

RESOLUTION NO. 74386

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT EFFECTS, MITIGATION MEASURES AND ALTERNATIVES RELATED TO A PROJECT FOR WHICH AN ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970, AS AMENDED

WHEREAS, prior to the adoption of this Resolution, on April 9, 2008, the Planning Commission of the City of San Jose has certified that the Final Environmental Impact Report for the Berryessa Road General Plan Amendment (the "FEIR") was completed in accordance with the requirements of the California Environmental Quality Act of 1970, as amended, and related state and local guidelines (collectively, "CEQA"); and

WHEREAS, the Berryessa Road General Plan Amendment ("Project") requires the City of San Jose ("City") to approve two related amendments to the City of San Jose 2020 General Plan (File No. GP06-04-05/GP07-04-04), which actions constitute a project under CEQA; and

WHEREAS, the Project analyzed and more fully described under the FEIR consists of the following two related General Plan Amendments:

- GP06-04-05: The City Council intends to adopt the environmentally superior alternative discussed in the FEIR, namely a General Plan land use designation change from *Light Industrial* to *Combined Industrial/Commercial* on an approximately 13.64-acre site located on the south side of Berryessa Road, between King Road and the San Jose Flea Market site in the City of San Jose (the "Subject site on Berryessa Road"). The address of the Subject site on Berryessa Road is 1610-1650 Berryessa Road. This designation is intended for commercial, office, or industrial developments or a compatible mixture of these uses. Pursuant to the General Plan Amendment, the General Plan methodology assumes approximately 237,663 square feet of new development on this site (a floor area ratio of 0.4).
- GP07-04-04: General Plan land use designation change from *Industrial Park* to *Heavy Industrial* on an approximately 13.68-acre site located at the corner of Junction Avenue and Dado Street in the City of San Jose (the "Offsetting Heavy/Light Industrial Acreage Site"). The address of the Offsetting Heavy/Light Industrial Acreage Site is 2256 Junction Avenue.

WHEREAS, the City Council of the City of San Jose is the decision-making body for the proposed Project, the Berryessa Road General Plan Amendment; and

WHEREAS, the City Council of the City of San Jose intends to take approval actions related to the Project, specifically the adoption of certain amendments to the City's 2020 General Plan; and

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

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 Jose 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 Jose, California 95113-1905, as the custodian of documents and records of proceedings on which this decision is based; and

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

I. FINDINGS CONCERNING SIGNIFICANT ENVIRONMENTAL EFFECTS

A. LAND USE

Impacts

Impacts from the Proposed Land Uses on the Subject Site on Berryessa Road

The Combined Industrial/Commercial land uses would be compatible with the various commercial, transportation and residential land uses that surround the subject site on Berryessa Road. While it is not known how tall future buildings and structures on-site would be, the maximum allowable building height is 120 feet, and the lack of public or private open space in the vicinity of the project site would preclude the project from shading outdoor recreational areas or visually intruding on private open space. **(Less Than Significant Impact)**

Compatibility with Future BART Station

The proposed General Plan Amendment would allow development of industrial and commercial development adjacent to an identified BART station. Such development would be consistent with the General Plan's vision for the area surrounding the Berryessa Station Area Node. The location of the future development would promote

BART ridership and would be within easy walking distance of mass transit. **(Less Than Significant Impact)**

Impacts to the Proposed Land Uses on the Subject Site on Berryessa Road

The four light industrial buildings on the south of the subject site on Berryessa Road have not been identified as possible threats from accidental toxic releases and do not pose a threat to existing or future development on the Berryessa site. Therefore, the existing industrial land uses will have a less than significant impact on future development on the subject site on Berryessa Road. If the subject site on Berryessa Road is redeveloped before the Flea Market site, future Combined Industrial/Commercial land uses would be compatible with all the allowable uses of the Flea Market. With redevelopment of the Flea Market, the surrounding land uses could have compatibility issues with future combined industrial/commercial development under the Combined Industrial/Commercial designation. Planned uses would need to be selected to be compatible with surrounding residential uses. **(Less Than Significant Impact)**

Land Uses Impacts on the Offsetting Heavy/Light Industrial Acreage Site

No specific improvements are planned or anticipated on the Offsetting Heavy/Light Industrial Acreage Site as a result of the proposed General Plan Amendment, because the existing land use is consistent with the proposed amendment and no redevelopment is required to comply with the Preservation Framework policy. **(Less Than Significant Impact)**

Other Land Use Impacts

The proposed General Plan Amendments would not affect farmland or agricultural uses in any way or physically divide an established community. Furthermore, there is no Habitat Conservation Plan or Natural Community Conservation Plan that is applicable to the project sites. **(Less Than Significant Impact)**

Population and Housing Impacts Related to the Subject Site on Berryessa Road

The subject site on Berryessa Road is currently developed with light industrial land uses. The proposed project would not displace people requiring the construction of replacement housing elsewhere. The redevelopment of an infill property located near transit would reduce impacts resulting from the placement of combined industrial/commercial in areas requiring substantial commutes, or in areas currently used for agriculture or open space. The proposed General Plan Amendment would not displace jobs but would allow a wide range of uses that would be compatible with surrounding uses, and therefore it promotes the jobs/housing balance by retaining employment capacity on-site. The proposed Project will have a less than significant impact on population and housing in San José. **(Less Than Significant Impact)**

Population and Housing Impacts Related to the Offsetting Heavy/Light Industrial Acreage Site

Protecting jobs on this site would allow for the retention of industrial jobs within the City. The retention of approximately 246 jobs will have a beneficial impact on the City's jobs/housing balance. **(Less Than Significant Impact)**

Mitigation

No mitigation is required or proposed because the Project's impacts related to land use will be less than significant.

Finding

Implementation of the proposed General Plan Amendments will have less than significant impacts related to land use compatibility, agriculture, habitat conservation plans, and population and housing. **(Less Than Significant Land Use Impact)**

B. VISUAL

Impacts

Subject site on Berryessa Road Visual Impacts

Future development of the Subject site on Berryessa Road Project consistent with the Combined Industrial/Commercial land use designation will not degrade any existing view, will not significantly alter any designated view corridor, will not significantly increase light levels, and will not result in visual intrusion, the Project will have less than significant visual impacts related to the Subject site on Berryessa Road. **(Less Than Significant Impact)**

Offsetting Heavy/Light Industrial Acreage Site Visual Impacts

Because the proposed Offsetting Heavy/Light Industrial Acreage Site Project will not degrade any existing view, will not significantly alter any designated view corridor, will not significantly increase light levels, and will not result in visual intrusion, the Project will have less than significant visual impacts related to the Offsetting Heavy/Light Industrial Acreage Site. **(Less Than Significant Impact)**

Mitigation

No mitigation is required or proposed because the Project's visual impacts will be less than significant.

Finding

Implementation of the proposed Project will have a less than significant visual impact. **(Less Than Significant Visual Impact)**

C. GEOLOGY AND SOILS

Impacts

Geologic Impacts to the Subject site on Berryessa Road

The Subject site on Berryessa Road is underlain by expansive soils, with moderate to high shrink-swell potential, which may expand and contract as a result of soil moisture content changes. This could result in a significant impact because the expansive soils could damage proposed structures and improvements on the site. Proper design can be used to avoid or minimize this potential impact. The site is flat and thus future development is not expected to be exposed to slope instability, erosion, or landslide related hazards. The proposed General Plan Amendment allows future development on a site that could expose people or structures to substantial seismic hazards, including liquefaction. **(Significant Impact)**

Geologic Impacts to the Jobs Project Site

No improvements are planned or anticipated on this site as a result of the General Plan Amendment. Any damage to the existing structures from identified soil hazards would not be the result of approval of the proposed General Plan Amendment. **(Less Than Significant Impact)**

Mitigation

General Plan Policies

The following General Plan Policies would reduce potential soils and geology impacts of the proposed project to a level of less than significant:

- *Earthquake Policy #1: New Buildings Required to be Designed and Constructed to Resist Stress Produced by Earthquakes.*
- *Earthquake Policy #3: Approval of Development requires Mitigation of Seismic Hazards.*
- *Earthquake Policy #5: New Development should be Required to Evaluate and Mitigate for Seismic Hazards.*
- *Soils and Geology Conditions Policy #1: New Development should be Required to Evaluate and Mitigate for Geologic Hazards.*
- *Soils and Geologic Conditions Policy #6: Development should Adequately Mitigate Soils and Geologic Hazards.*

Mitigation Measures to be Considered at the Time of Future Development

The following mitigation measures would apply to future development on the project site:

- Geologic conditions on the Subject site on Berryessa Road will require that the proposed structures be designed and built in conformance with the requirements of the Uniform Building Code for Seismic Zone 4. The potential for geologic and soils impacts resulting from conditions on the site can be mitigated by utilizing standard engineering and construction techniques. With incorporation of these measures, the Project will not expose people or property to significant impacts associated with the geologic conditions of the site including seismic ground shaking, liquefaction, or expansive soils.

- The applicant shall submit a soil investigation report addressing the potential hazard of liquefaction to the City Geologist for review and approval prior to issuance of a grading permit or Public Works Clearance. A recommended depth of 50 feet should be explored and evaluated in the investigation.
- Implement standard grading and best management practices in conformance with the City's grading ordinance to prevent substantial erosion and siltation during development of the site.

