 is its configuration or footprint and its landscape and setting. Changes to the building's surroundings by the addition of a roughly 138,000 square foot retail structure would result in some loss of the resource's integrity, both to its setting and to its expression of the aesthetic of its period of significance. However, Building 025 would remain on the site under this alternative, and therefore, the significant unavoidable impact to historic resources would be reduced to a less than significant level under this alternative.

This alternative would generate less traffic (as it is smaller in size), but would have similar tree removal and visual impacts as the proposed project, even with the retention of some of the mature landscaping around Building 025. With respect to visual impacts, this alternative would retain Building 025 and the landscaping immediately around the building. However, approximately the same

number of trees would be retained along the periphery of the site as could be retained under the project, and therefore the adverse and unavoidable visual impacts associated with the project would not be avoided by this alternative.

c. Findings. The City finds that this alternative is infeasible. This alternative would not meet the applicant's objectives to construct a building footprint with a large, open retail sales area and to have a building size of 140,000 square feet plus 40,000 square foot garden center. As already explained above, this alternative is functionally infeasible because it involves the use of an L-shaped store rather than a rectangular shape.

As an additional aside, this alternative would require a Lowe's to build a prototype store designed for small, rural markets. Lowe's has only one such store in California – in the City of Martell, which has a population of 4,000. Lowe's distinguishes itself from its main competitor, Home Depot, which has several stores near the project area, by providing a larger store (170,000 square feet Lowe's versus Home Depot's average of 128,000 square feet). Lowe's larger store format allows Lowe's to compete with a higher level of finish, a wider assortment of products, and more in-stock merchandise so that customers do not have place special orders.

Additionally, as explained in reports such as the Kimley Horn report, this alternative creates on-site parking, traffic and site circulation impacts. This alternative has limited parking (i.e. approx. 202) spaces in front of the store and only 571 total spaces on the site. According to ITE Parking Generation, 3rd Edition, a 137 KSF Home Improvement Superstore is expected to generate average weekday parking demand of 335 spaces. Parking shortage near the home improvement building is 133 spaces. The lack of adequate parking spaces near the front of the home improvement store is a major inconvenience to customers, and translates to a competitive disadvantage to the operator of that building. Proximity of parking spaces to the home improvement building is important not only from a customer convenience, but also a public safety perspective given the heavy, bulky products sold at such stores. Building 025 is expected to generate an average parking demand of 196 spaces per ITE Parking Generation. The parking shortage immediately adjacent to the home improvement store will cause customers to use spaces on the far side of Building 025. Significant "space trolling" will occur as drivers search for open parking stalls close to the store to limit their distance to transport purchases, which will result in increased pedestrian and vehicular conflicts. Moreover, testimony was provided that truck turnaround lacks adequate space and there is no truck circulating road behind the building which it makes it more difficult to access the loading docks. Poor alignment of the site driveway and multiple drive aisles near the SE corner of Building 025 will concentrate site traffic as it enters and exits the site.

5. L-Shaped 112,000 Square Foot Lowe's.

a. Description. An L-shaped, approximately 112,000 square foot, Lowe's alternative would include a smaller one-story Lowe's home improvement store and the preservation and retention of Building 025 for adaptive reuse. This alternative reflects the intent of Petitioner's Alternative 2 (see Preservation Action Council of San Jose v. City of San Jose. et. al., Action No. CV 012829). No free-standing Phase 2 retail pad buildings would be provided under this alternative. To accommodate a 55-foot-diameter truck turnaround on the site, the garden center would also be significantly smaller (21,500 square feet) than the prototypical size for this project component (31,000 square feet).

b. Comparison to Proposed Project. This alternative configuration would avoid direct impacts to Building 025. Building 025 would remain in its original location and most of the character-defining architectural features and landscape features would remain intact. The building's important orientation to nature and the outdoors, as demonstrated in part by its glass walls and multiple courtyards, is preserved and the immediate setting of the building would be retained. The addition of a 112,000 square foot retail building 114 feet away from Building 025 would alter the setting and character of the site, though to a lesser extent than the previous alternatives since this alternative includes the smallest single-story structure with the largest setback. This alternative would result in some loss of the resource's integrity, both to its setting and to its expression of the aesthetic of its period of significance. However, Building 025 would remain on the site under this alternative, and therefore, the project's significant impact to historic resources would be reduced to a less than significant level under this alternative.

