

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CERTIFYING THE 4300 STEVENS CREEK BOULEVARD MIXED-USE PROJECT ENVIRONMENTAL IMPACT REPORT AND MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT IMPACTS, MITIGATION MEASURES AND ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED**

**WHEREAS**, the proposed 4300 Stevens Creek Boulevard Mixed-Use Project includes 1) a Planned Development Rezoning from the CG Commercial General Zoning District to the CP(PD) Planned Development Zoning District to allow the development of a mixed-use project with up to approximately 315,000 square feet of office/commercial space (including 15,000 to 22,000 square feet of ground floor retail), and up to 582 residential units; 2) a Planned Development Permit in accordance with the new Planned Development Zoning District to allow the demolition of five existing buildings totaling approximately 105,980 square feet, the removal of approximately 68 ordinance-sized trees, development of four buildings including a six-story approximately 233,000 square foot office building, a six-story parking garage, an eight-story mixed-use building containing approximately 10,000 square feet of ground floor commercial/retail and up to 289 residential units, and an eight-story residential building with approximately 293 residential units (including up to 88 affordable units), and development of an approximately 1.3-acre landscaped promenade; 3) a Vesting Tentative Map to subdivide three existing parcels into four parcels and ten common parcels; and 4) relocation of Lopina Way to the east side of the Project site; all located on an approximately 10.0 gross acre site in the City in San José, California (collectively referred to herein as the “Project”); and

**WHEREAS**, approval of the 4300 Stevens Creek Boulevard Mixed-Use Project would constitute a project under the provisions of the California Environmental Quality Act of 1970, together with related state and local implementation guidelines and policies promulgated thereunder, all as amended to date (collectively, "CEQA"); and

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

**WHEREAS**, on January 16, 2019, the Planning Commission of the City of San José reviewed the FEIR prepared for the 4300 Stevens Creek Boulevard Mixed-Use Project, and recommended to the City Council that it find the environmental clearance for the proposed Project was completed in accordance with the requirements of CEQA and further recommended the City Council adopt this Resolution; and

**WHEREAS**, CEQA requires that, in connection with the approval of a project for which an environmental impact report has been prepared which identifies one or more significant environmental effects of the project, the decision-making body of a public agency make certain findings regarding those effects and adopt a mitigation or monitoring program and overriding statement of consideration 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. The City Council was presented with, and has independently reviewed and analyzed, the FEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FEIR and the Project, prior to acting upon or approving the Project, and has found that the FEIR represents the independent judgment of the City of San José (“City”) as lead agency for the Project, and designated the Director of Planning, Building and Code Enforcement at the Director’s office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and record of proceedings on which the decision of the City is based; and
4. That the City Council does hereby find and recognize that the FEIR contains additions, clarifications, modifications, and other information in its response to comments on the Draft EIR or obtained by the City after the Draft EIR was issued and circulated for public review and does hereby find that such changes and additional information are not significant new information as that phrase is described under CEQA because such changes and additional information do not indicate that any of the following would result from approval and implementation of the Project: (i) any new significant environmental impact or substantially more severe environmental impact not already disclosed and evaluated in the Draft EIR, (ii) any feasible mitigation measure considerably different from those analyzed in the Draft EIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented, or (iii) any feasible alternative considerably different from those analyzed in the Draft EIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented; and
5. That the City Council does hereby find and determine that recirculation of the FEIR for further public review and comment is not warranted or required under the provisions of CEQA; and
6. The City Council does hereby make the following findings with respect to the significant effects of the environment of the Project, as identified in the FEIR, with the understanding that all of the information in this Resolution is intended as a summary of the full administrative record supporting the FEIR, which full administrative record should be consulted for the full details supporting these findings.

## 4300 STEVENS CREEK BOULEVARD MIXED-USE PROJECT SIGNIFICANT ENVIRONMENTAL IMPACTS

### Air Quality

**Impact:** **Impact AIR-1:** Construction of the proposed Project would result in a temporary community risk impact from toxic air contaminants.

**Mitigation:** **MM AIR-1.1:** All diesel-powered off-road equipment larger than 25 horsepower and operating at the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent.

**MM AIR-1.2:** All diesel-powered portable equipment (i.e., air compressors and aerial lifts) operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.

**MM AIR-1.3:** Prior to the issuance of any demolition, grading, and/or building permits, the project applicant shall submit to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement a construction operations plan that includes specifications of the equipment to be used during construction. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth in these mitigation measures.

**Finding:** With the implementation of Mitigation Measures MM AIR-1.1 through 1.3, community health risk impacts will be reduced to a less than significant level. **(Less Than Significant with Mitigation Incorporated)**

**Facts in Support of Finding:** Implementation of the City's standard project conditions for construction air quality, which incorporate Best Management Practices (BMPs) from the Bay Area Air Quality Management District (BAAQMD), would reduce exhaust emissions by 5 percent and dust emissions by 50 percent. Combined with mitigation measures MM AIR-1.1 through 1.3, the maximum excess residential child cancer risk from construction of the Project would be reduced to 5.8 cancer cases per million, which is less than the BAAQMD threshold of 10 cancer cases per million. As a result, the required mitigation measure and BMPs will reduce the temporary construction emissions impact to a less than significant level.

## Biological Resources

**Impact:** **Impact BIO-1:** Construction activities associated with the proposed Project could result in an impact to nesting migratory birds due to the loss of fertile eggs or nest abandonment.

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

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

Prior to any tree removal, 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 satisfaction of the City's Supervising Environmental Planner.

**Finding:** Implementation of Mitigation Measures MM BIO-1.1 and 1.2 would reduce impacts to nesting raptors and other migratory birds to a less than significant level. **(Less Than Significant with Mitigation Incorporated)**

**Facts in Support of Finding:** Conducting pre-construction surveys and implementing a construction-free buffer zone around any migratory bird nests will ensure that raptor or migratory bird nests are not disturbed during Project construction, under the Migratory Bird Treaty Act and California Fish and Game Code. The size of the buffer zones will be determined by consultation

between the qualified ornithologist and the CDFW and based on scientific evidence and best management practices. Compliance with Mitigation Measure MM BIO-1.1 and 1.2 will avoid impacts to nesting birds.

