Final Environmental Impact Report

Cambrian Park Mixed-Use Village Project

File Nos. PDC17-040 and PD20-007

Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

50 YEARS EST. 1972 DAVID J. POWERS & ASSOCIATES, INC. ENVIRONMENTAL CONSULTANTS & PLANNERS

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SECTION 1.0 INTRODUCTION

This document, together with the Draft Environmental Impact Report (Draft EIR), constitutes the Final Environmental Impact Report (Final EIR) for the Cambrian Park Mixed-Use Village project.

1.1 PURPOSE OF THE FINAL EIR

In conformance with the California Environmental Quality Act (CEQA) and CEQA Guidelines, this Final EIR provides objective information regarding the environmental consequences of the proposed project. The Final EIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The Final EIR is intended to be used by the City and Responsible Agencies in making decisions regarding the project.

Pursuant to CEQA Guidelines Section 15090(a), prior to approving a project, the lead agency shall certify that:

(1) The Final EIR has been completed in compliance with CEQA;
(2) The Final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project; and
(3) The Final EIR reflects the lead agency's independent judgment and analysis.

1.2 CONTENTS OF THE FINAL EIR

CEQA Guidelines Section 15132 specifies that the Final EIR shall consist of:

a) The Draft EIR or a revision of the Draft;
b) Comments and recommendations received on the Draft EIR either verbatim or in summary;
c) A list of persons, organizations, and public agencies commenting on the Draft EIR;
d) The Lead Agency's responses to significant environmental points raised in the review and consultation process; and
e) Any other information added by the Lead Agency.

1.3 PUBLIC REVIEW

In accordance with CEQA and the CEQA Guidelines (Public Resources Code Section 21092.5[a] and CEQA Guidelines Section 15088[b]), the City shall provide a written response to a public agency on comments made by that public agency at least 10 days prior to certifying the EIR. The Final EIR and all documents referenced in the Final EIR are available for public review on the third floor of City Hall at 200 E. Santa Clara Street on weekdays during normal business hours. The Final EIR is also available for review on the City's website: https://www.sanjoseca.gov/active-eirs/

SECTION 2.0 DRAFT EIR PUBLIC REVIEW SUMMARY

The Draft EIR for the Cambrian Park Mixed-Use Village project, dated November 2021, was circulated to affected public agencies and interested parties for a 45-day review period from November 12, 2021 through January 3, 2022. The City undertook the following actions to inform the public of the availability of the Draft EIR:

- A Notice of Availability of Draft EIR was published on the City's website and in the San José Mercury News;
- Notification of the availability of the Draft EIR was mailed to neighboring cities, tribal contacts, organizations, project-area residents and other members of the public who had indicated interest in the project or requested notice of projects in the City;
- The Notice of Availability was sent to members of the public who signed up for City notices via *Newsflash;*
- The Draft EIR was delivered to the State Clearinghouse on November 12, 2021, as well as sent to various governmental agencies, organizations, businesses, and individuals (see Section 3.0 for a list of agencies, organizations, businesses, and individuals that received the Draft EIR); and
- Copies of the Draft EIR were made available on the City's website.

SECTION 3.0 DRAFT EIR RECIPIENTS

CEQA Guidelines Section 15086 requires that a local lead agency consult with and request comments on the Draft EIR prepared for a project of this type from responsible agencies (government agencies that must approve or permit some aspect of the project), trustee agencies for resources affected by the project, adjacent cities and counties, and transportation planning agencies.

The NOA for the Draft EIR was sent to owners and occupants within 1,000 feet of the project site and to adjacent jurisdictions. The following agencies received a copy of the Draft EIR from the City or via the State Clearinghouse:

- California Air Resources Board
- California Department of Conservation
- California Department of Fish and Wildlife
- Bay Delta Region 3 (CDFW)
- California Department of Housing and Community Development
- California Department of Parks and Recreation, California Department of Transportation District 4
- California Department of Water Resources
- California Governor's Office of Emergency Services
- California Highway Patrol
- California Native American Heritage Commission
- California Natural Resources Agency, California Public Utilities Commission
- California Regional Water Quality Control Board, San Francisco Bay Region 2
- Department of Toxic Substances Control
- Office of Historic Preservation, State Water Resources Control Board, Division of Drinking Water

SECTION 4.0 RESPONSES TO DRAFT EIR COMMENTS

In accordance with CEQA Guidelines Section 15088, this document includes written responses to comments received by the City of San José on the Draft EIR.

Comments are organized under headings containing the source of the letter and its date. The specific comments from each of the letters and/or emails are presented with each response to that specific comment directly following. Copies of the letters and emails received by the City of San José are included in their entirety in Appendix A of this document. Comments received on the Draft EIR are listed below.

Comment Letter and Commenter **Page of Response**

REGIONAL AND LOCAL AGENCIES

A. Valley Water (dated January 3, 2022)

Comment A.1: The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Environmental Impact Report (DEIR) for the proposed Cambrian Park Mixed-Use Village Project located at 14200 and 14420 Union Avenue (APN: 419-08-012, -013) in the City of San José (City), received on November 12, 2021. Valley Water does not have any right of way or facilities at the project site; therefore, in accordance with Valley Water's Water Resources Protection Ordinance, a Valley Water encroachment permit is not required for the proposed improvements. Valley Water has the following comments regarding the project: Page 147, Section 3.9.1.2 states that there is one abandoned well on the project site. Valley Water records indicate that in addition to the abandoned well, four active wells also exist on the project site. Please include a discussion on the status of all four wells, including if any wells are no longer proposed to be used. Abandoned or unused wells can provide a vertical conduit for contaminants to pollute groundwater. To avoid impacts to groundwater quality, any wells found on-site that will not be used must be properly destroyed in accordance with Ordinance 90-1, which requires issuance of a well destruction permit, or registered with Valley Water and protected during construction. Property owners or their representatives should call the Wells and Water Measurement Unit at (408) 630-2660 for more information regarding well permits and registration for the destruction of wells.

> **Response A.1:** In addition to the abandoned well identified in Draft EIR Section 3.9.1.2, Existing Conditions under the Other Environmental Conditions subheading on page 147, there are two remediation wells and two monitoring wells with permit numbers: 14W00317, 14W00318, C20151008001-1 and C20151008002-1, located at the center of the property. These wells were installed to monitor and remediate contamination from a prior dry cleaner on-site, which is discussed in Section 3.9.1.2, Existing Conditions, Pages 144 through 146 of the Draft EIR. The wells will be closed in accordance with applicable regulations, including Valley Water Ordinance 90-1 (refer to Section 5.0, Draft EIR Text Revisions of this FEIR for a more detailed description of this ordinance), upon demolition of buildings and remediation of soils, which are to be subject to an approved remediation plan. All investigatory and remedial work is being completed under the regulatory oversight of the San Francisco Bay Regional Water Quality Control Board (RWQCB). A discussion of these wells has been included in Section 5.0, Draft EIR and Text Revisions of this FEIR. This revision does not change the hazards and hazardous materials impact evaluation and conclusions of the Draft EIR.

Comment A.2: Page 161, Section 3.10.1.2 and Page 167, Part e of Section 3.10.2: Much of the southern half of San José is within the recharge area of the Santa Clara Plain Groundwater Basin, including the subject property. Natural groundwater recharge is an important component of the region's water supply and has been substantially reduced as the City has developed. The Project will reduce the area of impervious surface on the site, which is a beneficial impact. Valley Water encourages the City to require low impact development features in the design to retain as much stormwater on site as possible to offset historic losses to nature groundwater recharge.

Response A.2: As stated in Section 3.10.2, Impact Discussion, checklist question c), Page 166 of the Draft EIR, the project's on-site storm drain system includes low impact development (LID)-based treatment controls (bioretention areas and planter boxes) that would reduce pollutants in post-construction stormwater runoff in compliance with the City's Municipal Regional Stormwater Permit (MRP) and Policy 6-29 standards and allow for increased infiltration of runoff to help recharge groundwater, as suggested by the comment.

Comment A.3: Page 162, Section 3.10.1.2: While approximately one-third of the site is located in the Los Gatos Creek Watershed, the remaining eastern portion is in the Ross Creek Watershed. Therefore, this section should also include a discussion on Ross Creek as some of the site drainage appears to drain to Ross Creek based on the City's storm drain maps.

Response A.3: Section 3.10.1.2, Storm Drainage, Page 162 has been revised to describe that runoff from the site is discharged to Los Gatos Creek and Ross Creek (both creeks are a part of the Guadalupe River Watershed). Refer to Section 5.0, Draft EIR Text Revisions in this FEIR. This revision does not change the hydrology and water quality impact evaluation and conclusions of the Draft EIR.

Comment A.4: Page 162, Section 3.10.1.2 refers to Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) No. 06085C0228H, which is incorrect. The site is located on FEMA FIRM No. 06085C0243H and the document should be revised for accuracy.

Response A.4: This comment has been noted. The Section 3.10.1.2, Page 162 of the Draft EIR text has been revised to include the correct FEMA FIRM Number (06085C0243H). Refer to Section 5.0, Draft EIR Text revisions of this FEIR. The Draft EIR includes the correct FIRM designation of Zone D (refer to Section 3.10.1, Environmental Setting Page 162 and Section 3.10.2, Impact Discussion, Checklist Question d), Page 166). The Draft EIR discussion of the site's location within a flood zone was based upon the correct FIRM noted above and the reference to FIRM No. 06085C0228H was a typographical error.

Comment A.5: Page 162, Section 3.10.1.2 and Page 166, Part d of Section 3.10.2 describe the project site as being outside both the Lexington Dam and Anderson Dam failure inundation zones; however, Valley Water records show small areas of the site are in the Lenihan Dam on Lexington Reservoir failure inundation zone. The text should be revised accordingly.

Response A.5: This comment has been noted. The text of Section 3.10.1.2, Page 162 and Section 3.10.2, checklist question d), Page 166 of the Draft EIR has been revised to reference the correct dam failure inundation zone (i.e., Lenihan Dam/ Lexington Reservoir failure inundation zone). Based on Figure 1, most of the project site subject to a maximum inundation depth of less than one feet and small portions of the site are subject to inundation depths of one to two feet. As stated in Section 3.9.2, Impact Discussion, Checklist Question a), Page 148 the storage of small quantities of cleaning supplies and maintenance chemicals would be in compliance with applicable federal, state, and local handling, storage and disposal requirements. Therefore, the conclusion in Section 3.10.2, Impact Discussion, Checklist Question d), Page 166

that the project would not risk release of pollutants due to inundation (resulting in less than significant impact) is the same. Refer to Section 5.0, Draft EIR Text revisions of this SEIR.

Comment A.6: Page 165, Part b of Section 3.10.2 states that Valley Water has 18 major groundwater recharge facilities. While Valley Water has a complex and interconnected network of groundwater recharge facilities, the reference to the number of facilities should be removed as Valley Water does not categorize groundwater facilities by major or minor and therefore it is not clear how it was determined that there are 18 major facilities.

Response A.6: Section 3.10.2, Impact Discussion, under checklist b) and in the first paragraph, the Draft EIR states that "planned buildout within the scope of the 2040 General Plan does not include areas within any of the Santa Clara Valley Water District's 18 major groundwater recharge systems." The requested clarification based on Valley Water's Protection and Augmentation of Water Supplies FY 2021-2022 has been made to state that Valley Water operates numerous recharge facilities in seven major recharge systems. This clarification has been made in Section 5.0, Draft EIR Text Revisions of this Final EIR.

Comment A.7: Page 166, Part d of Section 3.10.2 states that the "project site is located outside of the 100-year floodplain." This should be revised to state that the project site is not located within a Special Flood Hazard Area (SFHA), since flood risks are undetermined, but possible in this area.

Page 166, Part d of Section 3.10.2 states that the closest waterway to the site is Los Gatos Creek. This should be corrected to Ross Creek, which is located approximately 0.86 miles south of the project site.

Response A.7: The requested revisions have been made to Section 3.10.2, Impact Discussion, checklist question d) Page 166, to state that the project site is not located within a Special Flood Hazard Area (SFHA), since flood risks are undetermined, but possible in the area. Refer to Section 5.0, Draft EIR Text Revisions of this Final EIR.

The revisions have also has been made to Section 3.10.2, Impact Discussion, checklist question d) Page 166, to state that Ross Creek is the closest waterway, approximately 0.9 miles south of the site. Refer to Section 5.0, Draft EIR Text Revisions of this Final EIR. These revisions do not change the thorough hydrology and water quality impact evaluation and conclusions of the Draft EIR.

Comment A.8: According to the Water Supply Assessment (WSA), the project will increase annual water demands by approximately 344 acre-feet per year. To reduce impacts to water supply, the City and applicant should consider implementing measures from the Model Water Efficient New Development Ordinance that are not included in the DEIR, which include:

- Hot water recirculation systems
- Pool and spa covers
- Require dedicated landscape meters.

- Require installation of separate submeters to each unit in multi -family developments and individual spaces within commercial buildings to encourage efficient water use.
- Weather- or soil-based irrigation controllers.

A decorative fountain and interactive water feature are proposed as part of the Project but are not specially called out in the WSA or DEIR. Since recycled water is not available at the site, approval should be conditioned on requirements for the use of recirculation system and the suspension of use of water features during droughts.

Response A.8: Based on the San José Water Company (SJWC) Water Supply Assessment (WSA) for the project (refer to Appendix I of the Draft EIR), there is sufficient water available to supply this project; and the comment does not state a specific concern regarding the determination that there is sufficient water available to supply the project other than the water fountains are not specially called out in the WSA or Draft EIR. These fountains use the same amount of water as a high water use plant material such as lawn. The total water use of all fountains would be 22,470 gallons per year or 62 gallons per day. This usage is accounted for in the Water Efficient Landscape Worksheet on L 10.41 (provided in the applicant's plan set dated November 8, 2021, where the worksheet shows that the fountain areas (Estimated Total Water Use (ETWU)) fit within the Maximum Allowed Water Allowance (MAWA). Furthermore, the water within the fountains will be recycled within the fountain to conserve water use.

The text of Draft EIR, Section 3.18.2, Impact Discussion, Checklist Question b), Page 278 has been revised to include the water demand of the proposed fountains. Refer to Section 5.0, Draft EIR Text Revisions of this FEIR. Based on a review of the water demand for the fountains, the addition of the fountains would result in a less than 0.01 percent increase in annual water demand. These revisions do not change the determination that there is sufficient water available to supply the project or the impact evaluation and conclusions of the Draft EIR.[1]

Further, while the comment suggests water conservation measures, the project as proposed already includes several water conservation measures, including drought-tolerant plant species and high efficiency irrigation systems, that meets the City's water efficient landscape regulations (Chapter 15.11 of the City's Municipal Code), as shown on the Water Efficient Landscape Worksheet found on L10.41 (provided in the applicant's plan set dated November 8, 2021). The project includes weather-based irrigation controllers and dedicated irrigation water meters (suggested to be considered in Comment A.8). The project would include individual water meters for the single-family houses and townhome units and submeters for retail/commercial spaces and multi-family units, and hot water circulation systems. There are no pools or hot tubs proposed as a part of the project; therefore, the covers recommended for

[1] Personal Communications: Email. Walsh, Jake, San José Water Company. Re: Cambrian Plaza WSA Update. June 1, 2022.

these features in Comment A8 is not applicable to the project. The project would be subject to limited use of certain water features (e.g., irrigation systems) during droughts if mandated by local, regional, or state regulations

B. **Cambrian School District (dated January 3, 2022)**

Comment B.1: The Cambrian School District ("District") provides these comments in response to the City of San Jose's ("City") DRAFT Environmental Impact Report entitled Cambrian Park Mixed-Use Village, File Nos. PDC17-040 and PD20-007 (referred to herein as the "DEIR"). We would first like to thank the City for explicitly acknowledging that the Cambrian Mixed-Use Village ("Proposed Project") will place a new demand on local school facilities. We wholeheartedly agree and look forward to meaningfully participating in discussions with the City and developers regarding the assessment and collection of the mandated school impact fees. This collaboration is necessary as we can all agree that the required impact fees will not fully mitigate the Proposed Project's impact on our schools and school facilities. Our familiarity with how other developers in the region have successfully worked with impacted school districts to fill the gap between what collected fees provide and the actual impacts of such large developments on schools will facilitate productive discourse on this salient issue.

Response B.1: This comment has been noted. As stated in Section 3.14.1.1, Regulatory Framework, Page 204 of the EIR, California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to issuance of a building permit. The legislation states that payments of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA. As a result, the project applicant will pay school impact fees to adequately reduce the project's impacts to schools to future students at the site who would attend schools within the Cambrian School District and the Campbell Union High School District.

Comment B.2: As the DEIR acknowledges, the Proposed Project is a significant development that will impact adjacent public services, including the local school districts. The construction of apartments, townhomes, and single family houses will create students for the District. The DEIR contemplates approximately 94 students; however, the District will retain a demographer to confirm this assessment. In any event, the influx of students will certainly generate increased vehicular traffic as the children must be transported to school on a daily basis. The increased traffic will directly impact local air quality in and surrounding the new routes of travel, and these environmental impacts should be considered by the DEIR prior to approval of the Proposed Project. Once again, we appreciate the City's effort to work with the District and the developers to ensure that the Proposed Project's impact on our schools and school facilities is mitigated to the greatest extent possible. We look forward to discussing the Proposed Project with you in greater detail and thank you for your anticipated cooperation in this matter.

Response B.2: As stated in Section 3.14, Public Services, Page 210 of the Draft EIR, future students that occupy the townhouse, apartment, and single-family units on-site would attend schools within the Campbell Union High School and Cambrian School District. Based on a 0.238 student generation rate for residential units, the project,

including its ADUs, would generate approximately 100 students. This revision is shown in the Section 5.0 Draft EIR Text Revisions in this Final EIR. As stated in the Draft EIR, Section 3.14, Public Services, Page 210, although residential development under the proposed project could generate new students in the area, the increase in students is expected and planned for in the General Plan EIR. In accordance with California Government Code Section 65996, the project applicant will pay a school impact fee to the School District, to offset the increased demands on school facilities caused by the proposed project. The Draft EIR included a Local Transportation Analysis (LTA, refer to Appendix H) which estimated peak hour vehicle trips (7:00 AM to 9:00 AM and 4:00 PM to 6:00 PM) that would be generated by the two project options (the first option included an assisted living development and the second option included an office development). An analysis of AM and PM peak-hour traffic conditions for 22 existing signalized intersections and four existing unsignalized intersections within the Cities of San José and Campbell. The LTA identified several operational improvements as well as traffic calming measures and improvements to enhance pedestrian, bicycle, and transit facilities. The project's operational emissions (including the operational vehicle emissions) of regional criteria air pollutants were estimated and compared to the Bay Area Air Quality Management District (BAAQMD) thresholds of significance (refer to Appendix B of the Draft EIR and Appendix A of this FEIR, which includes the operational emissions of generators).

As stated in Section 3.3.2, Impact Discussion, Page 63 of the Draft EIR, BAAQMD's thresholds are set to be protective of human health. The results of the air quality analysis in Appendix B of the Draft EIR and Appendix A of this FEIR show that the project's operational criteria pollutant emissions would be lower than BAAQMD thresholds; therefore, the project's operational criteria air pollutant emissions would not cause significant adverse health impacts. The analysis also shows that the project would not result in a cumulatively considerable net increase of any criteria pollutant in the region. The EIR included an assessment of the impacts of the project's operational emissions of toxic air contaminants (TACs) on sensitive receptors (e.g., residences and schools/daycares) within 1,000 feet of the project site. Based on the results in Table 3.3-6, Page 68 of the Draft EIR and in the memorandum in Appendix A of this FEIR, the project's operational emissions (including vehicle emissions) would be below BAAQMD thresholds and have a less than significant impact on nearby sensitive receptors. No schools in the Cambrian School District or Campbell Union High School District are located within 1,000 feet of the project site, which is the distance within which BAAQMD recommends evaluation of TACs. Therefore, the project's TACs emissions would not impact schools within these school districts.

As stated in Response B.1, to mitigate the increase in demand on schools in the Cambrian and Campbell Union School Districts (given the project could include future students that attend these schools), City will coordinate with the school districts regarding the project applicant's payment of school impact fees. As stated in Response B.1 above, California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to issuance of a building permit.

ORGANIZATIONS, BUSINESSES, AND INDIVIDUALS

C. Fran Eberhardt (dated November 11, 2021)

Comment C.1: Although this has already been decided, I Wanted on record that wanted it on record that I fully object. We are overcrowded, we have a serious drought problem, the roads cannot handle the traffic as it is, our sewer lines cannot handle more than it already has yet you want to build this entire complex building (s) for more tax revenue without fully thinking this through.

Response C.1: This comment has been noted. The project has not yet been approved and this comment will be considered by the decision makers when considering whether to approve the project. As stated in Section 3.18, Utilities and Service Systems, Page 270 of the Draft EIR, a Water Supply Assessment (WSA) was prepared for the project by San José Water Company (water utility provider). Based on the results of the WSA, the San José Water Company would have sufficient water supplies to meet the water demand of the project and reasonably foreseeable development during normal, dry and multiple dry years [refer to Section 3.18.2, Impact Discussion, checklist question b)]. Based on Section 3.18, Utilities and Service Systems, checklist question a), page 276, the City's existing sanitary sewer lines on Camden Avenue and Union Avenue and the San José Santa Clara Regional Wastewater Facility (RWF) would have the capacity to serve the project (Section 3,18, Utilities and Service Systems, checklist question c), page 278). See Responses C.2 through C.5 for responses regarding traffic. The remainder of the comment is not related to the Draft EIR analysis; therefore, no further response is required.

Comment C.2: What about the congestion on Union Ave. and Camden?

Response C.2: Pursuant to California Senate Bill (SB) 743 and the City of San José's Transportation Policy (Council Policy 5-1), level of service (LOS), congestion, capacity, and delay are not considered an environmental impact under CEQA. Based on CEQA Guidelines 15064.3, vehicle miles traveled (VMT) is the most appropriate measure for analyzing transportation impacts. Therefore, congestion on Union Avenue and Camden Avenue is not considered an environmental impact under CEQA.

Nonetheless, for informational purposes, an evaluation of intersection operations along Camden Avenue and Union Avenue was completed as part of the Local Transportation Analysis (LTA), included in Appendix H of the Draft EIR. The LTA identifies sub-standard level of service (LOS) and queuing issues at the Camden Avenue and Union Avenue intersection. The LTA recommends lengthening the westbound left-turn pocket at the intersection as planned along with signal coordination along Union Avenue between Camden Avenue and Charmeran Avenue (refer to pages 72 and 82 of the LTA in Appendix H of the Draft EIR). As stated in Section 3.16.4, Operational Issues Not Related to CEQA on Page 256 of the Draft EIR, the project applicant would also make a fair share contribution to bicycle lanes on Union Avenue and Camden Avenue to encourage alternative modes of transportation (and as a result, reduce congestion).

Comment C.3: You already want to close down a lane on Hillsdale for a bike when barely anyone is safe riding a bike around here. How is this massive project going to help the situation?

Response C.3: As stated in Section 3.16.2, Bicycle and Pedestrian Facilities on page 230 of the Draft EIR, the Project would not interfere with implementation of any planned bicycle facilities set forth in the City's Better Bike Plan 2025 (approved by City Council in October 2020). Class IV protected bike lanes are planned along Camden Avenue as part of the City's Better Bike Plan 2025. However, the bike lanes along Camden and Union Avenues are not part of the City's Five-Year list of facilities for implementation. Therefore, design, and need for removal of travel lanes along Camden Avenue, has yet to be determined. Furthermore, the merits of the City's Better Bike Plan 2025 are beyond the scope of the project and this comment does not raise an issue regarding the adequacy or accuracy of the evaluation and conclusions of the Draft EIR.

Comment C.4: Are you widening the roads? Are you synchronizing the traffic lights? Are you improving the roads?

Response C.4: These comments are general in nature and do not raise a specific impact concern. Furthermore, as stated in Response C.2, roadway congestion, delay, and commute times are no longer used as metrics in determining a project's environmental impact under CEQA. Nonetheless, for information purposes, the project does not propose the widening of roadways. However, the project is conditioned to improve the roadways along the project frontages. Along the Camden Avenue frontage, the project is required to construct a 60-foot half-street public right-of-way section with street trees, 6-foot raised bikeway and 10-foot pedestrian through zone. Along the Union Avenue frontage, the project is conditioned to construct a 46-foot half street public right-of-way section with street trees, a 6-foot raised bikeway and 8-foot pedestrian through zone. The existing vehicular lanes along both Camden Avenue and Union Avenue and bus transit stops will be maintained. In addition, the project is conditioned to extend the westbound left-turn pocket at Camden Avenue and Union Avenue intersection by 200 feet for a total pocket length of 400 feet for vehicular queuing needs. As stated in Section 2.2, Project Description, Page 19 of the Draft EIR, the project also proposes new signals at the Union Avenue and Chelsea Drive and Camden Avenue and Taper Avenue intersections for vehicular and pedestrian connectivity to the project site.

The synchronization of traffic signals was not evaluated in the Draft EIR, as this is not considered an environmental impact under CEQA. However, the project is conditioned to replace the existing signal interconnect (communication) cables along the Camden Avenue and Union Avenue project frontages and will provide new 3-inch fiber communication conduit along the Union Avenue and Camden Avenue frontages for signal synchronization and operational needs.

Comment C.5: Will there be more than 1 driveway into this massive project? If so, how will that impact the commute traffic?

Response C.5: The project proposes two driveways on Union Avenue and two driveways on Camden Avenue as shown on the Figure 2.0-4, Conceptual Site Plan on Page 8 of the Draft EIR. In Section 3.16.2, Impact discussion, under checklist questions c) and d), Pages 238 and 239, the project will meet the City's driveway width standards and provide adequate vehicular access to the project site. A queuing analysis was completed for intersections (at project driveways) where the project would add trips to the left-turn movement. This analysis was completed to evaluate traffic operations but is not a requirement under CEQA. The project would implement recommendations to reduce the project queue at the driveways (refer to page Section 3.16.4, Operational Issues Not Required Under CEQA, Pages 264 and 265 of the Draft EIR).

D. **Jim Dequine (dated November 14, 2021)**

Comment D.1: Hi - I'd like to respond to the EIR and related issues. I live on Bercaw Lane (adjacent street to project): 1) The projected traffic from the Wyrick access is now 0. The reason is that there will only be pedestrian access now. This will NOT be the case however. This development has inadequate parking, especially for the nearby residential structures. Our neighborhoods will become the parking lots for these new homes where people will park and then walk to their homes. There will be a significant increase in traffic due to this development on our streets.

Response D.1: The project's effects on the transportation system are discussed in Section 3.16 of the and Appendix H of the Draft EIR. The Draft EIR (Section 3.16.4 Operational Issues Not Required Under CEQA) also includes a discussion of parking supply. However, parking supply is not considered an impact under CEQA, but is evaluated as part of the planning review. The Draft EIR included a discussion of the project's proposed parking for informational purposes.

As discussed in Section 3.16.4 Operational Issues Not Required Under CEQA of the Draft EIR and in Appendix H (Transportation Analysis completed by Hexagon Transportation Consultants, Inc.), the required number of parking spaces for each of the proposed development variants (i.e., the assisted living and office variants), based on the City of San José Municipal Code (Chapter 20.90.060), is 1,252 parking spaces for the Assisted Living Variant and 1,741 spaces for the Office Variant. The project site is located within an Urban Village and is eligible for up to a 20 percent reduction in required off-street vehicle parking spaces, as long as bicycle parking spaces are provided in conformance with the City's Zoning Code requirements. Therefore, the minimum required vehicle parking for both project variants is 1,250 spaces and 1,392 spaces, respectively. The Assisted Living Variant would provide a total of 1,252 on-site parking spaces, which would exceed the City's parking requirements for this variant. Although the actual proposed parking for the office uses of the Office Variant is not known at this time since different office uses have different parking requirements, the parking proposed on-site would meet the City's off-street parking requirements for the worst case scenario from a parking perspective for both alternatives. Therefore, the project would provide adequate parking based on the City's off-street parking requirements and the suggestion that project residents would

regularly park in the surrounding residential neighborhood due to insufficient parking within the development is speculative.

Comment D.2: Scenic vista: The views from our neighborhoods will be greatly reduced from the very tall buildings. The will block the view as the sun is going down everyday and cast long shadows early in the evening.

Response D.2: As discussed in Section 3.1.2 Aesthetics, while the proposed development may further block views of the mountains for a limited number of off-site residences, private views are not protected scenic resources under CEQA. The project would not significantly block public views of the Santa Cruz mountains from the surrounding streets and sidewalks, as these views are partially blocked by existing development. It is not a significant environmental impact for a structure to be visible in an existing urban setting. All new structures, by their existence, change the appearance of their location and immediate setting.

Shading of adjacent private property by structures is not an environmental impact under CEQA. As discussed in Section 3.11.2 Land Use and Planning, consistent with City policy and the CEQA Guidelines since there is no adopted quantifiable threshold for shade and shadow outside of specified public spaces in Downtown. Shading would only increase for a limited number of hours per day in the winter months the project would not result in significant shade or shadow impact. For reference, a shade and shadow study was completed as a part of the project applicant's planning submittal, sheet A3.7.

Comment D.3: SJWC projects usage of 315k gal / day of water. Yet, they anticipate adequate water supplies through 2040. We have dealt with drought and increasing water rates for decades now. This project is too large for the small area that it is in, and it will consume too much of our water and other resources.

Response D.3: As discussed in Section 3.18, Utilities and Service Systems of the Draft EIR (Pages 277 and 278) and within the Water Supply Assessment (see Appendix I) prepared for the project by San José Water Company (SJWC), there is sufficient water available to supply the project as the projected water demand for the project is within normal growth projections for water demand in the SJWC system. These growth projections, and corresponding water usage, were analyzed in SJWC's most recent Urban Water Management Plan (UWMP) in 2016. The water supply sources available to SJWC include groundwater from the Santa Clara Valley Subbasin, imported surface water from Valley Water, local surface water from Los Gatos Creek, Saratoga Creek, and local watersheds, and recycled water from South Bay Water Recycling. SJWC anticipates adequate supplies through 2040 to meet system demand under average year conditions, while water use reductions and voluntary and mandatory conservation would be needed to meet water demands during single- and multiple-dry year scenarios. When accounting for existing water conservation programs, efficiency measures, and contingency plans to account for any water supply reductions, there would be sufficient water supplies to meet the

water demand of the project and reasonably foreseeable development during normal, dry and multiple dry years.

Comment D.4: There was nothing said about the strain on the sewage/waste treatment situation. Obviously there will be a significant impact.

Response D.4: The comment suggests that there was zero assessment of sewage/waste treatment within the Draft EIR. As discussed in Section 3.18, Utilities and Service Systems, Checklist Question c), Pages 276 and 278 of the Draft EIR, the project is consistent with the assumptions in the General Plan and there is adequate wastewater treatment capacity at the San José Santa Clara Regional Wastewater Facility to accommodate the increased wastewater flows resulting from the project. Therefore, the implementation of the proposed project would have a less than significant impact on wastewater treatment capacity. Furthermore, to the extent the comment relates to solid waste, as discussed in Section 3.18 Utilities and Service Systems, Checklist Question d) and e), Page 279 of the Draft EIR, the project would not exceed the capacity of landfills serving the City's expected population and therefore would have a less than significant impact on solid waste disposal capacity; and the project would not conflict with applicable statutes and regulations related to solid waste. The comment does not state a specific issue regarding the sufficiency or accuracy of the above conclusions.

Comment D.5: Building during the hours of 7 am 7 pm is more time than current building contractors are allowed. They have to close down at 6, and this project should too.

Response D.5: Contractors are not required to stop work at 6:00 PM. As discussed in the Draft EIR (page 182), the City's Municipal Code Chapter 20.100.450 establishes allowable hours for construction within 500 feet of a residential unit between 7:00 AM and 7:00 PM, Monday through Friday. As discussed under mitigation measure MM NOI-1.1 in Section 3.12.2 of the Draft EIR (Page 184), prior to the issuance of any demolition or grading permits, the project applicant would adhere to construction best management practices, including limiting construction to the hours of 7:00 AM to 7:00 PM Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement or Director's designee that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

E. Kanyon Sayers-Roods, Kanyon Konsulting. LLC (dated November 14, 2021)

Comment E.1: miSmin Tuuhis [Good Day] Kan rakat Kanyon Sayers-Roods. I am writing this on behalf of the Indian Canyon Band of Costanoan Ohlone People as requested, responding to your letter. As this project's Area of Potential Effect (APE) overlaps or is near the management boundary of a potentially eligible cultural site, I am interested in consulting and voicing our concerns. With some instances like this, usually we recommend that a Native American Monitor and an Archaeologist be present on-site at all times during any/all ground disturbing activities. The presence

of a Native monitor and archaeologist will help the project minimize potential effects on the cultural site and mitigate inadvertent issues.

Kanyon Konsulting, LLC has numerous Native Monitors available for projects such as this, if applicable, we recommend a Cultural Sensitivity Training at the beginning of each project. This service is offered to aid those involved in the project to become more familiar with the indigenous history of the peoples of this land that is being worked on.

Kanyon Konsulting is a strong proponent of honoring truth in history, when it comes to impacting Cultural Resources and potential ancestral remains, we need to recognize the history of the territory we are impacting. We have seen that projects like these tend to come into an area to consult/mitigate and move on shortly after - barely acknowledging the Cultural Representatives of the territory they steward and are responsible for. Because of these possibilities, we highly recommend that you receive a specialized consultation provided by our company as the project commences, bringing in considerations about the Indigenous peoples and environment of this territory that you work, have settled upon and benefit from.

Response E.1: As stated in Section 3.17.1.1, Regulatory Framework, Page 266 of the Draft EIR, California Assembly Bill (AB) 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Tribes are required to request this notification prior to the circulation of the Draft EIR. Without this request, there is no requirement that a lead agency engage in AB 52 tribal consultation. The City released a Notice of Preparation of a Draft EIR on October 26, 2020, to provide the public to comment on the scope and content of the EIR through November 25, 2020. A scoping meeting was also held on November 5, 2020. In response to a written request for notification of all projects requiring an ND/MND or EIR, the City sent an invitation to Kanyon Konsulting and Tamien Nation to consult about the project on July 22, 2021. Tamien Nation responded on August 19, 2021, requesting project consultation. Tamien Nation Representatives met with City staff on October 14, 2021, and requested that the project require Cultural Sensitivity Training for all construction personnel. This request was made a Condition of the project and consultation is ongoing. In addition, no tribal cultural resources have been identified at the project site as a result, which is consistent with the Draft EIR conclusions in Section 3.17, Tribal Cultural Resources. In response to Kanyon Konsulting's request for consultation, the City responded via email on March 15, 2022, with the findings and requests from consultation with Tamien Nation and asked for feedback. The City has not received a response from Kanyon Konsulting to date.

Comment E.2: As previously stated, our goal is to Honor Truth in History. And as such we want to ensure that there is an effort from the project organizer to take strategic steps in ways that #HonorTruthinHistory. This will make all involved aware of the history of the Indigenous communities whom we acknowledge as the first stewards and land managers of these territories. Potential Approaches to Indigenous Cultural Awareness/History:

- Signs or messages to the audience or community of the territory being developed. (ex. A commemorative plaque, page on the website, mural, display, or an Educational/Cultural Center with information about the history/ecology/resources of the land)
- Commitment to consultation with the Native Peoples of the territory in regards to presenting and messaging about the Indigenous history/community of the land (Land Acknowledgement on website, written material about the space/org/building/business/etc. Cultural display of cultural resources/botanical knowledge or Culture sharing of Traditional Ecological Knowledge - Indigenous Science and Technology)
- Advocation of supporting indigenous lead movements and efforts. (informing one's audience and/or community about local present Indigenous community)

Response E.2: As stated in Response E.1, the City of San José invited Kanyon Konsulting to consult regarding the project. No response has been received to date. Although not required under AB 52, the City will discuss the measures recommended by Kanyon Konsulting and listed in Comment E.2. The applicant will coordinate with the City to reach agreed upon measures with Kanyon Konsulting to make all involved aware of the history of the Indigenous communities.

F. **Kenneth Tarquinio (dated November 15, 2021)**

Comment F.1: I found the following in the environmental impact report for Cambrian Park Plaza. This is contrary to my understanding. "The use of low-pressure (LPS) sodium lighting for outdoor, unroofed areas shall be required for all private development in the City of San José as a condition of approval on all Land Use Development Permits. Below are the parameters for such lighting." Hasn't San Jose changed to LED street lighting?

Also, in the EIR a lighting requirement states: "No light source shall be directed skyward". I have previously seen the goal of people hoping to minimize light pollution to require all light fixtures to be oriented so that when viewed from the side at eye level, no portion of the light source can be seen. If this goal is extended to this regulation that would mean the opening in the fixture for the light source would need to be pointed straight down. Is that the definition used by the city? If not, at what point would a light source be directed skyward? If the lamp is underneath an object that would block the light (e.g. a tree), is it then okay for the lamp to be pointed up? If the fixture is oriented so that the beam of light strikes a wall or other object above the ground, is that okay?

Response F.1: As stated in Section 3.1.2, Impact Discussion, Checklist Question d), Page 42 of the Draft EIR, San José City Council Policy 4-3 calls for private development, such as the project, to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. Council Policy 4-3 is the City's current outdoor lighting policy for private developments (refer to Section 3.1.1.1, Regulatory Framework, Pages 28 and 29 of the Draft EIR). Based on this policy, there is no LED lighting requirement, but rather a low-pressure sodium lighting requirement and all light sources that produce more than 4,050 lumens shall be fully shielded (full cutoff) to prevent light aimed skyward. As discussed at page 42 of the Draft EIR, all lighting installed for the project would be full cutoff lighting (i.e. the project's outdoor light

sources shall not be directed skyward at any time during the operations of the project) designed in conformance with City Council Policy 4-3.

Comment F.2: Also, I have not seen an outdoor lighting plan for Cambrian Park Plaza. What is the best place to view what is known so far? Thank you in advance for your clarification.

Response F.2: The exterior lighting plan can be found on the City's website under Architectural Plan Sets and City Comment Letters, PD Plan Set (final submittal dated 01/20/22), Part 4, L11.0 Landscape Exterior Lighting Plan via the following link: https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/projects-of-high-interest/pending/cambrian-park-plaza-signature-project.

G. **Steve Lomaro (dated November 18, 2021)**

Comment G.1: Kara, I am re-sending the email this time without the embedded Microsoft Excel chart that your emails are (understandably) prevented from including. Same information but in tabular form. It was a mistake for the EIR not to include the traffic impact on smaller, secondary roads in the area of the Cambrian Development Project. I will specifically address the issue of traffic on Calvin Avenue. Calvin Avenue runs parallel to Bascom Avenue between Camden Avenue and Woodard Road. This 38 foot wide street with 50 single family homes currently experiences over 1000 cars daily. The Cambrian Development Project, either Alternative, will result in even higher levels of traffic on this street.

In late August, early September 2015, I conducted my own traffic survey of Calvin Ave. Speed, direction, and number cars was measured per hour over a 16 hour weekday time period from 6:00am to 9:00 pm. 1,032 cars transversed Calvin Ave which, I believe, the City of San Jose would qualify as a high traffic street. The results are shown below. From my observations, there are two predominate causes for this high volume of traffic. First and most significant is the avoidance of left turn signals by residents in the area bordered by Woodard to the north, White Oaks to the south, Starview to the west, and Jackson to the east. For vehicles traveling east on Camden, especially during pm commute hours, it is perceived to be faster to use Calvin as a cut through street rather than going west on Bascom and having to wait at the left turn signal either at Woodard or White Oaks. Similarly, vehicles traveling west on Camden will cut through on Calvin to avoid the left turn signal at Camden and Bascom. The second contributor to Calvin Avenue traffic is Farnham School which accounts for a significant portion of the southbound traffic during morning and early afternoon hours. Most parents prefer to line up on the north side of Woodard near the school so their kids can get into or out of the car without crossing the street. This is easily seen by the number of cars lined up on along the school property side of Woodard from the school entrance all the way back to Nova Scotia Ave. The expected increase of Calvin Ave traffic from the Cambrian Project will be due to the perceived faster route of using Calvin Ave as a cut though. This is particularly the case for pm traffic. Evening traffic heading east on Camden will likely find it faster to use Calvin Ave. It would be just two stop signs (Calvin at Woodard and Woodard at Esther) and the one traffic light at Woodard and Union to get into the project. The less desirable alternative would be the traffic light on Camden at Camden Park, face heavy traffic to make the right from Camden onto Union Ave then wait for the left turn signal at Woodard to get into the project. I do not know what traffic measures are available to help reduce the volume of traffic on Calvin Ave especially after the completion of the Cambrian Project. I certainly

hope something can be done. I would be happy to answer any questions or discuss any of the topics covered in this email.

Number of Cars per Hour between 6am & 9pm

Time	Car Counts Total	Northbound	Southbound	% North	% South
6:00am	21	9	12	43%	57%
7:00am	74	24	50	32%	68%
8:00am	85	45	40	53%	47%
9:00am	43	21	22	49%	51%
10:00am	41	14	27	34%	66%
11:00am	51	23	28	45%	55%
12:00pm	60	17	43	28%	72%
1:00pm	62	26	36	42%	58%
2:00pm	77	34	43	44%	56%
3:00pm	80	32	48	40%	60%
4:00pm	91	21	70	23%	77%
5:00pm	114	32	82	28%	72%
6:00pm	89	19	70	21%	79%
7:00pm	85	24	61	28%	72%
8:00pm	59	13	46	22%	78%
Total	1032	354	678	34%	66%

Speeds of Cars per Hour between 6am & 9pm

Time	Number of Cars	Number Cars 33 mph or Faster	% speeding	85th percentile	Max Speed
6:00am	21	7	33%	37	40
7:00am	74	16	22%	35	40
8:00am	85	16	19%	33	39
9:00am	43	16	37%	35	46
10:00am	41	10	24%	35	41
11:00am	51	9	18%	34	39
12:00pm	60	10	17%	33	36
1:00pm	62	17	27%	34	45
2:00pm	77	12	16%	33	44
3:00pm	80	12	15%	33	38
4:00pm	91	6	7%	31	36
5:00pm	114	21	18%	33	41
6:00pm	89	14	16%	33	40
7:00pm	85	12	14%	33	38

8:00pm	59	9	15%	33	50
Total	1032	187	18%	33	50

Comments on Traffic Survey

1. Measurements was accomplished using one ethernet connected camera and a sports type radar gun (Bushnell Speedster III with a published accuracy of +/- 1 mph) at the curb facing north on Calvin in front of my house. A second ethernet camera was directed towards a remote speed display (Bushnell Speedscreen) to capture the speed indicated on the radar gun. Both cameras were connected to a computer utilizing motion detection software able to capture the video of both cameras simultaneously with a time stamp. Each hour of the 16 hour video captured over a period of several days was reviewed to tabulate the results shown above

2. The highest measured speeds typically occur during hours of less traffic with the maximum speed of an outrageous 50 mph in the dark between 8 and 9pm. The speeds during the peak traffic hours are lower mostly because a line of traffic is limited by the slowest car.

Response G.1: Please note that to the extent this comment addresses LOS/congestion/delay on Calvin Avenue, based on the California Senate Bill (SB) 743 and the City of San José's Transportation Policy (Council Policy 5-1), level of service (LOS), congestion, capacity, and delay are not considered an environmental impact. Based on CEQA Guidelines 15064.3, vehicle miles traveled (VMT) is the most appropriate measure for analyzing transportation impacts. Therefore, increased traffic on smaller, secondary roads, such as Calvin Avenue is not considered an environmental impact under CEQA.

Further, the City of San Jose Traffic Calming Policy (Council Policy 5-6) identifies thresholds that may be used to identify the need for traffic calming measures on streets that may experience speeding and cut-through traffic issues such as described on Calvin Avenue. Per the City's Traffic Calming Policy, Calvin Avenue is considered a "Neighborhood Collector" since it connects a local street (Calvin Avenue) to a major street (Camden Avenue). The comment infers that the current traffic volumes along Calvin Avenue do not reflect the approximately 50 homes that line Calvin Avenue between Camden Avenue and Woodard Road. However, Calvin Avenue is not a private street or a cul-de-sac, and as a neighborhood collector, Calvin Avenue provides access to and from Camden Avenue for all residential areas south of Camden Avenue, including those located south of and along Woodard Road. Therefore, the use of the referenced 1,032 daily cars by the comment in determining acceptable traffic levels is not consistent with the roadway's expected traffic volumes. The City's Traffic Calming Policy identifies a range of 1,000 to 6,000 daily vehicles for neighborhood collectors. Thus, the referenced volumes would fall on the lower end of the expected volume range.

The commenter notes that cars travel too quickly on Calvin Avenue. This is an existing condition that would not be exacerbated by the project. The use of Calvin Avenue by the proposed project traffic is not anticipated particularly for the

referenced eastbound Camden Avenue route during the PM peak hour. The use of Camden Avenue would provide the most direct route since only one signal (Camden Park) must be traversed along the three-lane roadway with posted speed limit of 40 miles per hour versus the single lane roadways with 25 miles per hour speed limits with the use of Calvin Avenue. However, as stated in the LTA (Page 87 of Appendix H), the City will require that the project implement traffic calming measures. The project is required to install a speed radar sign on Woodard Avenue and traffic chokers near Esther Drive and/or Calvin Avenue. Further, measures to address any existing cut-through issues along Calvin Avenue may be pursued with the City's Department of Transportation separate of the proposed project.

H. Camille Brand (dated November 19, 2021)

Comment H.1: There continues to be insufficient planned parking available for both residents as well as visitors and shoppers to the new Cambrian Plaza. Do you honestly expect hundreds of the new Plaza's customers and visitors to walk a mile in an attempt to find parking on side streets? Not in front of my or my neighbors houses! We need the parking space for our own families. Nor do we expect the residents of the plaza's private houses and nursing home to be happy to learn that there will be insufficient parking, not only for Plaza shoppers, hotel occupants, and nursing home visitors, but also for the high paying private Plaza resident owners and their guests!! Why has this problem even been allowed to exist, let alone still not been resolved??? Too many people in too small an area. What is so hard to understand? This is self evident to everyone but the developers of the property. You have to reduce the number of residents and hotel guests in order to have sufficient parking, not only for them, but also for the shoppers and the employees of the restaurants, shops and nursing home. Put on your thinking caps and develop a solution to this very evident and major problem.

Response H.1: The Draft EIR (Section 3.16.4, Operational Issues Not Required Under CEQA) includes a discussion of parking supply, albeit outside of the normal scope of CEQA, as parking stalls are not environmental resources; they are physical features to accommodate vehicle trips to/from a site or that exist in the public right-of-way to support adjacent land uses. Parking issues are not considered an impact under CEQA Appendix G Checklist. Nonetheless, the Draft EIR included a discussion of the project's proposed parking for informational purposes.

As discussed in Section 3.16.4, Operational Issues Not Required Under CEQA of the Draft EIR and in Appendix H (Transportation Analysis completed by Hexagon Transportation Consultants, Inc.), the project would provide sufficient parking in accordance with the City's Zoning Code requirements for all uses. Therefore, the project would provide adequate parking based on the City's off-street parking requirements; and the suggestion that parking is insufficient is unsupported. Also, as stated in Section 3.8.2, Impact Discussion, Page 138 of the Draft EIR, the project would implement a TDM Plan which includes carshare programs that reduce parking demand.

I. Joe Trampenau (dated November 24, 2021)

Comment I.1: Regarding the EIR for the Cambrian Park Plaza project (PD20-007), I have a concern I would like to make sure is part of the public record. The EIR does not mention that Bercaw Lane, the road immediately behind the project, and a road that will see increased parking and traffic when the project is complete, is a VERY narrow road with only a couple short sidewalks in place so is already a dangerous road to walk or bike on and will only get worse. The safety of pedestrians and bicyclists is always mentioned as a priority of the city so I would like to know what is planned to make it safe to walk and bike on Bercaw Lane? There are other streets behind the project that do not have sidewalks either and will also be more dangerous to walk and bike. Many properties also have gravel or dirt that meets the street so bicyclists and pedestrians are forced to walk or ride in the street.

If sidewalks are not going to be added to the neighborhood behind the plaza, then I'm assuming the city will be implementing parking restrictions as well as traffic calming measures. Please provide details on what those measures will be as it's critical these be put in place to provide the necessary safety of the public. As this issue is a difficult one to solve, I'm afraid the city is going to choose to ignore it and hope for the best which of course is not the right thing to do.

Response I.1: Comment I.1 identifies several concerns with the safety of the existing design, including lack of sidewalks, of Bercaw Lane. However, the proposed project is not proposing changes to Bercaw Lane that would create direct or indirect new safety issues. More specifically, the proposed closure of the existing vehicular access at Wyrick Avenue, would result in a reduction in vehicular traffic associated with the project on Wyrick Avenue as well as Bercaw Lane. Furthermore, this reduction in vehicular traffic would enhance the safety of pedestrians and bicyclists on those roads.

Further, measures to address any existing safety issues along Bercaw Lane and surrounding neighborhood streets may be pursued with Santa Clara County and City of San José separate of the proposed project.

J. Dennis de Champeaux (dated November 29, 2021)

Comment J.1: The attached picture is a dead apricot tree on Shannon Rd - now removed. Topic: comments on the Draft Environmental Impact Report regarding reference PD20-007 and/or PDC17-040, Cambrian Park, and specific regarding: ... construction of a mixed-use project with approximately 229 hotel rooms, 305 apartment units, 48 single-family dwellings, 25 townhomes, a 180-bed (184,060-square foot) assisted living facility or a 160,000-square foot office building, approximately 50,990 square feet of commercial space including restaurant, retail and other commercial uses, ... The particular location of the project as part of Santa Clara County, California, and the US has impacts beyond its own location. The US has an eco-footprint of 5 Earths, which is unsustainable and goes at the expense of all future generations. A solution (reducing the population and/or the size of the economy/ consumption) is not part of the discourse at the national level and thereby neither at the lower organizational levels. While these other levels are stuck with traditional practices, an exception could be made for the project at the intersection of Union and Camden in Cambrian Park. Adding more housing and more vibrant activities is exactly detrimental for the

sustainability of the US economy and >of course< also INCREASES the impacts of climate change - both of which have been ignored in the previous half century. Why keep doing the wrong things?

Response J.1: The Draft EIR is not meant to address economic issues; rather the purpose of the Draft EIR is to fully analyze the environmental impacts of the project. Furthermore, the comment does not state a specific concern regarding the sufficiency or accuracy of the Draft EIR's Greenhouse Gas Emissions analysis or conclusions. As discussed in Section 3.8 Greenhouse Gas Emissions of the Draft EIR and Appendix B (Air Quality and Greenhouse Gas Emission Assessment prepared by Illingworth & Rodkin), no one project alone could result in climate change impacts, rather it is the combined greenhouse gas (GHG) contributions of all global sources that leads to global climate change. The current regulations for GHG emissions are provided in Section 3.8.1.2. In accordance with CEQA Guidelines Section 15183.5, analysis of GHG emissions and potential climate change impacts from new developments is a requirement, and a project's incremental contribution to cumulative GHG emissions may be determined not to be cumulatively considerable if the project complies with the requirements of the approved qualified climate action plan.