Finding

Implementation of the General Plan Policies and Mitigation Measures described above would avoid or reduce all potentially significant geology and soils impacts resulting from the proposed Project to a less than significant level. **(Less Than Significant Geology and Soils Impact with Mitigation)**

D. HYDROLOGY

Impacts

Flood and Storm Drainage Impacts on the Subject site on Berryessa Road

The Subject site on Berryessa Road is located within a 100-year flood zone with depths of up to one foot. Future development under the proposed General Plan Amendment on the Subject site on Berryessa Road must conform to the City's Flood Hazard ordinance. Future development would reduce the total area of impervious surface on this site by approximately 28 percent, reducing the total volume of water entering the drainage system and Penitencia Creek. Therefore, the proposed General Plan Amendment would have a less than significant flooding impact on storm drains and downstream drainage. **(Less Than Significant Impact)**

Long Term Water Quality Impacts on the Subject site on Berryessa Road

Future development on the Subject site on Berryessa Road will be required to comply with City Council Policy 6-29 which requires that new development implement post-construction Best Management Practices ("BMPs") and Treatment Control Measures ("TCMs") to reduce stormwater pollutant loads. Approval of the proposed General Plan Amendment would result in future development of the Subject site on Berryessa Road that complies with current NPDES requirements and reduces non-point source pollution. **(Less Than Significant Impact)**

Short Term Water Quality Impacts on the Subject site on Berryessa Road

Future construction activities would generate dust, sediment, litter, oil, paint, and other pollutants that would temporarily contaminate runoff from the site. **(Significant Impact)**

Hydrology Impacts on the Offsetting Heavy/Light Industrial Acreage Site

No improvements are planned or anticipated as a result of the proposed General Plan Amendment on the Employment Capacity Site. No new structures will be built in a 100-

year flood zone. In addition, the quantity and rate of stormwater runoff, as well as the pollutant loads in the runoff, would not change as a result of approval of the proposed General Plan Amendment. **(Less Than Significant Impact)**

Mitigation

General Plan Policies

Any future development under the proposed General Plan Amendments would be subject to existing General Plan policies, including those listed below.

- *Service and Facilities, Level of Service, Goal 2:* The Level of Service for Storm Drainage is to Minimize Flooding on Public Streets and Minimize Property Damage.
- *Services and Facilities, Storm Drainage and Flood Control, Policy 12:* New Projects should be Designed to Minimize Damage due to Stormwater and Flooding.
- *Natural Resources, Water Resources, Policy 12:* Require Specific Construction and Post-construction Measures to Control the Quantity and Improve the Water Quality of Urban Runoff.
- *Hazards, Flooding, Policy 1:* New Development should be Designed to Provide Protection from Impacts of the 100-year Flood.
- *Hazards, Flooding, Policy 3:* Designated Floodway Areas should be Preserved for Non-Urban Uses.
- *Hazards, Flooding, Policy 7:* Development should Provide Adequate Flood Control Retention Facilities.

Mitigation Measures to be Considered at the Time of Future Development

Flooding Mitigation

The finished floor of all buildings within the floodplain shall be elevated to or above the 100-year flood elevation. If the project site is officially taken out of the flood plain (due to proposed flood control improvements) prior to start of construction on future development, new buildings on the project site will not be required to elevate the finished floor above ground level.

In addition, several construction and post-construction mitigation measures, based on RWQCB Best Management Practices to ensure compliance with NPDES permit requirements to reduce construction related water quality impacts, are set forth on pages 60 through 62 of the Draft EIR.

Finding

Conformance with the identified General Plan policies and implementation of the mitigation measures described above will reduce all potentially significant hydrology impacts resulting from the development allowed by the proposed Project to a less than significant level. **(Less Than Significant Hydrology Impact with Mitigation)**

E. VEGETATION AND WILDLIFE

Impacts

Habitat Impacts on the Subject site on Berryessa Road

Riparian Habitat

Because future development will be required to be set back a minimum of 100 feet from the edge of the riparian corridor, whereas the existing buildings are located within 50 feet of the riparian corridor and the existing surface parking lot is directly adjacent to the riparian corridor, redevelopment of the project site would have a beneficial impact on the riparian habitat. The increase in the riparian setback would help to restore some of the biotic function of the habitat associated with Penitencia Creek. **(Less Than Significant Impact)**

Wetlands and Jurisdictional Waters

Future development under the proposed General Plan Amendment would not require work within the riparian corridor and would have no direct impact on the creek. Therefore, there will be a less than significant impact on jurisdictional waters and no consultation with the regulatory agencies would be required. **(Less Than Significant Impact)**

Special Status Plants

None of the seven special status species documented as occurring within the project area occur on the project site due to the existing development. Therefore, the proposed General Plan Amendment will have a less than significant impact on special status plant species. **(Less Than Significant Impact)**

Other Habitats

The project site does not contain any biologic habitat of significance or presently support any native habitats. The proposed Subject site on Berryessa Road Project would have a less than significant impact on native habitats. **(Less Than Significant Impact)**

Future development would result in the loss of up to 196 landscape trees on-site, all of which are outside the riparian corridor. Any future project would be required to plant replacement trees as part of the overall landscape plan. Therefore, the proposed Project would have a less than significant impact on trees. **(Less Than Significant Impact)**

Wildlife Impacts on the Subject site on Berryessa Road

Special Status Animals

Of the 18 special status animal species known to inhabit the project area, one species (steelhead) is known to be in Penitencia Creek and four other species (western pond turtle, sharp-shinned hawk, Cooper's hawk, and loggerhead shrike) could possibly

forage or reside within the riparian corridor adjacent to the project site. However, no evidence of raptor nests were found in any of the trees bordering the site during site visits. **(Less Than Significant Impact)**

Fish and Amphibians

Future development would not impact the riparian corridor or Penitencia Creek because of the required setbacks. Redevelopment of the site would likely result in a greater degree of protection for the riparian habitat (due to the increased setbacks), which would result in better habitat for steelhead and western pond turtles by allowing for the expansion of the existing riparian corridor. Therefore, the Project would have a less than significant impact on special status fish and amphibians known to occur or likely to occur within Penitencia Creek and the riparian zone. **(Less Than Significant Impact)**

Raptors

Future development on the Subject site on Berryessa Road under the proposed General Plan Amendment would not impact the riparian corridor or Penitencia Creek and would result in better habitat for raptors that nest and/or forage in the riparian zone. Redevelopment of the site would result in the loss of 196 landscape trees on-site, which are outside the riparian corridor but likely utilized by nesting and/or foraging raptors. Due to the extensive riparian habitat adjacent to the site, the loss of the landscape trees will not affect the ability of raptors in the project area to nest or forage. Thus, the proposed General Plan Amendment would have a less than significant long term impact on raptors within the Penitencia Creek riparian zone and on the Subject site on Berryessa Road. Construction disturbance of or near raptor nests can result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by the CDFG. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact. **(Significant Impact)**

Wildlife Corridors

It is anticipated that the native wildlife that currently travel through the riparian zone will continue to do so after redevelopment occurs. Because increased setback will be added along the riparian corridor and Penitencia Creek, more wildlife may utilize this reach of the creek. Therefore, the Project would have a less than significant impact on wildlife movement corridors. **(Less Than Significant Impact)**

Habitat and Wildlife Impacts on the Offsetting Heavy/Light Industrial Acreage Site

The existing vegetation on-site and any wildlife utilizing the site will not be destroyed or displaced as a result of the Project, because no improvements are planned or anticipated on this site as a result of the proposed General Plan Amendment. Any future project on this site would be required to plant replacement trees as part of the overall landscape plan. **(Less Than Significant)**

While unlikely, the mature trees on-site may be utilized by nesting and/or foraging raptors if prey species are abundant in the area. Construction disturbance of or near raptor nests can result in the incidental loss of fertile eggs or nestlings, or otherwise

lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by the CDFG. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact. **(Significant Impact)**

Mitigation

General Plan Policies

Any future development under the proposed General Plan Amendments would be subject to the biological resources policies listed in Chapter 4 of the General Plan, including the following:

- *Urban Forest Policy 2:* Preserve Native Oaks, Ordinance-sized & Other Significant Trees and Mitigate where Preservation is Not Feasible.
- *Urban Forest Policy 3:* Maintain Mature Trees on Public and Private Property. Prior to Removing any Mature Trees, Reasonable Measures to Preserve the Tree should be Pursued.
- *Urban Forest Policy 5:* Urban Tree Placement should Consider Energy Saving Values, Nearby Power Lines, and Root Characteristics.
- *Urban Forest Policy 6:* New Urban Trees should be Selected Primarily from Species with Low Water Requirements.
- *Urban Forest Policy 7:* Urban Trees, Where Appropriate, should Benefit Urban Wildlife Species by Providing Food or Cover.
- *Riparian Corridors and Upland Wetlands Policy 1:* Creeks and Natural Riparian Corridors and Upland Wetlands should be Preserved Whenever Possible.
- *Riparian Corridors and Upland Wetlands Policy 2:* New Development should be Consistent with the City's Riparian Corridor Policy Study.
- *Riparian Corridor and Upland Wetlands Policy 3:* Maintain Setback and Buffer from Outside Edge of Riparian Corridor.
- *Riparian Corridor and Upland Wetlands Policy 4:* Protect Riparian Corridors from Indirect Effects of Development
- *Riparian Corridor and Upland Wetlands Policy 5:* Appropriate Measures should be Required to Restore or Compensate for Damage to the Creeks or Riparian Corridors.

