

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN JOSE CERTIFYING THE 1312 EL PASEO & 1777  
SARATOGA AVENUE MIXED-USE VILLAGE:  
ENVIRONMENTAL IMPACT REPORT (FILE NO. PDC19-  
049) AND MAKING CERTAIN FINDINGS CONCERNING  
SIGNIFICANT IMPACTS, MITIGATION MEASURES, AND  
ALTERNATIVES, AND A MITIGATION MONITORING AND  
REPORTING PROGRAM, ALL IN ACCORDANCE WITH  
THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS  
AMENDED**

**WHEREAS**, the proposed 1312 El Paseo and 1777 Saratoga Avenue Mixed-Use Village Project includes a Planned Development Zoning from the CG Commercial General Zoning District and CP Commercial Pedestrian Zoning District, and the demolition of existing buildings totaling 126,345 square feet and the development of one of two project options (Non-Education Mixed-Use Option or Education Mixed-Use Option), both of which include development scenarios consisting of residential and commercial uses (max of 1,100 multifamily residential units, max of 165,000 square feet of general commercial space) where the Education Mixed-Use Option would include up to 730 multifamily units, 66,000 square feet of general commercial space, a K-12 educational facility and 200 dorm units, the removal of 135 on-site trees, 30 of which are ordinance-sized trees, and associated modifications on the existing parking and landscaping (under either development scenario) on two sites totaling approximately 10.7 gross acres located at the southeast corner of Saratoga Avenue and Quito Road (1312 EL Paseo de Saratoga) and north of the intersection of Saratoga Avenue and Lawrence Expressway (1777 Saratoga Avenue) (Assessor Parcel Numbers 403-33-014, 386-10-033, 386-10-036, 386-10-044, 386-10-045, 386-10-046) in the City of San José, which real property is sometimes referred to herein as the “subject property”; and the proposed 1312 El Paseo and 1777 Saratoga Avenue Mixed-Use Village Project referred to herein as the “Project”; and

**WHEREAS**, approval of 1312 El Paseo and 1777 Saratoga Avenue Mixed-Use Village 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 of San José ("City") prepared, completed, and adopted in accordance with CEQA the Final Environmental Impact Report for the 1312 El Paseo and 1777 Saratoga Avenue Mixed-Use Village Project ("1312 El Paseo and 1777 Saratoga Avenue Mixed-Use Village Project FEIR"), and

**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 Draft Environmental Impact Report ("DEIR") for the 1312 El Paseo and 1777 Saratoga Avenue Mixed-Use Village Project (Planning File Nos. PDC19-049 and PD20-006); and

**WHEREAS**, a First Amendment to the DEIR was prepared that included responses to comments received during the public comment period; and

**WHEREAS**, the First Amendment and the DEIR together comprise the Final Environmental Impact Report (FEIR) for the Project; 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 each of those significant effects to a less-than-significant level; and

**WHEREAS**, on May 25, 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

finds that the FEIR was completed in accordance with the requirements of CEQA and further recommended the City Council adopt a resolution certifying the FEIR; 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**, CEQA requires that, in connection with approval of a project for which an environmental impact report has been prepared that 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 avoidance measures to minimize impacts consistent with City policies and requirements and a statement of overriding considerations for any impact that may not be reduced to a less than significant level;

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

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. That 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 and approving the Project, and has found that the FEIR represents the independent judgment of the City, as lead agency for the Project, and 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 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. That the City Council does hereby make the following findings with respect to significant effects on the environment of the Project, as identified in the FEIR, with the understanding that all 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.

## **1312 EL PASEO & 1777 SARATOGA AVENUE MIXED-USE VILLAGE PROJECT**

### **SIGNIFICANT ENVIRONMENTAL IMPACTS**

#### **Air Quality**

**Impact:**     **AIR-1: Both Options:** The emissions resulting from the construction of the project (under both options) would exceed the Bay Area Air Quality Management District (BAAQMD) threshold of 54 pounds per day of ROG emissions and 54 pounds per day of NOx emissions. Under the non-

education mixed-use option, the project construction in 2024 and 2025 would exceed the ROG emissions threshold by 38.83 pounds and 81.63 pounds, respectively. Under the education mixed-use option, the project construction in 2024 and 2025 would exceed the ROG emissions threshold by 127.68 pounds and 11.59 pounds, respectively. Under the non-education mixed-use option, the project construction in 2023 would exceed the NOx threshold by 9.44 pounds and under the education mixed-use option, the project construction in 2023 and 2024 would exceed the NOx threshold by 18.28 pounds and 12 pounds, respectively.

**Mitigation: MM AIR-1.1: Both Options:** Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall implement the following additional best management practices identified by the BAAQMD in order to reduce fugitive dust.

- 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 (i.e., three times a day). Moisture content shall be verified by lab samples or moisture probe.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- The Air District's phone number shall be visible on a sign at the construction site to ensure compliance with applicable regulations.
- All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 miles per hour 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.
- 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 up to a distance of 100 feet from public paved roads shall be treated with a six 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.

**MM AIR-1.2: Both Options: *Construction Equipment*.** Prior to issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall submit a construction management plan to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval. The construction management plan shall demonstrate that the off-road equipment used onsite to construct the project would achieve a fleet-wide average of 85 percent reduction in PM<sub>2.5</sub> exhaust emissions or more. Options to achieve this reduction could include, but are not limited to, the following:

- All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.
- Use of equipment that includes California Air Resources Board (CARB)-certified Level 3 diesel particulate filters or alternatively-fueled equipment (i.e., non-diesel).
- Use of added exhaust muffling and filtering devices.
- The plan shall also verify that the equipment included in the plan meets the standards set forth in these mitigation measures:
  - 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. The use of Tier 3 equipment shall not exceed five 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.
  - Diesel engines, whether for off road equipment or on road vehicles, shall not be left idling for more than two minutes, except as provided in exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). The construction sites shall have posted legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling limit.
  - Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary

equipment, such as generators, concrete/industrial saws, welders, and air compressors.

- Cranes and aerial lifts shall be powered by electricity.

**MM AIR 1.3: Both Options: *Architectural Coating*:** Prior to the issuance of any building permits, the project applicant (under either option) shall submit a list of intended coatings for interior and exterior surfaces to the Director of Planning, Building and Code Enforcement or Director's designee, demonstrating the use of low volatile organic compound or VOC (i.e., ROG) coatings that are below current BAAQMD requirements (i.e., Regulation 8, Rule 3: Architectural Coatings), for at least 90 percent of all residential and nonresidential interior paints and 90 percent of exterior paints. This includes all architectural coatings applied during both construction and reapplications throughout the project's operational lifetime. At least 90 percent of coatings applied must meet a "super-compliant" VOC standard of less than 10 grams of VOC per liter of paint. For reapplication of coatings during the project's operational lifetime, the Declaration of Covenants, Conditions, and Restrictions shall contain a stipulation for low VOC coatings to be used.

**MM AIR-1.4: Both Options: *Construction diesel trucks*:** Prior to the issuance of any demolition or grading permits (whichever is earliest), the project applicant shall submit a list of all on-road heavy duty diesel trucks intended to be used at the project sites to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval. All on-road heavy duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater (EMFAC Category MHDDT or HHDDT) used at the project sites (such as haul trucks, water trucks, dump trucks, and concrete trucks) shall be model year 2015 or newer.

**Finding:** Implementation of Mitigation Measures AIR-1.1 through AIR-1.3 would reduce construction ROG emissions by approximately 82% and NO<sub>x</sub> emissions by approximately 96 percent and below the BAAQMD ROG construction emissions threshold of 54 pounds per day and NO<sub>x</sub> emissions threshold of 54 pounds per day. Mitigation Measure AIR-1.4 would further reduce NO<sub>x</sub> emissions by 20 percent and ROG emissions by 30 percent. This would result in a less than significant impact during construction and operation of the project. (*Less than Significant Impact with Mitigation*)

**Facts in Support of the Finding:** Under either option, implementation of BAAQMD best management practices and standard conditions to reduce fugitive

dust alone, would not be enough to reduce construction emissions below the BAQQMD thresholds. Therefore, measures AIR-1.1 through AIR-1.4 were selected to further reduce construction emissions under either project and below BAQQMD thresholds (54 pounds per day of NOx emissions and 54 pounds per day of ROG emissions).

As discussed in Air Quality, Section 3.3.1.2 (Regulatory Framework) of the DEIR, the goals of the 2017 CAP include 1) protecting public health by making progress towards attaining air quality standards and eliminating health risk and 2) protecting the climate. If a project exceeds the BAAQMD thresholds of significance, its emissions are considered to result in significant adverse air quality impacts to the region's existing air quality conditions. Similarly, if the project exceeds the BAAQMD community health risk threshold of significance, the project would result in a community health risk. The California Emissions Estimator model (CalEEMod) Version 2016.3.2 was used to estimate emissions from project construction activities. Project construction emissions were modeled based on the equipment list and schedule information provided by the applicant. Under the non-education mixed-use option, the project construction in 2024 and 2025 would exceed the ROG emissions threshold by 38.83 pounds and 81.63 pounds, respectively. Under the education mixed-use option, the project construction in 2024 and 2025 would exceed the ROG emissions threshold by 127.68 pounds and 11.59 pounds, respectively. Under the non-education mixed-use option, the project construction in 2023 would exceed the NOx threshold by 9.44 pounds and under the education mixed-use option, the project construction in 2023 and 2024 would exceed the NOx threshold by 18.28 pounds and 12 pounds, respectively.

Implementation of AIR-1.1 would reduce project construction emissions, but not below the BAQQMD thresholds. Therefore, in addition to implementing BAAQMD best management practices and standard conditions, the project applicant shall adhere to measures AIR-1.2-1.4 to ensure the construction of the project, under either option, will not exceed the Bay Area Air Quality Management District (BAAQMD) construction emissions thresholds of 54 pounds per day of ROG emissions and 54 pounds per day of NOx emissions. Therefore, the impacts with respect to air quality would be reduced to a less than significant level.