The City of San José's 2030 Greenhouse Gas Reduction Strategy (GHGRS) includes a Development Consistency Checklist, the purpose of which is to provide a streamlined review process for proposed new development projects subject to discretionary review and that trigger environmental review under CEQA. The 2030 GHGRS identifies GHG emissions reduction measures to be implemented by development projects within the general strategies for energy, buildings, land use and transportation, water, and waste sources. The project will comply with the 2030 GHGRS Compliance Checklist (see Appendix B) and therefore GHG emissions generated by the project would be covered by the 2030 GHGRS, which is considered a qualified Climate Action Plan. Consistency with the General Plan policies and inclusion of 2030 GHGRS Conformance Checklist measures in the project would ensure that the project is in compliance with the City's GHG Reduction Strategy, which in turn is consistent with the state's long-range climate goals, and would therefore not result in a significant impact, nor would it make a cumulatively considerable contribution to global climate change [refer to CEQA Guidelines Section 15183.5(b)].

Comment J.2: Every August since 1985 we had the sing-song of cicadas. No more since several years: an example of the destruction of the biosphere. (My) trees are dying due to the already for decades increasing drought. See the dead apricot tree on Shannon rd; the row of apricot trees is gone now. Why continue doing the wrong things? Here an alternative for the proposed project based on the unacceptable consequences of increased non-sustainability and environmental destructions by the business as usual project as described in the draft EIR: Create an eco-friendly cactus park. Use the wealth of the Silicon Valley to counter the short sighted projects that all future generations will condemn. Please strive for QUALITATIVE growth and move away from a century of unsustainable quantitative growth. Please.

Response J.2: The comment suggests an alternative use for the site as a park developed with cactus. The Draft EIR evaluates the project as proposed by the project proponent. The EIR also includes a range of alternatives that would achieve the basic objectives of the project, as well as the No Project – No Development Alternative, which retains the project site in its current condition. Converting the property to a cactus park would not achieve the stated project objectives. Further, the site is identified for development in the City's General Plan, which envisions the development of "urban villages" that allow future residents to reduce reliance on vehicles. The project supports this vision because it is in an urban village. Redeveloping existing underutilized sites within urban village areas results in fewer GHG emissions than in greenfield areas which are far from urban amenities, infrastructure, and employment opportunities.

Comment J.3: Warnings from the previous decades:

- Durant, F&A, Lessons of History, chapter 9, 1968.
- Meadows, D, The Limits to Growth, Universe Books, NY, 1972.
- James Hansen, NASA, testified before the United States Senate Committee on Energy and Natural Resources on June 23, 1988.
- Meadows, D., J. Randers, & D. Meadows, Beyond the Limits, 1992
- Meadows, D., J. Randers, & D. Meadows, Limits to Growth, The 30-Year Update, Chelsea Green Publishing Co., 2004.
- Diamond, J., Collapse, Penquin Books, 2005.
- Randers, J., 2052, A Global Forecast for the Next Forty Years, Chelsea Green, 2012.
- Kolbert, E., Sixth Extinction, Picador, 2014.
- Wallace-Wells, D., The Uninhabitable Earth, Tim Duggan Books, 2019.

It would be great if our elected officials and our civil servants become conversant with the four different, 'competing', global collapse scenarios active for this century as described by these experts. For a start: https://rs6.risingnet.net/~ddcc/Tragedy/

Response J.3: This comment provides suggestions for reading and does not specifically address the proposed project or the Draft EIR's discussion of potential environmental impacts. Therefore, no further response is required.

K. **Peter Clarke (dated December 7, 2021)**

Comment K.1: Reading page 51 on air pollutants and it says ' Error! Reference source not found'. Another on page 91.

Section 5.0 Draft EIR Text Revisions now includes a revision to correct the typographical error on Page 51 of the Draft EIR. The revision replaces "Error! Reference source not found" with "Table 3.3-2.There is no "Error! Reference source not found" statement on Page 91 of the Draft EIR. However, this typographical error will be corrected throughout the document.

L. **Jim and Marsha Hamner (dated December 7, 2021)**

Comment L.1: The two big questions we have regarding the Cambrian Park Plaza plan: 1. WATER How can the city allow the amount of building at CPP with the water shortage that may continue or happen again in the near future? We are asked to reduce our water usage by a good amount while this project will require a lot of water. There will be condos, homes, businesses, hotels and an assisted living facility. There has to be an impact of water usage

Response L.1: The Draft EIR includes a water supply assessment (WSA, refer to Appendix I) completed by the San Jose Water Company (the private water supplier for that area of San Jose). The WSA estimated the water demand for the project, including all project components including the proposed apartment units, hotel, retail, townhouses, single-family houses, and assisted living facility. Based on the evaluation of the estimated water demand, the WSA concludes there is sufficient water supply to serve the proposed project (refer to Page 15 of Appendix I), including during dry years. As noted in the WSA, the current commercial site uses require demand for water, and the site's baseline water usage would offset some of the new project water demand and serve to reduce the net new demand for water created by the project.

Comment L.2: 2. TRAFFIC Our traffic in the area is already bad. Adding more people and businesses will only INCREASE our traffic. Harker School increased their campus to include more students, which has brought more traffic. Homes will be built on the old Metzler School site which is more traffic. How these two issues can't be negatively impacted by CPP is hard to imagine.

Response L.2: Please note that based on the California Senate Bill (SB) 743 and the City of San José's Transportation Policy (Council Policy 5-1), level of service (LOS), congestion, capacity, and delay are not considered an environmental impact. Based on CEQA Guidelines 15064.3, vehicle miles traveled (VMT) is the most appropriate measure for analyzing transportation impacts. Therefore, congestion in the area is not considered an environmental impact under CEQA.

Nonetheless, for informational purposes, the Local Transportation Analysis (Appendix H of the Draft EIR) provides an evaluation of the effects of cumulative projects (with and without the proposed project) on the level of service (LOS) of intersections in the project area. The cumulative projects included pending and approved projects in the City of San José and City of Campbell. The pending residential project on the Metzler School site noted in Comment L.2 would be located at 1975 Cambrianna Drive. The Harker Middle School project at the corner of the Union Avenue and Barrett Avenue was accounted for in the cumulative LOS analysis). The cumulative LOS analysis included pending and approved projects through May 2021. While the residential project (21 single-family units and 14 accessory units) at the Metzler School site was not on file with the City until October 2021 and, therefore, was not included in the cumulative LOS analysis, the Metzler School site project would only add 19 net new AM trips and 26 net new PM trips. Given the small number of trips this Metzler School site project would generate, this

project would have no effect on the cumulative LOS analysis completed for Cambrian Park Mixed-Use Village project.[2]

M. **Robert Zardkoohi (dated December 9, 2021)**

Comment M.1: I'm concerned that the traffic impact to Taper Avenue is being underestimated. I live on Taper Avenue and it's already used as a short-cut for commuters to avoid the Camden/Union traffic signal during rush hour, often at speeds well exceeding the 25 mph limit. The EIR only mentions traffic study on Taper between Camden and Bernice, but I believe should have extended from Camden to Foxworthy since it's the next major intersection. And a new signal at Taper and Camden leading directly into and out of the new plaza can only increase traffic, can it not? Will there be further studies to evaluate traffic once the plaza is complete? Ms. Foley, Regardless of the outcome of this study, I strongly believe that traffic control on Taper Avenue needs to be addressed, primarily regarding excessive speed.

Response M.1: Please note that to the extent this comment addresses congestion on Taper Avenue, based on the California Senate Bill (SB) 743 and the City of San José's Transportation Policy (Council Policy 5-1), level of service (LOS), congestion, capacity, and delay are not considered an environmental impact. Based on CEQA Guidelines 15064.3, vehicle miles traveled (VMT) is the most appropriate measure for analyzing transportation impacts. Therefore, congestion on Taper Avenue is not considered an environmental impact under CEQA.

Furthermore, the project proposed an access point from Camden Avenue that does not align with Taper Avenue and would provide no access to Taper Avenue from the project site. However, the City has required that the access point be aligned with Taper Avenue to maintain full access to/from Taper Avenue and this requirement will be a condition of approval. The proposed driveway across from Taper Avenue (Driveway C) would have 29 trips turning right and 32 trips turning left during the AM peak hours, and 31 trips turning right and 39 trips turning left during the PM peak hours. The proposed project would add only a minimal amount, if any, traffic to Taper Avenue since its use would provide access to only Union Avenue and Foxworthy Avenue north of the project site. The majority of project traffic is estimated to originate from and be bound for SR 85 and I-880. (See Draft EIR Table 3.16-1.) Therefore, access to Taper Avenue is not necessary to serve traffic for the proposed project. The installation of a traffic signal would not increase traffic on Taper Avenue. The primary purpose of a traffic signal is to provide a safe-controlled point of access to and from side streets along major thoroughfares such as Camden Avenue to minimize collisions. Furthermore, signalized intersections along major thoroughfares provide a controlled crossing point for pedestrians. There currently are no controlled pedestrian crossing points along Camden Avenue other than the signalized intersections at Union Avenue and Leigh Avenue. In addition, existing

[2] Personal Communications: Del Rio, Robert, Hexagon Transportation Consultants. RE: Cambrian Park - Cumulative (Response to Comments). March 14, 2022.

speeding and traffic cut-through conditions on Taper Avenue are not caused by the project and would not be exacerbated by the project due to the minimal project-generated trips that would use Taper Avenue to get to and from Driveway C. Existing traffic issues, which are not impacted by the project, should be addressed separately from the environmental review of the proposed project. Please refer to the City's Traffic Calming Toolkit at https://www.sanjoseca.gov/home/showpublisheddocument/2432/637631207594630000regarding the traffic calming decision-making process.

N. **Camille Brand (dated December 10, 2021)**

Comment N.1: Too many people, apartments, etc. and all the structures are too tall for the size of the proposed area. This area is not downtown San Jose. Why would we want to make it look like that. The builder obviously continues to ignore original comments of 3 years ago. After the project is completed, there definitely will be many more tall buildings built along Union. More people, more traffic. How many more traffic lights can the city install on Union from Camden to Los Gatos? It already is a crowded traffic, stop and go, street. Disappointed.

Response N.1: The opinion's expressed in this comment are noted. As stated in Section 4.0, Growth Inducing Impacts (page 282) of the Draft EIR, the project would be consistent with the Urban Village General Plan Land Use designation for the site and would not be expected to foster additional growth beyond what is officially planned and anticipated for the project area. Furthermore, the opinion's stated in the comment do not call into question the Draft EIR's analysis or conclusions. As stated in Section 2.2.2, Proposed Project, Pages 7, 9, and 10 and Section 3.1.2, Impact Discussion, checklist question a), Page 40, the project's proposed buildings would be up to six stories including the residential/mixed-use building along Camden Avenue and Union Avenue. As stated in Section 3.1.2, Impact Discussion, checklist questions a) and c) (Page 40 and 41), the project would not significantly block public views of scenic vistas from the surrounding streets and sidewalks, as these views are partially blocked by existing development. Also, the project would be constructed in conformance with the General Plan Policies CD-1.1 and CD-1.12 which requires the project's building design to reflect the unique character of the site and the context of the surrounding development, and Citywide Design Guidelines, which contains design controls and development standards to ensure that new development projects are compatible with existing surrounding land uses.

Based on the LTA (Appendix H of the Draft EIR), the project does not warrant the installation of a traffic signal on Union Avenue. An NOP was published for circulation from February 15, 2018, through March 16, 2018. Due to subsequent changes to the project, a revised NOP was published on October 26, 2020, with a comment period from October 26, 2020, to November 25, 2020. Public scoping meetings were held on March 5, 2018, and November 5, 2020. The NOP comment periods and public scoping meetings provided agencies and the public to comment on the scope and content of the EIR. After review of the NOP and scoping meeting comments, no documentation was found of the commenter's purported comments from three years ago. Based on the LTA (refer to Appendix H of the Draft EIR), a

traffic signal warrant analysis was completed for the Union Avenue and Cambrianna Drive intersection. The analysis showed the peak hour volumes at this intersection would not be sufficient to warrant signalization (Page 69 of the LTA in Appendix H). Although not warranted based on the traffic signal analysis, the project proposes to install a traffic signal at Union Avenue and Chelsea Drive/Project Driveway B to facilitate access to and from the project site (Page 77 of the LTA in Appendix H). The City does not expect to install any other signals on Union Avenue.

Furthermore, based on the California Senate Bill (SB) 743 and the City of San José's Transportation Policy (Council Policy 5-1), level of service (LOS), congestion, capacity, and delay are not considered an environmental impact. Based on CEQA Guidelines 15064.3, vehicle miles traveled (VMT) is the most appropriate measure for analyzing transportation impacts. Therefore, "stop and go" congestion in the area is not considered an environmental impact under CEQA.

O. Omar Solidum (dated December 11, 2021)

Comment O.1: The Draft Environmental Impact Report(EIR) is so far comprehensive and can greatly mitigate the pollution issues it may occur during the implementation of the project. The only thing to consider for voluntary compliance is to include the "Climate Change" in the study. Due to the abnormal weather conditions that there are sudden changes of the weather pattern and even dangerous because of the possible strong winds and flash floods, it will be appreciated if abnormal weather condition would also be mentioned or taken into considerations as an additional safety measures and thus, solicit approvals and by -ins to the commuters and residence living in the area, and more importantly, to the public, as a whole. Good luck to the proposed Project and more power!

Response O.1: The comment is generally supportive of the environmental analysis of the Draft EIR and requests consideration of climate change. This is already addressed in the Draft EIR. As discussed in Section 3.8, Greenhouse Gas Emissions of the Draft EIR and Appendix B (Air Quality and Greenhouse Gas Emission Assessment prepared by Illingworth & Rodkin), no one project alone could result in climate change impacts, rather it is the combined greenhouse gas (GHG) contributions of all global sources that leads to global climate change. The current regulations for GHG emissions are provided in Section 3.8.1.2, Regulatory Framework of the Draft EIR. In accordance with CEQA Guidelines Section 15183.5, CEQA requires the evaluation of a project's contribution to global GHG emissions that result in climate change, however, the evaluation of secondary effects of climate change, such as intensification of weather events, is not required. A project's incremental contribution to cumulative GHG emissions may be determined not to be cumulatively considerable if the project complies with the requirements of the approved qualified climate action plan [i.e., Greenhouse Gas Reduction Strategy (GHGRS)].

The City of San José's 2030 GHGRS includes a Development Consistency Checklist, the purpose of which is to provide a streamlined review process for proposed new development projects subject to discretionary review and that trigger environmental review under CEQA. The 2030 GHGRS identifies GHG emissions reduction measures to be implemented by development projects within the general strategies for

energy, buildings, land use and transportation, water, and waste sources. The project will comply with the 2030 GHGRS Compliance Checklist (see Appendix B) and therefore GHG emissions generated by the project would be covered by the 2030 GHGRS. Consistency with the General Plan policies and inclusion of 2030 GHGRS Conformance Checklist measures in the project would ensure that the project is in compliance with the City's GHGRS and would, therefore, not result in a significant impact, nor would it make a cumulatively considerable contribution to global climate change.

P. **Charles Sexton (dated December 13, 2021)**

Comment P.1: Dear Friends, will you please consider the traffic nightmare that the Harker campus has brought to my/our neighborhood. The inappropriate development plan that is Cambrian Signature Project will make my/our part of town terrible. Who will take the responsibility for ruining our way of life. As a 30+ year resident, located here, I'm hurt that people that don't live here can buy something that isn't theirs to start with, and wipe it out. I'm talking about a quiet place that was our lifes' goal. Now the legislators that don't have to endure over crowded streets and another concrete jungle, plan to wreck my/our lives . Your thoughtful response , please.

Response P.1: Commenter P.1 consists of general allegations regarding neighborhood traffic. The comment does not question the adequacy of the Draft EIR analysis; therefore, no response to this comment is required. Please note that based on the California Senate Bill (SB) 743 and the City of San José's Transportation Policy (Council Policy 5-1), level of service (LOS), congestion, capacity, and delay are not considered an environmental impact. Based on CEQA Guidelines 15064.3, vehicle miles traveled (VMT) is the most appropriate measure for analyzing transportation impacts. Therefore, congestion in the area is not considered an environmental impact under CEQA.

Nonetheless, for informational purposes, as stated in Response L.2, the LTA (Appendix H of the Draft EIR) includes an analysis of the cumulative (pending and approved project traffic volumes) effects on LOS at study intersections in the project area, with and without the project traffic (refer to Pages 58 and 67 of the LTA). The cumulative analysis included traffic generated by the approved Harker Middle School project. The remaining concerns and opinions in Comment P.1 are not related to CEQA or the adequacy of the EIR analysis. As noted in the Draft EIR Section 3.11, Land Use and Planning, the project site is located within an Urban Village, which is a planned growth area for the City, where the City encourages intensification and redevelopment of underutilized properties. Therefore, no further response is required.

Q. **Kirby Chung (dated December 22, 2021)**

Comment Q.1: I am a resident living along Taper Ave just North of the proposed development. I request the planning staff reevaluate and disallow the proposal to install a 4-way signaled intersection at Taper and Camden. I believe the subject report does not adequately address the fact that Taper is a relatively narrow residential road, with houses lining both sides of the street, designed for residential traffic including the egress of cars reversing onto the road from numerous driveways. This is very

much unlike Union Ave to which is a 4-lane thoroughfare that is lined by primarily businesses. Opening up Taper to higher traffic flow presents a health and safety hazard to all the users of Taper including residents, pedestrians and drivers. Taper is not designed for the high traffic volume which would be a consequence of the intended increased people density and business use of the development. Furthermore, this would be on top of the additional traffic from the already approved Cambrian School District Metzler housing development. I reference the email sent by James Wunderlich on 12/22/21 as evidence of the serious concerns of multiple residents of Taper Ave. I strongly urge that Taper Ave not be used as a means of access to the plaza as proposed. Thank you for your consideration in this matter and I hope the city planning office will agree.

Response Q.1: The analyses provided within the Local Transportation Analysis (LTA) are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project. The Draft EIR (Page 249) description of improvements at the Camden Avenue and Taper Avenue/Project Driveway has been updated. The text has been updated to identify this project driveway as a controlled access point rather than a full access point to the project site. The updated text states that the implementation of the new signal also would include a restriction of access to and from Taper Avenue to right-in and right-out only to and from Camden Avenue (refer to Section 5.0, Draft EIR Text Revisions in this FEIR). .

R. **James Wunderlich**

Comment R.1: In response to the City of San José request for community comments to the Cambrian Park Plaza DEIR, please find attached my response, which is a representative opinion of the majority of the residents of Taper Avenue, along with residents of the surrounding neighborhood. Should clarification of the contents of this submission be required, please do not hesitate to contact me. Thank you for the opportunity to submit comments to the highly important redevelopment of Cambrian Park Plaza. The City of San José Department of Transportation has conducted the Local Transportation Analysis (LTA) for the Cambrian Park Plaza redevelopment project. The intersection operations analysis completed as part of the LTA is intended to quantify the operations of intersections and to identify potential negative effects due to the addition of project traffic (DEIR). The analysis has determined the installation of a traffic light at the corner of Taper and Camden Avenues will be added in support of providing access to the reconstructed Cambrian Park Plaza. The engineer working on this project has described the planned light at Taper as being 'full access'. This indicates it would be similar to the one at Camden and Union, meaning “all vehicular movements from Camden onto Taper, and Taper onto Camden will be possible (Movements = Through Traffic, Left-Turns, Right-Turns).” We ask the City Planners to consider the impact to the neighborhood along Taper Avenue between Camden and Foxworthy.

Response R.1: Please note that to the extent this comment addresses congestion on Taper Avenue, based on the California Senate Bill (SB) 743 and the City of San José’s Transportation Policy (Council Policy 5-1), level of service (LOS), congestion, capacity, and delay are not considered an environmental impact. Based on CEQA

Guidelines 15064.3, vehicle miles traveled (VMT) is the most appropriate measure for analyzing transportation impacts. Therefore, congestion on Taper Avenue is not considered an environmental impact under CEQA.

However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

Comment R.2: Taper Avenue (LTA Driveway C) already has scoff-laws speeding between Camden and Foxworthy Avenues attempting to avoid the daily commute backup at Camden and Union Avenues.

Response R.2: Existing speeding and traffic cut-through conditions on Taper Avenue are not caused by the project and are not expected to be exacerbated by the project due to the minimal project-generated trips that would use Taper Avenue to get to and from Driveway C. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.**]**.

Comment R.3: In addition to the increased traffic flow to, and from the new Plaza, 43 new homes behind the Camden Community Center, and 21 new homes, 14 with ADU's, on the Metzler C School Property on Cambrianna Avenue will further compound an already congested area.

Response R.3: Please note that based on the California Senate Bill (SB) 743 and the City of San José's Transportation Policy (Council Policy 5-1), level of service (LOS), congestion, capacity, and delay are not considered an environmental impact. Based on CEQA Guidelines 15064.3, vehicle miles traveled (VMT) is the most appropriate measure for analyzing transportation impacts. Therefore, congestion (including cumulative congestion) on the area is not considered an environmental impact under CEQA.

For informational purposes, as stated in Response L.2, the pending residential project to be located at 1975 Cambrianna Drive (existing Metzler C School property) was not included in cumulative LOS analysis given the project's full plan submittal was on file with the City subsequent to May 2021 (the LTA's baseline conditions). Since the 1975 Cambrianna Drive residential project would generate a low number of peak hour trips, the addition of its vehicle trips would not change the results the LOS analysis under cumulative conditions (refer to Appendix H of the Draft EIR).

Comment R.4: The School District facilities on Cambrianna continue to be used by a daycare center, Montessori bi-lingual elementary school, Sports Training Center and a Dance Academy. Many children from the surrounding neighborhood walk to these schools with many crossing Taper and Cambrianna Avenues. Parental morning drop-off and afternoon pick-up is a recurring cause for

traffic congestion along Cambrianna extending back to Taper approximately 300 feet from the entry to the school facilities. The potential for a tragic accident will be magnified by the additional traffic resulting from the Taper/Camden signal light as proposed by the City of San José.

Response R.4: As described in Response R.1, the project would generate minimal trips onto Taper Avenue during the AM and PM peak hours and, therefore, would not significantly contribute to existing queues on Cambrianna Drive and Taper Avenue during school pick-up and drop-off hours. As described in Response R.1, installing traffic signals and crosswalks at the intersection of Camden Avenue and Taper Avenue would provide more traffic control at the intersection and improve pedestrian safety.

Comment R.5: Preferential "traffic calming" has been specified for the Wyrick Avenue neighborhood adjacent to the Southwest perimeter of the CPP development. However, there has been no similar consideration for the traffic impact to Driveway C, Taper Avenue. Apparently Wyrick Avenue has been designated as an "exclusive neighborhood" exempt from sharing the traffic loading in and out of the CPP development.

Response R.5: As described in Responses R.1 and R.2,minimal project-generated traffic would utilize Taper Avenue. Unlike Taper Avenue, Wyrick Avenue does provide a direct connection to I-880/SR 17 that may be utilized by project-generated traffic as an alternative to the use of Camden Avenue. Given this anticipated project-generated traffic on Wyrick Avenue, the City will require that the proposed project contribute towards the implementation of traffic calming measures to minimize the effects and potential use of Wyrick Avenue. Due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.].

Comment R.6: The Cambrian Neighbors along Taper Avenue and surrounding side streets asks the City of San José Department of Transportation to implement the following alternative to the installation of a full access traffic control signal at the intersection of Camden and Taper Avenues. Neighborhood Preferred Solution:

- Taper Avenue blocked to all Entry from Camden Avenue. *
- Exit Taper to Camden - Right Turn Only
- Exit the Plaza – Right or Left Turn Only
- *Emergency Vehicles retain entry access

With Taper Avenue blocked to all vehicles at Camden Avenue, there remains multiple entry points to the Taper/Cambrianna neighborhood including New Jersey, Cambrianna, Foxworthy, Leigh, Bernice Way, and Geneva Street.

Response R.6: As stated in Responses R.1 and R.2, access to and from Taper Avenue is not necessary for the proposed project (since the project would be accessed by Driveway C). The analyses provided within the LTA (Appendix H of the Draft EIR) are provided per requirements of the City of San José Traffic Analysis Handbook and are not required per CEQA guidelines and requirements. Therefore, the comment provides no substantive information in regard to the project's effect on traffic impacts per CEQA requirements. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

Comment R.7: During the DEIR Zoom presentation of 12/13/2021 an additional traffic concern was seen in the artist's rendering of the traffic flow along Camden Avenue adjacent to the Plaza. The center median between the opposing 3-lane traffic flow was apparently removed to accommodate the addition of protected bike lanes. The drawings also indicated the current three (3) lanes have been reduced to two (2) lanes in each direction. The potential for head-on collisions between Union and Leigh Avenues will be magnified with the loss of the lane separation. The addition of a traffic signal at Taper Avenue is certain to be cause for rear-end collisions forcing those not paying attention and suddenly braking to turn head-on into the opposing traffic heading East on Camden toward Leigh and Hillsdale or West toward Union.

Response R.7: The rendering of the traffic flow along Camden Avenue, shown during the 12/13/2021 meeting inadvertently removed the center median and displayed two lanes rather than the correct three lanes. The site plan (Sheet A3.3) has been corrected and is posted on the City's website at https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/projects-of-high-interest/pending/cambrian-park-plaza-signature-project. As stated in Response R.1, the lack of a traffic signal at intersections along major thoroughfares relies on driver judgement to determine when it is safe to access these thoroughfares and results in increased risks for collisions. The purpose of the proposed traffic signal is to reduce the risk of collisions. Furthermore, signalized intersections along major thoroughfares provide a controlled crossing point for pedestrians. Concerns of an increase in rear-end collisions due to the traffic signal are speculative and unsubstantiated.

S. Susan Agnoletti (dated December 23, 2021)

Comment S.1: I have lived on Taper Ave (off Camden Ave) for 40+ years. Before Covid I was in communication with your department with regard to the amount of speeding and not stopping at the stop signs on our street. Unfortunately my efforts were a waste of time and energy. With the new center going in at Cambrian plaza they have said there will be a traffic light at Taper! Therefore everyone will certainly use it as a thoroughfare because Camden is always backed up. With that said you and the city need to put speed humps or bumps on our street, if they're good enough for Los Gatos and Campbell they're should be good enough for San Jose (we have seen new ones in both towns lately) or forget the traffic light at our street. please let us know what it will take to make this

happen. I know my neighbors are against the traffic light!! Thank you for your attention to this matter.

Response S.1: The analyses provided within the Local Transportation Analysis (LTA) are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

T. **Terri Bouley**

Comment T.1: I am a resident on Taper Avenue and am responding to the EIR for the Cambrian Park Plaza Project. Please be aware that I am in full support of the traffic signal and crosswalks, BUT WANT NO THROUGH TRAFFIC to Taper Ave. No westbound or eastbound turning or straight through to Taper Avenue. Exit out of Taper will be right turn only.

Response T.1: The analyses provided within the LTA are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3.However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project..

U. **Carolyn Johnstone (dated December 23, 2021)**

Comment U.1: In concurrence with my neighbors and a 20-year resident, Our position is fully supporting the traffic signal and crosswalks, BUT NO THROUGH TRAFFIC to Taper Ave. No westbound or eastbound turning or straight through to Taper Avenue. Exit out of Taper will be right turn only. Our home resides on the corner of Foxworthy and Taper. We have witnessed the effects (accidents/speeding) that diversionary, cut-through traffic has caused. On any given day from 4:30-6:30 pm, our road (Foxworthy) backs up to where we can't enter or exit our driveway due to Steindorf, ATLC, and drivers using Taper to Foxworthy to avoid Camden. Please consider not funneling traffic meant for Camden, a street with multiple traffic mitigation safety features through our quaint neighborhood where we have children and families enjoying the safety within our community. We live here; this is our home; please consider how you would feel if your street was mitigated into a thoroughfare.

Response U.1: The analyses provided within the LTA are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3.However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

V. **Amy Phillips (dated December 23, 2021)**

Comment V.1: I am very concerned about a proposal for a stop light on my street, Taper Avenue in San Jose, in regards to the new development at Cambrian Plaza. I did not move to a busy street and have many times already expressed my concerns over wanting an additional stop sign or speed bumps, a traffic light will be ten times worse. People speed down my street going to the school and sports center around the corner and one of my children was almost hit by a car. It will DEVALUE our homes and bring unwanted traffic and danger to my family. This is a huge concern for myself and many of the neighbors in the entire neighborhood, it is not for us as homeowners spending quite large amounts of money on our homes to take a hit for a large developer and to put our safety and the safety of our children at risk. This should be something that we have a say in as it affects us in many different ways, I would prefer that the street be completely blocked off to drive through traffic at Camden. Please let us know if there is a petition or otherwise that we can sign to have this stopped immediately or if you recommend we take our concerns to the mayor.

> **Response V.1:** The analyses provided within the LTA are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3.However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project..

W. **Robert Zardkoohi (dated December 23, 2021)**

Comment W.1: I want to add my support to James's comments attached.

> **Response W.1:** Responses R.1 through R.7 address Comment W.1 (please refer to these responses).

X. **Evan McLean (dated December 24, 2021)**

Comment X.1: Further to Mr. Wunderlich's email below, we would also like to voice our support in favor of the Taper Avenue home owners' position on the Cambrian Park Plaza redevelopment initiative as laid out by Mr. Wunderlich (and as attached). We very much appreciate the opportunity to comment on this important initiative, and are happy to discuss further if helpful.

> **Response X.1:** Responses R.1 through R.7 address Comment X.1 (please refer to these responses).

Y. **Russ Golden (dated December 30, 2021)**

Comment Y.1: I am not in favor of the proposed traffic light that will increase traffic on Taper Ave. Please let me know when the next planning commission and or city council meeting is taking place so I may attend.

Response Y.1: The analyses provided within the LTA are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project. . The Planning Commission and City Council hearing dates are not known at this time. Once these hearing dates are established, all who commented on the Draft EIR via email will receive notice of the public hearings via email.

Z. **Michael Neis (dated December 30, 2021)**

Comment Z.1: My position is in full support of the traffic signal and crosswalks, BUT NO THROUGH TRAFFIC to Taper Ave. No westbound or eastbound turning or straight through to Taper Avenue. Exit out of Taper will be right turn only. Camden Ave/Union Ave should be able to handle the traffic, if not, maybe it's too big of a project for the neighborhoods. We have a really nice neighborhood. Please don't send all this traffic into the neighborhoods. Think, if you lived on a nice street for 25+ years and now you might need to move due to this through traffic issue.

Response Z.1: e The analyses provided within the Local Transportation Analysis (LTA) are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3.However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

AA. **Robert Denig (dated January 1, 2022)**

Comment AA.1: I was recently informed about the possibility of a stop light at the corner of Taper Avenue and Camden Avenue to facilitate through traffic down Taper Avenue. This comes as a shock as Taper is a residential street with a growing number of families with young children. As I am sure you are aware, there are plans to build 35 new housing units adjacent to Taper on Cambrian School District land which in itself will add substantially to the existing traffic. Some time ago the City held a meeting at the Camden library branch in which suggestions were solicited. One suggestion was to block eastbound traffic from turning onto Taper. This would permit traffic to exit Taper to the right only or enter Taper from Camden going west. This would be the minimum restriction – ideally Taper Avenue should be blocked to all entry from Camden Avenue. I have lived on Taper since 1968, and I hope that the character of the neighborhood will not be damaged by making the street a busy thoroughfare. I seriously hope that the plan to encourage traffic to use Taper Avenue, a residential street, will be reconsidered.

Response AA.1: The analyses provided within the LTA are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3.However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out

only. The project will incorporate this change during the implementation phase of the project. . The concern regarding traffic from the proposed 35-unit development on 1975 Cambrianna Drive is addressed in Response Q.1. The noted meeting at the Camden library and suggestion mentioned were made in relation to the 35-unit development on 1975 Cambrianna Drive and not to the project. Nonetheless, the proposed traffic signals and crosswalks at the intersection of Camden Avenue and Taper Way would provide more traffic control at the intersection and improve pedestrian safety than under the suggestion.

BB. **Larry Flocchini (dated January 1, 2022)**

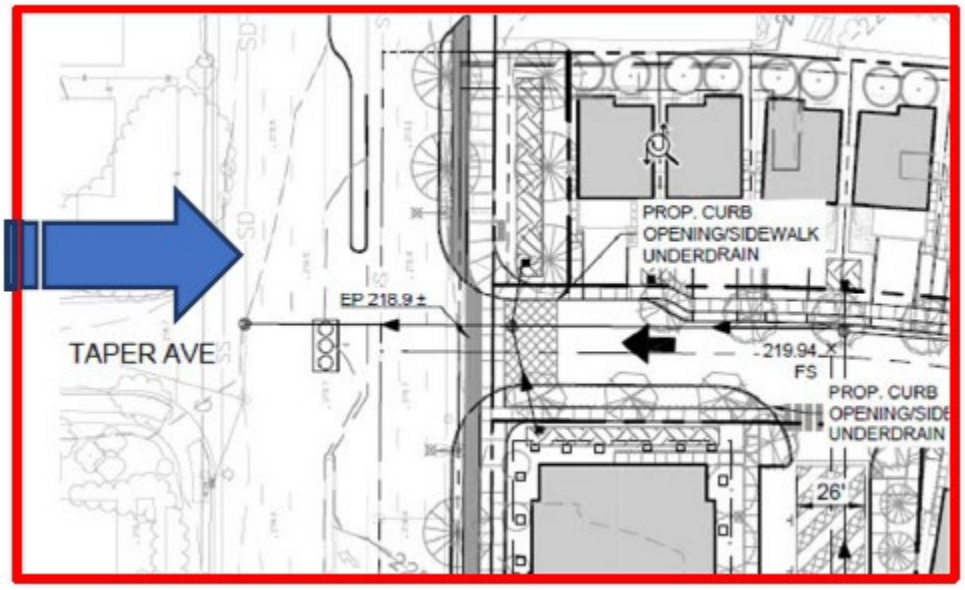
Comment BB.1: I have been a resident of San Jose and in particular, [REDACTED] New Jersey Avenue, for 52 years. In that time I have had the rare opportunity to watch my children along with other children not having to fear the current hazards of New Jersey Avenue and surrounding streets. I had no fear of children walking/riding to schools. Now, to the present, I have witnessed on several occasions children crossing Foxworthy and New Jersey Streets almost getting hit by vehicles not stopping at the stop sign or making right or left turns while children are still in the crosswalks. Traffic in this area, down these streets has increased monumentally and speed has increased to a dangerous level. As an example, on Taper, New Jersey, Kathleen Ave's the speed limit is 25 MPH, I have been passed by vehicles travelling far in excess of the speed limit, being passed on a two lane street in a residential area is extremely hazardous. Yes, I've reported/begged/pleaded with the City to survey these streets for enhanced traffic control...all they have provided us with 4 bike lane curbs. The Cambrian Plaza Development along with the other nearby projects will only add more congestion which in turn will add more frantic drivers which will result in more speed and hazardous driving among our residential streets. The City must be responsible for insuring that our residential streets are not further impacted, and also to put in place diversion entries and exits so that our streets become less of the freeways they are becoming now. Your kind and serious attention to our Cambrian area concerns are most needed for a safe future.

Response BB.1: Comment BB.1 references general existing traffic volumes as well as projected increases in traffic volumes on residential streets. The comment does not identify specific issues with the proposed project or the Draft EIR's transportation analysis. However, if requested, the City could consider implementation of traffic calming measures to address specific streets, such as New Jersey Avenue, and neighborhoods as part of its Traffic Calming Policy for Residential Neighborhoods (Council Policy 5-6) separate from the proposed project. Due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

CC. **Lisa Koen (dated January 2, 2022)**

Comment CC.1: Attached is a PDF that depicts our position regarding the Traffic Signal for the Taper Avenue light proposed for the CPP project. Please let me know if you have any questions, or require any clarification.

The City of San Jose Department of Transportation, has conducted the Local Transportation Analysis (LTA) for the Cambrian Park Plaza redevelopment project. The intersection operations analysis completed as part of the LTA is intended to quantify the operations of intersections and to identify potential negative effects due to the addition of project traffic (iDEIR). The analysis has determined the installation of a traffic light at the corner of Taper and Camden Avenues will be added in support of providing access to the reconstructed Cambrian Park Plaza. The engineer working on this project has described the planned light at Taper as being 'full access'. This indicates it would be similar to the one at Camden and Union, meaning "all vehicular movements from Camden onto Taper, and Taper onto Camden will be possible (Movements = Through Traffic, Left-Turns, Right-Turns)."



We ask the City Planners to reconsider the impact to the neighborhood along Taper Avenue between Camden and Foxworthy. The supporting data from the traffic analysis appears to be badly flawed suggesting there will be no impact to Taper Avenue with little to no increase in traffic volume. Taper Avenue (LTA Driveway C) already has scoff-laws speeding between Camden and Foxworthy Avenues attempting to avoid the daily commute backup at Camden and Union Avenues. The problem is certain to be exacerbated with the addition of the proposed traffic signal. Frustrated drivers will quickly find a cut-thru on Taper to Foxworthy will save several minutes allowing them to avoid the backup at Union and Camden.

> **Response CC.1:** The analyses provided within the LTA are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

Comment CC.2: In addition to the increased traffic flow to, and from the new Plaza, 43 new homes behind the Camden Community Center, and 21 new homes, 14 with ADU's, on the Metzler C School Property on Cambrianna Avenue will further compound an already congested area. It was recently

announced by the Cambrian School District a 99-year lease has been signed for a new Senior Care Center to be located on the Metzler A property facing Union Avenue.

Response CC.2: Responses Q.1 and R.3 address Comment CC.2 (please refer to these responses).The 43-unit residential project behind Camden Community Center and the Senior Care Center projects' traffic were included in the cumulative LOS analysis in the Draft EIR, Appendix H, LTA. The residential project (21 single-family units and 14 accessory units) at the Metzler School site was not on file with the City until October 2021 and, therefore, was not included in the cumulative LOS analysis. However, the Metzler School site project would only generate 19 net new AM trips and 26 net new PM trips . Given the small number of trips this Metzler School site project would generate, this project would have negligible effect on and not change the results of the cumulative LOS analysis completed for the Cambrian Park Mixed-Use Village project.

Comment CC.3: The School District facilities on Cambrianna continue to be used as a Pre-School Daycare Center, Montessori bi-lingual elementary school, Sports Training Center and a Dance Academy. Many children from the surrounding neighborhood walk to these schools with many crossing Taper and Cambrianna Avenues. Parental morning drop-off and afternoon pick-up is a recurring cause for week-day traffic congestion along Cambrianna extending back to Taper approximately 300 feet from the entry to the school facilities. With the return to post-pandemic traffic, the potential for a tragic accident will be magnified by the additional traffic resulting from the Taper/Camden signal light as proposed by the City of San Jose.

Response CC.3: As stated in Response R.1, the installation of a traffic signal would not increase traffic on Taper Avenue. Nor would the project contribute to existing queuing from cars dropping off or picking up school children. The primary purpose of a traffic signal is to provide a safe-controlled point of access to and from side streets along major thoroughfares such as Camden Avenue to minimize collisions. Therefore, the proposed signal on Taper Avenue and Camden Avenue would not increase traffic collisions. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

Comment CC.4: Preferential "traffic calming" has been specified for the Wyrick Avenue neighborhood adjacent to the South West perimeter of the CPP development. However, there has been no similar consideration for the traffic impact to Driveway C, Taper Avenue. Apparently Wyrick Avenue has been designated as an "exclusive neighborhood" exempt from sharing the traffic loading in and out of the CPP development.

The Cambrian Neighbors along Taper Avenue and surrounding side streets asks the City of San Jose Department of Transportation to implement the following alternative to the installation of a full access traffic control signal at the intersection of Camden and Taper Avenues.

Neighborhood Preferred Solution:

Taper Avenue blocked to all Entry from Camden Avenue. *
Exit Taper to Camden - Right Turn Only
Exit the Plaza – Right or Left Turn Only
*Emergency Vehicles retain entry access

With Taper Avenue blocked to all vehicle entry at Camden Avenue, there remains multiple entry points to the Taper/Cambrianna neighborhood and adjoining side streets including; New Jersey, Cambrianna, Foxworthy, Leigh, Bernice Way, and Geneva Street.

Response CC.4: The analyses provided within the LTA are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

Comment CC.5: Additional Traffic Issue
During the DEIR Zoom presentation of 12/13/2021 an additional traffic concern was seen in the artist's rendering of the traffic flow along Camden Avenue adjacent to the Plaza. The center median between the opposing 3-lane traffic flow was apparently removed to accommodate the addition of protected bike lanes. The drawings also indicated the current three (3) lanes have been reduced to two (2) lanes in each direction. With the traffic flow choked down from three lanes to two, the potential for head-on collisions between Union and Leigh Avenues will be magnified with the loss of the median lane separation. The addition of a traffic signal at Taper Avenue is certain to be cause for rear-end collisions forcing those not paying attention and suddenly braking to turn head-on into the opposing traffic heading East on Camden toward Leigh and Hillsdale or West toward Union.

Response CC.5: As stated in Response R.7, the rendering of the traffic flow along Camden Avenue, shown during the 12/13/2021 meeting inadvertently removed the center median and displayed two lanes rather than the correct three lanes. The site plan (Sheet A3.3) has been corrected and is posted on the City's website at https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/projects-of-high-interest/pending/cambrian-park-plaza-signature-project. As stated in Response R.1, the lack of a traffic signal at intersections along major thoroughfares relies on driver judgement to determine when it is safe to access these thoroughfares and results in increased risks for collisions. The purpose of the proposed traffic signal is to reduce the risk of collisions. Furthermore, signalized intersections along major thoroughfares provide a controlled crossing point for pedestrians. Concerns of an increase in rear-end collisions due to the traffic signal are speculative and unsubstantiated.

DD. **Dolin Pereira (dated January 2, 2022)**

Comment DD.1: It was the best of times, it was the worst of times… We would rather take community political action in pursuit of safety than to risk our community's safety in pursuit of politics. Our connected Taper Ave community doesn't accept Cambrian Park Plaza Plan to permit a Four way Stop Light at Camden and Taper. Taper Ave isn't designed to support commercial, residential and school traffic pass through as Foxworthy, Union and Leigh are.

> **Response DD.1:** The analyses provided within the Local Transportation Analysis (LTA) are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3.However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

Comment DD.2: I'm sure our city planners should be concerned for the adverse safety effects of potentially 1000 new residents and commuters cutting through from Camden on our residential street in addition to existing pass through and school traffic, but they aren't. The City's EIR Traffic Light PDC 17-040 PDC 20-007 allows upwards of 30X Traffic adversely impacts our neighborhood: our children, A T.L.C. Preschool, our neighbors, our walkers, our safety, our seniors, our peace of mind. You say yes, we say no.

> **Response DD.2:** It is unclear which residential street Comment DD.2 is referring to. However, if the concern is regarding cut through traffic Taper Avenue, as stated in Responses R.1, R.2, and R.6, minimal project-generated trips would go straight to enter Taper Avenue because Driveway C would primarily serve the residential and hotel uses of the project, and Taper Avenue does not provide a direct route to major arterials and freeways to which the majority of residential and hotel uses would be bound for and originate from. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

EE. **Lorrie LeLe, Adams Broadwell Joseph & Cardozo (dated January 3, 2022)**

Comment EE.1: The Project proposes to annex the Site into the City of San Jose and redevelop the entire Site with a commercial/residential mixed-use neighborhood community comprised of commercial uses, a hotel, an assisted living facility (or an office use alternative), apartments, townhomes, single family homes, a town square, and public park spaces.[3] The Project Site is 18.1

[3] City of San Jose, Cambrian Park Mixed-Use Village Project, Draft Environmental Impact Report at v (November 2021) (hereinafter "DEIR").

acres located within an unincorporated area of Santa Clara County.[4] The site is currently developed with an existing retail shopping center and surface parking lots, with storefronts located within a central single-story building, and additional retail businesses located within separate single-story buildings along the street frontage.[5] "Surrounding land uses include single family residential to the north across Camden Avenue, single family residential adjacent to the easterly site boundary, apartments adjacent to the southerly corner of the site, and single family residential and commercial to the west of the site across Union Avenue.[6]"

The DEIR fails in significant aspects to perform its function as an informational document that is meant "to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment" and "to list ways in which the significant effects of such a project might be minimized.[7]" First, the Project Description in the DEIR is not accurate or stable as required by CEQA. The DEIR obscures the information about the Project and fluctuates between different figures for the Project's size and characteristics. The unstable Project Description is evidenced throughout the DEIR's impacts analysis, and potentially affects the sufficiency of the DEIR's significance determinations.

Second, the Project would have significant impacts that are not adequately disclosed or mitigated in the DEIR. The DEIR's analysis of the Project's air quality impacts are deficient and not supported by substantial evidence. The DEIR underestimates the Project's emissions during construction and operations, potentially resulting in undisclosed significant impacts on air quality. The cancer risk disclosed in the DEIR is also inaccurate because the Project's Health Risk Assessment is based on an underestimation of Diesel Particulate Matter ("DPM") and improperly omits emissions from on-site generator(s).

Additionally, the DEIR fails to fully disclose and adequately mitigate the Project's significant impacts from greenhouse gas ("GHG") emissions. The baseline for GHG emissions relied upon in the GHG Assessment is not representative of existing conditions. With regards to impacts from GHG emissions, substantial evidence does not support the DEIR's conclusion that the Project's GHG emissions would be less than significant. The Project's construction GHG emissions are not sufficiently addressed in the DEIR and operational emissions may be underestimated in the GHG Assessment. Moreover, the DEIR's conclusion that impacts from operational GHG emissions would be less than significant is inconsistent with the quantitative analysis in the GHG Assessment that the impacts would be potentially significant.

The Project's construction noise impacts are potentially significant because the mitigation measures identified in the DEIR are inadequate to reduce construction noise levels, which exceed the threshold of significance by 20 to 32 dBA at 50 feet.

[4] Id.
[5] Id.
[6] Id. at 3.
[7] Laurel Heights Improvements Assn. v. Regents of University of California (1988) 47 Cal. 3d 376, 391.

The DEIR also fails to disclose and meaningfully analyze the Project's potentially significant transportation impacts. The analysis of Vehicle Miles Traveled ("VMT") for the Project's hotel, retail, and restaurant components is based on an unsupported assumption that existing trips would be diverted from similar, existing establishments. This assumption improperly skews the impacts analysis and likely affects the adequacy of the conclusion that these Project components would not result in new net VMT. The DEIR also fails to adequately assess the Project's inconsistencies with the City's clean air vehicle parking requirement and other traffic impacts. Finally, the DEIR does not account for VMT added by the Project's proposed 18 Accessory Dwelling Units ("ADUs") and improperly relies on optional traffic calming measures to mitigate the Project's potentially significant impacts on roadway facilities.

The analysis of the Project's impacts on water supply and water quality are not adequately disclosed in the DEIR. The Water Code requires a demonstration of the Project's water supply sufficiency for a twenty-year protection. Here, the DEIR fails to adequately analyze the conservation measures that would purportedly reduce future water demand during single-dry water year and multiple dry years. Such measures would be necessary given that total water demand during these periods is estimated to exceed the total supply. The Project's water demand analysis also omits necessary information to adequately assess the significance of the Project's impact on water supply. With regards to impacts on water quality, the DEIR fails to address two potential constraints concerning infiltration that were identified in the Preliminary Stormwater Management Plan and may affect the Project's post-construction water quality impacts.

Finally, there are a multitude of issues with the DEIR's energy impacts analysis. First, the analysis admits to not considering compliance with the City's new requirements under the Reach Code and thus bases the impacts analysis on a combination of electricity and natural gas usage. However, the failure to analyze the Project's impacts under the laws that the Project must comply with, presents a glaring information gap in the DEIR contrary to CEQA's requirements. Second, the DEIR also lacks evidentiary support for the conclusion that the Project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during operations. Lastly, the DEIR's analysis fails to quantify and adequately assess the Project's energy consumption impacts during the years of construction.

Based upon our review of the DEIR, City records, as well as pertinent public records in the possession of other agencies, we conclude that the City's DEIR lacks substantial evidence to support its conclusions and fails to comply with the requirements of CEQA. Therefore, the City must prepare and recirculate a revised DEIR which complies with CEQA.

We prepared our comments with the assistance of technical experts, including air quality, GHG emissions, and health risk assessment experts Matt Hagemann, P.G., C.Hg., and Paul E. Rosenfeld, Ph.D., at Soil / Water / Air Protection Enterprise ("SWAPE"); traffic and transportation expert Daniel T. Smith Jr., P.E.; and noise expert Derek Watry. SWAPE's comments, Mr. Hagemann's curriculum vitae, and Mr. Rosenfeld's curriculum vitae are attached to this letter as Exhibit A. Mr. Smith's comments and his curriculum vitae are attached to this letter as Exhibit B. Mr. Watry's comments and his curriculum vitae are attached to this letter as Exhibit C.

Response EE.1: Comment EE.1 is provides a summary of concerns regarding the Draft EIR's project description and air quality, GHG emissions, construction noise,

water supply and water quality, traffic, and energy analysis discussed in Comments EE.3 through EE.60 (which covers these topics in more detail). Responses EE.3 through EE.60 address the concerns in Comment EE.1.

Comment EE.2:

I. Statement of Interest

Silicon Valley Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. Residents includes San Jose residents Christopher Valverde, Jonathan R. Baker, and Christopher Reed, the International Brotherhood of Electrical Workers Local 332, Plumbers & Steamfitters Local 393, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, along with their members, their families, and other individuals who live and work in the City of San Jose.

Individual members of Silicon Valley Residents live, work, recreate, and raise their families in the City and in the surrounding communities. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist on site.

In addition, Silicon Valley Residents has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for businesses and industries to expand in the region, and by making the area less desirable for new businesses and new residents. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

II. LEGAL BACKGROUND

CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project.[8] "CEQA's fundamental goal [is] fostering informed decision-making.[9]" "The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind.[10]" "

The foremost principle in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.[11]" CEQA has two primary purposes. First, CEQA is designed to inform decision

[8] 14 C.C.R. § 15002(a)(1).
[9] Laurel Heights Improvement Assn., 47 Cal.3d at 402.
[10] Bozung v. LAFCO (1975) 13 Cal.3d 263, 283.
[11] Communities for a Better Env't. v. Cal. Res. Agency (2002) 103 Cal. App.4th 98, 109.

makers and the public about the potential, significant environmental effects of a project.[12] "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Second, CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring "environmentally superior" alternatives and all feasible mitigation measures.[13]

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an EIR, except in certain limited circumstances.[14] An EIR is required if "there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment."[15] The EIR is the very heart of CEQA.[16] The EIR acts as an "environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return."[17] The EIR aids an agency in identifying, analyzing, disclosing, and, to the extent possible, avoiding a project's significant environmental effects through implementing feasible mitigation measures.[18] The EIR also serves "to demonstrate to an apprehensive citizenry that the [agency] has analyzed and considered the ecological implications of its action."[19] Thus, an EIR "protects not only the environment but also informed self-government."[20]

The inquiry is whether an EIR "'includes enough detail 'to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.'…A prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process.'"[21] Insufficient analysis or outright omissions regarding the magnitude of the environmental impact are not substantial evidence questions; instead, "the inquiry is predominantly legal and, '[a]s such, it is generally subject to independent review.'"[22]

Response EE.2: Comment EE.2 includes a statement of interest and provides background regarding the purpose of CEQA. The comment does not question the adequacy of the EIR analysis. Therefore, no further response is required.