With a smaller Lowe's store, this alternative would generate less traffic than the project, and tree removal and visual impacts would be reduced compared to the proposed project and the previous alternatives; however, not to a less than significant level.

c. Findings. The City finds that this alternative is infeasible. This alternative would not meet the applicant's objective to create a 140,000 square foot building with 40,000 square foot garden center and construct a building footprint with a large, open retail sales area. This alternative also is infeasible to the applicant from a competitive standpoint for the same reasons described with respect to Alternative 4 above. Additionally, this Alternative would not meet the applicant's smallest prototype parameters in terms of size, nor be as large as other similar home improvement stores (as described on the previous page).

This alternative is functionally infeasible because it entails an L-shaped rather than a rectangular store as described in more detail in reports such as the CBRE, Newman Development and Armstrong reports. Additionally, testimony such as

the position of Building 025 on the site would create a functionally infeasible parking layout with a third of the Lowe's customer parking stalls located on the far side of Building 025. Finally, this alternative results in the same parking, traffic and site-circulation negative impacts described regarding Alternative 4 above.

6. Rectangular 138,000/128,000 Square Foot Lowe's.

a. Description. This alternative (shown in two different configurations in the Draft EIR) was developed to evaluate and show how a smaller rectangular store similar in size to the Smaller Lowe's Prototype could fit on the site along with a rehabilitated and reused Building 025 in such a way that the significant impacts to the character and setting of Building 025 could be reduced to a less than significant level, while also avoiding the L-shaped configuration.

The first configuration of this alternative is a smaller, rectangular single-story Lowe's of approximately 141,000 square feet in size (112,734 square foot building and 28,161 square foot garden center) on the site with Building 025. The second configuration of this alternative is a 128,000 size Lowe's (111,196 square foot building and 17,072 square foot garden center), in which the garden center had to be reduced in order to avoid the conflict with Building 025.

b. Comparison to Proposed Project. These alternative configurations would avoid direct impacts to Building 025 and would retain some of its setting. Similar to the previous alternatives, Building 025 would stay in its original location and most of the character-defining architectural features would remain intact, if the building were to be renovated and reused for office/R&D or retail. The building's important orientation to nature and the outdoors and the immediately surrounding landscaping would be retained. However, the setting of the building would be compromised given the close proximity of the Lowe's building under both scenarios. As described previously, a substantial part of the significance of Building 025 is its configuration or footprint and its landscape and setting. Changes to the building's surroundings by the addition of a roughly 138,000 square foot retail structure would result in some loss of the resource's integrity, both to its setting and to its expression of the aesthetic of its period of significance. However, because Building 025 would remain on the site under this alternative, the significant unavoidable impact to historic resources would be reduced to a less than significant level.

These rectangular alternatives would generate less traffic (as they are smaller in size), but would have similar tree removal and visual impacts as the proposed project, even with the retention of some of the mature landscaping around Building 025. With respect to visual impacts, these alternatives would retain Building 025 and some, but not all, landscaping immediately around the building. However, approximately the same number of trees would be removed along the

periphery of the site as would be removed under the project, and therefore the adverse and unavoidable visual impacts associated with the project would not be avoided by these alternatives.

c. Findings. The City finds these alternatives infeasible. These alternatives present the same parking, traffic, circulation and potential public safety issues described previously regarding Alternatives 3, 4 and 5, which discussion is incorporated herein. As such, the resulting vehicular circulation pattern, truck access and provision of parking would not be typical in the marketplace nor functionally feasible for the same reasons already discussed and described herein . This alternative also would not lessen the impacts to biological and visual/aesthetic resources.

As an additional aside, this alternative would require a Lowe's to build a prototype store designed for small, rural markets. Lowe's has only one such store in California – in the City of Martell, which has a population of 4,000. Lowe's distinguishes itself from its main competitor, Home Depot, which has several stores near the project area, by providing a larger store (170,000 square feet Lowe's versus Home Depot's average of 128,000 square feet). Lowe's larger store format allows Lowe's to compete with a higher level of finish, a wider assortment of products, and more in-stock merchandise so that customers do not have place special orders.