Mitigation Measures to be Considered at the Time of Future Development

The following mitigation measures, as described in more detail on pages 76 through 77 of the Draft EIR, shall be considered at the time of future development to reduce and/or avoid impacts to vegetation and wildlife:

- Construction shall be scheduled to avoid the nesting season to the extent feasible.
- If it is not possible to schedule demolition and construction between September and January, then pre construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of

these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats (e.g., buildings, bridges) in and immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction.

- If vegetation and buildings are to be removed by the Project and all necessary approvals have been obtained, possible nesting substrate that will be removed by the Project shall be removed before the start of the nesting season (February) to help preclude nesting, thereby avoiding impacting birds that might nest on the site.
- A report summarizing the results of the pre-construction survey and subsequent efforts to protect nesting raptors (if found to be present) shall be submitted to the Director of Planning, Building and Code Enforcement.
- All trees that are to be removed shall be replaced at certain specified ratios.
- It is estimated, based on the size of the property, that landscaping for future development will include a sufficient number of trees to offset the loss of trees removed by the Project. The species and exact number of trees to be planted on the site will be determined in consultation with the City Arborist and Department of Planning, Building, and Code Enforcement. In the event that the Project site does not have sufficient area to accommodate the required number of replacement trees, one or more of several specified alternative measures shall be implemented to the satisfaction of the Director of Planning, Building, and Code Enforcement at the development permit stage.

Finding

Implementation of the General Plan policies and mitigation measures described above would reduce all potentially significant vegetation and wildlife impacts resulting from the development allowed by the proposed Project to a less than significant level. **(Less Than Significant Vegetation and Wildlife Impact with Mitigation)**

F. HAZARDOUS MATERIALS

Impacts

Contamination Impacts on the Subject site on Berryessa Road

Agricultural Land Uses

The level of soil contamination from agricultural chemicals is unknown at this time. If, however, concentrations of pesticides and herbicides in the soil exceed the applicable Environmental Screening Levels (ESLs) for non-residential land use, the construction of non-residential land uses on the project site could have a significant impact on construction workers and future business tenants and customers. **(Significant Impact)**

Industrial Land Uses

The subsurface investigation did not find significant soil or groundwater contamination as a result of on-site operations. However, the investigation was limited in scope and only tested soil and groundwater in one location. Given the known use and storage of hazardous materials on the project site, it must be assumed that soil and groundwater contamination exists on-site that could impact future users. **(Significant Impact)**

Asbestos-Containing Materials

Due to the age of the structures on the project site, asbestos-containing materials (“ACMs”) may be present. A future development project would likely demolish the existing buildings, and as a result, an asbestos survey would have to be conducted under NESHAP guidelines. In addition, NESHAP guidelines require that all potentially friable ACMs be removed prior to building demolition or renovation that may disturb the ACMs. Furthermore, demolition of the existing structures on the project site could expose construction workers or residents in the vicinity of the project site to harmful levels of ACMs. **(Significant Impact)**

Off-Site Contamination Impacting the Subject site on Berryessa Road

There was an underground storage tank leak at the Shell Service Station located northeast of the site. Recent groundwater monitoring reports for wells down-gradient of the service station show no detectable levels of petroleum hydrocarbons, benzene, or gasoline additives methyl tertiary-butyl ether (MTBE) or tertiary-butyl alcohol (TBA). Therefore, the groundwater contamination did not migrate very far from the source of contamination and remediation activities have been successful. The leak does not pose a threat to the project site. There is no other documented groundwater contamination from land uses in the project area. **(Less Than Significant Impact)**

Sources of Risk Due to the Subject site on Berryessa Road from Accidental Chemical Releases

Redevelopment of the project site under the proposed General Plan Amendment would slightly reduce the severity of an accidental chemical release by removing one of the facilities that would impact the existing and proposed housing in the project area, including the proposed housing on the Flea Market site. **(Less Than Significant Impact)**

Impacts to the Subject site on Berryessa Road from the Presence of High-Pressure Gas Lines

Due to their small size, the two-inch plastic high-pressure gas line located on the north side of Berryessa Road and the two-inch and four-inch steel high-pressure gas lines do not present a risk to the proposed project. The 10-inch and 12-inch steel high-pressure gas lines within the Mabury Road right-of-way also do not present a hazard to the project site because they are approximately 0.25 miles away from the southern boundary of the site. **(Less Than Significant Impact)**

Offsetting Heavy/Light Industrial Acreage Site Hazardous Materials Impacts

If the site were redeveloped in the future under the proposed General Plan land use designation, the site would continue to be utilized for industrial uses which are compatible with all the surrounding land uses. No sensitive receptors or non-compatible uses are located in close proximity to the Offsetting Heavy/Light Industrial Acreage Site. Implementation of the proposed General Plan Amendment would have a less than significant Hazardous Materials impact related to this site. **(Less Than Significant Impact)**

Mitigation

General Plan Policies

The policies in the City of San José General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. Any future development under the proposed General Plan Amendment would be subject to General Plan policies, including those listed below.

- *Hazardous Materials Policy 1:* Require Proper Storage and Disposal of Hazardous Materials.
- *Hazardous Materials Policy 3:* Evaluate Soil and Groundwater Contamination When Considering Proposals for New Development.
- *Residential Land Use Policy 5:* Only Allow Residential Development in Areas with Identified Hazards to Human Habitation if these Hazards are Adequately Mitigated.

Mitigation Measures to be Considered at the Time of Future Development

Future development proposals under the proposed General Plan Amendments will implement the following mitigation measures, as set forth in more detail on page 85 of the Draft EIR:

- A Phase II environmental investigation will be required prior to redevelopment of the site to identify the extent of on-site contamination.
- All soils on the project site identified in the Phase II report as contaminated with agricultural and/or industrial chemicals at concentrations above established non-residential thresholds will be excavated to a depth where clean soil is known to occur and the contaminated soil will be hauled off-site and disposed of at a licensed hazardous materials disposal site. Building permits will not be issued until all contaminated soil is removed from the project site.

Future development proposals under the proposed General Plan Amendments will conform with the following regulatory programs and implement the following standard measures to reduce impacts due to the presence of ACMs:

- In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site buildings to determine the presence of asbestos-containing materials.
- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from exposure to asbestos.

- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one (1) percent asbestos are also subject to Bay Area Air Quality Management District (“BAAQMD”) regulations. Removal of materials containing more than one (1) percent asbestos shall be completed in accordance with BAAQMD requirements.

Finding

Implementation of the General Plan policies and mitigation measures described above would reduce hazardous materials impacts resulting from future non-residential development allowed on the Subject site on Berryessa Road by the proposed General Plan Amendment to a less than significant level. The proposed General Plan Amendment on the Offsetting Heavy/Light Industrial Acreage Site would result in less than significant hazardous materials impacts. **(Less Than Significant Hazardous Materials Impact with Mitigation)**

G. CULTURAL RESOURCES

Impacts

Prehistoric Archaeological Resource Impacts on the Housing Conversion Site

Although there are no recorded prehistoric archaeological deposits on the site, the project site is situated in an area of high archaeological sensitivity. Therefore, future development allowed by the proposed General Plan Amendment could result in the exposure and/or destruction of unknown subsurface prehistoric archaeological resources. **(Significant Impact)**

Historic Archaeological Resource Impacts on the Subject site on Berryessa Road

Prior to development of the current industrial land use there were historic buildings reported on the project site. Historic resources could be located on the project site. Therefore, future development under the proposed General Plan Amendment could result in the exposure and/or destruction of unknown subsurface historic archaeological resources. **(Significant Impact)**

Archaeological Resources Impacts on the Offsetting Heavy/Light Industrial Acreage Site

Due to the close proximity of the project site to two major waterways, it is possible that prehistoric or historic settlements were located in the project area. If the Offsetting Heavy/Light Industrial Acreage Site were redeveloped under the proposed General Plan land use designation, it could result in the destruction of unknown subsurface prehistoric and/or historic archaeological resources. **(Significant Impact)**

Mitigation

General Plan Policies

The following General Plan policies would reduce impacts to prehistoric and subsurface historic resources:

- *Historic, Archaeological, and Cultural Resources Policy No. 1:* Preservation of Historical and Archaeological Resources should be a Key Consideration in the Development Review Process.
- *Historic, Archaeological, and Cultural Resources Policy No. 8:* Mitigation of Impacts to Archaeological Resources by New Development.
- *Historic, Archaeological, and Cultural Resources Policy No. 9:* Policy regarding Discovery of Native American Burials during Construction.

Mitigation Measures to be Considered at the Time of Future Development

Future development proposals under the proposed General Plan Amendments will implement the following mitigation measures, as set forth in more detail on page 88 of the Draft EIR:

- A mechanical subsurface presence/absence testing program will be developed by a qualified archaeologist and submitted to the Director of Planning, Building, and Code Enforcement for approval prior to approval of demolition permits for any future development project.
- Prior to issuance of grading permits, the mechanical subsurface presence/absence testing program will be implemented by a qualified archaeologist. If prehistoric/historic artifacts are found during testing, the artifacts will be cataloged and curated by a qualified archaeologist and placed in an appropriate curation facility in accordance with Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code.
- In the event human remains are encountered during grading and construction, all work within 25 feet of the find will stop and the Santa Clara County Coroner's office will be notified. If the remains are determined to be Native American, the Coroner would notify the Native American Heritage Commission to identify the "Most Likely Descendant" (MLD). The City, in consultation with the MLD, would then prepare a plan for treatment, study and reinterment of the remains.
- In compliance with state law, in the event that historical artifacts are found, all work within 50 feet of the find will stop and a qualified archaeologist will examine the find. All significant artifacts and samples recovered during construction would be cataloged and curated by a qualified archaeologist and placed in an appropriate curation facility. The archaeologist must then submit a plan for evaluation of the resource to the City of San José Department of Planning, Building and Code Enforcement for approval. If the evaluation of the resource concludes that the found resource is eligible for the California Register of Historic Resources, a mitigation plan must be submitted to the City of San José Department of Planning, Building and Code Enforcement for approval. The mitigation plan must be completed before earthmoving or construction activities can recommence within the designated resource area.

Finding

Implementation of the General Plan policies and mitigation measures, described above would reduce cultural resources impacts resulting from future development allowed under the proposed General Plan Amendments to a less than significant level. **(Less Than Significant Cultural Resources Impact with Mitigation)**

H. TRANSPORTATION AND CIRCULATION

Impacts

Transportation Impacts from the Berryessa Road Site. The City of San José Department of Transportation has determined that the number of new PM Peak Hour trips resulting from the Combined Industrial/Commercial land use designation is below the exemption threshold established for the project area and therefore, the impact is less than significant. **(Less Than Significant Impact)**

Transportation Impacts from the Offsetting Heavy/Light Industrial Acreage Site The net loss of jobs resulting from the redesignation of the Offsetting Heavy/Light Industrial Acreage Site from Industrial Park to Heavy Industrial would result in fewer daily trips. Because of the reduced number of trips, the City of San José concluded that no formal traffic impact assessment was necessary and that implementation of the proposed General Plan Amendment would have a less than significant impact on the local transportation network. **(Less Than Significant Impact)**

Mitigation

None proposed because there is no significant impact.

Finding

The proposed General Plan Amendment to Combined Industrial Commercial on the Subject site on Berryessa Road would not cause a significant increase in vehicle activity during peak hours in the project vicinity and therefore would not significantly impact the roadway links in the project vicinity during both peak hours. **(Less Than Significant Impact)**

Implementation of the proposed General Plan Amendment on the Offsetting Heavy/Light Industrial Acreage Site would have a less than significant traffic impact. **(Less Than Significant Impact)**

I. AIR QUALITY

Impacts

Clean Air Plan

Subject site on Berryessa Road

The General Plan Amendment to Combined Industrial/Commercial would not result in a significant air quality impact because it would not allow for future development to generate a substantial increase in air pollutant emissions and would be consistent with the Bay Area 2005 Ozone Strategy. **(Less Than Significant Impact)**

Offsetting Heavy/Light Industrial Acreage Site

Because the land use will not change, the proposed General Plan Amendment for the Offsetting Heavy/Light Industrial Acreage Site would not result in a significant air quality impact due to inconsistency with the *Bay Area 2005 Ozone Strategy* and will not result in a substantial increase in air pollutant emissions. **(Less Than Significant Impact)**

Toxic Air Contaminants

Construction activities for future development on the Subject site on Berryessa Road are expected to occur over a relatively short period of time and, as a result, the generation of toxic air contaminants from construction equipment is considered a less than significant impact. Future development on the subject site on Berryessa Road would not expose future workers, businesses, or customers to major sources of toxic air contaminants or result in long-term increases in toxic air contaminant emissions. **(Less Than Significant Impact)**

The Offsetting Heavy/Light Industrial Acreage Site is not a sensitive receptor and will not allow sensitive receptors under the proposed General Plan land use designation. Due to the nature of the land use (i.e., industrial), any toxic air contaminants present in the area will not significantly impact the existing land use or any future land use developed under the proposed General Plan Amendment. **(Less Than Significant Impact)**

Construction

Demolition, grading, and construction activities associated with future development on the subject site on Berryessa Road would generate dust and other particulate matter. Although generation of these pollutants would be temporary, these pollutants could cause nuisance and health impacts to nearby sensitive receptors (i.e., residents). **(Significant Impact)**

If the Offsetting Heavy/Light Industrial Acreage Site were to be redeveloped under the proposed General Plan land use designation, construction activities would generate temporary dust and other particulate matter. Such generation would be temporary and would not impact any sensitive receptors. Nevertheless, standard BAAQMD measures would be required by the project to reduce air borne particulates. **(Less Than Significant Impact)**

Mitigation

General Plan Policies

The following General Plan policies would reduce air quality impacts:

- *Transportation Policy #8 (Thoroughfares)*: Vehicular, Bicycle, and Pedestrian Safety should be an Important Factor in the Design of Streets and Roadways.
- *Transportation Policy #22 (Pedestrian Facilities)*: Pedestrian Pathways and Public Sidewalks should Provide Connectivity Between Uses.
- *Transportation Policy #41 (Bicycling)*: Develop a Safe, Direct, and Well-Maintained Transportation Bicycle Network.
- *Air Quality Policy #1*: Establish Appropriate Land Uses and Regulations to Reduce Air Pollution.
- *Air Quality Policy 5*: Design Development near Transit Stations to Promote Transit Usage.
- *Air Quality Policy #6*: Continue to Enforce the City's Ozone-Depleting Compound Ordinance and Supporting Policy to Ban the Use of Chlorofluorocarbon Compounds (CFCs) in Building Construction.

Mitigation Measures to be Considered at the Time of Future Development

The following mitigation would be implemented during all phases of construction on the project site:

- Water all active construction areas at least twice daily or as often as need to control dust emissions.
- Cover all trucks hauling soil, sand, gravel and other loose materials (including demolition debris) and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
- Sweep public streets daily or as often as needed to keep streets free of visible soil.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Replant vegetation in disturbed areas as quickly as possible.
- If demolition debris is processed on-site (i.e., ground or crushed), additional dust control measures will be utilized to avoid all visible dust plumes leaving the site.

Finding

Implementation of the General Plan policies described above would further reduce the less than significant long-term air quality impacts of the General Plan Amendment on the Subject site on Berryessa Road.. **(Less Than Significant Air Quality Impact)**

The proposed General Plan Amendment on the Offsetting Heavy/Light Industrial Acreage Site would not result in any significant long-term air quality impacts. **(Less Than Significant Air Quality Impact)**

Implementation of the General Plan policies and mitigation measures described above will reduce temporary construction related air quality impacts resulting from development allowed under the proposed General Plan Amendments to a less than significant level. **(Less Than Significant Air Quality Impact with Mitigation)**

J. NOISE

Impacts

Noise Impacts on the Subject site on Berryessa Road

Future industrial and commercial development on the Subject site on Berryessa Road will not be impacted by traffic noise on King Road. The future BART rail line would exceed 60 dBA DNL within 144 feet of the track. Because the land use on-site will be industrial and commercial with implementation of the proposed General Plan Amendment, the project would not place an incompatible land use in a noise-impacted area. **(Less Than Significant Impact)**

Groundborne Vibration Impacts on the Subject site on Berryessa Road

Because the land use on-site will be industrial and commercial with implementation of the proposed General Plan Amendment, the project would not place an incompatible land use in a vibration-impacted area. Therefore, the proposed General Plan Amendment for the Subject site on Berryessa Road will not have a significant noise impact. **(Less Than Significant Impact)**

Noise Impacts on the Offsetting Heavy/Light Industrial Acreage Site

Because the land use on-site will remain industrial with implementation of the proposed General Plan Amendment, the project would not place an incompatible land use in a noise impacted area. Therefore, the proposed General Plan Amendment for the Offsetting Heavy/Light Industrial Acreage Site will not have a significant noise impact. **(Less Than Significant Impact)**

Construction Impacts

Noise levels produced by heavy equipment may interfere with normal residential activities during busy construction periods when construction occurs in areas adjacent to residences. Noise generated by construction at the Subject site on Berryessa Road would create a temporary noise impact on adjacent noise sensitive receptors. **(Significant Impact)**

If the Offsetting Heavy/Light Industrial Acreage Site were to be redeveloped under the proposed General Plan Amendment, construction activities would generate substantial noise. The noise would be temporary and would not impact any sensitive receptors. Nevertheless, standard City noise abatement measures would be required during construction. **(Less Than Significant Impact)**

Mitigation

General Plan Policies

The following General Plan policies would reduce noise impacts:

- *Noise Policy 9*: Reduction of Noise during Construction.
- *Noise Policy 12*: Noise Studies Required for certain Peak Event Noise Sources.