## **Biological Resources**

**Impact:** **BIO-1:** Both Options: Project construction (under either option) could result in impacts to nesting birds, if present on or adjacent to the sites at the time of construction.

**Mitigation:** **MM BIO-1.1: Both Options:** Prior to issuance of any demolition, grading, and/or building permits (whichever occurs earliest), 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 1 through August 31, inclusive.

**MM BIO-1.2: Both Options:** If demolition and construction cannot be scheduled between September 1 and January 1 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests are 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 1 through April 30 inclusive) 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 inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

**MM BIO-1.3: Both Options:** If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction free buffer zone to be established around the nest to ensure that bird nests shall not be disturbed during project construction.

**MM BIO-1.4: Both Options:** Prior to any tree removal, or approval of any grading or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Director of Planning, Building and Code Enforcement or the Director's designee.

**Finding:** Implementation of Mitigation Measures BIO-1.1 through BIO-1.4 would reduce impacts during construction to nesting birds on or adjacent to the site. *(Less than Significant Impact with Mitigation)*

**Facts in Support of the 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-1.4 will reduce or avoid construction-related impacts to nesting raptors, and other migrating and nesting birds to less than significant level.

### **Hazards and Hazardous Materials**

**Impact:** **HAZ-1: Both Options:** Project construction (under either option) could result in exposure of construction workers, adjacent uses, and the environment to soil contamination from historic agricultural use, including residual contamination from organochlorine pesticides, herbicides, and fertilizers.

**Mitigation:** **HAZ-1.1: Both Options:** Prior to issuance of any demolition or grading permits, the project applicant shall prepare a Site Management Plan (SMP) and Health and Safety Plan (HSP) to guide activities during demolition, excavation, and initial construction to ensure that potentially contaminated soils are identified, characterized, removed, and disposed of properly. The purpose of the SMP and HSP is to establish appropriate management practices for handling impacted soil or other hazardous materials that may be encountered during construction activities. The SMP shall provide the protocols for sampling of in-place soil to facilitate the profiling of the soil for appropriate off-site disposal or reuse, and for construction worker safety, dust mitigation during construction and potential exposure of contaminated soil to future users of the site. The soil profiling shall include (but not limited to) the collection of shallow soil samples (upper one foot) and analyses for lead and organochlorine pesticides. The soil profiling shall be performed prior to any significant earthwork.

If there are no contaminants identified on the project sites that exceed regulatory screening levels for construction workers and residential users published by the Regional Water Quality Control Board, Department of Toxic Substances Control, and/or Environmental Protection Agency, the SMP does not need to be submitted to an oversight agency and only submitted to the City prior to construction earthwork activities. If contaminants are identified at concentrations exceeding regulatory screening levels, the project applicant shall enter the Santa Clara County Department of Environmental Health (SCCDEH) Site Cleanup Program. The SMP and planned remedial measures shall be reviewed and approved by the SCCDEH. A copy of the SMP and HSP shall be submitted to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement and the Supervising Environmental Compliance Officer in the City of San José's Environmental Services Department.

**Finding:** Implementation of Mitigation Measure HAZ-1.1 would reduce any potential impacts to construction workers, adjacent uses, and the environment from contaminants such as organochlorine pesticides, herbicides, and fertilizers associated with the historic agricultural use of the sites to less than significant levels. *(Less than Significant Impact with Mitigation)*

**Facts in Support of the Finding:** As described in Section 3.9.1.2 Existing Conditions of the DEIR, the project sites were historically used for agricultural purposes until the 1960s. Historic agricultural use can result in residual contamination due to prior application of organochlorine pesticides, herbicides, and fertilizers. When soil disturbance occurs, these contaminants can become airborne and pose a health hazard to construction workers, nearby sensitive receptors, and the environment.

Because the project, under either option, includes demolition of existing structures, the project applicant shall prepare a Site Management Plan and Health and Safety Plan to guide activities during demolition, excavation, and initial construction to ensure that potentially contaminated soils are identified, characterized, removed, and disposed of properly. The Site Management Plan includes protocols for sampling of in-place soil to facilitate the profiling of the soil for appropriate off-site disposal or reuse, construction worker safety, and dust mitigation during construction and potential exposure of contaminated soil to future users of the site. The mitigation measure stipulates that the soil sampling must be done prior to any major earthwork activity. The measure also includes a contingency plan if contaminants identified exceed the regulatory screening levels. Therefore, contaminated soils on-site would be properly identified,

characterized, removed and disposed of properly prior to ground-disturbing activities, thus preventing exposure of construction workers, nearby sensitive receptors, and the environment to soil contaminants from construction of the project (under either option).

### **Noise Impacts**

**Impact:** **NOI-1:** Both Options: Project construction (under either option) would exceed the City's construction noise threshold of significance of 60 dBA  $L_{eq}$  at residential land uses and places of worship or 70 dBA  $L_{eq}$  at commercial land uses by five dBA  $L_{eq}$  or more at various times throughout construction for over a year.

**Mitigation:** **NOI-1.1: Both Options:** Prior to issuance of any demolition or grading permits, a qualified acoustical consultant shall prepare a construction noise logistics plan specifying the hours of construction as well as the noise and vibration minimization measures. Posting or notification of construction schedules is required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The construction noise logistics plan shall require, but not be limited to, the following:

- Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. 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 that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- 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 would be conspicuously posted at the construction site and included in the noise logistics plan.

**Findings:** Implementation of Mitigation Measure NOI-1.1, under both options, would reduce project construction noise to less than significant levels during the standard construction schedule (Monday through Friday, 7:00 a.m. to 7:00 p.m.). *(Less than Significant Impact with Mitigation)*

**Facts in Support of the Finding:** Project construction is anticipated to take a total of approximately 52 months to complete under the non-education mixed-use option and 46 months to complete under the education mixed-use option. The project, under either option, would be completed in two major phases:

Phase 1: Demolition, grading, excavation, foundation, podium construction; and

Phase 2: Construction of all buildings.

Project construction, under either option, would occur concurrently at both project sites. To determine potential project construction noise, a detailed list of construction equipment expected to be used during each phase was provided by the applicant and used for modeling purposes. The Federal Highway Administration’s (FHWA’s) Roadway Construction Noise Model (RCNM) was used to calculate the hourly average noise levels for each phase of construction, assuming every piece of equipment would operate simultaneously, which would represent the worst-case scenario.

Noise-sensitive uses surrounding the El Paseo site include single-family residential uses approximately 220 feet from the center of construction to the south, commercial uses approximately 300 feet to the north, approximately 220 feet to the east, and approximately 350 feet to the west. These surrounding uses fall within the City’s significant noise impact

range of 500 feet for residences but outside the City's significant impact range of 200 feet from commercial uses. Noise-sensitive uses surrounding the 1777 Saratoga Avenue site include commercial uses approximately 170 feet from the center of construction to the west, a place of worship approximately 150 feet to the north, commercial uses approximately 300 feet to the east, and single-family residences approximately 300 feet to the southwest. These surrounding uses fall within the City's significant noise impact range of 200 feet from commercial uses.

The City of San José considers a significant noise impact to occur where temporary construction-related noise exceeds ambient noise levels by five dBA  $L_{eq}$  or more and exceed the normally acceptable levels of 60 dBA  $L_{eq}$  at the nearest noise-sensitive land uses or 70 dBA  $L_{eq}$  at office or commercial land uses for a period of more than 12 months.

As described in the Noise impact discussion, Section 3.13.2 of the DEIR, construction noise levels from the El Paseo site (under either option) are calculated to range from 67 to 82 dBA  $L_{eq}$  at nearby residential uses and from 63 to 85 at nearby commercial uses for more than a 12-month period. Construction noise levels from the 1777 Saratoga Avenue site (under either option) is calculated to range from 63 to 74 dBA  $L_{eq}$  at nearby residential uses and 63 to 82 dBA  $L_{eq}$  at nearby commercial uses for more than a 12-month period. Project construction activities, therefore, would temporarily exceed the normally acceptable levels of 60 dBA  $L_{eq}$  at residential land uses and places of worship or 70 dBA  $L_{eq}$  at commercial land uses by five dBA  $L_{eq}$  or more at various times throughout construction (under either option) for over a year.

The project (under either option) in conformance with the General Plan Policy E.C-1.7, the Municipal Code, the City's standard permit conditions, and mitigation measure MM NOI-1.1 above would have a less than significant temporary construction noise impact by using best available noise suppression devices and techniques.

**Impact:** **NOI-2: Both Options:** Nighttime project construction activities, specifically concrete pours during the evening hours (7:00 p.m. to 9:00 p.m.), could result in hourly average noises levels exceeding 60 dBA at the first row of residences located south of the El Paseo site.

**Mitigation:** **MM NOI-2.1: Both Options:** Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall implement the following measures during nighttime (7:00 p.m. to 9:00 p.m.) construction activities:

- Limit the active equipment to as few pieces of equipment as possible.  
Utilize 'quiet' models of air compressors and other stationary noise sources where technology exists.
- To the extent consistent with applicable regulations and safety considerations, operation of back-up beepers shall be avoided near sensitive receptors during nighttime hours to the extent feasible, and/or the work sites shall be arranged in a way that minimizes the need for any reverse motions of trucks or the sounding of any reverse motion alarms during nighttime work. If these measures are not feasible, equipment and trucks operating during the nighttime hours with reverse motion alarms must be outfitted with Society of Automotive Engineering J994 Class D alarms (ambient-adjusting, or "smart alarms" that automatically adjust the alarm to five dBA above the ambient near the operating equipment).
- Limit nighttime concrete pouring to the northernmost equipment location or a minimum distance of 100 feet from the southern boundary of the El Paseo site, where feasible.
  - If the concrete pumping operation is located within 100 feet of the southern boundary of the El Paseo site, when feasible install temporary noise barriers around the concrete pumping operation to control the noise levels at the source.
- Residences or other noise-sensitive land uses within 500 feet of construction sites should be notified of the nighttime construction schedule, in writing, prior to the beginning of construction. This notification shall specify the dates for all nighttime construction. Designate a "construction liaison" that would be responsible for responding to any local complaints about nighttime construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison at the construction site.

Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall submit a report to the Director of Planning, Building and Code Enforcement or Director's designee documenting the equipment used and the location of concrete pouring equipment and temporary noise barriers, and including the time and date of notification of residents within 500 feet of the construction sites.

**Finding:** Implementation of Mitigation Measure NOI-1.2 would reduce the nighttime noise impacts to a less than significant level. (*Less than Significant Impact with Mitigation*)

**Facts in Support of the Finding:** The project, under either option, proposes nighttime construction for a 15-day period in order to construct the parking garage at the El Paseo site. This would involve 15-hour concrete pours between 6:00 a.m. and 9:00 p.m. daily over a 15-day period.

The City of San José does not identify noise limits for construction occurring outside of the allowable hours of construction (7:00 a.m. to 7:00 p.m., Monday through Friday). Generally, steady noises above approximately 35 dBA and fluctuating noise levels above approximately 45 dBA have been shown to negatively affect sleep. Assuming standard residential construction, which typically provides a 25 dBA exterior-to-interior noise reduction (with windows closed), sleep disturbance may result when exterior noise levels exceed 60 dBA for steady noises and 70 dBA for fluctuating noises at the property line. The RCNM was used to calculate the hourly average noise levels during nighttime construction activities of the project (under either option). The model showed that the first row of residences located south of the El Paseo site would experience hourly average noise levels of up to 62 dBA at the property line as a result of project construction (under either option). The nearby commercial uses would not be impacted by nighttime construction since operational hours of these buildings would occur during daytime hours only.

With implementation of mitigation measure MM NOI-2.1, noise generated by nighttime project construction activities (under either option) would be reduced to below 60 dBA Leq by limiting and restricting use of equipment near residences and installing temporary noise barriers (when appropriate), thus reducing the impact to a less than significant level.

**Impact:** **NOI-3: Both Options:** The project (under either option) would exceed the City's vibration limit of 0.2 in/sec PPV for buildings of conventional construction at adjacent places of worship and commercial uses to the north and east.

**Mitigation:** **MM NOI-3.1: Both Options:** Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall contract with a licensed Professional Structural Engineer in the State of California to prepare a construction vibration monitoring plan that includes measures to reduce vibration impacts to achieve vibration levels below the City's vibration limit of 0.2 in/sec PPV. During



construction, the project applicant (under either option) shall implement the following vibration reduction measures:

- Limit the use of vibratory rollers, hoe rams, large bulldozers, and caisson drilling, and avoid clam shovel drops within 15 feet of the property lines shared with residences and commercial structures adjacent to the site.
- Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.
- Use smaller equipment to minimize vibration levels below the limits.
- Select demolition methods not involving impact tools.
- Avoid dropping heavy objects or materials near vibration sensitive locations.
- A list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the City 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.
- A construction vibration-monitoring plan shall be implemented to document conditions at the residences and commercial structures adjacent to the site 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 be implemented to include the following tasks:
  - Identification of sensitivity to ground-borne vibration of the residences and commercial structures adjacent to the sites. A vibration survey (generally described below) shall be performed.
  - Performance of a photo survey, elevation survey, and crack monitoring survey for the residences and commercial structures adjacent to the sites. Surveys shall be performed prior to and after completion of vibration generating construction activities located within 25 feet of the structure. The surveys shall include internal and external crack monitoring in the structure, settlement, and distress, and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of the structure.

- Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs where damage has occurred as a result of construction activities.
- The results of any vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims.
- 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 demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall submit the construction vibration monitoring plan to satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee.

**Findings:** Implementation of Mitigation Measure NOI-3.1 would reduce the construction vibration impacts to buildings of conventional construction at adjacent places of worship and commercial uses to the north and east of the 1777 Saratoga Avenue site, under either option, to a less than significant level. (*Less than Significant Impact with Mitigation*)

**Facts in Support of the Finding:** As stated above, project construction is anticipated to take a total of approximately 52 months to complete under the non-education mixed-use option and 46 months to complete under the education mixed-use option. The project, under either option, would be completed in two major phases:

Phase 1: Demolition, grading, excavation, foundation, podium construction; and

Phase 2: Construction of all buildings.

Project construction, under either option, would occur concurrently at both project sites. Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. During each stage of construction, there would be a different mix of

equipment operating, and noise levels would vary by stage and vary within stages, based on the amount of equipment in operation and the location at which the equipment is operating. Most demolition and construction noise falls within the range of 80 to 90 dBA at a distance of 50 feet from the source.

Construction activities (under either option) would include site demolition work, preparation work, excavation, foundation work, and new building framing and finishing. Impact pile driving (which generates substantial vibration) is not proposed as a method of construction for either project option. According to General Plan Policy EC-2.3, a continuous vibration limit of 0.2 in/sec PPV is used to minimize damage at buildings of conventional construction. The vibration limits contained in this policy are conservative and designed to provide the ultimate level of protection for existing buildings in San José.

Groundborne vibration levels from project construction (under either option) would be anticipated to exceed 0.5 in/sec PPV when construction is located within 12 feet of the structures adjacent to the El Paseo site to the north and east (existing commercial buildings) and adjacent to the 1777 Saratoga site to the north and west (place of worship building). Vibration levels may still be perceptible in areas further from the site during periods of heavy construction but would not be expected to cause structural damage. Implementation of MM NOI-3.1 would reduce construction vibration generated by the project (under either option) below the City's vibration limits and to a less than significant level by implementing a vibration monitoring plan and best available vibration suppression techniques that would ensure that construction-related vibration is below the City's threshold of 0.2 in/sec PPV.

### **Transportation and Traffic**

**Impact:** **TRN-1:** Both Options: The residential component of the project (under either option) would generate 11.07 VMT per capita, which exceeds the City's residential threshold of 10.12 VMT per capita.

**Mitigation:** **MM TRN-1.1: Both Options:** The project shall implement the following pedestrian network improvements to reduce the project's VMT per capita from 11.07 to 10.63 VMT per capita.

- The project applicant shall implement the following pedestrian network improvements to reduce the project's VMT per capita from 11.07 to 10.63 VMT per capita.
  - Modify the existing signal to provide a 5-phase signal operation;
  - Provide a signalized pedestrian crosswalk for the south leg;
  - Provide bike signal heads at near and far sides for eastbound through bicycle movement;
  - Install new signal poles with mast arms lengths shadowing opposing left-turn pockets at the northwest and southeast intersection corners; construct two new directional ADA curb ramps at the southeast corner and one new directional ADA curb ramp at the northwest corner;
  - Install a new signal pole with mast arm at the southwest intersection corner; construct new directional ADA curb ramp;
  - Replace the existing signal pole at the north leg of the intersection with a signal pole and mast arm for the northbound Campbell Avenue movements;
  - Remove the existing signal poles from the raised medians along Campbell Avenue;
  - Construct a new ADA directional curb ramp at the northeast corner;
  - Retain the existing accessible pedestrian signal equipment for all pedestrian crosswalks and existing video detection for all intersection approaches;
  - Existing signal cabinet(s) to be maintained where feasible, per PW Final Memo conditions;
  - Construct a 550-foot-long, 10-foot wide sidewalk with a curb/gutter along eastbound Campbell Avenue with tree wells at 35 feet off-center;
  - Remove existing asphalt concrete along the portion of Campbell Avenue being abandoned and replace with decomposed granite;
- As part of the removal of the pork chop island, the project applicant shall retain the existing 30-foot reinforced concrete pipe located along the portion of Campbell Avenue being abandoned, and maintain existing drainage conform;
- The project applicant shall also complete streetlight improvements and protect existing communications conduits , which include providing a

new streetlight every 150 feet along the new sidewalk along eastbound Campbell Avenue and providing LED lighting for each new signal pole. All outdoor lighting shall comply with applicable regulations including the Municipal Code and Council Policy 4-3.

Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall submit a report describing the plans and schedules for completing the agreed-upon improvements to the Director of Public Works, or the Director's designee, for review and approval. A copy of the report shall also be provided to the Director of Planning, Building and Code Enforcement or the Director's designee.

**MM TRN-1.2: Non-Education Mixed-Use Option only:** Prior to the issuance of any occupancy permits (temporary or final), the final project shall implement a Transportation Demand Management (TDM) plan that provides unbundled on-site parking costs, which would allow residents without cars to rent a unit without having to pay for a parking spot and reduce the project's VMT per capita with implementation of mitigation measure TRN-1.1 from 10.63 to 10.09 VMT per capita, which would be below the Citywide average VMT per capita minus 15 percent (10.12) threshold.

Prior to the issuance of any occupancy permits, the project applicant shall submit the TDM plan to the Director of Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement or Director's designee. The TDM Plan shall include a trip cap for VMT monitoring purposes. The trip cap is 475 AM peak-hour trips and 633 PM peak-hour trips for the Non-Education Option or 1,614 AM peak-hour trips and 646 PM peak-hour trips for the Education Option. Annual trip monitoring reports shall be submitted that demonstrate that project VMT is below threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project applicant shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a 6-month grace period. Penalties, as defined in the Council Policy 5-1, shall be assessed if a project does not meet the trip cap requirements by the end of the grace period. Penalties for non-compliance shall be assessed by the City as defined in the Council Policy 5-1.

**Finding:** Implementation of Mitigation Measure TRN-1.1 and TRN-1.2 would reduce the residential-related VMT impacts to a less than significant level. (*Less than Significant Impact with Mitigation*)

**Facts in Support of the Finding:** The City's residential threshold for VMT is 10.12 per capita. As discussed under the project impacts for Transportation/Traffic, Section 3.17.2.1 of the DEIR and in Appendix I (Transportation Analysis, prepared by Hexagon Transportation Consultants Inc.), the City has developed the San José VMT Evaluation Tool to streamline the analysis for residential, office, and industrial projects. For mixed-use projects, such as the proposed project, each land use is analyzed independently. The City's VMT Evaluation Tool was used to evaluate the proposed residential uses under both project options.

The results of the VMT evaluation indicate that the residential component of the project (under either option) is projected to generate 11.07 VMT per capita, which exceeds the City's residential threshold of 10.12 VMT per capita. Therefore, the residential component of the project (under either option) would result in a significant VMT impact without mitigation. As analyzed in Transportation Analysis Report prepared by Hexagon Transportation Consultants, Inc., and as presented in the DEIR (Transportation/Traffic, Project Impacts, Section 3.17.2.1), the combination of the mitigation measures would reduce the project VMT per capita by 2.21 (or 18%) as compared to the area VMT and would reduce the project VMT per capita to 10.09, which would make the project impact less than significant. As detailed in measure TR-1.2, for the non-education mixed-use option only, a Transportation Demand Management Plan (TDM) shall include a trip cap for monitoring purposes. As defined by the City's Council Policy 5-1, a trip cap is the maximum number of vehicle trips that a project can generate on any given day. Annual trip monitoring reports shall be submitted to the Director of Public Works and the Director of Planning, Building and Code Enforcement or the Director's designee that demonstrate residential VMT is below the identified threshold (10.12 minus 15 percent). If the annual trip monitoring report finds that the project is exceeding the established trip caps, under either project, the project applicant shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a six-month grace period. Penalties shall be assessed if a project does not meet the trip cap requirements by the end of the grace period. Therefore, with the implementation of TRN-1.1 and TRN-1.2, the residential VMT impact is

less than significant (under both projects). (*Less than Significant Impact with Mitigation*)

**Impact:** **TRN-2: Non-Education Option only:** The commercial office component of the project would generate 13.38 VMT per employee which exceeds the Citywide average of 12.21 VMT per employee resulting in a significant impact.

**Mitigation:** **MM TRN-2.1: Non-Education Mixed-Use Option only:** Prior to the issuance of any occupancy permits (temporary or final), the project applicant shall implement a TDM plan that provides the following measures to reduce the project's VMT per employee by 1.35, from 13.38 to 12.15 VMT per employee, which would be below the Citywide average 12.21 VMT per employee:

- Commute Trip Reduction Marketing and Education. The office would be required to routinely provide a commute trip reduction marketing/educational campaign to employees to promote the use of transit, shared rides, walking, and bicycling, therefore lowering the number of single occupancy vehicle (SOV) trips and VMT.
- Telecommuting and Alternative Work Schedule Program. The office tenants would be required to implement a flexible work schedule to encourage employees telecommuting, commuting outside of peak congestion periods, or working with alternative schedules. This program would allow some employees to work a few days from home, and thus reducing the number of trips and VMT.

Prior to the issuance of any occupancy permits (temporary or final), the project applicant shall submit the TDM plan to the Director of Public Works or the Director's designee. The TDM Plan shall include a trip cap for VMT monitoring purposes. The trip cap is 475 AM peak-hour trips and 633 PM peak-hour trips for the Non-Education Option. Annual trip monitoring reports shall be submitted that demonstrate that project VMT is below threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project applicant shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a grace period, which typically will not exceed six months. Penalties shall be assessed if a project does not meet the trip cap requirements by the end of the grace period. Penalties for non-compliance shall be assessed by the City as defined in the Council Policy 5-1.

**Finding:** Implementation of Mitigation Measure TRN-2.1 would reduce the commercial office-related VMT impacts, under the Non-Education Mixed-Use Option, to a less than significant level. (*Less than Significant Impact with Mitigation*)

**Facts in Support of the Finding:** For the office use, the threshold of significance is the regional average VMT per employee minus 15 percent, which calculates to 12.21 daily miles per employee. The City's Travel Demand Model was used to determine the project-generated VMT for the commercial and office component of the Non-Education Mixed-Use Option, and the educational component of the Education Mixed-Use Option.

Vehicle trips generated by the medical office were converted to an equivalent office square footage, for which the City has established a screening criterion and threshold of significance. The project VMT estimated by the evaluation tool is 13.38 per employee, which is lower than the area VMT for employment uses (13.50 per employee) in the project vicinity. This is because the project would result in an increase in development diversity and employment density. However, the VMT is above the threshold of 12.21 VMT per employee.

As discussed in the Transportation Analysis prepared by Hexagon Transportation Consultants, Inc., if a project is found to have a significant impact on VMT, the impact must be reduced by modifying the project to reduce its VMT to an acceptable level (below the established thresholds of significance applicable to the project) and/or mitigating the impact through multimodal transportation improvements or establishing a trip cap. The VMT evaluation tool was used to identify the possible mitigation measures. Based on the list of selected VMT reduction measures included in the VMT evaluation tool, it was recommended the project implement the TR-2.1 to reduce the significant VMT impact. With implementation of a Transportation Demand Management Plan outlining and enforcing a Commute Trip Reduction Marketing and Education Program and Telecommuting and Alternative Work Schedule Program, the VMT associated with the commercial office component under the non-education mixed-use option would be reduced from 13.38 to 12.15 VMT per employee, which is below the Citywide average 12.21 VMT per employee. Again, the TDM Plan includes a trip cap for VMT monitoring purposes. The project applicant is required to submit annual trip monitoring reports to the Director of Public Works and the Director of Planning, Building and Code Enforcement or Directors' designees that demonstrate the project VMT is below the 12.15 threshold. If the annual trip monitoring report finds



that the project is exceeding the established trip cap, the project applicant must submit a follow-up report that demonstrates compliance with the trip cap requirements within a six-month grace period. By achieving a 12.15 VMT per employee, the project would have a less than significant commercial office VMT impact (under the Non-Education Mixed Use Option).

**Impact:** **TRN-3: Education Mixed-Use Option only:** The educational component would result in 8.75 VMT per student, which is a net increase in VMT compared with the 7.85 VMT per student average for regional private schools.

**Mitigation:** **MM TRN-3.1: Education Mixed-Use Option only:** Prior to the issuance of any occupancy permits (temporary or final), the project applicant shall implement a Transportation Demand Management (TDM) plan that offers the following commute trip reduction measures to all students and employees to reduce the project's VMT per student by 10.3 percent, from 8.75 to 7.84 VMT per student, which would be below the average VMT per student for regional private schools.

- The project applicant shall provide commute trip reduction marketing and education. The school shall routinely provide commute trip reduction marketing/educational campaign to faculty, staff, student drivers, and parents to promote the use of transit, shared rides, walking, and bicycling.
- The project applicant shall provide a rideshare/carpool program. The school shall implement a rideshare/carpool program to coordinate carpools amongst parents, student drivers, and employees.

Prior to the issuance of any occupancy permits, the project applicant shall submit the TDM plan to the Director of Department of Public Works or the Director's designee. The TDM Plan shall include a trip cap for VMT monitoring purposes. The trip cap is 1,614 AM peak-hour trips and 646 PM peak-hour trips. Annual trip monitoring reports shall be submitted that demonstrate that project VMT is below threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project applicant shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a 6-month grace period is required. Penalties, as defined in the Council Policy 5-1, shall be assessed if a project does not meet the trip cap requirements by the end of the grace period.

**Finding:** Implementation of Mitigation Measure TRN-3.1 would reduce the education-related VMT impact, under the education mixed-use option, to a less than significant level. (*Less than Significant Impact with Mitigation*)

**Facts in Support of the Finding:** The per-student VMT generated by the proposed school (8.75) would exceed the existing per-student VMT (7.85) and therefore, would generate a VMT impact. The applicant, under the Education Mixed-Use Option only, would be required to implement TR-3.1 to reduce the school VMT by 10.3 percent from 8.75 to 7.84 VMT per student, which would be below the average VMT per student for regional private schools.

The project is expected to draw students mostly from Santa Clara County, Redwood City, and Fremont vicinities. As analyzed in the Transportation Analysis Report prepared by Hexagon Transportation Consultants, Inc., the TDM plan would apply to 95 percent of the students and employees. The VMT estimate also assumes that 2 percent of the students and employees would participate in the rideshare/carpool program. With implementation of TR-3.1, the City's VMT Evaluation Tool predicts that the TDM Plan mitigation measures described above would reduce the project's VMT per student by 10.44 percent, from 8.75 to 7.84 VMT per student, which would be below the average VMT per student for regional private schools. Therefore, as VMT per student would be below the regional average, the educational component of the Education Mixed-Use Option would result in a less than significant impact with mitigation incorporated.

The TDM plan for monitoring, reporting, compliance, and funding will be provided for the life of the Education Mixed-Use project. Annual trip monitoring reports will demonstrate adherence to the established trip cap. If the annual trip monitoring report finds that the project is exceeding the trip cap, a follow-up report prepared by the project applicant must demonstrates compliance with the trip cap requirements within a six-month grace period. Penalties, as defined in the Council Policy 5-1, would be assessed if a project does not meet the trip cap requirements by the end of the grace period.

## **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 DSEIR 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.

The following alternatives were considered and rejected:

- Location Alternative—This alternative was not considered further because of the lack of available land to support the proposed Signature project with mixed-use options with adequate transit and roadway access and utility capacity. Furthermore, it is unlikely that an alternative location anywhere in the City of San José would substantially lessen the identified impacts, including impacts pertaining to construction-related air quality, construction-related noise, and potential impacts to nesting birds or hazardous materials.
- Substantially Reduced Development Alternative – This alternative was not considered further because it requires approximately one-third reduction in project size, resulting in approximately 366 multifamily units and 55,000 square feet of commercial space. The primary intent with this alternative is to reduce construction emissions below the BAAQMD thresholds without mitigation; however, construction of a parking podium would result in a similar construction impacts to the proposed project (under either option). Therefore, this alternative was rejected from further analysis because it would not substantially lessen any significant effects of the project and would not be consistent with the General Plan land use designation and vision for the project sites.
- One Hundred (100) Percent [Deed-Restricted] Affordable Housing Alternative – This alternative was not considered further because it would not be able to meet the City’s Signature Project criteria and would be inconsistent with IP-5.12 requirements, one of which restricts a 100 percent affordable housing project on a project site located on identified key employment opportunity sites or located at major intersections for which there is anticipated market demand for commercial uses within the next 10 to 15 years, such as the project sites. Furthermore, a 100 percent deed-restricted affordable housing development would be limited to the smaller 1777 Saratoga Avenue project site (designated Neighborhood/Community Commercial in the 2040 General Plan). This alternative would reduce the project’s residential Vehicle Miles Traveled (VMT) impact, but would be inconsistent with the General Plan and the project’s basic objectives.