### **Greenhouse Gas Emissions**

**Impact:** **Impact GHG-1:** Operation of the Project will result in GHG emissions in excess of the “Substantial Progress” efficiency metric of 2.6 Metric Tons CO<sub>2</sub> per service population per year established by the California Air Resources Board 2017 Climate Change Scoping Plan to meet the 2030 reduction targets in Senate Bill SB32. Due to the nature of GHG emissions, a significant project level impact is equivalent to a significant cumulative impact.

**Mitigation:** **MM GHG-1.1:** The project applicant shall prepare a transportation demand management (TDM) plan for the Project. The draft TDM Plan shall be submitted to the Director of the City of San José Department of Public Works and the Supervising Environmental Planner of the City’s Department of Planning, Building and Code Enforcement prior to issuance of any grading permits, and the final TDM Plan submitted and approved prior to any occupancy permits. The TDM Plan shall include a combination of at least three of the following measures for each component of the Project:

#### **Office/Retail**

- Provide on-site showers for employees.
- Provide an on-site TDM coordinator who will be responsible for implementing and managing the TDM Plan. The TDM coordinator will be a point of contact and will be responsible for ensuring that the employees are aware of transportation options. The TDM coordinator will provide the following services:
  - Provide information about public transit services, transit passes, bicycle maps, bike share information, rideshare/carpool programs, Zipcar station locations, and ride matching services.
  - Assist with rideshare/carpool matching.
- Electric vehicle charging stations (and pre-wiring for future stations).
- Secure bicycle parking.
- Preferred carpool parking.
- Free or discounted transit passes for employees.

#### **Residential**

- Provide 100 percent unbundled parking for all residential spaces.
- Provide up-to-date transit information at a common area location(s) accessible to all residents.

- Provide an on-site TDM coordinator who will be responsible for implementing and managing the TDM Plan. The TDM coordinator will be a point of contact and will be responsible for ensuring that the site occupants are aware of transportation options. The TDM coordinator will provide the following services:
  - Provide new tenant information packets at the time of move-in. The packets would include information about public transit services, transit passes, bicycle maps, bike share information, rideshare/carpool programs, Zipcar station locations, and ride matching services.
  - Assist with rideshare/carpool matching.
- Carshare and/or bikeshare programs on-site.
- Electric vehicle charging stations (and pre-wiring for future stations).
- Free or discounted transit passes to all residents.
- Secure bicycle parking and bicycle repair stations.
- Free high-speed Wi-Fi for all tenants (to allow for telecommuting).

The project applicant shall be required to submit an annual report to the Environmental Supervising Planner beginning one year from project occupancy (and every year thereafter) providing evidence of conformance to the TDM Plan. The annual report shall be submitted within 10 days of project occupancy anniversary date. Depending on the measures implemented, evidence includes, but is not limited to, receipts of transit pass purchases, proof that an on-site coordinator was present, and documentation of the multi-modal travel by employees and residents.

**Finding:** As the office/retail tenants have not been identified, the TDM plan has not been fully developed and agreed upon by the Project's future office/retail tenants. Therefore, the estimated reductions in Project GHG emissions resulting from implementation of the TDM plan cannot be guaranteed to be reduced below the substantial progress efficiency metric to meet the 2030 reduction targets in Senate Bill SB32. Using conservative estimates of Project GHG emissions, the project's impacts on GHG emissions will be significant and unavoidable. **(Significant and Unavoidable Impact)**

**Facts in Support of Finding:** In the City's Greenhouse Gas (GHG) Reduction Strategy, which was re-adopted by the City Council in December 2015 (Resolution No. 77617), a project is found to be in compliance with the strategy if the development meets certain requirements such as development of high-density employment and residential uses within designated growth areas along high-frequency transit lines or near major employment centers (such as Downtown San Jose). The Project complies with the City's GHG Reduction Strategy because it is a high-density, mixed-use development

located within a designated growth area in the Envision San José 2040 General Plan (the Stevens Creek Boulevard Urban Village), the Project is served by high-frequency transit services (VTA bus routes 23 and 323), the Project incorporates pedestrian and bicycle infrastructure improvements such as a central pedestrian plaza and widened sidewalks along Stevens Creek Boulevard, and the Project will be required to comply with the City's Green Building Ordinance (including minimum LEED certification consistent with City Council Policy 6-32). The City's GHG Reduction Strategy was re-adopted by the San José City Council in December 2015, and the environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan FEIR and a 2015 Supplement to the General Plan FEIR. The City's projected emissions and the GHG Reduction Strategy are consistent with the measures necessary to meet state-wide 2020 goals established by AB32 and addressed in the Climate Change Scoping Plan.

Due to the size of the Project and the potential unforeseen delays in permitting or construction activities, the Project may not be fully operational until after 2020, so the EIR evaluated GHG impacts based on the 2030 reduction targets in California Senate Bill SB32. The State completed a Scoping Plan which will be utilized by BAAQMD to establish the 2030 efficiency threshold. This efficiency threshold would need to be met by individual projects in order for the State and local governments to comply with the SB32 2030 reduction target. At the time of preparation of the EIR in mid-2018, BAAQMD had not published a quantified threshold to meet the 2030 targets. For the purposes of the GHG analysis in the EIR, a "Substantial Progress" efficiency metric of 2.6 MT CO<sub>2</sub>e/year/service population (project residents plus employees) was calculated for 2030 based on the GHG reduction goals of SB 32 and Executive Order B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels.

Assuming no additional GHG reduction measures would be included in the Project beyond those included in the Project description and implementation of the TDM plan required under mitigation measure MM GHG-1.1, the Project would generate approximately 2.96 to 3.12 MT CO<sub>2</sub>e/service population per year at time of project completion, which is above the 2.6 MT CO<sub>2</sub>e/year/service population "Substantial Progress" threshold. Implementation of the TDM plan required under mitigation measure MM GHG-1.1 would reduce project trips. The analysis in the DEIR did not account for reductions in GHG emissions from implementation of the TDM plans and green building measures because these emissions cannot be quantified at this stage because specific measures beyond physical project attributes (such as enclosed bike parking) will be developed in



conjunction with future tenants for the office/retail component. The applicant and tenants will select a combination of TDM measures, which combined with project's required green building measures could be sufficient to reduce the project's GHG emissions enough to reach the "Substantial Progress" efficiency threshold in 2030. Because the measures will not be fully defined until an office tenant or tenants are selected, the effectiveness of the TDM plan cannot be quantified at this stage in the development process. Therefore, the City conservatively concluded that the impact would be significant and unavoidable. This conclusion does not preclude implementation of the identified mitigation which is required as a condition of project approval.

