



CITY COUNCIL STAFF REPORT

File No.	PDC20-002
Applicant/Owner	Arcadia Development Co.
Location	West side of East Capitol Expressway, approximately 1,165 feet southerly from Quimby Road (APNs 670-29-032, 033, 035, and 670-50-001 to 005)
Existing Zoning	A(PD), File No. PDC10-022
General Plan Land Use Designation	Commercial/Retail
Growth Area	Arcadia/Eastridge Urban Village
Council District	8
Historic Resource	No
Annexation Date	May 27, 1960 (Evergreen No. 3), January 1, 1964 (Evergreen No. 29), March 27, 1970 (Evergreen No. 59)
CEQA	Mitigated Negative Declaration for Evergreen Circle Rezoning

APPLICATION SUMMARY:

Conforming Rezoning for the 28.99-gross acre commercial area within the 81-gross acre Evergreen Circle Planned Development Zoning District (File No. PDC10-022) to a separate Planned Development Zoning District to increase the allowable commercial square footage from up to 344,000 square feet to up to 370,000 square feet. The intent of the rezoning is to allow the development of an up to 150,000 square feet of medical office in this area.

RECOMMENDATION:

- (a) Adopt a resolution adopting the Evergreen Circle Rezoning Project Initial Study/Mitigated Negative Declaration and associated Mitigation Monitoring and Reporting Program, in accordance with the California Environmental Quality Act (CEQA).
- (b) Approve an ordinance rezoning an approximately 28.99-gross acre site from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to increase the allowable commercial square footage from up to 344,000 square feet to up to 370,000 square feet.

PROJECT DATA

GENERAL PLAN CONSISTENCY			
General Plan Designation		Retail/Commercial; Arcadia/Evergreen Urban Village <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent	
Consistent Policies		IP-1.6, IP-8.5, ES-6.1, ES-6.5, CD-7.6	
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Industrial Park; Parks (Public) or Private Recreation	A(PD), File No. PDC90-058 & A(PD), File No. PDC10-022	Commercial Use and City's Sports Park
South	Residential Neighborhood; Open Space, Parklands and Habitat	R-1-8 & R-1-8(PD), File No. PDC76-051	Middle School and Mobile Home Park
East	Residential Neighborhood (across East Capitol Expressway)	A(PD), File No. PDC76-138	Mobile Home Park (across East Capitol Expressway)
West	Residential	A(PD), File No. PDC10-022	Multi-Family Residential (under construction)

PROJECT DESCRIPTION

On July 27, 2020, Gerry De Young from Ruth and Going, Inc., on behalf of Arcadia Development Co., applied for a Conforming Rezoning to rezone the commercial/retail area within Evergreen Circle, a larger Planned Development Zoning Area (File No. PDC10-022) to a separate Planned Development Zoning District to allow the increase of commercial/retail space from up to 344,000 square feet to up to 370,000 square feet on an approximately 28.99-gross acre site. The intent of the rezoning is to allow the development of an up to 150,000 square foot of medical office in this area. The proposed increase of the maximum allowable commercial/retail area, as well as all other previously approved development standards, including allowed uses and development intensities matching those of the existing Planned Development Zoning, are as stated in the attached proposed General Development Plan for the property.

Site Description and Surrounding Uses

The project site is located on the west side of Capitol Expressway, approximately 1,165 feet southerly from Quimby Road. This 28.99-gross acre site includes eight parcels, including the entire commercial area within Evergreen Circle, an approximately 81-acre Planned Development Zoning area, File No. PDC10-022 (Figure 1).

