



February 12, 2018

San Jose City Council
200 E. Santa Clara Street, 18th Floor
San Jose, CA 95112

**RE: February 13 City Council Mtg., Agenda Item No. 3.7
Actions Related to Evergreen Senior Homes Initiative Petition**

Dear Councilmembers,

San Jose Residents for Evergreen Senior Homes is committed to a truthful and transparent public discussion about the Initiative, and has repeatedly asked the City to make the same pledge in response to the petition made by more than 35,000 San Jose residents.

The San Jose Residents for Evergreen Senior Homes Committee has expressed deep concern that the 9212 Report would not present a fair and unbiased analysis of the Initiative due to political and administrative interference from leaders within City Hall who are clearly opposed to producing more housing, especially affordable housing, for seniors and veterans. Our worst suspicion became reality with the release of the “report.” What the City has produced is nothing short of a four-hundred page campaign flyer paid for with taxpayer resources – an effort that would be deemed an illegal use of taxpayer funds for campaigning in any other city.

Yet despite the report’s best—and unsupportable—efforts to obfuscate and conceal the City’s housing needs, the report’s most crucial findings actually *support* the adoption of the Evergreen Senior Homes Initiative. **The report clearly shows that the City is not meeting the housing needs of more than half of all seniors, and is addressing the needs of only a tiny percentage of those who need affordable housing.** With housing costs skyrocketing, primarily due to lack of supply, it has become far too expensive for many seniors to live in San Jose, close to their children and grandchildren.

Despite these irrefutable findings, the report nevertheless goes on to make the astounding and entirely baseless assertion that “[T]he City has produced enough housing to meet the needs of seniors . . .”

Voters have a right to know the facts, not distorted and politicized conclusions based on intentionally inaccurate assumptions. Here are key facts from the City’s 9212 report:

1. The City is not providing adequate housing opportunities for more than 50% of all seniors, and only provided 13% of affordable units needed in 2016.
2. The Evergreen Senior Homes Specific Plan will produce 910 senior homes, and the Initiative’s 20% affordable housing requirement (which is higher than current City standards) and support services for veterans are project obligations that are legally enforceable by the City.
3. The Initiative only applies the Senior Housing Overlay to a single site in Evergreen and not to any other property in the City.
4. The senior housing will actually reduce traffic in Evergreen, with 12,000 fewer trips to be generated each day from the City’s planned industrial use.
5. The City has 50% more employment lands than required to meet estimated demand, and the Evergreen Industrial area is not likely to be utilized.

6. The residential plan will generate millions more in City fees than industrial development, and the senior homes will not generate students for schools (which results in \$3 million a year in funding for local districts).
7. The City retains complete discretion to review the Evergreen Senior Homes project after passage of the Initiative, including full analysis under CEQA, and ability to require any necessary traffic mitigations that may apply.
8. The City will hold five public hearings on the Initiative and voters will have nine months to review the Evergreen Senior Homes proposal, far exceeding the typical 10-day review period for most matters presented to the City Council for consideration.

Rather than simply acknowledging these undisputable findings and other benefits of the Initiative—and the single development it relates to in Evergreen—the report instead goes to great efforts to intentionally mislead the public and hide these facts. Its very design appears constructed to misinform voters for the purpose of interfering with an election. The audacity of the report’s wild assumptions, intentional omissions, errors, and outright falsification of facts is simply unprecedented in the City.

The Committee has prepared a detailed analysis of the major false and misleading elements of the “report” and identified comparative true facts from the Initiative. See Exhibit “1” attached, which uncovers more than 60 false and misleading elements of the “report.” These patently false and misleading statements, which have been improperly produced by the City using taxpayer funds, must be corrected.

We are especially puzzled by the City’s absolute refusal to include and reasonably consider the full environmental study and fiscal analysis presented to the City more than two months ago. These studies, prepared by independent and respected consultants based on the typical assumptions the City regularly uses for its own projects, reached very different conclusions than presented in the false and misleading 9212 report.

While frustrated by this, it comes as no surprise to us that the City has wholly ignored and refused to make these objective studies, containing literally thousands of pages of professional independent analysis, available to the public as part of the City report and has instead replaced them with specious and unfounded conclusions. There can be only one reason for this: because the objective and accurate studies, unlike the 9212 report, show the true benefits of the Evergreen Senior Homes community.

This clearly demonstrates the pre-determined goal of the 9212 effort was to generate material to campaign with and oppose the Senior Homes Initiative and thereby negatively influence the election results, just as the City and Mayor have done in previous communications efforts.

City efforts designed to stop reasonable consideration of community proposals like the Evergreen Senior Homes Initiative only exacerbate the housing crisis, and are the exact reason San Jose Residents for Evergreen Senior Homes has chosen to bring the Initiative directly to the voters. San Jose residents want solutions to the housing crisis, not talk from City Hall. They certainly have a right to expect the City will not intentionally obstruct good housing opportunities and spend tax-payer resources on an obvious attempt to influence elections.



The choice for voters is clear: create 900 homes for seniors in Evergreen, with 20% affordable units including a preference for veterans on unused industrial land or continue to let the City ignore the housing crisis by planning future office buildings and other high-impact industrial uses in this residential neighborhood.

San Jose Residents for Evergreen Senior Homes believe voters are smart enough to make an informed decision about this choice and respect their right to do so. We certainly hope the City Council does as well. The Committee requests that the City Council properly discharge its duties under the City Charter and to San Jose voters in this election by not accepting the 9212 report presented by City staff.

Sincerely,

A handwritten signature in blue ink that reads "Jeff Schroeder".