C. ALTERNATIVE PROJECT LOCATION

1. Hitachi Site

a. Description. This site is part of the Hitachi Campus Development and is generally bounded by Cottle Road on the west, Poughkeepsie Road to the north, future residential development to the east and future industrial development to the south. This site consists of approximately 34 acres and is partially developed with one- to two-story industrial and R&D buildings as part of the existing Hitachi Campus. A General Plan Amendment and Rezoning for this site has been approved for the Hitachi Campus and Mixed-Use Transit Village Project which would allow development of a retail land use like Lowe’s. Infrastructure is available to serve the Hitachi site.

b. Comparison to Proposed Project. An existing industrial building (Building 026) at this site would need to be demolished as a result of the development of this site for commercial uses. This building was determined to not be a historic resource. Therefore, development of the project at the

alternative site would avoid the significant impacts to historic resources which would result from development at the proposed project site.

The alternative Hitachi site is landscaped in a similar fashion to the proposed Lowe's project site (as both were originally part of the same IBM Campus). A number of ordinance-size trees would need to be removed from this alternative site in order to allow for development of a Lowe's. For purposes of this analysis, the biological resources impacts and related visual resources impacts are considered to be similar to the proposed site. Because the sites are adjacent to one another and project traffic would access either site from the same major roadways (Poughkeepsie Road and Boulder Boulevard), traffic impacts are considered to be similar as well.

c. Findings. The City finds this alternative site infeasible. While development of the alternative Hitachi site would avoid or substantially lessen the historic resources impact that would occur at the proposed project site, the site was previously considered by Lowe's for development of the proposed project. According to a senior Lowe's store planner, the Hitachi site developer was contacted about the potential use of this site and has indicated that the development plans for this site anticipate a Target and supermarket as anchor tenants, and there would not be sufficient space on the site for a Lowe's store if these other uses are eventually constructed and therefore the Hitachi site developer appears not interested in pursuing a Lowe's store at the Hitachi site at this time. Therefore, this site is not believed to be available for acquisition by Lowe's.

2. iStar Site

a. Description. The iStar site is generally bounded by Manassas Road and Great Oaks Boulevard to the northwest and State Route 85 to the south. This site consists of approximately 74 acres and most of the site is undeveloped land and non-commercial orchard trees. The northeast corner of the project site contains several unoccupied buildings and a concrete pad.

The iStar project applicants proposed and the City approved a General Plan Amendment to amend the San Jose 2020 General Plan designation for the site from Industrial Park to Mixed Use with No Underlying Land Use Designation and a rezoning from the existing A(PD) Planned Development zoning designation to IP(PD)-Planned Development, which would allow development of up to 450,000 square feet of commercial uses, including big box retail. Infrastructure is available to serve the iStar site.

b. Comparison to Proposed Project. The existing buildings on the site are not considered to be historically significant (with the exception of a small fruit dehydrator building which has been identified as meriting preservation or

relocation), and therefore, development of the project at the iStar alternative site would avoid the significant impacts to historic resources which would result from development at the proposed project site.

Because the sites are close to one another and located on either side of the Hitachi development, traffic impacts would be similar. The iStar alternative site, therefore, would not avoid the significant impacts to traffic.

Development of the entire iStar site would result in the removal of up to 2,275 non-ordinance size trees and up to 55 ordinance-sized trees. Therefore, it is reasonable to assume that a number of ordinance-size trees would need to be removed from this alternative site in order to allow for development of a Lowe's. For purposes of this analysis, the biological resources impacts and related visual resources impacts are considered to be similar to the proposed site.

In summary, development of the project at the iStar alternative site would avoid or substantially lessen the project's significant historic resources impact and would result in substantially similar traffic impacts, tree removal impacts, and visual impacts. Therefore, this alternative site is considered environmentally superior to the proposed project site.

c. Findings. The City finds this alternative site infeasible. As analyzed in reports, such as Armstrong Development Properties, Inc., the iStar site lacks critically important access points and retail visibility Customers would have to access the iStar site by way of a more circuitous route through the redeveloping mixed-use Hitachi campus on newly constructed or expanded public streets. The iStar site also has impaired visibility from Monterey Highway and Great Oaks.