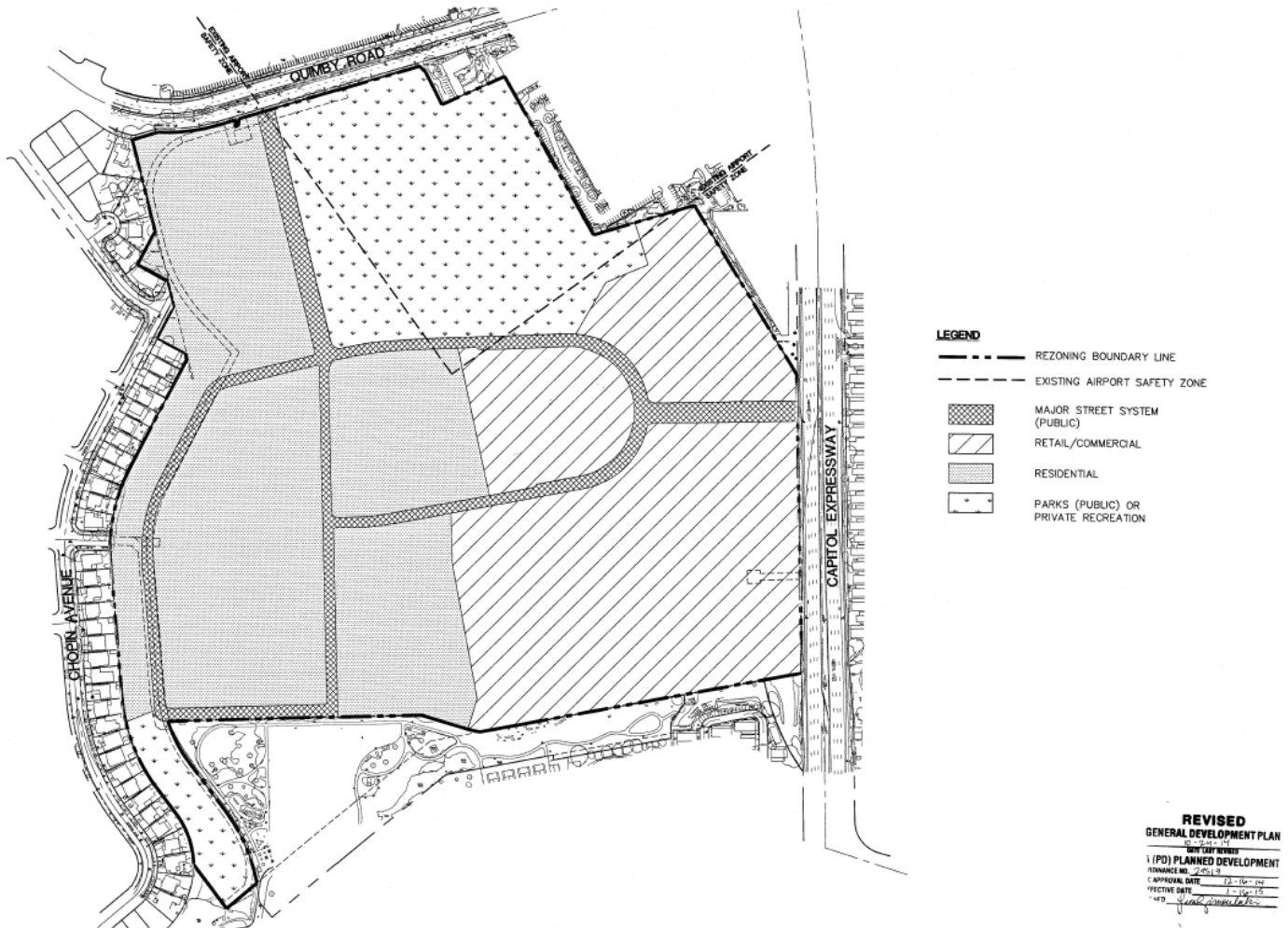


Figure 1: PDC10-022 Evergreen Circle Land Use Plan

The proposed rezoning area is located on the west side of East Capitol Expressway, surrounded by a commercial/retail center and Arcadia Ballpark to the north, multi-family residential (under construction) to the west, LeyVa Middle School’s athletic fields and a mobile home park to the south, and a mobile home park to the east across East Capitol Expressway (Figure 2).



Figure 2: Aerial Map

Background

As stated above, the site includes the entire commercial area of Evergreen Circle (area within the solid red border of the existing Planned Development Zoning File No. PDC10-022, approved in December 2014.) Within the red border, the existing Planned Development Zoning allows the construction of up to 344,000 square feet of retail commercial uses. Outside the red border, 250 residential dwelling units, and approximately 17.2 acres of public parkland are allowed. No zoning changes are proposed for the non-commercial area; only the area within the red border is proposed for rezoning to allow the increase in medical office and commercial square footage.

Planned Development Permit File No. PD15-013 divides the commercial area into three areas (Areas A & B, Area C and Area D, See Figure 2). This Planned Development Permit and Planned Development Permit Amendment File No. PDA15-013-02 entitles 309,448 square feet of commercial/retail space within these areas, as follows:

- Areas A & B (South Retail Area): 209,780 Square Feet
- Area C (North Retail Area): 55,108 Square Feet
- Area D (Central Retail Area): 44,560 Square Feet
- **Total: 309,448 Square Feet**

- **Remaining Available for Permitting:** **34,552 Square Feet** (344,000 zoned square footage-309,448 permitted square footage)

The South Retail Area (Areas A & B) has been developed with a Costco Business Center and parking area, with the remainder under construction with other retail buildings. The Central Retail Area (Area D) has been graded in preparation for the future construction of permitted retail buildings.

The 55,108 square feet of permitted commercial area for the North Retail Area (Area C) is planned to be reallocated to a medical office use. Added to the overall remaining 34,552 square feet available within the commercial area, a total of 89,660 commercial square feet would be available for the medical office use.

The purpose of the rezoning is to allow the development of an up to 150,000-square foot medical office facility within the North Retail Area (Area C). A Planned Development Permit application, File No. PD21-008 was filed on June 11, 2021, to allow the construction of a 149,978-square foot medical office building in Area C.

The difference of 60,340 square feet could be accommodated by the proposed PD Zoning allowing:

1. A trip conversion rate of 1.3 square feet of medical office allowed for each one square foot of retail allowed.
2. An additional 25,673 retail square footage allocation from the [Evergreen-East Hills Development Policy](#), as further described below.

Allocation from Evergreen-East Hills Development Policy

The subject site is within the [Evergreen-East Hills Development Policy](#) (EEHDP) area. EEHPD has a cap for development capacity which is established based on the allocated trips. Medical office uses would generate less PM peak trips than regional retail uses based on the Institute of Transportation Engineer's (ITE) Trip Generation Manual, 10th Edition. Based on the PM peak trip conversion provided by the Department of Public Works, 115,333 square feet of commercial/retail is the equivalency of 150,000 square feet of medical office. Therefore, an additional 25,673 square feet (115,333-89,660) of commercial/retail area would be needed for the PD Zoning to allow the 150,000-square foot medical office. The PD rezoning would provide this increase, by changing the maximum allowed commercial square footage from 344,000 to 370,000 (rounded up from 369,673 (344,000+25,673)).

ANALYSIS

The proposed project was analyzed for conformance with the following:

- 1) Envision San José 2040 General Plan;
- 2) Reid-Hillview Airport Comprehensive Land Use Plan;
- 3) Evergreen-East Hills Development Policy (EEHPD);
- 4) Zoning Ordinance;
- 5) California Environmental Quality Act (CEQA).

Envision San José 2040 General Plan Conformance

The subject site is within the Arcadia/Eastridge Urban Village (local transit urban village) in which the Urban Village area consists of this entire Evergreen Circle development (Figure 3). The Planned Development Zoning (PDC10-022) is the Arcadia/Eastridge Urban Village Plan. The subject site is designated for retail/commercial use per the PDC10-022 Evergreen Circle land use plan (Figure 1). Since the area increased is for commercial/office use, the proposed rezoning is consistent with the General Plan land use designation.