The applicant's objectives for the project are as follows:

1. Provide a high-quality, mixed use Signature Project for the Paseo de Saratoga Urban Village (Horizon 3) in accordance with the City of San José's General Plan's Major Strategy #5. 153
2. Redevelop the project sites with a mix of uses that includes over 700 market-rate, multifamily residential units and 165,000 square feet of commercial retail uses or a K-12 educational facility and 60,000 square feet of commercial retail uses to meet the demand for these land uses in the site area;
3. Increase housing opportunities in the City of San José and expand the supply of higher density housing product by providing approximately 700-1,100 multifamily units;
4. Redevelop the underutilized project sites to allow for new retail, higher density housing, and possibly educational use on a Signature site near existing residential and commercial uses and major transportation thoroughfares including SR 85, Saratoga Avenue, and Lawrence Expressway in western San José;
5. Provide a mix of land uses and public amenities that promote walking, bicycling, telecommuting, transit, and other transportation alternatives;
6. Respect the surrounding neighborhood and community through quality design, materials, and landscaping;
7. Implement sustainable building practices promoting energy and water efficiency;
8. Create new outdoor plaza and publicly-accessible open space areas to allow for the passive enjoyment by all residents and educational facility/office building users as well as the general public.

The following are evaluated as alternatives to the proposed Project:

1. No Project/ No New Development
2. No Project Redevelopment
3. Reduced Development

### **1. No Project/No New Development Alternative**

- A. Description of Alternative:** The El Paseo Site (part of the larger El Paseo de Saratoga Shopping Center) is developed with three commercial buildings totaling approximately 96,440 square feet. The 1777 Saratoga Avenue site is developed with four office buildings totaling approximately 25,184 square feet. The project sites are located within the Envision San José 2040 General Plan's Paseo de

Saratoga Urban Village growth area (Horizon 3) and are designated Regional Commercial and Neighborhood/Community Commercial, respectively. Under the No Project Alternative, the project sites could remain and be leased as is with commercial and/or office uses consistent with the sites' General Plan designations and zoning districts (CG Commercial General and CP Commercial Pedestrian, respectively).

- B. Comparison of Environmental Impacts:** The No Project Alternative would avoid most of the environmental impacts of the project, assuming the continued occupancy or re-occupancy of the existing buildings. Since the project site will not be redeveloped under this alternative, the project will also avoid construction and operational impacts to neighboring residential uses.
- C. Findings:** This alternative would not meet any of the project objectives. The existing vacant buildings would continue unoccupied until a lessee is found. The buildings would remain as they currently exist (i.e., developed with a total of 96,440 square feet of existing commercial uses and 25,184 square feet of office development). The preferred non-education mixed-use option could not be accommodated on the existing site and would need to find an alternative location. The No Project alternative does not support the broader Urban Village plan strategy which calls for an urban form that supports walking, transit use and public interaction and accommodates growth in jobs and housing and it will not redevelop the project sites with a high-quality, sustainable, mixed-use Signature Project that provides a mix of uses and public amenities and supports a variety of transportation alternatives. In addition, this alternative will not increase homeownership opportunities or expand the supply of higher density housing in San José or deliver a signature project that creates new outdoor plazas and publicly accessible open spaces. Therefore, this alternative is rejected.

## **2. No Project Redevelopment Alternative**

- A. Description of the Alternative:** The El Paseo Site is developed with three commercial buildings totaling approximately 96,440 square feet and the 1777 Saratoga Avenue site is developed with four office buildings totaling approximately 25,184 square feet. Given the project sites' land use designations and location within the Paseo de Saratoga Urban Village, a wholly commercial development could be developed on the project sites. Based on the Regional Commercial and Neighborhood/Community Commercial designations and the underlying zoning districts of CG Commercial General and CP Commercial Pedestrian, the project sites could be developed with 571,624 square feet of commercial uses (office and retail, no residential or educational uses).

- B. Comparison of Environmental Impacts:** The No Project Redevelopment Alternative assumed that the project sites would be developed with 571,624 square feet of commercial uses, without any residential or educational uses.

The No Project Redevelopment Alternative would have similar impacts to the preferred project; however, this alternative would result in a new commercial VMT impact. Specifically, the alternative's construction-related air quality and noise impacts would be comparable to the project (under either option) because amount of demolition and grading and proximity to sensitive receptors would be the same. The amount of excavation would be reduced because it is assumed less below-ground parking would be required compared to the project because there would be less development to park. Since there would be less development, it is assumed the construction duration of the No Project Redevelopment Alternative would be less than the project (under either option). As a result, construction noise impacts would be similar though slightly less than the project (under either option). Construction-related air pollutant emissions under this alternative would exceed the significance thresholds and be mitigated to below the threshold, same as the project (under either option). Therefore, the construction-related air quality impacts for this alternative would be comparable to the project's impacts. Other identified mitigated impacts to biological resources and hazardous materials would remain the same as the project (under either option) because this alternative would also include grading and excavation, as well as removal of all landscaping trees on-site. Furthermore, the proposed project (under either option) would result in a mitigable VMT impact. This is due to the project sites' location in a VMT area where the existing per capita VMT is greater than the thresholds of significance. The project sites are located in an area where the current VMT level per worker is close to the average VMT level but may be greater than the thresholds of significance depending on the types of employment uses. According to the City's VMT Policy, small retail developments (i.e., 100,000 square feet or less) are considered local-serving and result in less-than-significant VMT impacts according to the screening criteria. Therefore, under the No Project, Redevelopment Alternative, the proposed 571,624 square feet of commercial uses would result in a significant VMT impact.

- C. Finding:** Under this alternative, the project would meet some of the project objectives (i.e., 6,7,8) by providing quality design, materials and landscaping, implementing sustainable building practices, and creating publicly accessible outdoor spaces. This alternative could partially meet objective five by providing amenities that promote transportation alternatives, but it would not include a mix of land uses on the sites. This alternative would not redevelop the project sites with a mixed-use Signature Project that provides a mix of uses (which includes higher density residential uses and commercial uses) and, therefore, this

alternative would not meet objectives one through four. The education and non-education mixed-use options would need to find an alternative location. The No Project Redevelopment Alternative does not support the mixed-use residential/commercial strategy for urban villages. Therefore, this alternative is rejected.

### **3. Reduced Development Alternative**

- A. Description of the Alternative:** Under this alternative, the project sites will be developed with a mixed-use project at the minimum density and square footages stipulated in the General Plan for Signature Projects. General Plan Policy IP-5.10 states the minimum density for projects in Local Transit and Commercial Corridor and Center Villages is 55 dwelling units per acre, which equates to 586 residential units on the project sites. Under General Policy IP-5.10, a site must replace the commercial square footage that would be removed by redevelopment of that site (there is 121,624 square feet of existing commercial uses). Additionally, the project would be required to include 43,304 square feet of new commercial square footage, for a minimum requirement totaling 164,928 square feet of commercial uses on the project sites. In total, under this Alternative, the project sites will be developed to meet the minimum requirement of 586 residential units and 164,928 square feet of commercial uses. It is assumed the building footprints will be similar to the project (under either option) with a reduction in the number of stories, from nine to 12 stories to four to eight stories.
- B. Comparison of Environmental Impacts:** The Reduced Development Alternative assumes that less development would result in less impacts. The project sites would still be redeveloped under this Alternative; therefore, the Reduced Development Alternative's construction-related air quality and noise impacts would be comparable to the project (under either option) because the amount of demolition and grading and proximity to sensitive receptors would be the same as under the project (under either option). Since there would be less development, however, it is assumed the construction duration of the Reduced Development Alternative would be less than the project (under either option). This alternative would also require nighttime construction for a 15-day period. As a result, construction noise impacts would be similar though slightly less than the project (under either option). Construction-related air pollutant emissions under this alternative would exceed the significance thresholds and be mitigated to below the threshold, same as the project. Therefore, as stated above, construction-related air quality impacts for this alternative would be comparable to the project's. The project's other identified mitigated impacts to biological resources and hazardous materials would remain the same under the Reduced Development Alternative because this alternative would redevelop the same

project sites with the same building footprints as the project, requiring excavation for utility improvements and below ground parking structures. Any alternative with residential uses proposed at the project sites (regardless of size or scale) would result in the same mitigable residential VMT impact as the project (under either option) due to the project sites' location in a high VMT area where the existing VMT is greater than the thresholds of significance. For this reason, the Reduced Development Alternative would result in the same residential VMT impact as the project. As with the project (under either option), the commercial component of the Reduced Development Alternative would result in a less than significant VMT impact.

- C. **Finding:** This Alternative would meet project objectives four, five, six and seven by intensifying development on the project sites and developing a mixed-use project near existing residential and commercial uses and major transportation thoroughfares. This Alternative could also meet objective eight in that it would provide an outdoor plaza and open space (per Signature Project requirements), although not to the extent proposed under the project. This Alternative would not provide the approximately 900 residential units under the non-education mixed use project or approximately 700 residential units and the K-12 educational facility under the education mixed-use option. The education mixed-use option will have to find an alternative location. Therefore, this alternative is rejected.

### **Environmentally Superior Project**

The No Project/No Development Alternative would avoid all project impacts. However, CEQA requires that when the No Project alternative is the environmentally superior alternative, another alternative shall be identified as the environmentally superior alternative.

Following the No Project – No Development Alternative, the Reduced Development Alternative would be the next environmentally superior alternative.

The Reduced Development Alternative would include redevelopment of both sites similar to the proposed project. The Reduced Development Alternative would have the same less than significant impacts, under both projects, with respect to construction-related Air Quality, Biological Resources (i.e., nesting bird impacts), Hazards and Hazardous Materials (i.e., on-site soil contamination), construction-related noise impacts (including nighttime impacts), and Transportation VMT Residential impact. The Reduced Development Alternative would not have a Transportation VMT impact for an educational facility. The Reduced Development Alternative would meet most of the objectives of the proposed project, except that it would not maximize both sites and



reach the development potential envisioned for Signature Projects specifically and urban village projects generally. Namely, the Reduced Development Alternative would result in approximately 314 residential units less than the non-education mixed use option and approximately 114 residential units less than the education mixed-use option. The commercial square footage would be similar under the non-education mixed-use option (approximately 165,000 square feet) and approximately 65,000 more than the education mixed-use option.

This Reduced Development Alternative would achieve most of the project objectives with the least amount of project impacts. Therefore, this alternative is the environmentally superior alternative.

### **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 for 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 Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, 3rd Floor Tower, San José, CA 95113.

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

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk

# MITIGATION MONITORING AND REPORTING PROGRAM

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**El Paseo & 1777 Saratoga Avenue Mixed-Use Village Project**

**File No. PDC19-049**

**May 2022**

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## 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 El Paseo & 1777 Saratoga Avenue Mixed-Use Village project 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, Allison Koo, the applicant, on the behalf of El Paseo Property Owner, LLC, hereby agree to fully 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  \_\_\_\_\_

Date 06/02/2022 \_\_\_\_\_



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

**El Paseo & 1777 Saratoga Avenue Mixed-  
 Use Village Project / File No. PDC19-049**

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> <i>Both Options:</i> The emissions resulting from the construction of the project (under either option) would exceed the Bay Area Air Quality Management District (BAAQMD) threshold of 54 pounds per day of ROG emissions and 54 pounds per day of NOx emissions.					
<b>MM AIR-1.1:</b> <i>Both Options:</i> Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant (under either option) shall implement the following additional best management practices identified by the BAAQMD in order to reduce fugitive dust. <ul 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 (i.e., three times a day). Moisture content shall be verified by lab samples or moisture probe.</li> <li>• All vehicle speeds on unpaved roads shall be limited to 15 mph.</li> <li>• The Air District's phone number shall be visible on a sign at the construction site to ensure compliance with applicable regulations.</li> </ul>	Incorporate the fugitive dust measures into the construction management plan (described in MM AIR-1.2) and communicate to all workers.  All measures shall be printed on all construction documents, contracts, and project plans.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest); best management practices shall be implemented during the demolition and construction phases.	Director of Planning, Building and Code Enforcement or the Director's designee.	Review and approve the construction management plan.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest); during the demolition and construction phases.

<ul style="list-style-type: none"> <li>• All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 miles per hour and visible dust extends beyond site boundaries.</li> <li>• 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.</li> <li>• 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.</li> <li>• Avoid tracking of visible soil material on to public roadways by employing the following measures if necessary: (1) Site accesses up to a distance of 100 feet from public paved roads shall be treated with a six 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.</li> </ul> <p><b>MM AIR-1.2: Construction Equipment (Both Options):</b> Prior to issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall submit a construction management plan to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval. The construction management plan shall demonstrate that the off-road equipment used onsite to construct the project would achieve a fleet-wide average 85-percent reduction in PM<sub>2.5</sub> exhaust emissions or more. Options to achieve this reduction could include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>• All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days shall meet</li> </ul>	<p>Submit a construction management plan to the Director of Planning, Building and Code Enforcement or the Director's designee that outlines how the project will achieve a fleet-wide average 85-percent reduction in PM<sub>2.5</sub> exhaust emissions or more.</p> <p>All measures shall be 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 earliest).</p>	<p>Director of Planning, Building and Code Enforcement or the Director's designee.</p>	<p>Review and approve the construction management plan.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits. (whichever occurs earliest).</p>
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U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.

- Use of equipment that includes California Air Resources Board (CARB)-certified Level 3 diesel particulate filters or alternatively-fueled equipment (i.e., non-diesel).
- Use of added exhaust muffling and filtering devices.
- The plan shall also verify that the equipment included in the plan meets the standards set forth in these mitigation measures:
  - 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. The use of Tier 3 equipment shall not exceed five 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.
  - Diesel engines, whether for off road equipment or on road vehicles, shall not be left idling for more than two minutes, except as provided in exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). The construction sites shall have posted legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling limit.
  - Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators,

<p>concrete/industrial saws, welders, and air compressors.</p> <ul style="list-style-type: none"> <li>○ Cranes and aerial lifts shall be powered by electricity.</li> </ul> <p><b>MM AIR-1.3: Architectural Coatings (Both Options):</b> Prior to the issuance of any building permits, the project applicant (under either option) shall submit a list of intended coatings for interior and exterior surfaces to the Director of Planning, Building and Code Enforcement or Director's designee, demonstrating the use of low volatile organic compound or VOC (i.e., ROG) coatings that are below current BAAQMD requirements (i.e., Regulation 8, Rule 3: Architectural Coatings), for at least 90 percent of all residential and nonresidential interior paints and 90 percent of exterior paints. This includes all architectural coatings applied during both construction and reapplications throughout the project's operational lifetime. At least 90 percent of coatings applied must meet a "super-compliant" VOC standard of less than 10 grams of VOC per liter of paint. For reapplication of coatings during the project's operational lifetime, the Declaration of Covenants, Conditions, and Restrictions shall contain a stipulation for low VOC coatings to be used.</p> <p><b>MM AIR-1.4: Construction diesel trucks (Both Options):</b> Prior to the issuance of any demolition or grading permits (whichever is earliest), the project applicant shall submit a list of all on-road heavy duty diesel trucks intended to be used at the project sites to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval. All on-road heavy duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater (EMFAC Category MHDDT or HHDDT) used at the project sites (such as haul trucks, water trucks, dump trucks, and concrete trucks) shall be model year 2015 or newer.</p>	<p>Submit a list of all intended coatings used for interior and exterior surfaces to the Supervising Environmental Planner and the Director of Planning, Building and Code Enforcement or Director's designee that demonstrates 90 percent of all coatings are low volatile organic compound or VOC coatings, that are below current BAAQMD requirements.</p> <p>All measures shall be printed on all construction documents, contracts, and project plans.</p> <p>The project applicant shall submit a list with the make, model, and year of all on-road heavy duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater (EMFAC Category MHDDT or HHDDT) used at the project sites to the Supervising Environmental Planner that demonstrates that all qualifying vehicles are model year 2015 or newer.</p>	<p>Prior to the issuance of any building permits.</p> <p>Prior to the issuance of any demolition or grading permits (whichever occurs earliest).</p>	<p>Director of Planning, Building and Code Enforcement or the Director's designee.</p> <p>Director of Planning, Building and Code Enforcement or the Director's designee.</p>	<p>Review and approve the coatings list.</p> <p>Review and approve the vehicle list.</p>	<p>Prior to the issuance of any building permits.</p> <p>Prior to the issuance of any demolition or grading permits (whichever occurs earliest).</p>
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## BIOLOGICAL RESOURCES



<b>Impact BIO-1: Both Options:</b> Project construction (under either option) could result in impacts to nesting birds, if present on or adjacent to the sites at the time of construction.					
<p><b>MM BIO-1.1: Both Options:</b> Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), 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 1 through August 31 (inclusive).</p>	<p>Notify the City's Supervising Environmental Planner of approximate start and end date of site disturbance activities.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>	<p>Director of Planning, Building and Code Enforcement or the Director's designee (Supervising Environmental Planner).</p>	<p>Confirm start of construction activities is outside of nesting season.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>
<p><b>MM BIO-1.2: Both Options:</b> If demolition and construction cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests are 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 1 through April 30 inclusive) 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 inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.</p>	<p>The qualified ornithologist to complete pre-construction surveys in accordance with MM BIO-1.2. If active nests are discovered close to work areas, MM BIO-1.3 shall be initiated. The results of the pre-construction surveys shall be described in the report required by MM BIO-1.4.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>	<p>Director of Planning, Building and Code Enforcement or the Director's designee (Supervising Environmental Planner).</p>	<p>Receive the ornithologist report.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>
<p><b>MM BIO-1.3: Both Options:</b> If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction free buffer zone to be established around the nest to ensure that bird nests shall not be disturbed during project construction.</p>	<p>The ornithologist 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 to ensure that bird nests shall not be disturbed during project construction. The construction free buffer zones shall be described in the report required by MM BIO-1.4.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>	<p>Director of Planning, Building and Code Enforcement or the Director's designee (Supervising Environmental Planner) .</p>	<p>Receive the ornithologist report.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>
<p><b>MM BIO-1.4: Both Options:</b> Prior to any tree removal, or approval of any grading or demolition permits</p>	<p>Following completion of MM BIO-1.2 and MM BIO-</p>	<p>Prior to the issuance of any demolition,</p>	<p>Director of Planning, Building and Code</p>	<p>Receive the ornithologist report</p>	<p>Prior to the issuance of any</p>

(whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Director of Planning, Building and Code Enforcement or the Director's designee.	1.3, the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Director of Planning, Building and Code Enforcement or the Director's designee.  All measures shall be printed on all construction documents, contracts, and project plans.	grading, and/or building permits (whichever occurs earliest).	Enforcement or the Director's designee (Supervising Environmental Planner).	for consistency with MM BIO-1.2 through MM BIO-1.4.	demolition, grading, and/or building permits (whichever occurs earliest).
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## HAZARDS AND HAZARDOUS MATERIALS

**Impact HAZ-1:** *Both Options:* Project construction (under either option) could result in exposure of construction workers, adjacent uses, and the environment to soil contamination from historic agricultural use, including residual contamination from organochlorine pesticides, herbicides, and fertilizers.