3. Reinhardt Property Site

a. Description. The Reinhardt property is located in the northeasterly quadrant of State Route 85 and Almaden Expressway, which is 4 miles west of the proposed project site. This approximately 40-acre site consists of fallow agricultural land which is bordered on the northeast by the Guadalupe River and associated percolation ponds. Most of the site has a General Plan designation of General Commercial, with an approximately 10-acre area along the Guadalupe River which is designated "Very High Density Residential (25-40 DU/AC)." As is the case at the Cottle Road location, development of the Lowe's project at this site would require rezoning.

b. Comparison to Proposed Project. The buildings on the alternative site are not historically significant, and their removal for the project would not result in a significant impact. Therefore, development of the project at the alternative site would avoid the significant impacts to historic resources which would result from development at the proposed project site.

In the worst case, development of the project at the alternative site would result in the removal of approximately 33 existing trees. This would represent substantially less tree removal than would occur with development of the proposed project site, where 385 trees are proposed for removal.

Since the alternative site has little intrinsic aesthetic quality and because the lands surrounding the site are urbanized, the development of the proposed project at this site would not result in significant visual or aesthetic impacts. Thus development of the proposed project at the alternative site would avoid the significant visual impacts resulting from development of the project at the proposed site.

The 10,150 daily trips generated by the proposed project would be approximately the same as the roughly 11,000 daily trips forecast for the previously proposed project on this alternative site. For purposes of this analysis, the traffic impacts that would result from the proposed project at this site are assumed to be similar to the impacts reported for the previously proposed project on this site. Based on the traffic analysis for that previous project, five intersections affected by project traffic would operate below level of service (LOS) D with existing plus approved trips. The addition of project traffic would not cause any additional intersections to operate below LOS D, but the project would contribute at least a 1 percent increase in the critical movement volume for at least one intersection. There are no feasible mitigation measures available to reduce this level of service impact to a less than significant level. Therefore, development of the proposed project at the alternative site would result in a significant unavoidable traffic impact. This is an impact which is not associated with development of the proposed project site, where project traffic impacts could be mitigated by identified improvements.

c. Findings. The City finds this alternative site infeasible. Lowe's has indicated that is has determined the Reinhardt site to be poorly positioned to serve its anticipated customer base as efficiently as the project location in that the CBRE Urban Decay Report identifies the Lowe's Cottle Road store primary market area is two miles, and the Reinhardt site is located four miles to the west, and therefore represents a separate primary market area. In addition, according to Lowe's representatives, they have been unable to acquire, control or otherwise have access to the alternate site after attempted communications with the owner of that property because the owner maintains that the property is unavailable. Therefore, this site appears to be unavailable to Lowe's

III. MITIGATION MONITORING AND REPORTING PROGRAM

Attached to this Resolution and incorporated and adopted as part of this Resolution herein, 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.

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.

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 Cultural Resources and Cumulative Cultural Resources, Biological Resources and Cumulative Biological Resources, Visual Resources and Cumulative Visual Resources 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. Lowe's is a large, national retailer that will provide high quality goods and services to the Project area and surrounding neighborhoods.

2. The Project will strengthen and expand the City's tax base and grow the General Fund revenues by providing a major new source of sales tax revenue (approximately $450,000 annually) and increasing property tax revenues thereby furthering the City's economic development goals.

3. The Project will provide for approximately 200 jobs in Phase I alone with the potential to bring more jobs on-line with the completion of Phase II. Seventy percent (70%) of these jobs are full-time positions with full benefits thus contributing to San Jose residents' employment stability and quality of life.

4. The Project supports the City's Economic Development Major Strategy and will create new employment opportunities proximate to housing in South San Jose, and thereby will help correct the existing jobs/housing imbalance that prevails in that part of the City.

5. The Project will be a strong addition to the City's retail base by preventing millions of dollars in sales leakage to other market areas and will have little impact on existing home improvement stores based on the strong market demand for home improvement goods in the surrounding area.

6. The Project will contribute to major transportation improvements serving the Edenvale Redevelopment Project area and surrounding neighborhoods that seek to mitigate traffic congestion in an effort to facilitate ongoing industrial development.

///

///

///

///

7. The Project will help to revitalize an unused industrial area thereby adding viability and vitality to the surrounding region.

8. The Project complements and is appropriate for the new urban context set forth in this area with the recently approved Santa Teresa Urban Transit Village project.

ADOPTED this 5th day of June, 2007, by the following vote:

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

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk