

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CERTIFYING THE CAMBRIAN PARK MIXED-USE VILLAGE ENVIRONMENTAL IMPACT REPORT AND MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT IMPACTS, MITIGATION MEASURES AND ALTERNATIVES, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED**

**WHEREAS**, the City of San José (“City”) acting as lead agency under the California Environmental Quality Act of 1970, together with State and local guidelines implementing said Act, all as amended to date (collectively “CEQA”), prepared the Environmental Impact Report (EIR) for the Cambrian Park Mixed-Use Village (Planning File Nos. PDC17-040, PD20-007, and Cambrian 37), and

**WHEREAS**, the Environmental Impact Report (EIR) analyzed the environmental impacts of a Planned Development Rezoning and Planned Development Permit (PDC17-040 and PD20-007) and other discretionary decisions by the City and other agencies required for the demolition of an existing commercial shopping plaza and surface parking lot and construction of a mixed-use development consisting of an approximately 131,380 square foot hotel, 305 residential apartment units with approximately 50,990 square feet of commercial space, an approximately 184,060 square foot assisted living facility or approximately 160,000 square feet of office space, 25 residential townhomes, 48 single-family homes including 27 accessory dwelling units, and over 10 acres of open space including a public park, a dog park, and commercial/residential common and private open space on an approximately 18.1-acre site located at the southeast corner of Camden avenue and Union Avenue in the Cambrian Park neighborhood (APNs: 419-08-012, 419-08-013) in the City of San José, (collectively referred to herein as the “Project”); and

**WHEREAS**, approval of the Project would constitute a Project under the provisions of the California Environmental Quality Act of 1970, together with related state and local implementation guidelines and policies promulgated thereunder, all as amended to date (collectively, "CEQA"); and

**WHEREAS**, the City is the lead agency for the Project, and has prepared a Final Environmental Impact Report (FEIR) for the Project pursuant to and in accordance with CEQA, which the Final Environmental Impact Report is comprised of the Draft Environmental Impact Report for the Project (the "Draft EIR"), together with the First Amendment to the Draft EIR (collectively, all of said documents are referred to herein as the "FEIR"); and

**WHEREAS**, the FEIR concluded that implementation of the Project could result in certain significant effects on the environment and identified mitigation measures that would reduce those significant effects to a less-than-significant level; and

**WHEREAS**, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during project implementation, and such a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of San José as lead agency for the Project (the "Mitigation Monitoring and Reporting Program"); and

**WHEREAS**, on July 13, 2022, the Planning Commission of the City of San José reviewed the FEIR prepared for the Project, and recommended to the City Council that it find the environmental clearance for the proposed Project was completed in accordance with the requirements of CEQA and further recommended the City Council adopt a resolution certifying the FEIR; 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 of the project, the decision-making body of a public agency make certain findings regarding those effects and adopt a mitigation or monitoring program.

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

1. That the above recitals are true and correct; and
2. That the City Council does hereby find and certify that the FEIR has been prepared and completed in compliance with CEQA; and
3. The City Council was presented with, and 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 the Project, prior to acting upon or approving the Project, and has found that the FEIR represents the independent judgment of the City of San José (“City”) as lead agency for the Project, and designated the Director of Planning, Building and Code Enforcement at the Director’s office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and record of proceedings on which the decision of the City is based; and
4. That the City Council does hereby find and recognize that the FEIR contains additions, clarifications, modifications, and other information in its response to comments on the Draft EIR or obtained by the City after the Draft EIR was issued and circulated for public review and does hereby find that such changes and additional information are not significant new information as that phrase is described under CEQA because such changes and additional information do not indicate that any of the following would result from approval and implementation of the Project: (i) any new significant environmental impact or substantially more severe environmental impact not already disclosed and evaluated in the Draft EIR, (ii) any feasible mitigation measure considerably different from those analyzed in the Draft EIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented, or (iii) any feasible alternative considerably different from those analyzed in the Draft EIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented; and

5. That the City Council does hereby find and determine that recirculation of the FEIR for further public review and comment is not warranted or required under the provisions of CEQA; and
6. The City Council does hereby make the following findings with respect to the impacts, mitigation, and significant effects of the environment of the Project, as identified in the FEIR, with the understanding that all of the information in this Resolution is intended as a summary of the full administrative record supporting the FEIR, which full administrative record should be consulted for the full details supporting these findings.

## **CAMBRIAN PARK MIXED-USE VILLAGE**

### **ENVIRONMENTAL EFFECTS FOUND NOT TO BE SIGNIFICANT**

Through project scoping and the environmental analysis contained within the FEIR, it was determined that the Project would not result in a potential significant effect on the environment with respect to aesthetics, agricultural and forestry resources, energy, geology and soils and minerals, greenhouse gas emissions, hydrology and water quality, land use and planning, population and housing, public services, recreation, transportation, tribal cultural resources, utilities and service systems, wildfire, and unplanned growth. A summary of the reasons for this determination can be found in Chapters 3.1, 3.2, 3.6, 3.7, 3.8, 3.10, 3.11, 3.13, 3.14, 3.15, 3.16, 3.17, 3.18, 3.18, and 4.0 of the Draft EIR. No further findings are required for these subject areas.

### **FINDINGS FOR SIGNIFICANT BUT MITIGATED IMPACTS**

#### **Air Quality**

**Impact:** **Impact AIR-1:** Project construction could result in significant fugitive dust (Diesel Particulate Matter [DPM] and Particulate Matter less than 10 microns [PM<sub>10</sub>]) emissions.

**Mitigation:** **MM AIR-1.1:** Prior to the issuance of any demolition or grading permits, a qualified air quality consultant shall prepare a Construction Dust Control Plan and implement the following dust (DPM and PM<sub>10</sub>) control measures during the construction period:

- All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered at a

frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe

- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign at the project site with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph and visible dust extends beyond site boundaries.
- Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction adjacent to sensitive receptors. Wind breaks should have at maximum 50 percent air porosity.
- Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.

- The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- Avoid tracking of visible soil material on to public roadways by employing the following measures if necessary: (1) Site accesses to a distance of 100 feet from public paved roads shall be treated with a 6 to 12-inch compacted layer of wood chips, mulch, or gravel and (2) washing truck tires and construction equipment of prior to leaving the site.
- Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.

Prior to the issuance of any grading or demolition permits, the project applicant shall submit a copy of the Construction Dust Control Plan to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.

**Finding:** Impacts related to fugitive dust and DPM to the community from construction would be less than significant with implementation of Mitigation Measure MM AIR-1.1. **(Less Than Significant Impact with Mitigation Incorporated)**

**Facts in Support of Finding:** These measures are consistent with recommendations in the Bay Area Air Quality Management District's (BAAQMD) CEQA Guidance for providing "best management practices" to control construction emissions for fugitive dust. For fugitive dust emissions, the BAAQMD recommends following the current best management practices approach which has been a pragmatic and effective approach to the control of fugitive dust emissions. Studies underlying the BAAQMD's recommendation have demonstrated that the application of best management practices at construction sites significantly control fugitive dust emissions. Individual measures have been shown to reduce fugitive dust by anywhere from 30 percent to more than 90 percent. In the aggregate, the BAAQMD concluded that best management practices substantially reduce fugitive dust emissions from construction sites. Studies underlying the BMPs support the conclusion that projects implementing construction best management practices reduce fugitive dust emissions to a less than significant level.

**Impact:** **Impact AIR-2:** Emissions from construction activities would exceed the BAAQMD criteria pollutant threshold of 54 pounds per day for NOx

emissions for the first two years of construction by up to 47 pounds per day for both project variants (Alternatives 1 and 2).

**Mitigation: MM AIR-2.1:** Prior to the issuance of any demolition or grading permits (whichever occurs first), a qualified air quality consultant shall prepare a construction operations plan demonstrating use of construction equipment that has low diesel particulate matter exhaust and Nitrogen Oxide (NOx) emissions. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.

- All diesel construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 emission standards (i.e., Tier 4 Interim or Final engine standard) for NOx and PM (PM10 and PM2.5), if feasible, otherwise,
  - If use of Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination). The use of Tier 3 equipment shall not exceed 5 percent of all equipment usage (described in terms of total horsepower hours during a phase).
  - Use of alternatively fueled equipment with lower NOx emissions that meet the NOx and PM reduction requirements above.
- Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators, welders, and air compressors.

The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in this mitigation measure. The plan shall include but not be limited to the following:

- List of activities and estimated timing.
- Equipment that would be used for each activity.
- Manufacturer's specifications for each equipment that provides the emissions level; or the manufacturer's specifications for devices that

would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure.

- How the construction contractor will ensure that the measures listed are monitored.
- How the construction contractor will remedy any exceedance of the thresholds.
- How often and the method the construction contractor will use to report compliance with this mitigation measure

The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest) for review and approval.