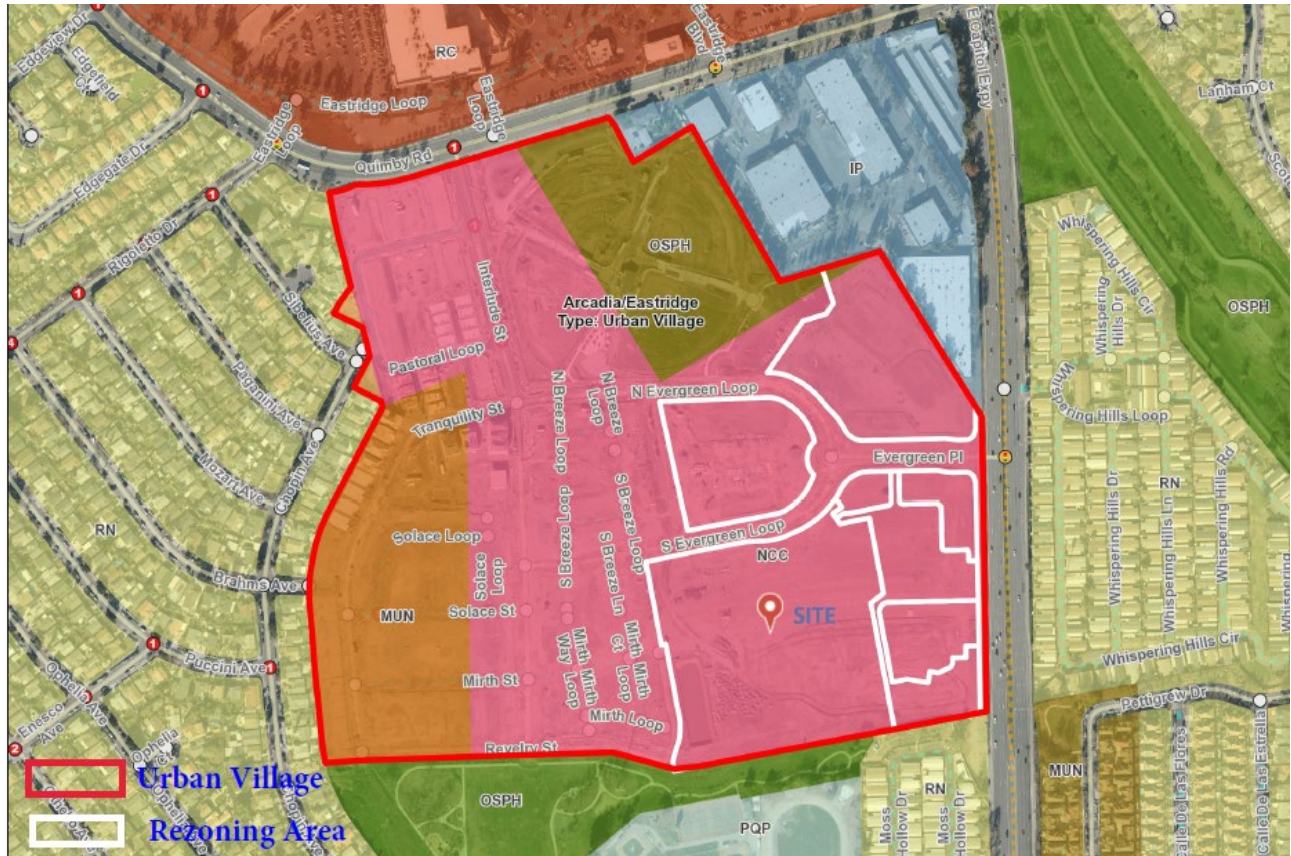


Figure 3: General Plan Land Use/Transportation Diagram with Urban Village Area Overlay

The proposed **rezoning** is also consistent with the following General Plan policies:

1. **Implementation Policy IP-1.6 (Land Use/Transportation Diagram):** Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram and advance Envision General Plan Vision, goals and policies.

Analysis: The proposed rezoning advances a number of Envision 2040 General Plan goals and policies, detailed below. The site will provide retail and commercial opportunities for residents throughout the City and the allowed use and the area increased are for commercial and medical office uses which are consistent with this

Urban Village's adopted Planned Development Zoning land use designation of commercial/retail, as stated above.

2. Implementation Policy IP-8.5 (Planned Development Zonings): Use the Planned Development zoning process to tailor such regulations as allowed uses, site intensities and development standards to a particular site for which, because of unique circumstances, a Planned Development zoning process will better conform to Envision General Plan goals and policies than may be practical through implementation of a conventional Zoning District. These development standards and other site design issues implement the design standards set forth in the *Envision General Plan* and design guidelines adopted by the City Council. The second phase of this process, the Planned Development permit, is a combined site/architectural permit and conditional use permit which implements the approved Planned Development zoning on the property.

Analysis: The subject site is within the [Evergreen-East Hills Development Policy \(EEHDP\)](#) area. EEHPD has a cap for development capacity. The request to increase the commercial uses the Planned Development Zoning process to better conform to Envision General Plan goals and policies. Specifically, the request will allow greater intensity in commercial uses while still within the development capacity of the larger EEHPD area.

The request is to allow the increase of allowable commercial/retail space from up to 344,000 square feet to up to 370,000 square feet only. All other allowed uses and development standards are proposed to match the existing approved development standards for the site, and allow for development consistent with General Plan policies, through the Planned Development Permit process.

3. Education and Services (Access to Medical Service) ES-6.1: Facilitate the development of new and promote the preservation and enhancement of existing health care facilities that meet all the needs of the entire San José community.

The rezoning to increase the maximum allowable commercial area will facilitate the development of an up to 150,000 square feet of medical office building within the proposed rezoning area.

4. Education and Services (Access to Medical Service) ES-6.5: Encourage new health care facilities to locate in proximity to existing or planned public transit services. Coordinate with local transit providers as part of the development review process for new health care facilities, and encourage transit providers to provide new or enhance existing public transit services to the health care facility.

The subject site is approximately 2,300 feet to the Eastridge Transit Center and is approximately 650 feet and 910 feet to the bus stops of Bus route 31 on Capitol Expressway. The site is also within half mile to a few bus stops (Routes 70, 71, 39) on Quimby Road. The rezoning to facilitate a development of a medical office building near the existing transit service is in line with ES-6.5.

5. City Design (Urban village) CD-7.6: Incorporate a full range of uses in each Urban Village Plan to address daily needs of residents, businesses, and visitors in the area.

Consider retail, parks, school, libraries, day care, entertainment, plazas, public gathering space, private community gathering facilities, and other neighborhood-serving uses as part of the Urban Village planning process. Encourage multi-use spaces wherever possible to increase flexibility and responsiveness to community needs over time.

As discussed above, the intent of the rezoning is to facilitate the development of a medical office building in this urban village, which would provide community service to residents.

Reid-Hillview Airport Comprehensive Land Use Plan

The project site is located approximately 2,300 feet south of Reid-Hillview Airport, and lies within the County Airport Land Use Commission's (ALUC) Land Use Referral Boundary. The ALUC is required to review proposed development within this referral boundary for consistency with the Reid-Hillview Airport Comprehensive Land Use Plan. The rezoning was considered at the June 2021 ALUC meeting and ALUC found the proposed rezoning to be in compliance with the Reid-Hillview Airport Comprehensive Land Use Plan.

Evergreen-East Hills Development Policy

The subject site is within the [Evergreen-East Hills Development Policy](#) (EEHDP) area. The EEHDP allows up to 500,000 square feet of new retail development to be allocated projects in the area, to be consistent with traffic level of service goals.

At this time there is 30,000 square feet remaining for allocation to commercial/retail development within EEHDP area. The proposed rezoning to increase the maximum allowed commercial square footage by 26,000 would therefore not exceed the development capacity within this EEHDP area.

Zoning Ordinance Conformance

Section 20.120.110 of the San José Municipal Code, deems proposed Planned Development Zoning Districts with allowed uses and a general development plan that match those of an existing Planned Development Zoning and the General Plan land use designation to be a Conforming Zoning District. The proposed rezoning only increases the maximum allowed retail square footage (a permitted use of the existing PD Zoning District), and also matches the existing general development plan, and is therefore a conforming zoning district.

CLIMATE SMART SAN JOSE

The recommendation in this staff report aligns with one or more Climate Smart San José energy, water, or mobility goals. The proposed rezoning would:

- Facilitate the development of energy and water efficiency commercial buildings within an urban village near public transit.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

An Initial Study (IS)/Mitigated Negative Declaration (MND) was prepared by the Director of the City of San José's Department of Planning, Building and Code Enforcement for this rezoning. The document was circulated for public comment between May 20, 2021 and June 9, 2021. Four formal comments/emails were received from the public during the public circulation period. The comments pertain to tribal and cultural resources and transportation.

The comments received did not result in any substantial changes to the project description, analyses, and/or impacts that was previously disclosed in the IS/MND. These environmental comments are addressed by staff in a formal Response to Comments document. The entire IS/MND, Responses to Comments, and other related environmental documents are available on the Planning web site at:

<https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/negative-declaration-initial-studies/evergreen-circle-rezoning-2020>

PUBLIC HEARING NOTIFICATION

To inform the public of the proposed project, staff followed Council Policy 6-30: Public Outreach Policy. Two signs were posted on the project site. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. Staff has been available to respond to questions from the public.

/s/

CHRIS BURTON, Director
Planning, Building and Code Enforcement

For questions, please contact Robert Manford, Deputy Director, at (408) 535-7900.

Attachments: CEQA Resolution
MMRP
Draft Ordinance
Development Standards

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE 2020 EVERGREEN CIRCLE REZONING PROJECT MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, prior to the adoption of this Resolution, the Director of Planning, Building and Code Enforcement of the City of San José prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for 2020 Evergreen Circle Rezoning Project under Planning File No. PDC20-002 (the “Initial Study/Mitigated Negative Declaration”), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively “CEQA”); and

WHEREAS, the 2020 Evergreen Circle Rezoning Project (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of a Planned Development rezoning of the project site from A(PD) Planned Development Zoning District to a new A(PD) Planned Development Zoning District to allow an increase of allowable commercial/retail space from up to 344,000 square feet to up to 370,000 square feet which would allow for the development of a 150,000-square foot of medical office space on a 28.99 acre site located in Evergreen Circle in San José, south of Quimby Road and west of Capitol Expressway, (Assessor’s Parcel Number 670-29-032, 670-29-033, 670-29-035, and 670-50-001, 670-50-002, 670-50-003, 670-50-004, 670-50-005), in the City of San José, California; and

WHEREAS, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in certain significant effects on the

environment and identified mitigation measures that would reduce each of those significant effects to a less-than-significant level; and

WHEREAS, in connection with the approval of a project involving the preparation of an initial study/mitigated negative declaration that identifies one or more significant environmental effects, CEQA requires the decision making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environmental 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, the City of San José is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to undertake the Project; and

WHEREAS, the City Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project are on file in the Office of the Director of Planning, Building and Code Enforcement, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, are available for inspection by any

interested person at that location and on the Department of Planning, Building and Code Enforcement webpage (www.sanjoseca.gov/departments) and are, by this reference, incorporated into this Resolution as if fully set forth herein;

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

THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Initial Study/ Mitigated Negative Declaration represents the independent judgment and analysis of the City of San José, as lead agency for the Project. The City Council designates 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 records of proceedings on which this decision is based.

THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program prepared for the Project (Planning File Nos. PDC20-002). The Mitigation Monitoring and Reporting Program for the Project is attached hereto as Exhibit "A" and fully incorporated herein. The Initial Study/ Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are: (1) on file in the Office of the Director of Planning, Building and Code Enforcement, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and on the Department of Planning,

Building and Code Enforcement webpage (www.sanjoseca.gov/departments), and (2) available for inspection by any interested person.

ADOPTED this ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

EVEGREEN CIRCLE REZONING FILE NO. PDC20-002 APRIL 2021



PREFACE

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

The Initial Study/Mitigated Negative Declaration prepared for the Evergreen Circle Rezoning Project (File No. PDC20-002) 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 Mitigation Monitoring and Reporting Program identifies those measures and how and when they will be implemented.

This document does *not* discuss those subjects for which the Initial Study/Mitigated Negative Declaration concluded that the impacts from implementation of the project would be less than significant.

I, Michael Fletcher, the applicant, on the behalf of Evergreen Circle, LLC, hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of the Initial Study/Mitigated Negative Declaration 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 
Date 8/2/2021

Evergreen Circle, LLC
By: Arcadia Development Co., Its Manager
By: Michael Fletcher, President



Planning, Building and Code Enforcement

CHRISTOPHER BURTON, DIRECTOR

**Project: Evergreen Circle Rezoning
File No. PDC20-002**

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
AIR QUALITY					
Impact AQ-1: Development of future development on the project site with medical or commercial use equivalency would exceed BAAQMD thresholds from construction and operation activities, since the maximum unmitigated cancer risk and PM2.5 concentration exceed the BAAQMD single-source thresholds.					
<p>MM AQ-1 Prior to the issuance of any grading or demolition permits, the project shall develop a plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 65 percent reduction in particulate matter exhaust emissions or greater. Feasible plans to achieve this reduction would include the following:</p> <ul style="list-style-type: none"> All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously or 20 total hours shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 Interim engines or equivalent. Where equipment meeting Tier 4 standards are not available, the equipment will be required to include Tier 3 engines with CARB-certified Level 3 Diesel Particulate Filters that are considered CARB verified diesel emission control devices (VDECs).¹ Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement. Provide line power to the site during the early phases of construction to minimize the use of 	<p>Prepare construction operations plan that demonstrates that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 65-percent reduction in diesel particulate matter exhaust, and include in all plans and contracts.</p> <p>Submit the construction operation plan to the Director of Planning, Building, and Code Enforcement or the Director's designee</p>	<p>Prior to the issuance of any grading and/or building permits, whichever occur the earliest.</p>	<p>Director of Planning, Building, and Code Enforcement or the Director's designee.</p>	<p>Review and approve the construction operations plan and requirements to reduce construction equipment diesel particulate matter exhaust emissions.</p>	<p>Prior to the issuance of any grading and/or building permits, whichever occur the earliest. Implement requirements during construction.</p>


¹ See <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>

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<p>diesel-powered stationary equipment, such as generators.</p> <ul style="list-style-type: none"> Other measures may include the use of added exhaust devices; or a combination of measures, provided that these measures are demonstrated to reduce community risk impacts to less than significant. <p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs first), the project applicant shall submit to the Director of Planning, Building, and Code Enforcement or Director's designee a construction-operations plan that includes specifications of the equipment to be used during construction. 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 in this measure.</p>					
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BIOLOGICAL RESOURCES

Impact BIO-1: Construction activities associated with future development of the project site could result in the loss of fertile eggs of nesting raptors or other migratory birds or nest abandonment.

<p>MM BIO-1 Prior to the issuance of any grading or building permits (whichever occurs first), the project applicant shall schedule all 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).</p> <p>If construction cannot be scheduled to occur between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive). During this survey, the ornithologist/biologist shall inspect all trees and other possible nesting habitats within 250 feet of the construction areas for nests.</p>	<p>Schedule construction activities outside of nesting season (between September 1st through January 31st). If construction cannot be scheduled to occur between September 1st and January 31st, a qualified ornithologist shall conduct preconstruction surveys and establish construction-free buffer zones.</p> <p>The ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the Director of Environmental Planner of Planning, Building, and Code Enforcement or the Director's designee.</p>	<p>Prior to any site disturbance such as tree removal, or issuance of any grading, building or demolition permits (whichever occurs first).</p>	<p>Director of Environmental Planner of Planning, Building, and Code Enforcement or the Director's designee.</p>	<p>Review report of the results of the survey and any designated buffer zones.</p>	<p>Prior to issuance of any grading or building permits (whichever occurs first).</p> <div style="text-align: right;">  </div>
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<p>If an active nest is found within 250 feet of the work areas to be disturbed by construction, the ornithologist/biologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, (typically 250 feet for raptors and 100 feet for other birds), to ensure that raptor or migratory bird nests shall not be disturbed during project construction.</p> <p>Prior to any construction activities or issuance of any grading or building permits, the ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of the Planning, Building, and Code Enforcement or the Director's designee.</p>					
<p>Impact BIO-2: Future development on the project site could impact burrowing owls if they recolonize the site after the site lays fallow and is repopulated by ground squirrels.</p>					
<p>MM BIO-2 Prior to the issuance of any grading or building permits, future development on the site shall incorporate the following measures.</p> <p><u>Preconstruction Surveys:</u> Preconstruction surveys shall be conducted for burrowing owls regardless of whether impacts are to occur during the breeding or non-breeding season. These surveys consist of a minimum of two surveys conducted for a minimum of a 3-hour period within 1 hour of sunrise and/or sunset, with the first survey no more than 14 days prior to initial construction activities (i.e., vegetation removal, grading, excavation, etc.) and the second survey conducted no more than two days prior to initial construction activities. The survey shall ensure complete visual coverage of the site and a 250-foot radius of the site. These survey results shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.</p> <p><u>Burrowing Owl Monitoring Plan:</u> If burrowing owls are observed during the preconstruction surveys, occupied burrows shall be identified by the qualified biologist and a buffer shall be established. The qualified biologist shall submit a Burrowing Owl Monitoring Plan that shall include, but would not be limited to, the following:</p>	<p>Qualified ornithologist/biologist to conduct pre-construction surveys for burrowing owls no more than 14 days prior to construction, and establish construction-free buffer zones.</p> <p>The ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the Director of Environmental Planner of Planning, Building, and Code Enforcement or the Director's designee.</p>	<p>Prior to the issuance of any grading or building permits and during construction.</p>	<p>Director of Environmental Planner of Planning, Building, and Code Enforcement or the Director's designee.</p>	<p>Review report of the results of the survey and any designated buffer zones.</p>	<p>Prior to issuance of any grading or building permits (whichever occurs first).</p>

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<ul style="list-style-type: none"> ○ Identification of appropriate non-disturbance buffers (i.e., 250-foot) around all active burrows as identified and defined by a qualified biologist. ○ Determination of nests and occupancy (i.e., vacant or not) ○ Determination of protocols to relocate nests, collapse suitable vacant burrows, or other equivalent protocol to ensure the safety of owls and habitat, consistent with Santa Clara Valley Habitat Plan (SCVHP) protocols. ○ Protocols for monitoring during non-nesting seasons if owls are found. ○ Protocols for avoidance measures. ○ Protocols for on-going reporting to the necessary agency. <p>Only after the biologist determines that the active burrow has become vacant can the non-disturbance buffer zone be removed. This Monitoring Plan shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director’s designee for review and approval.</p> <p><u>Non-nesting Season Reduced Buffer Exception:</u> Should a burrowing owl be located onsite in the non-breeding season (September 1 through January 31), construction activities would not be allowed within this 250-foot buffer of the active burrow(s) used by any burrowing owl unless the following avoidance measures are adhered to. These include:</p> <ul style="list-style-type: none"> ○ A qualified biologist monitors the owls for at least 3 days prior to construction to determine baseline nesting and foraging behavior (i.e., behavior without construction). ○ The qualified biologist monitors the owls during construction and finds no change in owl nesting and foraging behavior in response to construction activities. ○ However, if the qualified biologist finds that there is any change in owl nesting and foraging behavior as a result of construction activities, these activities will cease within the 250-foot buffer. Construction cannot resume within the 250-foot buffer until the 					
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<p>adults and juveniles from the occupied burrows have moved out of the project site.</p> <ul style="list-style-type: none"> ○ If monitoring indicates that the nest is abandoned prior to the end of nesting season and the burrow is no longer in use by owls, the non-disturbance buffer zone may be removed. The biologist will excavate the burrow to prevent reoccupation after receiving approval from the Wildlife Agencies. <p><u>Nesting Season Reduced Buffer Exception:</u> For permission to engage in construction activities within 250 feet of such burrows during the nesting season (February 1 through August 31), an Avoidance, Minimization, and Monitoring Plan shall be prepared by a qualified biologist and approved by the SCVHP Implementing Agency (i.e., the City of San José) and the Wildlife Agencies prior to such encroachment. The plan shall ensure that burrowing owls and active nests are not impacted by the encroachment, based on the professional judgement of the qualified biologist, and shall include the same criteria for non-nesting season encroachment.</p>					
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CULTURAL RESOURCES

Impact CR-1: If future development of the project site requires excavation (e.g., for basement parking), this could result in the loss of unknown subsurface historic resources on the site.

<p>CR-1.1: Preliminary Investigation: Prior to excavation activities, including grading and potholing for utilities, a qualified archaeologist who is trained in both local prehistoric and historical archaeology shall complete subsurface exploration at the site and a Native American representative, registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, shall be present to determine if there are any indications of discrete historic-era subsurface archaeological features. Exploring for historic-era features shall consist of at least one trench mechanically excavated below existing stratigraphic layers to evaluate the potential for Native American and historic-era resources. If any archaeological resources are exposed, these should be briefly documented, tarped for protection, and left in place. The results of the presence/absence exploration, including any treatment recommendations if any, shall be submitted to the</p>	<p>Complete subsurface testing and submit the preliminary field investigation and results to the Director of Planning or Director’s designee of the City of San Jose Department of Planning, Building and Code Enforcement.</p>	<p>Prior to any ground disturbance activities such as grading permits.</p>	<p>Director of Planning, Building and Code Enforcement or the Director’s designee</p>	<p>Review and approve results of preliminary investigation.</p>	<p>Prior to any ground disturbance activities such as grading permits.</p>
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<p>Director or Director’s designee of the City of San José Department of Planning, Building, and Code Enforcement for review and approval prior to issuance of any grading permit. Based on the findings of the subsurface testing, an archaeological resources treatment plan as described in MM CR-1.2 shall be prepared by a qualified archaeologist if necessary.</p>					
<p>CR-1.2: Treatment Plan. If MM CR-1.1 is applicable, a qualified archeologist, with consultation from a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, the project applicant shall prepare a treatment plan that reflects permit-level detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director or Director’s designee of the City of San José Department of Planning, Building, and Code Enforcement prior to approval of any grading permit. The treatment plan shall contain, at a minimum:</p> <ul style="list-style-type: none"> • Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations. • Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found). • Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information). • Detailed field strategy to record, recover, or avoid the finds and address research goals. • Analytical methods. • Report structure and outline of document contents. • Disposition of the artifacts. • Appendices: all site records, correspondence, and consultation with Native Americans, etc. Implementation of the plan, by a qualified archaeologist, shall be required prior to the issuance of any grading permits. The treatment 	<p>If applicable, a qualified archaeologist shall implement the project-specific archaeological resources treatment plan.</p>	<p>Prior to any ground disturbance activities such as grading permits.</p>	<p>Director of Planning, Building and Code Enforcement or the Director’s designee</p>	<p>Review the archaeological resource treatment plan, if applicable.</p>	<p>Prior to any ground disturbance activities such as grading permits.</p>

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<p>plan shall utilize data recovery methods to reduce impacts on subsurface resources.</p> <ul style="list-style-type: none"> • Proposal for treatment, recordation, data recovery and curation. The data recovery shall involve implementation of surface collection and curation/repatriation of artifacts to prevent looting. To the extent feasible, and in consultation with the Native American representative, all recovered Native American artifacts shall be reburied on-site in an area that is unlikely to be disturbed again. 					
<p>CR-1.3: Evaluation. The project applicant shall notify the Director or Director’s designee of the City of San José Department of Planning, Building, and Code Enforcement of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during excavation activities shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center, and/or equivalent.</p>	<p>Notify the Director of Planning, Building and Code Enforcement or the Director’s designee of any finds. Submit all documents to NWIC, or equivalent agency.</p>	<p>Prior to any ground disturbance activities such as grading permits.</p>	<p>Director of Planning, Building and Code Enforcement or the Director’s designee</p>	<p>Receive all notification of subsurface finds.</p>	<p>Prior to any ground disturbance activities such as grading permits.</p>

HAZARDS & HAZARDOUS MATERIALS


Impact HAZ 1: The site was historically used for agricultural purposes and may contain agricultural residuals contaminants.

<p>MM HAZ 1 Prior to the issuance of any grading permits, a qualified consultant shall be retained to conduct shallow soil samples in the near surface soil in the proposed 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 results of soil sampling and testing shall be submitted to the City’s Supervising Environmental Planner and</p>	<p>Retain qualified consultant to conduct test soil samples.</p> <p>Submit the results of soil sampling and testing to the City’s Supervising Environmental Planner and Municipal Environmental Compliance Officer.</p>	<p>Prior to the issuance of any grading permits.</p>	<p>City’s Supervising Planner and Municipal Environmental Compliance Officer.</p>	<p>Review the results of soil sampling and testing.</p>	<p>Prior to the issuance of any grading permits.</p> <div style="text-align: right;">  </div>
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
Municipal Environmental Compliance Officer for review.					
<p>MM HAZ-2 Prior to construction, a qualified consultant shall be retained to prepare a Site Management Plan (SMP) to reduce or eliminate exposure risk to human health and the environment, associated with the presence of agricultural buildings and the potential for the presence of underground storage tanks. At a minimum, the SMP shall include the following:</p> <ul style="list-style-type: none"> o Stockpile management including dust control, sampling, stormwater pollution prevention and the installation of BMPs o Proper disposal procedures of contaminated materials o Monitoring, reporting, and regulatory oversight notifications o Proper procedure for removal of Underground Storage Tanks o A health and safety plan for each contractor working at the site that addresses the safety and health hazards of each phase of site operations with the requirements and procedures for employee protection o The health and safety plan will also outline proper soil/ and or groundwater handling procedures and health and safety requirements to minimize worker and public exposure to contaminated soil/and or groundwater during construction. 	<p>Project proponent shall retain qualified consultant to prepare SMP.</p> <p>Submit the SMP to the City’s Supervising Environmental Planner and Municipal Environmental Compliance Officer.</p>	<p>Prior to the issuance of grading permits.</p>	<p>City’s Supervising Planner and Municipal Environmental Compliance Officer.</p>	<p>Review of the SMP.</p>	<p>Prior to the issuance of grading permits.</p>


NOISE

Impact NSE-1: Existing noise-sensitive land uses would be exposed to a temporary increase in ambient noise levels due to construction activities on the project site.

<p>MM NSE-1 Construction Noise Logistics Plan: Prior to the issuance of any grading or building permits, the project applicant shall submit and implement a construction noise logistics plan that specifies 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 noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of</p>	<p>Submit and implement a construction noise logistics plan that includes identified best management practices.</p> <p>The construction noise logistics plan shall be submitted to the Director of Planning, Building, and Code Enforcement or Director’s designee.</p>	<p>Prior to the issuance of any grading or building permits.</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>Prior to the issuance of any grading or building permits.</p> <div style="text-align: right;">  </div>
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<p>Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits. As a part of the noise logistic plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:</p> <ul style="list-style-type: none"> ○ Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450). ○ Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps. ○ Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. ○ Unnecessary idling of internal combustion engines shall be strictly prohibited. ○ Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. ○ Utilize "quiet" air compressors and other stationary noise sources where technology exists. ○ Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and 					<p style="text-align: right;">DS MF</p>
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<p>noise-sensitive receptors nearest the project site during all project construction.</p> <ul style="list-style-type: none"> ○ A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. ○ If impact pile driving is proposed, foundation pile holes shall be predrilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile. ○ Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors. ○ Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site. ○ The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance. ○ Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences. ○ Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and 					<p style="text-align: right;">  </p>
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include it in the notice sent to neighbors regarding the construction schedule.					
Impact NSE-2: Construction of future medical or commercial equivalency development could generate vibration levels exceeding 0.2 in/sec PPV at the nearest residential buildings.					
<p>MM NSE 2 Construction Vibration Monitoring, Treatment, and Reporting Plan: The project applicant shall implement a construction vibration monitoring plan to document conditions prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall include, but not be limited to, the following measures:</p> <ul style="list-style-type: none"> • The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. • A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted to the Director of Planning or Director’s designee of the Department of Planning, Building, and Code Enforcement by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period. • Prohibit the use of heavy vibration-generating construction equipment within 30 feet of adjacent buildings. • Use a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, when compacting materials within 30 feet of adjacent buildings. Only use the static compaction 	<p>Submit and implement a construction vibration monitoring plan that identifies identified measures.</p> <p>Conduct a post-construction survey for structures where high vibration levels were observed or where complaints of damage have been made.</p> <p>Submit the associated monitoring reports after substantial completion of each phase identified in the project schedule to the Director of Planning, Building, and Code Enforcement or Director’s designee.</p>	<p>Prior to the issuance of any grading permits.</p>	<p>Director of Planning, Building, and Code Enforcement or the Director’s designee.</p>	<p>Review and approve the construction monitoring vibration plan.</p> <p>Receive associated monitoring reports.</p>	<p>Prior to the issuance of any grading permits.</p> <div data-bbox="1921 1396 2005 1485" style="text-align: right;">  </div>