The Project is consistent with the development assumptions in the General Plan for the Stevens Creek Boulevard Urban Village of 4,500 jobs and 3,860 residential dwelling units and the Project advances General Plan Major Strategy Nos. 3 and 5 (Focused Growth and Urban Villages) which encourage high density development in infill locations along major transit corridors and/or locations near major employment centers. Post-2020 cumulative GHG emissions from the buildout of the General Plan (including the anticipated development in the Stevens Creek Boulevard Urban Village, which includes the Project) have been accounted for and already disclosed as a significant and unavoidable impact to cumulative GHG emissions in the General Plan FEIR in 2011 and the 2015 Supplement to the General Plan FEIR. As stated in the 2015 Supplement to the General Plan FEIR, these impacts were disclosed as significant and unavoidable because the substantial citywide GHG emissions reductions needed beyond 2020 cannot be done alone with the policies in the Envision San Jose 2040 General Plan and will require an aggressive, multiple-pronged approach that includes policy decisions and additional emission controls at the federal and state level and new and substantially advanced technologies that cannot be anticipated or predicted with any accuracy at this time. Future policy and regulatory decisions by other agencies (such as the California Air Resources Board, California Public Utilities Commission, California Energy Commission, Metropolitan Transportation Commission, and BAAQMD) and technological advances are outside the City's control, and therefore could not be relied upon as feasible mitigation strategies. Given the uncertainties about the feasibility of achieving the post-2020 emissions reductions, the City's contribution to greenhouse gas emissions and climate change resulting from buildout of the Envision San Jose 2040 General Plan post-2020 was conservatively determined to be cumulatively considerable.

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## Hazards and Hazardous Materials

**Impact:** **Impact HAZ-1:** Implementation of the proposed Project could release pesticide chemicals from on-site soils into the environment and expose construction workers and/or nearby residential receptors to residual agricultural soil contamination.

**Mitigation:** **MM HAZ-1.1:** After demolition but prior to the issuance of any grading permits, a qualified environmental specialist shall collect shallow soil samples, from the native soil layers within the surface lots and have the samples analyzed to determine if contaminated soil from previous agricultural operations is located on-site with concentrations above established construction/trench worker and residential thresholds. The soil shall be tested for organochlorine pesticides and pesticide based metals, arsenic and lead. Once the soil sampling analysis is complete, a report of the findings will be provided to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the Municipal Compliance Officer of the City of San José Environmental Services Department for review.

**MM HAZ-1.2:** If contaminated soils are found in concentrations above established regulatory environmental screening levels, the project applicant shall enter into the Santa Clara County Department of Environmental Health's (SCCDEH) Voluntary Cleanup Program (VCP) to formalize regulatory oversight for remediation of contaminated soil to ensure the site is safe for construction workers and the public after development. The project applicant must remove contaminated soil in order to achieve detection levels acceptable to the SCCDEH. With approval of the SCCDEH, some of the contaminated soil may be allowed to be left in-place and buried under hardscape and/or several feet of clean soil. The project applicant shall prepare and implement a Removal Action Plan, Soil Mitigation Plan or other similar report describing the remediation process and to document the removal and/or capping of contaminated soil. All work and reports produced shall be performed under the regulatory oversight and approval of the SCCDEH and reviewed and approved by the Supervising Planner of the City's Department of Planning, Building, and Code Enforcement after completion of demolition but prior to the issuance of any grading permits.

**Finding:** With implementation of Mitigation Measures MM HAZ-1.1 through 1.2, the project would have a less than significant hazardous materials impact to construction workers and nearby residential receptors. **(Less Than Significant with Mitigation Incorporated)**

**Facts in Support of Finding:** The required soil sampling will determine if soil contamination is found in concentrations above established regulatory environmental screening levels. If soil contamination exceeds these environmental screening levels, remediation of the site will be required in accordance with the Santa Clara County Department of Environmental Health approved Removal Action Plan, Soil Mitigation Plan or other similar report to ensure potential impacts to construction workers and future workers on site are reduced to a less than significant level.

### Noise

**Impact:** **Impact NOI-1:** Construction of the proposed Project could expose the adjacent automotive dealership to vibration levels in excess of City standards in General Plan Policy EC-2.3.

**Mitigation:** **MM NOI-1.1:** Prior to the start of vibration-generating construction activities, the project applicant shall implement a Construction Vibration Monitoring Plan ("Plan") to document conditions prior to, during, and after vibration generating construction activities. The Plan shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement for review and approval. The Plan shall address vibration impacts to adjacent structures, and shall include, but is not limited to, the following measures:

- A list of all heavy construction equipment to be used for this project and the anticipated time duration of using equipment that has been known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.)
- Avoidance methodology listed in MM NOI-1.2 and based on Best Management Practices to avoid and/or reduce impact to the adjacent property.

**MM NOI-1.2:** The project applicant shall include the following measures as part of the approved construction plans prior to the issuance of any demolition or grading permits:

- Construction crews shall avoid dropping heavy objects or equipment within 30 feet of any adjacent structure.
- The project applicant shall ensure that all contractors follow the prescribed vibration mitigation measures.
- The project applicant shall designate a specific person responsible for registering and investigating claims of excessive vibration. The contact

information shall be clearly posted on the construction site so as to be seen from all street frontages.

- If cosmetic or structural damage to the adjacent buildings is caused directly or indirectly by project construction, the project applicant shall make the necessary repairs and provide adequate documentation of the repairs to the Director of Planning, Building and Code Enforcement prior to issuance of any occupancy permits.

**Finding:** With implementation of the proposed mitigation, the Project would have a less than significant vibration impact on the adjacent automotive dealership.  
**(Less Than Significant Impact with Mitigation Incorporated)**

**Facts in Support of Finding:** The Noise Study prepared for the project found that vibration levels due to construction activities would be up to 0.21 in/sec Peak Particle Velocity (PPV) at the nearest structure to the Project site, which is the adjacent automotive dealership to the west of the project. Such vibration would slightly exceed the 0.2 in/sec PPV threshold established in the General Plan. Implementation of Construction Vibration Monitoring Plan, including implementation of avoidance methodology specified in MM NOI-1.2 (including prohibition on the use of heavy vibration-generating equipment near the adjacent building) and Best Management Practices, and requirements that all necessary repairs be made if any damage occurs, will reduce potential vibration impacts to the adjacent automotive dealership building to a less than significant level.

### **Transportation and Traffic**

**Impact:** **Impact TRA-1:** Implementation of the proposed Project would have a significant impact on the San Tomas Expressway and Saratoga Avenue intersection during the AM Peak Hour under background plus Project conditions.

**Mitigation:** **MM TRA-1.1:** Prior to issuance of Department of Public Works Clearance, the project applicant shall pay fair share fees to the County of Santa Clara based on the August 2015 update of the County Expressway Plan 2040, which identifies the widening of San Tomas Expressway to eight lanes (by adding a fourth through lane in each direction) between Homestead Road and Stevens Creek Boulevard as a Tier 1 project (i.e. highest priority). The project applicant shall provide documentation confirming payment of fair share fees to the Supervising Environmental Planner of the Department of

Planning, Building and Code Enforcement prior to issuance of Department of Public Works clearance.

**Finding:** The August 2015 update of the County Expressway Plan 2040 identifies the widening of San Tomas Expressway to eight lanes (by adding a fourth through lane to both the north and south approaches) between Homestead Road and Stevens Creek Avenue as a Tier 1 project. This improvement would reduce the average delay to better than background conditions during the AM peak hour. Therefore, mitigation of the identified project impact at the intersection would consist of a fair-share contribution towards the identified improvement. However, payment of a fair-share toward improvement costs alone would not guarantee the timely construction of the identified improvement to mitigate the project impact. Therefore, this impact would be considered significant and unavoidable. **(Significant and Unavoidable Impact)**

**Facts in Support of Finding:** Payment of fair share fees to fund the addition of a fourth through lane in each direction on San Tomas Expressway between Homestead Road and Stevens Creek Boulevard will contribute to the completion of these improvements identified in the County's Comprehensive County Expressway Planning Study from 2008, which will reduce project impacts to a less than significant level once constructed. This study prioritizes County-wide regional improvements eligible for Measure B funding, with Tier 1 projects identified as the highest priority projects. Fair share fees are determined by dividing the total cost of the widening project by the number of signalized intersections along the area of San Tomas Expressway proposed to be widened, and then dividing the cost of improvements to the impacted intersection by the number of project peak-hour trips contributing to the impact. However, payment of a fair-share toward improvement costs alone would not guarantee the timely construction of the identified improvement to mitigate the project impact. Therefore, this impact would be considered significant and unavoidable.

**Impact:** **Impact TRA-2:** Implementation of the proposed Project would have a significant impact on six High Occupancy Vehicle freeway segments on I-280. These segments are:

- I-280 from De Anza Boulevard to Wolfe Road (PM Peak Hour)
- I-280 from Saratoga Avenue to Winchester Boulevard (PM Peak Hour)
- I-280 from Winchester Boulevard to I-880 (PM Peak Hour)
- I-280 from I-880 to Winchester Boulevard (AM Peak Hour)
- I-280 from Winchester Boulevard to Saratoga Avenue (AM Peak Hour)
- I-280 from Lawrence Expressway to Wolfe Road (AM Peak Hour)

**Mitigation:** None.

**Finding:** Mitigation of significant project impacts on freeway segments would require roadway widening to construct additional through lanes. Because it would not be feasible for the project applicant to bear the entire responsibility for implementing such improvements, the project applicant shall make a fair share contribution towards the VTA Voluntary Mitigation Program for the impact freeway segments prior to Department of Public Works Clearance. Because no freeway widening project has been developed by Caltrans or VTA, the impacts on the HOV freeway segments identified would be significant and unavoidable. **(Significant and Unavoidable Impact)**

**Facts in Support of Finding:** Full mitigation of significant Project impacts on freeway segments would require roadway widening to construct additional through lanes, thereby increasing freeway capacity. There are no feasible mitigation measures available to reduce project impacts on local freeway study segments to a less than significant level as it is beyond the capacity of any one Project to acquire right-of-way and add lanes to a State freeway. Furthermore, Caltrans and the VTA do not have a comprehensive project to increase freeway capacity on I-280 or an established fee program supported by a fee/nexus study, so there is no program for individual projects to contribute fair-share fees to improvements that would reduce freeway impacts.

### **Cumulative Impacts**

**Impact:** **Impact TRA(C)-1:** The proposed Project would result in a cumulatively considerable contribution to the significant impact at the San Tomas Expressway/Stevens Creek Boulevard and San Tomas Expressway/Moorpark Avenue intersections.

**Mitigation:** **MM TRA(C)-1.1:** The August 2015 update of the County Expressway Plan 2040 identifies the widening of San Tomas Expressway to eight lanes (by adding a fourth through lane in each direction) between Homestead Road and Stevens Creek Boulevard as a Tier 1 project. The project applicant shall pay fair share fees towards the identified improvement. Documentation confirming payment of fair share fees shall be submitted by the project applicant to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement prior to issuance of Department of Public Works clearance. Payment of the fee would reduce the impact to a less than significant level prior to the issuance of Department of Public Works Clearance.

**Finding:** With implementation of the identified mitigation measures, the cumulative traffic impacts would be reduced to less than significant. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

**Facts in Support of Finding:** Payment of fair share fees by the project applicant to fund the addition of a fourth through-lane in each direction on San Tomas Expressway between Homestead Road and Stevens Creek Boulevard will contribute to the completion of these improvements identified in the County's Comprehensive County Expressway Planning Study, which will reduce the project's cumulative impacts to a less than significant level once constructed.

## **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 FEIR 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 are evaluated as alternatives to the proposed project:

1. No Project – No Development Alternative
2. No Project – General Commercial Redevelopment Alternative
3. Reduced Development Alternative

### **1. No Project – No Development Alternative**

**A. Description of Alternative:** The No Project – No Development Alternative would retain the existing commercial buildings and surface parking lots, and would not relocate Lopina Way. The existing development is consistent with the underlying General Plan designation, but is not consistent with the Stevens Creek Boulevard Urban Village Plan. If the project site were to remain as is, there would be no new impacts.

**B. Comparison of Environmental Impacts:** The No Project – No Development Alternative will avoid all of the environmental impacts identified in the FEIR.

**C. Finding:** The No Project - No Development Alternative would avoid the Project's significant unavoidable greenhouse gas emissions and transportation impacts. This alternative would also avoid the other significant impacts resulting from the Project that would be reduced to a less than significant level with the incorporation of mitigation measures.

The No Project - No Development Alternative would not meet any of the proposed Project's specific objectives, including those to provide up to 582 dwelling units and a new office campus with up to 300,000 square feet of office space within the Stevens Creek Boulevard Urban Village, encouraging the development of a sound and diverse economic base to support necessary public services, or providing a publicly accessible pedestrian promenade that will serve as a community recreational and gathering space, and connecting the surrounding neighborhood with transit and bicycle and pedestrian features. Therefore, this alternative is rejected.

## **2. No Project – General Commercial Redevelopment Alternative**

**A. Description of Alternative:** The project site is currently designated Urban Village in the Stevens Creek Urban Village Plan. The Urban Village land use designation in the Stevens Creek Urban Village allows mixed-use development with retail, professional and general offices, and institutional uses as well as residential uses in a mixed-use format at densities of 65 to 250 dwelling units per acre. The site is zoned CG – Commercial General, a zoning district that allows a broad range of retail and commercial uses ranging from offices to large commercial retail centers.

Any alternative development proposal which conforms to the Stevens Creek Urban Village will result in an increase in density and height over existing conditions, but would remain a commercial/office use. Such an alternative would likely result in between 600,000 and 900,000 square feet of commercial space.

**B. Comparison of Environmental Impacts:** The “No Project” General Commercial Redevelopment alternative would likely result in the same types of impacts as the proposed Project, including greenhouse gas emissions, transportation, construction period air quality, and



construction vibration impacts to the adjacent automotive dealership to the west.

- C. Finding:** The No Project – General Commercial Redevelopment Alternative will meet some Project objectives, including those for the development of office space and the expansion of jobs within the Stevens Creek Boulevard Urban Village. However, this alternative will not meet project objectives for the development of a mixed-use project with high-density residential uses combined with commercial uses, including 15 percent affordable units. Such an alternative would also not be a Signature Project under the General Plan, so it would likely not meet the objectives to provide a pedestrian promenade and common open space areas. Therefore, this alternative is rejected.

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

- A. Description of Alternative:** Under the Reduced Development Alternative, the size of the development would be reduced such that Project vehicle trips would be reduced by either 15 percent (from 5,563 to 4,729 vehicle trips) to avoid the identified impact at San Tomas Expressway and Saratoga Avenue or by 25 percent (from 5,563 to 4,172 vehicle trips) avoid the identified freeway impacts to HOV lanes on I-280. Such a reduction in project trips could be accomplished by reducing the overall size and density of one or more of the proposed land uses.
- B. Comparison of Environmental Impacts:** The Reduced Development Alternative would avoid the identified transportation and cumulative transportation impacts. Construction air quality impacts related to toxic air contaminants would remain the same as the proposed project. There would be no measurable change in the level of impact for hazardous materials from the reduced density scenario compared to the proposed project, as both projects would require grading and excavation that would disturb potentially contaminated soils. It is reasonable to assume that the reduced density alternative would still remove all the trees currently on the project site to accommodate redevelopment of the site, resulting in a potential impact to nesting migratory birds.
- C. Finding:** The reduced development alternative would represent an overall reduction in commercial and residential development compared to the proposed project. The reduced development alternative would be generally consistent with most of the identified objectives of the proposed project, would comply with the development policies of the

Envision San José 2040 General Plan, and meet the minimum residential FAR requirements of the Urban Village Plan.

- D.** The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the above discussion, the environmentally superior alternative is the Reduced Development Alternative because it would avoid the intersection LOS impacts and the cumulative operational noise impact resulting from the project. However, it would not go as far as the proposed project at accomplishing several objectives, including objectives to encourage the development of a sound and diverse economic base to support necessary public services by increasing employment capacity within the City, to provide job opportunities near existing and future residences, and provide housing near new and existing job centers. The Reduced Development Alternative would also result in the underutilization of a prime, ten-acre redevelopment site within the Stevens Creek Boulevard Urban Village, which could prevent the Stevens Creek Urban Village from achieving the planned growth in the Envision San José 2040 General Plan of 4,500 jobs and 3,860 dwelling units. Therefore, this alternative is rejected.

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

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

### **STATEMENT OF OVERRIDING CONSIDERATIONS**

- A. Significant Unavoidable Impacts.** With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the Project will result in significant unmitigated or unavoidable impacts, as set forth above, associated with greenhouse gas emissions and transportation.
- B. Overriding Considerations.** The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant, unavoidable impacts of the Project are acceptable in light of the economic,

legal, environmental, social, technological or other considerations noted below, because the benefits of the Project outweigh its significant adverse environmental impact of the Project. The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent basis for finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record that includes, but is not limited to, the Envision San José 2040 General Plan and the Stevens Creek Boulevard Urban Village Plan.

C. **Benefits of the Project.** The City Council has considered the public record of proceedings on the proposed Project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the following substantial public benefits:

- **Increase Economic Development and Employment within San José.** The Project will advance Major Strategies #3 (Focused Growth), #5 (Urban Villages), and #8 (Fiscally Strong City) of the Envision San José 2040 General Plan by adding approximately 315,000 square feet of office/commercial space within a General Plan-designated growth area, the Stevens Creek Boulevard Urban Village. Assuming the ratio of floor area to jobs in the General Plan of 300 square feet per job, the Project would result in approximately 1,050 jobs (a net increase of approximately 700 jobs). These jobs will help the City achieve a more balanced ratio of jobs to employed residents, which will help the City achieve goals for a fiscally strong City. The Project will directly contribute to the tax base of the City through an increase in the assessed value of the Project property and will also contribute by sales tax revenues generated through businesses located on the Project site and provide economic benefits to the City.
- **Catalyst for Future Development in the Stevens Creek Boulevard Urban Village.** As a Signature Project, the project will serve as a catalyst for future high-quality development in the Stevens Creek Boulevard Urban Village. The project would be a catalyst for future high-quality development because it is a high-density, mixed use project in a prominent location along Stevens Creek Boulevard on an approximately 10-acre site; the project will provide approximately 1.3 acres of publicly-accessible, privately-maintained open space (a pedestrian plaza) that can be accessed by residents and employees; the project will

incorporate pedestrian-friendly design by orienting ground-floor commercial/retail uses to the street and pedestrian plaza; and the project will demonstrate high-quality architecture, landscaping, and site design features. The Project demonstrates high-quality architecture, landscaping, and site design features by incorporating high-quality materials, appropriate form and massing, and landscape design with elements that will help activate the 1.3-acre pedestrian plaza. The Project will serve as an example for future projects within the Stevens Creek Boulevard Urban Village in terms of design, orientation, and the provision of high-quality open space to serve current and future residents and employees in and near the Urban Village.