**Finding:** Impacts related to NOx from construction would be less than significant with implementation of Mitigation Measure MM AIR-2.1. **(Less Than Significant Impact with Mitigation Incorporated)**

**Facts in Support of Finding:** With the implementation of Mitigation Measure MM AIR-2.1, assuming use of Tier 4 Interim equipment, the project's construction NOx emissions in 2021 and 2022 would be reduced from 99 pounds per day and 58 pounds per day to 54 pounds per day and 47 pounds per day, respectively. As a result, the project's construction criteria pollutant emissions would be reduced below the BAAQMD single-source thresholds. BAAQMD's CEQA thresholds are set to be protective of human health, and therefore the project's criteria air pollutant emissions from construction, with implementation of this mitigation measure and MM AIR 1.2 and MM AIR-1.3, the project's construction NOx emissions impacts would be reduced to a less than significant level and would not cause significant adverse health impacts.

**Impact:** **Impact AIR-3:** Project construction activities would exceed BAAQMD single-source thresholds for lifetime excess cancer risk (10 in one million) and annual PM2.5 (0.3 µg/m3).

**Mitigation:** Mitigation measures identified for AIR-1.1 and AIR-2.1 (detailed above).

**Finding:** Impacts related to excess cancer risk and annual PM2.5 from construction would be less than significant with implementation of Mitigation Measures MM AIR-1.1 and MM AIR-2.1. **(Less Than Significant Impact with Mitigation Incorporated)**



**Facts in Support of Finding:** With implementation of Mitigation Measures MM AIR-1.1 and MM AIR-2.1, the increased cancer risk from project construction and operation under the Assisted Living Variant would be reduced from 70.46 to 8.02 cases per million and the annual PM2.5 concentration would be reduced from 0.49 to 0.15 µg/m<sup>3</sup>. Under the Office Variant, the prescribed mitigation would reduce the cancer risk from 70.49 to 8.05 cases per million and the annual PM2.5 concentrations from 0.49 to 0.16 µg/m<sup>3</sup>. These values would not exceed the lifetime excess cancer risk threshold of 10 cases per million or the annual PM2.5 threshold of 0.3 µg/m<sup>3</sup>. Therefore, the health risk impacts from project-related air emissions would be less than significant with mitigation incorporated.

**Impact:** Cumulative Impacts: The project would not result in a cumulatively considerable contribution to a significant cumulative air quality impacts with implementation of MM AIR-1.1 and 2.1.

**Mitigation:** Mitigation measures identified for AIR-1.1 and AIR-2.1 (detailed above).

**Finding:** With implementation of MM AIR-1.1 and 2.1, the project would not make a cumulatively considerable contribution to significant cumulative air quality impacts.

**Facts in Support of Finding:** The analysis of criteria air pollutants is inherently cumulative. The proposed project would not exceed BAAQMD thresholds for construction criteria air pollutants with implementation of mitigation measures MM AIR-1.1 and 2.1. Operationally, the project would not exceed BAAQMD thresholds for operational criteria air pollutants or the cumulative threshold for toxic air contaminants, and would not result in cumulative odor impacts. For the reasons stated above, MM AIR-1.1 and 2.1 will effectively reduce the project's contribution to cumulative impacts related to fugitive dust, NO<sub>x</sub>, and cancer risk during construction.

### **Biological Resources**

**Impact:** **Impact BIO-1:** Construction activities associated with the proposed project could result in an impact to nesting birds due to the loss of eggs or nestlings, or otherwise lead to nest abandonment.

**Mitigation:** **MM BIO-1.1:** The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive), as amended.

**MM BIO-1.2:** If demolition and construction activities cannot be scheduled to occur outside of the breeding season (September 1 to January 31), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist for each construction phase to ensure that no nests are disturbed during project demolition or construction. This survey shall be completed for the applicable construction phase no more than 14 days prior to the initiation of grading, tree removal, or other demolition or construction activities during the early part of the breeding season (February 1 through April 30) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats on the project site and within 250 feet of the construction areas for nests. If an active nest is found and in the ornithologist's opinion is sufficiently close to work areas to be disturbed by construction, the ornithologist shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, in consultation with California Department of Fish and Wildlife (CDFW), to ensure that the nest will not be disturbed during project construction.

**MM BIO-1.3:** The qualified ornithologist shall submit a report indicating the results of the survey(s) described in MM BIO-1.2 and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or Director's designee, prior to issuance of any grading or demolition permits for the applicable construction phase.

**Finding:** The impact to nesting birds would be less than significant with implementation of Mitigation Measures MM BIO-1.1 through MM BIO-1.3. **(Less Than Significant Impact with Mitigation Incorporated)**

**Facts in Support of Finding:** Conducting pre-construction surveys and implementing a construction-free buffer zone around any migratory bird nests will ensure that raptor or migratory bird nests are not disturbed during project construction pursuant to the Migratory Bird Treaty Act and California Fish and Game Code. The size of the buffer zones will be determined in consultation between the qualified ornithologist and the California Department of Fish and Wildlife and based on scientific evidence and best management practices. Implementation of Mitigation Measures MM BIO-1.1 through MM BIO-1.3 will reduce or avoid construction-related impacts to nesting raptors, and other migrating and nesting birds to less than significant level.

**Impact:** Cumulative Impacts: The project would not result in a cumulatively considerable contribution to a significant cumulative biological resources impacts with MM BIO 1.1–1.3.

**Mitigation:** Mitigation measures identified for Impact BIO-1 (detailed above).

**Finding:** With the incorporation of mitigation measures, discussed above, as well as Standard Permit Conditions for tree replacement and Habitat Plan compliance, the proposed project would make a less than cumulatively considerable contribution to significant cumulative impacts related to biological resources.

**Facts in Support of Finding:** For the reasons stated above, MM BIO 1.1–1.3 will effectively reduce the project’s contribution to cumulative impacts related to nesting birds to a less than significant level. Compliance with City standard permit conditions for tree replacement and the Santa Clara Valley Habitat Conservation Plan (Santa Clara HPC) would also prevent the project from contributing to significant biological impacts. The Santa Clara HPC is an HPC and a natural community conservation plan (NCCP). An HCP meets federal Endangered Species Act (ESA) requirements and enables local agencies to allow projects and activities to occur in endangered species’ habitats. In exchange, those projects and activities must incorporate HCP-prescribed measures to avoid, minimize, or compensate for adverse effects on natural communities and endangered species, which prevents increasing biological impacts. A NCCP is the state counterpart to the federal HCP. It provides a means of complying with the Natural Community Conservation Planning Act (NCCP Act) and securing take authorization at the State level. The NCCP Act is broader than ESA and the California Endangered Species Act (CESA). Compliance with a NCCP ensures improvement of the overall conditions of species.

### **Cultural Resources**

**Impact:** **Impact CUL-1:** The project proposes to relocate and retain the existing carousel sign on-site, which appears individually eligible as a City Landmark.

**Mitigation:** **MM CUL-1.1:** Prior to the issuance of any demolition, grading, or building permit (whichever occur first), preparation of a full photo-documentation of the carousel sign and shopping center context that surrounds and supports the carousel sign is required using the Secretary of Interior’s Standards and Guidelines for Architectural and Engineering Documentation: Historic American Buildings Survey/ Historic American Engineering Record

(HABS/HAER) Standards and shall be submitted to the City's Historic Preservation Officer. The documentation shall be of archival quality according to a scope approved by the Historic Preservation Officer (HPO), or HPO's designee, and be archived at a local repository such as the Archives at History San José.

**MM CUL-1.2:** Prior to the issuance of any demolition, grading, or building permits (whichever occur first), a Historic Resources Protection Plan (HRPP) shall be prepared to ensure the carousel sign is not damaged when it is relocated. The Plan shall establish procedures to protect the carousel sign from direct or indirect impacts during construction (including relocation) activities (i.e., due to damage from operation of construction equipment, staging, and material storage). The HRPP shall specify how the sign shall be dismantled, stored, and reassembled and shall be approved by the HPO, or HPO's designee, and implemented during construction activities.

**MM CUL-1.3:** Prior to construction activities (including ground-disturbing work) within 100 feet of the carousel sign, the project permittee, in consultation with a qualified historic preservation professional, shall remove the sign from the site in accordance with the approved HRPP. In accordance with the HRPP, storage shall be located in a secure location that is indoors and protected from weather, impacts, and vandalism. The location of the storage facility shall be communicated to the Director of Planning, Building, and Code Enforcement or the Director's designee. Relocation of the sign to its final location shall be completed in accordance with the HRPP prior to the issuance of an Occupancy permit, or as determined by the Director of Planning, Building, and Code Enforcement or Director's designee. The signage relocation shall also include interpretive signage indicating the sign's age, association and original location at the base of the structural support.

**Finding:** Implementation of Mitigation Measures MM CUL-1.1 through 1.3 would reduce potential impacts to the carousel sign to a less than significant level. **(Less Than Significant Impact with Mitigation Incorporated)**

**Facts in Support of Finding:** The demolition of Cambrian Park Plaza as presently proposed in concept would result in an adverse environmental effect on the carousel sign were it not retained as a part of the project. The carousel sign is a historical resource under CEQA and is eligible for listing on the San José Historic Resources Inventory as a San José City Landmark Structure. With the implementation of mitigation measures MM CUL-1.1 through 1.3, the project would reduce its impact to the carousel sign to a less than significant level by documenting the historic character of the Cambrian Park

Plaza carousel sign, relocating and preserving the carousel sign in compliance with the Secretary of Interior's Standards and a Historic Resources Protection Plan. This mitigation includes retention, relocation and restoration of the sign, with its three-sided message boards and rotating carousel feature on top, which will provide a highly visible and recognizable link to the site's former use as the Cambrian Park Plaza shopping center and would maintain sufficient integrity per California Code of Regulations Section 4852(c) to avoid impacting the carousel sign's City Landmark eligibility. As a result, implementation of the mitigation measures would result in a less than significant impact on the historic carousel sign.

**Impact:** Cumulative Impacts: The proposed project could potentially make a cumulatively considerable contribution to a significant cumulative impact to cultural resources.

**Mitigation:** Mitigation measures identified for Impact CUL-1 (detailed above).

**Finding:** Implementation of MM CUL-1.1 through 1.3 together with Standard Permit Conditions to reduce potentially significant impacts to historic and prehistoric cultural resources would ensure the project would not make a cumulatively considerable contribution to significant cumulative cultural resource impacts.

**Facts in Support of Finding:** MM CUL-1.1 through 1.3 would prevent the project from having a significant impact on historic resources. The proposed project would adhere to Standard Permit Conditions and state laws to reduce potentially significant impacts to historic and prehistoric cultural resources. These conditions and laws prevent impacts to unanticipated cultural resource discoveries and human remains. Projects in the area would be required, through the City's development review process, to adhere to similar conditions and identify mitigation measures, if necessary, to minimize their respective impacts to cultural resources.

### **Hazards and Hazardous Materials**

**Impact:** **Impact HAZ-1:** Implementation of the proposed project could release chemicals from on-site soils into the environment, and expose construction workers to residual hydrocarbon, tetrachloroethylene (PCE), and/or agricultural soil contamination above their respective environmental screening levels.

**Mitigation:** **MM HAZ-1.1:** Prior to issuance of any grading or demolition permits, the project applicant shall prepare a site-specific site management plan (SMP) to manage potentially impacted soil and soil vapor, under Santa Clara County Department of Environmental Health (SCCDEH) oversight. Documentation developed with the County relating to SMPs or Site Cleanup shall be submitted to the Supervising Planner of the City of San Jose's Department of Planning, Building, and Code Enforcement and the Environmental Services Department Municipal Compliance Officer.

**MM HAZ-1.2:** Prior to the issuance of any grading permits, shallow soil samples will be taken in the near surface soil in the project area and tested for organochlorine pesticides and pesticide-based metals arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and commercial/industrial standard environmental screening levels. The result of soil sampling and testing will be provided to the Supervising Planner of the City of San Jose's Department of Planning, Building, and Code Enforcement and the Environmental Services Department Municipal Compliance Officer.

**Finding:** Implementation of Mitigation Measures MM HAZ-1.1 through MM HAZ-1.2 described above would reduce potential impacts from onsite soil contamination to a less than significant level. **(Less than Significant Impact with Mitigation)**

**Facts in Support of Finding:** As part of the Phase I Environmental Site Assessment (ESA) completed for the project site, a review of federal, State, and local regulatory agency databases was completed to evaluate the likelihood of contamination incidents at and near the project site. The purpose of the records review was to obtain available information to help identify recognized environmental conditions. As analyzed in the Draft EIR, the project site was formerly used for agricultural purposes and a dry cleaning facility, indicating the potential for residual pesticides, hydrocarbon, and/or tetrachloroethene (PCE) in on-site soils. The proposed ground disturbing activities could expose construction workers and the public to hazards from residual pesticides, hydrocarbon, and/or tetrachloroethene (PCE) during excavation and grading. Therefore, the project would result in a significant impact with regard to exposure of construction workers and adjacent sensitive receptors to residual pesticides in the soil.

Because the project site has the potential for residual pesticides, hydrocarbon, and/or tetrachloroethene (PCE) in the soil, Mitigation Measures HAZ-1.1 and HAZ-1.2 would ensure that the project site is evaluated for contamination levels, and an approved remediation plan is put

in place to clean up any contamination that might be present. These actions would ensure that the project site is safe for construction workers and future residents of the project.

**Impact:** **Impact HAZ-2:** Soil vapor intrusion from contaminated soils on-site could result in a health hazard to future occupants of the site.

**Mitigation:** **MM HAZ-2.1:** Prior to the issuance of any grading permits, a qualified environmental professional shall evaluate prior soil vapor investigations to determine if supplemental investigations are necessary. All existing and/or supplemental soil vapor sampling shall be analyzed and compared to the most current risk-based screening levels set forth by the San Francisco Bay Area Regional Water Quality Control Board (SFRWQCB) or other appropriate regulatory agencies. The results of any supplemental sampling, and/or confirmation that existing sampling results are adequate to make a determination of appropriate mitigation shall be provided to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of grading permits. SFRWQCB is the lead environmental agency for this mitigation.

**MM HAZ-2.2:** If existing and/or supplemental soil vapor sampling determines that vapor intrusion exceeds the most current risk-based screening levels, the project applicant, prior to issuance of any grading permits, shall implement measures to reduce vapor intrusion; these measures could include underground parking, vapor barriers, passive venting, sub-slab depressurization, and/or building over-pressurization, depending on a toxicological review of the sampling data collected for MM HAZ-1.1. The appropriate measures shall be identified by a qualified environmental professional and incorporated into the SMP described under mitigation measure MM HAZ-1.2, subject to review and approval by the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of grading permits. SFRWQCB is the lead environmental agency for this mitigation.

**Finding:** Implementation of mitigation Measures MM HAZ-2.1 through MM HAZ-2.2 will reduce the impacts of potential soil vapor intrusion to a less than significant level. **(Less than Significant Impact with Mitigation)**

**Facts in Support of Finding:** With the implementation of Mitigation Measures MM HAZ-2.1 and MM HAZ-2.2, the project would not create a significant soil vapor intrusion hazard to the public or environment. These measures require soil vapor investigations to determine if supplemental investigations are necessary. All existing and/or supplemental soil vapor sampling will be

analyzed and compared to the most current risk-based screening levels set forth by the San Francisco Bay Regional Water Quality Control Board or other appropriate regulatory agencies. If existing and/or supplemental soil vapor sampling determines that vapor intrusion exceeds the most current risk-based screening levels, the project applicant, prior to issuance of any grading permits, will implement measures to reduce vapor intrusion, resulting in a less than significant impact on the public and environment due to vapor intrusion. Vapor intrusion barrier systems and other similar systems are commonly used and effective at preventing vapor intrusion.

### **Noise**

**Impact:** **Impact NOI-1:** Construction noise levels at nearby residential and commercial land uses would exceed the ambient noise environment by at least five dBA Leq for a period exceeding 12 months.

**Mitigation:** **MM NOI-1.1:** Prior to the issuance of any demolition or grading permits, the project applicant shall adhere to the following construction best management practices to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity.

- Construction shall be limited to the hours of 7:00 AM to 7:00 PM Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement or Director’s designee that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. Work outside of the allowable hours of operation would not be allowed and would be corrected by the disturbance coordinator if violated.
- The contractor shall 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 mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- The unnecessary idling of internal combustion engines shall be prohibited.



- Staging areas and stationary noise-generating equipment shall be located as far as possible from noise-sensitive receptors such as residential uses (a minimum of 200 feet).
- The surrounding neighborhood shall be notified early and frequently of the construction activities
- A “noise disturbance coordinator” shall be designated to respond to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.

**MM NOI-1.2:** Prior to the issuance of any demolition or grading permits, a qualified acoustical consultant shall develop a construction noise logistics plan, that includes measures to ensure construction noise would not exceed 5 dBA Leq over ambient the ambient daytime average Leq for a period exceeding 12 months. The plan shall consist of noise reduction measures, including, but not limited to, the following available controls; that the project applicant shall implement the plan during all phases of construction activity to reduce the noise exposure to neighboring properties:

- Utilize ‘quiet’ models of air compressors and other stationary noise sources where technology exists.
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment when located within 200 feet of adjoining sensitive land uses. Temporary noise barrier fences would provide a five dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- If stationary noise-generating equipment must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used. Any enclosure openings or venting shall face away from sensitive receptors.
- Ensure that generators, compressors, and pumps are housed in acoustical enclosures.

- Locate cranes as far from adjoining noise-sensitive receptors as possible.
- During final grading, substitute graders for bulldozers, where feasible. Wheeled heavy equipment are quieter than track equipment and should be used where feasible.
- Substitute nail guns for manual hammering, where feasible.
- Substitute electrically powered tools for noisier pneumatic tools, where feasible.

The construction noise logistic plan, inclusive of the above shall be signed by a qualified acoustical specialist verifying that the implementation measures included in this plan meets the reduction to noise levels as required by this mitigation measure. The verified construction noise logistic plan shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval prior to the issuance of grading and/or building permits (whichever occurs first).

**Finding:** Implementation of Mitigation Measures NOI-1.1 and NOI-1.2 would reduce ambient noise levels in the project area due to construction to a less than significant level. (**Less than Significant Impact with Mitigation**)

**Facts in Support of Finding:** The proposed project would be constructed in approximately 28 months, which exceeds the 12-month construction noise threshold pursuant to General Plan Policy EC-1.7. To comply with MM NOI-1.1 and NOI-1.2, the project applicant would be required to submit and implement a construction noise logistics plan and adhere to best management practices which would include: specific hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The project applicant shall submit the noise logistic plan to the Director or Director's designee of the Department of Planning, Building and Code Enforcement prior to the issuance of any grading or demolition permits. Implementation of Mitigation Measures NOI-1.1 and NOI-1.2 would reduce noise impacts to a less than significant level.

**Impact:** **Impact NOI-2:** Residential and commercial uses adjacent to the proposed project could be exposed to mechanical equipment noise in excess of 55 dBA Leq and 60 dBA Leq, respectively.

**Mitigation:** **MM NOI-2.1:** Prior to the issuance of any building permits, the project applicant shall select mechanical equipment designed to reduce impacts on surrounding uses to meet the City's requirements. A qualified acoustical

consultant shall be retained by the project applicant to review mechanical noise as the equipment systems are selected in order to determine specific noise reduction measures necessary to reduce noise to comply with the City's 55 dBA Leq (residential) or 60 dBA Leq (commercial) noise limit at the shared property line. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and/installation of noise barriers such as enclosures and parapet walls to block the line of sight between the noise source and the nearest receptors.

**Finding:** Implementation of mitigation measure MM NOI-2.1 will reduce mechanical equipment noise impacts to a less than significant level. **(Less than Significant Impact with Mitigation)**

**Facts in Support of Finding:** The specifications of mechanical equipment will not be known until submittal of applications for building permits. The review of the specifications of proposed mechanical equipment by a qualified acoustical consultant and confirmation by the Director of Planning, Building, and Code Enforcement or the Director's Designee will ensure equipment complies with General Plan Policy EC-1.3, which limits mechanical equipment noise to 55 dBA Leq at noise-sensitive land uses and 60 dBA Leq at commercial land uses in the immediate project vicinity.

**Impact:** **Impact NOI-3:** Construction-generated vibration would exceed the 0.2 in/sec PPV threshold and would be capable of cosmetically damaging the adjacent residential and commercial buildings to the east and south.

**Mitigation:** **MM NOI-3.1:** Prior to the issuance of any grading or building permits, whichever occurs first, the project applicant shall incorporate the following measures into the construction noise logistics plan described previously in mitigation measure MM NOI-1.2. A qualified acoustical consultant shall provide a signed letter confirming that construction equipment would not exceed the 0.2 in/sec PPV threshold at residential receptors pursuant to the City's General Plan Policy EC-2.3.

- Prohibit the use of heavy vibration-generating construction equipment within 30 feet of adjacent commercial or residential buildings. This would apply to equipment similar to vibratory rollers, hoe rams, large bulldozers, drills, loaded trucks, and jackhammers.
- Use a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, when compacting materials within 30 feet of adjacent commercial buildings. Only use the static compaction mode when compacting materials within 15 feet of residential buildings.

- Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 30 feet of adjacent residential buildings.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

Prior to the issuance of any building or grading permits, whichever occurs first, the project applicant shall submit the construction noise logistics plan and the signed letter from the qualified acoustical consultant to the Director of Planning, Building and Code Enforcement, or Director's designee.

**Finding:** Mitigation measure MM NOI-3.1 will reduce construction vibration impacts to adjacent structures a less than significant level. **(Less than Significant Impact with Mitigation)**

**Facts in Support of Finding:** With implementation of the mitigation measures described above, the proposed project would not generate excessive construction vibration levels at nearby sensitive land uses. The prohibition of heavy vibration-generating equipment, use of smaller vibratory rollers and compactors, and use of alternative methods of breaking up pavement within proximity (30 feet) of existing offsite buildings are enforceable measures that would minimize prevent construction vibration from exceeding 0.2 in/sec PPV, which is the threshold for cosmetic damage.

## FINDINGS CONCERNING ALTERNATIVES

In order to comply with the purposes of CEQA, it is important to identify alternatives that reduce the significant impacts that are anticipated to occur if the Project is implemented and to try to meet as many of the Project's objectives as possible. The CEQA Guidelines emphasize a common sense approach -- the alternatives should be reasonable, should "foster informed decision making and public participation," and should focus on alternatives that avoid or substantially lessen the significant impacts.

The alternatives analyzed in the Draft SEIR were developed with the goal of being at least potentially feasible, given Project objectives and site constraints, while avoiding or reducing the Project's identified environmental effects. five alternatives were explored, including a Location Alternative and Existing Santa Clara County Zoning Alternative that

were determined to be infeasible and considered rejected. The following are evaluated as alternatives to the proposed Project:

1. No Project
2. Existing Plans Alternative
3. Reduced Grading and Excavation Alternative

### **1. No Project Alternative**

- A. Description of Alternative:** The No Project Alternative would retain the existing commercial/retail shopping center and surface parking lot. If the project site were to remain as is, there would be no new impacts.
- B. Comparison of Environmental Impacts:** The No Project Alternative would avoid all of the project's environmental impacts.
- C. Finding:** The No Project Alternative would avoid all of the Project's less than significant impacts with mitigation. The No Project Alternative would not meet any of the proposed Project's specific objectives because it would not meet any of the City's strategies and goals. Specifically, the No Project Alternative would not create a new mixed-use Signature Project in a designated Urban Village area, would not add housing in close proximity to food and retail services in the area, would not result in sustainable buildings, would not relocate parking underground, and would not contribute to the City satisfying its Regional Housing Needs Assessment. Because this alternative would not meet any of the proposed Project's specific objectives, this alternative is rejected.

### **2. Existing Plan Alternative**

- A. Description of Alternative:** The Existing Plans Alternative would consist of annexation of the site and buildout under a City zoning district that would be consistent with the existing City General Plan designation of Neighborhood Community Commercial (NCC), such as an all-commercial non-Signature project. There are four City commercial zoning districts that would conform to the current Neighborhood Community Commercial (NCC) General Plan designation on the site – CO Commercial Office, CP Commercial Pedestrian, CN Commercial Neighborhood, and CG Commercial General. All four would allow general or professional office uses, such as the office use proposed in the office variant of the proposed project, as a permitted use. The NCC designation has a maximum FAR of 3.5 (1 to 5 story buildings), which would allow up to approximately 2.6 million square feet of office use on the 17.2-acre site. However, typical office development

in the area would be two stories in height (as in the existing office park located at Union Avenue and Logic Drive, approximately 1/3-mile south of the site), with the resulting FAR of approximately 0.35. Using an FAR of 0.35, a reasonable design for the Existing Plans Alternative project on the site could consist of approximately 262,230 square feet of office development, configured in two-story buildings with surface parking.

- B. Comparison of Environmental Impacts:** The proposed mixed-use project complying with the City's goals and requirements would result in significant impacts to air quality, nesting birds, cultural resources, hazards and hazardous materials, and operational and construction-related noise, all of which would be mitigated to less than significant with mitigation. The Existing Plans Alternative would substantially decrease the overall building square footage compared to the original project (262,230 square feet versus the proposed Signature Project total of 905,278 square feet), resulting in a substantial reduction of construction activity and consequently a reduction in construction-related criteria pollutant emissions. The Existing Plans Alternative assumes that all of the existing trees would be removed, and that construction-related impacts to nearby off-site trees would remain the same as with the proposed project. Therefore, the impacts to nesting birds would remain the same as with the proposed Project. The Existing Plans Alternative would involve demolition of the existing buildings on the site, grading, and subsurface excavation for utility trenching. Impacts to archaeological resources would potentially be reduced by using above-ground parking (vs. excavating for below-ground parking) and historic resources such as the carousel sign would remain the same as the proposed project. Impacts to construction workers related to soil and groundwater contamination could potentially be less, due to the shallower depths of excavation, however, potential impacts to future occupants of the site would be the same as with the original project, and the same mitigation measures would be required to reduce impacts to a less than significant level. Because the Existing Plans Alternative would consist solely of office uses with no residential, restaurant or entertainment uses, the potential operational noise impacts, including traffic noise, would be reduced from the proposed project. The Existing Plans Alternative would result in reductions in construction-related air quality emissions, and operational and construction noise and vibration impacts but all other impacts would remain the same as the proposed project.
- C. Finding:** The Existing Plans Alternative would meet or partially meet two of the Project's 11 objectives. The fourth objective establishes the goals of providing a location for future employees within close proximity to available housing, parks, schools and multiple food and retail services along the Camden Avenue/Hillsdale Avenue corridor and situating the mixed-use village near, or adjacent to, existing traffic arterials (such as Highway 17), and bus connection services in order to allow for multi-modal transit mechanisms for site accessibility. The Existing Plans