<p><b>MM HAZ-1.1:</b> <i>Both Options:</i> Prior to issuance of demolition or grading permits, the project applicant shall prepare a Site Management Plan (SMP) and Health and Safety Plan (HSP) to guide activities during demolition, excavation, and initial construction to ensure that potentially contaminated soils are identified, characterized, removed, and disposed of properly. The purpose of the Site Management Plan and Health and Safety Plan is to establish appropriate management practices for handling impacted soil or other materials that may be encountered during construction activities. The Site Management Plan shall provide the protocols for sampling of in-place soil to facilitate the profiling of the soil for appropriate off-site disposal or reuse, and for construction worker safety, dust mitigation during construction and potential exposure of contaminated soil to future users of the site. The soil profiling shall include (but not limited to) the collection of shallow soil samples (upper one-foot) and analyses for lead and organochlorine pesticides. The soil profiling shall be performed prior to any significant earthwork.</p> <p>If there are no contaminants identified on the project sites that exceed regulatory screening levels for</p>	<p>Submit a Site Management Plan and Health and Safety Plan to the Supervising Environmental Planner, Supervising Environmental Compliance Officer, and the Santa Clara County Department of Environmental Health (if contaminants are identified on the project sites that exceed applicable screening levels). 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 (whichever occurs earliest).</p>	<p>Director of Planning, Building and Code Enforcement or the Director's designee (City of San José Supervising Environmental Planner)</p> <p>City of San José Environmental Compliance Officer Santa Clara County Department of Environmental Health</p>	<p>Receive the approved Site Management Plan and the Health and Safety Plan and review for compliance with MM HAZ-1.1.</p> <p>Review and approve Site Management Plan and oversee remediation activity.</p>	<p>Prior to the issuance of any demolition and grading permits (whichever occurs earliest).</p>
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<p>construction workers and residential users published by the Regional Water Quality Control Board, Department of Toxic Substances Control, and/or Environmental Protection Agency, the SMP does not need to be submitted to an oversight agency and only submitted to the City prior to construction earthwork activities. If contaminants are identified at concentrations exceeding regulatory screening levels, the project applicant shall enter the Santa Clara County Department of Environmental Health (SCCDEH) Site Cleanup Program. The SMP and planned remedial measures shall be reviewed and approved by the SCCDEH. A copy of the SMP and HSP shall be submitted to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement and the Supervising Environmental Compliance Officer in the City of San José's Environmental Services Department.</p>					
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## NOISE AND VIBRATION

**Impact NOI-1: Both Options:** Project construction (under either option) would exceed the City's construction noise threshold of significance of 60 dBA Leq at residential land uses and places of worship or 70 dBA Leq at commercial land uses by five dBA Leq or more at various times throughout construction for over a year.

<p><b>MM NOI-1.1: Both Options:</b> Prior to issuance of any demolition or grading permits, a qualified acoustical consultant shall prepare a construction noise logistics plan specifying the hours of construction as well as the noise and vibration minimization measures. Posting or notification of construction schedules is required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The construction noise logistics plan shall require, but not be limited to, the following:</p> <ul style="list-style-type: none"> <li>Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. 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</li> </ul>	<p>The qualified acoustical consultant to prepare a construction noise logistics plan. Submit the construction noise logistics plan to the Supervising Environmental Planner.</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 (whichever occurs earliest).</p> <p>The plan shall be implemented during construction.</p>	<p>Director of Planning, Building and Code Enforcement or the Director's designee (Supervising Environmental Planner).</p>	<p>Receive and review the construction noise logistics plan for compliance with MM NOI-1.1.</p>	<p>Prior to the issuance of any demolition or grading permits (whichever occurs earliest).</p>
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<p>and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.</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> <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 would be conspicuously posted at the construction site and included in the noise logistics plan.</li> </ul> <p>Prior to issuance of any demolition or grading permits, the project applicant shall submit a copy of the noise logistics plan to the Director of Planning, Building and Code Enforcement or the Director’s designee.</p>					
<p><b>Impact NOI-2: Both Options:</b> Nighttime project construction activities, specifically concrete pours during the evening hours (7:00 p.m. to 9:00 p.m.), could result in hourly average noise levels exceeding 60 dBA at the first row of residences located south of the El Paseo site.</p>					
<p><b>MM NOI-2.1: Both Options:</b> Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall</p>	<p>All measures outlined in MM NOI-2.1 shall be printed on all construction</p>	<p>Prior to the issuance of any demolition, grading, and/or</p>	<p>Director of Planning, Building and Code Enforcement or the</p>	<p>Receive and review the report for</p>	<p>Prior to the issuance of any demolition,</p>

<p>implement the following measures during nighttime (7:00 p.m. to 9:00 p.m.) construction activities:</p> <ul style="list-style-type: none"> <li>• Limit the active equipment to as few pieces of equipment as possible.</li> <li>• To the extent consistent with applicable regulations and safety considerations, operation of back-up beepers shall be avoided near sensitive receptors during nighttime hours to the extent feasible, and/or the work sites shall be arranged in a way that minimizes the need for any reverse motions of trucks or the sounding of any reverse motion alarms during nighttime work. If these measures are not feasible, equipment and trucks operating during the nighttime hours with reverse motion alarms must be outfitted with Society of Automotive Engineering J994 Class D alarms (ambient-adjusting, or “smart alarms” that automatically adjust the alarm to five dBA above the ambient near the operating equipment).</li> <li>• Limit nighttime concrete pouring to the northernmost equipment location or a minimum distance of 100 feet from the southern boundary of the El Paseo site, where feasible. <ul style="list-style-type: none"> <li>○ If the concrete pumping operation is located within 100 feet of the southern boundary of the El Paseo site, when feasible install temporary noise barriers around the concrete pumping operation to control the noise levels at the source.</li> </ul> </li> <li>• Residences or other noise-sensitive land uses within 500 feet of construction sites should be notified of the nighttime construction schedule, in writing, prior to the beginning of construction. This notification shall specify the dates for all nighttime construction. Designate a “construction liaison” that would be responsible for responding to any local complaints about nighttime construction</li> </ul>	<p>documents, contracts, and project plans.</p> <p>Submit a report to the Supervising Environmental Planner documenting the equipment used and the location of concrete pouring equipment and temporary noise barriers. Inform the Supervising Environmental Planner of the time and date of notification of residents within 500 feet of the construction sites.</p>	<p>building permits (whichever occurs earliest).</p>	<p>Director’s designee (Supervising Environmental Planner).</p>	<p>compliance with MM NOI-2.1.</p>	<p>grading, and/or building permits (whichever occurs earliest).</p>
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<p>noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison at the construction site.</p> <p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall submit a report to the Director of Planning, Building and Code Enforcement or Director's designee documenting the equipment used and the location of concrete pouring equipment and temporary noise barriers, and including the time and date of notification of residents within 500 feet of the construction sites.</p>					
<p><b>Impact NOI-3: Both Options:</b> The project (under either option) would exceed the City's vibration limit of 0.2 in/sec PPV for buildings of conventional construction at adjacent places of worship and commercial uses to the north and east.</p>					
<p><b>MM NOI-3.1: Both Options:</b> Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall contract with a licensed Professional Structural Engineer in the State of California to prepare a construction vibration monitoring plan that includes measures to reduce vibration impacts to achieve vibration levels below the City's vibration limit of 0.2 in/sec PPV. During construction, the project applicant (under either option) shall implement the following vibration reduction measures:</p> <ul style="list-style-type: none"> <li>• Limit the use of vibratory rollers, hoe rams, large bulldozers, and caisson drilling, and avoid clam shovel drops within 15 feet of the property lines shared with residences and commercial structures adjacent to the site.</li> <li>• Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.</li> <li>• Use smaller equipment to minimize vibration levels below the limits.</li> <li>• Select demolition methods not involving impact tools.</li> </ul>	<p>Contract with a licensed Professional Structural Engineer in the State of California to prepare a construction vibration monitoring plan that includes the measures outlined in MM NOI-3.1; the plan shall be submitted to the Supervising Environmental Planner.</p> <p>Implement vibration reduction measures.</p> <p>All measures shall be 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 earliest).</p> <p>The plan shall be implemented during all phases of construction.</p>	<p>Director of Planning, Building and Code Enforcement or the Director's designee (Supervising Environmental Planner).</p>	<p>Receive and review the construction vibration monitoring plan for compliance with MM NOI-3.1.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>

<ul style="list-style-type: none"> <li>• Avoid dropping heavy objects or materials near vibration sensitive locations.</li> <li>• A list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the City 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.</li> <li>• A construction vibration-monitoring plan shall be implemented to document conditions at the residences and commercial structures adjacent to the site 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 be implemented to include the following tasks: <ul style="list-style-type: none"> <li>○ Identification of sensitivity to ground-borne vibration of the residences and commercial structures adjacent to the sites. A vibration survey (generally described below) shall be performed.</li> <li>○ Performance of a photo survey, elevation survey, and crack monitoring survey for the residences and commercial structures adjacent to the sites. Surveys shall be performed prior to and after completion of vibration generating construction activities located within 25 feet of the structure. The surveys shall include internal and external crack monitoring in the structure, settlement, and distress, and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of the structure.</li> </ul> </li> </ul>					
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<ul style="list-style-type: none"> <li>○ Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs where damage has occurred as a result of construction activities.</li> <li>○ The results of any vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims.</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 demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall submit the construction vibration monitoring plan to satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee.</p>					
<b>TRANSPORTATION</b>					
<b>Impact TRN-1:</b> <i>Both options:</i> The residential component of the project (under either option) would generate 11.07 VMT per capita, which exceeds the City's residential threshold of 10.12 VMT per capita.					
<b>MM TRN-1.1:</b> <i>Both options:</i> The project shall implement the following pedestrian network improvements to reduce the project's VMT per capita by from 11.07 to 10.63 VMT per capita.	Coordinate with the City in implementing or paying in-lieu fees contributing to the implementation of the	Prior to the issuance of any demolition, grading, and/or building permits	Director of Public Works or the Director's designee Director of Planning, Building and Code	Review and approve the report identified in MM TRN-1.1.	Prior to the issuance of any demolition, grading, and/or building permits