- **Development along High-Frequency Transit Services.** The Project supports goals of the Envision San José 2040 General Plan to focus jobs and high-density housing within proximity to existing high-frequency transit (VTA bus routes 23 and 323 between De Anza College and Downtown San José) and the planned Bus Rapid Transit line along Stevens Creek Boulevard. The development supports increased ridership and use of these bus lines by placing more destinations and potential users within a half-mile of existing bus stops.
- **Complete Communities.** The Project will advance Envision San José 2040 General Plan policies to create complete communities. The Project will complement existing and proposed development in the Stevens Creek Boulevard Urban Village by locating new pedestrian-oriented retail, residential units, office jobs, and customers on the site within walking distance to nearby shops, restaurants, and neighborhoods. Placing these complimentary land uses near each other will help reduce the number of single-occupancy automobile trips compared with the equivalent amount of development in a more suburban location where uses are separated and require the use of an automobile, contributing to an increase in vehicle miles traveled and GHG emissions.

The City Council has weighed each of the above benefits of the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the Final Environmental Impact Report and hereby determines that those benefits outweigh the risks and adverse environmental effects of the Project and, therefore, further determines that these risks and adverse environmental effects are acceptable and overridden.

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## LOCATION AND CUSTODIAN OF RECORDS

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

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2019, 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

**EXHIBIT "A"**

**4300 Stevens Creek Boulevard Mixed-Use Project**

The Mitigation Monitoring and Reporting Program ("MMRP") for 4300 Stevens Creek Boulevard Mixed-Use Project is attached hereto and incorporated fully herein by this reference.

# MITIGATION MONITORING AND REPORTING PROGRAM

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## 4300 Stevens Creek Boulevard Mixed Use Project File Nos. PDC16-036, PD17-014 & PT17-23 January 2019

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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 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 prepared for the 4300 Stevens Creek Boulevard Mixed Use 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 Mitigation Monitoring and Reporting Program addresses those measures in terms of how and when they will be implemented.

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

I, Thomas S. deRog the applicant, on the behalf of Fortbay, LLC hereby agree to fully implement the Mitigation Measures described below which have been developed in conjunction with the preparation of an Environmental Impact Report 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, where feasible.

Project Applicant's Signature 

Date 1-16-19





*Planning, Building and Code Enforcement*  
 ROSALYNN HUGHEY, DIRECTOR

**4300 Stevens Creek Boulevard Mixed  
 Use Project**  
**File Nos. File No. PDC16-036, PD17-01  
 & PT17-23**

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> Construction of the proposed project would result in a temporary community risk impact from exposure to toxic air contaminants.					
<p><b>MM AIR 1-1:</b> All diesel-powered off-road equipment larger than 25 horsepower and operating at the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent.</p> <p><b>MM AIR 1-2:</b> All diesel-powered portable equipment (i.e., air compressors and aerial lifts) operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.</p> <p><b>MM AIR 1-3:</b> Prior to the issuance of any demolition, grading, and/or building permits, the project applicant shall submit a construction operations plan to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement that includes specifications of the equipment to be used during. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth in these mitigation measures.</p>	<p>Prepare and submit a construction operations plan that includes specifications of equipment to be used during construction. The plan shall be accompanied by a letter signed by a qualified air quality specialist confirming the construction equipment meets the standards in MM AIR 1.1 and 1.2.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>	<p>Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement.</p>	<p>Review the construction operations plan and letter.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>



*Planning, Building and Code Enforcement*

ROSALYNN HUGHEY, DIRECTOR

4300 Stevens Creek Boulevard Mixed Use Project  
 File Nos. File No. PDC16-036, PD17-01 & PT17-23

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<b>BIOLOGICAL RESOURCES</b>					
<b>Impact BIO-1:</b> Construction activities associated with the proposed project could result in an impact to nesting migratory birds due to the loss of fertile eggs or nest abandonment.					
<p><b>MM BIO-1.1:</b> The project applicant shall schedule demolition and construction activities to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).</p> <p><b>MM BIO-1.2:</b> If demolition an construction activities cannot be scheduled to occur outside of the breeding season (September 1st to January 31st inclusive), pre-construction surveys for nesting birds following the California Department of Fish &amp; Wildlife (CDFW) bird survey protocols 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 grading, tree removal, or other demolition or construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats within 250 feet of the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFW, shall determine the extent of</p>	<p>Avoidance of construction activities during nesting season. If construction activities cannot avoid the nesting season, a pre-construction nesting bird survey shall be completed by a qualified ornithologist and construction-free buffer zones shall be designated around any discovered nest.</p> <p>The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones.</p>	<p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities (whichever occurs first).</p>	<p>Supervising Environmental Planner of the San José Department of Planning, Building and Code Enforcement.</p>	<p>Confirm that demolition and construction activities are scheduled outside of the nesting season.</p> <p>Review report indicating the results of the survey (or any other environmental investigation reports, if applicable) and any designated buffer zones.</p>	<p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities (whichever occurs first).</p>



*Planning, Building and Code Enforcement*

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4300 Stevens Creek Boulevard Mixed Use Project  
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	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction.</p> <p>Prior to any tree removal, 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 satisfaction of the City’s Supervising Environmental Planner.</p>					
<b>GREENHOUSE GAS EMISSIONS</b>					
<b>Impact GHG-1:</b> Operation of the project will result in GHG emissions in excess of the “Substantial Progress” efficiency metric of 2.6 Metric Tons CO <sub>2</sub> per service population per year established by the California Air Resources Board 2017 Climate Change Scoping Plan to meet the 2030 reduction targets in Senate Bill SB32.					
<p><b>MM GHG-1:</b> The project applicant shall prepare a transportation demand management (TDM) Plan. The draft TDM Plan shall be submitted to the Director of the City of San José Department of Public Works and the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement prior to the issuance of any grading permits and the final TDM Plan submitted and approved prior to issuance of any occupancy permits. The TDM Plan shall include a combination of at least three or more of the following measures for each component of the project:</p> <p><u>Office/Retail:</u></p> <ul style="list-style-type: none"> <li>• Provide on-site showers for employees.</li> </ul>	<p>Prepare the TDM Plan with proposed measures for submittal to the Department of Public Works and to the City’s Supervising Environmental Planner.</p> <p>Prepare and submit annual reports to City’s Supervising Environmental Planner beginning one year from project occupancy (and every year thereafter) within 10 days of project occupancy anniversary date.</p>	<p>The draft TDM Plan shall be submitted for review and approval prior to issuance of any grading permits, while the final TDM Plan shall be submitted for review and approval prior to issuance of any occupancy permits.</p> <p>Submit annual report beginning</p>	<p>Director of San José Department of Public Works and Supervising Environmental Planner of the San José Department of Planning, Building and Code Enforcement.</p>	<p>Review the TDM Plan for approval and compliance. Review and approve annual reports.</p>	<p>The draft TDM Plan must be approved prior to issuance of any grading permits, and the final TDM Plan shall be approved prior to issuance of any occupancy permits.</p> <p>Annual TDM monitoring reports shall be</p>



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**4300 Stevens Creek Boulevard Mixed  
 Use Project**  
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MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<ul style="list-style-type: none"> <li>• Provide an on-site TDM coordinator who will be responsible for implementing and managing the TDM plan. The TDM coordinator will be a point of contact and will be responsible for ensuring that the employees are aware of transportation options. The TDM coordinator will provide the following services: a) Provide information about public transit services, transit passes, bicycle maps, bike share information, rideshare/carpool program, Zipcar station locations, and ride matching services, and b) Assist with rideshare/carpool matching.</li> <li>• Install Electric Vehicle (EV) charging stations (and pre-wiring for future stations).</li> <li>• Provide secure bicycle parking.</li> <li>• Provide preferred carpool parking.</li> <li>• Provide free or discounted transit passes for employees.</li> </ul> <p><u>Residential:</u></p> <ul style="list-style-type: none"> <li>• Provide 100 percent unbundled parking for all residential spaces</li> <li>• Provide up-to-date transit information at a common area location(s) accessible to all residences.</li> <li>• Provide an on-site TDM coordinator who will be responsible for implementing and managing the TDM plan. The TDM coordinator will be a point of contact for and will be responsible for ensuring that the site</li> </ul>		<p>one year from project occupancy (and every year thereafter) within 10 days of project occupancy anniversary date.</p>			<p>reviewed and approved each year within 10 days of project occupancy anniversary date.</p>



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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>occupants are aware of transportation options. The TDM coordinator shall provide the following services: a) Provide new tenant information packets at the time of move-in. The packets would include information about public transit services, transit passes, bicycle maps, bike share information, rideshare/carpool program, Zipcar station locations, and ride matching services, and b) assist with rideshare/carpool matching.</p> <ul style="list-style-type: none"> <li>• Provide Car-share and/or bike-share programs on-site.</li> <li>• EV charging stations (and pre-wiring for future stations)</li> <li>• Free or discounted transit passes to all residents.</li> <li>• Provide secure bicycle parking and bicycle repair stations.</li> <li>• Provide free high-speed Wi-Fi for all tenants (to allow for telecommuting)</li> </ul> <p>The project applicant shall be required to submit an annual report to the City's Supervising Environmental Planner beginning one year from project occupancy (and every year thereafter) providing evidence of conformance to the TDM Plan. The annual report shall be submitted within ten (10)_days of the project occupancy anniversary date. Depending on the measures implemented, evidence includes, but is not limited to, receipts of transit pass purchases, proof that</p>					



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an on-site coordinator was present, and documentation of the multi-modal travel by employees and residents.					

**HAZARDS AND HAZARDOUS MATERIALS**

**Impact HAZ-1:** Implementation of the proposed project could release pesticide chemicals from on-site soils into the environment, and expose construction workers to residual agricultural soil contamination.

<p><b>MM HAZ-1.1:</b> After demolition but prior to the issuance of any grading permits, a qualified environmental specialist shall collect shallow soil samples from the native soil layers within the surface lots and have the samples analyzed to determine if contaminated soil from previous agricultural operations is located on-site with concentrations above established construction/ trench worker thresholds. Once the soil sampling analysis is complete, a report of the findings shall be provided to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the Municipal Compliance Officer of the City of San José Environmental Services Department for review.</p>	<p>Prepare a soil sampling analysis and submit a report of the findings to the City of San José Supervising Environmental Planner for review.</p>	<p>After demolition but prior to the issuance of any grading permits.</p>	<p>Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the Municipal Compliance Officer of the City of San José Environmental Services Department.</p>	<p>Review and approve soil sampling analysis report.</p>	<p>After demolition but prior to the issuance of any grading permits.</p>
<p><b>MM HAZ-1.2:</b> If contaminated soils are found in concentrations above established regulatory environmental screening levels, the applicant shall enter into the Santa Clara County Department of Environmental Health's (SCCDEH) Voluntary Cleanup Program (VCP) to formalize regulatory oversight for remediation of contaminated soil to ensure the site is safe for construction workers and the public after development. The project applicant must remove contaminated soil in order to achieve detection</p>	<p>Enter into the SCCDEH Voluntary Cleanup Program and remove contaminated soil to acceptable SCCDEH levels or, with approval of the SCCDEH, bury soils on-site.</p> <p>Prepare and implement a Removal Action Plan, Soil</p>	<p>After demolition but prior to the issuance of any grading permits.</p>	<p>Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement.</p> <p>The Municipal Compliance Officer of</p>	<p>Confirm compliance with the Santa Clara County Department of Environmental Health prior to issuance of grading permits.</p>	<p>After demolition but prior to the issuance of any grading permits.</p>