Alternative would be consistent, to some degree, with these goals. In addition, the Alternative would be consistent with the fifth objective, which is to meet high sustainability and green building standards by designing the development to meet US Green Building Code LEED and Cal-Green standards for new construction. The Existing Plans Alternative would result in approximately 262,230 square feet of office development, configured in two-story buildings with surface parking which would not meet the intent of the first three project objectives, which seek to further the Envision San José 2040 General Plan Land Use Element Goal LU-2, Major Strategy #5 and Implementation Policy IP-5.10 by establishing new mixed-use neighborhoods and promoting the development of a Signature Project in an Urban Village that provides an active, walkable, bicycle-friendly, mixed-use setting for new housing and job growth. Additionally, the Existing Plans Alternative would be inconsistent with objectives six and seven of providing mostly subsurface parking to reduce the impact of above-ground parking and provide more open space for the benefit of the community. The Existing Plans Alternative, which consists of office uses only, would be inconsistent with project objectives eight through 11 that seek to provide housing for the purpose of enhancing of the character of the neighborhood by providing common open space areas (town square and community park), increase residential density in close proximity to transportation corridors, commercial centers and jobs, and assist the City in satisfying its Regional Housing Needs Allocation for market rate housing units.

The Existing Plans Alternative would result in reductions in construction-related air quality emissions, and operational and construction noise and vibration impacts. However, this Alternative would not meet the most critical of the applicant or City's project objectives, which are to redevelop the site as an Urban Village with a mixed-use signature project that provides a mix of residential, commercial, and employment uses, consistent with the General Plan.

### **3. Reduced Grading and Excavation Alternative**

- A. **Description of Alternative:** The Reduced Grading and Excavation Alternative would consist of a mixed-use urban village development but having a reduced amount of grading and excavation than the proposed project in order to reduce construction air quality impacts. This analysis is based on a project alternative that substantially reduces the amount of grading and excavation by replacing the proposed below-ground parking structures with an above-ground structure(s). The new parking structure(s) would contain five stories, and their placement above-ground on the site would result in a reduced amount of public park area and reduced sizes of the hotel and assisted living/office buildings. The Reduced Grading and Excavation Alternative project would consist of the same amount of retail space (55,600 square feet), and same number of apartment units (305), single-family homes (48) and townhomes (25) as the proposed project. However,

it would have a 0.77-acre community park, 135,740 gross square feet of hotel space (193 rooms), and 144,060 gross square feet of assisted living/office space. The community park area would be reduced by approximately 0.83 acres, or approximately 48 percent, from the proposed project. The hotel square footage represents a reduction of approximately 16 percent from the proposed project, and the assisted living/office space represents a reduction of approximately 22 percent from the proposed project. Taken together, this reflects an overall reduction in the mixed-use development program of about six percent but would entail a substantial reduction in construction activity by not excavating substantial below-grade parking areas,

- B. Comparison of Environmental Impacts:** The purpose of the Reduced Grading and Excavation Alternative 1 is to minimize the project's construction air quality impacts by replacing the proposed Project's below-ground parking structure with above-ground parking structures. Eliminating excavation and off-haul activities for the construction of below-ground parking garages in favor of constructing above-ground structured parking as proposed with this Alternative would constitute a substantial reduction in the amount of grading for the project, and related reduction in the significance of construction emissions. Because of the proximity of the project site to sensitive receptors, there is no meaningful alternative that would avoid construction risk impacts for increased cancer risk without the required mitigation measures, therefore, community risk would remain the same under this Alternative as the proposed Project. Impact to nesting birds would also remain the same as the proposed Project because this Alternative assumed that all existing trees would be removed. The Reduced Grading and Excavation Alternative would involve demolition of the existing buildings on the site, grading, and subsurface excavation for building foundations and utility trenching. Impacts to archaeological resources would potentially be reduced by using above-ground parking (vs. excavating for below-ground parking) and historic resources such as the carousel sign would remain the same as the proposed project. Additionally, Impacts to construction workers related to soil and groundwater contamination could potentially be less, due to the shallower depths of excavation, however, potential impacts to future occupants of the site would be the same as with the original project, and the same mitigation measures would be required to reduce impacts to a less than significant level. Reducing the amount of construction by replacing below-ground parking with above-ground structured parking as proposed would reduce some of the noise and a significant amount of the vibration impacts to surrounding areas by eliminating the excavation activities and reducing the number of truck trips off-hauling excavated material.

The Reduced Grading and Excavation Alternative project would result in a minimal reduction in the overall square footage of the proposed project but would reduce the amount of construction air pollutant emissions and consequent reduction in air



quality impacts. In addition, it would result in reduced noise and vibration impacts by eliminating the below-ground excavation activities and truck trips.

- C. **Finding:** This Reduced Grading and Excavation Alternative would meet or partially meet seven of the 11 stated Project objectives. The Reduced Grading and Excavation Alternative would continue to provide a substantial amount of residential units, commercial (including retail and hotel square footage) and office space to effectively be consistent with the General Plan Land Use Goal of focusing new growth into this identified Growth Area. However, the tradeoff for reducing grading activity by replacing underground parking with above-ground parking would be inconsistent with Project objectives 1, 3, 6, and 7 which aim for consistency with existing neighborhood character, providing high quality architectural landscape and site design features, and providing 1.6 acres of publicly accessible open space. The Reduced Grading and excavation Alternative would include new five-story, above ground parking structure(s), resulting in a 48 percent reduction in the community park. These parking structures would be visible from the surrounding community and would not have the same beneficial impacts as the proposed project in reducing the impact of above-ground parking by placing the majority of parking underground, allowing for more public park space and pedestrian and bicycle accessibility.

The Reduced Grading and Excavation Alternative would not generate emissions of construction criteria air pollutants that exceed BAAQMD thresholds without mitigation. In addition, it would reduce construction noise and vibration impacts caused by extensive below-ground excavation activities and off-hauling of excavated material. However, this Alternative would represent a diminished opportunity to intensify job-creating commercial and office growth within the Camden Avenue/Hillsdale Avenue Urban Village growth area and would be inconsistent with the Signature Project objectives of demonstrating high-quality architectural, landscape and site design by adding large unsightly parking structures to the site. This alternative also would be inconsistent with the goals of providing a 1.6-acre community park and plaza and placing a majority of parking underground to reduce visual impacts to the adjacent community and increase open space.

### **Environmentally Superior Alternative**

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the discussion of project alternatives, the environmentally superior alternative to the project is the No Project Alternative because it would avoid all of the Project's significant environmental impacts. CEQA Guidelines Section 15126.6(e)(2) states that "if the environmentally superior alternative is the No Project Alternative, the

EIR shall also identify an environmentally superior alternative among the other alternatives.” Therefore, in addition to the No Project Alternative, the Reduced Grading and Excavation Alternative would be the environmentally superior alternative as it would reduce the amount of construction air pollutant emissions and consequent reduction in air quality impacts. In addition, it would result in reduced noise and vibration impacts by eliminating the below-ground excavation activities and truck trips. This Alternative, however, would change the overall project design by including large above-ground parking structures to accommodate the project’s parking requirements, which would be inconsistent with overall design concept of compact, integrated mixed use development that de-emphasizes the presence of automobiles, and would make the project inconsistent with the Signature Project objectives of demonstrating high-quality architectural, landscape and site design features.

### **MITIGATION MONITORING AND REPORTING PROGRAM**

Attached to this Resolution as Exhibit “A” and incorporated and adopted as part of this Resolution herein is the Mitigation Monitoring and Reporting Program (“MMRP”) for the Project required under Section 21081.6 of the CEQA Statute and Section 15097(b) of the CEQA Guidelines. The MMRP identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

### **LOCATION AND CUSTODIAN OF RECORDS**

The documents and other materials that constitute the record of proceedings on which the City Council based the foregoing findings and approval of the Project are located at the City’s Department of Planning, Building and Code Enforcement, San José City Hall, 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and are also available for viewing electronically on the Department of Planning, Building and Code Enforcement website. The City Council hereby designates the City’s Director of Planning, Building, and Code Enforcement at the Director’s office at 200 East Santa Clara Street, 3rd Floor Tower, San José California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

ADOPTED this \_\_\_ day of \_\_\_\_\_, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

---

SAM LICCARDO  
Mayor

ATTEST:

---

TONI J. TABER, CMC  
City Clerk

DS  
DC  
7/7/2022

# **MITIGATION MONITORING AND REPORTING PROGRAM**

---

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**  
**June 2022**

---



## **PREFACE**

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

The Environmental Impact Report (EIR) prepared for the Cambrian Park Mixed-Use Village concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This MMRP addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the EIR concluded that the impacts from implementation of the project would be less than significant.