Jeff Schroeder

Attachments (1)

CC: City Clerk

**EVERGREEN SENIOR HOMES INITIATIVE
9212 REPORT ANALYSIS**

FALSE OR MISLEADING STATEMENT IN CITY'S 9212 REPORT	REF.	FACT	REF.
Land Use			
<p>ESHI would make it more difficult for City to deny applications for GPAs to add Senior Overlay to underutilized employment lands.</p> <p>ESHI would allow any other senior housing project pursuant to a Senior Housing Overlay within the EEHDP.</p>	<p>CM p.4 9212R p. 16, 20</p>	<p>As acknowledged in CM and 9212R, City Council has discretion to approve or deny GPAs and also has discretion to approve or deny Specific Plans under a proposed Senior Housing Overlay.</p> <p>ESHI GPA includes an action item for the City to “Identify criteria and locations within the City that are appropriate for senior housing developments, including locations appropriate for the senior housing overlay.”</p> <p>ESHI GPA also provides, “The City may undertake additional study to determine other locations suitable for the overlay. ... Application of the overlay to additional sites requires an amendment of the Land Use/Transportation Diagram.”</p>	<p>CM p. 4 9212R p. 16, 17, 20</p> <p>ESHI Sec. 3.C, 3.D</p>
<p>ESHI prohibits Director’s discretion to deny subsequent development permits unless they do not substantially conform to the GP and ESHSP.</p>	<p>CM p. 5 9212R p. 18</p>	<p>ESHSP requires Director to review all Approvals for consistency with GP, substantial conformance with ESHSP (including substantial conformance with the development standards and lack of conflict with the architectural design guidelines, landscape guidelines, and infrastructure and public services provisions), and compliance with applicable law and to impose conditions to achieve such consistency/ conformity/ compliance.</p>	<p>ESHSP Sec. 8.3.2, 8.3.3, 8.5.5</p>
<p>ESHI prevents public from engaging in ESHSP design, implementation, and review.</p>	<p>CM p. 5</p>	<p>Voters get to vote on ESHI. As acknowledged in CM, project also will require other land use and construction related approvals, including development permits, subdivision maps, grading permits, tree</p>	<p>CM p. 4-5 ESHSP</p>

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		removal permits, demolition permits, building permits, sign permits.	
9212R defines underutilized employment lands as vacant lands with GP designations that support employment uses, equating to 3,247 acres.	CM p.6 9212R p.1, 99	As acknowledged in CM, City Council has broad discretion to interpret the GP and to reject a broad interpretation of the term. ESHI GPA includes an action item for the City to “Identify criteria and locations within the City that are appropriate for senior housing developments, including locations appropriate for the senior housing overlay.” ESHI GPA also provides, “The City may undertake additional study to determine other locations suitable for the overlay.”	CM p. 10 ESHI Sec. 3.C, 3.D
9212R assumes that ESHI has same time horizon as GP.	CM p. 6 9212R p. 2	As acknowledged in 9212R, after 10 years, ESHSP could be amended without a vote of the people.	9212R p. 17 ESHI Sec.10
9212R assumes that all jobs associated with 3,247 acres of employment lands would be lost.	CM p. 6 9212R p. 2, 47, 50, 98, 112	As acknowledged in CM, “it is unlikely that all 3,247 vacant acres would be converted to senior housing.” ESHI GPA requires, “To the extent land within this overlay is developed with senior housing, the employment capacity associated with such land <u>will be retained for redistribution by the City to lands more supportive of employment growth in the near term.</u> ... As such, <u>implementation of this overlay will not result in any decrease in the City’s net employment capacity.</u> ” (emphasis added)	CM p. 10, 99 ESHI Sec. 3.D
ESHSP and Citywide Overlay are fundamentally inconsistent with the <i>Adopted</i> GP.	CM p. 7 9212R p. 2, 5, 29—32, 98, 102- 106	ESHI proposes amendments to the GP. ESHSP is consistent with the GP as amended by ESHI. City retains discretion to deny future GPAs to add the Senior Housing Overlay or specific plans to implement it if they are not consistent with the GP.	

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ESHSP does not conform to the current EEHDP.	9212R p. 33	ESHI proposes amendments to the EEHDP. ESHSP is consistent with the EEHDP as amended by ESHI.	
ESHSP does not conform to existing Planned Development zoning.	9212R p. 36	ESHI proposes rezoning. ESHSP is consistent with the zoning as rezoned by ESHI.	
Expansion of residential growth capacity is unnecessary for City to meet its Regional Housing Needs Assessment (RHNA) requirements City has zoned sufficient sites to accommodate RHNA goals.	CM p. 8 9212R pp. 37, 106	According to data released last week by the Department of Housing and Community Development, San Jose has not built sufficient affordable housing to meet its RHNA obligations. (9212R acknowledges this.)	9212R p. 37 [cite HCD]
ESHSP and Senior Housing Overlay are inconsistent with Plan Bay Area because it would allow housing outside of Priority Development Areas.	9212R pp. 38, 109	Housing outside of Priority Development Areas (PDAs) is not disallowed by Plan Bay Area. Plan Bay Area anticipates that PDAs will accommodate over two-thirds of all housing and employment growth through the year 2040, which means that areas outside PDAs will accommodate the rest.	https://mtc.ca.gov/our-work/plans-projects/focus-ed-growth-livable-communities/priority-development-areas
Senior Housing Overlay would substantially reduce City's J/ER ratio to .8.	9212R pp. 114, 138	Many seniors are not employed. It has been reported that less than 25 % of seniors in Santa Clara County were employed in 2010. Because of low employment rates among seniors, senior housing is consistent with the GP's policy to maintain a J/ER ratio of 1.1/1. This conclusion is based on the inaccurate assumptions that (i) all vacant industrial land would be converted to senior housing, and (ii) no jobs	ESHI Sec. 3.A

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		<p>associated with such lands would be replaced in San Jose.</p> <p>9212R acknowledges that ESHSP would result in “negligible difference to the City’s J/ER ratio.”</p>	9212R p.49
Affordable & Veterans Housing			
<p>9212R assumes that ESHSP would construct affordable units <i>off-site</i>.</p> <p>If residential units are rental, 9212R asserts that the levels of affordability do not meet the levels of affordability required by the current IHO.</p> <p>ESHI does not provide Low Income units or sufficient Very Low Income Units as required by IHO.</p>	<p>CM p. 10, 18 9212R pp. 4, 7, 38, 40-43, 98, 108</p>	<p>ESHI and ESHSP make no change to the requirements of the current IHO if units are constructed <i>off-site</i>.</p> <p>ESHI complies with IHO’s option to provide <i>on-site</i> rental in a for-sale project in the Senior Housing Overlay that would require more affordable units (20% versus 15%) at the same affordability levels (6% for Very Low Income and the balance for Moderate Income) compared to the current IHO’s requirements. ESHSP permits compliance with this option if a project provides on-site rental inclusionary and includes certain parameters for those inclusionary units.</p>	<p>ESHI Sec. 4, ESHSP Sec. 2.2.7</p>
<p>If the residential units are for-sale, affordable homes could be lost when resold. There are no resale controls.</p> <p>ESHI would exempt for-sale residential development with a Senior Housing Overlay from the IHO.</p>	<p>CM p. 18 9212R pp. 4, 7, 10, 13, 38, 42-44.98</p>	<p>ESHI and ESHSP make no changes to or exemptions from the IHO requirements regarding continued affordability. ESHI and ESHSP do not exempt Senior Housing Overlay projects from IHO requirement for an Inclusionary Housing Agreement.</p>	<p>ESHI Sec. 4 ESHSP 2.2.7</p>
<p>Seniors who can afford market rate housing are well served though currently available developments.</p>	<p>CM p. 10 9212R pp. 37, 38, 108</p>	<p>Seniors are particularly underserved in several parts of Santa Clara County, including East San Jose.</p>	<p>ESHI Sec. 3.A Council on Aging, <i>Silicon Valley Area Plan on Aging</i></p>

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Affordable units may be constructed last after all market rate units are completed or not at all.	CM p. 18 9212R p. 4	ESHI generally requires compliance with IHO. In the case of the exceptions authorized in connection with the added option of providing 20% <i>on-site</i> inclusionary in a for-sale project in the Senior Housing Overlay, the Specific Plan must specify the timing of construction of the affordable units. ESHSP provides that no more than 25% of the market rate units can receive building permits before the first building permit for the inclusionary units, and no more than 75% of the market rate units can receive certificates of occupancy before 100% of the inclusionary units receive certificates of occupancy.	ESHI Sec. 4 ESHSP Sec. 2.2.7
ESHSP does not specify how it would satisfy IHO or comply with development review process, including executing Inclusionary Housing Agreement.	9212R, pp. 40, 43, 44	ESHI and ESHSP do not exempt Senior Housing Overlay projects from IHO requirement for an Inclusionary Housing Agreement.	ESHI Sec. 4
ESHI provides no information regarding how it will provide veteran housing.	CM p. 19 9212R pp. 4, 39, 43	ESHP requires specific amenities to provide supportive housing opportunities for veterans, including coordination with government and community entities to identify eligible veterans for the inclusionary units, providing veterans' information and support services in one of the on-site recreations centers, and designating an on-site coordinator to assist veterans residents' access to community resources. ESHSP also requires preference to veterans for inclusionary units, <i>which can be enforced by the City per the express requirements of the ESHP, as permitted by law.</i>	ESHSP Sec. 2.2.6, 2.2.7
Fiscal Impact/Economic Development			
Citywide Overlay will negatively impact City's fiscal health, as net revenues yielded	CM p. 8	This conclusion is based on the inaccurate assumptions that (i) without the ESHI, all vacant	

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<p>from the residential development enabled through the ESHI are substantially less than revenues yielded with projected build out of the Adopted GP.</p> <p>The proposed Senior Housing Overlay will eliminate 129,500 jobs and add 86,010 senior housing units.</p> <p>Vacant employment lands in the Adopted GP will generate \$89.5M per year in surplus revenue. The Senior Housing Overlay will result in a fiscal deficit of \$17.1M per year.</p>	<p>9212R p. 6, City FA p. 7, 25</p> <p>9212R p. 134, 138, City FA p. 2, 25, 28</p>	<p>employment lands would build out to capacity in the horizon of the Adopted General Plan, (ii) but with the ESHI, (a) all vacant employment lands would be converted to senior housing, and (b) no jobs associated with such lands would be replaced in San Jose. In fact, the City's recent actions acknowledge that job growth is increasingly unlikely to occur in peripheral employment areas such as Evergreen, but there is more demand for job growth in areas closer to residents and transit such as Downtown. The City recently amended the GP to reduce the jobs planned in Evergreen and is considering a GP amendment to move planned jobs out of Coyote Valley to Downtown.</p> <p>As acknowledged in CM, City Council has broad discretion to interpret the GP and to reject a broad interpretation of the term "underutilized". ESHI GPA includes an action item for the City to "[i]dentify criteria and locations within the City that are appropriate for senior housing developments, including locations appropriate for the senior housing overlay." ESHI GPA also provides, "[t]he City may undertake additional study to determine other locations suitable for the overlay."</p> <p>It is not reasonable to assume all vacant land would be developed with senior housing because the City's Market Overview and Employment Lands Analysis (Strategic Economics, Jan. 20, 2016) states that 1,175 acres of vacant land are in "core employment areas" and "[i]ndustrial demand exceeds vacant employment lands in the city's core employment areas"</p>	<p>CM, p. 10 ESH, §§ 3.C, 3.D City's Market Overview and Employment Lands Analysis (Strategic Economics, Jan. 20, 2016), p. 12</p>

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<p>The ESHSP will generate less revenue to the City annually than Campus Industrial Development.</p> <p>The Campus Industrial Development would generate net surplus revenues of \$1.1M per year.</p>	<p>CM p. 15</p> <p>9212R p. 94, City FA p. 2, 18, 20</p>	<p>This conclusion is based on the inaccurate assumption that, without the ESHSP, the ESHSP site would be developed with Campus Industrial uses. In fact, the ESHSP site received approvals for Campus Industrial uses over 20 years ago, development has not occurred due to lack of demand.</p>	
<p>Under Civil Code sec. 53.1, at least 80 percent of the units would be occupied by senior citizens aged 55+.</p>	<p>City FA, p. 1</p>	<p>Under Civil Code sec. 53.1, all of the units must be occupied by at least one senior citizen aged 55+.</p>	<p>Cal. Civ. Code § 53.1.</p>
<p>City FA assumes that the currently allowed campus industrial uses (2 million square feet of Campus Industrial) would be constructed.</p>	<p>City FA, p. 18–19</p>	<p>City’s Market Overview and Employment Lands Analysis (Strategic Economics, Jan. 20, 2016) states, “[t]here are approximately 2,803 acres of vacant employment lands in North Coyote Valley, the Alviso Specific Plan Area, and Evergreen Industrial Park . . . [and] these peripheral employment areas currently present barriers to attracting new development, including significant infrastructure and environmental constraints. Furthermore, there has been limited interest from private commercial developers to pursue projects in some of the peripheral areas.” Accordingly, the City’s assumption about near-term industrial development on the Property is speculative.</p>	<p>City’s Market Overview and Employment Lands Analysis (Strategic Economics, Jan. 20, 2016), p. 12</p>
<p>City FA notes in its discussion of the currently allowed industrial development that a portion of the property is subject to the District 91-209SJ (Aborn-Murillo) Benefit Assessment District Assessment calculated to be \$5,654,460 in 2017 dollars, which pays for all or portions of a number of street improvements and other facilities upgrades in</p>	<p>City FA, p. 20</p>	<p>According to the ESHSP, “Development within the Plan Area will be subject to payment of existing assessments in compliance with applicable law.”</p>	<p>ESHSP, pp. G-152, H-6.</p>

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the vicinity of the site. City FA does not include the same statement regarding the Benefit Assessment District in the section analyzing the ESHI's fiscal impacts.			
City FA notes that state law allows persons 55 or older to transfer their existing assessed value to a new home purchased at equal or lesser market value of their existing home.	City FA, p. 22	The City FA is silent on the fact that the City would obtain increased property taxes on the homes of future ESHSP residents sold when those residents move to the ESHSP area.	
<p>“The Proposer’s analysis fails to factor in potential senior citizen assessed value exclusions.”</p> <p>“ADE compared assessed values for the Villages units that sold at least one year prior so that the sales transaction is reflected in the current assessed value. The average assessed value was 15 percent below the sales price of the unit. We expect this is a reasonable approximation of the effect of propositions 60 and 90 on property tax revenues and have discounted the assessed value accordingly in calculating the property tax for residential units under the Evergreen Senior Homes Initiative.”</p>	<p>CM Attachment B</p> <p>City FA p. 23</p>	<p>Applying a 15 percent discount to the ESHSP homes overstates the effect of these propositions 60 and 90 on the tax revenue collected by the City because such a discount fails to account for the fact that when some of the future ESHSP residents move into their new home, their old City home will be sold and reassessed at current market prices thereby reducing the impact of Proposition 60.</p> <p>Even if a 15 percent adjustment is applied to the assessed value of homes in the ESHISP, the net fiscal impact under the ESHI FA would remain a positive \$62,000 per year at buildout.</p>	
“The Proposer’s study states that it generally follows the ADE methodology as described in the Envision San Jose 2040 Fiscal Impact Analysis. However, for fire services, the Proposer’s analysis does not account for the	CM Attachment B	The ESHI FA states that it uses a different methodology to estimate costs related to fire services than the City because the City’s assumption that fire service costs increase as the project value increases is unsupported. Project value is not a generally accepted	ESH I FA p. 13

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increased property value of the project, which represents a fire protection obligation and risk for the City.”		measure of the expected cost of fire protection because the fire department does not incur the cost of repair or replacement, only fire suppression. The City’s assumption inverts the relationship between development and fire services costs because new buildings (which have higher assessed values) are built to meet stricter fire codes, decreasing the need for fire protection.	
For parks, the Proposer’s analysis does not separately estimate park maintenance costs from other recreation services and arrives at a lower estimate than ADE.	CM Attachment B	The ESHI FA explains that the Proposed Project will include numerous parks and community facilities for its residents. These facilities will not increase costs to the City because they will be owned and operated by the homeowners’ association of the Proposed Project. For this reason, City costs related to park maintenance of Project parks were not included in the fiscal impact model. The fiscal analysis does include City costs to maintain parks outside the Project, which are included as an average cost to the City per resident based on current City department expenses.	ESHI FA p. 14
City FA underestimates employment, resulting in understated costs for development of Campus Industrial under the existing zoning.		The City FA assumes 5,000 employees in 2 million square feet of space, or 400 square feet per employee. The trend in Silicon Valley has been for fewer and fewer square feet per employee, both because of hoteling of office spaces and higher construction and land costs. The study prepared by Strategic Economics for the City in 2016 estimated employment density at 300 square feet for Tech R&D/Manufacturing, for example.	City’s Market Overview and Employment Lands Analysis (Strategic Economics, Jan. 20, 2016), pp. 72, 96
City FA contains no assessment of the likelihood or feasibility of a 2 million square-foot Campus Industrial development adjacent		The City FA overstates the revenue should the Property be developed pursuant to its current zoning	City’s Market Overview and Employment

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to existing residential development and far from major road facilities.		because, as the City stated, development of sites such as the Property remains “uncertain”.	Lands Analysis (Strategic Economics, Jan. 20, 2016), p. 12
Sales tax revenue estimate for industrial development by City FA at \$311 per employee (\$1.55 million total)		The City FA assumes \$1.55 million in annual sales tax revenue from the project to the City. The City receives 1% of sales as tax revenue, which therefore means that the industrial development would be generating a total of \$155 million in annual taxable sales. This is aggressive in light of the fact that many commercial uses generate no sales tax revenue. The City’s assumption also is not supported by the 2011 analysis for the Envision 2040 General Plan, which estimates approximately \$144 in sales tax revenue per employee for industrial uses, which is less than half of the \$311 the City assumed in the City FA.	
Infrastructure/Parks			
ESHSP has greater impacts to parks, fire/EMS, library services, and water supply than development under the Adopted GP. ESHI has greater impacts to schools, parks, police, library services, water, and hazards, than development under the Adopted GP.	CM p. 13, 21-22 9212R p. 8, 120-126	These conclusions all stem from the inaccurate assumptions that (i) all vacant industrial land would be converted to senior housing, (ii) no jobs associated with such lands would be replaced in San Jose, and (iii) the ESHI would remain in effect for the full GP horizon.	
Schools - City ES states ESHSP impact on schools would be negligible; then states ESHSP would have slightly greater impact on schools than GP Campus Industrial development. City ES states ESHSP could generate up to two students.	City ES Attach E, p. 70.	ESHI HS notes that “According to a report prepared for ESD by the Enrollment Projection Consultants in February, total enrollment within the district is forecast to fall by over 1,900 students between 2016 and 2021, or approximately 3-4% district-wide per year (Enrollment Projection Consultants, 2017; ESD,	ESHI ES p. 16-15

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		2016).” As such, any possible (although very unlikely) additional students from the ESHSP would have a less than significant impact.	
Parks and Open Space – City ES population numbers based on typical single family detached households and multi-family units. Assumes total parkland dedication based on ESHSP population of 2,827 people or 8.3 acres.	City ES Attach E, p. 70.	<p>City ES inflates ESHSP population by not accounting for age restricted housing. ESHI notes that residential population is 1,875 people. The ESHSP includes 46 acres of passive and active Open Space including Recreation Centers, trails, and other common areas.</p> <p>City ES also ignores the fact that ESHSP “Project sponsor anticipates paying fees in-lieu of providing public park land, in compliance with the PDO and PIO (described in the Regulatory Setting), to the extent allowed by law.”</p>	<p>ESHI ES p. 16-16</p> <p>ESHI ES p.16-12</p>
Police Services – City ES uses a population of 2,160 people (vs 2,827 people calculated in the parks analysis). City ES also assumes that all residents of ESHSP are new residents from outside San José. City ES concludes that ESHSP would have greater impact than CP Campus Industrial uses, but does not provide what impacts from Campus Industrial use would be.	City ES Attach E, p. 71.	<p>City ES inflates ESHSP population by not accounting for age restricted housing. ESHI notes that residential population is 1,875 people. The ESHSP includes 46 acres of passive and active Open Space including Recreation Centers, trails, and other common areas.</p> <p>City ES incorrectly states that ESHSP would result in a 0.2 percent drop in the City’s service <i>level</i> rather than service ratio, which is not the same. The conclusion is misleading because it is based off current population levels and does not state what additional police services would be required with the addition of 5,000 jobs in the CI area (Table 1 – City ES Appendix 5, p. 4).</p>	ESHI ES p. 16-16

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Library Services – City ES uses a population of 2,160 people and assumes that all residents for ESHSP are new residents to San José.	City ES Attach E, p. 72.	<p>City ES inflates ESHSP population by not accounting for age restricted housing. ESHI notes that residential population is 1,875 people. The ESHSP includes 46 acres of passive and active Open Space including Recreation Centers, trails, and other common areas.</p> <p>The increase in residential population resulting from implementation of the proposed ESHSP represents an incremental decrease in the square feet of library space per capita to 67.90 square feet, which would still exceed the General Plan goal of 0.59 square feet per capita. Existing library facilities would be sufficient to accommodate increased demand for library service due to future development of the Specific Plan.</p>	<p>ESHI ES p. 16-16</p> <p>ESHI ES p. 16-17</p>
Environmental			
Omits any and all analysis regarding the noise levels associated with the current, planned GP Campus Industrial use, including with respect to the surrounding residential use.		Noise – City ES states that construction noise impacts are likely to be similar under GP Campus Industrial or ESHSP. States that EDFs are consistent with City practice. However, it does not state that there could be operational differences in noise levels between residential and Campus Industrial uses, and that residential uses would be consistent with the existing residences in the surrounding area.	City ES Attach. E, p. 80.
Inconsistent with Policy CD-2.10.	City GPC, p. 14	Consistent with Policy CD-2.10 as amended by the ESHI.	ESHI GPC, p. H-36
The bikability and walkability of the proposed ESHSP is severely limited to the predominance of cul-de-sacs	City GPC, p. 14	[R]oads may terminate with a cul-de-sac if adjacent to or reasonably close to a recreation facility or open space boundary, but should provide pathways for through-access to accommodate pedestrians and bicyclists.	ESHSP, p. G-109