Mitigation Measures to be Considered at the Time of Future Development

Future development proposals under the proposed General Plan Amendments will implement the following mitigation measures, as set forth in more detail on pages 123 through 124 of the Draft EIR:

-

Construction

- Construction activities shall be limited to specified hours.
- Use “new technology” power construction equipment with state of the art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good condition.
- Locate stationary noise-generating equipment as far as possible from sensitive receptors. Staging of construction equipment will be as far as is feasible from the sensitive receptors.
- Unnecessary idling of internal combustion engines is prohibited.
- Construction deliveries shall not occur outside the specified construction hours.
- The construction hours shall be printed on all plans for the project.
- These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors.
- A disturbance coordinator shall be identified by the project developer.
- The name and phone number of the disturbance coordinator, the hours of construction limitations, the City File Number, city contact and phone number shall be displayed on a weatherproof sign posted at each entrance to the project site.

Finding

Implementation of the General Plan policies and mitigation measures described above will reduce noise impacts resulting from development allowed under the proposed General Plan Amendments to a less than significant level. **(Less Than Significant Noise Impact with Mitigation)**

K. UTILITIES AND SERVICE SYSTEMS

Impacts

Water Service Impacts on the Subject site on Berryessa Road

Adequacy of Existing Water Mains

Any future development under the proposed General Plan Amendment would connect to the recycled water supply line that is located less than one mile west of the project site on Berryessa Road. The connection to the recycled water supply line could be completed within existing road right-of-ways and, therefore, is not expected to result in significant land use or habitat impacts. **(Less than Significant Impact)**

Future Availability of Water

According to the water supply assessment prepared for the mixed-use residential Project that was the subject of the FEIR, the demand for water that would be generated by the proposed Combined Industrial/Commercial General Plan Amendment, identified as the Environmentally Superior Alternative and anticipated to require less water than the mixed-use housing development, is not expected to exceed San José Water Company's identified supplies. **(Less than Significant Impact)**

Sanitary Sewer System Impacts on the Subject site on Berryessa Road

Future development allowed under the proposed General Plan Amendment would increase the demands upon the sanitary sewer system compared to the current land use, but would not likely exceed the capacity of the multiple wastewater lines available to serve the Subject site on Berryessa Road. The site will be evaluated prior to specific future development under the proposed General Plan Amendment to ensure that sewer line capacity is adequate for the specific development proposed. **(Less Than Significant Impact)**

Water Pollution Control Plant Impacts from the Subject site on Berryessa Road

Future development allowed under the proposed General Plan Amendment will increase the volume of wastewater treated at the Water Pollution Control Plant. There is sufficient capacity at the WPCP to accommodate the estimated wastewater that would be generated by the maximum development under the proposed General Plan Amendment. **(Less Than Significant Impact)**

Solid Waste Impacts on the Subject site on Berryessa Road

The net increase in solid waste generated by the project site would represent only a small fraction of the total waste generated Citywide. The effect of this increase on remaining landfill capacity would be negligible. **(Less Than Significant Impact)**

Storm Drainage System Impacts on the Subject site on Berryessa Road

Because future development under the proposed General Plan Amendment will reduce the amount of impervious surfaces on the site by over 25 percent, compared to existing conditions, the amount of stormwater runoff discharged to the storm drainage system will be less than under existing conditions. **(Less Than Significant Impact)**

Impacts on Electric and Natural Gas Systems from the Subject site on Berryessa Road

Given the location of the project site in a developed urban area, and the fact that electric and natural gas service is currently provided to the project site, the provision and

expansion of service to the project site would not create a significant impact. **(Less than Significant Impact)**

Impacts on Utilities from the Offsetting Heavy/Light Industrial Acreage Site

It is unlikely that the site would be redeveloped under the proposed General Plan land use designation and it would be highly speculative to try to determine the size or use of a future redevelopment project on the site and the impact it may have on the existing infrastructure. Implementation of the proposed General Plan Amendment will not necessarily increase the use of water or the generation of waste water, storm runoff, or solid waste on the site. In addition, the proposed amendment will not automatically increase the use of electricity or natural gas. **(Less Than Significant Impact)**

Mitigation

General Plan Policies

Any future development under the proposed General Plan Amendment would be subject to the General Plan policies, including the policies listed below:

- *Sewage Treatment Policy 7:* Monitor and Regulate Growth so that Cumulative Sewage Treatment Demand can be Accommodated by the San Jose/Santa Clara Water Pollution Control Plant.
- *Sewage Treatment Policy 8:* Operation of the Water Pollution Control Plant should Comply with the Water Quality Standards for the South San Francisco Bay.
- *Sewage Treatment Policy 9:* Encourage Use of Water Conservation Programs.
- *Solid Waste Policy 1:* Monitor the Continued Availability of Long-Term Disposal Capacity to Ensure Adequate Solid Waste Disposal Capacity.
- *Water Resources Policy 4:* Do Not Permit Urban Development in Areas Not Served by a Sanitary Sewer System.
- *Water Resources Policy 8:* Establish Policies, Programs and Guidelines to Adequately Control Discharge of Pollutants into the City's Storm Drains.

Finding

Implementation of the identified General Plan policies would ensure that utility and service system impacts resulting from development allowed under the proposed General Plan Amendments will remain less than significant. **(Less Than Significant Utilities and Service Systems Impact)**

L. ENERGY

Impacts

Wasteful Use of Fuel or Energy

Measures for reducing the proposed project's energy consumption are identified in Section 4.12.4 on pages 136 through 37 of the Draft EIR. The project site is an infill site and future development will comply with existing state, federal, and local regulations regarding the energy efficiency of buildings, appliances, lighting, etc. For these reasons, the project would not result in the wasteful use of fuel or energy. **(Less than Significant Impact)**

Increased Demand Upon Energy Resources

Full build out under the proposed General Plan Amendment would consume a small percentage of the total energy consumed in San José. The estimated consumption resulting from such build out would be, however, a substantial increase in demand upon energy resources in relation to projected supplies. **(Significant Impact)**

Increased Distances Between Jobs and Housing

The proposed General Plan Amendment would allow the development of combined industrial and commercial uses adjacent to planned mass transit and near the job centers of North San Jose and Downtown San Jose. Future development under the proposed General Plan Amendment would not result in longer overall distances between jobs and housing. **(Less than Significant Impact)**

Mitigation

The measures to reduce energy consumption listed below would mitigate the energy impacts of the proposed project to a less than significant level. Unless determined by the City Council to be infeasible in the context of an as-yet-undefined specific future development project, these measures will be required as conditions of approval for future development. In the event the mitigation is determined to be infeasible, adoption of a statement of overriding considerations will be required as part of the approving action for future development (i.e., PD Zoning action).

- MM 4.12-1** The project design shall incorporate principles of passive solar design. Passive solar design is the technology of heating, cooling, and lighting a building naturally with sunlight rather than with mechanical systems because the building itself is the system. Basic design principles are large south-facing windows with proper overhangs, as well as tile, brick, or other thermal mass material used in flooring or walls to store the sun's heat during the day and release it back into the building at night or when the temperature drops. Passive solar also takes advantage of energy efficient materials, improved insulation, airtight construction, natural landscaping, and proper building orientation to take advantage of the sun, shade, and wind.
- MM 4.12-2** The project shall include reflective, *EnergyStar™* cool roofs. Cool roofs decrease roofing maintenance and replacement costs, improve building comfort, reduce impact on surrounding air temperatures, reduce peak electricity demand, and reduce waste stream of roofing debris.

- MM 4.12-3** The project shall utilize local and regional building materials in order to reduce energy consumption associated with transporting materials over long distances.
- MM 4.12-4** The project shall utilize building products that contain post-consumer recycled materials.
- MM 4.12-6** Although there is not a formal *EnergyStar* program for non-residential buildings, all buildings to be constructed by the project shall be constructed to meet the same standards as those that apply to the residential program.
- MM 4.12-7** All new buildings shall include a photovoltaic (i.e., solar electric) system on rooftops.
- MM 4.12-8** Geothermal heat pumps should be installed to provide heating, cooling, and hot water. Geothermal heat pumps are generally more efficient and less expensive to operate and maintain than conventional systems.

Finding

Future development under the proposed General Plan Amendment on the Subject site on Berryessa Road would be infill development and would comply with existing state, federal, and local regulations regarding the energy efficiency of buildings, appliances, lighting, etc. Therefore, the proposed Project will not result in the wasteful use of energy. Implementation of the mitigation measures described above would reduce the impacts related to increased demand upon energy resources resulting from future development allowed under the proposed General Plan Amendment to a less than significant level. **(Less Than Significant Energy Impact With Mitigation)**

M. GLOBAL CLIMATE CHANGE

Impacts

Impacts to the Proposed Project from Global Climate Change

The Subject site on Berryessa Road is located within the 100-year flood hazard zone; therefore, future flooding conditions on the site may increase from global warming but cannot be predicted at this time. The Santa Clara Valley Water District is the public agency entrusted with providing adequate water supply and flood control within Silicon Valley and is currently considering how to address both these issues associated with climate change. **(Less Than Significant Impact)**

Cumulative Contribution to Global Climate Change

Efforts to reduce the Project's greenhouse gas emissions by reducing electricity demand will be considered at the time a specific development is proposed on the site. The Subject site on Berryessa Road is an infill location directly close to existing transit and directly adjacent to planned future transit services. Therefore, redevelopment of the site with a mix of commercial and industrial uses would reduce the number of vehicle miles traveled from the amount of development proposed when compared to residential

developments located further from the City center and existing services. **(Less Than Significant Impact)**

Finding

It is not likely that a redevelopment project on the Subject site on Berryessa Road would have an individually discernable effect on global climate change. Rather, the greenhouse gas emissions generated by the proposed General Plan Amendment would combine with emissions across the state, nation, and globe to cumulatively contribute to global climate change.

The General Plan Amendment's nominal percentage increase in greenhouse gas emissions would not impede the state's ability to reach the emission standards set forth in AB 32. The commercial development near transit allowed by the proposed General Plan Amendment is the type of new development that is anticipated to result in a land use pattern that supports the state's effort to reach AB 32 emissions standards. For this reason, the General Plan Amendment would not make a cumulatively considerable contribution to global climate change. **(Less Than Significant Cumulative Global Climate Change Impact)**

N. PUBLIC FACILITIES AND SERVICES

Police Services

Impacts

The General Plan Amendment on the Subject site on Berryessa Road from *Light Industrial* to *Combined Industrial/Commercial* would allow for the construction of industrial, commercial and retail uses on the site. The change in land use would not adversely affect the ability of the San Jose Police Department ("SJPD") to provide service. At the time a future development is proposed, the SJPD will review the Project site design, access control, landscaping, lighting and all safety concerns and make safety and security recommendations at the Planned Development Permit stage to ensure that the Project is designed to maximize the department's abilities to provide service to the project site by including appropriate safety features to minimize criminal activity. Any future development will be constructed in conformance with current codes, including appropriate safety features to minimize criminal activity. **(Less Than Significant Impact)**

No improvements are planned or anticipated as a result of the proposed General Plan Amendment on the Offsetting Heavy/Light Industrial Acreage Site. It is unlikely that the site would be redeveloped under the proposed General Plan land use designation and it would be highly speculative to try to determine the size or use of a future redevelopment project on the site and the impact it may have on police protection services. Therefore, implementation of the proposed General Plan Amendment will not increase the need for police protection services on the site. **(Less Than Significant Impact)**

Mitigation

No mitigation is required or proposed, because the Project's impacts related to police services will be less than significant.

Finding

Implementation of the proposed General Plan Amendments will have less than significant impacts related to police services. **(Less Than Significant Police Services Impact)**

Fire Services

Impacts

The existing condition on the Subject site on Berryessa Road requires a moderate level of fire services be available, due to the existing industrial park's need for fire services. The proposed General Plan Amendment would allow intensified commercial and industrial uses on the Subject site on Berryessa Road, which would incrementally increase the demand for fire protection services. Future development under the proposed General Plan Amendment would be constructed in conformance with current codes, including features to reduce potential fire hazards. Incremental delays in service would not require the development of new fire service facilities. **(Less Than Significant Impact)**

No improvements are planned or anticipated as a result of the proposed General Plan Amendment on the Offsetting Heavy/Light Industrial Acreage Site. It is unlikely that the site would be redeveloped under the proposed General Plan land use designation and it would be highly speculative to try to determine the size or use of a future redevelopment project on the site and the impact it may have on fire protection services. Therefore, implementation of the proposed General Plan Amendment will not increase the need for fire protection services on the site. **(Less Than Significant Impact)**

Mitigation

No mitigation is required or proposed, because the Project's impacts related to fire services will be less than significant.

Finding

Implementation of the proposed General Plan Amendments will have less than significant impacts related to fire services. **(Less Than Significant Fire Services Impact)**

Schools

Impacts

Subject site on Berryessa Road

Future development under the proposed General Plan Amendment would not allow residential uses, and therefore would not increase the local resident population and, therefore, would not increase the demand for local school facilities. **(Less Than Significant Impact)**.

Offsetting Heavy/Light Industrial Acreage Site

The Offsetting Heavy/Light Industrial Acreage Site is currently occupied by an industrial business and would remain industrial under the proposed General Plan Amendment. No land use would be allowed on this site that would generate students. As a result, implementation of the proposed General Plan Amendment on the Offsetting Heavy/Light Industrial Acreage Site would not impact local schools. **(Less Than Significant Impact)**

Mitigation

No mitigation is required or proposed, because the Project's impacts related to schools will be less than significant.

Findings

Implementation of the proposed General Plan Amendments will have less than significant impacts related to schools. **(Less Than Significant Schools Impact)**

Parks

Impacts

Subject site on Berryessa Road

The project site could potentially redevelop with intensified commercial and compatible industrial uses. Because no residential land uses would be allowed on this site, the site will not generate parkland users. As a result, implementation of the proposed General Plan Amendment on the Offsetting Heavy/Light Industrial Acreage Site would not impact local or regional recreational facilities. **(Less Than Significant Impact)**

Offsetting Heavy/Light Industrial Acreage Site

The Offsetting Heavy/Light Industrial Acreage Site is currently occupied by an industrial business and would remain industrial under the proposed General Plan Amendment. Because no residential land uses would be allowed on this site, the site will not generate parkland users. As a result, implementation of the proposed General Plan

Amendment on the Offsetting Heavy/Light Industrial Acreage Site would not impact local or regional recreational facilities. **(Less Than Significant Impact)**

Mitigation

No mitigation is required or proposed, because the Project's impacts related to parks will be less than significant.

Findings

Implementation of the proposed General Plan Amendments will have less than significant impacts related to parks. **(Less Than Significant Parks Impact)**

Libraries

Impacts

Subject site on Berryessa Road

The project site could potentially redevelop with intensified commercial and compatible industrial uses. No land use would be allowed on this site that would generate library users. As a result, implementation of the proposed General Plan Amendment on the Offsetting Heavy/Light Industrial Acreage Site would not impact local library facilities. **(Less Than Significant Impact)**

Offsetting Heavy/Light Industrial Acreage Site

The Offsetting Heavy/Light Industrial Acreage Site is currently occupied by an industrial business and would remain industrial under the proposed General Plan Amendment. No land use would be allowed on this site that would generate library users. As a result, implementation of the proposed General Plan Amendment on the Offsetting Heavy/Light Industrial Acreage Site would not impact local library facilities. **(Less Than Significant Impact)**

Mitigation

No mitigation is required or proposed, because the impacts related to libraries will be less than significant.

Findings

Implementation of the Project will have a less than significant impact related to libraries. **(Less Than Significant Library Impact)**

II. CUMULATIVE IMPACTS

No improvements are planned or anticipated as a result of the proposed General Plan Amendment on the Offsetting Heavy/Light Industrial Acreage Site because the existing land use is consistent with the proposed Amendment and no redevelopment is required to comply with the Preservation Framework policy. It is unlikely that the site would be redeveloped under the proposed General Plan land use designation and it would be highly speculative to try to determine the size or use of a future redevelopment project on the site. As a result, implementation of the Offsetting Heavy/Light Industrial Acreage Site General Plan Amendment would have no cumulative impacts.

A. TRANSPORTATION

Transportation Impacts from the Berryessa Road Site. The City of San José Department of Transportation has determined that the number of new PM Peak Hour trips resulting from the Combined Industrial/Commercial land use designation is below the exemption threshold established for the project area and therefore, the project would not provide a cumulatively considerable contribution to cumulative impacts identified in the FEIR. **(Less Than Significant Cumulative Impact)**

Transportation Impacts from the Offsetting Heavy/Light Industrial Acreage Site The net loss of jobs resulting from the redesignation of the Offsetting Heavy/Light Industrial Acreage Site from Industrial Park to Heavy Industrial would result in fewer daily trips. Because of the reduced number of trips, the City of San José concluded that no formal traffic impact assessment was necessary and that implementation of the proposed General Plan Amendment would not have cumulatively considerable contribution to cumulative impacts identified in the FEIR. **(Less Than Significant Cumulative Impact)**

Mitigation

No mitigation is required for either General Plan Amendment due to the less than considerable contribution that would result from each land use change.

Finding

Development allowed under the proposed General Plan Amendments will not contribute to cumulative transportation impacts.

B. AIR QUALITY

Impact

The land use change to Combined Industrial/Commercial would avoid making a considerable contribution to significant cumulative air quality impacts in that the additional vehicular trips are below BAAQMD thresholds for generation of regional

criteria pollutants and the location of commercial uses near a planned transit station is consistent with the strategies of the 2005 Ozone Strategy. .

(Less Than **Significant Cumulative Air Quality Impact**)

Mitigation

None required.

Finding

The General Plan Amendments will not substantially increase vehicle miles traveled and vehicle hours traveled, and therefore will not generate substantial air pollution. This cumulative air quality impact will be less than **significant**.

C. LAND USE

Impact

The cumulative General Plan Amendments would allow the conversion of approximately 30 properties from industrial and combined industrial/commercial land uses to residential land uses. However, the two General Plan Amendments addressed in this resolution would not convert employment lands to residential use, and therefore would not contribute to the cumulative land use impacts disclosed in the FEIR.

(**Less than Significant Cumulative Land Use Impact**)

Mitigation

No mitigation is required.

Finding

This impact is less than significant.

D. HAZARDOUS MATERIALS IMPACTS

Impact

Hazardous materials may have been stored on the sites included in the cumulative analysis in above-ground or underground tanks. Storage tanks can leak resulting in soil

and/or groundwater contamination. If groundwater is affected, it can impact properties downgradient of the spill. The use of pesticides and fertilizers on agricultural properties can result in widespread residual soil contamination, sometimes in concentrations that exceed regulatory thresholds.

Development or redevelopment of some of the sites would result in the demolition of existing buildings that may contain asbestos-containing materials (ACMs) and/or lead paint. Demolition of these structures could expose construction workers or other persons in the vicinity to harmful levels of airborne asbestos or lead. Similarly, some of the properties may be located on asbestos-containing serpentine rock soils or fill and there is a potential for release of asbestos fibers.

The above-described conditions, which are present to varying degrees on most sites proposed for General Plan Amendments, constitute potentially significant cumulative environmental impacts since they can lead to the exposure of buildings users and/or workers to substances that have been shown to adversely affect health. **(Significant Cumulative Hazardous Materials Impact)**

Mitigation

Various General Plan policies and mitigation measures to be considered at the time of future development have been identified for implementation as a condition of development at the time future redevelopment of the sites included in the cumulative analysis are proposed.

These measures would include incorporating the requirements of various existing local, state, and federal laws, regulations, and agencies such as the State Department of Toxic Substances Control (DTSC) and Cal/OSHA, during all phases of project construction. Depending upon the extent of the chemical release, contaminated soils could be excavated and transported to appropriate landfills, or treated on-site. If groundwater is affected, remediation and on-going groundwater sampling both on the site and on surrounding downgradient properties could be warranted. Finally, determining the extent of asbestos and lead paint contamination would also be required prior to building demolition and site grading and, if present, such substances would be handled and disposed of in a manner that minimizes human exposure. For sites with hazardous materials contamination, implementation of mitigation and avoidance measures, such as those described above, would be required on a project-by-project basis to avoid or reduce hazardous materials impacts to a less than significant level.

Finding

Implementation of the General Plan policies and mitigation measures described above, the cumulative hazardous materials impacts of the Project would be reduced to a less than significant level. **(Less Than Significant Cumulative Hazardous Materials Impact With Mitigation)**

E. NOISE

Impact

Impacts to Cumulative Projects from Ambient Noise Levels

At various locations, proposed noise-sensitive land uses (e.g., residences, schools, etc.) would be constructed on sites where existing noise levels exceed the noise/land use compatibility goals of San José's General Plan. Such locations are typically those adjacent to arterials, expressways, and freeways, as well as in the Downtown Core Area. The proposed Amendments addressed in this Resolution does not include noise-sensitive land uses, and therefore would not contribute to cumulative noise impacts resulting from locating noise-sensitive land uses.

Mitigation

No mitigation is required.

Finding

The cumulative noise impacts of the Project would be less than significant. **(Less Than Significant Noise Impact)**

Impact

Impacts to Nearby Uses from Cumulative Project Traffic

Traffic associated with the cumulative General Plan Amendments will increase noise along many roadways in the greater San José area. Given the high existing traffic volumes, the noise increase resulting from dispersal of these trips would not be significant along roadways where existing volumes are high.

The noise increase associated with increased traffic trips on the roadways would, however, be significant at locations where 1) new roadways would be constructed, or 2) roadway widening would move traffic closer to adjacent receptors, or 3) traffic volumes would substantially increase in relation to existing volumes.

Based on the volume data from the CUBE traffic model run, under cumulative conditions traffic volumes on streets near the Subject site on Berryessa Road would not double and ambient increases in noise along roadways would not increase by three dBA DNL. As a result, the cumulative General Plan Amendments would not result in a significant cumulative noise impact. **(Less Than Significant Cumulative Noise Impact)**

Mitigation

No mitigation measures are required or proposed, because the Project's impacts related to impacts to nearby uses from cumulative project traffic will be less than significant.

Finding

Implementation of the Project will have a less than significant cumulative impact related to impacts to nearby uses from cumulative project traffic. **(Less Than Significant Cumulative Noise Impact)**

Impact

Cumulative Construction Noise

The construction of development allowed under the cumulative General Plan Amendments would result in short-term noise and disturbance at various locations throughout the City.

There are factors that both exacerbate and mitigate the significance of cumulative construction noise. Factors that tend to spread out and diffuse the effects of construction noise include the following: 1) these cumulative General Plan Amendment sites are scattered throughout the City; 2) their schedules for construction are different and are likely to occur over the timeframe of the next 25 years; and 3) construction noise mitigation measures are included as part of each project.

Therefore, the proposed Project would not result in a cumulatively considerable contribution to a construction noise impact from construction of several large projects throughout the City of San José. **(Less Than Significant Cumulative Noise Impact)**

Mitigation

No mitigation measures are required or proposed, because the Project's impacts related to cumulative construction noise will be less than significant.

Finding

Implementation of the Project will have a less than significant impact related to cumulative construction noise. **(Less Than Significant Cumulative Noise Impact)**

F. POPULATION AND HOUSING

Impact

The proposed cumulative General Plan Amendments would not result in a reduction of the jobs/housing balance below one job per employed resident and, therefore, the project would not contribute to a significant cumulative population & housing impact. **(Less Than Significant Cumulative Population and Housing Impact)**

Mitigation

No mitigation measures are required or proposed, because the Project's cumulative impacts related to population and housing impacts will be less than significant.

Finding

Implementation of the Project will have a less than significant cumulative impact related to population and housing. **(Less Than Significant Cumulative Population and Housing Impact)**

G. PUBLIC SERVICES

Fire and Police Protection

Impact

The net increase in the amount of development that would exist in the City under the cumulative scenario, particularly the increased residential development, will increase calls for fire and police services. The City is undertaking a capital improvement program that includes the anticipated development of new fire stations, fire stations to be relocated, and upgrades to existing fire stations. There are, however, currently no specific proposals to build new fire station(s) or new or expanded police facilities as a result of the additional demands that would arise from development of the cumulative projects.

Increased demands for service may be offset by expansion of existing stations, including additional staffing. In the event that future development patterns (including the specific location of new development) and/or service demands indicate that a new fire station is needed in a given area of San Jose, a suitable location for construction of a station would be identified and provided.

Construction of new fire stations or police facilities to serve the cumulative development, including those proposed for the CVSP, would require environmental review. Since specific sites for such construction cannot be identified at this time, it cannot be stated conclusively that significant environmental impacts would or would not occur. The construction of a local fire station in San José would contribute incrementally to the impacts of development, but is not anticipated by itself to have new or substantially different significant adverse environmental impacts. Further discussion at this time of the impacts that might result from building an additional public safety facility would be speculative. **(Less Than Significant Cumulative Public Services Impact)**

Mitigation

No mitigation measures are required or proposed, because the Project's cumulative impacts related to fire and police protection services will be less than significant.

Finding

Implementation of the Project will have a less than significant cumulative impact related to fire and police protection services. **(Less Than Significant Cumulative Public Services Impact)**

Schools

Subject site on Berryessa Road

Future development under the proposed General Plan Amendment would not allow residential uses, and therefore would not increase the local resident population and, therefore, would not increase the demand for local school facilities. **(Less Than Significant Cumulative Impact)**.

Offsetting Heavy/Light Industrial Acreage Site

The Offsetting Heavy/Light Industrial Acreage Site is currently occupied by an industrial business and would remain industrial under the proposed General Plan Amendment. No land use would be allowed on this site that would generate students. As a result, implementation of the proposed General Plan Amendment on the Offsetting Heavy/Light Industrial Acreage Site would not impact local schools. **(Less Than Significant Cumulative Impact)**

Finding

The Project would not contribute to significant cumulative school impacts because the development of the Subject site on Berryessa Road and other cumulative projects would not allow any residential uses, and therefore would not generate any students. **(Less Than Significant Cumulative Public Services Impact)**

Parks and Recreation

Impact

Development of the two subject sites consistent with the respective General Plan land use designations would not result in additional residents and therefore no increase in demand for park facilities and no impacts to existing park facilities. **(Less Than Significant Cumulative Public Services Impact)**

Mitigation

No mitigation measures are required or proposed, because the Project's cumulative impacts related to parks and recreation will be less than significant.

Finding

Implementation of the Project will have a less than significant cumulative impact related to parks and recreation services. **(Less Than Significant Cumulative Public Services Impact)**

Library Services

Impact

The proposed Projects do not involve residential uses, would not increase demand for library services, and therefore would not contribute to a significant cumulative impact. **(Less Than Significant Cumulative Public Services Impact)**

Mitigation

No mitigation measures are required or proposed, because the Project's cumulative impacts related to library services will be less than significant.

Finding

Implementation of the Project will have a less than significant cumulative impact related to library services. **(Less Than Significant Cumulative Public Services Impact)**

III. ALTERNATIVES TO THE PROPOSED PROJECT

A. "NO PROJECT" ALTERNATIVE

1. Description

The No Project Alternative would retain the current land use designation and retain the existing industrial development on the Subject site on Berryessa Road.

2. Comparison to Proposed Project by Applicant

The impacts of the No Project Alternative would be less than the impacts of the proposed Transit Corridor Residential land use designation project proposed by the applicant because the No Project Alternative would maintain the current land uses on the project site. As a result, no additional traffic would be generated. The existing hazardous materials uses on the project site would, however, remain on-site and continue to pose a health risk to adjacent residences.

The No Project Alternative would not exacerbate the jobs/housing imbalance and would retain industrial jobs in the City. This alternative would, however, would not conform to the BART Station Area Nodes Strategy which promotes transit-oriented and pedestrian friendly development within close proximity to BART stations.

Land use compatibility would continue to be an issue because industrial land uses would remain adjacent to existing housing. In addition, the existing site layout would remain as is with no setback between the parking lot and Penitencia Creek and only a 50-foot setback between the creek and the existing buildings. Impacts from the existing development's non-conformance with the City's Riparian Corridor Policy would continue.

3. Finding

Implementation of the “No Project” alternative would avoid all of the significant impacts identified in the FEIR associated with the Transit Corridor Residential land use designation project proposed by the applicant. This alternative, however, is not environmentally superior to the Alternative Land Use of Combined Industrial/Commercial, discussed below, that the City Council has adopted as an alternative to the applicant’s proposed Transit Corridor Residential land use designation.

B. ALTERNATIVE LAND USE ALTERNATIVE

1. Description

The Alternative Land Use Alternative would amend the General Plan land use designation of the Subject site on Berryessa Road to *Combined Industrial/Commercial*. Redevelopment under this designation could include significant intensification, up to a floor area ratio of 1:1 for a total of approximately 594,158 square feet. Alternatively, it could include a retail component to serve future BART users and neighboring residential uses. While these options are possible, the General Plan methodology used to evaluate all land use changes to the *Combined Industrial/Commercial* designation assumes approximately 237,663 square feet of new development on this site (an FAR of 0.4), with 233 employees.

2. Comparison to Proposed Project

Future development under the Transit Corridor Residential Project proposed by the applicant would result in significant traffic congestion on local roadways. The number of new PM Peak Hour trips resulting from the alternative *Combined Industrial/Commercial* land use designation is below the exemption threshold established for the project area. Therefore, the Alternative Land Use Alternative would have a less than significant traffic impact if the standard methodology is assumed. Development consistent with the standard methodology would result in less employment development than currently exists on the site and would, therefore, not be as viable a land use adjacent to an identified future BART station as the proposed Project.

The Alternative Land Use Alternative would not allow any new residential land uses to be developed on-site. The existing hazardous materials uses on the project site could move if the site were redeveloped under the Alternative Land Use Alternative, but new hazardous materials users could move onto this site under the *Combined Industrial/Commercial* land use category.

This alternative would place fewer jobs adjacent to the future Berryessa Bart Station than the current land use, thereby having a negative impact on the jobs/housing balance. This alternative would, however, maintain industrial jobs within the City.

Nevertheless, it would not provide high density housing adjacent to mass transit which is a key strategy under the BART Station Area Nodes Strategy.

Future development under the Alternative Land Use Alternative would be required to comply with the riparian setbacks established by the Riparian Corridor Policy, which would be a beneficial impact to Penitencia Creek similar to the proposed Project.

3. Finding

Implementation of the Alternative Land Use Alternative would avoid the significant traffic and air quality impacts identified in the FEIR. It could, however, create land use compatibility impacts with the adjacent residential land uses similar to the existing condition. This alternative is environmentally superior to the proposed Project and has been adopted as a feasible alternative for which findings of environmental impact are the subject of this resolution.

C. BART PARKING ALTERNATIVE

1. Description

The BART Parking Alternative would place 1,500 to 2,500 surface and multi-level garage parking spaces on the Subject site on Berryessa Road. The BART EIR also says that if parking is not placed on this site, it would likely go on the Flea Market property on the west side of the tracks. The Flea Market property is designated for residential and combined industrial/commercial uses.

2. Comparison to Proposed Project

Of the riders utilizing the Berryessa Station, it is estimated that approximately 48 percent would travel to the station by car. It is reasonable to assume that placing housing on the Subject site on Berryessa Road adjacent to the BART station would increase ridership, as would intensified industrial uses. Development of housing or industrial uses would not reduce the number of people driving to the station on a daily basis from existing developments. Therefore, development of the site as a parking lot under the BART Parking Alternative would have a less than significant traffic impact. The FEIR identified significant traffic impacts related to the Project.

If the project site is used for BART parking, no commercial and/or industrial uses would be developed on-site. The existing hazardous materials uses on the Subject site on Berryessa Road would be removed, which would help reduce the risk to existing housing and planned future housing on the Flea Market site.

This alternative would remove the existing jobs on the Subject site on Berryessa Road and would not add any new jobs in the City, thereby exacerbating the jobs/housing imbalance. It would not provide high density housing, intensive job generating uses, or mixed use development adjacent to mass transit which are key strategies under the

BART Station Area Nodes Strategy. The use of the Subject site on Berryessa Road for parking would, however, avoid the need for BART parking on the Flea Market site, thereby allowing full build out of the Flea Market site with residential and employment-generating industrial or commercial land uses.

Future development under this alternative would be required to comply with the riparian setbacks established by the Riparian Corridor Policy, which would be a beneficial impact to Penitencia Creek, similar to that of the proposed Project.

It would be possible to allow both BART parking and commercial or industrial development on the Subject site on Berryessa Road. BART parking and support uses could be split evenly between the Subject site on Berryessa Road and the Flea Market site, thereby creating a more balanced distribution of the BART support functions within the neighborhood adjacent to the Berryessa BART Station Area Node. This distribution of BART uses was not, however, evaluated within the BART EIR and therefore was not analyzed further in the FEIR.

3. Finding

Implementation of the BART Parking Alternative would avoid the significant traffic and air quality impacts identified in the FEIR and, therefore, is environmentally superior to the proposed Project, however the City Council has elected to adopt the Alternative Land Use Alternative that is environmentally superior to the Project and would avoid all significant impacts.

D. REDUCED DENSITY ALTERNATIVE

1. Description

The Reduced Density Alternative would amend the General Plan land use designation of the Subject site on Berryessa Road to *Medium High Density Residential (8-16 DU/AC)*. The FEIR assumed a maximum build out scenario under this alternative of 158 units, which results in a density of 16 DU/AC.

2. Comparison to Proposed Project

Future development under the proposed General Plan Amendment for the Subject site on Berryessa Road included as part of the Transit Corridor Residential land use designation project proposed by the applicant would result in significant traffic congestion on local roadways. There is no feasible mitigation to reduce this impact to a less than significant level. The City of San José Department of Transportation has determined that the number of new PM Peak Hour trips resulting from the alternative *Medium Density Residential (8-16 DU/AC)* land use designation is below the exemption threshold established for the project area. Therefore, the Reduced Density Alternative would have a less than significant traffic impact. This alternative would not, however, allow any employment generating land uses on the Subject site on Berryessa Road.

Removing all jobs and placing low density housing adjacent to an identified future BART station is not consistent with City policy to promote transit-supportive uses in proximity to the future transit node.

The Reduced Density Alternative would not allow any new job generating land uses to be developed on-site. The existing hazardous materials uses on the project site would move if the site were redeveloped under the Reduced Density Alternative and no new hazardous materials users could move onto this site under the *Medium Density Residential* (8-16 DU/AC) land use category.

The Reduced Density Alternative would remove jobs from land adjacent to the future Berryessa Bart Station, thereby having a detrimental impact on the jobs/housing balance and resulting in a net loss of industrial jobs within the City. It would also not allow high density housing adjacent to mass transit which is a key strategy under the BART Station Area Nodes Strategy.

Future development under the Reduced Density Alternative would be required to comply with the riparian setbacks established by the Riparian Corridor Policy, which would be a beneficial impact to Penitencia Creek similar to the proposed Project.

3. Finding

Implementation of the Reduced Density Alternative would avoid the significant traffic and air quality impacts of the Project identified in the FEIR, however the City Council has elected to adopt the Alternative Land Use Alternative that is environmentally superior to the Project and would avoid all significant impacts..

IV. MITIGATION MONITORING AND REPORTING PROGRAM

CEQA allows for the annual report on general plan status required pursuant to the Government Code to constitute the reporting program for adoption of a City general plan. CEQA Guidelines Section 15097(b) states, "Where the project at issue is the adoption of a general plan, specific plan, community plan or other plan-level document (zoning, ordinance, regulation, policy), the monitoring plan shall apply to policies and any other portion of the plan that is a mitigation measure or adopted alternative. The monitoring plan may consist of policies included in plan-level documents. The annual report on general plan status required pursuant to the Government Code is one example of a reporting program for adoption of a city or county general plan.

Finally, since the City Council has elected to approve the environmentally superior alternative, there are no unmitigated significant impacts. Therefore, no statement of overriding considerations is required.

ADOPTED this 20th day of May, 2008, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, LICCARDO, NGUYEN,
OLIVERIO, PYLE, WILLIAMS, REED

NOES: NONE.

ABSENT: CONSTANT, CORTESE.

DISQUALIFIED: NONE.

Chuck Reed
Mayor

ATTEST:

Lee Price
City Clerk