<p>mode when compacting materials within 15 feet of buildings.</p> <ul style="list-style-type: none"> • Document conditions at all structures located within 30 feet of construction prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically: <ul style="list-style-type: none"> ○ Vibration limits shall be applied to vibration-sensitive structures located within 30 feet of all construction activities identified as sources of high vibration levels. ○ Performance of a photo survey, elevation survey, and crack monitoring survey for each structure of normal construction within 30 feet of all construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion of vibration generating construction activities, and shall include internal and external crack monitoring in the structures, settlement, and distress, and shall document the condition of the foundations, walls and other structural elements in the interior and exterior of said structures. • 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 buildings. • The contractor shall alert heavy equipment operators to the close proximity of the adjacent structures so they can exercise extra care. • Designate a person responsible for registering and investigating claims of excessive vibration. The 					<p style="text-align: right;">DS MF</p>
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<p>contact information of such person shall be clearly posted on the construction site.</p> <ul style="list-style-type: none"> • Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approached the limits. • At a minimum, vibration monitoring shall be conducted during demolition and excavation activities. <p>Conduct a post-construction survey on structures where either monitoring has indicated high vibration levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.</p>					
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Source: Initial Study/Mitigated Negative for Evergreen Circle Rezoning, (PDC20-002), City of San José, April 2021.



DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE REZONING CERTAIN REAL PROPERTY OF AN APPROXIMATELY 28.9-GROSS ACRE SITE SITUATED ON THE WEST SIDE OF EAST CAPITOL EXPRESSWAY, APPROXIMATELY 1,165 FEET SOUTHERLY OF QUIMBY ROAD (ASSESSOR PARCEL NUMBERS 670-29-032, 670-29-033, 670-29-035, AND 670-50-001 TO 670-50-005), FROM THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT

WHEREAS, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, a Mitigated Negative Declaration was prepared in conformance with the California Environmental Quality Act of 1970 (CEQA), as amended, for the subject rezoning to A(PD) Planned Development Zoning District under File Number PDC20-002 (the "MND"); and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to the A(PD) Planned Development Zoning District; and

WHEREAS, this Council of the City of San José has considered, approved and adopted said MND and related Mitigation Monitoring and Reporting Program under separate Council resolution prior to taking any approval actions on this project;

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

SECTION 1. The recitals above are incorporated herein.

SECTION 2. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as A(PD) Planned Development Zoning District. The base zoning district of the subject property shall be the Agricultural Zoning District. The Planned Development rezoning of the subject property shall be that development plan for the subject property entitled, "General Development Plan," dated revised August 6, 2021.

Said General Development Plan is on file in the office of the Director of Planning, Building and Code Enforcement and is available for inspection by anyone interested therein, and said General Development Plan is by this reference adopted and incorporated herein the same as if it were fully set forth herein.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit "A" and depicted in Exhibit "B" attached hereto and incorporated herein by this reference.

SECTION 3. The district map of the City is hereby amended accordingly.

SECTION 4. The land development approval that is the subject of City File No. PDC20-002 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed by the California Regional Water Quality Control Board for the San Francisco Bay Region.

PASSED FOR PUBLICATION of title this ____ day of _____, 2021 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

<p>FILE NO. PDC20-002</p> <p>EVERGREEN CIRCLE COMMERCIAL AREA</p> <p>DEVELOPMENT STANDARDS</p> <p><u>8/6/2021</u></p>

In any cases where the graphic plans and text may differ, this text takes precedence.

Allowable Uses

Retail/Commercial Area:

- All Permitted, Special and Conditional Uses of the CN Commercial Neighborhood and the CP Commercial Pedestrian Zoning Districts of Title 20 of the San José Municipal Code (as may be amended).
- Prohibited Uses: Pawn shop/broker, Emergency ambulance service, Bail bond establishment, Mortuary and funeral services, Payday lending establishment.
- All Special and Conditional Uses of the CP and CN Zoning Districts shall require approval of a Planned Development Permit.

Development Regulations and Standards

Retail / Commercial Area:

- Maximum square footage: 370,000* square feet

*Note: Retail/commercial uses shall not exceed total of 370,000 square feet. Medical office up to 150,000 square feet may be allowed in lieu of other retail/commercial area, on a 1.3:1 ratio basis, based on the lower vehicular trip generation rate of medical office relative to retail/commercial. The total building area including the medical office building could exceed 370,000 square feet.

- Minimum Lot Size: None
- Building Setbacks:

Front	5 feet
Side abutting a Street	5 feet
Interior lot line	none
Rear	10 feet

- Parking Setbacks:

Front	10 feet
Side abutting a Street	10 feet
Side – interior lot line	none
Rear	10 feet

- Maximum Building Height: 60 feet
 - Minor Architectural projections up to 80 feet may be allowed on buildings greater than 100,000 square feet in size.

- Parking Space Requirements: Parking spaces within the Project shall meet the size and number of space requirement as stated in Chapter 20.90 of the San José Municipal Code as may be amended. Alternative parking arrangements and parking reductions due to demand analysis may be approved through a Planned Development Permit.

Environmental Mitigations

Conform to all applicable requirements of the Mitigation Monitoring and Reporting Program approved for this rezoning by City Council Resolution No. _____.