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<p>levels acceptable to the SCCDEH. With approval of the SCCDEH, some of the contaminated soil may be allowed to be left in-place buried under hardscape and/or several feet of clean soil.</p> <p>The project applicant shall prepare and implement a Removal Action Plan, Soil Mitigation Plan or other similar report describing the remediation process and to document the removal and /or capping of contaminated soil. All work and reports produced shall be performed under the regulatory oversight and approval of the SCCDEH.</p>	Mitigation Plan, or other similar report to document removal and/or capping of contaminated soil.		<p>the City of San José Environmental Services Department.</p> <p>Santa Clara County Department of Environmental Health.</p>		
<b>NOISE AND VIBRATION</b>					
<b>Impact NOI-1:</b> Construction of the proposed project could expose the adjacent automotive dealership to vibration levels in excess of City standards in General Plan Policy EC-2.3.					
<p><b>MM NOI-1.1:</b> Prior to the start of vibration-generating construction activities, the project applicant shall implement a Construction Vibration Monitoring Plan to document conditions prior to, during, and after vibration generating construction activities. The plan shall be submitted to the Supervising Environmental Planner of City of San José Department of Planning, Building, and Code Enforcement for review and approval prior to grading permit issuance. The Plan shall address vibration impacts to adjacent structures. The plan shall include, but is not limited to:</p>	<p>Prepare and implement a Construction Vibration Monitoring Plan which shall include a list of all heavy construction equipment to be used for this project, as well as avoidance methodology to avoid and/or reduce impact to the adjacent property.</p>	<p>Prior to issuance of grading permit.</p>	<p>The Supervising Environmental Planner of City of San José Department of Planning, Building, and Code Enforcement.</p>	<p>Review and approve the Construction Vibration Monitoring Plan.</p>	<p>Construction Vibration Monitoring Plan shall be approved prior to issuance of grading permits. Documentation of conditions prior to, during, and after vibration generating</p>



*Planning, Building and Code Enforcement*

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	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
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<ul style="list-style-type: none"> <li>A list of all heavy construction equipment to be used for this project and the anticipated time duration of using equipment that has been known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.)</li> <li>Avoidance methodology listed in MM NOI-1.2 and based on Best Management Practices to avoid and/or reduce impact to the adjacent property.</li> </ul> <p><b>MM NOI-1.2:</b> The project applicant shall include the following measures as part of the approved construction plans prior to the issuance of any demolition or grading permits:</p> <ul style="list-style-type: none"> <li>Construction crews shall avoid dropping heavy objects or equipment within 30 feet of any adjacent structure.</li> <li>The project applicant shall ensure that all contractors follow the prescribed vibration mitigation measures.</li> <li>The project applicant shall designate a specific person responsible for registering and investigating claims of excessive vibration. The contact information shall be clearly posted on the construction site so as to be seen from all street frontages.</li> <li>If cosmetic or structure structural damage to the adjacent buildings is determined to be caused directly or indirectly by project construction, the project applicant shall make the necessary repairs and provide adequate documentation of the repairs</li> </ul>	<p>Include the following measures in the approved construction plans:</p> <ul style="list-style-type: none"> <li>Avoid dropping heavy objects within 30 feet of any adjacent structure.</li> <li>Ensure contractors follow prescribed vibration mitigation measure.</li> <li>Designate a specific person responsible for registering and investigating claims of excessive vibrations.</li> <li>Make the necessary repairs and provide adequate documentation of the repairs to any cosmetic or structure damage to adjacent buildings caused by the project.</li> </ul>	<p>Prior to the issuance of any demolition or grading permits.</p>	<p>The Supervising Environmental Planner of City of San José Department of Planning, Building, and Code Enforcement and the designated person responsible for registering and investigating claims of excessive vibration.</p>	<p>Review and approve the measures for the construction plans.</p>	<p>construction activities.</p> <p>Prior to the issuance of any demolition or grading permits.</p>





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to the Director of Planning, Building and Code Enforcement prior to issuance of any occupancy permits.					
<b>TRANSPORTATION/TRAFFIC</b>					
<b>Impact TRAN-1:</b> Implementation of the proposed project would have a significant impact on the San Tomas Expressway and Saratoga Avenue intersection during the AM Peak Hour under background plus project conditions.					
<b>MM TRAN-1.1:</b> Prior to the issuance of Department of Public Works Clearance, the project applicant shall pay fair share fees to the County of Santa Clara based on the August 2015 update of the County Expressway Plan 2040, which identifies the widening of San Tomas Expressway to eight lanes (by adding a fourth through lane in each direction) between Homestead Road and Stevens Creek Boulevard as a Tier 1 (i.e., highest priority) project. The project applicant shall provide documentation confirming payment of fair share fees to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement prior to issuance of Department of Public Works clearance.	Pay fair share fees to County of Santa Clara towards the widening of San Tomas Expressway to eight lanes between Homestead Road and Stevens Creek Boulevard project.	Prior to the issuance of Department of Public Works Clearance.	The Supervising Environmental Planner of City of San José Department of Planning, Building, and Code Enforcement.	Receive documentation of fair share fees paid.	Prior to the issuance of Department of Public Works Clearance.



*Planning, Building and Code Enforcement*

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4300 Stevens Creek Boulevard Mixed Use Project

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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p><b>Impact TRA(C)-1:</b> The proposed Project would result in a cumulatively considerable contribution to the significant impact at the San Tomas Expressway/Stevens Creek Boulevard and San Tomas Expressway/Moorpark Avenue intersections.</p>					
<p><b>MM TRA(C)-1.1:</b> The August 2015 update of the County Expressway Plan 2040 identifies the widening of San Tomas Expressway to eight lanes (by adding a fourth through lane in each direction) between Homestead Road and Stevens Creek Boulevard as a Tier 1 project. The project applicant shall pay fair share fees towards the identified improvement. Payment of the fee would reduce the impact to a less than significant level prior to the issuance of occupancy permits Department of Public Works Clearance.</p>	<p>Pay fair share fees to County of Santa Clara towards the widening of San Tomas Expressway to eight lanes between Homestead Road and Stevens Creek Boulevard project.</p>	<p>Prior to the issuance of Department of Public Works Clearance.</p>	<p>The Supervising Environmental Planner of City of San José Department of Planning, Building, and Code Enforcement.</p>	<p>Receive documentation of fair share fees paid.</p>	<p>Prior to the issuance of Department of Public Works Clearance.</p>

Source: City of San José. Draft Environmental Impact Report. 4300 Stevens Creek Boulevard Mixed Use Project. August 2018