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Inconsistent with Policy CD-3.7.	City GPC, p. 15	Consistent with Policy CD-3.7 as amended by the ESHI.	ESHI GPC, p. H-37
Inconsistent with Policy CD-4.11, regarding sound attenuation, because "Figure 6-2 'Conceptual Wall Location Plan' shows a vast amount of walls throughout the community that could be constructed with wood, masonry, stone, steel, or a combination of these materials."	City GPC, p. 15	The walls in Figure 6-2 are not sound attenuation walls. The ESHSP states, "[f]ences and walls may be used through the Specific Plan Area to provide privacy, enhance the aesthetic character, and maintain safety." The consistency analysis states, "sound attenuation walls are not anticipated to be required beyond the existing sound walls located along Aborn Road and Yerba Buena Road."	ESHI, pp. G-126, G-127; ESHI GPC, p. H-38
While there are two private recreation centers included in the proposed ESHSP, there are no central gathering spaces or areas to facilitate interaction besides the active open spaces, which are insignificant in size and location.	City GPC, p. 15	The ESHSP requires a minimum of 3 recreation centers. The recreation centers provide central gathering spaces. The open space along Fowler Creek offers an additional gathering space.	ESHI, pp. G-32, G-57
Inconsistent with Policy LU-6.1.	City GPC, p. 17	Consistent with Policy LU-6.1 as amended by the ESHI.	ESHI GPC, p. H-46
Inconsistent with Policy LU-6.2.	City GPC, p. 18	Consistent with Policy LU-6.2 as amended by the ESHI.	ESHI GPC, p. H-47
Inconsistent with Policy LU-9.1.	City GPC, p. 18	Consistent with Policy LU-9.1 as amended by the ESHI.	ESHI GPC, p. H-47
Inconsistent with Policy TR-2.11.	City GPC, p. 20	Consistent with Policy LU-2.11 as amended by the ESHI.	ESHI GPC, p. H-51
The proposed ESHSP does not conform to the current EEHDP and, therefore, does not conform to Policy TR-5.3. The proposed ESHSP is not proposing to analyze Level of Service (LOS) nor mitigate traffic impacts caused by the project. Additionally, the EEHDP currently does not have the residential	City GPC, p. 20	The ESHSP area is within the EEHDP area and would comply with the EEHDP as amended by the ESHI. As amended, the proposed senior housing is not subject to the residential cap under the EEHDP. In addition, the development pursuant to the ESHI would be within the ATI Allocation for the ESHI area.	ESHI, pp. 26–27 9212R p. 5. ESHI GPC, p. H-51

FALSE OR MISLEADING STATEMENT IN CITY'S 9212 REPORT	REF.	FACT	REF.
capacity to allow the proposed ESHSP's proposed 910 residential units.		<p>The ESHSP requires transportation demand management elements consistent with the EEHDP. Implementation of those elements as well as EDF TRA-1 through 7 would ensure that development pursuant to the ESHSP would comply with the Transportation Policy and Standards contained in Part IV of the EEHDP. The ESHSP remains subject to other applicable EEHDP provisions, including traffic impact criteria and transportation demand management measures (per Part IV of the EEHDP), site operational improvements, traffic calming, and bus stop construction/improvements (per Part V of the EEHDP).</p> <p>As acknowledged in CM, ESHSP preserves City's ability to impose new conditions, including conditions that minimize traffic impacts, on subsequent project approvals as necessary to comply with applicable law (such as CEQA). City will need to comply with CEQA prior to issuing subsequent discretionary approvals in ESHSP and prior to approving future GPAs and specific plans for senior housing projects.</p>	
Inconsistent with Policy TR-5.5.	City GPC, p. 21	Consistent with Policy TR-5.5 as amended by the ESHI.	ESHI GPC, p. H-53
Inconsistent with Policy IP-2.9.	City GPC, p. 22	Consistent with Policy IP-2.9 as amended by the ESHI.	ESHI GPC, p. H-55
Inconsistent with Policy IP-7.4.	City GPC, p. 23	Consistent with Policy IP-7.4 as amended by the ESHI.	ESHI GPC, p. H-57

FALSE OR MISLEADING STATEMENT IN CITY’S 9212 REPORT	REF.	FACT	REF.
“Other goals and policies included in Exhibit H of the ESHI are simply not relevant or do not apply to the Evergreen Senior Homes Specific Plan. These include the following”	City GPC, p. 24	Exhibit H explains how the policies the City says are irrelevant or inapplicable to the ESHSP are relevant or applicable.	ESHI GPC
Transportation			
San Jose residents would need to commute outside of the City for employment, increasing regional congestion and cost of roadway maintenance.	CM p. 7 9212R p. 7	This conclusion is based on the inaccurate assumptions that (i) all vacant industrial land would be converted to senior housing, and (ii) no jobs associated with such lands would be replaced in San Jose. In fact, ESHI GPA requires, “To the extent land within this overlay is developed with senior housing, the employment capacity associated with such land <u>will be retained for redistribution by the City to lands more supportive of employment growth in the near term.</u> . . . As such, <u>implementation of this overlay will not result in any decrease in the City’s net employment capacity.</u> ” (Emphasis added.)	ESHI Sec. 3.D
ESHI contradicts VMT goals.	CM p. 11	9212R does not include VMT model run.	CM, Attachment A
Intersection Level-of-service (LOS) impact criteria	City ES p. 52-54	9212R indicates partial correct LOS criteria of E and F from EEHDP. See detailed LOS standards below.	EEHDP p. 17-20
Capitol/ Story Intersection LOS Standard “D”	City ES Tables 11, 13, and 14. City TIA	EEHDP states LOS standard exception for the Capitol/ Story intersection. The LOS standard is “E” for the AM and PM peak hour. This exception supersedes the City’s LOS “D” standard since the intersection is governed by an Area Development Policy.	EEHDP Table 1, p. 19-20 San Jose TIA Handbook, p. 5
Capitol/Quimby Intersection LOS Standard “D”	City ES Tables 11, 13, and 14.	EEHDP states LOS standard exception for the Capitol/ Quimby intersection. The LOS standard is “D” for the AM and “E” for the PM peak hour. This	EEHDP Table 1, p. 19-20

FALSE OR MISLEADING STATEMENT IN CITY'S 9212 REPORT	REF.	FACT	REF.
	City TIA	exception supersedes the City's LOS "D" standard since the intersection is governed by an Area Development Policy.	San Jose TIA Handbook, p. 5
San Felipe/Yerba Buena Intersection LOS Standard "D"	City ES Tables 11, 13, and 14. City TIA	EEHDP states LOS standard exception for the San Felipe/ Yerba Buena intersection. The LOS standard is "E" for the AM and "F" for the PM peak hour. This exception supersedes the City's LOS "D" standard since the intersection is governed by an Area Development Policy.	EEHDP Table 1, p. 19-20 San Jose TIA Handbook, p. 5
Capitol/ Silver Creek Intersection LOS Impact for Existing Plus Project and Background Plus Project	City ES Tables 13 and 14. City TIA	The Capitol / Silver Creek intersection is not impacted by the addition of project in the ESHSP (LOS D) for both Exist+Proj and Background + Proj scenarios. The traffic counts establishing the ESHSP baseline scenario was taken in December 2016 and are lower than the Hexagon traffic counts taken in 2017. EDF #5 was identified for implementation and would improve the intersection, which was omitted in the 9212 report	ESHI ES, Section 17
Capitol/ Aborn Intersection LOS Impact for Existing Plus Project AM	City ES Tables 13 and 14. City TIA	The Capitol /Aborn intersection is not impacted from the project in the ESHSP with LOS D for the AM Exist+Proj. The traffic counts establishing the ESHSP baseline scenario was taken in December 2016 and are lower than the Hexagon traffic counts taken in 2017. EDF#1 was identified to improve the intersection, which was omitted in the 9212 report	ESHI ES, Section 17
Capitol/Tully Intersection LOS Impact for Existing Plus Project AM	City ES Tables 13 and 14. City TIA	The Capitol / Tully intersection is not impacted from the project in the ESHSP with LOS D for both Exist+Proj and Background + Proj scenarios. The traffic counts establishing the ESHSP baseline scenario was taken in December 2016 and are lower	ESHI ES, Section 17

FALSE OR MISLEADING STATEMENT IN CITY'S 9212 REPORT	REF.	FACT	REF.
		than the Hexagon traffic counts taken in 2017. For Background conditions, there is no project impact.	
A cumulative analysis is not included	9921R Attachment B	A VMT and Long Term (2040 cumulative) analysis was prepared in the ESHSP under Section 17.23, Long-Range General Plan Amendment Vehicle-Miles Traveled (VMT) Analysis, since the proponents did not have access to the City's travel demand model. The analysis utilizes 2040 City of San Jose GP and CALEEMOD data for the South Bay and clearly shows a Long Term VMT reduction.	ESHI ES Section 17.23, Table 17.21
The VMT analysis and finding of VMT per capita improvement with the ESHI is based on the assumption that the campus industrial jobs would be replaced somewhere else in the City that is more centrally located and transit accessible. This assumption is not warranted because as the 9212R indicates, market and environmental constraints make it unlikely that the loss of employment lands and the job development potential of those lands through conversion to residential use could be made up in other locations.	9921R Attachment B	<p>ESHI GPA requires, "To the extent land within this overlay is developed with senior housing, the employment capacity associated with such land <u>will be retained for redistribution by the City to lands more supportive of employment growth in the near term.</u> ... As such, <u>implementation of this overlay will not result in any decrease in the City's net employment capacity.</u>" (Emphasis added.)</p> <p>All the jobs displaced by the senior homes project would be relocated to the City's Planned Growth Areas identified in the General Plan. These Growth Areas are located closer to transit facilities and other destinations and generate a lower VMT per capita than if the jobs remained in Evergreen.</p>	ESHI Sec. 3D, ESHI ES Sec. 17.23, Table 17.21
Project Trip Generation for Senior Homes	City ES Table 12 p. 60 City TIA	<p>The ESHSP utilized ITE 9th Edition trip rates with 3.68 daily, 0.22 AM, and 0.27 PM rates.</p> <p>The 9212 utilized ITE 10th Edition trip rates with 4.27 daily, 0.24 AM, and 0.3 PM rates.</p>	ITE Trip Generation 9 th and 10 th Edition City TIA

FALSE OR MISLEADING STATEMENT IN CITY'S 9212 REPORT	REF.	FACT	REF.
		In the Hexagon TIA (p. ii), trips rates were found to be lower (20-30%) that what was utilized in the ESHSP from November 2017 count data.	
Overall Trip Generation	City ES Table 12 p. 60 City TIA	All inbound and outbound trips for ESHSP is lower compared to Campus Industrial, even in the peak demand direction. Stating that the trips are reversed is incorrect, since the net effect is a decrease in traffic with the ESHSP.	City ES Table 12 page 60 City TIA
The basis for the identification of the specific improvements is unknown, as there is not a traffic analysis available for the proposed ESHI that identifies potential impacts that the identified EDFs would mitigate.	City TIA, p. 66	The full ESHSP TIA report and appendices was provided to the City in the Initiative.	ESHI TIA
Gateway Corridor ADT Analysis	City TIA, p. 68	The ADT analysis ignores analysis of the Gateway Corridor for the Campus Industrial scenario, which would show net volume increases at every intersection compared to the ESHSP.	City TIA, page 68
As studied, replacing the two million square feet Campus Industrial with 910 senior housing units is projected to generate less traffic in Evergreen and result in less impacts with the buildout of Evergreen. However, the impacts of more housing in Evergreen is evident in the current directional congestion along the major transportation corridors within Evergreen and on US101 and I280 where commuters must travel in the same direction to get to jobs.	City ES, p. 69	The net traffic addition between Campus Industrial and senior housing is lower for the project at all intersections. The net effect is a decrease in traffic with the ESHSP.	City TIA, Table 11
During the PM peak hour, the approved Campus Industrial development would result in an increase of 2.6 seconds of delay for all	City TIA, p. iv	The total delay percentage increase for the Campus Industrial and senior housing is 0.78% and 2.3% respectively for the Background scenario. However,	City TIA, Table ES-3, 7 and 10

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intersections combined. The proposed senior housing units would result in an increase of 7.9 seconds in peak direction delay during the PM peak hour for all intersection combined. Thus, the proposed senior housing units would result in more peak direction delay than the Campus Industrial development during both the AM and PM peak hours. The increase in travel time is statistically insignificant.		the total average delay between Background and Background Plus Project is 177.6 seconds or 10% difference. The overall decrease in delay for Background Plus Project is almost five times greater than the increase of peak direction delay.	
The segment of Tully Road, between Alvin Avenue and Seacliff Way, would deteriorate from LOS E to LOS F with the proposed ESHI compared to Campus Industrial.	City TIA, p. iv	The ESHSP add less traffic and project trips than Campus Industrial trips along Tully Road. City TIA Roadway LOS analysis for the ESHSP was inaccurate. Roadway LOS analysis for the Campus Industrial scenario was not shown to verify this statement, which analysis would show higher volumes compared to ESHSP.	City TIA, Table 6, page 21
The land use conversion would result in an adverse effect on the citywide transportation system when considered cumulatively along with the balance of housing and employment Citywide.	City TIA, p. v	The Year 2040 VMT analysis for the ESHSP shows a 0.1% VMT reduction (2.48 million annual VMT) with implementation of the ESHSP and relocation of jobs to the GP Planned Growth Areas.	ESHI ES Section 17.23, Table 17.21
The additional jobs create the opportunity for internal trip making and trip length reduction to employment within the City.	City TIA, p. v	Internal trip making is included in the ESHI ES traffic analysis, which shows less traffic under the ESHI than under the City's planned Campus Industrial use.	ESHI ES Section 17.23, Table 17.21
Most of the vacant employment lands are located in the City's Planned Growth Areas, which would support the General Plan's focused and balanced growth strategy by bringing jobs to the areas and bringing people closer to the places they need to go. Converting these employment lands to	City TIA, p. v	ESHI GPA requires, "To the extent land within this overlay is developed with senior housing, the employment capacity associated with such land <u>will be retained for redistribution by the City to lands more supportive of employment growth in the near term.</u> ... As such, <u>implementation of this overlay will not</u>	ESHI Sec. 3.D

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residential use would result in an imbalance of jobs and housing in the Planned Growth Areas and diverge from the City's focused and balanced growth strategy.		<p><u>result in any decrease in the City's net employment capacity.</u>" (Emphasis added.)</p> <p>Consistent with the ESHI, the ESHI ES traffic analysis assumes that all the jobs displaced by senior housing would be relocated to the City's Planned Growth Areas identified in the GP. These Growth Areas are located closer to transit facilities and other destinations and generate a lower VMT per capita than if the jobs remained in Evergreen. The analysis show significant transportation benefits for VMT.</p>	ESHI ES Section 17.23, Table 17.21
The Initiative's proposal contradicts the VMT goals because by removing planned employment lands, employed residents in those areas, without the opportunity to work nearby, will be forced to make longer trips, likely outside of the City. This may increase the VMT for residents traveling to work, not only in the project areas but throughout the City.	9921R, p. 11	The Year 2040 VMT analysis for the ESHSP shows a 0.1% VMT reduction (2.48 million annual VMT) with implementation of the senior homes project and relocation of jobs to the GP Planned Growth Areas.	ESHI ES Section 17.23, Table 17.21

Glossary of Acronyms

- “9212R”**: Evergreen Senior Homes Initiative Elections Code 9212 Report on Proposed Initiative prepared by Applied Development Economics, dated February 2, 2018
- “City ES”**: 9212 Environmental Analysis prepared by David J. Powers & Associates dated January 26, 2018 (Appendix 5 to 9212R)
- “City FA”**: Evergreen Senior Homes Initiative Elections Code § 9212 Fiscal Analysis prepared by Applied Development Economics, dated January 29, 2018 (Appendix 4 to 9212R)
- “City TIA”**: Evergreen Senior Homes Initiative Elections Code § 9212 Report Traffic Impact Analysis prepared by Hexagon transportation Consultants, Inc., dated December 22, 2017 (Appendix 6 to 9212R)
- “City GPC”**: Analysis of Evergreen Senior Homes Specific Plan’s Consistency with the Adopted General Plan (Appendix 7 to 9212R)
- “CM”**: Council Memorandum to Mayor and City Council dated February 2, 2018
- “EEHDP”**: Evergreen East Hills Development Policy
- “ESHI”**: Evergreen Senior Homes Initiative
- “ESHSP”**: Evergreen Senior Homes Specific Plan
- “ESHI FA”**: Fiscal Analysis for the Evergreen Senior Homes Specific Plan prepared by Willdan Financial Services, dated December 13, 2017
- “ESHI EIS”**: Evergreen Specific Plan Economic Impact Study prepared by Willdan Financial Services, dated December 2017.
- “ESHI ES”**: Evergreen Senior Homes Specific Plan Environmental Study prepared by Kimley-Horn and Associates, dated November 2017
- “ESHI TIA”**: Evergreen Senior Homes Specific Plan Traffic Impact Analysis prepared by Kimley-Horn and Associates, dated November 3, 2015 (Appendix TR to ESHI ES)
- “ESHI GPC”**: Evergreen Senior Homes Specific Plan Consistency with Envision San Jose 2020 General Plan (Exhibit H to ESHI)
- “GP”**: Envision San Jose 2020 General Plan
- “IHO”**: San Jose Inclusionary Housing Ordinance, San Jose Municipal Code Chapter 5.08
- “PDO”**: San Jose Parkland Dedication Ordinance, San Jose Municipal Code Chapter 19.38
- “PIO”**: San Jose Parkland Impact Ordinance, San Jose Municipal Code Chapter 14.25