[12] 14 C.C.R. § 15002(a)(1).
[13] 14 C.C.R. § 15002(a)(2) and (3); See also Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs. (2001) 91 Cal.App.4th 1344, 1354; Citizens of Goleta Valley v. Board of Supervisors (1990) 52Cal.3d 553, 564.
[14] See, e.g., Pub. Res. Code § 21100.
[15] Pub. Res. Code, § 21080(d); 14 C.C.R. § 15064; See also Pocket Protectors v. City of Sacramento (2004) 124 Cal.App.4th 903, 927; Mejia v. City of Los Angeles (2005) 13 Cal.App.4th 322.
[16] Dunn-Edwards v. Bay Area Air Quality Management Dist. (1992) 9 Cal.App.4th 644, 652.
[17] Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1184, 1220.
[18] Pub. Res. Code § 21002.1(a); 14 C.C.R. § 15002(a), (f).
[19] No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 86.
[20] Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 564.
[21] Golden Door Properties, LLC v. Cty. of San Diego (2020) 50 Cal. App. 5th 467, 505; See also Save our Peninsula Comm. v. Monterey Cty. Bd. of Supervisors (2001) 87 Cal. App. 4th 99, 118 ("'The error [in failing to include relevant information in the EIR] is prejudicial 'if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process.'")
[22] Id.

Comment EE.3: The DEIR Fails to Provide an Accurate and Stable Project Description

The analysis in the DEIR is inadequate because it fails to accurately describe the Project. The Project Description "'is an indispensable element of a valid EIR.'"[23] California courts have repeatedly held that "an accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR."[24] "A curtailed, enigmatic or unstable project description draws a red herring across the path of public input."[25] Whether the Project Description complies with CEQA's requirements is a question of whether the agency has abused its discretion and a court's standard of review would be de novo.[26]

CEQA requires that a project be described with enough particularity that its impacts can be assessed.[27] The Project Description must include the location and boundaries of the proposed project on a detailed map, a list of the project objectives, "[a] general description of the project's technical, economic, and environmental characteristics," and a brief discussion about the intended use of the EIR.[28]

Without a complete project description, the environmental analysis under CEQA is impermissibly limited, thus minimizing the project's impacts and undermining meaningful public review.[29] Accordingly, a lead agency may not hide behind its failure to obtain a complete and accurate project description.[30]

The Project Description in the DEIR obscured the information about the Project provided to the public. The Project's size and characteristics fluctuated throughout the DEIR's impact analysis, which potentially affected the sufficiency of the DEIR's significance determinations. Moreover, in an attempt to address the inconsistencies in the Project Description, the DEIR cites to several "personal communications" with the EIR consultants. For example, the analysis in the Project's traffic study assumed 180 assisted living rooms, but the Project is proposing 110 assisted living rooms and 50 independent senior living units.[31] This change increased the daily trips from 468 daily trips to 471 daily trips.[32] However, based on a personal communication with Hexagon Transportation Consultants dated October 20, 2021, the DEIR nevertheless concludes that the increase in three daily trips would not affect the project's VMT per capita or employee," and "the project's VMT impact would continue to be less than significant."[33]

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[23] Washoe Meadows Community v. Dept. of Parks & Recreation (2017) 17 Cal.App.5th 277, 287.
[24] Stopthemillenniumhollywood.com v. City of Los Angeles (2019) 39 Cal.App.5th 1, 17; Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 85–89; County of Inyo, 71 Cal.App.3d at 193.
[25] County of Inyo, 71 Cal.App.3d at 193, 198.
[26] See Stopthemillenniumhollywood.com, 39 Cal. App. 5th at 15; Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 513; Washoe Meadows Community, 17 Cal.App.5th at 286-287.
[27] 14 C.C.R. § 15124; See Laurel Heights Improvement Assn., 47 Cal.3d at 192-193.
[28] Id. at § 15124(a)-(d).
[29] Id.; See also Laurel Heights Improvement Assn., 47 Cal.3d at 192-193.
[30] Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, 311.
[31] DEIR at 237, 242.
[32] Id. at 232.
[33] Id.

Likewise, and again citing to personal communications with the EIR consultants, the air quality models for operational emissions were based on 320 apartment units as compared to the Project's 305 units and assumed 185 assisted living rooms as compared to the Project's 110 assisted living rooms and 50 independent senior living units.[34] The noise assessment also relied on incorrect figures in assuming 180 assisted living rooms at the proposed assisted living facility.[35] Based on personal communication with the noise consultant dated October 25, 2021, the DEIR determines that the "conclusions for noise level impacts resulting from traffic would not change."[36]

The 2018 Water Supply Assessment assumed a 238-room hotel, 115,000 square feet of retail, 130,000 square foot assisted living facility (assisted living facility variant), and 150,000 square feet of office (office variant).[37] However, the Project actually proposes a 229-room hotel, 50,990 square feet of retail/restaurant, 125,740 square feet of assisted living space and 50 independent senior living units (within the same building), and 160,000 square feet of office (office variant).[38] Purportedly supported by personal communications with the San Jose Water Company on October 29, 2021, the DEIR concludes that the "changes to the project does not represent a material difference in water demand."[39]

Finally, the Project Description states that the Project would provide a total of 1,252 parking spaces, but the DEIR's transportation impact analysis states that "[t]he project is proposing to provide a total of 1,469 on-site parking spaces (per site plans based on the Assisted Living Variant), which would exceed the City's parking requirements for both project variants."[40]

The Project Description in the DEIR is thus unstable and inadequate under CEQA. The DEIR must be revised to set forth an accurate and stable Project Description. Furthermore, information about the Project and analysis of the significance of the impacts must not be scattered throughout personal communications with the EIR consultants; a good faith reasoned analysis must be included in the DEIR.

Response EE.3: Section 2.0, Project Description of the Draft EIR includes the characteristics of the project, which remain stable throughout the Draft EIR. The Draft EIR described the proposed project as a mixed-use project with a hotel, apartments, single-family houses, townhomes, an assisted living facility or office building, commercial space, and public open space on an approximately 18-acre site.

The commenter states that the Project Description "obscured the information about the Project provided to the public" because the Project's size and characteristics fluctuated throughout the DEIR's impact analysis." This is incorrect.

[34] Id. at 63.
[35] Id. at 189.
[36] Id.
[37] Id. at 278.
[38] Id.
[39] Id.
[40] Id. at 19, 265

The commenter is correct that the CEQA process led to minor modifications to the Project details. CEQA requires lead agencies to prepare EIRs as early in the planning process as possible to enable environmental considerations to influence project, program or design.

The commenter is specifically concerned that some of the technical reports supporting the draft EIR analyzed slightly different specifics than described in Section 2.0, Project Description of the Draft EIR. The discrepancies highlighted by the commenter are (1) the replacement of 70 assisted living rooms with 50 independent senior living units in the senior living facility and the reduction of the building from 130,000 square feet to 125,740 square feet; (2) the reduction in apartment units from 320 to 305; (3) the reduction in retail/restaurant space from 115,000 square feet to 50,990 square feet; and (4) a reduction in parking spaces from 1,469 to 1,252. Technical reports are completed at the early stages of the preparation of an EIR and as is the case here, a project often is refined during the EIR process. As indicated by the above listed changes, the project mainly reduced in size (when compared to the previous proposal) based on the community's feedback. The City's expert technical consultants, including those referenced in the comment, confirmed that the minor technical project changes did not alter the impact conclusions (based on email communications with technical experts). For example, the proposed project would generate less operational air pollutant emissions (primarily resulting from vehicular emissions) than what was evaluated in the air quality analysis (Appendix B of the Draft EIR) mostly due to the number of apartment units decreasing from 320 units to 305 units (refer to Section 3.3.2, Page 63, Footnote 16 of the Draft EIR). Given the project footprint did not substantially change, the results of the construction air quality and noise analysis (Appendix G of the Draft EIR) did not change. Although the Local Transportation Analysis (LTA) (Appendix H of the Draft EIR) assumed the project was proposing 180 assisted living rooms, which would generate 468 daily trips, and the proposed project includes 110 assisted living rooms and 50 independent senior living units, which would generate 471 daily trips, the increase in three daily trips would not affect the project's Vehicle Miles Traveled (VMT) per capita or employee. Therefore, the project's VMT impact would continue to be less than significant (refer to Section 3.16.2, Page 237, Footnote 103 of the Draft EIR). In addition, a Water Supply Assessment (WSA) was prepared the project in 2018. Based on email communications with San José Water Company (SJWC), the project modifications would not represent a material difference in water demand. The original project (evaluated in the WSA) would have resulted in a 0.23 percent increase in demand when compared to the SJWC's current potable water production and the modified project would result in a 0.25 percent increase.

The project description is adequate since the basic characteristics of the project, such as the uses and site plan remained understandable and stable throughout the EIR. As Comment EE.1 shows, the commenter could understand the project and the modifications between the project and details analyzed in early technical reports. Therefore, while minor revisions occurred through the Draft EIR process, the project is understandable and adequately described in the Draft EIR. In addition, the minor

changes in the project do not result in any new or substantially more severe impacts or require any new or different mitigation measures than identified in the Draft EIR.

Comment EE.4: The Project Would Have Significant Impacts that are Not Adequately Disclosed or Mitigated in the DEIR

An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.[41] The failure to provide information required by CEQA is a failure to proceed in the manner required by CEQA.[42] Challenges to an agency's failure to proceed in the manner required by CEQA, such as the failure to address a subject required to be covered or to disclose information about a project's environmental effects or alternatives, are subject to a less deferential standard than challenges to an agency's factual conclusions.[43] In reviewing challenges to an agency's approval of an EIR based on whether the agency utilized the appropriate processes, the court will "determine de novo whether the agency has employed the correct procedures, 'scrupulously enforcing all legislatively mandated CEQA requirements.'"[44] Even when the substantial evidence standard is applicable, reviewing courts will not "'uncritically rely on every study or analysis presented by a project proponent in support of its position. A clearly inadequate or unsupported study is entitled to no judicial deference.'"[45]

Response EE.4: The comment attempts to generally summarize the law and does not raise any specific issue with the environmental analysis of the EIR. Therefore, no additional response is required. The Draft EIR conclusions were based on technical studies from experts in the subject matter of those studies, the applicant's plan set (e.g., architectural and civil plans), and existing regulations. This comment provides a general statement and does not question specific topics in the EIR analysis. Therefore, no further response is required.

Comment EE.5: The DEIR's Analysis of the Project's Air Quality Impacts is Deficient and Not Supported by Substantial Evidence

The Project would have significant impacts on air quality that are not adequately disclosed or mitigated in the DEIR. As detailed by SWAPE in the attached expert report and below, the DEIR underestimates the Project's emissions during construction and operations, which may result in undisclosed significant impacts on air quality. Additionally, the cancer risk disclosed in the DEIR is inaccurate because the Project's Health Risk Assessment is based on an underestimation of DPM and improperly omits emissions from on-site generators.

[41] Kings Cty. Farm Bur., 221 Cal.App.3d at 732.
[42] Sierra Club v. State Bd. Of Forestry (1994) 7 Cal.4th 1215, 1236.
[43] Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 435.
[44] Id., Madera Oversight Coal., Inc. v. County of Madera (2011) 199 Cal. App. 4th 48, 102.
[45] Berkeley Keep Jets Over the Bay Com., 91 Cal.App.4th at 1355.

a. The DEIR Underestimates the Project's Significant Impacts on Air Quality

SWAPE determined that several CalEEMod model inputs were inconsistent with information disclosed in the DEIR, including, but not limited to, construction phase lengths, trip purpose percentages, and the incorrect application of Tier 4 Final mitigation and energy-related mitigation. As a result, SWAPE concluded that the Project's construction and operational emissions are underestimated in the DEIR.

i. The DEIR Underestimates the Project's Emissions During Construction Activities and Operations

The DEIR's air quality impacts analysis relied on the California Emissions Estimator Model ("CalEEMod") Version 2016.3.2 to estimate emissions from construction and operation of the site assuming full build-out of the Project.[46] The Project's land use types and sizes, and anticipated construction schedule were input to CalEEMod.[47] CalEEMod is designed with default assumptions; however, the user is able to modify any defaults "provided that the information is supported by substantial evidence as required by CEQA."[48]

SWAPE performed a review of the Project's CalEEMod files and identified several deficiencies with the model inputs.[49] Specifically, several model inputs were inconsistent with the information disclosed in the DEIR including, but not limited to, construction phase lengths, trip purpose percentages, Tier 4 Final mitigation measures, and energy-related mitigation measures.[50]

First, SWAPE determined that the reductions to CalEEMod defaults for the Project's construction phase lengths are unsubstantiated.[51] Notably, the demolition phase was increased by 125%, the site preparation phase was increased by approximately 320%, the grading phase was increased by approximately 280%, the building construction phase was decreased by approximately 13%, the architectural coating phase was increased by approximately 1,200%, and the paving phase was increased by approximately 250%.[52] As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified and according to the DEIR's Air Quality and Greenhouse Gas Assessment, the reductions are based on "total workdays from project applicant 9.8.2020."[53] However, evidence of the total construction duration is insufficient to provide substantial evidence of the individual construction phase lengths, as discussed in SWAPE's attached expert report.[54] Moreover, the information disclosed in the DEIR only supports total construction duration of twenty eight months.[55] For these reasons, SWAPE was unable to verify the changes to the CalEEMod

[46] DEIR at 56.
[47] Id.
[48] California Air Pollution Control Officers Association ("CAPCOA"), CalEEMod User's Guide at 13-14 (May 2021), available at: http://www.aqmd.gov/docs/default-source/caleemod/user-guide- 2021/01_user-39-s-guide2020-4-0.pdf?sfvrsn=6.
[49] Exhibit A at 1-2.
[50] Id. at 1.
[51] Id. at 2-3.
[52] Id. at 3.
[53] Id.; DEIR, Appendix B at 71, 171.
[54] Id. at 3.
[55] Id.; DEIR at 58.

defaults, rendering the several modifications to the construction phase lengths in the air quality analysis deficient and unsubstantiated.[56] SWAPE concludes that "by disproportionately altering the individual construction phase lengths without proper justification, the models may underestimate the peak daily emissions associated with some phases of construction," and "[t]hus, the models should not be relied upon to determine the significance of the Project's air quality impacts."[57]

Response EE.5: As described in the air quality assessment (refer to Appendix B, Attachment 2 of the Draft EIR), specific construction information was provided by the applicant team and used in the modeling rather than relying on CalEEMod model default conditions. This information included the project construction schedule dates and duration in terms of workdays for each construction phase. The construction schedule and equipment list represent project specific information that is deemed as substantial evidence, where use of default CalEEMod inputs would be inappropriate for this project.

Section 4.3, Page 31, of the CalEEMod User's Guide (refer to http://www.caleemod.com/) for modeling construction emissions states that "if the user has more detailed site-specific equipment and phase information, the user should override the default values." Project-specific construction data were provided for this project. In addition, CalEEMod construction default data were developed based on surveys of construction sites completed by South Coast Air Quality Management District (SCAQMD) staff, as described in Appendix E of the CalEEMod User's Guide (see http://www.caleemod.com/) and the survey report for projects five acres or less. The surveys addressed projects that were less than five acres and projects that were up to 30 acres in size and 50 feet in height. Based on the results of the construction site survey, SCAQMD staff has developed typical construction site scenarios. A "typical" construction scenario means that the construction does not require additional activities such as major cut-and-fill for projects located on a hill or steep grade; or major soil excavation and hauling off-site for a project that includes sub-grade levels or parking; or demolition of buildings greater than 50 feet tall (assumed to be about four stories). Therefore, use of default CalEEMod construction assumptions would be inappropriate for this project, especially in lieu of the project-specific information provided.

Use of default CalEEMod modeling assumptions would have generated an unrealistic construction schedule for this type of project that would result in underestimated emissions. Note that the Draft EIR predicts average daily emissions (and not "peak daily emissions") that are compared to proper significance thresholds. There are no thresholds for peak daily emissions and, therefore, the Draft EIR analysis and air quality assessment (Appendix B of the Draft EIR) did not predict peak daily emissions.

[56] Id. at 4.
[57] Id.

The trip percentages, Tier 4 mitigation measures, and energy-related mitigation measures referenced by the commenter are discussed in Responses EE.4, EE.5, and EE.6 below. For all of these reasons, the use of project-specific construction assumptions rather than CalEEMod construction default values were appropriate and based on specific equipment and phase information provided by the applicant, consistent with the CalEEMod User's Guide. Responses EE.7, EE.9 and EE.10 discuss the comment regarding the project's health risk assessment, DPM estimates, and on-site generators. Comment EE.5 does not identify new or an increase of severity of impacts identified in the Draft EIR.

Comment EE.6: Second, SWAPE concluded that the Project's mobile-source operational emissions are underestimated and must "not be relied upon to determine the significance of the Project's air quality impacts."[58] Upon reviewing the CalEEMod output files, SWAPE identified erroneous reductions with regards to pass-by trips.[59] In the "Cambrian Park Plaza - AQ/GHG Model Alternative 1" and "Cambrian Park Plaza - AQ/GHG Model Alternative 2" models, the trip purpose percentages are divided by primary, diverted, and pass-by trip types for the Project's proposed land uses.[60] However, Table 3.16-3 in the DEIR demonstrates that pass-by trips for the proposed land uses were included as a reduction in the Project's trip generation calculations.[61] As such, SWAPE explained that "the CalEEMod models should have divided the trip purpose between primary and diverted trips, as pass-by trips are already accounted for in the Project's projected trip generation total."[62] Instead, by including pass-by reductions in the DEIR estimates and again in the models, the trip lengths associated with the Project's daily vehicle trips are underestimated and inaccurate.[63]

Response EE.6: The commenter states that by including pass-by reductions in the DEIR estimates and again in the models, the trip lengths associated with the project's daily vehicle trips are underestimated and inaccurate. Contrary to the comment, there was no double counting of pass-by trip reductions in the air quality modeling. The CalEEMod modeling relied on the default trip adjustments for pass-by conditions in CalEEMod rather than the project trip generation calculations provided by the transportation consultant. The CalEEMod default trip adjustments for pass-by trips were slightly more conservative than calculated by the transportation consultant (based on VTA Transportation Impact Analysis Guidelines, the City of San José Transportation Analysis Handbook, and the City's VMT Evaluation Tool) and were used to produce conservative air quality modeling results. The CalEEMod weekday daily trip generation rate of 8,307 daily trips is greater than the rate from the LTA (Appendix H of the Draft EIR) of 7,922 daily trips for Alternative 1 and the CalEEMod weekday daily trip generation rate of 9,123 daily trips is greater than 8,715 trips for Alternative 2 from the LTA. Of the 8,307and 9,123 daily trips, only about one to two percent are pass-by trips. Note that the CalEEMod modeling

[58] Id. at 6.
[59] Id. at 4-6.
[60] Id.
[61] Id.
[62] Id. at 6.
[63] Id.

described above included substantially more trips than the 7,925 total project trips (after reductions such as residential-retail internal reduction, hotel-retail internal reduction, location-based reduction, and pass-by reductions for restaurant and retail) shown in the Draft EIR Table 3.16-3 that was identified in the Comment, which provides a conservative estimate for operational emissions.

Had the analysis been conducted the way as suggested in the comment (Comment EE.6), the conclusion of the analysis would not change since the lower estimated trip generation rate in the LTA would have been used. CalEEMod modeling output, which included the traffic inputs in Section 4.0 of the output sheets, is provided in Attachment 2 of Appendix B to the DEIR. For these reasons, project operational emissions were not underestimated and can be relied upon to determine the significance of project air quality impacts.

Comment EE.7: Third, SWAPE determined that the emissions for the majority of the Project's off-road construction equipment fleet under the "Cambrian Park Plaza - AQ/GHG Model Alternative 1" were incorrectly modeled based on the incorrect assumption that the more efficient Tier 4 Final equipment would be implemented.[64] However, as SWAPE explains, the inclusion of Tier 4 Final emissions standards is unsupported because MM AIR-2 does not specify or require "the more efficient Tier 4 Final emissions standards."[65] "Tier 4 Final represents the cleanest burning equipment and therefore has the lowest emissions compared to other tiers, including Tier 4 Interim equipment…," according to SWAPE.[66] Thus, SWAPE concluded that "by modeling construction emissions assuming a full Tier 4 Final equipment fleet, the DEIR fails to account for higher emissions that may occur as a result of the use of Tier 4 Interim equipment," and "[s]ince MM AIR-2 fails to specify whether the Project would use Tier 4 Interim or Tier 4 Final equipment, it is incorrect to model emissions assuming that the more efficient Tier 4 Final equipment would be implemented."[67]

Response EE.7: Mitigation measure MM AIR-2 of the Draft EIR requires that site construction equipment meet U.S. EPA Tier 4 emission standards (i.e., Tier 4 Interim or final engine standard) for NO_x and PM (PM_{10} and $PM_{2.5}$), and not only Tier 4 interim, as mentioned in Comment EE.4. The results shown in the Draft EIR, Appendix B, Table 7, Page 23 for Alternative 1 are based on the use of equipment that meets Tier 4 interim standards and not Tier 4 Final. The CalEEMod mitigated output provided in Attachment 2 of Appendix B to the Draft EIR based on Tier 4 final equipment (based on a previous model run) was included in error. However, the correct construction emissions based on the use of Tier 4 interim equipment were reported in Section 3.3.2, Impact Discussion, Table 3.3-5, of the Draft EIR and Table 7 of the air quality analysis in Appendix B. The correct CalEEMod output based on Tier 4 interim equipment is included in Attachment A of the FEIR. This would

[64] Id. at 7.
[65] Id.
[66] Id.
[67] Id.

replace the CalEEMod output entitled Cambrian Park Plaza – AG/GHG Model Alternative 1 in Attachment 2 (Pages 70-130) of Appendix B of the Draft EIR. The CalEEMod model output with mitigated emissions, which are based on Tier 4 interim equipment only are provided to support the effectiveness of the mitigation measure by demonstrating that the emissions reductions with the use of Tier 4 interim equipment are sufficient to reduce construction emissions below BAAQMD thresholds. The emissions from this output are those that were reported in the Draft EIR. Note that any project with a requirement to use Tier 4 interim equipment will likely include Tier 4 final equipment as this equipment is now prevalent in the average statewide construction fleets. Therefore, a mitigation measure that requires Tier 4 equipment would result in the use of Tier 4 interim and Tier 4 final equipment, and project emissions were appropriately modeled and mitigated. As stated in mitigation measure MM AIR-2.1, Page 61 of the Draft EIR, if Tier 4 equipment is not available, equipment that meets U.S. EPA emission standards for Tier 3 engines and includes particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment could be used as an alternative.

Comment EE.8: Finally, SWAPE found that the models overestimated any purported reductions to the Project's operational emissions because the models incorrectly incorporated an energy-related mitigation measure that is inapplicable to the Project.[68] The "Cambrian Park Plaza - AQ/GHG Model Alternative 1" and "Cambrian Park Plaza - AQ/GHG Model Alternative 2" models rely on a mitigation measure that would allow a percent of electricity usage to be generated with on-site renewable energy.[69] This modification to the CalEEMod defaults is supported by the claim that "SJCE is the electricity provider in San Jose. Will provide 100% carbon free electricity from 2021 on."[70] However, as SWAPE explains, energy from the grid is not applicable to this mitigation measure, which solely pertains to on-site renewable energy generation.[71] Moreover, the DEIR fails to provide evidence to support claims of on-site renewable energy generation given that the DEIR "only briefly acknowledges that the 'project will be plumbed for future solar capability' without disclosing or analyzing feasibility, location, capacity, or impacts."[72]

For the foregoing reasons, SWAPE concluded that the models do not support the DEIR's significance determinations for the Project's air quality impacts given that several model inputs were inconsistent with the information disclosed in the DEIR.

Response EE.8: This comment pertains to the GHG modeling for the project and whether the on-site solar equipment was correctly factored into the emissions. The project includes installation of on-site renewable energy equipment on all low-rise

[68] Id. at 8.
[69] Id.
[70] DEIR, Appendix B at 71, 171.
[71] Exhibit A at 8.
[72] Id.; citing to DEIR at 138. It must also be noted that solar does not require plumbing and therefore the DEIR's repeated statement

residential buildings (three stories and less), which makes the high-rise multi-family residential and commercial buildings "solar ready." The GHG emissions from operation of the project alternatives (i.e., assisted living variant and office variant) are reported in Appendix B of the Draft EIR, Table 8, Page 29 . Given the project is consistent with the General Plan and 2030 GHGRS, a quantitative GHG analysis is not required under CEQA (refer to May 2017 CEQA Guidelines Section 15183.5). The GHG analysis provided in Appendix B of the Draft EIR disclosed GHG emissions results for informational purposes. To account for San José Climate Smart goal of zero net energy by 2030 and GHGRS Action 1 goal of 98 percent participation in San José Clean Energy (SJCE) with 100 percent carbon free carbon-free energy for projects operational by 2030, the on-site renewable energy generation was input as mitigation in CalEEMod as a method to account for San José Clean Energy (SJCE) providing 100 percent carbon free electricity in the future. This was the only option available in CalEEMod that accounted for 100 percent carbon free electricity. The model output would result in the same emissions that would occur with the project receiving carbon-free electricity from an energy provider.

In addition, whether carbon-free electricity is accounted for in a model as mitigation that offsets GHG emissions associated with electricity or the model can directly account for carbon-free electricity does not change the conclusion of the significance finding for greenhouse gas emissions and climate change impacts. Since completion of the air quality analysis, the City has adopted a new qualified GHGRS for 2030 and an accompanying project compliance checklist. The project is required to comply with the strategy and checklist to demonstrate less than significant GHG impacts. As shown in the Draft EIR, Appendix E, the project would comply with the GHGRS checklist, including the requirement for a project to either include solar or a commitment to purchase carbon-free electricity from an electricity provider. Therefore, the project has a less than significant impact with respect to GHG emissions.

Comment EE.9: ii. The Cancer Risk Disclosed in the DEIR is Inaccurate Because the Health Risk Assessment is Based on an Underestimation of Diesel Particulate Matter

The DEIR concludes that the Project's health risk impact would be less than significant given that the mitigated excess cancer risk would not exceed the Bay Area Air Quality Management District's ("BAAQMD") significance threshold.[73] However, due to flaws in the Project's air model, SWAPE concluded that the Project's $PM_{2.5}$ values are underestimated and thus the DEIR lacks the requisite evidentiary support for the "less than significant" determination.[74] Specifically, the air model utilized a mitigated cancer risk that relies on the use of Tier 4 Final construction equipment due to the implementation of MM AIR-2.1.[75] However, as previously discussed, MM AIR-2 does not require Tier 4 Final construction equipment. SWAPE explains that "[b]y assuming a full Tier 4 Final

[73] DEIR at 68.
[74] Exhibit A at 9.
[75] Id. at 9.

equipment fleet, the DEIR fails to account for higher emissions that may occur as a result of the use of Tier 4 Interim equipment.[76] As a result, the HRA utilizes an underestimated DPM concentration to calculate the health risk associated with Project construction and operation."[77] As such, SWAPE concludes that "the DEIR's HRA underestimates the Project's cancer risk and, until MM AIR-2.1 is revised to require Tier 4 Final construction equipment, should not be relied upon to determine Project significance."[78]

Response EE.9: The air quality analysis in Appendix B of the Draft EIR relied upon Tier 4 interim equipment as mitigation (see Response EE.7). Also, both Tier 4 interim and Tier 4 final equipment are equally effective in reducing particulate matter emissions from construction equipment. In addition, the air quality analysis used the greater exhaust PM_{10} emissions, rather than $PM_{2.5}$, to represent diesel particulate matter emissions (which provides a conservative estimate of particulate matter emissions). Tier 4 final equipment standards were incorporated by U.S. EPA following Tier 4 interim to further reduce NOx emissions but did not alter the emissions related to particulate matter. Therefore, whether the Mitigation to reduce cancer risk (or NO_x emissions) used Tier 4 interim or Tier 4 final, the conclusion is the same that the project's cancer risk is reduced to a less-than-significant impact with mitigation measure MM AIR-2. For these reasons, the DEIR did not underestimate diesel particulate emissions and has appropriately mitigated project impacts.

Comment EE.10: SWAPE Report: We have reviewed the November 2021 Draft Environmental Impact Report ("DEIR") for the Cambrian Park Mixed-Use Village Project ("Project") located at the southeast corner of the intersection of Camden Avenue and Union Avenue, in the Cambrian Park neighborhood in southwestern San José, California. The Project proposes to demolish all existing structures and construct a 131,380-SF hotel, including 229 rooms and 4,910-SF of retail/restaurant space, 305 apartment units, 50,990-SF of commercial space, a 184,060-SF assisted living facility (or 160,000-SF of office space), 25 townhouses, and 48 single-family homes, as well as 1,326 parking spaces, on the 18.1-acre site.

Our review concludes that the DEIR fails to adequately evaluate the Project's air quality, health risk, and greenhouse gas impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project are underestimated and inadequately addressed. A revised EIR should be prepared and recirculated to adequately assess and mitigate the potential air quality, health risk, and greenhouse gas impacts that the project may have on the surrounding environment.

Response EE.10: Comment EE.10 is a summary of the comments in the SWAPE report discussed below. The project's emissions and health risk impacts are

[76] Id.
[77] Id. at 9-10.
[78] Id. at 10.

adequately addressed in the Draft EIR In addition, an analysis of operational generator emissions and health risk was included in a Memorandum completed by the technical air quality consultant (refer to Appendix B of this FEIR). Refer to Response EE.23 for further details of the results of this analysis. Based on this analysis, the conclusions in the Draft EIR regarding health risk impacts to the maximally exposed individual sensitive receptor would not change with the addition of the three emergency diesel generators and impacts would remain less than significant. Revisions to the Draft EIR text to include the discussion of generators are shown in Section 5.0, Draft EIR Text Revisions of this FEIR. .

Comment EE.11: Unsubstantiated Input Parameters Used to Estimate Project Emissions: The DEIR's air quality analysis relies on emissions calculated with CalEEMod.2016.3.2 (p. 56). CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type.

If more specific project information is known, the user can change the default values and input project- specific values, but the California Environmental Quality Act ("CEQA") requires that such changes be justified by substantial evidence. Once all of the values are inputted into the model, the Project's construction and operational emissions are calculated, and "output files" are generated. These output files disclose to the reader what parameters are utilized in calculating the Project's air pollutant emissions and make known which default values are changed as well as provide justification for the values selected..

Response EE.11: Comment EE.11 provides information regarding CalEEMod. As stated in Response EE.3, model inputs were based on project-specific information provided by the project applicant. The comment does not question the adequacy of the Draft EIR. Therefore, no further response is required.

Comment EE.12: When reviewing the Project's CalEEMod output files, provided in the Air Quality/Greenhouse Gas Assessment and 2030 GHGRS Compliance Checklist ("AQ/GHG Assessment") as Appendix B to the DEIR, we found that several model inputs were not consistent with information disclosed in the DEIR, including, but not limited to, construction phase lengths, trip purpose percentages, and the incorrect application of Tier 4 Final mitigation and energy-related mitigation. As a result, the Project's construction and operational emissions are underestimated. A revised EIR should be prepared to include an updated air quality analysis that adequately evaluates the impacts that construction and operation of the Project will have on local and regional air quality.

Response EE.12: Please refer to Responses EE.5, EE.6, EE.7, and EE.8. As described in the responses, the modifications made to the CalEEMod model did not underestimate project emissions. In addition, the commenter did not provide any evidence that using CalEEMod model default inputs for a generic project would result in higher air pollutant emissions.

Comment EE.13: Unsubstantiated Reductions to Individual Construction Phase Lengths: Review of the CalEEMod output files demonstrates that the "Cambrian Park Plaza - AQ/GHG Model Alternative 1" and "Cambrian Park Plaza - AQ/GHG Model Alternative 2" models include several changes to the default individual construction phase lengths (see excerpt below) (Appendix B, pp. 72-73, 173).

As a result of these changes, the models include the following construction schedule (see excerpt below) (Appendix B, pp. 99, 199):

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	20.00	260.00
tblConstructionPhase	NumDays	300.00	260.00
tblConstructionPhase	NumDays	20.00	45.00
tblConstructionPhase	NumDays	30.00	114.00
tblConstructionPhase	NumDays	20.00	70.00
tblConstructionPhase	NumDays	10.00	84.00

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Demolition	Demolition	8/15/2021	10/15/2021	5	45	
2	Site Preparation	Site Preparation	10/1/2021	1/26/2022	5	84	
3	Grading	Grading	2/1/2022	7/8/2022	5	114	
4	Trenching/Foundation	Trenching	5/1/2022	11/9/2022	5	138	
5	Building Construction	Building Construction	8/1/2022	7/28/2023	5	260	
6	Architectural Coating	Architectural Coating	10/1/2022	9/30/2023	5	260	
7	Paving	Paving	8/1/2023	11/6/2023	5	70	

As you can see in the excerpt above, the demolition phase was increased by 125%, from the default value of 20 to 45 days; the site preparation phase was increased by approximately 320%, from the default value of 20 to 84 days; the grading phase was increased by approximately 280%, from the default value of 30 to 114 days; the building construction phase was decreased by approximately 13%, from the default value of 300 to 260; the architectural coating phase was increased by approximately 1,200%, from the default value of 20 to 260 days; and the paving phase was increased by approximately 250%, from the default value of 20 to 70 days. As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified.2 According to the "User Entered Comments & Non- Default Data" table, the justification provided for these changes is: "Using total workdays from project applicant 9.8.2020" (Appendix B, pp. 71, 171). Furthermore, the AQ/GHG Assessment includes the following construction schedule inputs (Attachment 3, pp. 320):

Phase	Start Date	End Date	Days/Week	Workdays
Demolition	8/15/2021	10/15/2021	5	45
Site Preparation	10/1/2021	1/26/2020	5	84
Grading	2/1/2022	7/8/2022	5	114
Trenching/Foundation	5/1/2022	11/9/2022	5	138
Building Construction	8/1/2022	7/28/2022	5	260
Architectural Coating	10/1/2022	9/30/2023	5	260
Paving	8/1/2023	11/6/2023	5	70

Response EE.13: Please refer to Response EE.5. As stated, use of default CalEEMod modeling assumptions would have generated an unrealistic construction schedule for this type of project that would result in underestimated emissions. Specific construction information was provided by the applicant team and used in the modeling rather than relying on CalEEMod model default conditions. This information included the project construction schedule dates and duration in terms of workdays for each construction phase. The construction schedule and equipment list represent project specific information that is deemed as substantial evidence, where use of default CalEEMod inputs would be inappropriate for this project.

Comment EE.14: "CalEEMod was also designed to allow the user to change the defaults to reflect site- or project- specific information, when available, provided that the information is supported by substantial evidence as required by CEQA."

Here, as the DEIR only justifies the total construction duration of 28 months, the DEIR fails to provide substantial evidence to support the revised individual construction phase lengths. As such, we cannot verify the changes.

Response EE.14: As stated in Response EE.5, using CalEEMod model default conditions would underestimate the project schedule and equipment usage, leading to underestimation of project construction emissions. For example, the CalEEMod default conditions do not account for the 138-day trenching/foundation phase necessary to construct the project. This effect would have led to a substantial underestimation of localized health risk impacts in terms of increased cancer risk and annual $PM_{2.5}$ concentrations

Comment EE.15: These unsubstantiated changes present an issue, as the construction emissions are improperly spread out over a longer period of time for some phases, but not for others. According to the CalEEMod User's Guide, each construction phase is associated with different emissions activities (see excerpt below).

Demolition involves removing buildings or structures.

Site Preparation involves clearing vegetation (grubbing and tree/stump removal) and removing stones and other unwanted material or debris prior to grading.

Grading involves the cut and fill of land to ensure that the proper base and slope is created for the foundation.

Building Construction involves the construction of the foundation, structures and buildings.

Architectural Coating involves the application of coatings to both the interior and exterior of buildings or structures, the painting of parking lot or parking garage striping, associated signage and curbs, and the painting of the walls or other components such as stair railings inside parking structures.

Paving involves the laying of concrete or asphalt such as in parking lots, roads, driveways, or sidewalks.

As such, by disproportionately altering the individual construction phase lengths without proper justification, the models may underestimate the peak daily emissions associated with some phases of construction. Thus, the models should not be relied upon to determine the significance of the Project's air quality impacts.

Response EE.15: Please refer to Response EE.5, specific construction information was provided by the applicant team and used in the modeling rather than relying on CalEEMod model default conditions. This information included the project construction schedule dates and duration in terms of workdays for each construction phase. The construction schedule and equipment list represent project specific information that is deemed as substantial evidence, where use of default CalEEMod inputs would be inappropriate for this project. Note that the Draft EIR predicts average daily emissions (and not "peak daily emissions") that are compared to the BAAQMD significance thresholds used by the City for determining air quality impacts. The City has no thresholds for peak daily emissions and, therefore, the Draft EIR analysis and air quality assessment (Appendix B of the Draft EIR) did not predict peak daily emissions.

Comment EE.16: Incorrect Trip Purpose Percentages: Review of the CalEEMod output files demonstrates that the trip purpose percentages in the "Cambrian Park Plaza - AQ/GHG Model Alternative 1" and "Cambrian Park Plaza - AQ/GHG Model Alternative 2" models are divided amongst the primary, diverted, and pass-by trip types for the Project's proposed land uses (see excerpts below) (Appendix B, Pages 119, 158, and 159).

"Cambrian Park Plaza - AQ/GHG Model Alternative 1"

	Miles			Trip %			Trip Purpose %		
Land Use	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Apartments Mid Rise	10.80	4.80	5.70	31.00	15.00	54.00	86	11	3
City Park	9.50	7.30	7.30	33.00	48.00	19.00	66	28	6
Condo/Townhouse	10.80	4.80	5.70	31.00	15.00	54.00	86	11	3
Congregate Care (Assisted	10.80	4.80	5.70	31.00	15.00	54.00	86	11	3
Enclosed Parking with Elevator	9.50	7.30	7.30	0.00	0.00	0.00	0	0	0
High Turnover (Sit Down	9.50	7.30	7.30	8.50	72.50	19.00	37	20	43
Hotel	9.50	7.30	7.30	19.40	61.60	19.00	58	38	4
Other Non-Asphalt Surfaces	9.50	7.30	7.30	0.00	0.00	0.00	0	0	0
Parking Lot	9.50	7.30	7.30	0.00	0.00	0.00	0	0	0
Single Family Housing	10.80	4.80	5.70	31.00	15.00	54.00	86	11	3
Strip Mall	9.50	7.30	7.30	16.60	64.40	19.00	45	40	15

"Cambrian Park Plaza - AQ/GHG Model Alternative 2"

Land Use	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Apartments Mid Rise	10.80	4.80	5.70	31.00	15.00	54.00	86	11	3
City Park	9.50	7.30	7.30	33.00	48.00	19.00	66	28	6
Condo/Townhouse	10.80	4.80	5.70	31.00	15.00	54.00	86	11	3
Enclosed Parking with Elevator	9.50	7.30	7.30	0.00	0.00	0.00	0	0	0
General Office Building	9.50	7.30	7.30	33.00	48.00	19.00	77	19	4
High Turnover (Sit Down	9.50	7.30	7.30	8.50	72.50	19.00	37	20	43
Hotel	9.50	7.30	7.30	19.40	61.60	19.00	58	38	4
Other Non-Asphalt Surfaces	9.50	7.30	7.30	0.00	0.00	0.00	0	0	0
Parking Lot	9.50	7.30	7.30	0.00	0.00	0.00	0	0	0
Single Family Housing	10.80	4.80	5.70	31.00	15.00	54.00	86	11	3
Strip Mall	9.50	7.30	7.30	16.60	64.40	19.00	45	40	15

However, review of the DEIR demonstrates that pass-by trips for the proposed land uses were already accounted for in the Project's trip generation calculations (see excerpt below) (p. 242, Table 3.16-3).

Table 3.16-3: Project Trip Generation Estimates – Assisted Living Variant

Land Use	Daily	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Proposed Land Uses							
Single-Family Homes – 48 units	453	9	27	36	30	18	48
Townhomes – 25 units	183	3	9	12	9	5	14
Apartments – 305 units	1,659	29	81	110	82	52	134
Retail – 17,349 sf	655	10	6	16	32	34	66
Restaurant – 40,481 sf	4,541	221	181	402	245	150	395
Hotel – 229 rooms	2,801	82	60	142	82	85	167
Assisted Living – 110 beds	286	13	8	21	11	18	29
Independent Senior Living Units - 50	185	4	6	10	7	6	13
Total Project Trips (before reductions)	**10,763**	**371**	**378**	**749**	**498**	**368**	**866**
Total Project Trips (after reductions)	**7,925**	**285**	**286**	**571**	**288**	**216**	**504**
Existing Retail Uses – 170,427 sf	*-6,434*	*-147*	*-73*	*-220*	*-256*	*-239*	*-495*
Pass-by Reduction	*255*	*0*	*0*	*0*	*0*	*0*	*0*
Net Project Trips	**1,746**	**138**	**213**	**351**	**32**	**-23**	**9**

Thus, as the DEIR already includes pass-by trip reductions for the proposed land uses, the CalEEMod models should have divided the trip purpose between primary and diverted trips, as pass-by trips are already accounted for in the Project's projected trip generation total.

According to Appendix A of the CalEEMod User's Guide, primary trips utilize the complete trip lengths associated with each trip type category. Diverted trips are assumed to take a slightly different path than a primary trip and are assumed to be 25% of the primary trip lengths. Pass-by trips are assumed to be 0.1 miles in length and are a result of no diversion from the primary route. Thus, by including pass-by reductions that were already accounted for in the DEIR, the models underestimate the trip lengths associated with the Project's daily vehicle trips. As a result, by incorrectly spreading the trip purpose percentages amongst the three categories, the models underestimate the Project's mobile-source operational emissions and should not be relied upon to determine the significance of the Project's air quality impacts.

> **Response EE.16:** Please refer to Response EE.6. As stated, the CalEEMod default trip adjustments for pass-by trips were slightly more conservative than calculated by the City's transportation consultant, Hexagon Consultants (based on VTA Transportation Impact Analysis Guidelines, the City of San José Transportation Analysis Handbook, and the City's VMT Evaluation Tool) and were used to produce conservative air quality modeling results. As shown in Table 3.3-6, Operational Emissions, Page 63 of the Draft EIR, operational criteria pollutant emissions, based on the CalEEMod default adjustments, are well below the BAAQMD thresholds. Therefore, using the lower trip estimates (which would result in slightly lower emissions) based on the Traffic Analysis in Appendix F would not change the impact conclusions for operational criteria pollutant emissions (which is less than significant).

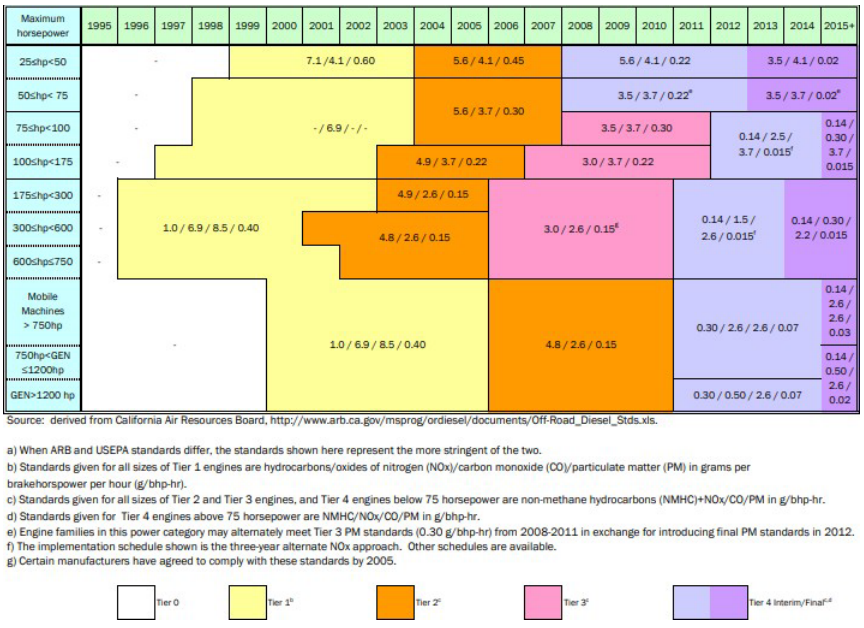
Comment EE.17: Incorrect Application of Tier 4 Final Mitigation Review of the CalEEMod output files demonstrates that the "Cambrian Park Plaza - AQ/GHG Model Alternative 1" model assumes that most of the Project's off-road construction equipment fleet would meet Tier 4 Final emissions standards (see excerpt below) (Appendix B, pp. 72).

Table Name	Column Name	Default Value	New Value
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Interim
tblConstEquipMitigation	Tier	No Change	Tier 4 Interim
tblConstEquipMitigation	Tier	No Change	Tier 4 Interim
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final

As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified. According to the "User Entered Comments and Non-Default Data" table, the justification provided for the inclusion of Tier 4 Final mitigation is: "Advanced best management practices, Tier 4 final for exhaust mitigation" (Appendix B, pp. 71). Furthermore, the DEIR incorporates Mitigation Measure ("MM") AIR-2, which states:

"All diesel construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 emission standards" (p. ix).

However, the inclusion of Tier 4 Final emissions standards remains unsupported. As demonstrated above, the MM AIR-2 fails to require the more efficient Tier 4 Final emission standards. The United States Environmental Protection Agency ("U.S. EPA") has slowly adopted more stringent standards to lower the emissions from off-road construction equipment. Since 1994, Tier 1, Tier 2, Tier 3, Tier 4 Interim, and Tier 4 Final construction equipment have been phased in over time. Tier 4 Final represents the cleanest burning equipment and therefore has the lowest emissions compared to other tiers, including Tier 4 Interim equipment (see excerpt below):



Source: derived from California Air Resources Board, http://www.arb.ca.gov/msprog/ordiesel/documents/Off-Road_Diesel_Stds.xls.

a) When ARB and USEPA standards differ, the standards shown here represent the more stringent of the two.
b) Standards given for all sizes of Tier 1 engines are hydrocarbons/oxides of nitrogen (NOx)/carbon monoxide (CO)/particulate matter (PM) in grams per brakehorspower per hour (g/bhp-hr).
c) Standards given for all sizes of Tier 2 and Tier 3 engines, and Tier 4 engines below 75 horsepower are non-methane hydrocarbons (NMHC)+NOx/CO/PM in g/bhp-hr.
d) Standards given for Tier 4 engines above 75 horsepower are NMHC/NOx/CO/PM in g/bhp-hr.
e) Engine families in this power category may alternately meet Tier 3 PM standards (0.30 g/bhp-hr) from 2008-2011 in exchange for introducing final PM standards in 2012.
f) The implementation schedule shown is the three-year alternate NOx approach. Other schedules are available.
g) Certain manufacturers have agreed to comply with these standards by 2005.

As demonstrated in the figure above, Tier 4 Interim equipment has higher emission levels than Tier 4 Final equipment. Therefore, by modeling construction emissions assuming a full Tier 4 Final equipment fleet, the DEIR fails to account for higher emissions that may occur as a result of the use of Tier 4 Interim equipment. Since MM AIR-2 fails to specify whether the Project would use Tier 4 Interim or Tier 4 Final equipment, it is incorrect to model emissions assuming that the more efficient Tier 4 Final equipment would be implemented. Until an updated EIR is prepared requiring Tier 4 Final engines during all phases of construction, and not T

Response EE.17: Please refer to Response EE.7. The use of Tier 4 Interim Equipment was assumed as a part of the modeling during construction. The CalEEMod output based on the use of Tier 4 Final was unintentionally attached to the Draft EIR. The correct CalEEMod output based on Tier 4 interim equipment is included in Attachment B of the FEIR. This would replace the CalEEMod output entitled Cambrian Park Plaza – AG/GHG Model Alternative 1 in Attachment 2 (Pages 70-130) of Appendix B of the Draft EIR. The emissions reported in the Draft EIR, Table 3.3-5 Construction Period Emissions were based on the use of Tier 4 Interim Equipment. The model results that assume use Tier 4 Interim Equipment provides a conservative estimate of construction emissions (when compared to Tier 4 Final Equipment). The reference to Tier 4 Final Equipment in mitigation measure MM AIR-2.1 was an error and has been updated in the Draft EIR Text Revisions (Section 5.0 of this FEIR).

Comment EE.18: Incorrect Application of an Energy-Related Operational Mitigation Measure: Review of the CalEEMod output files demonstrates that the "Cambrian Park Plaza - AQ/GHG Model Alternative 1" and "Cambrian Park Plaza - AQ/GHG Model Alternative 2" models include the following energy-related mitigation measure (see excerpt below) (Appendix B, pp. 120, 219).

5.1 Mitigation Measures Energy

Percent of Electricity Use Generated with Renewable Energy

Response EE.18: As previously mentioned in Response EE.5, the CalEEMod User's Guide requires any changes to model defaults be justified. According to the "User Entered Comments & Non-Default Data" table of the Air Quality/Greenhouse Gas Assessment and 2030 GHGRS Compliance Checklist (Appendix B of the DEIR), the justification provided for this inclusion is:

"SJCE is the electricity provider in San Jose. Will provide 100% carbon free electricity from 2021 on" (Appendix B, pp. 71, 171).

Comment EE.19: However, this justification remains insufficient, as the above-mentioned energy-related mitigation measure refers to renewable energy generation on-site and energy from the grid is not applicable. The DEIR does not identify any renewable energy development on-site as part of this Project and only briefly acknowledges that the "project will be plumbed for future solar capability" without disclosing or analyzing feasibility, location, capacity, or impacts. (DEIR p. 138). As such, the inclusion of the energy- related operational mitigation measure in the models is incorrect. By incorrectly including an operational mitigation measure, the models overestimate the anticipated reduction to the Project's operational emissions and should not be relied upon to determine the significance of the Project's air quality impacts.

Response EE.19: Please refer to Response EE.8. Note that SJCE would provide 100 percent carbon free electricity by 2030. The air quality report in Appendix B of the Draft EIR has been updated on Pages 71 and 171. To account for San José Climate Smart goal of zero net energy by 2030 and GHGRS Action 1 goal of 98 percent participation in SJCE with 100 percent carbon free carbon-free energy for projects operational by 2030, the on-site renewable energy generation was input as mitigation in CalEEMod as a method to account for SJCE providing 100 percent carbon free electricity in the future. This was the only option available in CalEEMod that accounted for 100 percent carbon free electricity. The model output would result in the same emissions that would occur with the project receiving carbon-free electricity from an energy provider.

Comment EE.20: Diesel Particulate Matter Health Risk Emissions Inadequately Evaluated: The DEIR concludes that the proposed Project would result in a less-than-significant health risk impact based on a quantified health risk analysis ("HRA"). Specifically, the DEIR estimates that the mitigated excess cancer risk posed to the maximally exposed individual ("MEI") as a result of Project construction and operation under the Assisted Living Variant and Office Variant would be 8.02 and 8.05 in one million, respectively, which would not exceed the SCAQMD significance threshold of 10 in one million (p. 68, Table 3.3-6).