<ul style="list-style-type: none"> <li>• The project applicant shall implement the following pedestrian network improvements to reduce the project's VMT per capita from 11.07 to 10.63 VMT per capita. <ul style="list-style-type: none"> <li>○ Modify the existing signal to provide a 5-phase signal operation;</li> <li>○ Provide a signalized pedestrian crosswalk for the south leg;</li> <li>○ Provide bike signal heads at near and far sides for eastbound through bicycle movement;</li> <li>○ Install new signal poles with mast arms lengths shadowing opposing left-turn pockets at the northwest and southeast intersection corners; construct two new directional ADA curb ramps at the southeast corner and one new directional ADA curb ramp at the northwest corner;</li> <li>○ Install a new signal pole with mast arm at the southwest intersection corner; construct new directional ADA curb ramp;</li> <li>○ Replace the existing signal pole at the north leg of the intersection with a signal pole and mast arm for the northbound Campbell Avenue movements;</li> <li>○ Remove the existing signal poles from the raised medians along Campbell Avenue;</li> <li>○ Construct a new ADA directional curb ramp at the northeast corner;</li> <li>○ Retain the existing accessible pedestrian signal equipment for all pedestrian crosswalks and existing video detection for all intersection approaches;</li> <li>○ Existing signal cabinet(s) to be maintained where feasible, per PW Final Memo conditions.</li> <li>○ Construct a 550-foot-long, 10-foot wide sidewalk with a curb/gutter along eastbound Campbell Avenue with tree wells at 35 feet off-center;</li> </ul> </li> </ul>	<p>improvements identified in MM TRN-1.1.</p> <p>Submit a report outlining plans and schedules for completing the agreed-upon improvements to the Department of Public Works.</p>	<p>(whichever occurs earliest).</p>	<p>Enforcement or Director's designee.</p>	<p>Receive a copy of the report.</p>	<p>(whichever occurs earliest).</p>
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<ul style="list-style-type: none"> <li>○ Remove existing asphalt concrete along the portion of Campbell Avenue being abandoned and replace with decomposed granite;</li> <li>• As part of the removal of the pork chop island, the project applicant shall retain the existing 30-foot reinforced concrete pipe located along the portion of Campbell Avenue being abandoned and maintain existing drainage conform;</li> <li>• The project applicant shall also complete streetlight and protect existing communications conduits, which include providing a new streetlight every 150 feet along the new sidewalk along eastbound Campbell Avenue and providing LED lighting for each new signal pole. All outdoor lighting shall comply with applicable regulations including the Municipal Code and Council Policy 4-3.</li> </ul> <p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall submit a report describing the plans and schedules for completing the agreed-upon improvements to the Director of Public Works, or the Director's designee, for review and approval. A copy of the report shall also be provided to the Director of Planning, Building and Code Enforcement or the Director's designee.</p>					
<p><b>MM TRN-1.2:</b> Both Options: Prior to the issuance of any occupancy permits (temporary or final), the project applicant shall implement a Transportation Demand Management (TDM) plan that provides unbundled on-site parking costs, which would allow residents without cars to rent a unit without having to pay for a parking spot and reduce the project's VMT per capita with implementation of mitigation measure MM TRN-1.1 from 10.63 to 10.09 VMT per capita, which would be below the Citywide average VMT per capita minus 15 percent (10.12) threshold.</p>	<p>Submit the TDM Plan and annual trip monitoring reports from issuance of Certificate of Occupancy that demonstrate that project VMT is below threshold to the Supervising Environmental Planner.</p> <p>.</p> <p>If the annual trip monitoring report finds that the project is exceeding the established</p>	<p>Prior to the issuance of any occupancy permits and monitoring throughout the lifetime of the project.</p>	<p>Director of Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement, or Director's designee (Supervising Environmental Planner).</p>	<p>Review the annual trip monitoring reports and assess penalties for non-compliance in accordance with Council Policy 5-1, if warranted.</p>	<p>Prior to the issuance of any occupancy permits and monitoring throughout the lifetime of the project.</p>

<p>Prior to the issuance of any occupancy permits, the project applicant shall submit the TDM plan to the Director of Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement or Director's designee. The TDM Plan shall include a trip cap for VMT monitoring purposes. The trip cap is 475 AM peak-hour trips and 633 PM peak-hour trips for the Non-Education Option or 1,614 AM peak-hour trips and 646 PM peak-hour trips for the Education Option. Annual trip monitoring reports shall be submitted that demonstrate that project VMT is below threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project applicant shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a 6-month grace period, which typically will not exceed six months. Penalties, as defined in the Council Policy 5-1, shall be assessed if a project does not meet the trip cap requirements by the end of the grace period. Penalties for non-compliance shall be assessed by the City as defined in the Council Policy 5-1.</p>	<p>trip cap, submit a follow-up report that demonstrates compliance with the trip cap requirements within a grace period, which typically will not exceed six months.</p>				
<p><b>Impact TRN-2: Non-Education Option only:</b> The commercial office component of the project would generate 13.38 VMT per employee which exceeds the City's employee threshold of 12.21 VMT per employee resulting in a significant impact.</p>					
<p><b>MM TRN-2.1: Non-Education Mixed-Use Option only:</b> Prior to the issuance of any occupancy permits (temporary or final), the project applicant shall implement a TDM plan that provides the following measures to reduce the project's VMT per employee by 1.35, from 13.38 to 12.15 VMT per employee, which would be below the Citywide average 12.21 VMT per employee:</p> <ul style="list-style-type: none"> <li>• Commute Trip Reduction Marketing and Education. The office would be required to routinely provide a commute trip reduction marketing/educational campaign to employees to promote the use of transit, shared rides, walking, and bicycling, therefore lowering the number of single occupancy vehicle (SOV) trips and VMT.</li> </ul>	<p>Submit the TDM plan to the Supervising Environmental Planner, including the trip cap for VMT monitoring purposes.</p> <p>Submit annual trip monitoring reports on anniversary of building occupancy demonstrating the project VMT is below threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, submit a follow-up report that demonstrates compliance with the trip cap</p>	<p>Prior to the issuance of any occupancy permits (temporary or final) and throughout the lifetime of the project.</p>	<p>Director of Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement, or Director's designee (Supervising Environmental Planner).</p>	<p>Review the annual trip monitoring reports and assess penalties for non-compliance in accordance with Council Policy 5-1, if warranted.</p>	<p>Prior to the issuance of any occupancy permits (temporary or final) and throughout the lifetime of the project.</p>

<ul style="list-style-type: none"> <li>Telecommuting and Alternative Work Schedule Program. The office tenants would be required to implement a flexible work schedule to encourage employees telecommuting, commuting outside of peak congestion periods, or working with alternative schedules. This program would allow some employees to work a few days from home, and thus reducing the number of trips and VMT.</li> </ul> <p>Prior to the issuance of any occupancy permits (temporary or final), the project applicant shall submit the TDM plan to the Director of Public Works or the Director's designee. The TDM Plan shall include a trip cap for VMT monitoring purposes. The trip cap is 475 AM peak-hour trips and 633 PM peak-hour trips for the Non-Education Option. Annual trip monitoring reports shall be submitted that demonstrate that project VMT is below threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project applicant shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a grace period, which typically will not exceed six months. Penalties shall be assessed if a project does not meet the trip cap requirements by the end of the grace period. Penalties for non-compliance shall be assessed by the City as defined in the Council Policy 5-1.</p>	<p>requirements within a grace period, which typically will not exceed six months.</p>				
<p><b>Impact TRN-3: Education Mixed-Use Option only:</b> The educational component would result in 8.75 VMT per student, which is a net increase in VMT compared with the 7.85 VMT per student average for regional private schools.</p>					
<p><b>MM TRN-3.1: Education Mixed-Use Option only:</b> Prior to the issuance of any occupancy permits (temporary or final), the project applicant shall implement a Transportation Demand Management (TDM) plan that offers the following commute trip reduction measures to all students and employees to reduce the project's VMT per student by 10.3 percent, from 8.75 to 7.84 VMT per student, which would be below the average VMT per student for regional private schools.</p>	<p>Submit the TDM plan to the Supervising Environmental Planner, including a trip cap for VMT monitoring purposes.</p> <p>Submit annual trip monitoring reports from anniversary of building occupancy to the Director of Department of Public Works</p>	<p>Prior to the issuance of any occupancy permits (temporary or final) and throughout the lifetime of the project.</p>	<p>Director of Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement, or Director's designee (Supervising</p>	<p>Review the annual trip monitoring reports and assess penalties for non-compliance in accordance with Council Policy 5-1, if warranted.</p>	<p>Prior to the issuance of any occupancy permits (temporary or final) and throughout the lifetime of the project.</p>

<ul style="list-style-type: none"> <li>• The project applicant shall provide commute trip reduction marketing and education. The school shall routinely provide commute trip reduction marketing/educational campaign to faculty, staff, student drivers, and parents to promote the use of transit, shared rides, walking, and bicycling.</li> <li>• The project applicant shall provide a rideshare/carpool program. The school shall implement a rideshare/carpool program to coordinate carpools amongst parents, student drivers, and employees.</li> </ul> <p>Prior to the issuance of any occupancy permits, the project applicant shall submit the TDM plan to the Director of Department of Public Works or the Director's designee. The TDM Plan shall include a trip cap for VMT monitoring purposes. The trip cap is 1,614 AM peak-hour trips and 646 PM peak-hour trips. Annual trip monitoring reports shall be submitted that demonstrate that project VMT is below threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project applicant shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a grace period, which typically will not exceed six months. Penalties shall be assessed if a project does not meet the trip cap requirements by the end of the grace period. Penalties for non-compliance shall be assessed by the City as defined in the Council Policy 5-1.</p>	<p>or Director's designee and the Director of Planning, Building and Code Enforcement or Director's designee that demonstrates that project VMT is below threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, submit a follow-up report that demonstrates compliance with the trip cap requirements within a grace period, which typically will not exceed six months.</p>		<p>Environmental Planner).</p>		
<p><b>Source:</b> City of San José. <i>Draft Environmental Impact Report for the El Paseo &amp; 1777 Saratoga Avenue Mixed-Use Village. May 2022.</i></p>					