I, Michael Strahs, the applicant, on the behalf of Weingarten Nostat, Inc., hereby agree to implement the mitigation measures described below which have been developed in conjunction with the preparation of an EIR for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level.

Project Applicant's Signature  \_\_\_\_\_  
9011337186BB4E1...

Date 7/7/2022 \_\_\_\_\_



*Planning, Building and Code Enforcement*  
CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<b>AIR QUALITY</b>					
<b>Impact AIR-1:</b> Project construction could result in significant fugitive dust (DPM and PM <sub>10</sub> ) emissions.					
<p><b>MM-AIR-1.1:</b> Prior to the issuance of any demolition or grading permits, a qualified air quality consultant shall prepare a Construction Dust Control Plan and implement the following dust (DPM and PM<sub>10</sub>) control measures during the construction period:</p> <ol style="list-style-type: none"> <li>All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.</li> <li>All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> <li>All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</li> <li>All vehicle speeds on unpaved roads shall be limited to 15 mph.</li> <li>All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.</li> </ol>	<p>Prepare a plan demonstrating that dust (DPM and PM<sub>10</sub>) control measures are implemented to achieve the performance criteria identified in this measure. The plan shall be prepared by a qualified air quality consultant and submitted to the City.</p> <p>Print all measures on all construction documents, contracts, and project plans.</p>	<p>Construction documents and plans shall be submitted for review and approval prior to the issuance of any demolition or grading permits.</p> <p>Construction equipment measures and control measures shall be implemented during all phases of construction.</p>	<p>Director of PBCE or the Director's designee.</p>	<p>Review and approve the construction equipment plan and dust control measures plan.</p> <p>Ensure that all measures are printed on all construction documents, contracts, and project plans.</p>	<p>Prior to the issuance of any demolition or grading permits.</p>



*Planning, Building and Code Enforcement*  
 CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</p> <p>6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</p> <p>7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</p> <p>8. Post a publicly visible sign at the project site with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.</p>					



*Planning, Building and Code Enforcement*  
 CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>9. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph and visible dust extends beyond site boundaries.</p> <p>10. Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction adjacent to sensitive receptors. Wind breaks should have at maximum 50 percent air porosity.</p> <p>11. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.</p> <p>12. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.</p> <p>13. Avoid tracking of visible soil material on to public roadways by employing the following measures if necessary: (1) Site accesses to a distance of 100 feet from public paved roads shall be treated with a 6 to 12-inch compacted layer of wood chips, mulch, or gravel and (2)</p>					





*Planning, Building and Code Enforcement*  
CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>washing truck tires and construction equipment of prior to leaving the site.</p> <p>14. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.</p> <p>Prior to the issuance of any grading or demolition permits, the project applicant shall submit a copy of the Construction Dust Control Plan to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.</p>					
<p><b>Impact AIR-2:</b> Emissions from construction activities would exceed the BAAQMD criteria pollutant threshold of 54 pounds per day for NO<sub>x</sub> emissions for the first two years of construction by up to 47 pounds per day for both project variants (Alternatives 1 and 2).</p>					
<p><b>MM AIR-2.1:</b> Prior to the issuance of any demolition or grading permits (whichever occurs first), a qualified air quality consultant shall prepare construction operations plan demonstrating use of construction equipment that has low diesel particulate matter exhaust and NO<sub>x</sub> emissions. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.</p> <p>1. All diesel construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 emission standards (i.e.,</p>	<p>A plan demonstrating that construction equipment used on-site would achieve the required diesel particulate matter exhaust and NO<sub>x</sub> emission reductions shall be prepared by a qualified air quality consultant and submitted to the City.</p> <p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Construction documents and plans shall be submitted for review and approval prior to the issuance of any demolition, grading, and/or building permits (whichever occurs first).</p> <p>Construction equipment measures</p>	<p>Director of Planning, Building and Code Enforcement, or the Director's designee.</p>	<p>Review and approve the construction equipment plan.</p> <p>Ensure that all measures are printed on all construction documents, contracts, and project plans.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs first).</p>



*Planning, Building and Code Enforcement*  
 CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>at least Tier 4 Interim engine standard) for NOx and PM (PM10 and PM2.5), if feasible, otherwise,</p> <p>a. If use of Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination). The use of Tier 3 equipment shall not exceed 5 percent of all equipment usage (described in terms of total horsepower hours during a phase).</p> <p>b. Use of alternatively fueled equipment with lower NOx emissions that meet the NOx and PM reduction requirements above.</p> <p>2. Provide line power to the site during the early phases of construction to minimize the use of</p>		<p>shall be implemented during all phases of construction.</p>			



*Planning, Building and Code Enforcement*  
 CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>diesel-powered stationary equipment, such as generators, welders, and air compressors.</p> <p>The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in this mitigation measure. The plan shall include but not be limited to the following:</p> <ul style="list-style-type: none"> <li>• List of activities and estimated timing.</li> <li>• Equipment that would be used for each activity.</li> <li>• Manufacturer’s specifications for each equipment that provides the emissions level; or the manufacturer’s specifications for devices that would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure.</li> <li>• How the construction contractor will ensure that the measures listed are monitored.</li> <li>• How the construction contractor will remedy any exceedance of the thresholds.</li> <li>• How often and the method the construction contractor will use to report compliance with this mitigation measure.</li> </ul> <p>The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director’s designee prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest) for review and approval.</p>					



*Planning, Building and Code Enforcement*  
CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<b>Impact AIR-3:</b> Project construction activities would exceed BAAQMD single-source thresholds for lifetime excess cancer risk (10 in one million) and annual PM <sub>2.5</sub> (0.3 µg/m <sup>3</sup> ).					
<b>MM AIR-3.1:</b> Prior to the issuance of any grading or demolition permits, the project applicant shall implement Mitigation Measures MM AIR-1.1 and MM AIR-2.1.	See MM AIR-1.1 and MM AIR 2.1	See MM AIR-1.1 and MM AIR 2.1	See MM AIR-1.1 and MM AIR 2.1	See MM AIR-1.1 and MM AIR 2.1	See MM AIR-1.1 and MM AIR 2.1
<b>BIOLOGICAL RESOURCES</b>					
<b>Impact BIO-1:</b> Construction activities associated with the proposed project could result in an impact to nesting birds due to the loss of eggs or nestlings, or otherwise lead to nest abandonment.					
<b>MM BIO-1.1:</b> The project applicant shall schedule demolition and construction activities to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the San Francisco Bay area extends from February 1 through August 31.	Avoid construction activities during the nesting season to the extent feasible.  All measures shall be printed on all construction documents, contracts, and project plans.	Prior to issuance of any tree removal, demolition, or grading permits.	Director of Planning, Building and Code Enforcement, or the Director's designee.	Confirm that construction activities are scheduled outside of the nesting season.	Prior to the issuance of any tree removal, demolition, or grading permits.
<b>MM BIO-1.2:</b> If demolition and construction activities cannot be scheduled to occur outside of the breeding season (September 1 to January 31), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist for each construction phase to ensure that no nests are disturbed during project demolition or construction. This survey shall be completed for the applicable construction phase no more than 14 days prior to the initiation of grading, tree removal, or other demolition or construction activities during the early part of the breeding season	If construction cannot be scheduled to occur outside of the nesting season, retain a qualified ornithologist to complete pre-construction surveys and, as necessary, establish buffer zones around active nests in coordination with the	The pre-construction surveys shall be completed no more than 14 days prior to the initiation of construction activities.	Director of Planning, Building and Code Enforcement, or the Director's designee.	Review and approve the pre-construction survey plan and any designated buffer zones.  Ensure that all measures are printed on all construction documents,	Prior to the issuance of any tree removal, demolition, or grading permits.



*Planning, Building and Code Enforcement*  
CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
(February 1 through April 30) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats on the project site and within 250 feet of the construction areas for nests. If an active nest is found and in the ornithologist's opinion is sufficiently close to work areas to be disturbed by construction, the ornithologist shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, in consultation with California Department of Fish and Wildlife (CDFW), to ensure that the nest will not be disturbed during project construction.	California Department of Fish and Wildlife.  All measures shall be printed on all construction documents, contracts, and project plans.	The recommendations of the pre-construction survey report shall be implemented during construction.		contracts, and project plans	
<b>MM BIO-1.3:</b> The qualified ornithologist shall submit a report indicating the results of the survey(s) described in MM BIO-1.2 and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or Director's designee, prior to issuance of any grading or demolition permits for the applicable construction phase.	Submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the City's Director of PBCE or the Director's designee.	Prior to the issuance of any tree removal, demolition, or grading permits	Director of Planning, Building and Code Enforcement, or the Director's designee.	Review and approve the pre-construction survey report.  Ensure that all measures are printed on all construction documents, contracts, and project plans	Prior to the issuance of any tree removal, demolition, or grading permits
<b>CULTURAL RESOURCES</b>					
<b>Impact CUL-1:</b> The project proposes to relocate and retain the existing carousel sign on-site, which appears individually eligible as a City Landmark.					