Table 3.3-6: Maximum Project Risk Impacts at the Off-Site Receptors				
Source		**Cancer Risk (per million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**
Early Discoveries CDC – Cambrian Park Daycare (MEI)				
Project Construction (Years 0-3)	Unmitigated	**69.58**[1]	**0.49**[2]	0.02[1]
	Mitigated	7.14[1]	0.09[2]	<0.01[1]
Project Operation (Years 4-7)				
	Assisted Living Variant Traffic	0.88	0.15	<0.01
	Office Variant Traffic	0.91	0.16	<0.01
Total Project Impact – Includes Assisted Living Variant Traffic				
	Unmitigated	**70.46**	**0.49**	0.02
	Mitigated	8.02	0.15	<0.01
Total Project Impact – Includes Office Variant Traffic				
	Unmitigated	**70.49**	**0.49**	<0.01
	Mitigated	8.05	0.16	<0.01
	BAAQMD Single-Source Threshold	***>10.0***	***>0.3***	***>1.0***
	Exceed Threshold?			
	Unmitigated	***Yes***	***Yes***	*No*
	Mitigated	*No*	*No*	*No*
TrueHeart Family Daycare Exposure[3]				
Project Construction	Unmitigated	8.06	0.03	<0.01
	Mitigated	0.83	<0.01	<0.01
Project Operation (Years 4-7)				
	Assisted Living Variant Traffic	0.09	0.01	<0.01
	Office Variant Traffic	0.10	0.01	<0.01
Total Project Impact – Includes Assisted Living Variant Traffic				
	Unmitigated	8.15	0.03	<0.01
	Mitigated	0.92	0.01	<0.01
Total Project Impact – Includes Office Variant Traffic				
	Unmitigated	8.16	0.03	<0.01
	Mitigated	0.93	0.01	<0.01
Residential Exposure[3]				
Project Construction	Unmitigated	**23.96**	**0.49**	0.02
	Mitigated	2.42	0.09	<0.01
Project Operation (Years 4-30)				
	Assisted Living Variant Traffic	0.25	0.15	<0.01
	Office Variant Traffic	0.27	0.16	<0.01
Total Project Impact – Includes Assisted Living Variant Traffic				
	Unmitigated	**24.21**	**0.49**	0.02
	Mitigated	2.67	0.15	<0.01
Total Project Impact – Includes Office Variant Traffic				
	Unmitigated	**24.23**	**0.49**	<0.01
Mitigated		2.69	0.16	<0.01

Notes: [1]Based on the location of the Early Discoveries CDC – Cambrian Park daycare.
[2]Based on the location of a single-family home to the east of the site.
[3]Listed for informational purposes
Bold denotes an exceedance of the single-source threshold.

Response EE.20: The commenter stated the SCAQMD significance threshold of 10 in one million for cancer risk. As stated in Section 3.3, Air Quality, Page 64 of the Draft EIR, health risk impacts were addressed by predicting increased cancer risk, the increase in annual $PM_{2.5}$ concentrations, and computing the Hazard Index (HI) for non-cancer health risks. The risk impacts from the project consist of the combination of risks from construction and operational sources. These sources include on-site construction activity, construction truck hauling, and increased traffic from the project. To evaluate the increased cancer risks from the project, a 30-year exposure period was used, per BAAQMD guidance, with the maximally exposed receptors (a daycare center) being located west of the site. The project's emissions and health risk were compared to BAAQMD thresholds (the cancer risk threshold established by BAAQMD is also 10 in one million).

Comment EE.21: However, the DEIR's HRA is underestimated because the HRA relies upon exhaust PM2.5 estimates from a flawed air model (p. 69). As previously discussed, when we reviewed the Project's CalEEMod output files provided in the CalEEMod Emissions Outputs as Appendix A to the AQ & HRA Report, we found that several of the values inputted into the model are not consistent with information disclosed in the DEIR. Specifically, the mitigated cancer risks incorrectly account for the use of Tier 4 Final construction equipment due to the implementation of MM AIR-2.1. However, as previously discussed, MM AIR-2 fails to require Tier 4 Final, as opposed to Tier 4 Interim, construction equipment. By assuming a full Tier 4 Final equipment fleet, the DEIR fails to account for higher emissions that may occur as a result of the use of Tier 4 Interim equipment. As a result, the HRA utilizes an underestimated diesel particulate matter ("DPM") concentration to calculate the health risk associated with Project construction and operation. As such, the DEIR's HRA underestimates the Project's cancer risk and, until MM AIR-2.1 is revised to require Tier 4 Final construction equipment, should not be relied upon to determine Project significance.

> **Response EE.21:** Please refer to Responses EE.7 and EE.9. Emissions that were modeled were based on the use of Tier 4 Interim construction equipment (which provides a conservative estimate of construction emissions when compared to assuming Tier 4 Final construction equipment use). Mitigation measure MM AIR-2.1 has been updated to include the correct equipment assumed in the modeling. On Page 59 of the Draft EIR, mitigation measure MM AIR-2.1 has been updated to refer to the use of Tier 4 Interim construction equipment instead of Tier 4 Final equipment. Refer to Section 5.0, Draft EIR Text Revisions.

Comment EE.22: iii. The DEIR Improperly Omits Emissions from Additional Area Sources in the Operational Emissions Analysis

As recognized by the BAAQMD CEQA Air Quality Guidelines, "[o]perational emissions typically represent the majority of a project's air quality impacts."[79] "After a project is built, operational emissions, including mobile and area sources, are anticipated to occur continuously throughout the project's lifetime. Operational related activities, such as driving, use of landscape equipment, and wood burning, could generate emissions of criteria air pollutants and their precursors, GHG, TACs, and PM. Area sources generally include fuel combustion from space and water heating, landscape maintenance equipment, and fireplaces/stoves, evaporative emissions from architectural coatings and consumer products and unpermitted emissions from stationary sources."[80]

Here, the DEIR improperly constrains the analysis of the Project's operational air emissions by only considering emissions generated by cars and evaporative emissions from architectural coatings and maintenance products.[81] The analysis omits emissions from other area sources during operations such

[79] Bay Area Air Quality Management District ("BAAQMD"), California Environmental Quality Act; Air Quality Guidelines at 4-1 (May 2017), available at: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en&rev=004069ac3333473782839233c2544327.
[80] Id.
[81] DEIR at 62.

as from landscape equipment, fuel combustion, and any other unpermitted emissions from stationary sources. In the DEIR's GHG impacts analysis, these additional operational emissions are identified; "There would be long-term operational emissions associated with vehicular traffic within the project vicinity, the generator, energy and water usage, and solid waste disposal."[82] Nevertheless, the DEIR improperly omits these additional sources of operational emissions in the air quality analysis of the Project's operations.

Response EE.22: The CalEEMod model includes emissions from area sources. Area sources in CalEEMod include sources such as hearths (e.g., fireplaces, consumer products, architectural coatings, and landscape equipment).

No hearths were assumed in the modeling because BAAQMD Rule 6-3 applies to emissions from wood-burning devices. Under this rule that became effective November 1, 2016, no person or builder shall install a wood-burning device in a new building construction. The applicant's plan set (dated November 8, 2021) does not include fireplaces in any of the units or buildings. Furthermore, the City of San José adopted an ordinance on December 15, 2020 (Ordinance No. 30502) that prohibits the use of natural gas infrastructure in new buildings. This ordinance applies to any new residential construction starting August 1, 2021. Therefore, the project is prohibited from including natural gas fireplaces.

Consumer product emissions were included in the CalEEMod modeling (Appendix B, Attachment 2 of the Draft EIR) and account for most reactive organic gas (ROG) emissions generated by the project. Consumer product emissions only include ROG. The modeling was based on CalEEMod default assignments for this project, based on type and size.

Architectural coating emissions, which are evaporative ROG from paints and coatings, were also included in the CalEEMod modeling. The modeling was based on CalEEMod default assignments for this project. Landscape emissions were also included in the CalEEMod modeling, based on CalEEMod default assignments for this project. Landscaping emissions, reported in the Draft EIR, Appendix B, Section 6.2 of the CalEEMod model output provided in Attachment 2, shows that these emissions accounted for 0.1 tons per year or 0.5 pounds per day or less of the total emissions of ROG and NOx and negligible PM_{10} and $PM_{2.5}$ emissions.
Comment EE.7 also notes the project would result in indirect emissions, which would include GHG emissions from energy, water usage, and solid waste disposal. These emissions were modeled using CalEEMod.

In March 2022, a Memorandum, which includes an analysis of the project's generator emissions, was completed by the technical air quality consultant (refer to Appendix B of this FEIR). The analysis assumed the project would include three stand-by emergency diesel generators located in the first basement levels of the

[82] Id. at 135.

mixed-use residential and retail building, assisted living (Alternative 1)/office (Alternative 2) building, and hotel building. It was assumed that the generators would operate one hour per month for testing/maintenance. Based on the results of the Memorandum, the generator emissions would be low (less than 0.1 tons per year and less 0.5 pounds for average daily emissions) and the addition of generators would have a negligible effect on the outcome of the analysis. That is, operational criteria air pollutant emissions would have a minimal change (and remain less than significant) and health risk impacts on the maximally exposed individual sensitive receptor with a cancer risk increase of less than 0.5 chances per million and remain less than significant with construction mitigation measure MM AIR-2.

Comment EE.23: iv. The DEIR's Health Risk Assessment Improperly Omits Emissions from On-site Generators.

Operation of a diesel generator is a source of DPM and contributes to air pollution from fine particulate matter ($PM_{2.5}$).[83] Stationary source diesel engines larger than 50 horsepower ("hp") are subject to the California Air Resources Board's ("CARB") Stationary Diesel Airborne Toxics Control Measure and require permits from BAAQMD.[84] As part of the BAAQMD permit requirements for toxics screening analysis, generator engine emissions must meet Best Available Control Technology for Toxics and pass the toxic risk screening level of less than ten cancer cases in a million.

The air quality analysis in the DEIR omits emissions from diesel engine generators on the grounds that "[t]he project does not propose any onsite stationary sources (e.g., emergency generator with diesel engine) at the time of this analysis."[85] However, elsewhere in the DEIR, this claim is contradicted by the statement that "[t]here would [] be long-term operational emissions associated with vehicular traffic within the project vicinity, the generator, energy and water usage, and solid waste disposal."[86] If on-site generators are to be utilized during Project construction and/or during long-term operations, the DEIR must include and assess emissions from the generators to adequately and accurately estimate potential cancer risks and PM 2.5 impacts.

Response EE.23: Standby emergency generators may be included for certain types of uses to provide electrical power for critical systems. The need for these generators is specific to the user of a land use. In addition, generators may be powered by different fuels that include diesel, natural gas, or gasoline.

As mentioned in Response EE.8, the emissions for three emergency generators on-site were evaluated in a Memorandum completed by the technical air quality consultant (refer to Appendix B of this FEIR). Generators sufficient of providing electricity for critical systems were identified as providing a maximum of 500

[83] California Air Resources Board ("CARB"), Diesel Programs and Activities, available at: https://ww2.arb.ca.gov/resources/documents/diesel-programs-and-activities.
[84] BAAQMD, Engine Permits, available at: https://www.baaqmd.gov/permits/apply-for-apermit/ engine-permits.
[85] DEIR at 64.
[86] Id. at 135 (emphasis added).

kilowatts (kw) of electricity. This is the largest generator reasonably foreseen for these uses. Critical systems include powering a fire suppression pump, lighting, elevators, security systems and healthcare systems. Generators using diesel fuel would have the greatest emissions and adverse air quality impacts. A 670 horsepower (hp) diesel engine would be necessary to generate 500 kw of electricity. The California Air Resources Board (CARB) and BAAQMD limit these engine operations to 50 hours each per year (for standby emergency generators) and include Best Available Control Technology (BACT) requirements to limit emissions. The analysis of generator emissions (Appendix A of this FEIR) assumed the project's generators would be tested up to one hour per month. Combined with power outage time, the annual operations are less than 50 hours per year in urban environments.

The analysis of operational generator emissions and the effect on health risk (Appendix B of this FEIR) found that annual emissions of operating all generators would increase emissions by 0.08 tons per year (tpy) for ROG, 0.23 tpy for $NO_{x,}$ and 0.01 tpy for $PM_{2.5}$ and $PM_{10.}$ These emissions would not change the conclusions that project emissions are below the annual and average daily thresholds and therefore would have a less than significant impact. In terms of health risk, the generator emissions of diesel particulate matter would increase cancer risk over the 30-year Project exposure period by 0.46 cases per million. The resulting cancer risk caused by construction and operation of the project with construction mitigation measure MM AIR-2.1 would be 8.48 cases per million for Alternative 1 (that includes the assisted living variant) and 8.52 cases per million with Alternative 2 (that includes the office variant), both of which are below the BAAQMD significance threshold of 10 cases per million. The conclusions in the Draft EIR regarding health risk impacts to the maximally exposed individual sensitive receptor would not change with the addition of the three emergency diesel generators and impacts would remain less than significant. Revisions to the Draft EIR text to include the discussion of generators are shown in Section 5.0, Draft EIR Text Revisions of this FEIR.

Comment EE.24: B. The DEIR Fails to Fully Disclose and Adequately Mitigate the Project's Significant Impacts from GHG Emissions

"The Legislature has 'emphatically established as state policy the achievement of a substantial reduction in the emission of gases contributing to global warming.'"[87] Moreover, CEQA requires a lead agency to "make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of [GHG] emissions resulting from a project."[88] The DEIR fails to fully disclose and adequately mitigate the Project's significant impacts from GHG emissions. First, the environmental setting for GHG emissions is based on estimations from 2024 and 2030, which are not representative of existing conditions. Second, the Project's construction GHG emissions are insufficiently disclosed in the DEIR and operational emissions may be underestimated in the GHG Assessment. Third, the DEIR's conclusion that impacts from operational GHG emissions

[87] Golden Door Properties, LLC v. Cty. of San Diego (2020) 50 Cal. App. 5th 467, 484.
[88] 14 C.C.R. § 15064.4(a).

would be less than significant is inconsistent with the quantitative analysis in the GHG Assessment that the impacts would be potentially significant. Finally, the DEIR fails to provide sufficient information to determine consistency with the GHG reduction strategy.

a. The DEIR Fails to Establish an Adequate Baseline for Existing GHG Emissions

The existing environmental setting is the starting point from which the lead agency must measure whether a proposed project may cause a significant environmental impact.[89] CEQA defines the environmental setting as the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, from both a local and regional perspective.[90] Describing the environmental setting accurately and completely for each environmental condition in the vicinity of the Project is critical to an accurate, meaningful evaluation of environmental impacts. The courts have clearly stated that, "[b]efore the impacts of a project can be assessed and mitigation measures considered, an [environmental review document] must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined."[91]

The DEIR fails to quantify baseline GHG emissions from existing conditions and instead only briefly mentions that the operation of the existing buildings on the site generates GHG emissions.[92] However, the Air Quality and Greenhouse Gas Assessment in Appendix B provides additional information that quantifies the GHG emissions from existing land uses as well as from the proposed Project during operations.[93] Based on these calculations, the GHG impact analysis ultimately concludes that the Project would result in a potentially significant impact.[94]

In reaching this conclusion, the CalEEMod models utilized the opening year in 2024 and future year in 2030 to calculate GHG emissions (CO2e) in metric tons for both the existing land uses and the proposed Project.[95] These calculations are set forth in Table 12 in Appendix B.[96] No explanation or evidence is provided to support the City's decision to utilize 2024 and 2030 as the baseline for GHG emissions. The baseline GHG emissions should have been based on the "physical environmental conditions as they exist at the time the notice of preparation is published,…."[97] Although CEQA Guidelines allow an agency to "define existing conditions by referencing historic conditions, or conditions expected when the project becomes operational, or both," the baseline must be "supported with substantial evidence."[98] The DEIR lacks substantial evidence to support the future baseline for GHG emissions and thus the environmental setting for GHG emissions is deficient. This is important because an inaccurate and unsupported baseline may "result[] in 'illusory' comparisons that 'can

[89] See, e.g., Communities for a Better Env't v. S. Coast Air Quality Mgmt. Dist. (2010) 48 Cal.4th 310, 316.
[90] 14 C.C.R. §15125(a); Riverwatch v. County of San Diego (1999) 76 Cal.App.4th 1428, 1453.
[91] County of Amador v. El Dorado County Water Agency (1999) 76 Cal.App.4th 931, 952.
[92] DEIR at 135.
[93] DEIR, Appendix B at 56.
[94] Id.
[95] Id. at 56.
[96] Id. at 57.
[97] 14 C.C.R. § 15125(a)(1).
[98] Id.

only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts,' a result at direct odds with CEQA's intent."[99]

Response EE.24: Comment EE.24 provides a summarizes the commenter's concerns regarding the project's GHG emissions. These concerns are addressed in this response as well as Responses EE.25 through EE.29. Based on BAAQMD CEQA Guidelines Pages D-13 and D-24, if a project complies with a qualified GHGRS (i.e., Climate Action Plan), the project's greenhouse gas impact is considered less than significant. This approach is consistent with CEQA Guidelines Sections 15064(h)(3) and 15183.5(b), which states that a "lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program which provides specific requirements that will avoid or substantially lessen the cumulative problem. As stated in Response J.1, the project is consistent with the City's GHGRS and would result in a less than significant impact. Therefore, a quantitative GHG analysis is not required. The GHG emissions for the project site's existing uses were provided in Appendix B, Attachment 2, Page 284 for informational purposes. The existing GHG emissions from the project site's existing Cambrian Plaza uses are estimated to be approximately 3,435 metric tons of carbon dioxide equivalent. The GHG emissions from the existing uses do not affect the conclusions of the GHG analysis in Section 3.8, Greenhouse Gas Emissions of the Draft EIR. Years 2024 and 2030 were modeled for existing uses for comparison to the proposed project's emissions during the first year the project would be operational and a year (2030) where the state and City has specific reduction targets. Existing emissions, representative of 2020, are lower than 2024 emissions due to reductions in vehicular emission rates. The on-road vehicle fleet in 2024 has lower GHG emissions rates because the fleet has overall improved fuel efficiency and lower tailpipe emissions rates. 2030 GHG emissions were modeled given the Senate Bill 32 goal is for the state to reduce emissions by 40 percent below 1990 levels. This information was included in Appendix B, Attachment 2 for informational purposes and is not required for the CEQA analysis.

Comment EE.25: b. Substantial Evidence Does Not Support the DEIR's Conclusion that the Project's GHG Emissions Would be Less than Significant

CEQA Guidelines Section 15064.4 provides guidance concerning significance determinations for impacts from GHG emissions.[100] Such a determination "calls for a careful judgment by the lead agency" and "a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project."[101] CEQA Guidelines provides the lead agency with the "discretion to determine, in the context of a

[99] Communities for a Better Env't., 48 Cal. 4th at 322; See also 14 C.C.R. § 15126.2(a).
[100] Better Env't., 48 Cal. 4th at 322; See also 14 C.C.R. § 15126.2(a). 98 Id. at § 15064.4.
[101] Id. at § 15064.4(a).

particular project, whether to: (1) Quantify greenhouse gas emissions resulting from a project; and/or (2) Rely on a qualitative analysis or performance based standards."[102]

Here, the DEIR did not perform a meaningful analysis of the Project's construction GHG emissions, and operational emissions may be underestimated in the GHG Assessment. Additionally, the DEIR's conclusion that impacts from operational GHG emissions would be less than significant is inconsistent with the quantitative analysis in the GHG Assessment that the impacts would be potentially significant.

Response EE.25: Please refer to Response EE.8. The project is consistent with the City's 2030 GHGRS, which is a qualified GHG reduction strategy (which complies with CEQA Guidelines 15183.5(b)), and would, therefore, result in a less than significant operational GHG impact. No quantitative operational GHG analysis is required for the project. As stated in the Draft EIR, no quantitative threshold exists to evaluate construction GHG emissions, and for the qualitative reasons provided in the Draft EIR, construction GHG emissions would be less than significant.

On April 20, 2022, the BAAQMD Air District Board of Directors adopted the *Proposed CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans.* BAAQMD's *Draft Justification Report: CEQA Thresholds for Evaluating Significance of Climate Impacts From Land Use Projects and Plans* provides the substantial evidence to support its updated GHG thresholds. The BAAQMD did not propose a threshold for GHG emissions from construction and replaced quantitative GHG thresholds of 1,100 $MTCO_2e$ and 4.6 $MTCO_2e$/service population/year with a qualitative threshold for non-mobile sources and a threshold consistent with a local jurisdiction's VMT threshold for mobile sources. Specifically, the BAAQMD recommends that local jurisdictions use one of two thresholds for determining whether projects would make a cumulatively considerable contribution to significant GHG emissions: (1) a performance based threshold that has requirements for non-mobile sources and a VMT threshold for mobile sources, or (2) consistency with a local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b). BAAQMD's continued support of lead agencies using a local GHGRS as a GHG threshold, which is the approach used in the Draft EIR, is further evidence this approach is appropriate per CEQA Guidelines Section 15064.4, which allows a lead agency discretion to quantify GHG emissions or discuss a project's GHG emissions qualitatively.

Although the Air Quality and GHG Assessment (Appendix B of the Draft EIR) evaluated the project's operational GHG emissions against a threshold derived from the BAAQMD's per service population threshold (previously used for projects that would be constructed and in operation between 2021 and before 2031), given the City adopted a GHGRS Reduction Strategy in 2020, the Draft EIR assessed GHG impacts based on the GHGRS. Although the Air Quality and GHG Assessment show that the

[102] Id. at § 15064.4(a)(1)-(2).

project's GHG emissions would exceed the quantitative service population emissions threshold, the project is consistent with the City's GHGRS and, therefore, would result in a less than cumulatively considerable contribution to a significant GHG impact.

Comment EE.26: i. The Project's Construction GHG Emissions are Not Sufficiently Assessed in the DEIR

An EIR must "contain a statement briefly indicating the reasons for determining that various effects on the environment of a project are not significant and consequently have not been discussed in detail in the environmental impact report."[103] Bare conclusions do not satisfy CEQA's requirements.[104] The omission of a statement of reasons in an EIR prohibits decision-makers and the public from discerning whether the agency reached a "less than significant" conclusion based on substantial evidence.[105] Courts have held that "the absence of the required statement of reasons prevents [courts] from determining whether the [a]gency abused its discretion…."[106] "That absence itself, however, demonstrates an abuse of discretion by the Agency, because in omitting the required statement of reasons, the Agency failed to proceed in the manner required by law."[107]

The BAAQMD CEQA Air Quality Guidelines explain that "the Lead Agency should quantify and disclose GHG emissions that would occur during construction, and make a determination on the significance of these construction generated GHG emission impacts in relation to meeting AB 32 GHG reduction goals, as required by the Public Resources Code, Section 21082.2. The Lead Agency is encouraged to incorporate best management practices to reduce GHG emissions during construction, as feasible and applicable."[108]

The DEIR acknowledges this guidance from the BAAQMD, but nevertheless concludes without the requisite analysis that "[b]ecause project construction will be a temporary condition and would not result in a permanent increase in emissions that would interfere with the implementation of AB 32 or SB 32, the increase in emissions would be less than significant."[109] "Under CEQA, an agency's conclusion as to whether a given impact is significant is not enough; 'there must [also] be a disclosure of the 'analytic route the...agency traveled from evidence to action' — something that never occurred in the EIR here."[110]

The DEIR's significance determination for construction GHG emissions lacks analytical support for several reasons. First, the analysis improperly dismisses the potential for significant impacts from

[103] Pub. Res. Code § 21100(c); 14 C.C.R. § 15128.
[104] See Protect the Historic Amador Waterways v. Amador Water Agency (2004) 116 Cal. App. 4th 1099, 1111–12, as modified (Apr. 9, 2004) ("'Mere conclusions simply provide no vehicle for judicial review.'")
[105] Id. at 112.
[106] Id.
[107] Id.
[108] BAAQMD, California Environmental Quality Act; Air Quality Guidelines at 2-6 (May 2017), available at: https://www.baaqmd.gov/~/media/files/planning-andresearch/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en&rev=004069ac3333473782839233c2544327.
[109] DEIR at 136.
[110] Sierra Watch v. Cty. of Placer (2021) 69 Cal. App. 5th 86, 101–02.

construction GHG emissions on the basis that the construction activities would be "temporary." CEQA Guidelines, however, require consideration and discussion of both short-term and long-term effects.[111]

Second, the DEIR's analysis fails to comply with the BAAQMD's guidance that construction GHG emissions should be quantified.[112] Although the DEIR fails to quantify the project's construction GHG emissions, the analysis in the GHG Assessment in Appendix B estimates that the GHG emissions associated with the Project's construction activities would be 4,978 MT of CO2e for both Alternative 1 and Alternative 2.[113] This amount of GHG emissions roughly equates to GHG emissions from 1,083 passenger vehicles on the road in one year.[114] The DEIR's analysis of construction GHG emissions should have disclosed this estimate and assessed this figure in the context of consistency with AB 32 and SB 32. Instead, the estimation for quantified construction GHG emissions is improperly buried in the Appendix.[115]

Finally, the BAAQMD guidance explains that the significance determination for impacts from construction GHG emissions should be made "in relation to meeting AB 32 GHG reduction goals."[116] The DEIR sets forth that conclusory assertion that any increase in GHG emissions during construction activities would not interfere with the implementation of AB 32 or SB 32 without providing substantial evidence to support this claim. For example, "…a lead agency might assess consistency with A.B. 32's goal in whole or part by looking to compliance with regulatory programs designed to reduce greenhouse gas emissions from particular activities."[117] No such analysis is included in the DEIR to support the significance determination for the project's construction GHG emissions. The failure to provide substantial evidentiary support for the conclusion that the impacts from the Project's construction GHG emissions would be less than significant deprives decision makers and the public of substantial relevant information about the Project's potential impacts. For these reasons, the DEIR's analysis of impacts from the Project's construction GHG emissions is inadequate and must be revised.

Response EE.26: As stated in Response EE.8, based on the May 2017 BAAQMD CEQA Guidelines and CEQA Guidelines Section 15183.5, if a project complies with

[111] 14 C.C.R. § 15126.2(a).
[112] BAAQMD, California Environmental Quality Act; Air Quality Guidelines at 2-6 (May 2017), available at: https://www.baaqmd.gov/~/media/files/planning-andresearch/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en&rev=004069ac3333473782839233c2544327.
[113] DEIR, Appendix B at 56.
[114] U.S. EPA, Greenhouse Gas Equivalencies Calculator, available at: https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator.
[115] It is well-established that "[t]he data in an EIR must not only be sufficient in quantity, it must be presented in a manner calculated to adequately inform the public and decision makers, who may not be previously familiar with the details of the project. '[I]nformation 'scattered here and there in EIR appendices,' or a report 'buried in an appendix,' is not a substitute for 'a good faith reasoned analysis....'" Banning Ranch Conservancy v. City of Newport Beach (2017) 2 Cal. 5th 918, 941.
[116] BAAQMD, California Environmental Quality Act; Air Quality Guidelines at 2-6 (May 2017), available at: https://www.baaqmd.gov/~/media/files/planning-andresearch/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en&rev=004069ac3333473782839233c2544327.
[117] Ctr. for Biological Diversity v. Dep't of Fish & Wildlife (2015) 62 Cal. 4th 204, 229, as modified on denial of reh'g (Feb. 17, 2016).

a qualified GHGRS (i.e., climate action plan), the project's greenhouse gas impact is considered less than significant. No quantitative operational GHG emissions analysis is required for projects that comply with a GHGRS (or climate action plan).

As stated in the Draft EIR (Section 3.8.2, Impact Discussion, Page 136), no quantitative threshold exists to evaluate construction GHG emissions. Nonetheless, as the commenter notes, construction GHG emissions were quantified and disclosed in Appendix B to the Draft EIR. Construction GHG emissions are anticipated to be 4,978 MT CO2e for the total construction period (approximately three years). As discussed in Section 3.3.2, mitigation measure MM AIR-1.1, the project would include construction best management practices to reduce air pollutant emissions such as limiting equipment idling times, which would also reduce GHG emissions during construction and is a best management practice recommended by BAAQMD.

Since there is no CEQA threshold to compare the construction emissions to, these emissions were not reported in the main text of the Draft EIR. As stated in BAAQMD's recently updated GHG Thresholds, GHG emissions from construction represent a very small portion of a project's lifetime GHG emissions, and the qualitative thresholds for land use projects were designed to address operational GHG emissions which represent the vast majority of project GHG emissions. AB 32 requires California to reduce its GHG emissions to 1990 levels by 2020. SB 32 (which has replaced AB 32), and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. The 2030 GHG reduction target will be met through the programs in CARB's Scoping Plan. The Scoping Plan does not contain any programs required to meet SB 32's targets that would be directly applicable to the Project's construction. The Project, including construction, would be consistent with the Scoping Plan's measures to reduce landfill waste through compliance applicable waste diversion regulations and the fuel used in construction equipment would comply with statewide low-carbon fuel standards. Therefore, construction GHG emissions would not interfere with the attainment of the GHG reduction targets in AB 32 or SB 32.

Even though no applicable regulatory authority (BAAQMD or the City) has an adopted threshold for construction GHG emissions, BAAQMD encourages the lead agency to incorporate BMPs to reduce GHG emissions during construction, as applicable. BAAQMD provides some examples of measures to reduce construction GHG emissions but does not have a list of required BMPs necessary to meet a construction GHG threshold because BAAQMD does not provide such a threshold. Specifically, BAAQMD states that BMPs may include using alternative-fuel (e.g., biodiesel, electric) construction vehicles/equipment for at least 15 percent of the fleet; using local building materials for at least 10 percent of a project; and recycling or reusing at least 50 percent of construction waste or demolition materials. In response to this comment, the project would include a condition of approval that requires 10 percent of building materials to be local (from within 100 miles) and recycling or reusing at least 50 percent of construction waste or

demolition materials. Currently, there is no alternative power source, such as renewable natural gas, near the project site to fuel construction equipment.

Comment EE.27: iii. The DEIR's Conclusion That Impacts from Operational GHG Emissions Would be Less Than Significant Directly Contradicts the Significance Determination in Appendix B's Quantitative GHG Assessment

As explained above, CEQA Guidelines gives the lead agency "discretion to determine, in the context of a particular project, whether to: (1) Quantify greenhouse gas emissions resulting from a project; and/or (2) Rely on a qualitative analysis or performance-based standards."[118] However, "the fact that a particular environmental effect meets a particular threshold cannot be used as an automatic determinant that the effect is or is not significant. … a threshold of significance cannot be applied in a way that would foreclose the consideration of other substantial evidence tending to show the environmental effect to which the threshold relates might be significant."[119]

Here, the DEIR relied on a qualitative assessment to support the determination that "…the project is consistent with, and is covered by the City's 2030 GHGRS, as detailed in the impact analysis below, and the operational GHG emissions would therefore be considered less than significant."[120] However, the GHG Assessment in Appendix B is based on a quantitative assessment of operational GHG emissions and concludes that "[b]oth the net metric ton emissions and service population emissions exceed the thresholds. Therefore, the project would be in exceedance for GHG emissions. This would be a potentially significant impact."[121] Although an agency has the discretion to rely on both a qualitative and quantitative assessment of GHG emissions, the significance determination cannot result in conflicting conclusions, as is the case here. The DEIR must be revised to reflect the potentially significant impact identified in Appendix B based on the quantitative analysis for operational GHG emissions and mitigation measures are necessary to mitigate the significant impacts from operational GHG emissions to less than significant levels, if possible.

Response EE.27: Comment EE.27 suggests that the Draft EIR be revised to address significant GHG impacts based on a quantitative analysis. Given the project is consistent with the City's 2030 GHGRS, the project would result in a less than significant GHG impact and no quantitative operational GHG analysis is required. The calculated GHG emissions reported in Appendix B, Attachment 2 of the Draft EIR was completed prior to the City's adoption of the GHGRS . Please refer to Responses J.1, O.1, and EE.6for more information regarding why the Draft EIR uses a different threshold to evaluate the significance of GHG emissions than used in Appendix B.

[118] Id. at § 15064.4(a)(1)-(2).
[119] Protect the Historic Amador Waterways, 116 Cal. App. 4th at 1109.
[120] DEIR at 136.
[121] DEIR, Appendix B at 56.

Comment EE.28: Operational GHG Emissions May be Underestimated in the GHG Assessment in Appendix B

The GHG Assessment in Appendix B relies on unsupported assumptions in the CalEEMod model that may underestimate the Project's operational GHG emissions. Specifically, the CalEEMod models "…assumed that electricity from SJCE would be 100 percent carbon free, the single-family homes would [be] 100 percent electrified per the natural gas reach code in the City, and there would be no wood or natural gas hearths included in the project design."[122] However, these assumptions are not supported by substantial evidence as required by CEQA. First, San Jose Clean Energy ("SJCE") "provides 80 percent GHG emission-free electricity."[123] Although "[c]ustomers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission free electricity from entirely renewable sources," evidence is not provided in the DEIR to support the conclusion that electricity from SJCE would be 100 percent carbon free.

Second, the CalEEMod models assumed that the Project's single-family homes would be 100 percent electrified, which would require an estimated 396,438 kWh of electricity annually.[124] The DEIR does not claim that electrification of the Project's single-family homes will entirely be achieved through the installation of rooftop solar. Rather, the DEIR admits that the use of on-site solar would not eliminate the need to also obtain energy from the grid.[125] If only 80 percent of SJCE's electricity is GHG emission-free, the City's evidence does not support the assumption that the single-family homes would be 100 percent electrified.

Given the unsupported assumptions in the Project's operational GHG emissions analysis, the operational GHG emissions may be underestimated in the DEIR.

> **Response EE.28:** To be consistent with the San Jose Climate Smart goal of zero net energy by 2030 and GHGRS Action 1 of 98 percent participation in SJCE program with 100 percent carbon free carbon-free energy for projects operational by 2030, the project would be required to be 100 percent carbon free by 2030. This approach is applicable to all San José projects consistent with the GHGRS. Based on the City of San José's Reach Code, all new residential construction is required to be outfitted with entirely electric fixtures. The installation of solar would be completed for the proposed single-family and townhome units, prior to occupancy of the buildings, which would reduce GHG emissions during operations. The proposed project's commercial and apartment units would use 100 percent carbon free electricity, with lease provisions that require use of SJCE's carbon free electricity option, which is consistent with the City's GHGRS requirements. SCJE is committed to supplying carbon-free electricity by 2030 and all electricity providers must supply carbon free electricity to end users by 2045, pursuant to Senate Bill 100.

[122] Id.
[123] DEIR at 108.
[124] Id. at 110.
[125] DEIR, Appendix B, "Additional Responses to City of San Jose GHGRS Project Compliance Checklist," at 1.

Comment EE.29: c. The DEIR Fails to Provide Sufficient Information to Determine Consistency with the GHG Reduction Strategy

The DEIR concludes without a showing of substantial evidence that the Project is consistent with the City's 2030 Greenhouse Gas Reduction Strategy ("GHGRS") and thus would result in a less-than-significant GHG impact.[126] However, SWAPE conducted an in-depth review of the Additional Responses to City of San Jose GHGRS Project Compliance Checklist ("Compliance Checklist"), and determined that the DEIR fails to provide sufficient information and analysis to determine Project consistency with numerous measures required by the GHGRS, including, but not limited to, those listed below.[127] SWAPE's consistency analysis is excerpted below from Exhibit A.

City of San Jose 2030 Greenhouse Gas Reduction Strategy Compliance Checklist	
Policies and Strategies	Consistency Discussion
2. Implementation of Green Building Measures MS-2.2: Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.	Here, the Compliance Checklist states: "The low-rise residential units will include rooftop solar. The apartment, hotel, and assisted living will be solar ready and will include rooftop solar to the extent feasible after accounting for HVAC and other rooftop mechanical needs" (p. 1). Furthermore, the DEIR states that the Project would "[e]ncourage maximized use of on-site generation of renewable energy for all new and existing buildings" (p. 111). However, these responses are insufficient for two reasons. First, simply stating that the Project "will be solar ready and will include rooftop solar" does not provide substantial evidence that any measures would be implemented, monitored, and enforced on the Project site. Second, the use of on-site renewable energy is not included as a formal mitigation measure. This is incorrect, as according to the AEP CEQA Portal Topic Paper on mitigation measures: "While not "mitigation", a good practice is to include those project design feature(s) that address environmental impacts in the mitigation monitoring and reporting program (MMRP). Often the MMRP is all that accompanies building

[126] DEIR at 137; City of San Jose, 2030 Greenhouse Gas Reduction Strategy (August 2020), available at: https://www.sanjoseca.gov/home/showpublisheddocument/63667/637347412207870000.
[127] Exhibit A at 10-14.

City of San Jose 2030 Greenhouse Gas Reduction Strategy Compliance Checklist	
Policies and Strategies	Consistency Discussion
	and construction plans through the permit process. If the design features are not listed as important to addressing an environmental impact, it is easy for someone not involved in the original environmental process to approve a change to the project that could eliminate one or more of the design features without understanding the resulting environmental impact."[128] As you can see in the excerpt above, project design features are not mitigation measures and may be eliminated from the Project's design. Here, as the DEIR fails to require the inclusion of solar panels or on-site renewable energy, we cannot guarantee that this measure would be implemented, monitored, and enforced on the Project site. As a result, we are unable to verify the Project's consistency with the GHGRS, and the less-than significant impact conclusion should not be relied upon.
2. Implementation of Green Building Measures MS-2.3: Encourage consideration of solar orientation, including building placement, landscaping, design and construction techniques for new construction to minimize energy consumption.	Here, the Compliance Checklist states: "Solar orientation has been used to site the proposed buildings to the extent feasible and solar awareness has informed building and landscape decisions. Numerous new trees will be planted at the site to shade south and southwest exposures. In addition, many south and southwest facing windows will have trellises and canopies. Additionally, the proposed project would include insulation and design provisions to minimize wasteful energy consumption, per the State's CALGreen code and would be constructed using green building practices, LEED and Green Point, consistent with San Jose's Council Policy 6-32. Finally, the proposed project would implement numerous green building measures and design features, consistent with the San Jose 2030 Greenhous Gas Reduction Strategy" (p. 1). Furthermore, the DEIR states that the Project would "[e]ncourage consideration of solar orientation, including building placement, landscaping, design and construction techniques

[128] AEP, CEQA Portal Topic Paper Mitigation Measures at 6 (February 2020), available at: https://ceqaportal.org/tp/CEQA%20Mitigation%202020.pdf.

City of San Jose 2030 Greenhouse Gas Reduction Strategy Compliance Checklist	
Policies and Strategies	Consistency Discussion
	for new construction to minimize energy consumption" (p. 111). However, these responses are insufficient, as the DEIR fails to provide any evidence of concrete actions or proposed measures incorporating solar orientation into the Project design. Moreover, the DEIR and associated documents only discuss solar orientation in the context of complying with the City's GHGRS. As a result, we are unable to verify the Project's consistency with the GHGRS, and the less-than significant impact conclusion should not be relied upon.
2. Implementation of Green Building Measures MS-2.7: Encourage the installation of solar panels or other clean energy power generation sources over parking areas.	Here, the Compliance Checklist states: "There is no significant surface parking on the Project site. The majority of parking for the project will be located in underground garages, with no aggregated surface lots for the proposed hotel, commercial/apartment, or assisted living/office buildings proposed" (p. 1). Furthermore, the DEIR states that the Project would "[e]ncourage the installation of solar panels or other clean energy power generation sources over parking areas" (p. 111). However, these responses are inconsistent and insufficient for two reasons. First, the DEIR indicates that the Project proposes 94 surface parking spaces (p. 19). As such, the 94 surface parking spaces would provide sufficient space for the installation of solar panels, even though the majority of the parking for the Project would be underground. Second, as previously discussed, PDFs are not mitigation measures and may be eliminated from the Project's design. Here, the DEIR fails to require the use of solar panels over parking areas as formal mitigation. As such, we cannot guarantee that this measure would be implemented, monitored, and enforced on the Project site. As such, we are unable to verify the Project's consistency with the GHGRS, and the less-than

City of San Jose 2030 Greenhouse Gas Reduction Strategy Compliance Checklist	
Policies and Strategies	Consistency Discussion
	significant impact conclusion should not be relied upon.
3. Pedestrian, Bicycle & Transit Site Design Measures TR-2.8: Require new development to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.	Here, the Compliance Checklist states: "Indoor bicycle storage and site (exterior) bike parking is located in and around each proposed use NS would exceed the City's minimum bicycle parking requirements. (See the landscape plan submitted with the Project application for locations.) The Project also will construct a dedicated bicycle lane along Union Avenue and make sidewalk improvements along the Project frontage." (p. 4). Furthermore, the DEIR states the Project would: "Require new development to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements." However, these responses are insufficient. As previously discussed, PDFs are not mitigation measures and may be eliminated from the Project's design. Here, the DEIR fails to require the on-site facilities such as bicycle storage and showers as formal mitigation. As such, we cannot guarantee that this measure would be implemented, monitored, and enforced on the Project site. As a result, we are unable to verify the Project's consistency with the GHGRS, and the less-than significant impact conclusion should not be relied upon.
4. Water Conservation and Urban Forestry Measures MS-3.1: Require water-efficient landscaping, which conforms to the state's Model Water Efficient Landscape Ordinance (MWELO), for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.	Here, the Compliance Checklist states: "The Project's irrigation system is designed to be water-efficient. (See the landscape plan for specific details.) The Project design includes the use of low-water requiring and climate-appropriate landscaping materials, and water efficient irrigation systems that conform to the State's Model Water Efficient Landscape Ordinance" (Appendix B, pp. 435).

City of San Jose 2030 Greenhouse Gas Reduction Strategy Compliance Checklist	
Policies and Strategies	Consistency Discussion
	Furthermore, the DEIR states: "the project design includes the use of low-water requiring and climate-appropriate landscaping materials, and water efficient irrigation systems that conform to the State's Model Water Efficient Landscape Ordinance" (p. 138). However, these responses are insufficient. As previously discussed, PDFs are not mitigation measures and may be eliminated from the Project's design. Here, the DEIR fails to require the water-efficient landscaping as formal mitigation. As such, we cannot guarantee that this measure would be implemented, monitored, and enforced on the Project site. As a result, we are unable to verify the Project's consistency with the GHGRS, and the less-than significant impact conclusion should not be relied upon.
4. Water Conservation and Urban Forestry Measures MS-21.3: Ensure that San José's Community Forest is comprised of species that have low water requirements and are well adapted to its Mediterranean climate. Select and plant diverse species to prevent monocultures that are vulnerable to pest invasions. Furthermore, consider the appropriate placement of tree species and their lifespan to ensure the perpetuation of the Community Forest.	Here, the Compliance Checklist states: "All proposed plant materials are consistent with the City of San Jose Community Forest Guidelines, including proposed tree species. These species are well adapted to San Jose's climate. The Project would include a diversity of species and would place trees in locations that will accommodate their full growth" (p. 5). However, this response is insufficient. Simply stating that the Project would comply with the City of San Jose's Community Forest Guidelines does not provide substantial evidence that a diverse selection of plants with low water requirements will be selected to prevent monocultures that are vulnerable to pest invasions. Furthermore, the DEIR states that "[t]here are a total of 40 trees on-site, none of which are native tree species" (p. 79). As the Arborist Report indicates that 11 of these trees will be retained, we cannot verify that the landscaping will be "well adapted to its Mediterranean climate" (p. 5). As a result, we are unable to verify the Project's consistency with the GHGRS, and the less-than-significant impact conclusion should not be relied upon.
Renewable Energy Development 1. Install solar panels, solar hot water, or other clean energy power generation sources on development sites, or	As previously discussed, PDFs are not mitigation measures and may be eliminated from the Project's design. Here, the DEIR fails to require the installation of solar panels and participation in community solar programs as formal mitigation.

City of San Jose 2030 Greenhouse Gas Reduction Strategy Compliance Checklist	
Policies and Strategies	Consistency Discussion
2. Participate in community solar programs to support development of renewable energy in the community, or 3. Participate in San José Clean Energy at the Total Green level (i.e., 100% carbon-free electricity) for electricity accounts associated with the project. Supports Strategies: GHGRS #1, GHGRS #3	Thus, we cannot guarantee that this measure would be implemented, monitored, and enforced on the Project site. Furthermore, regardless of the lack of renewable energy mitigation, the DEIR fails to meaningfully consider the incorporation of solar panels or other onsite renewable energy developments in the Project Description. As a result, we are unable to verify the Project's consistency with the GHGRS, and the less-than significant impact conclusion should not be relied upon.
Zero Waste Goal Provide space for organic waste (e.g., food scraps, yard waste) collection containers, and/or Exceed the City's construction & demolition waste diversion requirement.	Here, the Compliance Checklist states: "The Project would incorporate readily accessible areas for recycling and compost containers that serve all of the buildings on-site. Additionally, the Project would support the goals of the Zero Waste Strategic Plan by complying with the City's Construction and Demolition Diversion Program (which ensures that at least 75 percent of this construction waste is recovered and diverted from landfills)" (p. 6). However, this response is insufficient. Simply stating that the Project would incorporate recycling and compost containers, as well as comply with the City's Construction and Demolition Diversion Program fails to provide substantial evidence that this measure would be implemented, monitored, and enforced on the Project site. As a result, we are unable to verify the Project's consistency with the GHGRS, and the less-than significant impact conclusion should not be relied upon.
Water Conservation 1. Install high-efficiency appliances/fixtures to reduce water use, and/or include water-sensitive landscape design, and/or provide access to reclaimed water for outdoor water use on the project site.	Here, the Compliance Checklist states: "The Project would include the installation of high efficiency appliances and fixtures to reduce water use, and low-water, climate-appropriate landscaping that meets the State's Model Water Efficient Landscape Ordinance requirements" (Appendix B, pp. 436). However, these responses are insufficient. As previously discussed, PDFs are not mitigation measures and may be eliminated from the

City of San Jose 2030 Greenhouse Gas Reduction Strategy Compliance Checklist	
Policies and Strategies	Consistency Discussion
	Project's design. Here, the DEIR fails to require "high-efficiency appliances and fixtures" or the use of "climate appropriate landscaping" as formal mitigation. As such, we cannot guarantee that this measure would be implemented, monitored, and enforced on the Project site. As a result, we are unable to verify the Project's consistency with the GHGRS, and the less-than significant impact conclusion should not be relied upon.

Based on the foregoing omissions and deficiencies, SWAPE recommended that "a revised EIR include further information and analysis to determine whether the Project complies with the GHGRS," as the City claims.[129]

Response EE.29: The evaluation of the project's conformance with the City's 2030 GHGRS is based on two categories: A. General Plan Consistency and B. GHG Reduction Strategies. The project is consistent with the City's General Plan and GHG Reduction strategies as outlined below. The project would comply with the City's GHGRS and implement measures in the GHGRS compliance checklist as described in the Draft EIR. The most prominent measures that the project would implement in compliance with GHGRS measures[130] are summarized here:

Part A: General Plan Consistency

- The project is consistent with the designation of the City's Land Use/Transportation Diagram. The project site is designated as Neighborhood/Community Commercial (NCC) and is within the Camden Avenue/Hillsdale Avenue Urban Village Boundary. A mixed-use project with residential uses is allowed on commercially designated properties within an Urban Village if the project either a) meets the criteria outlined in Envision San José 2040 General Plan Policy IP-5.10 to qualify as a Signature Project or b) if an Urban Village Plan is adopted which allows residential development on commercial-designated sites. There is no adopted plan for the Camden/Hillsdale Urban Village, however, the proposed project qualifies as a Signature Project as the project is:
    - within an Urban Village area designated for commercial use on the Land Use/Transportation Diagram the Urban Village areas
    - Incorporates job growth capacity
    - located at a visible, prominent location within the Urban Village

[129] Id. at 15; DEIR at 137.
[130] Solar orientation was incorporated in the building and site design through elements such as window shading devices to reduce energy use.

- **Implementation of Green Building Measures**: The project applicant will install on-site renewable energy on all low-rise residential buildings (three stories and less) and will make the high-rise multi-family residential and commercial buildings solar ready. Because the buildings are not fully designed, the applicant is unaware of how much roof space will remain after accounting for mechanical equipment for solar on mid-rise residential buildings, but anticipates installing solar on the high-rise, mixed-use multi-family building. Notably, these commercial and mid-rise multi-family buildings would be required to opt into SJCE's 100 percent carbon free electricity program. The applicant does not propose solar over the 94 surface parking spaces. These spaces do not exist in a single parking lot, but instead are mainly dispersed along streets within the project in areas and are shaded by street trees and buildings. Accordingly, it is not practical to install solar canopies over these parking spots.

- **Pedestrian Bicycle and Transit Site Design Measures**: The project applicant would construct new sidewalks along the project frontages to enhance pedestrian safety and provide access to transit. The project site is located near four bus routes on Union and Camden Avenues including Local Bus Route 27, Local Bus Route 37, Frequent Bus Route 61, and Express Bus Route 101.

- **Water Conservation and Urban Forestry Measures:** Consistent with the Water Conservation and Urban Forestry Measures, the project applicant would plant trees and plant materials that are consistent with the City of San José Community Forest Guidelines. Tree species would be well adapted to San José's climate. The project landscaping plan includes a diversity of species and places trees in locations that would accommodate their full growth.

Part B: Greenhouse Gas Reduction Strategies

- **Renewable Energy Development and Zero Net Carbon Residential Construction:** The project's commercial uses, including assisted living, would participate in SJCE Total Green program, which provides 100 percent carbon-free electricity. The assisted living facility includes commercial cooking equipment. The City's Reach Code allows for natural gas usage for cooking equipment serving commercial uses (see response to Comment EE.57). The project's high-rise and non-residential buildings would participate in SJCE's Total Green program and provide 100 percent carbon-free electricity. The low-rise residential buildings would have rooftop solar. No natural gas infrastructure would be included in the residential buildings, in compliance with the City's Reach Code.

  The project would install high efficiency appliances and fixtures to reduce water use, and low-water, diverse, water-efficient- landscaping.

- **Zero Waste Goal:** In compliance with the City's Zero Waste Goal, 75 percent of construction waste would be recovered and diverted from landfills.

  The project applicant would include construction techniques to reduce energy use including limiting idling times for construction equipment, using newer construction equipment, obtaining at least 10 percent of construction materials locally, and diverting waste from the landfill and salvaging for reuse.

The commenter states that the above GHGRS measures are not formal mitigation and that it is not guaranteed the measures will be implemented.

Project features such as trees, high-efficiency appliances, water-efficient landscaping, bicycle storage, and solar panels cannot be eliminated from project design because they would be conditions of approval for the project and are required by the City's Municipal Code (e.g., bicycle storage), or Water-Efficient Landscape Ordinance (e.g., bicycle storage and water-efficient landscaping) or the GHGRS or California Building Code (e.g., rooftop solar on low-rise residential buildings), and are not required to be mitigation to ensure City oversight and enforcement. Installation of solar panels or solar ready features, and planting of trees consistent with the City's Urban Forest Guidelines would be required as conditions of approval. Solar panels would be installed for single-family residences and townhomes and solar ready features would be installed for the multi-family and commercial buildings, as shown in the project development plans. In compliance with the City's Reach Code, the project would not use natural gas (with the exception that natural gas may be used for the assisted living facility commercial kitchen which is allowed under the Reach Code). High-efficiency appliances and solar on low-rise residential buildings would be required by the California Building Code. The project applicant's participation in the SJCE Total Green program for buildings without solar is required under the GHGRS as a condition of approval and construction waste diversion is required by the City's Zero Waste Policy. Therefore, the project would comply with the GHGRS measures and would result in a less than significant GHG impact.

Comment EE.30: C. The Project's Construction Noise Impacts are Potentially Significant, and the Mitigation Measures in the DEIR are Inadequate

Derek Watry reviewed the DEIR's construction noise impact analysis, which found that "construction noise levels established in the Noise Study exceed the threshold of significance by 20 to 32 dBA at 50 feet."[131] Nevertheless, the DEIR concludes that the impacts from the Project's construction noise would be less than significant with the implementation of two mitigation measures

[131] Exhibit C at 4.

(i.e., MM NOI-1.1 and MM NOI-1.2).[132] However, as Mr. Watry discussed in his attached expert report, "the mitigation measures in NOI 1.1 and NOI 1.2 will not suffice to reduce construction noise levels to 57 dBA, the threshold of significance," which would require a reduction of "construction noise levels by 20 to 32 dBA."[133] Although the measures are generally good practice, Mr. Watry explained that "the analysis fails to substantiate that the measures and practices will be sufficient to reduce the noise levels to less than the threshold of significance."[134]

Response EE.30: Comment EE.30 includes Wilson Ihrig;s (the commenter's noise consultant) comments on the construction noise mitigation measures MM NOI-1.1 and MM NO1-1.2 to reduce noise levels by 20 to 32 dBA. Quantitative noise thresholds for temporary construction are not provided in the City's General Plan or Municipal Code. According to the General Plan, a significant impact would occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve substantial noise-generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. As discussed in the DEIR and the noise analysis in Appendix G, the nearby residential receptors within 500 feet of the project will experience substantial noise-generating activities but for less than 12 months.

As discussed in Section 3.12, Noise , of the DEIR, noise levels would vary at an individual receptor based on the construction phase and required equipment, the relative location of the construction activity to the particular receptor, and due to the presence of intervening noise barriers or acoustical shielding. For example, construction of the single-family residential units along the southeast portion of the site would produce noise levels ranging from 77 to 89 dBA Leq at a distance of 50 feet from the source with all pertinent equipment present at the site, and from 71 to 83 dBA Leq at a distance of 50 feet from the source with the minimum required equipment present at the site. However, once these units are constructed, which would take less than 12 months, the units would function as a noise barrier for construction occurring on the north, west, and central portions of the site. Construction noise levels emanating from the 6-story mixed-use building, for example, would be reduced by approximately 22 dBA because of increased distance alone and would range from 55 to 67 dBA Leq with all pertinent equipment present at the site, and from 49 to 61 dBA Leq with the minimum required equipment present at the site. The shielding provided by intervening noise barriers or buildings would reduce these construction noise levels by an additional five to 10 dBA to at most 57 dBA. Construction noise levels would also be reduced by at least 15 dBA when interior finishing work occurs indoors. The interior finishing phase is anticipated to last over 260 workdays, which is over 40% percent of the anticipated construction duration.

[132] DEIR at 184.
[133] Exhibit C at 4.
[134] Id. at 6.

Based on the General Plan, the potential short-term noise impacts associated with construction facilitated by the Envision San José 2040 General Plan Update project would be mitigated by the adoption and implementation of Policy EC-1.7 that requires reasonable noise reduction measures be incorporated into the construction plan and implemented during all phases of construction activity to minimize the exposure of neighboring properties. A construction noise logistics plan, which includes reasonable noise reduction measures and allowable construction hours, was required to reduce construction noise levels per Policy EC-1.7. These measures are standard practice in just about every local community and is consistent with San José methodology. These noise reduction measures are not intended to be applied individually, but rather, collectively, in order to reasonably attenuate noise levels with the application of best available controls. The measures create a framework for both contractor and community expectations, and also empower the community to hold the contractor responsible for unnecessary noise. The measures also facilitate communication between the contractor and community in order to successfully implement the project without causing unnecessary disruption or annoyance.

Responses to comments on the individual measures are provided in Responses EE.29 and EE.30 While segregating these measures in order to show that there is no measure that can, by itself, mitigate construction noise levels, the comment also fails to recognize that construction noise levels would move throughout the site, would occur for over 40 percent of the time indoors, and would also occur in shielded areas of the site. The comments only represent the worst-case scenario, and do not include reasonable assumptions related to how the construction noise would change over time.

Consistent with the General Plan, construction noise was found to be less than significant with the inclusion of Standard Permit Conditions and mitigation measure MM NOI-1.1 and MM NOI-1.2. This is consistent with standard City practice as the construction noise would be temporary, would not result in a permanent increase in ambient noise levels, and would be limited to daytime hours during weekdays, and would be consistent with noise expected in urban environments. This finding also assumes that construction noise levels will vary at an individual receptor based on the construction phase and required equipment, the relative location of the construction activity to the particular receptor, and due to the presence of intervening noise barriers or acoustical shielding.

Comment EE.31: Mr. Watry supported his conclusion by specifically addressing each measure required or recommended by MM NOI-1.1 and MM NOI-1.2[135]. Mr. Watry's analysis is excerpted below.

MM NOI-1.1	
Measure	Comment
Limit construction to 7 a.m. to 7 p.m., Monday through Friday	Mr. Watry explained that this measure is already incorporated into the analysis because the threshold of significance is based on existing baseline daytime noise levels.
Using "new technology" and mufflers in good condition	The DEIR fails to explain what is meant by "new technology," which is vague and unclear. Mr. Watry stated that electric powered heavy equipment is not widely available or adequately powerful at present. Moreover, Mr. Watry is unaware of any "high-performance" mufflers for construction equipment. Any claims of such in the DEIR must be substantiated with manufacturer data and Mr. Watry also recommended that the mitigation measure should require use of the specific mufflers.
Avoiding unnecessary idling	Mr. Watry explained that construction phase noise levels already account for the typical amounts of time that equipment is idling and under full power.
Locating staging areas and stationary equipment far from receptors	Mr. Watry stated that construction site noise levels are determined by mobile, diesel-powered equipment, not staging areas. Furthermore, it must be emphasized that this measure requires locating staging areas and stationary equipment a minimum of 200 feet from noise sensitive receptors without providing any evidence to support feasibility of such a requirement. In failing to provide this information, the feasibility of the measure is suspect.
Notifying the surrounding neighborhood and designating a "noise disturbance coordinator"	Mr. Watry commented that these measures do not actually reduce noise levels.

Response EE.31: Provided below are responses to Mr. Watry's comments on MM NO1-1.1 noted in the Comment EE.31 table.

Limit Construction to 7 a.m. to 7 p.m., Monday through Friday

- This measure is necessary to establish reasonable hours of construction and to inform the community of the time limitations. Work outside of the allowable hours of operation would not be allowed and would be corrected by the disturbance coordinator if violated. Mitigation measure MM NOI-1 on Pages

[135] Id. at 5-6

184 and 185 of the Draft EIR has been updated to describe this (see Section 5.0 Draft EIR Text Revisions of this Final EIR). The mitigation in the noise assessment has also been updated and can be found in Appendix B of this Final EIR.

Using "New Technology" and Mufflers in Good Condition

- The measure requires the contractor to use new technology, i.e., the best available technology, to reduce noise levels as low as feasible. This measure would prohibit the contractor from using equipment that is poorly maintained and therefore, noisier than typical equipment. The contractor would be required to select the quietest equipment timely and commercially available to complete the task at hand. There is no quantitative definition for "quiet" equipment. However, manufacturers often have "quieter" equipment models available or noise control packages for generators that can provide a one to three dBA noise reduction as compared to other similar equipment without the additional muffling. This measure would allow the noise disturbance coordinator to identify and replace problematic equipment (e.g., poorly muffled equipment, improper engine enclosures, etc.).

Avoiding Unnecessary Idling

- This measure would limit the unnecessary idling of equipment and is intended to control noise from idling vehicles at the site. Mitigation measure MM AIR-1.1 limits idling time during construction to no more than five minutes.

Locating Staging Areas and Stationary Equipment far from Receptors

- A staging area is regularly used to park mobile construction equipment, receive truck deliveries, and provide a storage area for construction materials that will be moved to others of the site as needed. The staging area is an activity center that produces noise intermittently throughout the workday. In an attempt to reduce construction noise levels as low as feasible at sensitive receptors, the project is required to locate the staging areas as far as possible from any identified sensitive receptors to minimize noise from the operation of mobile equipment and truck deliveries. The 200-foot distance is a feasible distance according to the applicant based on the location of sensitive receptors and the size of the site.

The intent of this measure is to avoid locations on the site that are immediately adjacent to sensitive receptors.

Notifying the Surrounding Neighborhood and Designating a "Noise Disturbance Coordinator"

- The "noise disturbance coordinator" would be available to the community to act as a liaison and respond to any local complaints about construction noise

due to activities occurring on the site. Unexpected activities occur regularly on construction sites. For example, the use of poorly muffled equipment would be identified by the coordinator, and noise levels would be reduced by providing proper muffling. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. Noise mitigation measures that rely on complaints to a noise disturbance coordinator have been upheld by the Court of Appeal. (E.g., *Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184, 208.)

Comment EE.32:

MM NOI-1.2	
Measure	Comment
Use "quiet" compressors and other equipment	Mr. Watry concluded that these small noise sources do not materially affect the total noise emission from construction.
Use mufflers in good condition	Mr. Watry is unaware of any "high performance" mufflers for construction equipment. Any claims of such in the DEIR must be substantiated with manufacturer data and Mr. Watry also recommended that the mitigation measure should require use of the specific mufflers.
Construct temporary noise barriers (where feasible)	A 5 dBA reduction in noise levels is far less than needed to eliminate the significant noise impact, and since this measure is only to be implemented "where feasible," Mr. Watry stated in his comments that it is unclear how "feasibility" would be determined.
Using enclosures for stationary equipment, particularly when near receptors	Mr. Watry concluded that this measure would not markedly reduce construction noise levels to the extent necessary to reduce the construction noise impacts to less than significant levels.
Locate cranes as far as possible from receptors; use wheeled, not tracked, equipment if possible	Mr. Watry determined that this measure would likely provide less than 3 dBA of noise reduction.
Substitute nail guns for manual hammering and quieter electric tools for pneumatic tools (where feasible)	Mr. Watry found that this measure would likely provide less than 1 dBA of noise reduction from the entire operation. Additionally, this measure is only required "where feasible" and therefore may not be implemented.

Based on Mr. Watry's analysis, the DEIR lacks substantial evidence to support the determination that MM NOI-1.1 and MM NOI-1.2 are adequate measures to reduce the Project's construction noise impacts to less than significant levels.[136] For this reason, Mr. Watry concluded that "construction

[136] Exhibit C at 5-6.

noise from the proposed Cambrian Park Village project should be deemed a significant and unavoidable impact in the DEIR."[137]

Response EE.32: Provided below are responses to Mr. Watry's comments on MM NO1-1.2 noted in the Comment EE.32 table. Consistent with General Plan Policy EC-1.7, mitigation measure MM-NOI-1.2 on Pages 185 and 186 of the Draft EIR has been revised as follows: Prior to issuance of any demolition or grading permits, a qualified acoustical consultant shall develop a construction noise logistics plan that includes measures to ensure construction noise would not exceed 5 dBA over ambient for a period exceeding 12 months. The plan shall consist of noise reduction measures, including, but not limited to, the following available controls that the project applicant shall implement during all phases of construction activity to reduce the noise exposure to neighboring properties. See Section 5.0 Draft EIR Text Revisions. This mitigation has also been updated in the Noise Assessment included in Appendix B of this Final EIR.

Use "Quiet" Compressors and Other Equipment

- To reduce construction noise levels as low as feasible, it is recommended that quiet equipment be used to minimize noise. A discussion of quiet equipment is included in Response EE.31. The intent of these measures, collectively, is to reduce noise levels as much as possible, and this specific measure addresses the noise sources that can be reduced. This construction equipment is typically portable and can be sited at various locations to increase the distance between the noise source and receptor or utilize intervening shielding.

Use Mufflers in Good Condition

- Neither the Draft EIR or noise assessment (Appendix G of the Draft EIR) recommended "high-performance" mufflers. The Draft EIR and noise assessment recommend mufflers that are in good condition and appropriate for the equipment.

Construct Temporary Noise Barriers (where feasible)

- Outside of the consideration that construction noise on the site would move as the development is constructed, and that construction noise levels would be reduced when shielded by intervening structures as they are built, temporary noise barriers are an important tool that can be used to reduce noise levels at off-site receptors. Temporary noise barrier fences would provide a five (5) dBA noise reduction if the noise barrier interrupts the line-of-sight between

[137] Id. at 6.

the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.

Using Enclosures for Stationary Equipment, Particularly when near Receptors

- See Response EE.31 regarding "locating staging areas and stationary equipment far from receptors." The intent of this measure is to shield stationary equipment noise from sensitive receptors.

Locate Cranes as far as possible from Receptors; Use Wheeled, Not Tracked, Equipment If Possible

- See Response EE.31 regarding "locating staging areas and stationary equipment far from receptors."

Substitute Nail Guns for Manual Hammering and Quieter Electric Tools for Pneumatic Tools (where feasible)

- See Response EE.31 regarding under "use 'quiet' compressors and other equipment.

Comment EE.33: This letter reports our comments on the noise analysis in the subject document.

Wilson, Ihrig & Associates, Acoustical Consultants, has practiced exclusively in the field of acoustics since 1966. During our 55 years of operation, we have prepared hundreds of noise studies for Environmental Impact Reports and Statements. We have one of the largest technical laboratories in the acoustical consulting industry. We also utilize industry-standard acoustical programs such as Environmental Noise Model (ENM), Traffic Noise Model (TNM), SoundPLAN, and CADNA. In short, we are well qualified to prepare environmental noise studies and review studies prepared by others.

Adverse Effects of Noise

The health effects of noise are real and, in many parts of the country, pervasive.

Noise-Induced Hearing Loss. If a person is repeatedly exposed to loud noises, he or she may experience noise-induced hearing impairment or loss. In the United States, both the Occupational Health and Safety Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) promote standards and regulations to protect the hearing of people exposed to high levels of industrial noise.

Speech Interference. Another common problem associated with noise is speech interference. In addition to the obvious issues that may arise from misunderstandings, speech interference also leads to problems with concentration fatigue, irritation, decreased working capacity, and automatic stress reactions. For complete speech intelligibility, the sound level of the speech should be 15 to 18 dBA

higher than the background noise. Typical indoor speech levels are 45 to 50 dBA at 1 meter, so any noise above 30 dBA begins to interfere with speech intelligibility. The common reaction to higher background noise levels is to raise one's voice. If this is required persistently for long periods of time, stress reactions and irritation will likely result. The problems and irritation that are associated with speech disturbance have become more pronounced during the COVID-19 pandemic because many people find themselves and others they live with trying to work and learn simultaneously in spaces that were not designed for speech privacy.

Sleep Disturbance. Noise can disturb sleep by making it more difficult to fall asleep, by waking someone after they are asleep, or by altering their sleep stage, e.g., reducing the amount of rapid eye movement (REM) sleep. Noise exposure for people who are sleeping has also been linked to increased blood pressure, increased heart rate, increase in body movements, and other physiological effects. Not surprisingly, people whose sleep is disturbed by noise often experience secondary effects such as increased fatigue, depressed mood, and decreased work performance.

Cardiovascular and Physiological Effects. Human's bodily reactions to noise are rooted in the "fight or flight" response that evolved when many noises signaled imminent danger. These include increased blood pressure, elevated heart rate, and vasoconstriction. Prolonged exposure to acute noises can result in permanent effects such as hypertension and heart disease.

Impaired Cognitive Performance. Studies have established that noise exposure impairs people's abilities to perform complex tasks (tasks that require attention to detail or analytical processes) and it makes reading, paying attention, solving problems, and memorizing more difficult. This is why there are standards for classroom background noise levels and why offices and libraries are designed to provide quiet work environments. While sheltering-in-place during the COVID-19 pandemic, many people are finding working and learning more difficult because their home environment is not as quiet as their office or school was.

> **Response EE.33:** This comment discusses the health effects of noise in general but does not identify a specific CEQA impact issue related to the project. The comment does not question the adequacy of the Draft EIR analysis. Therefore, no further response is warranted.

Comment EE.34: Comments on Construction Noise Analysis

1. Threshold of Significance
The DEIR establishes that the threshold of significance for construction noise at residential receptors is 5 dBA Leq or more over the existing ambient and over 60 dBA L_{eq}. [DEIR at p. xvi, Impact NOI-1; DEIR at p. 182] As will be established following, both of these criteria are met by project construction noise levels.

> **Response EE.34:** The Draft EIR included two criteria addressing construction noise impacts. One of the criteria was an increase of 5 dBA Leq or more over the existing ambient and over 60 dBA L_{eq} for more than 12 months at residences. The Draft EIR concluded that this threshold could be exceeded but would be less than significant with mitigation.

As described in Response EE.30 above, quantitative noise thresholds for temporary construction are not provided in the City's General Plan or Municipal Code. The City has determined that temporary construction noise is part of expected noises in an urban environment and does not create a significant environmental impact unless substantial noise-generating activities continue for more than 12 months. According to the General Plan, a significant impact would occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve substantial noise-generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months (i.e., long-term construction). As discussed in the Draft EIR and the noise analysis in Appendix G, the nearby residential receptors are located within 500 feet of the project and will experience construction noise for more than 12 months. However, since substantial construction generating activities such as grading, demolition, and excavation would move throughout the site and would not occur in one location for more than 12 months, substantial construction noise would not occur at a particular noise receptor or group of receptors for more than 12 months.

The construction of any project, regardless of its type, size, or duration, and with nearby neighbors, and using all the best available controls, would likely result in "temporary" noise levels exceeding the quantitative noise limits applicable to long-term construction for some period of time.

The terms "temporary" and "substantial" are not defined in the CEQA checklist. Based on the City's policy, the City defines temporary as up to and including 12 months. Construction noise impacts are based on the size of the project (as defined by the duration of the noise generating construction period) and the proximity to and sensitivity of nearby land uses. To monitor construction noise levels, Standard Permit Conditions are required for all projects requiring environmental review even if the impact is found to be less than significant. Projects that would cause a significant construction noise impact upon persons in the vicinity would be found to be less than significant with the inclusion of the Standard Permit Conditions and mitigation measures showing how construction noise will not exceed the City threshold over any continuous 12 month period, which is consistent with General Plan Policy EC-1.7, as explained in detail in the Draft EIR.

The implementation of these measures is consistent with standard City practice prevent a permanent increase in ambient noise levels, and limits daytime hours during weekdays. This finding also recognizes that construction noise levels will vary at an individual receptor based on the construction phase and required equipment, the relative location of the construction activity to the particular receptor. Due to the presence of intervening noise barriers and required mitigation measures, such as acoustical shielding, and the best available controls, the project will comply with the 5 dBA L_{eq} over the existing ambient and over 60 dBA L_{eq} for more than 12 months threshold at residences over a continuous period.

Comment EE.35: The noise-sensitive receptors who will be most impacted by construction noise are residents on Bercaw Lane, residents at 14904 Wyrick Avenue, and residents in the northern portion of the Pinewood Garden apartments at 14506 Union Avenue. The existing ambient noise levels at these residences were established by the Noise Study by one long-term measurement and two short-term measurements [Noise Study at pp. 13 – 17]:

Measurement Designation (DEIR)	Location	Nearest Noise-Sensitive Receptor	Existing Daytime Level(s)
			(dBA, Leq)
LT-1	Intersection of Bercaw & Wyrick	Homes on Bercaw, Wyrick	53 – 64
ST-2	Project site's southern fence line	Pinewood Garden Apts	52
ST-4	Project site's eastern fence line	Homes on Bercaw	51

Response EE.35: The commenter has correctly summarized existing ambient noise levels at nearby receptors as presented in the noise assessment (Appendix G) and Section 3.12, Noise, of the Draft EIR. The City defines a significant construction noise impact where substantial noise-generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) would continue for more than 12 months at a particular receptor or groups of receptors, as explained in Response EE.32. When this threshold is exceeded, Standard Permit Conditions and General Plan Policy EC-1.7 are implemented to reduce the impact to a less than significant level. See Response EE.34. As stated in the Draft EIR, Page 184 through 185 and consistent with General Plan Policy EC-1.7, which requires the use of available noise suppression devices and techniques and limits construction hours near residential uses, mitigation measures MM NOI-1.1 and MM NOI-1.2 would be implemented to reduce construction noise impacts to less than significant.

Comment EE.36: The project will be constructed behind the backyards of homes on Bercaw Lane, to the side of the home on Wyrick Avenue, and to the east and north of the second-floor apartments of Pinewood Garden. The measurements at ST-2 and ST-4 are most representative of the existing noise environment at these locations, and the low end of the street-side, long-term measurement at LT-1 corroborates the short-term data. Given all that, for simplicity, I will use 52 dBA Leq to represent the existing ambient daytime noise levels in my comments.

Returning to the threshold of significance, 5 dBA over the existing ambient noise level at the most-affected residential receptors is 57 dBA Leq.

Response EE.36: The commenter summarizes ambient noise levels in an attempt to show that worst-case construction noise levels will substantially exceed ambient conditions. Again, the City defines a significant construction noise impact where substantial noise-generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) would

continue for more than 12 months at a particular receptor or groups of receptors. When this threshold is exceeded, Standard Permit Conditions and General Plan Policy EC-1.7 are implemented to reduce the impact to a less than significant level. (see Responses EE.2 and EE.33). As stated in the Draft EIR, Page 184 through 185 and consistent with General Plan Policy EC-1.7, which requires the use of available noise suppression devices and techniques and limits construction hours near residential uses, mitigation measures MM NOI-1.1 and MM NOI-1.2 would be implemented to reduce construction noise impacts to less than significant.

Comment EE.37: 2. Construction Noise Levels: The Noise Assessment does not calculate noise levels based on anticipated equipment used in each phase of construction. Rather, it relies on "typical ranges of construction noise levels" that have been published by the U. S. Environmental Protection Agency ("EPA") which is reasonable at this point in the project development process. The EPA presents noise levels for two scenarios:

I. All pertinent equipment at site
II. Minimum required equipment at site

Given the fact that land is expensive in California and that construction workers are in short supply, barring any substantive information about how the project will be built with "minimal equipment", I think it is only proper to use the "all equipment" noise level data. As the Noise Study notes, these range from 77 to 89 dBA L_{eq} at a distance of 50 feet.4 [Noise Study at p. 25]. As can be seen in Figure 1, 50 feet is reasonable distance to use for the assessment of project residential construction noise at existing residential property lines.

Response EE.37: The commenter describes the worst case construction noise levels at the closest location to sensitive receptors. However, construction noise levels would vary as construction activities move throughout the site, would occur for over 40 percent of the time indoors, and would also occur in shielded areas of the site. The comment only represents the worst-case scenario and does not include reasonable assumptions related to how the construction noise would change over time due to location or intervening shielding. See Responses EE.30 and EE.34.

Comment EE.38: 3. Impact Assessment & Mitigation: The construction noise levels established in the Noise Study exceed the threshold of significance by 20 to 32 dBA at 50 feet. After noting that these noise levels are “potentially significant”, the Noise Study discusses a number of “best practices” construction noise control measures (only quantifying the effect of one – 5 dBA for construction noise barriers “where feasible”), and then declares construction noise with the measures would be “less-than-significant with mitigation”. [Noise Study at p. 28] The DEIR incorporates the best-practices noise control means and methods into Mitigation Measures NOI-1.1 and NOI-1.2 and also declares construction noise to be a “less than significant impact with mitigation incorporated”. [DEIR at p. xvi]

In fact, the mitigation measures in NOI 1.1 and NOI 1.2 will not suffice to reduce construction noise levels to 57 dBA, the threshold of significance. While all of the measures in NOI-1.1 and NOI-1.2 are undeniably good practices and should be incorporated into the project plans, CEQA does not provide that making a good-faith effort to reduce noise levels is sufficient to render a potential

impact less than significant. To do that, the levels must actually be reduced such that they are lower than the adopted threshold of significance, and here they will not be because it is simply not practical reduce construction noise levels by 20 to 32 dBA. Construction is inherently noisy, and while being up front and transparent about that with neighbors and utilizing best-practice noise control practices can go very far to mollify their adverse reaction to the noise, they will not reduce the noise levels sufficiently to render the impact less than significant under CEQA.

Response EE.38: Please refer to Responses EE.30 and EE.34. The intent of these measures (MM NOI-1.1 and MM NOI-1.2), collectively, is to reduce noise levels below the threshold of five dBA above ambient average daytime noise level,, which is based on cumulative noise over a period exceeding 12 months. The implementation of mitigation measures (such as a construction noise logistics plan) consistent with standard City practice as the construction noise would be temporary, would not result in a permanent increase in ambient noise levels, and would not exceed the stated threshold of significance.

Comment EE.39: Detailed Comments on Proposed Mitigation Measures

In this section, I discuss the best-practice noise control measures in NOI-1.1 and NOI-1.2. Although these are good practices that should be required during project construction, the measures will not be sufficient to reduce the construction noise levels by 20 to 32 dBA, as is necessary to support the determination that the Project's construction noise impacts would be less than significant with mitigation.

MM NOI-1.1	
Measure	**Comment**
Limit construction to 7 a.m. to 7 p.m., Monday through Friday	The analysis already takes this into account by basing the threshold of significance on existing baseline daytime noise levels.
Using "new technology" and mufflers in good condition	It is unclear what is meant by "new technology". While it is true that electric-powered heavy equipment is being developed, it is not at this time widely available or adequately powerful. Making sure the diesel-powered equipment has properly-working mufflers is essential, but I am unaware of any "high-performance" mufflers for construction equipment. Any such claims should be substantiated with manufacturer data and use of the specific mufflers (makes & models) should be incorporated into the mitigation measure.
Avoiding unnecessary idling	Construction phase noise levels such as those used by the Noise Study already account for the typical amounts of time that equipment is idling and under full power. The noise levels are determined by the time that the equipment is necessarily at full power.

Locating staging areas and stationary equipment as far as possible from receptors (a minimum of 200 feet)	These are both good practices, but construction site noise levels are determined by mobile, diesel-powered equipment, not staging area activities or stationary equipment.
Notifying the surrounding neighborhood and designating a "noise disturbance coordinator"	While these are highly recommended practices for establishing and maintaining good relations with neighbors during construction, these measures in and of themselves do not reduce noise levels.
MM NOI-1.2	
Measure	**Comment**
Use "quiet" compressors and other equipment	Again, this is a good practice, but these small noise sources do not materially affect the total noise emission from construction.
Use mufflers in good condition	(See above)
Construct temporary noise barriers (where feasible)	As the Noise Study and DEIR both indicate, it is reasonable to expect a 5 dBA reduction in noise levels from a properly constructed barrier. However, a 5 dBA reduction in noise levels is far less than needed to eliminate the significant noise impact. As an aside, it is not clear how "feasibility" is determined. As defined by CEQA, "'feasible' means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." [Pub. Res. Code § 21061.1] With cost as a factor, any wall could potentially be characterized as "infeasible". I think the preparers of the DEIR should provide an analysis of the noise reduction afforded by a well-specified noise barrier (height, extent, openings, etc) to substantiate that such a barrier is, in fact, feasible. Based on experience, I would expect the wall to be 8 to 10 feet high.
Using enclosures for stationary equipment, particularly when near receptors	As discussed above, this best practice should be incorporated, but will not markedly reduce construction noise levels to the extent necessary to reduce the construction noise impacts to less than significant levels.
Locate cranes as far as possible from receptors; use wheeled, not tracked, equipment if possible	Good practices, but will likely provide less than 3 dBA of noise reduction.
Substitute nail guns for manual hammering and quieter electric tools for pneumatic tools (where feasible)	Good practices, but will likely provide less than 1 dBA of noise reduction from the entire operation. Moreover, these measures are only required "where feasible" and therefore may not be implemented.

Response EE.39: The comments shown in the above table have been discussed in Responses EE.31 and EE.32, above. Those responses state that the threshold examines noise in excess of a 12-month period. With the mitigation shown in the table in Comment EE.39, the project would not exceed the City's construction noise threshold for more than 12 months at any particular receptor or group of receptors.

Comment EE.40: Conclusion: In conclusion, the DEIR correctly establishes that construction noise will cause a potentially significant impact on residential noise receptors whose properties abut the project site. While the DEIR incorporates a number of laudable noise control measures and practices into proposed Mitigation Measures NOI-1.1 and NOI 1.2, the analysis fails to substantiate that the measures and practices will be sufficient to reduce the noise levels to less than the threshold of significance. Such substantiation is, in fact, not possible because the construction noise levels are 20 to 32 dBA higher than the threshold of significance, an amount that likely cannot be mitigated. As such, construction noise from the proposed Cambrian Park Village project should be deemed a significant and unavoidable impact in the DEIR.

Response EE.40: Comment EE.40 summarizes the concerns in Comments EE.30 through EE.39 regarding construction noise levels and notes they would be 20 to 32 dBA higher than the threshold of significance. Refer to Responses EE.30 through EE.39 to address this comment. The Draft EIR concluded that with the implementation of mitigation measures MM NOI-1.1 and MM NOI-1.2, construction noise impacts on nearby receptors would be less than significant.

Comment EE.41: D. The DEIR Fails to Disclose and Meaningfully Analyze the Project's Potentially Significant Transportation Impacts

Under CEQA Guidelines Section 15064.3, "[g]enerally, vehicle miles traveled is the most appropriate measure of transportation impacts. … Other relevant considerations may include the effects of the project on transit and non-motorized travel."[138]

Here, the DEIR's analysis of VMT for the Project's hotel, retail, and restaurant components is based on an unsupported assumption that existing trips would be diverted from similar, existing establishments. Reliance on this assumption in the VMT analysis erroneously skewed the analysis and thus the determination that the Project's hotel, retail, and restaurant components would reduce existing total VMT in the area is unsupported. Even assuming the Project's hotel, retail, and restaurant components would redistribute existing trips currently being made, the estimation of VMT for the proposed retail/restaurant and hotel uses is based on a reallocation of retail and service employment from surrounding areas to the Project Site that failed to consider several similar retail and hotels surrounding the Site. These omissions cause the VMT analysis to be incomplete and inaccurate.

The DEIR also fails to disclose the significant transportation impacts given the findings in the traffic analysis in Appendix H, which identifies significant queues at intersections along Camden Avenue

[138] 14 C.C.R. § 15064.3(a).

and signal issues at the intersection of White Oaks Road and SR 17 northbound ramp. The DEIR also omits consideration of VMT added by the Project's proposed 18 ADUs, improperly relies on optional traffic calming measures to mitigate the Project's potentially significant impacts on roadway facilities and fails to demonstrate the Project's compliance with the City's clean air vehicle parking requirements under the Municipal Code.

a. The Project's VMT Analysis of the Hotel, Retail, and Restaurant Components is Based on Unsupported Assumptions.

The DEIR assumes that the Project's hotel, retail, and restaurant would not generate net new trips because the Project would only attract existing trips made to hotel, retail, and restaurant sites around the Project area.[139] In the attached expert report, Daniel Smith concluded that this assumption is "speculative and unsupported," and that the DEIR lacks substantial evidence to support the conclusion.[140]

Mr. Smith also examined Figures 7 and 8 in the DEIR's Appendix H, which illustrate surrounding retail centers and hotels from which patronage would purportedly be diverted to the Project's hotel, retail, and restaurant components.[141] Regarding the distribution of comparable sites in Figure 7, Mr. Smith emphasized that Figure 7 identifies only one center south of the Project, which he concluded to be "highly implausible."[142] His conclusion is based on the fact that "the 5-mile radius extends to the south to include the entire Town of Los Gatos, extends west 0.4 miles beyond where Saratoga Avenue crosses Fruitvale Avenue, extends to the southeast to include the northern part of the Almaden Valley to south of the point where Camden Avenue crosses Almaden Expressway and east in the SR 85 corridor to a point where it crosses Blossom Avenue."[143] As such, Mr. Smith concluded that "[i]t is likely that the DEIR's analysis omitted other similar small retail/restaurant complexes similar to what the Project proposes to build."[144]

Mr. Smith determined Figure 8 "illustrates an even more skewed distribution."[145] He explained that "[n]umerous hotels are known to exist in the devoid sections of the 5-mile radius circle, including, but not limited to, the Hotel Los Gatos, the Toll House Hotel, the Los Gatos Lodge, the Los Gatos Garden Inn and Hotel, the Best Western Inn of Los Gatos, the Saratoga Oakes Lodge and the Inn at Saratoga among others."[146] Thus, Mr. Smith determined that the DEIR's analysis is "not representative of all the locations where similar facilities exist within the 5-mile circle of the site," which causes "the VMT analysis [to be] based on skewed and inaccurate" information.[147]

[139] Exhibit B at 1.
[140] Id.
[141] Id. at 2.
[142] Id.
[143] Id.
[144] Id.
[145] Id.
[146] Id.
[147] Id.

For the foregoing reasons, Mr. Smith concluded that the VMT analysis for the Project's hotel, retail, and restaurant components is inaccurate and must not be relied upon to support the significance determinations in the DEIR.

Response EE.41: Comment EE.41 summarizes the commenter's concerns about the project's traffic analysis. This response and Responses EE.42 through EE.54 address the concerns summarized in Comment EE.41. This comment also suggests that the methodology used for the VMT evaluation of the proposed retail/restaurant/hotel uses is based on unfounded assumptions and "skews" the analysis. The VMT evaluation approach used in Section 3.16, Transportation, and documented in Appendix H, Transportation Impact Analysis, of the Draft EIR, relied on the use of the City's adopted General Plan Transportation Forecasting (TDF) Model. The TDF model was used to establish VMT baselines and impact thresholds as part of the City's Transportation Policy (Council Policy 5-1) and the City's VMT Evaluation Tool. Though the City's VMT tool was used to evaluate the residential and employment uses of the proposed project, the VMT tool is not capable of evaluating VMT for retail/commercial land uses. Therefore, Hexagon Transportation Consultants (the consultant that prepared the LTA in Appendix H) in conjunction with City staff applied a methodology that consisted of a re-distribution of trips associated with existing retail/restaurant/hotel within the context of Urban Villages. As stated in CEQA Guidelines Section 15064.3, a lead agency has discretion to choose the most appropriate methodology to evaluate a project's VMT, including whether to express the change in absolute terms, per capita, per household or in any other measure. This guideline also states that a lead agency may use models to estimate a project's VMT and may revise those estimates to reflect professional engineering judgment. Therefore, the use of alternative methodology for the evaluation of VMT and transportation impacts is permitted under CEQA as noted above. This methodology established for the study of the hotel, retail and restaurant uses has been consistently utilized for analysis of commercial development sites greater than 100,000 square-feet throughout the City consistent with Council Policy 5-1 and the City's Transportation Analysis Handbook.

The referenced retail/restaurant/hotel uses are one component of the proposed mixed-use project that also includes residential and employment uses. The proposed mix of land uses, including the referenced retail/restaurant/hotel uses, on the project site will internalize (or maintain trips within the project site) and significantly reduce vehicular trips that would otherwise be made to other similar retail/restaurant/hotel uses further away that would require a longer vehicular trip. The VMT evaluation approach for the proposed retail/restaurant/hotel uses is based on the same mixed-use premise of trip internalization applied to the greater project area, not just the project site itself. The approach is based on the premise that vehicular trips are currently being made by residents/employees in the greater project area to similar retail/restaurant/hotel uses in other areas of the City that require longer vehicular trips than would not be required with the introduction of the proposed project retail/restaurant/hotel uses into the area. Therefore, the proposed project retail/restaurant/hotel uses would redistribute existing vehicle trips (and associated VMT) from other retail/restaurant/hotel uses that are further away. The premise of

internalization and intensification of complementary land uses in walking, biking, and a short driving distance of one another is the basis of the City's Urban Village concept to reduce the need to drive between destinations. The proposed project is located within a designated Urban Village. Therefore, the approach utilized for the proposed retail/restaurant/hotel uses is consistent with the City's Urban Village strategies in that it is considered local-serving in terms of the greater Camden/Hillsdale Urban Village and should not be evaluated as stand-alone retail/commercial/hotel use.

The VMT analysis approach considers that the introduction of the proposed retail, commercial, and hotel uses would result in a redistribution of trips that are already being made or are projected to be made to other retail/commercial and hotel sites further away because the project proposes similar types of retail/commercial/hotel uses. The introduction of retail, commercial, and hotel uses within the project area where there are existing and future supporting residential and employment uses (i.e., the Urban Village) will result in the reduction in number and length of trips made to the existing retail/commercial/hotel sites further away. The existing retail/commercial/hotel sites were selected based on their proximity to the project site and inclusion of uses that most closely resemble those proposed by the project. The referenced Los Gatos locations would have minimal effect on project VMT since these sites are in proximity to the project area. The redistribution of trips from hotels that generally serve the Los Gatos area and are already within the general area of the project would result in only minimal changes to the projected VMT for the project). Furthermore, the referenced Figures 7 and 8 of the LTA indicate all sites in the analysis (30 retail/commercial and 15 hotel) are generally within a five-mile radius of the project site and within City limits (refer to Figures 7 and 8 of the LTA in Attachment B of this FEIR).

The comment identifies an omission of clear identification of sites that were selected for the VMT evaluation and redistribution of trips. The retail/commercial sites selected for the VMT evaluation included sites 1, 2, 3, 8, and 11. The hotel sites included sites 1 through 8. Refer to Figure 7 and Figure 8 of the Transportation Analysis for similar hotel and retail centers used in the analysis. City staff identified 30 small retail centers and 15 hotels within the vicinity of the project area similar to the hotel and retail uses proposed by the project. The sites were selected in coordination with City staff and were selected based on their proximity to the project site. The comment also states that the VMT methodology is "flawed, skewed, incomplete, and deficient" due to the exclusion of sites that are further from the project site. However, the redistribution, or replacement, of trips from sites that are further from the project site would actually result in a greater reduction in length of trips being redistributed trips and would skew the analysis. The reduction of longer trips would be more favorable to the project in terms of net VMT. Therefore, the selected sites provide for a conservative analysis in terms of length of trips that would be redistributed and the VMT projections since the locations were limited to only those that were located in proximity, less than three miles, to the project site and would be most likely to be used by residents, employees, and visitors to the immediate area (see Figures 7 and 8 in Appendix B of this FEIR).

Comment EE.42: I reviewed the Draft Environmental Impact Report (the "DEIR") for the Cambrian Park Mixed-Use Village Project (the "Project") located at the southeast corner of the intersection of Camden Avenue and Union Avenue in the Cambrian Park neighborhood in southwestern San José, California in the City of San Jose. My review is with respect to transportation and circulation considerations. My qualifications to perform this review include registration as a Civil and Traffic Engineer in California, over 50 years professional consulting practice in these fields, and both the preparation and review of the traffic and transportation components of numerous environmental documents prepared under the California Environmental Quality Act ("CEQA"). My professional resume is attached hereto.

> **Response EE.42:** This comment does not question the adequacy of the Draft EIR analysis. Therefore, no further response is warranted.

Comment EE.43: The Vehicle Miles Traveled Analysis of the Project's Hotel, Retail, and Restaurant Components Was Conducted Under an Unsupported Assumption

The DEIR assumes that the Project's Hotel, Retail and Restaurant components will not generate net new trips. Instead, the analysis presumes that these uses within the Project would attract existing trips made from their points of origin to nearby hotel, retail and restaurant sites around the Project area. This assumption is speculative and unsupported.

> **Response EE.43:** Please refer to Response EE.41. As stated in CEQA Guidelines Section 15064.3, a lead agency has discretion to choose the most appropriate methodology to evaluate a project's VMT, including whether to express the change in absolute terms, per capita, per household or in any other measure. The VMT analysis approach considers that the introduction of the proposed retail, commercial, and hotel uses would result in a redistribution of trips that are already being made or are projected to be made to other retail/commercial sites. The introduction of retail, commercial, and hotel uses within the project area where there are existing and future supporting residential, and employment uses (i.e., Urban Village) will result in the reduction in number and length of trips made to the existing retail/commercial/hotel sites. The proposed mix of land uses, including the referenced retail/restaurant/hotel uses, on the project site will internalize and significantly reduce vehicular trips that would otherwise be made to other similar retail/restaurant/hotel uses that would require a longer vehicular trip.

Comment EE.44: Over time, the patronage will be reflective of the overall growth of population and economic development of the region of which the Project is a part. The notion that the Project would share in an existing trip demand for hotel, retail and restaurant services biases the analysis against a realistic estimate of the VMT that the hotel, retail and restaurant components would generate. The DEIR lacks substantial evidentiary support for this assumption as well as the determination that the Project's hotel, retail, and restaurant components would not generate net new trips. The consequence of those assumptions, the finding that diversion of existing trips from nearby sites would result in a net reduction of area VMT is also unsupported.

Response EE.44: The comment suggests that the VMT approach used in the analysis is unsupported in its assumption that the proposed project land uses would result in a redistribution of existing trips that are currently made to other surrounding location with similar services/uses. The comment instead suggests that the proposed project would result in additional trips and a net increase in VMT. The suggested approach itself would be speculative and assumes that residents located within proximity to the project site would choose to make a longer vehicular trip to retail, restaurant, and hotel uses elsewhere in the City rather than the shorter trip to the project site or walk or ride a bike. The notion that a development project should be evaluated as a stand-alone development is contrary to the City's land use planning effort and establishment of designated Urban Village. The Urban Village concepts and goals aim to change current travel behavior of residents (i.e., walk or drive to retail and services versus drive). Therefore, since the proposed project would be within an Urban Village, there is an assumption that existing traffic patterns and trips will change (number of vehicle trips would be reduced) as a result of the development of Urban Villages not only for the project site but throughout the City. The methodology established for the study of the hotel, retail and restaurant uses has been consistently utilized for analysis of commercial development sites greater than 100,000 square-feet throughout the City consistent with Council Policy 5-1 and the City's Transportation Analysis Handbook (refer to the Draft EIR, Appendix H, Pages 4 -5, 13-18) .

Comment EE.45: Furthermore, even assuming the DEIR properly assumed that the proposed retail and hotel uses of the project will result in a redistribution of trips that are currently made, the surrounding retail centers and hotels identified in Figures 7 and 8 in DEIR Appendix H from which patronage may be diverted to the Project's hotel, retail and restaurant components are incomplete and deficient. These figures are reproduced on subsequent pages herein. Appendix H Figure 7 identifies 30 retail centers within a 5-mile radius of the Project site that are supposedly "like those proposed by the project". Notably, 29 of the 30 centers selected are in an arc extending from slightly southeast from the Project site through northeast, north and northwest of the Project. Only one center is directly south of the Project, and none are considerably southeast or south of directly west of the Project site. This distribution of comparable sites is highly implausible since the 5-mile radius extends to the south to include the entire Town of Los Gatos, extends west 0.4 miles beyond where Saratoga Avenue crosses Fruitvale Avenue, extends to the southeast to include the northern part of the Almaden Valley to south of the point where Camden Avenue crosses Almaden Expressway and east in the SR 85 corridor to a point where it crosses Blossom Avenue. It is likely that the DEIR's analysis omitted other small retail/restaurant complexes similar to what the Project proposes to build.

Appendix H Figure 8 showing the location of existing hotels within 5-mile radius considered comparable to that proposed in the Project illustrates an even more skewed distribution than Figure 7. One identified hotel is located almost directly east of the Project site. From that one site to the east, the entire quadrant to the northeast is devoid of sites. In a small pie slice of the circle ranging from due north to northwest, the other 14 hotel sites are located. From northwest through west through southwest through south and southeast to almost due east, the 5- mile radius circle is devoid of identified hotels similar to what the Project proposes to build. However, numerous hotels are known to exist in the devoid sections of the 5-mile radius circle, including, but not limited to, the Hotel Los

Gatos, the Toll House Hotel, the Los Gatos Lodge, the Los Gatos Garden Inn and Hotel, the Best Western Inn of Los Gatos, the Saratoga Oakes Lodge and the Inn at Saratoga among others.

If the places where Project trips are supposedly diverted-from are not representative of all the locations where similar facilities exist within the 5-mile circle of the site, then the VMT analysis that is based on that information will be skewed, inaccurate and underestimated.

> **Response EE.45:** Please refer to Responses EE.41 and EE.43. The referenced Figures 7 and 8 of the LTA indicate all sites (30 retail/commercial and 15 hotel) within generally a five-mile radius of the project site and within City limits (refer to Figures 7 and 8 of the LTA in Attachment B of this FEIR). The comment does identify an omission of clear identification of sites that were selected for the VMT evaluation and re-distribution of trips. The retail/commercial sites selected included sites 1, 2, 3, 8, and 11. The hotel sites included sites 1 through 8. The sites were selected in coordination with City staff and were selected based on their proximity to the project site. The comment also states that the VMT methodology is skewed, inaccurate, and underestimated due to the exclusion of sites that are further from the project site. However, the redistribution, or replacement, of trips from sites that are further from the project site would actually result in a greater reduction in length of trips being redistributed trips . The reduction of longer trips would be more favorable to the project in terms of net VMT. Therefore, the selected sites provide for a conservative analysis in terms of length of trips that would be redistributed and the VMT projections since the locations were limited to only those that were located in proximity, less than three miles, to the project site (see Figures 7 and 8 in Attachment B of this FEIR).

Comment EE.46: The DEIR Fails To Disclose Significant Transportation Impacts Based on Findings of the Local Transportation Study. The first issue for the purpose of determining the significance of the project's impact on transportation under CEQA, is this question: "Would the project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?" If the Project conflicts with such a program, plan ordinance or policy, then that is a significant transportation impact under CEQA.

The intersection of Camden Avenue with Union Avenue is designated as a Santa Clara Valley Transportation Authority Congestion Management Plan ("CMP") intersection. Although SB 743 and related CEQA guidelines make VMT rather than previously relied upon Level-of-Service ("LOS") standards the primary measure of transportation impact, the Congestion Management Plan continues to rely on LOS measures. Conformance to General Plans and policies is a CEQA issue, making the content of the Appendix H LOS analysis subject to review, comment, and requirements for substantive response under CEQA process where nonconformance to General Plan LOS standards is involved.

The Appendix H LOS analysis as conducted does not represent the Project as having a significant traffic impact at the intersection of Camden and Union Avenues under County CMP significance thresholds. However, the analysis does state that field observation of operations indicates that in the PM peak hour, traffic proceeding eastbound on Camden had constant queues extending back from the intersection of Camden with Leigh past the intersection of Camden with Union. The queue

condition constitutes a de facto LOS F operation at the CMP intersection of Union and Camden, which, coupled with the changes in delay and volume/capacity ratio Appendix H predicts, would result in an exceedance of the CMP significance threshold that is undisclosed in the DEIR. This condition should be reported as an exceedance of the CMP threshold and is subject to CEQA comment.

The Appendix H LOS analysis does report that PM peak hour conditions at Union and Camden intersection in the background plus Project scenario for both Project Alternatives would exceed City of San Jose guidelines constituting an adverse effect on traffic operations. However, DEIR Appendix H concludes, without foundation, that the Project can mitigate this adverse effect by making a 'fair share' financial contribution toward developing protected Class IV bike lanes on the opposite sides of Camden and Union Avenues from the Project's frontage. This conclusion is without evidentiary support since there is no quantitative demonstration to support this conclusion and it is highly suspect that providing this limited length of bike lanes on the opposite sides of the streets from the Project would attract enough bike ridership to offset the Project's contribution to increased adverse traffic conditions at the subject intersection.

Response EE.46: To address the comment regarding queuing conditions, the use of observed queues, interpolated level of service (LOS) from other intersections, and "defacto" LOS estimations are not an approved methodology for LOS analysis by the City of San José nor VTA's Congestion Management Program (CMP). The LOS analysis included in the LTA (Appendix H of the Draft EIR) was completed in adherence to the standards and methodologies set forth in the City of San José's Transportation Analysis Policy (Council Policy 5-1), the City of San José Transportation Analysis Handbook 2018, the Santa Clara Valley Transportation Authority (VTA) Congestion Management Program's Transportation Impact Guidelines (October 2014). The analysis completed per the adopted guidelines indicates that the referenced Union Avenue and Camden Avenue intersection would meet the CMP LOS E standard.

Based on the *Citizens for Positive Growth & Preservation versus City of Sacramento* (2019) 43 Cal.App.5th 609 and SB 743, VMT is the most appropriate measure of transportation impacts under CEQA. LOS is no longer used as a CEQA threshold for transportation impacts. As stated on Page 35 of the LTA, the LTA supplements the CEQA VMT analysis and identifies transportation and traffic operational issues that may arise due to a development project. The LTA is required per the City of San José Transportation Policy, however, the determination of project impacts per CEQA requirements is based solely on the VMT analysis. The LTA provides supplemental analysis for use by the City of San José in identifying potential improvements to the transportation system with a focus on improving multi-modal travel. Therefore, the identified contribution to bicycle facilities along Camden Avenue and Union Avenue is not identified to mitigate a project impact. Rather, the proposed contribution is identified as a potential measure to improve multi-modal travel in the project area and meet the City's General Plan goals and policies. Therefore, the comment provides no substantive information in regard to the project's effect on transportation impacts per CEQA requirements.

Comment EE.47: The Local Transportation Analysis ("LTA") also determined that the Project would cause peak queues to increase to in excess of 500 feet at the left turn lane on Camden westbound to Union southbound. The existing left turn lane is only 200 feet long; another project is committed to extend it to 400 feet. Appendix H recommends against further extending it to 500 feet or so. This failure to provide an adequate left turn storage lane (or lanes) for the queues that the LTA estimates the Project would cause will consequently cause vehicles intending to make the subject left turn to block a westbound through lane, which will increase congestion at the intersection of Camden and Union Avenues and increase the hazard potential for collisions. The preparers of DEIR Appendix H attempt to justify the recommendation for failing to provide further mitigation by claiming drivers would not be willing to wait in a left turn lane 500 feet long and that they will just disappear to some other route. It must be noted that the most obvious diversion route for drivers to avoid this queue is to cut through the Project site, which is inconsistent with the intended character of the proposed Project and which DEIR Appendix H discloses already happens at the site. It seems likely that the recommendation to not mitigate the significant impacts at this intersection identified in Appendix H is because extending the subject left turn lane up to 500 feet would necessitate closing the left turn pocket from westbound Camden into the Project site. The analysis also evades an obvious solution to the problem - for the applicant to dedicate enough right-of-way to develop a double left turn lane at this location.

There is also an issue of the Project adding to traffic at the intersection of White Oaks Road and SR 17 northbound ramps. The intersection meets signal warrants but is un-signalized. Appendix H leaves it completely up to the County to determine when to signalize and how to finance. If the DEIR is suggesting that the Project would contribute to significant impact at this location, it should clearly state this determination and should require the Project applicant to make a fair share contribution toward signalization.

Response EE.47: The comment provides no substantial evidence in regard to the project's effect on transportation impacts per CEQA requirements. The commenter recommends that a second left-turn lane be added on the westbound approach of the Camden Avenue and Union Avenue to alleviate queuing projected queueing issues identified in the Transportation Analysis. The addition of a second left-turn lane would require lane shifts through the intersection, possible right-of-way acquisition, and use of existing pavement width that will be required for the implementation of protected bike lanes along Camden Avenue per the City's Better Bikeways Plan 2025.The addition of travel lanes and possible widening of Camden Avenue will lengthen the crossing distance for pedestrians and bicyclists at the intersection. The degradation of multi-modal travel through the intersection due to the implementation of roadway improvements for the purpose of increasing vehicular capacity is not consistent with the City's goals to improve opportunities for multi-modal travel or SB 743. Therefore, the addition of a second westbound left-turn lane was not identified with the LTA nor is it supported by City staff. However, the existing right-of-way does allow for the westbound left-turn pocket from Camden Avenue to Union Avenue to be extended. Therefore, the project is conditioned to extend the left-turn pocket from 200 feet to 400 feet for additional vehicular queuing capacity.

The LTA identifies that the referenced White Oaks Road and SR 17 intersection meets signal warrants. The LTA also identifies that the proposed project is projected

to add no more than 10 peak hour trips to the intersection. The project trips added to the intersection equate to a minimal amount, no more than 0.5 percent, of the projected peak hour volumes at the intersection. As stated on page 69 of the LTA, a signal at the White Oaks Road and SR 17 intersection has been identified as a candidate project for Measure B funding. Therefore, the comment provides no substantive information in regard to the project's effect on transportation impacts per CEQA requirements.

Comment EE.48: Cumulative Projects List for Transportation Impacts

The DEIR purports to assess the Project's cumulative transportation impacts based on a cumulative projects list that includes existing and approved but not yet completed development projects within an approximate 2.5-mile radius of the Project site. The cumulative projects listed in Appendix C to DEIR Appendix H do not appear to include the approved residential care facility at 2395 S. Bascom or the affordable housing project at 3090 S. Bascom, nor any projects within the Town of Los Gatos. Please confirm whether their non-inclusion is true, and if so, why these projects were omitted from the cumulative projects list despite their location within the 2.5-mile radius.

Response EE.48: Per Council Policy 5-1, a project must demonstrate consistency with the City's Envision San Jose 2040 General Plan to address cumulative VMT impacts. Consistency with the City's General Plan is based on the project's density, design, and conformance to the General Plan's goals and policies such as regional air quality and greenhouse gas emissions targets and other performance metrics of the General Plan. An evaluation of the project's effects on the surrounding multi-modal transportation facilities including transit, bicycle, and pedestrian facilities was completed. The evaluation indicated that the project would not prohibit the completion of the planned improvement of multi-modal facilities and recommends potential project contributions towards future improvement of multi-modal facilities. Therefore, based on the project description, the proposed project would be consistent with the General Plan's long-range multi-modal goals and policies.

Under the LTA, the cumulative projects included pending and approved projects in the City of San José and City of Campbell that would affect the LOS at study intersections are identified in the LTA (Appendix H of the Draft EIR). No projects in the Town of Los Gatos were included in the cumulative LOS analysis given that there are no study intersections located in Los Gatos. Approved projects were included within the Approved Trips Inventory (ATI) for use in the project's cumulative LOS analysis. (See Appendix C to Draft EIR, Appendix H.) The ATI includes trips of approved developments that would add more than 10 peak hour trips to intersections. The approved 2395 S. Bascom Avenue development was projected to add less than 15 peak hour trips to the roadway system and less than 10 peak hour trips to the intersections studied for the proposed project. The 3090 S. Bascom Ave. development was approved under a ministerial exemption (SB 2162) and was deemed to not add a significant amount (less than 20 peak hour trips) to the roadway system and less than 10 peak hour trips to any intersection studied for the proposed project. Thus, neither the 2395 S. Bascom Ave. nor 3090 S. Bascom approved developments

would add sufficient trips to warrant inclusion in the ATI of intersections studied for the proposed project. Therefore, neither project is not part of the ATI.

Comment EE.49: Accessory Dwelling Units. The DEIR Project Description indicates that 18 of the 48 single family dwelling units proposed would also have Accessory Dwelling Units ("ADU") on their properties. The DEIR trip generation analysis in Appendix H, Tables 6 and 7 does not appear to account for the ADUs in any way. If the ADUs are configured and operated as true so-called 'mother-in-law' units, this would be just like having another bedroom in a large home and inconsequential. However, if the ADU's are configured and rented to parties independent of the families occupying the main dwelling units, these 18 units should be treated as multi-family low rise housing. This would mean the Project would generate 132 more daily trips, 8 more in the AM peak hour and 10 more in the PM peak hour. Conformance with the good faith effort to disclose impact demanded by CEQA would seem to require treating these units as low-rise rental housing. Please explain why this has not been done in the analysis.

Response EE.49: The Draft EIR evaluated 48 single-family houses including 21 two-story homes ranging from 1,826 square feet to 2,302 square feet and 27 three-story single-family houses, each 2,506 square feet. The Draft EIR assumed 18 ADUs were attached to 18 of the three-story single-family houses. The project is now proposing 27 ADUs attached to all three-story single-family houses, with each ADU 440 square feet. However, the addition of these ADUs would not increase the size the three-story houses, as the ADUs would be within the same footprint and building area of the nine three-story houses that were not previously proposed to have ADUs. The referenced number of ADUs has been updated in the Draft EIR from 18 ADUs to 27 ADUs in Table 2.0-1, Page 10 of the Draft EIR (refer to Section 5.0, Draft EIR Text Revisions).

Since the addition of ADUs would not increase the size of the single-family houses evaluated in the Draft EIR, the addition of ADUs does not affect construction assumptions (e.g., for air quality, noise). Resource areas such as aesthetics, agriculture and forestry resources, biological resources, geology and soils, hazards and hazardous materials, land use, mineral resources, tribal cultural resources, and wildfire would not be affected given the footprint and design of the project is the same, accordingly the Draft EIR conclusions for these topics would not change. Revisions to the Draft EIR have been made to Section 3.13, Population and Housing (Page 202), Section 3.14, Public Services (Pages 210-211), and Section 3.15, Recreation (Page 215) to reflect the small increase in residents from 1,442 (assumes 3.19 persons per household) to 1,496 residents (refer to Section 5.0, Draft EIR Text Revisions in this FEIR), with each ADU expected to have an average household size of two persons.

For transportation, a sensitivity analysis was completed to determine whether an additional 27 ADUs would result in impacts that were not disclosed in the LTA in the Draft EIR (the sensitivity analysis is included in Appendix B of this FEIR). The sensitivity analysis evaluated the ADUs as multi-family residential units and showed that the additional 27 units would not result in a VMT impact, would have no effect

on LOS results, and add no more than one vehicle to the projected queues at intersections.

In addition, the California Emissions Estimator Model (CalEEMod) Version 2016.3.2 was used to estimate emissions from the operations of the ADUs. Use of CalEEMod version 2016.3.2 is consistent with the modeling completed for the April 2021 air quality and greenhouse gas assessment prepared by Illingworth & Rodkin. This is a conservative approach since the 2016.3.2 versions includes older emission factors for mobile and energy sources (e.g., 2014 mobile emission factors [EMFAC2014] and compliance with the 2016 Title 24 building energy efficiency standards) when compared to version 2020.4.0. The ADUs were modeled in CalEEMod as "Single-Family Homes" because CalEEMod lacks a land use designation that would better reflect the operation of an ADU, which are substantially smaller than a typical single-family house. Table 1 below shows the criteria pollutant emissions resulting from operations of the 27 ADUs.

Table 1: Operational Period Emissions

Scenario	***ROG***	***NOx***	***PM_{10}***	***$PM_{2.5}$***
2024 Assisted Living Variant Annual Project Operational Emissions (*tons/year*)	7.07	4.60	5.12	1.47
2024 Office Variant Annual Project Operational Emissions (*tons/year*)	7.19	4.95	5.60	1.60
2024 Emergency Diesel Generators Annual Emissions (*tons/years)*	0.08	0.23	0.01	0.01
2024 ADU's Annual Project Operational Emissions (*tons/year*)	0.11	0.09	0.14	0.04
2024 Assisted Living Variant Total Annual Emissions (*tons/year*)	7.26	4.92	5.27	1.52
2024 Office Variant Total Annual Emissions (*tons/year*)	7.38	5.27	5.75	1.65
2024 Annual Existing Operational Emissions (*tons/year*)	2.71	2.48	3.40	0.93
Assisted Living Variant Net Annual Emissions	4.55	2.44	1.87	0.59
Office Variant Net Annual Emissions	4.67	2.79	2.35	0.72
BAAQMD Thresholds (tons /year)	*10 tons*	*10 tons*	*15 tons*	*10 tons*
Exceed Threshold?	*No*	*No*	*No*	*No*
2024 Assisted Living Variant Net Daily Operational Emissions (*pounds/day*)[1]	24.93	13.37	10.25	3.23
2024 Office Variant Net Daily Operational Emissions (*pounds/day*)[1]	25.59	15.29	12.88	3.95
BAAQMD Thresholds (pounds/day)	*54* lbs.	*54* lbs.	*82* lbs.	*54* lbs.
Exceed Threshold?	*No*	*No*	*No*	*No*

Notes: [1] Assumes 365-day operation.

As shown in Table 1, the addition of 27 ADUs would not substantially increase the project's operational criteria pollutant emissions. The project's operational emissions would continue to be below BAAQMD thresholds. The project would also continue to have a less than cumulatively considerable contribution to regional criteria pollutant emissions.

Also, the noise assessment in Appendix G of the Draft EIR has been updated to account for the operations of the 27 ADUs. Additional peak-hour trips resulting from the traffic sensitivity analysis completed for ADUs and independent senior living units were conservatively added to each roadway segment. The peak hour trips on Union Avenue and Camden Avenue would increase by up 23 trips during the PM under background plus project conditions and cumulative plus project conditions scenarios under the assisted living and office variants. The increase in peak hour trips results in a negligible increase in traffic noise. The conclusion that a traffic noise increase of 0 to 1 dBA DNL is estimated for the primary roadways serving the site (under both assisted living and office scenarios) is the same with the addition of the ADUs as the Draft EIR conclusion. The Draft EIR concluded that the project would neither result in a doubling of traffic volumes nor a permanent noise increase of three dBA DNL or more. Future project traffic would, therefore, not cause a substantial permanent noise level increase at the nearby noise-sensitive receptors (see Page 189 of the Draft EIR). Revisions that reflect the small changes in peak hour trips are included in Section 5.0, Draft EIR Text Revisions of this Final EIR.

Also, the increase of 54 residents (from the 27 ADUs), would slightly increase utility usage. These changes to Section 3.18 Utilities and Service Systems on Pages 277-279 of the Draft EIR are reflected in Section 5.0, Draft EIR Text Revisions of this Final EIR. The based on information provided by San José Water Company on June 2, 2022, the addition of 27 ADUs and the fountains (referend in Response A.8) results in a 0.01 percent increase in annual water demand, which would not result in a substantial increase in water demand. With the addition of the ADUs, the impact conclusions utilities and service would to be less than significant, consistent with the Draft EIR conclusions.

Therefore, based on the above findings as well as the findings in Section 3.16, Transportation, in the Draft EIR, there would be no new or substantially more severe impacts than what was identified in the Draft EIR due to the 27 ADUs that would be integrated into the three-story single-family houses.

Comment EE.50: Neighborhood Traffic Calming. The DEIR and its Appendix H found that "[t]he traffic volumes and speed data along the study roadway segments indicate that comprehensive traffic calming measures, per the City's Traffic Calming Policy, are warranted on Chelsea Drive, Stratford Drive, and Starbright Drive." In response to the "necessity" of traffic calming measures on these three roadway segments, the DEIR identifies two traffic calming measures that "could be implemented." Even though not required, the DEIR claims that the two measures "would ensure that the proposed project would not conflict with the City's Traffic Calming Policy." Furthermore, based on the implementation of the two traffic calming measures, the DEIR concludes that the impact

would be less than significant because "the project would not interfere with any program, plan, ordinance, or policy addressing roadway facilities."

The above rationalization is convoluted and not supported by substantial evidence. In proper terms, the DEIR has found that the Project has neighborhood traffic impacts under the City's Traffic Calming Policy and finds that there is feasible mitigation. Therefore, to approve the Project under this DEIR, the City must impose mitigation. Or it must make further findings contradictory to the DEIR as to why the mitigation is infeasible, find the Project is not consistent with City Traffic Calming Policy, and if it still wishes to approve the Project, it must make findings of overriding considerations. The current analysis is otherwise improper since the DEIR's impact analysis incorporates two optional traffic calming measures that are not formal mitigation measures that can be enforced into the Project as improvements and then concludes that the impacts to roadway facilities would be less than significant. As such, there is no guarantee that the measures will actually be implemented.

Response EE.50: The determination of project transportation impacts for CEQA are based on VMT per the City's Transportation Analysis Policy (Council Policy 5-1). The referenced residential roadway segment analysis is included as part of the LTA completed for the project, which is a study that identifies transportation and traffic operational issues that may arise due to a development project beyond an analysis of VMT for CEQA purposes. The LTA is required per the City of San José Transportation Policy, however, the determination of project transportation impacts per CEQA requirements is based on VMT, consistency with plans and policies related to multi-modal travel, and adequate site design and emergency access. The LTA provides supplemental analysis for use by the City of San José in identifying potential improvements to the transportation system with a focus on improving non-automobile travel (e.g., walking, biking, and transit). Therefore, the identified traffic calming measures "that could be implemented" are not identified to mitigate a project impact per CEQA requirements since the addition of project traffic would not create a significant impact, e.g. a significant safety issue, inadequate emergency access or conflict with plan or policy related to multi-modal transportation that would be mitigated by the traffic calming measures. Rather, the traffic calming measures were identified by City staff as measures that could be implemented as part of a larger traffic calming study for the subject streets. As a result of the traffic calming study and in coordination with Santa Clara County, the project is conditioned to construct a traffic circle at the intersection of Stratford Drive and Jacksol Drive. Therefore, this comment does not raise a specific environmental issue in regard to the project's transportation impacts under CEQA.

Comment EE.51: Parking Requirements. Another area where the Project is in conflict with adopted plans, policies and ordinances relates to parking. The Project does not include the required number of parking spots for clean air vehicles. Section 20.90.060 of the City's Municipal Code requires that non-residential uses provide designated parking for any combination of low-emitting, fuel efficient, and carpool or van pool vehicles based on the figures set forth in Table 20-215. Despite these Municipal Code requirements, the DEIR omits the requisite discussion of allocating parking spaces for clean air vehicles. As a result, the DEIR is inadequate for failing to disclose significant

transportation impact given the Project's non-compliance with the City's clean air vehicle parking requirements.

> **Response EE.51:** The project would include 97 electric vehicle (EV) charging stations for residential and commercial uses and spaces designated for carpool/vanpools, which complies with the City's Municipal Code and Reach Code. Although the allocation of parking spaces is not a CEQA related issue, the parking discussion on Page 19 of the Draft EIR has been updated to include the number of EV charging stations/stalls. The number of spaces designated for carpool/vanpool vehicles is not known at the time but will be incorporated in the project's Transportation Demand Management Plan (refer to Section 5.0, Draft EIR Text Revisions in this FEIR).

Comment EE.52: b. The Project Does Not Comply with the Municipal Code Requirement for Clean Air Vehicle Parking and Other Relevant Traffic Policies

Although SB 743 updated CEQA's procedures for measuring transportation impacts to no longer require consideration of the effect of a project on automobile delay, a project's inconsistencies "with any land use plan, policy or regulation adopted for the purpose of avoiding or mitigating an environmental effect" still constitute significant impacts under CEQA.[148] Moreover, one of the thresholds of significance evaluated in the DEIR to determine the significance of the Project's impact on transportation is whether the Project would "[c]onflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities."[149]

Here, the Project's proposed vehicle parking is inconsistent with the clean air vehicle parking requirements under Section 20.90.060 in the City's Municipal Code.[150] Section 20.90.060 requires that non-residential uses provide designated parking for any combination of low-emitting, fuel efficient, and carpool or van pool vehicles based on the figures set forth in Table 20-215.[151] Despite this requirement, the Project is inconsistent with Section 20.90.060 by failing to designate the requisite number of parking spots for clean air vehicles.[152] As a result, a potentially significant CEQA impact may be undisclosed in the DEIR given the Project's conflict with the City's clean air vehicle parking requirements.[153]

Additionally, as discussed by Mr. Smith in the attached expert report, the traffic analysis indicates that "traffic proceeding eastbound on Camden had constant queues extending back from the intersection of Camden with Leigh past the intersection of Camden with Union" during PM peak hour.[154] Mr. Smith determined that "[t]he queue condition constitutes a de facto LOS F condition at

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[148] CEQA Guidelines, Appendix G at XI.(b); See also Endangered Habitats League, Inc. v. County of Orange (2005) 131 Cal.App.4th 777, 783-784; See also County of El Dorado v. Dept. of Transp. (2005) 133 Cal.App.4th 1376.
[149] DEIR at 227-231.
[150] City of San Jose Municipal Code § 20.90.060.
[151] Id. at Table 20-215.
[152] Exhibit B at 8.
[153] Id.
[154] Id. at 5.

the CMP intersection of Union and Camden, which, coupled with the changes in delay and volume/capacity ratio Appendix H predicts, would result in an exceedance of the CMP significance threshold that is undisclosed in the DEIR."[155] Although Appendix H claims that the adverse effect can be mitigated by a fair share financial contribution toward protected Class IV bike lanes on the opposite sides of Camden and Union Avenues, Mr. Smith concluded that such a requirement "is without evidentiary support since there is no quantitative demonstration to support this conclusion and it is highly suspect that providing this limited length of bike lanes on the opposite sides of the streets from the Project would attract enough bike ridership to offset the Project's contribution to increased adverse traffic conditions at the subject intersection."[156] Based on Mr. Smith's comments, the DEIR fails to disclose and mitigate traffic impacts at the intersection of Union and Camden Avenues.

Mr. Smith also reviewed and assessed the adequacy of the analysis in the Project's Local Transportation Analysis, which determined that the Project would increase peak queues in excess of 500 feet at the left turn lane on Camden westbound to Union southbound.[157] Although Appendix H recommends against further extending the lane, Mr. Smith explained in his report that "[t]he analysis evades an obvious solution to the problem - for the applicant to dedicate enough right-of-way to develop a double left turn lane at this location."[158] Finally, Mr. Smith identified "an issue of the Project adding to traffic at the intersection of White Oaks Road and SR 17 northbound ramps" because the intersection meets signal warrants, yet it is not signalized.[159] Mr. Smith recommended that "the Project make a fair share contribution toward signalization."[160]

Based on the foregoing analysis, potentially significant CEQA impacts are undisclosed and unmitigated in the DEIR given the Project's inconsistency with the City's clean air vehicle parking requirements and other traffic policies.

Response EE.52: The project would include 97 electric vehicle (EV) charging stations for residential and commercial uses and spaces designated for carpool/vanpools, which complies with the City's Municipal Code and Reach Code. To address the comment regarding queuing conditions, the use of observed queues, interpolated level of service (LOS) from other intersections, and "defacto" LOS estimations are not an approved methodology for LOS analysis by the City of San José Traffic Impact Analysis Handbook nor VTA's Congestion Management Program (CMP). The LOS analysis included in the LTA (Appendix H of the Draft EIR) was completed in adherence to the standards and methodologies set forth in the City of San José's Transportation Analysis Policy (Council Policy 5-1), the City of San José Transportation Analysis Handbook 2018, the Santa Clara Valley Transportation Authority (VTA) Congestion Management Program's Transportation Impact Guidelines (October 2014). The analysis completed per the adopted

[155] Id.
[156] Id. at 6.
[157] Id.
[158] Id.
[159] Id. at 6.
[160] Id.

guidelines indicates that the referenced Union Avenue and Camden Avenue intersection would meet the CMP LOS E standard.

As stated on page 35 of the LTA, the LTA supplements the CEQA VMT analysis and identifies transportation and traffic operational issues that may arise due to a development project. The LTA is required per the City of San José Transportation Policy, however, the determination of project impacts per CEQA requirements is based solely on the VMT analysis. The LTA provides supplemental analysis for use by the City of San José in identifying potential improvements to the transportation system with a focus on improving multi-modal travel. Therefore, the identified contribution to bicycle facilities along Camden Avenue and Union Avenue is not identified to mitigate a project impact. Rather, the proposed contribution is identified as a potential measure to improve multi-modal travel in the project area and meet the City's General Plan goals and policies. Therefore, the comment provides no substantive information in regard to the project's effect on transportation impacts per CEQA requirements.

The commenter also recommends that a second left-turn lane be added on the westbound approach of the Camden Avenue and Union Avenue to alleviate queuing projected queueing issues identified in the Transportation Analysis. The addition of a second left-turn lane would require lane shifts through the intersection, possible right-of-way acquisition, and use of existing pavement width that will be required for the implementation of protected bike lanes along Camden Avenue per the City's Better Bikeways Plan 2025. The addition of travel lanes and possible widening of Camden Avenue will lengthen the crossing distance for pedestrians and bicyclists at the intersection. The degradation of multi-modal travel through the intersection due to the implementation of roadway improvements for the purpose of increasing vehicular capacity is not consistent with the City's goals to improve opportunities for multi-modal travel or SB 743. Therefore, the addition of a second westbound left-turn lane was not identified with the LTA nor is it supported by City staff. However, the existing right-of-way does allow for the westbound left-turn pocket from Camden Avenue to Union Avenue to be extended. Therefore, the project is conditioned to extend the left-turn pocket from 200 feet to 400 feet for additional vehicular queuing capacity.

In addition, the LTA identifies that the referenced White Oaks Road and SR 17 intersection meets signal warrants. The LTA also identifies that the proposed project is projected to add no more than 10 peak hour trips to the intersection. The project trips added to the intersection equate to a minimal amount, no more than 0.5 percent, of the projected peak hour volumes at the intersection. As stated on page 69 of the LTA, a signal at the White Oaks Road and SR 17 intersection has been identified as a candidate project for Measure B funding. Therefore, the comment provides no substantive information in regard to the project's effect on transportation impacts per CEQA requirements.

Comment EE.53: c. The DEIR's Traffic Analysis Omits Trips Generated by the Project's ADUs

To comply with CEQA, the lead agency must make "a reasoned and good faith effort to inform decision makers and the public" about the project's potential impacts[161]. This includes a meaningful analysis of all reasonably foreseeable project impacts, including the project's various allowed uses.[162] Here, 18 of the Project's 48 single-family homes will include attached ADUs.[163] Nevertheless, the San Jose VMT Evaluation Tool Output Sheet attached to the DEIR's Traffic Analysis in Appendix H limited the analysis to the 48 single-family homes and 330 multi-family dwellings, and omitted the 18 ADUs in the VMT analysis.[164] The omission of these uses from the VMT analysis may render the impact analysis incomplete. As explained by Mr. Smith, "if the ADU's are configured and rented to parties independent of the families occupying the main dwelling units, these 18 units should be treated as multi-family low rise housing. This would mean the Project would generate 132 more daily trips, 8 more in the AM peak hour and 10 more in the PM peak hour."[165] Mr. Smith recommended "treating these units as low-rise rental housing," for purposes of CEQA review.[166]

To the extent that the Project's residential VMT analysis is impermissibly narrow by not analyzing the VMT generated by the 18 ADUs, the DEIR must be revised.[167]

> **Response EE.53:** Refer to Response EE.49. As previously stated, additional analysis (including VMT) was completed to account for the impacts of the proposed 27 ADUs. No new or substantially more severe impacts are forecast due to the additional 27 ADUs than what was identified in the Draft EIR.

Comment EE.54: d. The Optional Traffic Calming Measures Identified in the DEIR are Not Ensured to Reduce the Project's Impact on Roadway Facilities to Less than Significant Levels

The significance determination regarding the Project's impacts on roadway facilities is improperly premised on the potential implementation of two traffic calming measures. A similar issue arose in Lotus v. Department of Transportation. There, the court held that the EIR for a highway expansion project was required to separately identify and analyze the significance of the impacts to root zones of old growth redwood trees before proposing mitigation measures.[168] The court determined that the EIR improperly incorporated the proposed mitigation measures into the description of the project and then concluded that any potential impacts from the project would be less than significant due to use of "special construction techniques."[169] The court emphasized the importance of CEQA's procedural steps, explaining that "'[f]or each significant effect, the EIR must identify specific mitigation

[161] Berkeley Jets, 91 Cal.App.4th at 1367.
[162] Laurel Heights I, 47 Cal.3d at 396.
[163] DEIR at 10.
[164] DEIR, Appendix H at Appendix A.
[165] Exhibit B at 7.
[166] Id.
[167] Id.
[168] Lotus v. Dep't of Transportation (2014) 223 Cal. App. 4th 645, 656-658.
[169] Id. at 656-657.

measures; where several potential mitigation measures are available, each should be discussed separately, and the reasons for choosing one over the others should be stated.'"[170]

Moreover, the court in Lotus held that "[t]he failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures is not merely a harmless procedural failing. Contrary to the trial court's conclusion, this shortcutting of CEQA requirements subverts the purposes of CEQA by omitting material necessary to informed decision making and informed public participation. It precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences. The deficiency cannot be considered harmless."[171]

Here, the potential change in traffic from the Project was studied on 12 roadway segments "to determine the necessity of traffic calming measures in accordance with the City's Traffic Calming Policy."[172] The analysis found that the Project would result in the addition of approximately 100 to 1,400 daily trips on these roadway segments, which would be "a measurable increase from the existing volumes."[173] Specifically, the DEIR found that "[t]he traffic volumes and speed data along the study roadway segments indicate that comprehensive traffic calming measures, per the City's Traffic Calming Policy, are warranted on Chelsea Drive, Stratford Drive, and Starbright Drive."[174] In response to the "necessity" of traffic calming measures on these three roadway segments, the DEIR identifies two traffic calming measures that "could be implemented."[175] Even though not required, the DEIR claims that the two measures "would ensure that the proposed project would not conflict with the City's Traffic Calming Policy."[176] Furthermore, based on the implementation of the two traffic calming measures, the DEIR concludes that the impact would be less than significant because "the project would not interfere with any program, plan, ordinance, or policy addressing roadway facilities."[177]

Similar to the issues in Lotus, the DEIR improperly incorporates the traffic calming measures into the Project as improvements and then concludes that the impacts to roadway facilities would be less than significant. The significance determination, however, must be based on the actual Project without incorporating additional improvements. Moreover, as discussed by Mr. Smith in his expert report, the two traffic calming measures are optional and not formal mitigation measures that are mandatory and can be enforced.[178] As such, there is no guarantee that the measures will actually be implemented.[179] To the extent that the significance determination for the Project's impacts on roadway facilities relies on the implementation of the two traffic calming measures, the DEIR's analysis must be revised to avoid circumventing CEQA's procedural steps.

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[170] Id. at 653.
[171] Id. at 658.
[172] DEIR at 228.
[173] Id at 228-229.
[174] Id. at 230.
[175] Id. (emphasis added).
[176] Id. (emphasis added).
[177] Id.
[178] Id.
[179] Exhibit B at 7-8.

Response EE.54: The determination of project impacts per CEQA are based on VMT. The referenced residential roadway segment analysis is included in the LTA completed for the project, which is a study that identifies transportation and traffic operational issues that may arise due to a development project. The LTA is required per the City of San José Transportation Council Policy 5-1, however, the determination of project transportation impacts per CEQA requirements is based on VMT, consistency with plans and policies related to multi-modal travel, and adequate site design and emergency access. The LTA provides supplemental analysis for use by the City of San José in identifying potential improvements to the transportation system with a focus on improving non-automobile travel (e.g., walking, biking, and transit). Therefore, the identified traffic calming measures "that could be implemented" are not identified to mitigate a project impact per CEQA requirements since the addition of project traffic would not create a significant impact, e.g. a significant safety issue, which would be mitigated by the traffic calming measures. Rather, the traffic calming measures were identified by City staff as measures that could be implemented as part of a larger traffic calming study for the subject streets. In addition, the project would not conflict with a plan or policy related to multi-modal transportation or result in inadequate emergency access. Therefore, this comment does not raise a specific environmental issue in regard to the project's transportation impacts under CEQA.

Comment EE.55: E. The DEIR Fails to Adequately Disclose and Mitigate the Project's Potentially Significant Impacts on Water Supply

As discussed by the court in Vineyard Area Citizens for Responsible Growth, Inc., "CEQA's informational purposes are not satisfied by an EIR that simply ignores or assumes a solution to the problem of supplying water to a proposed land use project. Decision makers must, under the law, be presented with sufficient facts to 'evaluate the pros and cons of supplying the amount of water that the [project] will need.'"[180] Moreover, "…speculative sources and unrealistic allocations ('paper water') are insufficient bases for decisionmaking under CEQA. An EIR for a land use project must address the impacts of likely future water sources, and the EIR's discussion must include a reasoned analysis of the circumstances affecting the likelihood of the water's availability."[181]

The cursory analysis of impacts to water resources in the DEIR omits relevant information and provides insufficient detail about the effects of the Project on these critical resources. As such, the DEIR lacks substantial evidence to support the conclusion that the Project would not result in significant impacts to water supplies. First, the DEIR fails to adequately analyze the conservation measures that would purportedly reduce future water demand during single-dry water year and multiple dry years given that total water demand during these periods is estimated to exceed the total

[180] Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 430–31.
[181] Id. at 432.

supply.[182] Second, the Project's water demand analysis omits necessary information to adequately assess the significance of the Project's impact on water supply. Finally, the DEIR fails to address two constraints to infiltration identified in the Preliminary Stormwater Management Plan that may affect the Project's post-construction water quality impacts.

a. The DEIR Does Not Establish the Project's Water Supply Sufficiency for Twenty-Year Protection, as Required by the Water Code

As explained by the court in Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova, "…the future water sources for a large land use project and the impacts of exploiting those sources are not the type of information that can be deferred for future analysis. An EIR evaluating a planned land use project must assume that all phases of the project will eventually be built and will need water, and must analyze, to the extent reasonably possible, the impacts of providing water to the entire proposed project."[183]

The DEIR concludes that the Project would have sufficient water supplies and therefore does not set forth any additional avoidance, minimization, or mitigation measures.[184] However, the Water Supply Assessment determined that although there would be sufficient supply to meet the estimated demand over the twenty-year projection during normal years, the total water demand is estimated to exceed the total supply after 2035 for single-dry water year and from 2020-2040 for the second and third years during multiple-dry water years.[185] The conclusion in the Water Supply Assessment is based on the Santa Clara Valley Water District's ("SCVWD") water evaluation and planning system model.[186]

The relevant threshold of significance is whether sufficient water supplies are available to serve the Project and reasonably foreseeable future development during normal, dry, and multiple dry years.[187] To achieve adequate supply during single-dry and multiple dry water years, the DEIR and Water Assessment acknowledges the need for the implementation of water use reductions, conservation measures, and/or securing more reliable or diverse water supplies.[188] However, these measures must be quantified and evaluated in the DEIR to demonstrate whether the measures are in fact feasible and adequate to reduce impacts on water supply.[189]

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[182] DEIR, Appendix I at 13.
[183] Vineyard Area Citizens for Responsible Growth, Inc., 40 Cal.4th at 431.
[184] DEIR at 277-278.
[185] DEIR, Appendix I at 13.
[186] Id. at 12.
[187] California Water Code § 10910(c)(3); DEIR at 277.
[188] DEIR at 277-278.
[189] The Water Supply Assessment for the Project identifies various water demand management measures available to San Jose Water, but this generalized discussion is insufficient to constitute substantial evidence in support of the conclusion in the DEIR that "[w]hen accounting for existing water conservation programs, efficiency measures, and contingency plans to account for any water supply reductions, there would be sufficient water supplies to meet the water demand of the project and reasonably foreseeable development during normal, dry and multiple dry years." DEIR at 278; see Protect the Historic Amador Waterways, 116 Cal. App. 4th at 1111–12 (Bare conclusions do not satisfy CEQA's requirements).

It should also be noted that the SCVWD submitted comments dated November 23, 2020 on the Project's Notice of Preparation that recommended a host of measures to reduce or avoid adverse impacts to water supply.[190] Specifically, SCVWD explained that "[r]e-development of the site provides opportunities to minimize water and associated energy use by using recycled water, incorporating on-site reuse for both storm and graywater, and requiring water conservation measures above State standards (i.e., CALGreen). To reduce or avoid adverse impacts to water supply, the City and applicant should consider the following:

- Require landscaping that exceeds the requirements of the City's water efficient landscape regulations.
- Weather- or soil-based irrigation controllers.
- Dedicated landscape meters.
- The installation of dual plumbing to facilitate and maximize the use of alternative water sources for irrigation, toilet flushing, cooling towers, and other non-potable water uses should recycled water lines be adjacent to the site or potentially extended in the future to serve the site. In addition, onsite reuse of water may be appropriate now or in the future.
- Maximize the use of alternative water sources for non-potable uses including stormwater, rainwater, and graywater.
- Installation of separate submeters to each residential unit and individual spaces within commercial buildings to encourage efficient water use.
- Be consistent with the City's Green Vision to reduce water use and associated greenhouse gas emissions."[191]

The DEIR must be revised to provide additional analysis regarding the effect of specific conservation measures or efficiency programs on water supply and demand. Without identifying these measures, the DEIR lacks substantial evidence to support the conclusion that "accounting for existing water conservation programs, efficiency measures, and contingency plans to account for any water supply reductions, there would be sufficient water supplies to meet the water demand of the project and reasonably foreseeable development during normal, dry and multiple dry years."[192]

Finally, as explained by the court in Vineyard Area Citizens for Responsible Growth, Inc., "[i]f the uncertainties inherent in long-term land use and water planning make it impossible to confidently identify the future water sources, an EIR may satisfy CEQA if it acknowledges the degree of uncertainty involved, discusses the reasonably foreseeable alternatives—including alternative water sources and the option of curtailing the development if sufficient water is not available for later phases—and discloses the significant foreseeable environmental effects of each alternative, as well as mitigation measures to minimize each adverse impact."[193]

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[190] Email from Jourdan Alvarado, CFM, SCVWD, to Kara Hawkins, City of San Jose (November 23, 2020) ("Exhibit D").
[191] Id.
[192] DEIR at 278.
[193] Vineyard Area Citizens for Responsible Growth, Inc., 40 Cal.4th at 434.

For the foregoing reasons, the DEIR's analysis regarding water supply during single-dry year and multiple dry years is inadequate and the DEIR lacks substantial evidence to demonstrate that the impacts on water supply would be less than significant.

Response EE.55: Comment EE.55 summarizes the commenter's concerns about the Draft EIR's analysis of water supply impacts and post construction water quality impacts. This response and Responses EE.56 and EE.57 address the commenter's concerns.

Based on the findings in Section 3.18, Utilities and Infrastructure, of the Draft EIR, the WSA concludes that based on both the San Jose Water Company (SJWC) and Santa Clara Valley Water District (Valley Water) Urban Water Management Plans, and conservation methods currently employed, there is sufficient water available to supply this Project during normal, single dry, and multiple dry years. The WSA also concludes that the projected water demand for the project is within normal growth projections for water demand in SJWC's system. The Vineyard case found the environmental impacts of providing or delivering additional water supplies to serve a new project must be disclosed, and the WSA prepared for the project does not identify the need to provide or deliver additional water supplies. Rather, in drought conditions, as with existing customers within the SJWC service area, the project occupants would employ feasible, effective water conservation measures spelled out in the SJWC Urban Water Management Plan. The project would not require SJWC to develop additional water sources to serve the project, even under drought conditions, as conservation measures would be employed per the UWMP in place at the time of a drought. By law, the UWMP is updated every five years, and the set of conservation measures may change with successive UWMPs based on a variety of factors, and so it is not possible to precisely predict what specific conservation measures may be implemented in future drought conditions by the SJWC.

The landscape design uses drought tolerant plant species and high efficiency irrigation systems to create a landscape that exceeds the City's water efficient landscape regulations, as shown on the Water Efficient Landscape Worksheet found on L10.41 (refer to applicant's plan set dated November 8, 2021). The worksheet shows the irrigation equipment specified for the project, including weather-based irrigation controllers and dedicated irrigation water meters. Shrub areas will be irrigated with subsurface irrigation to maximize water efficiency for the planting areas. The planting design responds to the microclimates that will be present on site with respect to sun exposure and species selection, and the Irrigation Zone Diagram documents these water use zones, which are reflected in the Water Efficient Landscape Worksheet. All shrub areas are mulched to reduce evapotranspiration and have soil amendment specifications to encourage deep rooting of plant materials to provide a resilient landscape for all seasons and during dry water years. Each residence will have its own water meter and commercial retail tenant spaces would have separate submeters. Given the nearest recycled water line to the project site is located near Curtner Avenue and Little Orchard Street, approximately 4.25 miles northeast of the project site, it is not feasible to obtain recycled water on the project site at this time. According to the South Bay Water Recycling Strategic and Master

Planning Report, there are no plans to bring recycled water to the property in the foreseeable future. Accordingly, an engineer would not have pipe sizes or flow rates to design a system now. In addition, as provided in the Santa Clara Valley Urban Runoff Pollution Prevention Program. C.3 Stormwater Handbook, to make gray water or stormwater harvesting for irrigation use feasible for a site in San José that uses water conscious landscaping, the landscape area would need to be 5.1 times the size of the impervious area. The proposed project, being an urban redevelopment, does not meet this requirement.[194] Therefore, stormwater and gray water would not be used for irrigation.

Comment EE.56: b. The DEIR Omits Critical Information about the Project's Use of Recycled Water as Compared to Potable Water Sources in the Project's Water Demand Analysis

The DEIR only estimates the total water demand for the Project and does not also estimate the volume of recycled water to be used by the Project as compared to potable water. Goal MS-19 in the City's General Plan is to "[r]ecycle or beneficially reuse 100% of the City's wastewater supply, including the indirect use of recycled water as part of the potable water supply."[195] The General Plan sets forth numerous policies in furtherance of this goal and other water conservation goals, including, but not limited to:

- Policy MS-3.2: Encourage the use of "techniques that can help reduce the depletion of the City's potable water supply," including the use of "recycled water as the preferred source for non-potable water needs such as irrigation and building cooling,…."[196]
- Policy MS-17.2: Support the location of new development within the vicinity of the recycled water system.[197]
- Policy MS-19.1: "Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply."[198]
- Policy MS-19.4: "Require the use of recycled water wherever feasible and cost-effective to serve existing and new development."[199]

Thus, to determine consistency with the City's General Plan policies addressing recycled water usage and to ensure informed decision-making with regards to the Project's water demands, the City must disclose in the DEIR an estimated volume of recycled water to offset the Project's potable water needs.

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[194] Santa Clara Valley Urban Runoff Pollution Prevention Program. C.3 Stormwater Handbook: Guidance for Implementing Stormwater Requirements for New Development and Redevelopment Projects. Appendix I, Table 11. June 2016.
[195] City of San Jose, Envision San Jose 2040 General Plan; Environmental Leadership at 21 (Adopted November 1, 2011, amended September 30, 2021), available at: https://www.sanjoseca.gov/home/showpublisheddocument/22359/637686090967970000.
[196] Id. at 6.
[197] Id. at 18.
[198] Id. at 21.
[199] Id.

Response EE.56: The General Plan Policy MS-19.4 requires the use of recycled water wherever feasible to serve a new development. Based on information from South Bay Water Recycling, no recycled water lines are located in the vicinity of the project site.[200] As stated in Response EE.53, the nearest recycled water line to the project site is located near Curtner Avenue and Little Orchard Street, approximately 4.25 miles northeast of the project site. The project site would need to be within 300 feet of a recycled water line for the project to access recycled water. Therefore, it is not feasible for the proposed project to use recycled water. The proposed project would not use recycled water, and the WSA correctly evaluates the project's demand for potable water to be supplied by SJWC.

Comment EE.57: c. The DEIR Fails to Address Constraints Regarding Infiltration. To support the conclusion that the post-construction water quality impacts would be less than significant, the DEIR relies on the implementation of a postconstruction stormwater management plan.[201] However, the Project's Preliminary Stormwater Management Plan dated February 2021 identified two constraints with regards to infiltration that are not analyzed in the DEIR. First, the Preliminary Stormwater Management Plan explains that the moderately draining soils are well below the 1.6 in/hr infiltration rate recommended in the "CASQA BMP Handbook" for infiltration.[202] Second, the Plan states that the SCVWD "requires a 30 feet vertical separation between infiltration devices and seasonally high groundwater for commercial sites. Unless the groundwater depth is closer to 50 feet, it will be difficult to develop infiltration devices that can meet this requirement for the commercial and retail portions of the project."[203] According to the Santa Clara Valley Urban Runoff Pollution Prevention Program's ("SCVURPP") Ground Water Elevation Map, the depth to ground water is approximately 30 to 50 feet.[204] Moreover, the DEIR explains that "[t]he shallowest groundwater depth at the site is estimated to be 40 feet," and "the deepest level of excavation for the two-levels of below grade parking would extend to a depth of approximately 20 feet,…."[205] In failing to analyze whether these two constraints will affect post-construction water quality, the DEIR's significance determination is uncertain and may not be supported by substantial evidence.

Response EE.57: Section 3.10.2, Page 164 of the Draft EIR states that with the implementation of the post-construction stormwater management plan, which is consistent with Post-Construction Urban Runoff Management Council Policy 6-29 and the City's Municipal Regional Permit (MRP), the proposed project would result in a less than significant post-construction water quality impact. As stated on Page 164 of the Draft EIR, the project would include flow through planters and bioretention retention facilities to treat stormwater runoff. The conclusions address the CEQA Guidelines Checklist Question a) which is: "Would the project violate any

[200] South Bay Water Recycling. *Recycled Water.* Accessed March 17, 2022. https://www.sanjoseca.gov/home/showpublisheddocument/522/637662536440600000.
[201] DEIR at 164.
[202] Cambrian Park Plaza; Preliminary Stormwater Management Plan at 4 (February 2021)("Exhibit E").
[203] Id.
[204] Id.
[205] DEIR at 20.

water quality standards or waste discharge requirements or otherwise degrade surface or groundwater quality?" The comment references the infiltration rate of r the site's soils discussed in the Preliminary Stormwater Management Plan (included in Appendix E of the Adams Broadwell Comment Letter). As stated in the Draft EIR, Section 3.10.2, Impact Discussion, Page 164, the project would include the installation of bioretention areas that meet the water quality requirements of the Municipal Regional Permit. The bioretention areas would filter run-off through a soil medium to remove pollutants prior to discharge from the site into the City's stormwater system. The reference to the groundwater depth in on Page 4 of Appendix E of the Adams Broadwell Comment Letter discusses the depth to groundwater water at the site, however, this is not a constraint to the project's compliance with water quality standards. Since the project includes measures to protect water quality post-construction and would comply with applicable regulations related to water quality, the Draft EIR's conclusions related to post-construction water quality impacts are supported and appropriate. As discussed in the Draft EIR, Section 3.10.2, Page 166, the project's on-site storm drain system includes LID-based treatment controls (bioretention areas and planter boxes) that will reduce pollutants in post-construction stormwater runoff in compliance with Municipal Regional Permit and Council Policy 6-29 standards. As a result, the project would not provide substantial sources of polluted runoff.

Comment EE.58: F. The DEIR Fails to Sufficient Analyze and Mitigate the Project's Potentially Significant Energy Impacts

The DEIR is inadequate as an environmental document because it fails to properly disclose, analyze, and mitigate the Project's significant impacts on energy use. The City cannot approve the Project until the DEIR is revised and recirculated to resolve these issues and comply with CEQA's requirements.

There are a multitude of issues with the DEIR's impacts analysis on energy. First, the energy impacts analysis does not assume compliance with the City's requirements under the Reach Code and bases the impacts analysis on a combination of electricity and natural gas usage. However, the failure to analyze the Project's energy impacts under the laws that the Project must comply with is a substantial informational gap in the DEIR's analysis contrary to CEQA's requirements. Second, the DEIR lacks evidentiary support for the determination that the Project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during operations. Finally, the analysis fails to quantify and adequately assess the Project's energy consumption impacts during the years of construction.

a. The DEIR Lacks Substantial Evidence to Demonstrate Consistency with the City's Reach Code

"'[T]he ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decisionmakers, and the public, with the information about the project that is required by CEQA.' The error is prejudicial 'if the failure to include relevant information precludes informed decision making and informed public participation, thereby

thwarting the statutory goals of the EIR process.'"[206] Here, the DEIR fails as an informational document because the energy impact analysis admittedly "do[es] not assume compliance with the City's Reach Code," and therefore the Project's actual electricity usage and impacts on energy and the environment remain unknown.[207]

In 2019, the City Council approved and adopted the Reach Code Ordinance (No. 30311) ("Reach Code") to reduce energy related GHG emissions consistent with the goals of Climate Smart San Jose.[208] The Reach Code applies to new construction projects in San Jose, requiring new residential construction to be outfitted with entirely electric fixtures.[209] The 2019 Reach Code also requires electric vehicle charging infrastructure for all building types, and solar readiness for non-residential buildings.[210] The Reach Code was updated in 2020 (No. 30502) to prohibit natural gas infrastructure in newly constructed buildings, with limited exceptions for hospitals, attached accessory dwelling units, and facilities with a distributed energy resource.[211]

An exception to the requirements of the Reach Code is available if the applicant can show that due to the type of project, physical site constraints, necessary operational requirements, or public health and safety concerns in the event of an electric grid outage that it would be a hardship or infeasible to forgo natural gas.[212] Notably, however, in passing the Reach Code, the City decided that building electrification would have "many health and environmental benefits" by "reducing carbon emissions from new building stock," and that "moving away from natural gas will eventually decrease the need for planned safety power outages, and increase the grid's capacity and resiliency in the face of emergencies, power shutoffs, or rolling blackouts."[213]

The energy impact analysis in the DEIR estimates that the Project would increase natural gas usage by approximately 20.5 million kBtu per year for the Assisted Living Variant or by approximately 21.6 million kBtu per year with the Office Variant.[214] The Project's estimated annual natural gas usage would be equivalent to adding approximately 249 passenger vehicles on the road in a year. In addition to natural gas, the Project proposes to increase electricity usage by 6.4 million kWh per year for the Assisted Living Variant or by 8.5 million kWh annually.[215]

As explicitly stated in the DEIR, however, the discussion of the Project's natural gas and electricity usage does not evaluate the Project's energy impacts in compliance with the City's mandatory

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[206] San Joaquin Raptor/Wildlife Rescue Ctr. v. Cty. of Stanislaus (1994) 27 Cal. App. 4th 713, 721–722, as modified (Sept. 12, 1994).
[207] DEIR at 109.
[208] Id. at 106.
[209] Id.
[210] Id.
[211] Id.
[212] Id.
[213] City of San José, San José Natural Gas Infrastructure Prohibition and Reach Code; Frequently Asked Questions, available at: https://www.sanjoseca.gov/home/showpublisheddocument/65202/637653217360500000.
[214] Id. at 110-111.
[215] U.S. EPA, Greenhouse Gas Equivalencies Calculator, available at: https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator.

requirements under the Reach Code.[216] By not assuming Reach Code compliance in the DEIR's analysis, the DEIR impermissibly constrains the analysis of the Project's energy impacts to a combination of natural gas and electricity usage that is not permitted by law. The failure to disclose the Project's actual energy mix and usage in the DEIR constitutes a failure to proceed in the manner required by CEQA and is therefore an abuse of discretion.[217] Thus, the DEIR must be revised to quantify and disclose the Project's electricity usage based on what is actually required by the City's policies and ordinances.

Response EE.58: Comment EE.58 includes ta summary of the commenter's concerns regarding the Draft EIR's analysis of energy impacts. These concerns are addressed in this response as well as Responses EE.59 and EE.60.

The project must comply with the City's Reach Code to obtain building permits. Conformance with the City's Reach Code is evaluated prior to building permit issuance. The project also includes sustainable features, for example, the single-family houses and townhomes would have rooftop solar (and there would be no natural gas). However, natural gas usage was assumed for the apartments, retail/restaurant, townhomes, and hotel uses in the model, making the Draft EIR's results conservative. The Draft EIR concluded that the project would result in less than significant energy impacts (see Pages 109-114 of the Draft EIR). Consistent with City requirements and the Building Code, the project proposes that the apartments, assisted living facility (with the exception of the commercial kitchen), apartments, retail/restaurant, and hotel would use 100 percent carbon free electricity and that townhomes and single-family homes would have rooftop solar. In addition, the project would be required to comply with the Reach Code and therefore, the Draft EIR analysis provides a conservative estimate of the project's energy usage (shown in Table 3.6-3, Page 110 of the Draft EIR). The project's GHG impacts are evaluated based on compliance with the City's GHGRS. Since the project is consistent with the GHGRS, the Draft EIR concluded that the project's GHG impacts would be less than significant (see pages 135 through 140 of the Draft EIR).

The project would require some limited amount of natural gas use for commercial cooking equipment, which is where allowed by the Reach Code. Commercial kitchen equipment that would be a part of the assisted living facility and commercial restaurants could require natural gas usage. The independent living apartments on the top two floors will be serviced with only electricity. The Reach Code allows applicants for "Newly Constructed Food Service Establishments" to seek Director approval to allow natural gas for an area of a building with "Cooking Equipment or a Commercial Kitchen." (Section 17.845.045.) The Reach Code defines a "Food Service Establishment" as "a building with Commercial Kitchen or Cooking Equipment." "Cooking Equipment" means "equipment intended for commercial use, including ovens, ranges, and cooking appliances for use in a Commercial Kitchen,

[216] DEIR at 110-11.
[217] Save our Peninsula Comm. v. Monterey Cty. Bd. of Supervisors (2001) 87 Cal. App. 4th 99, 118.

restaurant, or other business establishment where food is dispensed." The assisted living facility, which is a commercial use, and commercial restaurants would have Cooking Equipment to provide food for residents in units without cooking facilities (and in the case of restaurants, customers). For the reasons stated in Section 3.6, Energy of the Draft EIR and because the project would comply with the Reach Code, energy use for the project is not wasteful or inefficient.

Comment EE.59: b. The DEIR Lacks Evidentiary Support for the Determination that the Project Would Not Result in a Significant Environmental Impact Due to Wasteful, Inefficient, or Unnecessary Consumption of Energy Resources During Project Operations

CEQA Guidelines Appendix F identifies the following means to achieve the goal of conserving energy: decreasing overall per capita energy consumption, decreasing reliance on fossil fuels, and increasing reliance on renewable energy sources.[218] In order to ensure that energy impacts are considered in project decisions, CEQA requires that EIRs include a discussion of the potential energy impacts of proposed projects and a detailed statement of mitigation measures designed to "minimize significant effects on the environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy."[219]

Appendix F directs an EIR to consider the energy impacts of project operation, the effects on local and regional energy supplies, the effects on peak and base electricity demand, compliance with existing energy standards, and other effects on energy resources.[220] Further, Appendix F notes an EIR should consider whether the project involves "Unavoidable Adverse Effects" such as "wasteful, inefficient and unnecessary consumption of energy during the project construction, operation, maintenance and/or removal that cannot be feasibly mitigated."[221] Without the requisite energy analysis, the DEIR falls short of the mandates of Appendix F.

First, the DEIR fails to adequately analyze the significance of the Project's energy impacts given the Project's reliance on fossil fuels in the DEIR's analysis.[222] One of the stated goals in Appendix F is to decrease reliance on fossil fuels.[223] The DEIR, however, estimates that implementation of the Assisted Living Variant would increase natural gas usage by approximately 20.5 million kBtu per year and implementation of the Office Variant would increase natural gas usage by approximately 21.6 million kBtu per year.[224] The analysis in the DEIR is deficient insofar as it does not assess or consider the significance of this increase in natural gas usage for the Project on energy resources consistent with Appendix F and does not consider mitigation to "minimize significant effects on the

[218] Appendix F at § I.
[219] Pub. Res. Code § 21100(b)(3); CEQA Guidelines, Appendix F, Energy Conservation ("Appendix F"), § I. Appendix F defines "Unavoidable Adverse Effects" as "wasteful, inefficient and unnecessary consumption of energy during the project construction, operation, maintenance and/or removal that cannot be feasibly mitigated.
[220] Appendix F §§ I, II.C, II.D.
[221] Id. at § F.
[222] DEIR at 110-111.
[223] Id.
[224] Id.

environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy."[225]

Second, as explained above, the DEIR does not discuss the energy impacts of the Project in compliance with the City's Reach Code, which would be required for this Project. Compliance with the City's Reach Code would increase the Project's electricity usage. The energy impacts analysis in the DEIR should have considered the Project's actual electricity usage to analyze the environmental impacts, such as the effects on local and regional energy supplies, especially from SJCE's electricity supply, the effects on peak and base electricity demand, and compliance with existing energy standards. The analysis in the DEIR fails to comply with the requirements of Appendix F by not discussing or analyzing the Project's energy impacts assuming compliance with the Reach Code.

Third, another stated goal for conserving energy set forth in Appendix F is "increasing reliance on renewable energy sources."[226] Appendix F further states that "Mitigation Measures may include: … 4. Alternate fuels (particularly renewable ones) or energy systems."[227] In line with Appendix F, the San Jose 2030 Greenhouse Gas Reduction Strategy includes a Green Building Measure and Design Feature to "[e]ncourage maximized use of on-site generation of renewable energy for all new and existing buildings," and "[e]ncourage the installation of solar panels or other clean energy power generation sources over parking areas."[228]

Here, the DEIR's discussion of renewable energy generation is vague and uncertain and fails to provide a meaningful "investigation into renewable energy options that might be available or appropriate for the project."[229] In California Clean Energy Comm. v. City of Woodland, the court held that the city's EIRs failed to comply with the requirements of Appendix F by not discussing or analyzing renewable energy options.[230] The court determined that "the City's EIRs omit any discussion or analysis of renewable energy options for Gateway II. CEQA is violated when an EIR contains no discussion of a potentially significant environmental consideration."[231]

Similarly, here, while the DEIR vaguely mentions that "the project proposes to include solar panels on buildings throughout the site," the DEIR does not clearly describe or identify the Project's renewable energy generation (e.g., location, capacity, etc.).[232] Moreover, although "[t]he Project's use of on-site solar will decrease the need to pull energy from the grid," "electricity for the Project would [also] be provided by SJCE,…."[233] The DEIR, however, does not assess how much electricity would be needed from the grid as compared to the energy generated by on-site renewable energy sources. The DEIR must be revised to adequately disclose proposed renewable energy generation for the Project and sufficiently analyze the related energy impacts.

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[225] Pub. Res. Code § 21100(b)(3).
[226] Id. at § I.
[227] Id. at § II.D.4.
[228] DEIR at 111.
[229] California Clean Energy Comm. v. City of Woodland (2014) 225 Cal. App. 4th 173, 213.
[230] Id.
[231] Id.
[232] DEIR at 137.
[233] DEIR, Appendix B, "Additional Responses to City of San Jose GHGRS Project Compliance Checklist" at 2.

Finally, compliance with the Building Code and other energy efficiency requirements does not, by itself, constitute an adequate assessment of measures that can be taken to address the energy impacts during construction and operation of the Project. In Ukiah Citizens for Safety First v. City of Ukiah, the court held that the EIR inadequately described the energy impacts of a Costco project where the EIR relied on the project's compliance with energy conservation standards to conclude that energy consumption would be less than significant, and did not separately evaluate energy impacts from transportation, construction, or operation.[234] Here, the DEIR relies on the California Building Code and Title 24 energy efficiency standards, CALGreen code, green building practices, and a number of green building measures and design features, consistent with the San José 2030 Greenhouse Gas Reduction Strategy to support the less than significant determination.[235] However, as described above, additional analysis is necessary under the requirements of Appendix F to support a determination that the Project would not result in the wasteful, inefficient, and unnecessary consumption of energy during construction and operations.

Therefore, for several reasons, the DEIR fails to comply with Appendix F energy analysis requirements.

Response EE.59: The Draft EIR concluded that the project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation (refer to Pages 109-113). Section 3.6, Energy of the Draft EIR provides an analysis of the project's construction and operational energy impacts. The Draft EIR demonstrates the project's compliance with the City's Reach Code, California Building Code and Title 24 energy efficiency standards (as stated on Page 111 of the Draft EIR). The project proposes to install solar panels on all low-rise residences units and will make taller mixed-use and commercial buildings solar ready. In addition, the project anticipates that there will be solar on the mixed-use commercial/residential building. Regarding surface parking, it is not practical to add solar shades over the surface parking because the majority of surface parking would be located along streets (38 stalls along the main street and 39 stalls along a new public street serving the single-family units and townhomes) that will be shaded by street trees and buildings. Appendix F of the CEQA Guidelines does not require a discussion of how much electricity would be needed from the grid as compared to the energy generated by on-site renewable energy source. However, the estimated electricity usage for the proposed project is provided in Table 3.6-3, Page 110 of the Draft EIR. The usage of solar panels by the project would result in a reduction of SJCE electricity usage.

The EIR's analysis demonstrates that the project would not result in a wasteful use of energy, and the comment does not provide substantial evidence that the project would result in wasteful or inefficient use of energy by the project. During construction, the

[234] Ukiah Citizens for Safety First v. City of Ukiah (2016) 248 Cal. App. 4th 256, 263-266.
[235] DEIR at 111.

project would include construction energy efficiency measures such as restricting idling times for construction equipment (as stated on Page 113 of the Draft EIR). During operations, in compliance with the GHGRS, the project would implement a TDM Plan that would reduce VMT and related fuel consumption. As mentioned above, the project would also install solar panels and comply with CalGreen and Title 24. With the implementation of the above-mentioned measures, the project would not result in wasteful, inefficient, and unnecessary consumption of energy during construction and operations. The project would comply with the City's Reach Code by using 100 percent carbon free electricity for the project's residential uses (as mentioned in Response EE.27, the Reach Code allows for exceptions for natural gas use in commercial kitchens such as the commercial kitchen included in the assisted living facility).

Comment EE.60: c. The DEIR Fails to Quantify and Adequately Analyze the Project's Energy Consumption Impacts During the Years of Construction

Recent cases interpreting Appendix F have held that, to comply with CEQA, the lead agency must not only describe a project's energy impacts in an EIR, it must also quantify them.[236] Unlike operational energy impacts, the DEIR fails to quantify construction energy impacts.[237] Instead, the DEIR concludes with no supporting evidence that the Project's energy impacts would be less than significant.[238] The DEIR is thus inadequate as an environmental document and must be revised and recirculated to resolve this issue and comply with CEQA's requirements.

Response EE.60: Appendix F does not mandate quantification of energy use from project construction activity. The project would include construction energy efficiency measures such as restricting idling times for construction equipment (as stated on Page 113 of the Draft EIR). The implementation of these measures demonstrate that the project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resource during project construction. Additionally, the project would be required to divert 75 percent of construction and demolition waste in accordance with Municipal Code Section 9.10.2480 and is required to comply with BAAQMD BMPs that limit idling, as well as noise mitigation measures that ensure equipment is in good working order (making it as efficient as possible). Diverting waste from the landfill and salvaging for reuse would reduce energy waste during the construction process. In addition, as discussed

[236] Ukiah Citizens for Safety First, 248 Cal.App.4th at 264-65 (energy impact analysis requires clarification and technical information regarding project-related energy usage and conservation features); Spring Valley Lake Association v. City of Victorville (2016) 248 Cal.App.4th 91, 103 (EIR must show factual basis of its assumptions that both energy use and greenhouse gas emissions will be reduced); California Clean Energy Committee, 225 Cal.App.4th at 210 ("CEQA EIR requirements are not satisfied by saying an environmental impact is something less than some previously unknown amount"). This is consistent with longstanding precedent which holds that unsupported conclusions are entitled to no judicial deference. Communities for a Better Env't, 184 Cal.App.4th at 85; Topanga Assn. for a Scenic Cmty. v. County of Los Angeles, 11 Cal.3d 506, 515 (EIR must provide reader with analytic bridge between ultimate findings and the facts in the record).
[237] DEIR at 113.
[238] Id.

above, the project responds to existing demand, therefore making the construction necessary rather than wasteful, and redeveloping infill locations provides construction efficiencies that are not available at greenfield sites because urban infrastructure already exists.

FF. **Friends of Cambrian Park (dated January 3, 2022)**

Comment FF.1: Thank you for allowing the Friends of Cambrian Park Plaza community group to provide feedback on the Draft EIR (DEIR) for the proposed redevelopment of Cambrian Park Plaza (CPP). Since our creation around 5 years ago we have always maintained that the Plaza needed to be redeveloped and had the potential, if implemented thoughtfully, to become Cambrian's 'Main Street'. We have a mailing list of almost 1,500 residents and have tried to document & share their desires and concerns with the City & Developer. We are pleased to have been the impetus for some improvements on the original design, such as the removal of the proposed strip mall with surface parking, promoting the concept of residential over retail, providing a clearer pathway through the site from Camden & Union to Wyrick as well as, more recently, reducing the height of single-family homes on the boundary with existing single story residencies on Bercaw Road. However, some of the community's concerns regarding overall density, traffic & parking remain un-resolved. We have reviewed the Draft EIR and have a number of concerns in terms of its completeness & accuracy as described below. We would be happy to clarify these, if any areas are unclear. In most instances our comments reference the main document. Occasionally we reference a specific Appendix, but have tried to point that out explicitly. In the Traffic Analysis there are several areas of concern. Overall, the document seems 'stale' and was likely written some time ago, maybe dating back to 2018 EIR. On pages 24/5 it mentions Harker School as 'Approved But Not Yet Constructed/Occupied', yet it has been built and has been operational since the Summer. Likewise, the Belmont Assisted Living development is described as 'probable future (pending) development' yet construction is almost complete & leasing is underway.

There are also several other nearby projects not mentioned, including Residential Care Facility at 2395 S Bascom (approved & under construction) and Affordable Housing at 3090 S Bascom (approved & about to start construction).

The LOS analysis is provided for informational purposes under the LTA. CEQA Guidelines Section 15125(a) defines the baseline as generally the physical conditions in existence when the Notice of Preparation ("NOP") is published or at the time the environmental review begins. The NOP was released for the proposed project in October 2020, and so that is the point in time at which the cumulative conditions generally were established for purposes of the Draft EIR's analysis, with the noted exception of the traffic analysis, which completed in May 2021. The geographic area for cumulative impacts varies depending on the resource topic. For example, resource topics such as air quality (local health risk) and construction noise would have a geographic area that includes pending and approved projects within 1,000 feet of the site; none of the projects in Comment FF.1 are located within 1,000 feet of the site. The 3090 S. Bascom Avenue project is over 0.5 mile and the 2395 Bascom Avenue project is over one mile away from the project site; therefore, these projects were not considered in the cumulative analysis for the referenced resource topics. The

geographic area for cumulative regional criteria pollutant impacts is the San Francisco Air Basin. The geographic area for hydrology and water quality would include projects within the same watershed; for cultural resources, hazardous materials, and biological resources, the geographic area would be the project site and adjacent parcels. The geographic area for resource topics such as population and housing, land use, utilities and service systems, and transportation/traffic would include Citywide pending and approved projects (therefore, the projects discussed in Comment FF.1 were considered in the cumulative analysis for these resource topics). Cumulative VMT impacts are evaluated based on consistency with the General Plan and Urban Village Plan. The LOS analysis is provided for informational purposes under the LTA. The Harker Middle School project as well as the Belmont Assisted Living development were included in the cumulative LOS traffic analysis. (See Draft EIR, Appendix H, page 58.) The cumulative LOS analysis included pending and approved projects through May 2021. Although listed as pending projects, the traffic generated by these projects are accounted for in the LTA.

The City's Approved Trip Inventory (ATI) includes trips of approved developments that would add more than 10 peak hour trips per lane to intersections. The approved 2395 S. Bascom Avenue development was projected to add less than 15 peak hour trips to the roadway system and less than 10 peak hour trips per lane to the intersections studied for the proposed project. The 3090 S. Bascom Avenue development was approved under a ministerial exemption (SB 2162) and was deemed to not add a significant amount (less than 20 peak hour trips) to the roadway system and less than 10 peak hour trips per lane to any intersection studied for the proposed project. Thus, neither the 2395 S. Bascom Avenue nor 3090 S. Bascom Avenue approved developments would add sufficient trips to warrant inclusion in the ATI of intersections studied for the proposed project.

Comment FF.2: More concerning, however, is the complete lack of any analysis of Los Gatos traffic, especially the North 40 development which is ~ 44 Acres in total, being built in 2 phases. Page 24 mentions 'in the project vicinity (within approximately a 2.5-mile radius of the project site)' and North 40 is less than 2 miles away and so within range. North 40 Phase 1 is ~24 acres and is currently under construction, comprising 320 Dwelling Units, 68ksqft retail and restaurant and 21Ksqft Market Hall making it similar in concept to Cambrian Park Plaza. Was this a deliberate exclusion and if so, what was the reason? North 40 Phase 2 would add an additional ~20 acres and is currently being planned. Traffic for North 40 and other Los Gatos developments will impact the Cambrian community and we believe must be included in the EIR analysis, unless there is substantial evidence to support its exclusion.

Response FF.2: , Based on CEQA Guidelines 15064.3, the project's transportation impacts are based on VMT. The LOS analysis is provided for informational purposes. In the cumulative LOS, the primary pending/approved projects required to be included are San José projects (Appendix C of the Transportation Analysis (Appendix H)) . The City of San José contacted the City of Campbell, Town of Los Gatos, VTA, and Caltrans to comment on the project traffic scope and provide input on what to include in the project's traffic analysis, including any viable pending/approved projects. All agencies provided input with the exception of the

Town of Los Gatos.. The North 40 Phase I and II projects, therefore, were not considered in the cumulative LOS analysis, which as noted above, was done for informational purposes as part of the LTA, and not for disclosing impacts under CEQA, which no longer allows or requires evaluation of congestion (vehicle delay) to evaluate a project's impacts, including cumulative impacts. .

In 2016, environmental review was completed by Los Gatos for the North 40 Phase I development ,including a traffic analysis to address LOS and traffic impacts. Environmental has not been completed for the North 40 Phase II project. Refer to Response FF.1 for a discussion of geographic areas considered for cumulative impacts. The North 40 Phase I and II projects were considered in the Draft EIR's cumulative analysis for resource topics that are evaluated based regional and global geographic areas. Given the location of the North 40 site, the project was not considered when evaluating cumulative impacts for resource topics with more local geographic areas (such as construction noise and biological resources).

Cumulative VMT is evaluated based on a project's consistency with the General Plan and Urban Village Plan goals.. The project is consistent with the City's long-term General Plan and Urban Village goals (refer to the Draft EIR, Appendix H, Pages 104 and 105) and would have a less than cumulatively considerable contribution to the City's VMT impact. Therefore, the comment provides no substantive information in regard to the cumulative transportation analysis completed for the Draft EIR.

Comment FF.3: With the number of bike parking spaces for the Plaza apartments noted on Page 20, as well as the limited transit options and assumed uptake, it's clear that most new residents at the Plaza will have cars. To us this is at odds with the City defined parking ratios which are the same irrespective of where a development is located within the City and availability of useable transit. This will have 2 effects: 1) more traffic on city streets and freeways and 2) increase spillage of excess parking onto neighborhood streets. A partial solution that should have been considered would be to reduce the residential density (especially apartments) and/or increase parking.

Response FF.3: Parking supply is not considered an impact under CEQA since parking stalls are not environmental resources, and parking supply is an aspect of project design. The Draft EIR (Section 3.16.4 Operational Issues Not Required Under CEQA) includes a discussion of parking supply. Nonetheless, the Draft EIR includes a discussion of the project's proposed parking for informational purposes. The proposed parking ratio for residential uses is 2.5 per unit and for commercial uses is 5/1,000 net square feet. The project's parking ratios are consistent with the City's Municipal Code. Furthermore, the merits of the City's defined parking ratios are beyond the scope of the project and this comment does not raise an issue regarding the adequacy or accuracy of the evaluation and conclusions of the Draft EIR.

Because parking supply and level of service (see Responses FF.1 and FF.2) are not considered impacts under CEQA and the CEQA Guidelines advise that the alternatives analysis in a Draft EIR should be limited to alternatives that would avoid or substantially lessen any of the project's significant impacts, there are no impacts (let alone significant impacts) to lessen by considering a reduced residential density

or increased parking alternative on the basis suggested in the comment. Additionally, the Draft EIR analyzes an Existing Plans Alternative (see page 290 of the Draft EIR), which would have no residential use. The purpose of an alternatives analysis is to develop ways to avoid or substantially less significant impacts. Decreasing residential density (since higher intensity developments have lower VMT) and increasing parking would result in an increase in VMT, GHG, and air pollutant emissions on a per capita basis. Increasing parking could result in more vehicle trips to and from the site, which would increase mobile emissions. Therefore, alternatives with increased parking supply were not evaluated in the Draft EIR.

Comment FF.4: The 4 Public Transit options listed (Page 224) are of little use to most people who could afford to live at the Plaza. The buses either a) run too infrequently, b) take too long or c) don't go where most of the jobs are. For example, Route 27 is listed as running every 30 minutes, but it then takes 30-40 mins to reach Winchester Light Rail Station, a distance of ~2.5 miles. Route 37 is certainly quicker making the same journey in ~10 minutes, but this service only runs hourly and the last run from Light rail back to the Plaza is 6:30pm. Route 61 is described by VTA as 'frequent service' because it runs every 40 mins takes 20 minutes to get to Stevens Creek & 46 minutes to get to Berryessa BART. Finally, Express Bus 101 is certainly faster, but only has 4 trips North and 4 South every weekday. It's plausible that this system might work for some folks working downtown, but for other locations such as Mountain View, Menlo Park, Sunnyvale, Cupertino employees will continue to stay in their cars. Drive time to Mountainview in commute is ~40 mins, by VTA it's 2x that at ~ 1 ½ hrs. The DEIR estimates 8-10K gross trips per day, given the number of new residents, employees and potential customers.

Response FF.4: The commenter notes observed local transit use and schedule. The merits of such observations are beyond the scope of the project and this comment does not question the adequacy of the Draft EIR and, therefore, no further response is warranted. In regard to the frequency and routes described in the comment, based on the Draft EIR's traffic consultant, these have no effect on the analysis since the specifics of transit service are not used in the estimates of project trips. The comment that the Draft EIR estimates 8,000 to 10,000 gross vehicle trips is noted. As shown in Section 5.0, Draft EIR Text Revisions , Table 3.16-3 of this Final EIR,, the Assisted Living Variant would generate approximately 10,760 total trips, 8,196 trips after applicable reductions (e.g., pass-by trips) and 2,017 trips which accounts for existing uses; and Table 3.16-4,, the Office Variant would generate approximately 11,850 total trips, 8,811 trips after applicable reductions (e.g., pass-by trips) and 2,632 trips which accounts for existing uses. The Section 5.0, Draft EIR Text Revisions accounts for 27 ADUs. The ADUs would result in an additional 271 net project daily trips for the assisted living variant and 96 net project trips for the office variant. The addition of the trips does not change the conclusions of the analysis (refer to the traffic sensitivity analysis in Appendix B of this Final EIR). This comment does not question the adequacy of the Draft EIR and, therefore, no further response is warranted.

Comment FF.5: Several possible new bike lanes are mentioned (Page 221), including on Camden Avenue. Unfortunately, none of these appears to be approved or funded. In addition, in order to add protected lanes like this to Camden will take space and so the assumption is that this will require

reduction of parking and auto capacity on Camden, which as the DEIR traffic analysis shows is already clogged. We have sought clarification on bike lane plans from the City, but have received no response. We believe it is critical that the City clarify in the EIR how the proposed protected bike lanes on Camden would be implemented and what that would mean to current traffic carrying capacity, especially considering the previously described public transit limitations.

Response FF.5: As stated in Section 3.16.2, Bicycle and Pedestrian Facilities on Page 230 of the Draft EIR, the Project would not interfere with implementation of any planned bicycle facilities set forth in the City's Better Bike Plan 2025. Class IV protected bike lanes are planned along Camden Avenue as part of the City's Better Bike Plan 2025. Along both the Camden Avenue and Union Avenue project frontages, the project is conditioned to construct 6-foot Class IV bikeways. The existing vehicular lanes along both Camden Avenue and Union Avenue and bus transit stops will be maintained with the implementation of the Class IV bikeways.

Comment FF.6: On Page 257 it is acknowledged that adding additional traffic from the project will make matters worse. However, it is argued that the segments are already operating at an 'unacceptable level' so the addition of traffic generated would 'not result in degradation of level of service'. This logic makes no sense.

Response FF.6: The statement (on Page 258 of the Draft EIR) Comment A.6 is referencing is related to the level of service of freeway segments. To clarify the above statement, the addition of project traffic would not cause traffic on the studied freeway segments to operate at a level of service that is lower than existing level of service. As has been stated previously, LOS or vehicle delay/congestion is no longer considered an impact pursuant to CEQA with the passage of SB 743.

Comment FF.7: The VMT analysis that (starting page 255) states that 'the proposed retail/restaurant and hotel uses are not reflective of larger regional retail development such as large shopping centers, which would attract new trips from outside the project area. Rather, the proposed retail and hotel uses of the project would result in a redistribution of trips that are currently made to other surrounding similar retail and hotel uses located outside of the immediate project area.'. The analysis then states that 'Hexagon, in coordination with City staff, identified 30 small retail centers and 15 hotels that are similar to those proposed by the project from which existing trips may be redistributed to the project site.' This same approach is used to reallocate jobs to the Plaza. Ignoring that fact that this doesn't create the growth the City states it is looking for, but rather cannibalizes/churns existing businesses as described on P19 of the Hexagon report (and shown in Figures 7&8 as 'job shifts'), this whole approach seems dubious and its conclusion does not appear to be supported in evidence. It would appear to be partly based on assumptions of the type of retail etc. at the Plaza that has not been stated publicly by the developer.

Response FF.7: Refer to Responses EE.39 and EE.43. The referenced retail/restaurant uses are one component of the proposed mixed-use project that also includes residential and employment uses. The proposed mix of land uses, including the referenced retail/restaurant space, on the project site will internalize and significantly reduce vehicular trips that would otherwise be made to other similar retail/restaurant space that would require a longer vehicular trip (refer to the Draft

EIR, Appendix H, Page 31). The evaluation of VMT for retail/commercial uses requires the use of a Traffic Forecasting Model as used in this analysis to reflect the relationship of retail/commercial uses with supporting residential and employment uses. The City has utilized this same approach and methodology for other retail/commercial projects. The approach is based on the premise that vehicular trips are currently being made by residents/employees in the greater project area to similar retail/restaurant uses in other areas of the City that require longer vehicular trip than would be required with the introduction of the proposed project retail/restaurant space.

The project site is located within a designated Urban Village (Camden Avenue/ Hillsdale Avenue). The premise of internalization and intensification of complementary land uses in close proximity of one another is the basis of the City's Urban Village concept. The designated Urban Villages are strategically located along major transit corridors and are planned to provide greater development densities with the intent to reduce and shorten vehicular trips. Therefore, the VMT approach utilized for the proposed retail/restaurant uses, considering the uses as local-serving in terms of the greater Camden Avenue/Hillsdale Avenue Urban Village (rather than evaluated as stand-alone retail/restaurant uses, such as for larger regional retail development) is consistent with the City's Urban Village strategies and reflective of the retail/restaurant uses to be on the project site.

Comment FF.8: Alternatives. In the EIR report several alternatives were discussed (no development, 2 story offices plus surface parking, reduced intensity mixed mode with surface parking). All appear to be rejected out of hand since they don't meet the Developer and City Objectives. Nowhere is there any discussion about 'Community Objectives'. One reason provided for the rejection (Page 288) is that the Developer doesn't own another site where the development could take place. While that may be true in D9, the Developer does own an equivalent site in D1 at Lawrence and Stevens Creek (Stevens Creek Central mall), which they acquired in November 2019 and is in the Stevens Creek Urban Village. Another alternative we believe should be considered is lower intensity mixed mode at the current site with lower density hotel, senior/assisted living & apartments, while keeping reduced parking underground. This would keep the building height more consistent with existing neighborhood.

Response FF.8: As discussed in CEQA Guidelines Section 15126.6, CEQA requires that a reasonable range of feasible alternatives to the project be analyzed (and not every possible alternative) that are designed to reduce the significant environmental impacts of the project while still meeting the general project objectives. The purpose of developing alternatives to a project is to identify ways to avoid or substantially lessen any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives As noted in the Draft EIR, the proposed project would not result in any significant, unavoidable impacts, but for informational purposes, includes an alternatives discussion with a range of alternatives to reduce identified impacts. (See Draft EIR, Section 7.4.2, page 289.) The Draft EIR analyzes a reasonable range of alternatives, including a No Project Alternative, Existing Plans Alternative, and Reduced Grading and Excavation Alternative, taking into account project objectives and the significant impacts of the

project. (See Draft EIR, Section 7.0.) Alternatives presented must be able to "feasibly attain most of the basic objectives of the project" rather than unarticulated "Community Objectives." (See CEQA Guidelines Section 15126.6(f).)

The project applicant owns a retail center in the Stevens Creek Urban Village; however, it is not an alternative development site for the proposed project. San Jose's General Plan encourages mixed use urban development in growth areas designated as urban villages. Redevelopment of the other site would only support the city's long-range planning goals if built in addition to the proposed project, not as an alternative to it. Furthermore, the site is not a feasible redevelopment opportunity due to longer term leases which remain in place which do not exist for the proposed project site. In summary, the recommended location alternative would neither achieve either the city or the applicant's objectives for the proposed project, including the provision of additional housing in San Jose, nor is it a feasible alternative as it cannot be accomplished in a successful manner in a reasonable period of time, taking into account economic, environmental, social, and technological factors, such as existing long-term leases.

On the basis of reduced building heights, the comment suggests another mixed-use lower intensity alternative. However, the building heights (or the project in general, as discussed above), do not result in any significant, unavoidable impacts and as such further study of this alternative would not accomplish the intent of the alternatives analysis required under CEQA. In any event, the Draft EIR, through the Existing Plans Alternative, assesses a lower intensity alternative.

Comment FF.9: Land Use and Planning. On Page 173 it is stated that 'The project, along with cumulative projects in the area, will undergo development review at the City of San José to evaluate the project's design and its compatibility with surrounding land uses. During this process, modifications can be made to the project's design, scale and/or layout to ensure the project is consistent with the residential or commercial design guidelines that have been established by the City.' When will this happen and what is the process? Shouldn't this be locked down 1st?

Response FF.9: The referenced text describes the City's design review process, which occurs during planning review of the development permit in parallel with the CEQA process. The design review process for this project included a staff-level review per the 1999 Residential Design Guidelines and the 1990 Commercial Design Guidelines, a review of the project by the City's Urban Design Review (UDR) Team, and the project was also sent out to a third-party consultant for UDR review. It is common for a project to undergo refinements in response to City design review and community input, as the CEQA process is underway. Any changes to the project that constitute significant new information, including any new significant environmental impacts or new mitigation measures, beyond the Draft EIR analysis would require recirculation of the Draft EIR if changes are made prior to the City's certification of the EIR, and subsequent environmental review (e.g., an Addendum to the EIR) if substantial changes are made after the EIR is certified.

Comment FF.10: Other Issues. The DEIR also contains many other omissions/ inaccuracies/inconsistencies. For example, we noted the following: On page 9 it says 18 ADUs, whereas the latest plans state 27

Response FF.10: Please refer to Response EE.47. The Draft EIR analyzes 18 ADUs. The project was revised subsequent to the Draft EIR and is currently proposing 27 ADUs . The number of ADUs has been updated in Table 2.0-1, Page 10 of the Draft EIR (refer to Section 5.0, Draft EIR Text Revisions in this FEIR. The addition of nine ADUs would not result in a new impact nor would it increase the severity of impacts identified in the Draft EIR.

Comment FF.11: On Page 51 there is the first of a number of 'Error! Reference source not found."

Response FF.11: The error message referenced in Comment A.11 will be replaced with a reference to Table 3.3-2 (refer to Section 5.0, Draft EIR Text revisions) in this FEIR. This error message was a typographical error. This error message has been corrected throughout the Draft EIR (refer to Section 5.0 of this FEIR).

Comment FF.12: On Page 61 it states, 'The following mitigation measures are proposed as part of the project to significant construction NOx emissions impacts to a less than significant level.' There would appear to be a word missing between 'to' and 'Significant'. There is a similar error on Page 59.

Response FF.12: The missing word noted in Comment A.12 is "reduce." This correction has been made to Pages 59 and 61 of the Draft EIR and are shown in Section 5.0, Draft Text EIR Revisions of this FEIR.

Comment FF.13: On Page 144 it states that 'Based on the 1968 aerial photograph, the northwest portion of the site was once the location of Camden High School. In fact, Camden High School was on the opposite side of Camden where Camden Park Shopping Center is.

Response FF.13: The Draft EIR text has been revised to note the historical location of Camden High School included in Comment F.13. Please refer to Section 5.0 of this FEIR. This revision does not change the impacts evaluation and conclusions of the Draft EIR.

Comment FF.14: On Page 199 it states that Camden-Hillsdale UV has an allocation of 560 DU whereas the latest version of the 2040 GP states 400 DU

Response FF.14: The correct allocation of residential units for the Camden-Hillsdale Urban Village Plan is 450 dwelling units. Without ADUs, which the City does not consider separate dwelling units for the purposes of General Plan residential capacity, the project proposes 428 dwelling units, which is within the planned capacity. The referenced number of residential units allocated for the urban village has been updated in the Draft EIR, Section 3.13, Population and Housing, Pages 199 and 202. Refer to Section 5.0 Draft EIR Text Revisions in this FEIR.

Comment FF.15: In several locations the DEIR states that the project has ' 7.1 acres of publicly accessible open space. However the plans show 2.3 Acres Parks/Promenades etc., plus 1.7 Acres paved Plaza, 2.5 Acres general Landscape/hardscape. A better number would therefore be 4 Acres as mentioned on Page 10 of the DEIR, or 6.3 Acres (a stretch).

> **Response FF.15:** Table 2.0-1 on Page 10 of the Draft EIR shows the project proposes four acres of community park open space. The 6.2 acres references private open space proposed by the project. Private open space includes common open space that can be accessed by residents and patrons of the commercial uses. The Draft EIR, Section 3.14.2, Impact Discussion, Page 210 and Section 3.15.2, Page 215 has been updated to state that the project proposes four acres of publicly accessible open space (refer to Section 5.0, Draft EIR Text Revisions in this FEIR). This revision does not change the impacts evaluations and conclusions of the Draft EIR.

Comment FF.16: Appendix H states 'The project site is located within the Camden Avenue/Hillsdale Avenue Urban Village, which is generally bounded by I-280 to the north, SR 17 to the east, Hamilton Avenue to the south, and San Tomas Expressway to the west.' This is clearly incorrect.

> **Response FF.16:** The Camden Avenue/Hillsdale Avenue Urban Village is bounded by Esther Drive to the west, Chelsea Drive and Lancaster Drive to the south, Quinto Way to the east and Camden Avenue and Foxworthy Avenue to the north. The text revisions to Appendix H, Local Transportation Analysis (LTA) with the correct definition of the Urban Village boundaries are included in Section 5.0 of this FEIR. This does not affect the evaluation or results of the CEQA analysis. The correct Urban Village boundaries were assumed throughout the Draft EIR analysis.

Comment FF.17: On Page 190 it mentions 'an eight-foot noise barrier', as well as 'seven-foot noise barrier'. Page 196 mentions a 'six foot high noise barrier', Page 197 mentions 'minimum six-foot noise barrier'. The latest plans appear to show a 7 foot barrier. Please clarify what the proposed height is for the soundwall. Note that the residents on Bercaw Road would prefer height of 8ft.

> **Response FF.17:** The project proposes a seven-foot noise barrier. The seven-foot noise barrier is accounted for in the operational noise analysis in Section 3.12 of the Draft EIR. Revisions to text referencing an eight-foot or six-foot tall barrier will be included in Section 5.0, Draft Text EIR Revisions of this FEIR. These revisions do not change the impacts evaluation and conclusions of the Draft EIR.

Comment FF.18: Conclusion. While we recognize that the DEIR (including Appendices) is a complex document of ~2,500 pages and has many contributors, none of these errors & inconsistencies convey confidence in the overall completeness & accuracy of the DEIR.

> **Response FF.18:** This generalized comment has been noted. As documented in the above responses, the errors noted in the above comments do not affect the evaluation or results of the CEQA analysis (and do not in any way support the opinion that the completeness and accuracy of the Draft EIR is somehow deficient). Text revisions to the Draft EIR can be found in Section 5.0 of the FEIR.

GG. **Ed Matsche (dated January 3, 2022)**

Comment GG.1: The proposed signalized light at the intersection of Camden and Taper Avenues will create an unsafe backup of traffic onto Union Avenue and Camden Avenue and create a "cut-through" traffic issue on Taper Avenue. The EIR indicates the planned signalized light at Taper Avenue as being 'full access' allowing all vehicular movements from Camden onto Taper, and Taper onto Camden. This new project proposed public street aligns with Taper Avenue and allows traffic to cross Camden Avenue causing additional traffic congestion. This issue is further underestimated because the EIR does not consider impacts created by the following other projects in the community.

- 43 new homes behind the Camden Community Center
- Metzler A project - land lease agreement with Silverado Memory Care
- Metzler C School Property project - 21 new homes, 14 with ADU's
- San Jose Bike Plan 2020
- Draft San Jose Better Bike Plan 2025

These additional projects will not only have a significant impact on traffic congestion to the Camden and Union Avenue intersection but also impact Cambrianna and Taper Avenues further compounding an already congested area. The signalized light at the intersection of Camden and Taper Avenues will create additional backups forcing more vehicle traffic down Foxworthy and exasperate an already "cut-through" traffic issue on Taper Avenue which dead-ends into Foxworthy Avenue forcing left or right turns only onto an overtaxed roadway.

Response GG.1: The above projects, with the exception of the Metzler C project which was not on file at the time the NOP was released (October 2020), were accounted for in the cumulative traffic analysis. The San José 2020 Bike Plan had been at the time of the Draft EIR analysis and no projects were on file under the Better Bike Plan 2025 at the time the NOP was released. Refer to response FF.1 for a discussion of which projects that were considered in the cumulative analysis for various topics. Based on the California Senate Bill (SB) 743 and the City of San José's Transportation Policy (Council Policy 5-1), a project's effect on level of service (LOS), congestion, roadway capacity, and vehicular delay are not considered an environmental impact. Based on CEQA Guidelines 15064.3, vehicle miles traveled (VMT) is the most appropriate measure for analyzing transportation impacts. Therefore, the comment's focus on congestion on Taper Avenue is not addressing an environmental impact under CEQA.

Furthermore, for informational purposes, as discussed in Responses R.1 and R.2, the signal proposed at Taper Avenue would not exacerbate cut-through traffic on Taper Avenue. Minimal project-generated trips would go straight to enter Taper Avenue because Driveway C would primarily serve the residential and hotel uses of the project, and Taper Avenue does not provide a direct route to major arterials and freeways to which the majority of residential and hotel uses would be bound for and originate from. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9,

2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

As described in the Draft EIR and based on the LOS analysis (refer to Pages 254 through 256 of the Draft EIR), the project would have an adverse effect on intersection operations at Union Avenue and Camden Avenue since the project would cause the intersections' critical-movement delay to increase by more than four seconds and the V/C to increase by more than 0.01 during the PM peak hour. All other intersections would operate at acceptable levels during both the AM and PM peak hours of traffic when compared to the City of San José and Santa Clara Valley Transportation Authority (VTA) Congestion Management Program. The project would address the deficiencies at this intersection by providing a fair share contribution towards Class IV protected bicycle lanes on Union and Camden Avenue (which would encourage alternative transportation modes, reducing the number of vehicles on the roadways). Accordingly, based on the City's LOS standards, the project would not result in an adverse effect on Cambrianna Avenue or Taper Avenue.

Comment GG.2: Additionally, section 3.8 page 127 of the EIR does not include analysis regarding the additional greenhouse gas emissions caused by the additional traffic backup.

Response GG.2: As described on Pages 137 through 139 in the EIR, the project is consistent with the City's 2030 GHGRS, which ensures the project is in compliance with the City's GHG Reduction Strategy and would therefore result in a less than significant GHG impact. Therefore, a quantitative GHG analysis was not required. Furthermore, vehicular GHG emissions are primarily estimated based on vehicle miles traveled for vehicles under load (moving vehicles). Idling vehicles have very low emission rates (given the vehicle accelerator is not applied) compared to vehicles under load, i.e., when the gas pedal is pressed and substantial fuel is consumed and emissions are generated. Therefore, the contribution towards GHG emissions from idling vehicles as a result of increased congestion at intersections would be negligible and would not change the project's consistency with the City's 2030 GHGRS nor the less than significant greenhouse gas emission impacts conclusions of the Draft EIR. Nor would it affect the Draft EIR's conclusions regarding the project's impacts on VMT. As stated in Response FF.1, the project would internalize trips, implement a TDM program, and reduce VMT and, therefore, limit GHG emissions resulting from VMT.

Comment GG.3: A suggested alternative to solve this issue is to prevent access to Taper Avenue from Camden Avenue. Allow Taper to exit to the right only and allow the new project proposed road to turn right and left onto Camden only. This alternative will still allow the project to provide numerous pathways for bicycle and pedestrian-friendly connectivity between the bus stops along Camden and Union Avenues and the project's commercial, residential, and open space areas.

Response GG.3: The analyses provided within the LTA, and for which this suggested alternative appears to be founded, are provided per requirements of the

City of San José Traffic Analysis Handbook and are not required per CEQA guidelines and requirements. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

Comment GG.4: Regarding the assisted and independent living/office space. The EIR lacks analysis in comparing the number of parking spaces required for office space to assisted living and the increased traffic congestion during commute hours. Office space will have considerably more impact to rush hour traffic than an assisted and independent living facility. The number of parking spaces and rush hour traffic is not fully assessed. The EIR states the assisted-living variant, and the office scenario parking configurations would remain the same however, there is no impact discussed regarding additional rush hour traffic congested with office space. The EIR must analyze impacts independently for each scenario.

Response GG.4: The analyses of traffic congestion provided within the LTA are provided per requirements of the City of San José and are not required per CEQA guidelines implementing SB 743. Therefore, the comment provides no substantive information in regard to the project's effect on traffic impacts per CEQA requirements, which are now based on VMT and no longer on vehicle delay. The project proposed 1,252 parking spaces (Table 2.0-1, Page 10 of the Draft EIR indicates there are 1,326 parking proposed. This will be updated in Section 5.0, Draft EIR Text Revisions of this Final EIR). Parking issues are not considered an impact under CEQA in that parking stalls are not an environmental resource, rather parking is an aspect of the project that can influence the degree to which project occupants, customers, and visitors drive to/from the site, and limiting parking supply can be a TDM measure to encourage travel to/from the site using alternative modes of travel. The Draft EIR appropriately evaluates the project based on the parking supply provided in the Project Description (Section 2.2 of the Draft EIR). The adequacy of the proposed parking supply for each project scenario is a planning issue to be covered in the Staff Report provided ahead of the public hearings.

Comment GG.5: Reference page 130 which requires the state to create bicycle lanes in new transit hubs. Future investments are supposed to seek reduce traffic bottlenecks to improve the efficiency of the regionals networks and expand mobility choices. However, adding a traffic light at the Camden and Taper Avenue intersection would create an additional bottle neck to traffic. Bicycle improvements in accordance with the San Jose Bike Plan 2020 and draft San Jose Better Bike Plan 2025 will reduce the number of traffic lanes on Camden which will create longer lines of traffic at the Camden Union stoplight. The newly proposed Camden and Taper Avenue signalized intersection would add to this congestion and cause more environmental hazards.

Response GG.5: Refer to Responses R.1, R.2, and R.4, which address the concern regarding the proposed traffic signal to be located at Taper Avenue and Camden Avenue. In 2020, the City completed build-out of the bicycle improvements identified in Bike Plan 2020. In October 2020, the City adopted its most current bicycle plan, Better Bike Plan 2025. While Better Bike Plan 2025 identifies Class IV

protected bicycle lanes along Camden Avenue, the bicycle lanes along Camden Avenue and Union Avenue are not part of the City's five-year list of facilities for implementation, therefore, the design of the bicycle lanes have not been developed yet. Along both the Camden Avenue and Union Avenue project frontages, the project is conditioned to construct 6-foot Class IV bikeways. The existing vehicular lanes along both Camden Avenue and Union Avenue and bus transit stops will be maintained with the implementation of the Class IV bikeways. Further, as noted in responses above, traffic congestion is not a CEQA impact.

Comment GG.6: Referenced page 135 section 3.8.2 impact discussion does not include an impact discussion around the addition of stoplights which cause vehicles to admit more CO_2 into the atmosphere. In addition, the additional traffic light at Camden and Taper Avenues is not consistent with Measure MS 2.3

Response GG.6: Please see Response GG.2. As explained more fully in Response GG.2, the contribution towards GHG emissions from idling vehicles at the traffic light would be negligible and would not change the project's consistency with the City's 2030 GHGRS nor the greenhouse gas emission impacts conclusions of less than significant in the Draft EIR. The project as a whole is consistent with Measure-2.3 in the GHGRS checklist, as the project utilizes solar orientation including building placement and landscaping in the project design, amongst other things, to reduce energy consumption, and the addition of an individual traffic light does not reasonably undermine this consistency.

Comment GG.7: Reference page 136 section B, "Plan Bay Area" - disagree with the statement that the project would contribute toward a long-term reduction in mobile sources automobile GHG emissions. Due to the increase in traffic lights this will slow traffic and cause major congestion and will increase mobile sources of GHG emissions.

Response GG.7: Please see Responses GG.2 and GG.6, which address the commenter's concern regarding mobile GHG emissions from vehicular congestion. Vehicular GHG emissions are primarily estimated based on vehicle miles traveled for vehicles under load (moving vehicles). Idling vehicles have very low emission rates (given the vehicle accelerator is not applied) compared to vehicles under load, i.e., when the gas pedal is pressed and substantial fuel is consumed and emissions are generated. Therefore, the contribution towards GHG emissions from idling vehicles as a result of increased congestion at intersections would be negligible and would not change the project's consistency with the City's 2030 GHGRS measures to reduce GHG emissions. Consistent with the Plan Bay Area goals to reduce GHG emissions, the project is a high-density, mixed-use development near transit, and within an identified Priority Development Area. Mobile emissions from vehicle miles traveled (VMT) is the primary contributor to global GHG emissions. The City's transportation goals and policies prioritize the improvement of multi-modal travel (walking, biking, and transit use) via land use planning and effective site design to reduce VMT (as these improvements would encourage alternative modes of travel). Therefore, the implementation of mixed-use projects, such as the proposed project, improvements to pedestrian, bicycle, and transit facilities along with project design promote the use of

alternative travel modes to meet the City's goals and reduce GHG emissions resulting from VMT (refer to Response EE.39).

Comment GG.8: Reference page 139 policy CD 3.2 and CD 5.1 is an incorrect statement. The EIR states there are two new main entrances to the site however Camden Avenue always had two entrances to the existing site and Union Avenue had multiple entrances to the site. This is later confirmed on page 170 section 3.11.1.2 existing conditions.

Response GG.8: As shown on Figure 2.0-3, Aerial Map and Surrounding Land Uses, Page 32 of the Draft EIR, the existing site has two right-turn in and out driveways that provide vehicle access to the site from Camden Avenue. On Union Avenue, there is one signalized intersection at Woodard Road and two driveways that provide vehicle access to the site. Section 3.8.2, Page 139 of the Draft EIR describes the proposed project's driveway access. The Draft EIR states there would be two new street entrances on Union Avenue and Camden Avenue (as shown on Figure 2.0-4, Page 32 of the Draft EIR). This sentence, on Page 139, has been revised to state that the project would have two main driveway entries on Camden Avenue and two on Union Avenue. This revision has been made to the Draft EIR in Section 5.0 of the FEIR. This revision does not change the project's consistency with policy CD-3.2 or CD-5.1 as the project's provision of bicycle connections to two major streets (Camden and Union Avenue) does not change.

Comment GG.9: Reference page 144 section 3.9.1.2 claims the northwest portion of the site was once the location of Camden high school. This is incorrect. Camden high school was located on the northwest corner of Camden and Union Avenues and not on the project site.

Response GG.9: Based on historic aerial photographs included in Appendix F, Phase I Environmental Site Assessment of the Draft EIR, the previous location of Camden Union High School is the northwest corner of Camden and Union Avenues). This revision has been made on Page 144 of the Draft EIR (refer to Section 5.0, Draft EIR Text Revisions of this FEIR). This revision does not change the impacts evaluation and conclusions of the Draft EIR.

Comment GG.10: Reference page 229 indicates the project will not increase traffic on Taper Avenue. Page 229 table 3.16-1 indicates 0 net daily project trips. This is an unreasonable assumption. There will certainly be an increase in traffic on Taper Avenue due to the project.

Response GG.10: The analyses provided within the LTA are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project. .

Comment GG.11: Reference page 230, new signalized pedestrian walkways would increase pedestrian safety and utilization without the need to create a signalized intersection at Camden and

Taper Avenues. This would meet general plan policies CD-3.3 and LU-9.1 which require a new development to create and maintain pedestrian friendly environments. This would also allow for pedestrian traffic to utilize the VTA bus stop on the north side of Camden Ave.

Response GG.11: This comment has been noted and does not question the adequacy of the Draft EIR analysis. Therefore, no further response is required. Please also see Response GG.3 regarding it being the ultimate decision of the City whether to signalize the Camden and Taper Avenue intersections, which decision does not impact the analysis or conclusions of the Draft EIR. The project would construct new sidewalks along the project frontages (including on Camden Avenue) to provide enhance pedestrian access to VTA bus stops on Camden Avenue. As stated in Response R.1, the proposed signal at Taper Avenue and Camden Avenue would enhance pedestrian safety. Therefore, the project would be consistent with General Plan Policies CD-3.3 and LU-9.1.

Comment GG.12: Reference page 239, section 3.16.3 Cumulative Impacts. Disagree the project meets greenhouse gas emissions targets. A project specific cumulative impact analysis must be developed. The reduction in traffic lanes on Camden to accommodate bicycle lanes will slow traffic and require traffic to be funneled. This will be aspirated by a signalized intersection at Camden and Taper Avenues which will cause additional slow traffic and congestion leading to more CO2 into the neighborhood. This is also emphasized on pages 246 and 247. A signalized light at Camden and Taper Avenues will affect the CMP and degrade intersection at Camden and Union Avenues from an acceptable LOS E to an unacceptable LOS F project condition. Reference page 248 existing conditions indicates the intersection of Union and Camden Avenue currently operates at an unacceptable level during the p.m. peak hour. Adding a light at Taper and Camden Avenues exacerbates this condition.

Response GG.12: Please see response GG.2. The project complies with the City's Greenhouse Gas Reduction Strategy, and therefore has a less than significant GHG impact. The Class IV protected bike lanes are planned along Camden Avenue as part of the City's Better Bike Plan 2025. However, the bike lanes along Camden and Union Avenues are not a component of the proposed project and are not part of the City's 5-Year list of facilities for implementation. Therefore, design, and need for removal of travel lanes along Camden Avenue, has yet to be determined and would be speculative. The City will determine the need for further study of the effects of the implementation of bike lanes on traffic operations independent of the City's decision on the proposed project. The addition of a traffic signal at Taper Avenue and Camden Avenue would degrade the level of service from LOS E to LOS F at Union Avenue and Camden Avenue. As discussed on Page 256 of the Draft EIR, the level of service would remain at LOS E and added project trips due to the project (including both the assisted living facility and office variants) would cause the intersections' critical-movement delay to increase by more than four seconds and the V/C to increase by more than 0.01 during the PM peak hour. Based on the City of San José's guidelines, this constitutes an adverse effect on intersection operations. To address this deficiency, the project applicant will provide a fair-share contribution towards Class IV protected bicycle lanes on Union Avenue and Camden Avenue along the opposite side of or beyond the project frontages.

Comment GG.13: Reference page 248, section "Future Project Conditions" did not include analysis of the San Jose Bike Plan 2020 or the draft Better Bike Plan 2025 to the future project conditions section. The Metzler A and C projects were not included in the analysis but must be considered. The future project conditions are not included for these very important projects. (GP20-003 1975 Cambrianna Drive project)

Response GG.13: Refer to Response FF.1 for a discussion of geographic areas considered in the Draft EIR cumulative analysis and Response GG.1. The Metzler A project was included in the cumulative LOS analysis and the cumulative analysis for resource topics with a Citywide, regional, global, and watershed geographic areas and the Metzler C project was not included in this analysis given the project was not on file at the time the NOP was released and the traffic analysis was conducted. A discussion of the project's consistency with the San José Better Bike Plan 2025 (which is the City's current bicycle plan) is included on Page 230 of the Draft EIR. There were no pending or approved projects on file with the City under the San José Better Bike Plan 2025 that were in place at the time of the Draft EIR analysis.

Comment GG.14: Reference page 250 Signal Warrants - Disagree with the statement "peak volumes at the Union Avenue in Cambrianna Drive intersection would not be sufficient to warrant signalization of the intersection." This intersection should be signalized because Metzler A and C projects will impact the traffic study.

Response GG.14: As discussed in the Draft EIR, the Signal Warrants analysis is based on the California Manual on Uniform Traffic Control Devices method which determined no signal was warranted at the Cambrianna Drive and Union Avenue intersection. The comment speculates, but provides no substantial evidence, to undermine this conclusion based on technical study from experts in the subject matter. Furthermore, as noted in Responses R.3 and GG.2, the Metzler A was included in the cumulative LOS analysis and the Metzler C project was not included in this analysis given the project was not on file at the time the NOP was released. Given the low number of trips that would be generated by the Metzler C (21 residential units and 14 ADUs) project, the addition of these project trips would not affect the results of the cumulative LOS analysis.

Comment GG.15: Page 257 and 258 indicates current freeways segments are already at LOS F. The conclusion of the Analysis states "The addition of traffic generated by each development alternative would therefore not result in the degradation of levels of service of any freeway segments." The analysis should indicate how much worse and whether anything can be done to improve.

Response GG.15: Please note that based on the California Senate Bill (SB) 743 and the City of San José's Transportation Policy (Council Policy 5-1), level of service (LOS), congestion, capacity, and delay are not considered an environmental impact. Based on CEQA Guidelines 15064.3, vehicle miles traveled (VMT) is the most appropriate measure for analyzing transportation impacts. Therefore, freeway segment congestion is not considered an environmental impact under CEQA. Furthermore, the underlying traffic volumes of the freeway segment capacity analysis

can be found in Table 20, Appendix H of the Draft EIR. Since the addition of traffic generated by each development alternative would not result in the degradation of levels of service of any freeway segments, the project would not be required to make a contribution toward improvements at the studied freeway segments.