*Planning, Building and Code Enforcement*  
 CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p><b>MM CUL-1.1:</b> Prior to the issuance of any demolition, grading, or building permit (whichever occur first), preparation of a full photo-documentation of the carousel sign and shopping center context that surrounds and supports the carousel sign is required using the Secretary of Interior’s Standards and Guidelines for Architectural and Engineering Documentation: Historic American Buildings Survey/ Historic American Engineering Record (HABS/HAER) Standards and shall be submitted to the City’s Historic Preservation Officer. The documentation shall be of archival quality according to a scope approved by the Historic Preservation Officer (HPO), or HPO’s designee, and be archived at a local repository such as the Archives at History San José.</p>	<p>Prepare photo-documentation of the Cambrian Park Plaza carousel sign using HABS/HAER Standards.</p>	<p>Prior to the issuance of any demolition, grading, or building permit (whichever occur first),</p>	<p>Historic Preservation Officer, or HPO’s designee</p>	<p>Review and approve documentation of historical significance of Cambrian Park Plaza carousel sign, archive documentation at appropriate local repository</p>	<p>Prior to the issuance of any demolition, grading, or building permit (whichever occur first),</p>
<p><b>MM CUL-1.2:</b> Prior to the issuance of any demolition, grading, or building permits (whichever occur first), a Historic Resources Protection Plan (HRPP) shall be prepared to ensure the carousel sign is not damaged when it is relocated. The Plan shall establish procedures to protect the carousel sign from direct or indirect impacts during construction (including relocation) activities (i.e., due to damage from operation of construction equipment, staging, and material storage). The HRPP shall specify how the sign shall be dismantled, stored, and reassembled and shall be approved by the HPO, or HPO’s designee, and implemented during construction activities.</p>	<p>Prepare a HRPP.</p>	<p>Prior to the issuance of any demolition, grading, or building permit (whichever occur first),</p>	<p>Historic Preservation Officer, or HPO’s designee</p>	<p>Review and approve HRPP.</p>	<p>Prior to the issuance of any demolition, grading, or building permit (whichever occur first),</p>



*Planning, Building and Code Enforcement*  
CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p><b>MM CUL-1.3:</b> Prior to construction activities (including ground-disturbing work) within 100 feet of the carousel sign, the project permittee, in consultation with a qualified historic preservation professional, shall remove the sign from the site in accordance with the approved HRPP. In accordance with the HRPP, storage shall be located in a secure location that is indoors and protected from weather, impacts, and vandalism. The location of the storage facility shall be communicated to the Director of Planning, Building, and Code Enforcement or the Director’s designee. Relocation of the sign to its final location shall be completed in accordance with the HRPP prior to the issuance of an Occupancy permit, or as determined by the Director of Planning, Building, and Code Enforcement or Director’s designee. The signage relocation shall also include interpretive signage indicating the sign’s age, association and original location at the base of the structural support.</p>	<p>Remove, store, and relocate the carousel sign.</p>	<p>Removal prior to construction activities (including ground-disturbing work) within 100 feet of the carousel sign.</p> <p>Relocation of the sign to its final location in accordance with the HRPP prior to the issuance of an Occupancy permit, or as determined by the Director of Planning, Building, and Code Enforcement or Director’s designee.</p>	<p>Director of Planning, Building, and Code Enforcement or the Director’s designee</p>	<p>Approve the relocation of the carousel sign.</p>	<p>Prior to construction activities (including ground-disturbing work) within 100 feet of the carousel sign.</p>
<b>HAZARDS AND HAZARDOUS MATERIALS</b>					
<p><b>Impact HAZ-1:</b> Implementation of the proposed project could release chemicals from on-site soils into the environment, and expose construction workers to residual hydrocarbon, tetrachloroethylene (PCE), and/or agricultural soil contamination above their respective environmental screening levels.</p>					
<p><b>MM HAZ-1.1:</b> Prior to issuance of any grading or demolition permits, the project applicant shall prepare a site-specific soil management plan (SMP) to manage potentially impacted soil and soil vapor, under Santa</p>	<p>Coordinate with SCCDEH to develop an SMP.</p>	<p>Prior to the issuance of any grading or demolition permits.</p>	<p>Supervising Planner of the City of San Jose’s Department of Planning, Building,</p>	<p>Receive a copy of the SMP.</p>	<p>Prior to the issuance of any grading or</p>



*Planning, Building and Code Enforcement*  
CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
Clara County Department of Environmental Health (SCCDEH) oversight. Documentation developed with the County relating to SMPs or Site Cleanup shall be submitted to the Supervising Planner of the City of San Jose’s Department of Planning, Building, and Code Enforcement and the Environmental Services Department Municipal Compliance Officer.	<p>Submit the SMP, as applicable, to the City of San José Environmental Compliance Officer and SCCDEH for review.</p> <p>A qualified environmental professional shall complete any further work required by the SCCDEH.</p> <p>All measures shall be printed on all construction documents, contracts, and project plans.</p>		and Code Enforcement and the Environmental Services Department Municipal Compliance Officer.	<p>Ensure that all measures are printed on all construction documents, contracts, and project plans.</p> <p>Review the SMP.</p>	demolition permits.
<b>MM HAZ-1.2:</b> Prior to the issuance of any grading permits, shallow soil samples will be taken in the near surface soil in the project area and tested for organochlorine pesticides and pesticide-based metals arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and commercial/industrial standard environmental screening levels. The result of soil sampling and testing will be provided to the Supervising Planner of the City of San Jose’s Department of Planning, Building, and Code Enforcement and the Environmental Services Department Municipal Compliance Officer.	Collect soil samples and test for the presences of organochlorine pesticides and pesticide-based metals arsenic and lead. Evaluate results based upon worker safety and environmental screening levels.	Prior to the issuance of any grading permits.	Supervising Planner of the City of San Jose’s Department of Planning, Building, and Code Enforcement and the Environmental Services Department Municipal Compliance Officer.	<p>Receive a copy of the testing results. Ensure that all measures are printed on all construction documents, contracts, and project plans.</p> <p>Review the testing results.</p>	Prior to the issuance of any grading permits.
<b>Impact HAZ-2:</b> Soil vapor intrusion from contaminated soils on-site could result in a health hazard to future occupants of the site.					





*Planning, Building and Code Enforcement*  
CHRISTOPHER BURTON, DIRECTOR

**EXHIBIT "A"**  
**(File Nos. PDC17-040; PD20-007)**

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p><b>MM HAZ-2.1:</b> Prior to the issuance of any grading permits, a qualified environmental professional shall evaluate prior soil vapor investigations to determine if supplemental investigations are necessary. All existing and/or supplemental soil vapor sampling shall be analyzed and compared to the most current risk-based screening levels set forth by the San Francisco Bay Area Regional Water Quality Control Board (SFRWQCB) or other appropriate regulatory agencies. The results of any supplemental sampling, and/or confirmation that existing sampling results are adequate to make a determination of appropriate mitigation shall be provided to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of grading permits. SFRWQCB is the lead environmental agency for this mitigation.</p>	<p>Evaluate prior soil vapor testing results and make determination if additional soil vapor testing is necessary. Compare results to risk-based screening levels.</p> <p>Testing to be conducted by a qualified environmental professional.</p>	<p>Prior to the issuance of any grading permits.</p>	<p>Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Receive a copy of the supplemental sampling results or analysis of existing sampling results.</p> <p>Review the supplemental results and/or analysis of testing results.</p>	<p>Prior to the issuance of any grading permits.</p>
<p><b>MM HAZ-2.2:</b> If existing and/or supplemental soil vapor sampling determines that vapor intrusion exceeds the most current risk-based screening levels, the project applicant, prior to issuance of any grading permits, shall implement measures to reduce vapor intrusion; these measures could include underground parking, vapor barriers, passive venting, sub-slab depressurization, and/or building over-pressurization, depending on a toxicological review of the sampling data collected for MM HAZ-1.1. The appropriate measures shall be identified by a qualified environmental professional and incorporated into the SMP described under mitigation measure MM HAZ-</p>	<p>If needed, implement measures to reduce impacts of soil vapor on future occupants of the site. Utilize best practices based upon an analysis of results of soil vapor test and review of the Phase II subsurface investigation.</p> <p>A qualified environmental professional shall</p>	<p>Prior to the issuance of any grading permits.</p>	<p>Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Receive copy of the updated SMP that incorporates appropriate measures to reduce soil vapor impacts by future occupants.</p> <p>Review and approve the updated SMP.</p>	<p>Prior to the issuance of any grading permits.</p>



*Planning, Building and Code Enforcement*  
 CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
1.2, subject to review and approval by the Director of Planning, Building and Code Enforcement or Director’s designee prior to the issuance of grading permits. SFRWQCB is the lead environmental agency for this mitigation.	incorporate the results into the Site Management Plan.  All measures shall be printed on all construction documents, contracts, and project plans				
<b>NOISE</b>					
<b>Impact NOI-1:</b> Construction noise levels at nearby residential and commercial land uses would exceed the ambient noise environment by at least five dBA $L_{eq}$ for a period exceeding 12 months.					
<b>MM NOI-1.1:</b> Prior to the issuance of any demolition or grading permits, the project applicant shall adhere to the following construction best management practices to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity.  <ul style="list-style-type: none"> <li>Construction shall be limited to the hours of 7:00 AM to 7:00 PM Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement or Director’s designee</li> </ul>	Implement Construction Best Management Practices.  All measures shall be printed on all construction documents, contracts, and project plans.	Implemented during construction.  Measures shall be printed on all documents prior to the issuance of any demolition or grading permits.	Director of Planning, Building and Code Enforcement, or the Director’s designee.	Review and approve the construction noise logistics plan.  Ensure that all measures are printed on all construction documents, contracts, and project plans.	Prior to the issuance of any demolition or grading permits.



*Planning, Building and Code Enforcement*  
 CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. Work outside of the allowable hours of operation would be corrected by the disturbance coordinator if violated.</p> <ul style="list-style-type: none"> <li>• The contractor shall 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 mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.</li> <li>• The unnecessary idling of internal combustion engines shall be prohibited.</li> <li>• Staging areas and stationary noise-generating equipment shall be located as far as possible from noise-sensitive receptors such as residential uses (a minimum of 200 feet).</li> <li>• The surrounding neighborhood shall be notified early and frequently of the construction activities.</li> </ul>					



*Planning, Building and Code Enforcement*  
CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<ul style="list-style-type: none"> <li>A “noise disturbance coordinator” shall be designated to respond to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.</li> </ul>					
<p><b>MM NOI-1.2:</b> Prior to the issuance of any demolition or grading permits, a qualified acoustical consultant shall develop a construction noise logistics plan that includes measures to ensure construction noise would not exceed 5 dBA Leq over the ambient daytime average Leq for a period exceeding 12 months. The plan shall consist of noise reduction measures, including, but not limited to, the following available controls; the project applicant shall implement the plan during all phases of construction activity to reduce the noise exposure to neighboring properties.</p> <ul style="list-style-type: none"> <li>Utilize ‘quiet’ models of air compressors and other stationary noise sources where technology exists.</li> <li>Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.</li> </ul>	<p>Retain a qualified acoustical consultant to prepare and submit a construction noise logistics plan including all the measures listed.</p> <p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Prior to the issuance of any demolition or grading permits.</p> <p>The plan shall be implemented during construction.</p>	<p>Director of Planning, Building and Code Enforcement, or the Director’s designee.</p>	<p>Review and approve the construction noise logistics plan.</p> <p>Ensure that all measures are printed on all construction documents, contracts, and project plans.</p>	<p>Prior to the issuance of any demolition or grading permits.</p>



*Planning, Building and Code Enforcement*  
 CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<ul style="list-style-type: none"> <li>Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment when located within 200 feet of adjoining sensitive land uses. Temporary noise barrier fences would provide a five dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.</li> <li>If stationary noise-generating equipment must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used. Any enclosure openings or venting shall face away from sensitive receptors.</li> <li>Ensure that generators, compressors, and pumps are housed in acoustical enclosures.</li> <li>Locate cranes as far from adjoining noise-sensitive receptors as possible.</li> <li>During final grading, substitute graders for bulldozers, where feasible. Wheeled heavy equipment are quieter than track equipment and should be used where feasible.</li> <li>Substitute nail guns for manual hammering, where feasible.</li> </ul>					



*Planning, Building and Code Enforcement*  
CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<ul style="list-style-type: none"> <li>Substitute electrically powered tools for noisier pneumatic tools, where feasible.</li> </ul> <p>The construction noise logistic plan, inclusive of the above shall be signed by a qualified acoustical specialist verifying that the implementation measures included in this plan meets the reduction to noise levels as required by this mitigation measure. The verified construction noise logistic plan shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval prior to the issuance of grading and/or building permits (whichever occurs first).</p>					
<b>Impact NOI-2:</b> Residential and commercial uses adjacent to the proposed project could be exposed to mechanical equipment noise in excess of 55 dBA Leq and 60 dBA Leq, respectively.					
<p><b>MM NOI-2.1:</b> Prior to the issuance of any building permits, the project applicant shall select mechanical equipment designed to reduce impacts on surrounding uses to meet the City's requirements. A qualified acoustical consultant shall be retained by the project applicant to review mechanical noise as the equipment systems are selected in order to determine specific noise reduction measures necessary to reduce noise to comply with the City's 55 dBA Leq (residential) or 60 dBA Leq (commercial) noise limit at the shared property line. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and/installation of noise barriers such as enclosures and parapet walls to block the line of</p>	<p>Retain a qualified acoustical consultant to review mechanical noise and provide detailed acoustical study during final building design.</p> <p>Submit a plan set showing the location and type of mechanical equipment, along with a signed letter from a qualified acoustical consultant detailing that impacts to residential</p>	<p>Prior to the issuance of any building permits.</p> <p>Noise reduction measures shall be installed during construction.</p>	<p>Director of Planning, Building and Code Enforcement, or the Director's designee.</p>	<p>Review and approve the plan set.</p> <p>Receive a copy of the acoustical consultant's letter, and noise reduction measures (as applicable).</p> <p>Ensure that all measures are printed on all construction documents,</p>	<p>Prior to the issuance of any building permits.</p>



*Planning, Building and Code Enforcement*  
CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>sight between the noise source and the nearest receptors.</p> <p>Once the mechanical equipment has been selected, a plan set showing the location and type of mechanical equipment, along with a signed letter by a qualified acoustical consultant stating whether the equipment will comply with the City’s 55 dBA Leq noise limit at the shared property line shall be submitted to the satisfaction of the Director of Planning, Building, and Code Enforcement or Director’s designee prior to issuance of any building permits.</p>	<p>receptors would not exceed 55 dBA DNL, to the Director of PBCE or the Director’s designee.</p> <p>Notify adjacent land uses of the proposed generator testing schedule and avoid noise-sensitive hours.</p> <p>All measures shall be printed on all construction documents, contracts, and project plans.</p>			<p>contracts, and project plans.</p>	
<p><b>Impact NOI-3:</b> Construction-generated vibration would exceed the 0.2 in/sec PPV threshold and would be capable of cosmetically damaging the adjacent residential and commercial buildings to the east and south.</p>					
<p><b>MM NOI-3.1:</b> Prior to the issuance of any grading or building permits, whichever occurs first, the project applicant shall incorporate the following measures into the construction noise logistics plan described previously in mitigation measure MM NOI-1.2. A qualified acoustical consultant shall provide a signed letter confirming that construction equipment would not exceed the 0.2 in/sec PPV threshold at residential receptors pursuant to the City’s General Plan Policy EC-2.3.</p> <ul style="list-style-type: none"> <li>Prohibit the use of heavy vibration-generating construction equipment within 30 feet of adjacent commercial or residential buildings.</li> </ul>	<p>Incorporate measures into the construction noise logistics plan. Implement measures during project construction.</p> <p>Submit a plan set showing the location and type of mechanical equipment, along with a signed letter from a qualified acoustical consultant detailing that impacts to residential receptors would not exceed 0.2 in/sec PPV threshold, to</p>	<p>Prior to the issuance of any building or grading permits, whichever occurs first.</p> <p>Vibration reduction measures shall be installed during construction.</p>	<p>Director of Planning Building and Code Enforcement or the Director’s designee.</p>	<p>Review and approve the plan set.</p> <p>Receive copy of acoustical consultant’s letter, and construction noise logistics plan that includes the vibration reduction measures.</p> <p>Ensure that all measures are printed</p>	<p>Prior to the issuance of any building or grading permits, whichever occurs first.</p>



*Planning, Building and Code Enforcement*  
 CHRISTOPHER BURTON, DIRECTOR

**Cambrian Park Mixed-Use Village**  
**File Nos. PDC17-040 and PD20-007**

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>This would apply to equipment similar to vibratory rollers, hoe rams, large bulldozers, drills, loaded trucks, and jackhammers.</p> <ul style="list-style-type: none"> <li>Use a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, when compacting materials within 30 feet of adjacent commercial buildings. Only use the static compaction mode when compacting materials within 15 feet of residential buildings.</li> <li>Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 30 feet of adjacent residential buildings.</li> <li>Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.</li> </ul> <p>Prior to the issuance of any building or grading permits, whichever occurs first, the project applicant shall submit the construction noise logistics plan and the signed letter from the qualified acoustical consultant to the Director of Planning, Building and Code Enforcement, or Director's designee.</p>	<p>the Director of PBCE or the Director's designee.</p> <p>All measures shall be printed on all construction documents, contracts, and project plans.</p>			<p>on all construction documents, contracts, and project plans.</p>	



Source: City of San José. *Cambrian Park Mixed-Use Village Project Environmental Impact Report*. November 2021.