Comment GG.16: Reference page 258 SR-17 northbound ramp. When were these measurements taken? These measurements may indicate faulty existing condition analysis if they were taken during 2020 or 2021.

Response GG.16: As stated on Page 258 of the Draft EIR, field observations of vehicle queues at the SR-17 were conducted in 2018 and 2019 (see Appendix H, Appendix B). These counts were used given the counts reflected pre-pandemic conditions in order to provide a more conservative assessment for the LTA.

Comment GG.17: Reference section 3.16.4 general observation - the operational issues do not include all projects scheduled within a 1-mile radius of this project and therefore this analysis is not complete.

Response GG.17: Refer to Response FF.1 regarding the geographic areas considered in the cumulative analysis. The traffic operational analysis completed for the proposed project adheres to the methodology approved as part of the City's Transportation Policy (Council Policy 5-1) and outlined in the City's Transportation Handbook. Relevant information regarding approved and pending projects in the project area for use in the study were provided by City staff at the time the study was initiated.

Comment GG.18: Reference page 262 - The Chelsea Drive entrance will feed a new public street which will run between Chelsea Drive and Taper Avenue. The report indicates calming measures will need to be implemented to prevent a cut-through route. The report does not consider a new signalized intersection at Camden and Taper Avenues will create a cut-through route from Chelsea Drive to Foxworthy Avenue. This paragraph conclusion should state "However the proposed 20-foot roadway along with the on-street parking may serve as a traffic common measure for the potential use of the new street as a cut-through route between the Chelsea Drive entrance and Foxworthy Avenue. Additional measure of not allowing traffic to continue from the new project road to cross Camden Avenue onto Taper Avenue must be implemented to prevent this as a cut-through issue." Suggest blocking all vehicles access from Camden Avenue to Taper Avenue.

Response GG.18: The analyses provided within the Local Transportation Analysis (LTA) are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

Comment GG.19: Page 263 modify the first paragraph, starting with the second sentence. Current: The new street could be used as a cut-through route to bypass congestion at the Union

Avenue/Camden Avenue intersection. The project will include raised crosswalks along the public street (as shown on the site plan at the community park and garden). The raised crosswalks will serve as a primary traffic calming measure by promoting vehicle drivers to slow down.

Modify: The new street could be used as a cut-through route to bypass congestion at Union Avenue/Camden Avenue intersection and the Union Avenue Foxworthy intersection. The project will include raised crosswalks along the public street (as shown on the site plan at the community park and garden). The raised crosswalks will serve as a primary traffic calming measure by promoting vehicle drivers to slow down. Taper Avenue will be blocked to through traffic at Camden Avenue to further prevent the bypassing of congestion at the Union Avenue/Camden Avenue intersection.

> **Response GG.19:** The analyses provided within the LTA are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project. .

Comment GG.20: Page 263 last bullet tries to convince the reader that a 25 mile an hour speed limit will deter user as a cut-through route. This is not a factual statement. A 25 mile an hour speed limit does not deter drivers from using a street as a cut -through route.

> **Response GG.20:** The Draft EIR (Page 263) states that a low posted speed limit (25 miles per hour) shall be implemented along the new public street to deter its use as a cut-through route street. The recommendation applies to the project's internal roadways/drive aisles. According to the Federal Highway Administration's (FHA) Institute of Transportation Engineers, traffic calming refers to measures designed to reduce traffic speed and accident numbers, discourage motorists from cutting through residential areas, and promote pedestrian and cycle use. The opinion that a 25 mile and hour speed limit does not deter drivers from using a street as a cut-through route is speculative and unsubstantiated.

HH. **Anne Riddell (dated January 3, 2022)**

Comment HH.1: This in response to the Draft EIR dated November 2021 for the Cambrian Park Mixed-Use Village Project. I appreciate the time those in your office took to discuss the EIR in December as it was helpful to clarify the proposed signalized light at Taper Avenue and Camden Avenue. As you know, our neighborhood is extremely concerned about the proposal of a signal light which allows full access to Taper Avenue coming both eastbound and westbound from Camden as well as traffic traveling north from the residential street of the project. Our neighborhood has always been one of families due to the good schools and access to freeways and expressways for working parents. Virtually everyone moving into the Cambrian Park neighborhood for the past few years are young families with young children. People walk with strollers and dogs and ride bikes with their children. Children walk to the local grade school and middle school and play outside aft er school. Allowing easy access into the neighborhood as proposed by the project and this EIR, would greatly

affect traffic and negatively affect our current family friendly neighborhood. A suggested alternative to solve this issue and keep our neighborhood safe is to prevent any access to Taper Avenue from Camden Avenue or the project. Allow Taper to exit to the right only and allow the new project proposed road (driveway C) to turn right and left onto Camden only.

> **Response HH.1:** The analyses provided within the LTA are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project..

Comment HH.2: In reading the EIR and Appendix H - Transportation Analysis, there are part of the analysis which don't make sense. It was quite frustrating to learn that the many new projects within two blocks of the Cambrian Park plaza were not taken into consideration at all when developing this report. These high density housing sites will cause additional traffic and environmental impacts to our neighborhood. Was the Cambrian Park Mixed-Use project and its impact on our neighborhood taken into consideration when those projects were approved?

- 43 new homes behind the Camden Community Center on Union Avenue between Camden & Foxworthy
- Metzler A project - land lease agreement with Silverado Memory Care on Union Avenue & Cambrianna
- Metzler C School Property project - 21 new homes, 14 with ADUs for 35 total residences on Cambrianna between Union & Taper Avenue

As for the project itself, there are 455 residential units and up to 299 hotel rooms proposed in the project.

> **Response HH.2:** As stated in Responses R.3 and FF.2, the Metzler A and 43-unit residential projects were included in the cumulative LOS analysis and the Metzler C project was not included in this analysis given the project was not on file at the time the NOP was released and the traffic analysis was conducted. Given the low number of trips that would be generated by the Metzler C (21 residential units and 14 ADUs) project, the addition of these project trips would not affect the results of the cumulative LOS analysis.

Comment HH.3: Page 30 of Appendix H. I would like help in understanding the VMT (Vehicle Miles Traveled) analysis. It states the project vicinity residential VMT is 10.3 per capita, while the employment is 13.1 per employee. It states the current citywide average is 11.91 for residential and 14.37 for employee. So, our VMT is currently less than the city average. It also states that a project is to be considered significant if it results in VMT of 10.12 for resident and 12.21 for employee. Per this, while our area is below the city average, it is already higher than what is considered significant. Then it goes on to state that per analysis, aft er the project, these numbers will magically go down to 8.96 for residential and 12.01 for employee. Please explain how this adds up? My understanding is that VMT is used to assess a project's impact on greenhouse gas emissions, air quality, and energy.

Besides adding more than 455 residential units (which will be more than 455 actual residents) and 229 hotel rooms with corresponding cars and/or Ubers for the hotel guests, there will be people working in the hotel, in the assisted living facility, in the 50,900 sq feet of retail and restaurants, plus all the people shopping and dining at the project. There is very little public transportation in our area, just a couple bus lines which even the EIR states will not have a big increase in ridership. The residents in our neighborhood work in places like Mountain View, Cupertino, Palo Alto, Santa Clara, north San Jose. How will adding more residents and employees decrease the VMT?

Response HH.3: The commentator is correct that the Citywide per capita VMT is 11.91 and regional average per employee VMT is 14.37. The commentator is also correct that the proposed project would result in a significant impact if it results in VMT that exceeds per capita VMT of 10.2 and per employee VMT of 12.21. The per capita VMT of 10.2 and VMT per employee of 12.21 are VMT thresholds set below the Citywide per capita and regional average per employee by 15% per Council Policy 5-1. The existing VMT of the site without the project development proposal is 10.3 per capita and 13.1 per employee which are higher than the Citywide per capita and per employee VMT thresholds. With the addition of the proposed development project, the VMT per capita drops to 8.96 and VMT per employee drops to 12.01 which are below the thresholds. This is because the diversity and high density of land uses proposed by the project (both employment and residential) and are large enough to reduce VMT for the project site. The City's thresholds noted above are based on VMT per person or employee, and so while overall VMT may increase with a given project as more residents or employees occupy a site, the VMT per resident or employee go down, as the new housing or new jobs provide opportunities for shorter commutes or reduction in trip lengths of other trips with the introduction of more mixed uses within the area. For example, since the project proposes both housing and jobs on the same site, residents may live and work in the same complex instead of driving further away to another job site. Similarly, residents are likely to shop within the same complex as opposed to traveling to another commercial site with similar amenities.

Developments located in an area with high density and diversity of complementary land uses, such as the proposed mixed-use project, are expected to 'internalize trips' and generate shorter and fewer vehicle trips than developments located in a suburban area with low density of residential developments and no transit service in the project vicinity. Therefore, VMT may be reduced per resident or employee, such as shown for the proposed project, when new land uses are introduced into an area that are complementary to the existing land uses.

The VMT analysis methodology is discussed in detail on pages 17 through 24 of the Transportation Analysis (included in Appendix H of the Draft EIR). The VMT analysis completed for the proposed project adheres to the methodology approved as part of the City's Transportation Policy (Council Policy 5-1) and outlined in the City's Transportation Handbook.

Comment HH.4: The Trip Generation section of Appendix H has many calculations which don't seem accurate. "it is estimated that development Alternative 1 would generate a total of 1,743 daily

trips, with 354 trips (142 inbound and 212 outbound) occurring during the AM peak hour and 14 trips (32 inbound and a reduction of -18 outbound) occurring during the PM peak hour." Just with the 229 hotel rooms, should there be full capacity during weekdays, the assumption would be that the bulk of these would be for business trips. People who travel to this area for business reasons would be leaving the hotel during peak AM hours. How is only 212 outbound trips reasonable with 455 residential units and 229 hotel rooms? That's just not logical. Even if there are people who work from home anyone who has children would be taking them to daycare or school, thus causing outbound trips.

Response HH.4: The traffic operational analysis completed for the proposed project (refer to Appendix H of the Draft EIR) adheres to the standard methodology approved as part of the City's Transportation Policy (Council Policy 5-1) and outlined in the City's Transportation Handbook. The referenced estimates of trips that would be generated by the proposed project are based on trips rates provided by the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition. The ITE trips rates are documented and based on an extensive amount of data and used for the study of all development projects throughout the City. It should be noted the peak hour is the busiest hour in the AM and PM commute periods, and there would be additional trips occurring for several hours before and after each peak hour, so that the total trips would be much greater than presented for the peak hour alone. That is to say a substantial amount of trips would occur before and after the AM peak hour, when 212 outbound trips are predicted, but the focus of the analysis is on traffic conditions during the most congested hour. The comment provides no substantive information in regard to the project's effect on traffic impacts per CEQA requirements, as the analyses provided within the Local Transportation Analysis (LTA) are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3, which requires traffic impacts be evaluated using VMT rather than level of service (LOS).

Comment HH.5: On Figure 16, page 43 of Appendix H, the Camden/Taper intersection shows only 52 cars leaving the projects in peak hours and it also shows them turning left or right only. It does not have any numbers going straight onto Taper. It also doesn't show any cars turning right onto Taper from Camden. Both of these are completely illogical with the proposal for a 4 way signal. Page 16 makes no mention of the fact that cars would be allowed to go straight from the project onto Taper Avenue.

Response HH.5: The traffic operations analysis (in Appendix H of the Draft EIR) evaluates the effects of development traffic, such as the proposed project, with a focus on necessary improvement of roadway facilities whose function is to provide throughfare between origin and ultimate destinations. Therefore, the assignment of project traffic should account for the use of the throughfares rather than smaller residential streets. The assignment of project trips is based on the use of the most direct route to complementary uses (trip attractors) using the identified trip distribution. The proposed Driveway C would primarily serve the single-family and townhome homes and hotel on the project site. The proposed Driveway C would not provide a direct route to/from the central areas of the project site. Project trips were not presumed to utilize Taper Avenue, north of Camden Avenue, because it does not

provide a direct route to major arterials and freeways to which the majority of residential and hotel uses would be bound for and originate from. Please see Response GG.10 regarding cut-through traffic. Furthermore, please note, the analyses provided within the Local Transportation Analysis (LTA) are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3, which requires traffic impacts be evaluated using VMT. Therefore, the comment provides no substantive information in regard to the project's effect on traffic impacts per CEQA requirements.

Comment HH.6: On Page 80, it states "The effects of project traffic on the surrounding study roadways were evaluated based on the collected traffic volume and speed data and estimated project traffic projections along the study roadway segments. The traffic volumes with project trips along each of the study roadway segments under development Alternatives 1 and 2 are summarized in Table 14. It is projected that the project would result in the addition of approximately 100-1,400 daily trips to each of the streets." The streets which are identified in the preceding paragraph as Taper Avenue, Charmeran Avenue, and Woodard Avenue. So, this paragraph states that there will be additional traffic onto Taper.

Response HH.6: The addition of approximately 100-1,400 daily trips is referring to those streets to which the proposed project would add traffic. There are streets, including Taper Avenue, as indicated in the referenced Table 14 of the LTA (refer to Appendix H of the Draft EIR), to which the proposed project would add no traffic or result in a decrease in traffic volumes. Furthermore, please note, the analyses provided within the Local Transportation Analysis (LTA) are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3, which requires traffic impacts be evaluated using VMT. Therefore, the comment provides no substantive information in regard to the project's effect on traffic impacts per CEQA requirements.

Comment HH.7: However, Table 14 on page 86 shows that there will be 0 (zero) additional cars traveling on Taper Avenue. This is completely false. The only way this would happen is if all access were denied to Taper from Camden or the project and that is not what the EIR states. This calculation alone makes me doubt the entire Traffic report. We have all used Waze and have driven through neighborhoods when we see cars backed up at a signal. Why would this intersection be any different? Anyone traveling north would be tempted to bypass what will be increased backup at Camden and Union and drive north on Taper. It is already the case where we see people speed north on Taper to turn left or right onto Foxworthy to escape the lights at Camden/Union and Leigh/Union. This would just increase with the additional traffic brought by the project and all the additional projects in the area. Foxworthy is already backed up during peak hours, so this would increase cars idling both on Foxworthy and Taper, increasing emissions. One big concern about the accuracy of this chart, is that with zero increase of traffic means that Taper Avenue does not meet the criteria for traffic calming and therefore is left off the subsequent Recommendations for Surrounding Roadways on page 87. There needs to be an additional and accurate review of this. I understand that this was done by consultants, however, my expectation is that the City of San Jose would review the work produced by the consulting firm to confirm the accuracy.

Response HH.7: Please refer to Response HH.5 which addresses Comment HH.7. Project trips were not presumed to utilize Taper Avenue, north of Camden Avenue, because it does not provide a direct route to major arterials and freeways to which the majority of residential and hotel uses would be bound for and originate from. As stated in R.2, existing speeding and traffic cut-through conditions on Taper Avenue are not caused by the project and would not be exacerbated by the project due to the minimal project-generated trips that would use Taper Avenue to get to and from Driveway C. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project. Furthermore, please note, the analyses provided within the Local Transportation Analysis (LTA) are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3, which requires traffic impacts be evaluated using VMT. Therefore, the comment provides no substantive information in regard to the project's effect on traffic impacts per CEQA requirements.

Comment HH.8: I also have a lot of concern about the San Jose Better Bike Plan 2025 and it's interaction with the traffic to and from the project. Page 91 of Appendix H talks about Planned Class IV Protected Bike Lanes on Camden, Bascom, Union, Leigh among other streets in the area. My understanding of Protected Bike Lanes is that it usually reduces the amount of street parking and/or car lanes. If that is the case, this would hugely impact the traffic coming to and from the project. It will be gridlock and push traffic onto the neighborhood streets like Taper Avenue. The future bike lanes MUST be a consideration in approving a project of this magnitude – it is irresponsible to do otherwise.

Response HH.8: As stated in Responses R7 and GG.5, Better Bike Plan 2025 identifies Class IV protected bicycle lanes along the streets listed in Comment HH.8. The bicycle lanes along Camden Avenue and Union Avenue are not part of the City's five-year list of facilities for implementation, therefore, the design of the bicycle lanes have not been developed yet. Along both the Camden Avenue and Union Avenue project frontages, the project is conditioned to construct 6-foot Class IV bikeways. The existing vehicular lanes along both Camden Avenue and Union Avenue and bus transit stops will be maintained with the implementation of the Class IV bikeways.

Comment HH.9: During the call with the city on December 17th, we mentioned that cars currently speed down our street. Someone from the traffic department said that the study done showed that the majority of the cars were within 5 mph of the posted 25 mph speed limit. However, when I reviewed the data from All Traffic Services on page 181 of Appendix H, the sensor for Taper Avenue was put at Taper Avenue between Camden and Bernice, which is the first street from Camden. It is a short section which curves and has a stop sign on the next block. The bulk of the speeding on Taper comes after Janet Avenue, when it's a straight shot past Cambrianna to Foxworthy Avenue. So, again, I question the validity of the data and methodology behind the traffic study, as it appears to try to minimize potential real impacts to traffic in our neighborhood.

Response HH.9: Comment HH.9 references existing speeding along Taper Avenue. The existing speeding is not caused by the proposed project nor would the proposed project result in a significant increase in traffic volumes along Taper Avenue (see Response GG.10).The analyses provided within the LTA are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project..

Comment HH.10: Lastly, I don't understand why the proposal is to close the Wyrick exit from the project. The streets are wider in that neighborhood and the lots are twice as large as north of Camden, therefore, there are fewer residents as north of Camden. Shutting of that exit will just push all the additional traffic from the project onto Union and Camden which will already be adversely affected both by the other multiple projects in the area such as the ones I've listed above and the new Harker Middle School (PD18-040) further south on Union.

Response HH.10: Comment HH.10 is correct in its suggestion that the closure of the existing Wyrick Avenue access point to the project site will result in a displacement of traffic to Union Avenue and Camden Avenue. The purpose of the closure is to provide an enhanced pedestrian and bicycle access point to the project site and eliminate the use of residential streets that currently serve the Wyrick access point. The displaced traffic due to the Wyrick Avenue access closure will be directed to the arterials of Camden Avenue and Union Avenue which are intended to be the primary throughput roadways to regional roadway facilities. The proposed closure of the existing Wyrick Avenue access point to the project site and its effects on surrounding streets were evaluated as part of the LTA (Appendix H of the Draft EIR). Furthermore, please note that based on California Senate Bill (SB) 743 and the City of San José's Transportation Policy (Council Policy 5-1), level of service (LOS), congestion, capacity, and delay are not considered an environmental impact. Based on CEQA Guidelines 15064.3, vehicle miles traveled (VMT) is the most appropriate measure for analyzing transportation impacts. Therefore, potential congestion on streets cause by the access closure of Wyrick Avenue is not considered an environmental impact under CEQA.

Comment HH.11: The biggest concern of mine is that a holistic view in which all projects and developments are reviewed and discussed should be the standard procedure and it does not seem to be done that way. Instead it feels like everything is piecemeal and no one is looking at the bigger picture except those of us affected by these projects. It is both frustrating and demoralizing. I am not against the development and in fact look forward to new restaurants and shops, but do not want it to adversely affect our neighborhood.

Response HH.11: Comment HH.11 has been noted. However, this comment does not question a specific topic in the Draft EIR analysis. The Draft EIR evaluates both the project (as a whole and not a piecemeal approach) specific impacts as well as the combined effects of cumulative projects with the project.

II. **Robin Scalise (dated January 3, 2022)**

Comment II.1: I'm a resident of the Cambrian area and have been for 26 years. I live on Elaine Drive off Geneva and am very concerned about the traffic light that is being proposed to open up Taper across Camden. Taper is a nice neighborhood street and opening it up will bring so much traffic as well as additional traffic to surrounding streets that cars will use to cut through to Leigh or Union. Kids walk to school or play in these neighborhoods and people walk their dogs. The last thing we want to see happen is more traffic than there already is in these neighborhoods. I am so disappointed with all the additional housing and traffic that will come with it that the City of San Jose is creating in what used to be nice, quite neighborhoods. We already have to deal with the homes and memory care center being built next to us and the additional traffic this will create as a result. I ask that you please reconsider not opening up Taper with a street light and please consider the fact that this is a neighborhood. I am quite certain that if it were your street you would not want more traffic

Response II.1: The analyses provided within the LTA are provided per requirements of the City of San José and are not required per CEQA Guidelines Section 15064.3. However, due to concern of potential future cut through traffic, the residents north of the project site voted during a community meeting held on June 9, 2022, to limit access at Taper Avenue from Camden Avenue to right-in and right-out only. The project will incorporate this change during the implementation phase of the project.

JJ. **Claire Tarquinio (dated January 3, 2022)**

Comment JJ.1: The San Jose Street Lighting Guide includes virtually everything that is needed to understand the requirements for adding new street lights and replacing older street lights with LED lights. Therefore, it may be suitable for inclusion in the environmental impact report. Included with it could be discussion of the plans for Cambrian Park Plaza related to street lighting.

Response JJ.1: The comment does not raise a specific issue with respect to the content or adequacy of the Draft EIR as an environmental document. For informational purposes, the project would include streetlights along internal roadways and drive aisles of the site. The project's street lighting would be consistent with the requirements of the City Council Street Lighting Policy 4-2.

Comment JJ.2: Something that was not mentioned in the environmental impact report was the subject of signal lighting design. However, I think that signal lights are a significant feature in the environment of Cambrian Park Plaza. To my knowledge, dimming signal lights at night is not currently practiced in San Jose. With much less ambient light at night, lower signal illumination would result in less glare, reduced power consumption and still provide good visibility to drivers. The Dim-By-Wire Lantern | BRAUMS is an example of one such light.

Response JJ.2: Signal lighting is not discussed in the Draft EIR, given it is not an environmental impact. The City of San José Department of Transportation provides guidelines and standards for traffic signal design. The design of the proposed traffic signals, including its luminaires, would be designed and constructed in conformance

with current City guidelines and subject to review and approval by the City. The Checklist Question d) on Page 42 requires projects to identify a new source of substantial light or glare which would adversely affect day or nighttime views in the area would be created. Signal lighting is not considered a substantial source of light and glare in an urban area. Therefore, the installation of signal lights would not be considered an impact under CEQA.

Comment JJ.3: The environmental impact report provides requirements for the developer to achieve. However, it does not always describe how the developer of Cambrian Park Plaza meets these requirements. For instance, Policy 4-3 described outdoor lighting requirements. However, nothing was said about how the requirements are planned to be met. In this case, this may be a good thing, because many of the requirements for Policy 4-3 incorrectly state what is the current reality.

Response JJ.3: As described in the Draft EIR (Page 42), the requirements of Council Policy 4-3 would be met by the use of energy-efficient outdoor lighting that is fully shielded and not directed skyward. The proposed lighting designs would be subject to review and approval by the City. The basis is unclear for the statement that requirements in Policy 4-3 are not based on current reality.

Comment JJ.4: City Council Policy 4-3 is quoted multiple times in the environmental impact report. Unfortunately, nearly everything in Policy 4-3 is either obsolete, poorly defined, ignored by code enforcement, or focuses solely on light pollution at the expense of other important aspects of good lighting. Until Policy 4-3 is updated, it should not be included in environmental impact reports. Click on OUTDOOR LIGHTING ON PRIVATEDEVELOPMENTS to view the source of much of the misinformation found in the environmental impact report related to outdoor lighting. Policy 4-3 requires low pressure sodium lighting. Now LED lighting is preferred. The policy requires that lights be turned off or a least dimmed after businesses close. This is widely ignored and not enforced according to the code enforcement person that I spoke with and my personal observation. I think that this policy, does not do enough to reduce light levels after hours but it provides at least a minimal reduction of light pollution. Are there plans to enforce these policies at Cambrian Park Plaza? Will Cambrian Park Plaza install lights that have the ability to automatically or manually be dimmed?

Response JJ.4: As described in the Draft EIR (Page 42), the project would be consistent with the City's Outdoor Lighting Policy 4-3 as well as the Citywide Design Standards for Lighting, Sections 2.3.7 and 3.3.8. In regard to types of fixtures, specific sections include Section 2.3.7, Guideline G3 which requires new development projects to install energy-efficient lighting fixtures that provide an adequate level of lighting for the safety of building occupants and visitors, without spilling onto adjacent properties. Guideline G5 requires new development projects to use daylight sensors for site lighting to limit excess lighting and conserve energy. Guideline G7 requires new development projects to choose fixtures with Backlight, Uplight, and Glare (BUG) rating of B0, U0, G0 and Guideline G8 requires projects to dim or turn off outdoor lighting from 11 PM to 6 AM. Comment JJ.4 discusses concerns about the adequacy of Policy 4-3 and not the Draft EIR. The merits of and any concerns about Policy 4-3 are beyond the scope of the project and should be discussed separate from the project with the City's Department of Planning and Building Code Enforcement. No further response to this comment is required.

Comment JJ.5: Policy 4-3 focuses almost exclusively on light pollution. Yet, lighting caries out many more functions that are ignored by the current policy. Horizontal and vertical illumination, safety, way-finding, aesthetics, energy conservation, and light trespassing to name a few. Policy 4-3 adheres to the cutoff lighting classification system requirements. Yet, the BUG (back light / up light / Glare) classification system is superior and is found in the San Jose Public Steet Lighting Guide that is derived from Policy 4-2. So to be consistent with other San Jose policies, the BUG system should be included. LEED certification is required for large developments by the City of San Jose. Yet, Policy 4-3 does not align with LEED certification. LED lights have the advantage of being able to be dimmed to provide better lighting for different activities or different groups of people. Therefore, outdoor lighting should be able to be configured with a variety of themes consistent with the activities that are being performed at the time. For instance, if the stage is included in the final design, the brightness and direction of the various light sources will need to change to provide optimum brightness and direction for the various outdoor areas. During a performance at night it may be important to provide brighter vertical illumination to the stage and lower illumination to the surrounding areas.

> **Response JJ.5:** Comment JJ.5 discusses concerns about the City's lighting policies and not the Draft EIR's evaluation of the project. The merits of and any concerns about Policy 4-3 are beyond the scope of the project and should be discussed separate from the project with the City's Department of Planning and Building Code Enforcement. No further response to this comment is required. However, the project would be consistent with the City's Outdoor Lighting Policy 4-3 as well as the Citywide Design Standards for Lighting, Sections 2.3.7 and 3.3.8, including BUG rating guidelines for outdoor lighting fixtures. (refer to Response JJ.4).

Comment JJ.6: The following are two sources that can be used to help design a more comprehensive policy as a replacement for Policy 4-2 and Policy 4-3

Lighting Practice: Environmental Considerations For Outdoor Lighting The above link provides the means to order the most recent document relating to this subject. The information provided was from the Illuminating Engineering Society of North America [IESNA]

An Architect's Guide To: Outdoor Lighting - Architizer Journal An architects Guide provides wonderful suggestions on how to best use lighting in the outdoor environment.

Policy 4-2 relates to street lighting while Policy 4-3 is related to outdoor lighting more generally. Yet, in some cases, Policy 4-2 may be more relevant to outdoor lighting than Policy 4-3. I don't mean to imply that Policy 4-2 can substitute for Policy 4-3. It can't. However, Policy 4-2 may be a good place to start in the development of a revised Policy 4-3. Even better, because street lighting coexists with other outdoor lighting, it may make sense to have a unified policy that combines the two or to have two policies that are better aligned with each other.

> **Response JJ.6:** Comment JJ.6 discusses concerns about the City's lighting policies and not the Draft EIR's evaluation of the project. The merits of and any concerns about the City's lighting policies are beyond the scope of the project and should be

discussed separate from the project with the City's Department of Planning and Building Code Enforcement. No further response to this comment is required.

Comment JJ.7: Lighting in the garages should also be considered. For instance, does lighting in the garages need to be on all the time? Or, can it be dimmed or turned off completely whenever people are not in the garage. It so, light sensors could then be triggered to turn on or off light as people enter or leave the garage. Garage lighting should be brighter during the day than it is at night due to people being adjusted to much brighter outdoor lighting during the day than they are at night. This will improve viability while reducing energy use.

Response JJ.7: Comment JJ.7 discusses garage lighting which is not an environmental impact given it is not exterior lighting as CEQA addresses impacts on the external environment. As discussed in Section 3.6, Energy (Page 111) of the Draft EIR, the project would comply with the California Building Code and Title 24 energy efficiency standards (which includes energy efficient lighting) to reduce energy use. Overhead garage lighting would be on motion sensors. Exit routes would have minimal lighting all the time as required by the California Building Code for safety.

Comment JJ.8: "3.12.1 Environmental Setting 3.12.1.1 Noise Factors that influence sound as it is perceived by the human ear include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure". Section 3.12.1 speaks of a number of different sources of noise and steps to mitigate them. But ironically, it did not include noise from performers using the stage at the park. The stage, even if only occasionally used, will likely result in loud sounds that could be interpreted as noise. Will this be okay with the nearby residents?

Response JJ.8: The stage is proposed near the center of the community park approximately 250 feet from the nearest existing residential land uses located on Wyrick Avenue and Bercaw Lane. The stage would be partially shielded by an earthen berm and two-to three-story single-family residences that would be constructed with the project along the southeast boundary of the project site. Since the stage would not be used for concerts or other formalized events that would have the potential to generate substantial noise, and would be shielded by intervening buildings, intermittent or infrequent noise occurring at the stage would not be significant at off-site residences. As such, this aspect does not change the noise impact evaluation and conclusions of the Draft EIR.

Comment JJ.9: Vehicle miles travel has replaced level of service as the criteria to determine whether a development meets CEQA transportation standards. I don't mean to deprecate many of the techniques advocated by this senate bill. Many of the suggestions are productive. However, some of them don't make much sense to me. In an era where many entities price their services based upon time of use due to lowered cost, greater efficiency, or environmental considerations, vehicle miles traveled seems to be taking us away from this trend. It also seems to be ignoring congestion as a source of pollution and reduction in efficiency. Does vehicle miles traveled ignore the harm of congestion and peak traffic volumes? If so, can additional requirements by San José supplement VMT?

Response JJ.9: As stated in the CEQA Guidelines Section 15064.3 and SB 743, vehicle miles traveled (VMT) is the appropriate measure of evaluating transportation impacts under CEQA. VMT is related to the daily vehicle trips and the distance vehicles (and is not related to peak hour trips). A project's effect on level of service and congestion is not a CEQA impact. The City's transportation goals and policies prioritize the improvement of multi-modal travel (walking, biking, and transit use) via land use planning and effective site design to reduce VMT (as these improvements would encourage alternative modes of travel). Therefore, the implementation of mixed-use projects, such as the proposed project, improvement to pedestrian, bicycle, and transit facilities along with project design promote the use of alternative travel modes to meet the City's goals.

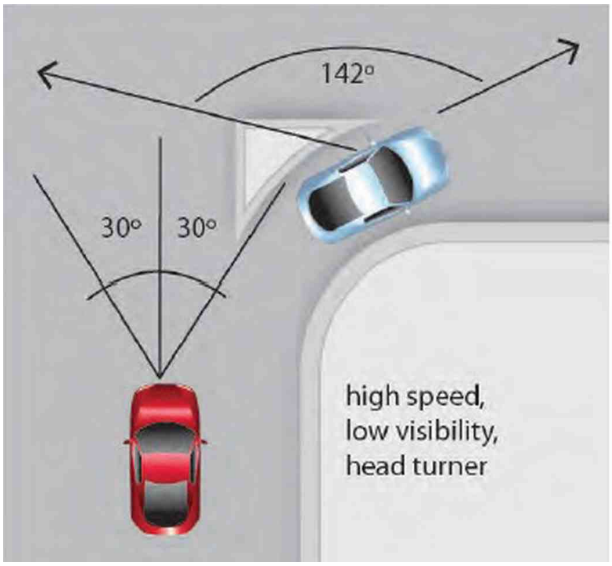
Vehicular emissions are primarily estimated based on vehicle miles traveled for vehicles under load (moving vehicles). Idling vehicles due to congestion have very low emission rates (given the vehicle accelerator is not applied) compared to vehicles under load, i.e. when the gas pedal is pressed and substantial fuel is consumed and emissions are generated.

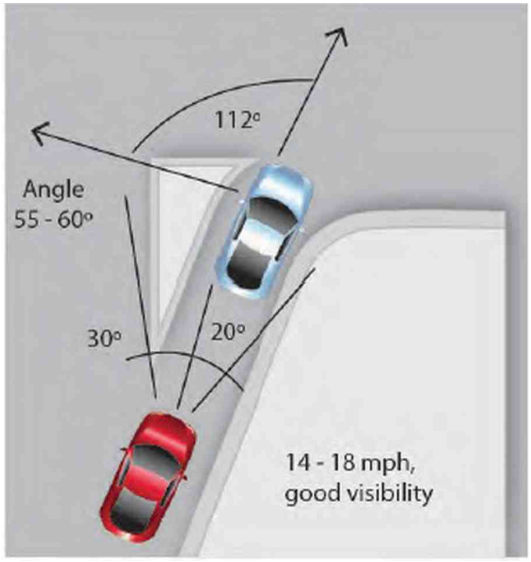
The merits of VMT analysis are beyond the scope of the project and this comment does not raise an issue regarding the adequacy or accuracy of the evaluation and conclusions of the Draft EIR as currently required to be studied under CEQA.

Comment JJ.10: Buttons to activate crosswalks can be configured so that a person can hold down the button for two seconds to increase the time for people to cross the street. This would be helpful for people who are older, people with strollers or small children, or other people who walk slowly. Can these buttons be included?

Response JJ.10: The City of San José Department of Transportation provides guidelines and standards for traffic signal design. Any changes, such as the pedestrian activation "buttons" would need to be reviewed and approved by City staff independent from the project. However, the comment provides no substantive information in regard to the project's effect on traffic impacts per CEQA requirements.

Comment JJ.11: I came across a picture (below) of what is claimed to be an improved slip lane. The improved lane on the right is narrower to encourage entry at a slower speed (although this might be problematic for large vehicles). Visibility on the left is maintained without having to look over one's shoulder. In addition, the radius of the curve at the end of the slip lane is smaller than the sample on the left. This further slows speed while the dedicated lane enables people to turn right without needing to worry about being hit by cross traffic. Drivers can more easily look directly ahead for pedestrians that might step into the roadway. Meanwhile there is an island for pedestrians to wait. I don't recall seeing this type of lane in San Jose before. Is it worth considering? What does research tell us about the safety and ease of use of this design? Unfortunately, this design would not be suitable to the right turn from Union onto Camden Avenue due to there not being a dedicated right turn lane. However, it may work for the other intersections assuming they have dedicated right turn lanes.





Response JJ.11: The improvements may include a signal modification with curb extension to enhance the safety of pedestrian crossings. The diagram shown in Comment JJ.11 is from a source found by the commenter and is not included in the Draft EIR main text or LTA. Channelized right-turn lanes are not currently provided at the Union Avenue and Camden Avenue intersection and are not proposed at this intersection by the project. Channelized turn lanes enhance vehicular throughput; however, channelized lanes are not considered pedestrian friendly because they create the need for longer crossing distances through the signalized intersection. The improvement of the City's roadway system focuses on the enhancement of non-vehicular travel modes. Therefore, implementation of referenced channelized lanes is not consistent with the City's transportation goals. The project is conditioned to perform a signal modification at the Union Avenue and Camden Avenue to implement tightened curb radii and to install directional ADA curb ramps at the southwest and southeast corners. .. The comment provides no substantive information in regard to the project's effect on traffic impacts per CEQA requirements (as it is related to traffic operations and not VMT, per SB 743).

Comment JJ.12: I wanted to reference an article from the Genesee Transportation Council regarding the number of traffic signals that should be added to arterial and connector streets. “Traffic signals are used to regulate traffic flow and preserve capacity along arterial routes. The ideal spacing for traffic signals is at least one half-mile apart (2,640 feet), which also corresponds to the preferred spacing of intersections between arterial and collectors. This represents about four to six blocks, depending on the block length. A minimum spacing of one-quarter mile (two to three blocks) should always be maintained. When the spacing between signals falls below one-quarter mile (1,320 feet), the traffic flow along the route may be disrupted. The ability of the route to carry through traffic will decrease, travel speeds may decrease, and traffic delays and queues may develop at intersections. There is also some evidence from research that placing more than three traffic signals per mile on an arterial increases the traffic accident rate” Microsoft Word - Intersection Spacing and Traffic Signal Spacing.doc (gtcmpo.org) Click the above link for the entire article. The signal at the intersection at

Chelsea and Union will be the ninth signal in less than a mile along this section of Union Avenue Even with coordination, so many lights in such a short distance is bound to be problematic.

Response JJ.12: Comment JJ.12 primarily discusses vehicular congestion, delay, and queueing along Union Avenue and suggests the addition of a signal at the Chelsea Drive and Union Avenue intersection will worsen conditions. The traffic signal would be installed in accordance with the City's traffic signal design standards and recommendations. Protected signalized crossings are recommended at a minimum of 500 feet between traffic signals to prevent unsafe and uncontrolled pedestrian crossings. [The primary purpose of a traffic signal is to provide a safe-controlled point of access to and from side streets along major thoroughfares such as Union Avenue to minimize collisions. The lack of a traffic signal at intersections along major thoroughfares relies on driver judgement to determine when it is safe to access these thoroughfares and results in increased risks for collisions. Furthermore, signalized intersections along major thoroughfares provide a controlled crossing point for pedestrians and is consistent with the City's transportation goals and policies which prioritize the improvement of multi-modal travel (walking, biking, and transit use) such as safe-crossing of roadways. The comment provides no substantive information in regard to the project's effect on traffic impacts per CEQA requirements (as it is related to traffic operations and not VMT, per SB 743).

Comment JJ.13: According to the traffic analysis the number of vehicles currently using Wyrick each day is 467. The number of trips that are estimated to be generated including both single family homes and townhouses. Is 636. That is a difference of 169 more trips after development as opposed to before. Keep in mind that Wyrick can be seen as the base of a fan. It immediately splits into three streets and then splits some more. So in reality, the number of extra vehicles on each of the surrounding streets is minimal after vehicles enter or leave via Wyrick. One wonders whether the significant expense of adding an intersection at Chelsea and the delay in traffic progression on Union as a result is worth a relatively insignificant increase in traffic that would occur if Wyrick was used instead.

Response JJ.13: Please refer to Response JJ.12 which addresses Comment JJ.13 and the commenter's concern regarding adding a traffic signal at the Chelsea Drive and Union Avenue intersection. Furthermore, the comment provides no substantive information in regard to the project's effect on traffic impacts per CEQA requirements (as it is related to traffic operations and not VMT, per SB 743).

Comment JJ.14: The traffic analysis recommends Union Avenue have coordinated signals between Charmeran and Camden. This is due to only 500 to 600 foot queuing areas for upstream vehicles. This makes Union Avenues a candidate for coordination. However, there are arguments that present reasons why coordination will have limited usefulness on Union Avenue. Coordination provide greater benefits when there is a significant difference between the number of vehicles traveling in one direction and the number traveling in the opposing direction. At the Woodard, Chelsea, and Charmeran intersections there is expected to be essentially the same amount of traffic headed north as is headed south in the morning hours. During evening hours the difference is greater. However, due to the similarity of the two directions in the morning, the benefit of coordination may be more limited. In addition, side streets of coordinated streets often experience reduced influence on when

they experience green lights. So coordination of Union Avenue might increase congestion and less frequent green lights on side streets.

Response JJ.14: Comment JJ.14 primarily notes that traffic signal coordination on Union Avenue may increase traffic congestion. As stated in Page 10 of the LTA in Appendix H of the Draft EIR, signal timing at four intersections along Union Avenue (at the Camden Avenue, Woodard Road, Chelsea Drive, and Charmeran Avenue intersections) would be coordinated to reduce queuing issues and increase traffic progression. Also, the City's transportation goals and policies prioritize the improvement of multi-modal travel (walking, biking, and transit use) via land use planning and effective site design. Therefore, with the implementation of mixed-use projects, such as the proposed project, improvement to pedestrian, bicycle, and transit facilities along with project design promote the use of alternative travel modes to meet the City's goals. The improvement of the transportation system continues to consider vehicular travel to an extent (such as signal timing and coordination), however adding vehicular capacity to the roadway system when the additional capacity may have an adverse effect on alternative mode of travel does not align with the City's goals and policies. The comment is noted but does not provide substantive information in regard to the project's effect on traffic impacts per CEQA requirements (as it is related to traffic operations and not VMT, per SB 743).

Comment JJ.15: The biggest “side street” of all to Union Avenue is Camden Avenue. There are two major sources of traffic for Union Avenue originating on Camden Avenue. One source is east bound traffic turning right onto Union combined with traffic continuing south from Union Ave. The other source is for vehicles turning left from Camden onto Union Avenue. Won’t having two significant sources of traffic make coordination of traffic on both Union and Camden be problematic?

Response JJ.15: Comment JJ.15 refers to the coordination of signals along Union Avenue and infers that its intersection with Camden Avenue will complicate coordination of signals. However, the signal coordination described in the transportation analysis would occur at intersections south of Camden Avenue. The coordination of Camden Avenue and other intersections south along Union Avenue will likely not be possible because the traffic progression along Camden Avenue must also be maintained to and from State Route 17. The implementation of signal coordination along Union Avenue will be determined by City of San José Department of Transportation. However, the coordination of signals along Union Avenue is not required to mitigate a specific environmental impact. Therefore, the comment does not provide substantive information in regard to the project's effect on traffic impacts per CEQA requirements (as it is related to traffic operations and not VMT, per SB 743).

Comment JJ.16: The amount of traffic from other side streets along Union Avenue varies dramatically. The driveway into Cambrian Park Plaza that aligns with Woodard is expected to have far more traffic than that coming from the other driveway that meet at Chelsea. Doesn’t the substantial differences in traffic volume on the side streets add to the difficulty in coordination on Union? Obviously there is an even greater difference in traffic on Camden than any of the other side streets.

Response JJ.16: Based on Figures 21, 22, 23 and 24 on Pages 54-57 and 59-62 in the LTA (Appendix H of the Draft EIR), peak hour traffic volumes coming from Woodward Road to the project driveway on Union Avenue and Woodward Road would be greater than the traffic volumes coming from Chelsea Drive to the project driveway, at its intersection with Union Avenue. The signal timing coordination on Union Avenue would account for the project's traffic volumes at Union Avenue intersections. Furthermore, the comment provides no substantive information in regard to the project's effect on traffic impacts per CEQA requirements (as it is related to traffic operations and not VMT, per SB 743).

Comment JJ.17: Presumably coordination also affects the lengths of queues for the various streets. No mention was made in the traffic analysis whether the sizes given for queues are determined for a coordinated Union Avenue or an uncoordinated one. Does it make a difference?

Response JJ.17: Projections of vehicular queues within the LTA (Appendix H of the Draft EIR) do not reflect the effects of the referenced signal coordination along Union Avenue. The coordination is only a recommended roadway improvement that should be considered to provide serve traffic progression along Union Avenue to the greatest extent possible. The implementation of signal coordination along Union Avenue will be determined by City of San José Department of Transportation. However, the coordination of signals along Union Avenue is not required to mitigate a specific environmental impact. Therefore, the comment does not provide substantive information in regard to the project's effect on traffic impacts per CEQA requirements (as it is related to traffic operations and not VMT, per SB 743).

Comment JJ.18: No mention was made for coordinating Camden Avenue. However, for both morning and evening commute times the number of vehicles heading in the busier direction represents two thirds of the number of vehicles traveling in the opposite direction That means that roughly twice as many vehicles are headed in the busier direction for both the morning and evening commute hours. Although, generally the space required for queuing is more likely to be adequate on Camden than it is on Union, there is a far greater difference in the proportion of traffic heading in each direction on Camden. In addition, the streets that intersect Camden often have relatively low traffic volumes. So in terms of vehicle progression, coordination on Camden may result in a significant improvement of progression. An added benefit is the reduction of noise is due to less often starting and stopping of vehicles. Why was Camden Avenue not recommended as a candidate for coordination? Would the coordination of both Camden and Union be a good idea?

Response JJ.18: The intent of the recommended signal coordination is to serve traffic progression along Union Avenue with the introduction of a new signal at Chelsea Avenue to the greatest extent possible. The implementation of signal coordination along Union Avenue will be determined by City of San José Department of Transportation. Likewise, the need and feasibility of signal coordination along Camden Avenue will be determined by City of San José Department of Transportation. However, the coordination of signals along Union Avenue is not required to mitigate a specific environmental impact. Therefore, the comment does not provide substantive information in regard to the project's effect on traffic impacts

per CEQA requirements (as it is related to traffic operations and not VMT, per SB 743).

Comment JJ.19: The intersection on Chelsea is expected to be lightly used to access the homes on New Public Street. Unfortunately, by creating a signal at the intersection one reduces the size of the queues for the other coordinated intersections.

Response JJ.19: Comment JJ.19 has been noted. However, this comment does not question the adequacy of the Draft EIR analysis. Therefore, no further response is required.

Comment JJ.20: Another way to deal with the insufficient space to queue on Union Avenue would be to shorten the cycle time for the signal on Union and Camden. Avenue. This would reduce the need for space for vehicles to queue on Union Avenue. Is this a viable option?

Response JJ.20: Please refer to Response JJ.14, which addresses Comment JJ.20. As stated in Response JJ.14, signal timing at four intersections along Union Avenue (at the Camden Avenue, Woodard Road, Chelsea Drive, and Charmeran Avenue intersections) would be coordinated to reduce queuing issues and increase traffic progression.. Furthermore, the comment does not provide substantive information in regard to the project's effect on traffic impacts per CEQA requirements (as it is related to traffic operations and not VMT, per SB 743).

Comment JJ.21: If the traffic at Union and Camden is so congested that planners expect that vehicles will avoid this intersection on the day Cambrian Park Plaza reopens then we can expect increasing congestion as San Jose continues to increase in density. Changes to the intersection in the future are likely to be impractical due to the scale of the buildings that will occupy the adjacent roadways.

Response JJ.21: This comment pertains to traffic congestion, which is beyond the scope of CEQA based on SB 743. Please refer to Response JJ.14, which addresses Comment JJ.21.

Comment JJ.22: The north bound, south bound, and west bound left turn lanes at the Camden and Union Avenue intersection are all expected to be too short to carry all the vehicles that need to queue during morning or evening rush hours, and even may be too short during non-commute hours. After improvements are made, there will still be inadequate space projected for these lanes. Therefore, during rush hour thousands of vehicles will be delayed causing congestion, wasting of resources, and creating additional pollution. Traffic engineers admit that, after completion, delays will be so significant that many drivers will take other routes to avoid the congestion. This will increase the vehicle miles traveled for these drivers. This is true even if it does not show up in the statistics.

Response JJ.22: This comment pertains to traffic congestion, which is beyond the scope of CEQA based on SB 743. Please refer to Response JJ.14, which addresses Comment JJ.22. As stated in Response JJ.9, idling vehicles due to congestion have very low emission rates (given the vehicle accelerator is not applied) compared to vehicles under load, i.e. when the gas pedal is pressed and substantial fuel is

consumed and emissions are generated. The VMT and operations analyses included within the LTA are independent of one another. The City's adopted methodologies and impact criteria were utilized for the evaluation of the project's effect on VMT.

Comment JJ.23: There will be home driveways on New Public Street that will be just a few feet away from Camden Avenue. Hopefully, drivers exiting from New Public Street will be courteous enough to permit people exiting from their driveways to pull out and exit at the intersection. However, home owners entering from Camden may find the entrance to their driveway blocked by drivers leaving at New Public Street. Won't the home owners attempting to access their driveway block other drivers behind them?

Response JJ.23: Comment JJ.23 is noted as providing design commentary about the project's internal roadways but does not provide substantive information in regard to the project's effect on traffic impacts per CEQA requirements. No further response is required.

Comment JJ.24: Cars and small trucks have fixed costs that can be many thousands of dollars per year and variable costs that may be as little as ten or fifteen cents per mile. Its unreasonable to expect that people will sacrifice their time and be inconvenienced for only a few cents per mile once they already own the car. Therefore, I think that car sharing may make a significant dent in the vehicle miles traveled. Car sharing can be achieved by having a rental car agency on the premises or one that will deliver vehicles to residents at a low cost. Ideally, rentals will be available at reduced costs for time spans of as little as one hour. Another option would be for residents to share other vehicles. If this could be made a cultural norm then people would be motivated to not own a car. If they don't own a car or couples share a single car with each other then other means of satisfying their needs become more attractive. This would make walking, riding bikes, and taking public transit much more attractive.

Response JJ.24: The comment does not appear to state a specific concern regarding the adequacy of the evaluation or the conclusion of less-than-significant VMT impact in the Draft EIR. Furthermore, as stated in Section 3.6.1.3, Project Impacts, Page 112 of the Draft EIR, the project will implement a Transportation Demand Management (TDM) Plan for commercial uses that would reduce vehicle trips and VMT, including car-sharing, bicycle sharing, and transit incentive programs. The project does not propose to have a rental car agency onsite.

Comment JJ.25: Increasing the fixed costs of car ownership can also be achieved by unbundling parking from the cost of rent. This would make the cost of renting an apartment lower than renting in a comparable apartment complex that bundles parking in with the rent. Of course, this may not be profitable to the operator of the apartment if the parking spaces would not otherwise be used. This would presuppose that the number of parking spaces built were roughly equivalent to the demand for parking at the given price.

Response JJ.25: Comment JJ.25 has been noted, and unbundling parking from the cost of rent is an acknowledged TDM measure that could be considered by the project applicant. However, this comment is not related to the adequacy of the EIR analysis and no further response is required.

Comment JJ.26: The current trend of increasing the use of delivery services should be accommodated by providing lockers at centralized locations near to where a person works or lives. In this way "deliveries" could be tailored to meet the time constraints of the business person or resident. Increasingly, robots are being used to deliver products. However, robots require that the environment is suitable for their operation. Is it possible to configure Cambrian Park Plaza to be navigable by robots in the future?

> **Response JJ.26:** Comment JJ.26 has been noted for consideration by the project design team. However, this comment is not related to the adequacy of the EIR analysis and no further response is required.

Comment JJ.27: With the Senior Living Center in the same development, servicing medical needs would be an important addition. Therefore, I think the following would be of particular interest to senior residents

- Doctors offices
- Urgent Care
- Pharmacy

> **Response JJ.27:** As stated in Section 2.2.2, Proposed Project, Page 9 of the Draft EIR, the proposed assisted living facility would provide housing and personalized health care services to individuals who require assistance with daily living activities. The facility would not include doctor's offices, urgent care, or pharmacies. However, the nearest hospital is Good Samaritan Hospital located at 2425 Samaritan Drive, approximately 0.8 miles southwest of the site. Furthermore, this comment is not related to the adequacy of the EIR analysis and no further response is required.

Comment JJ.28: I was left with the impression that traffic on both Union and Camden Avenue will be congested with no room to add additional lanes. I was thinking that if New Public Street were to be reconfigured to be a street with one through lane in each direction plus dedicated right and left turn lanes where needed, and it was open to all vehicles rather than simply for residents on New Public Street then the vast majority of problems listed above would be mitigated. Of course this would make the current design of New Public Street as a residential street unworkable. New Public Street would need to be completely rethought. At this stage in the planning this may be unthinkable. Still, the thought of virtually all of the congestion going away is a tempting one. The advantages of such a change would be:

- Effectively, the majority (perhaps all) of the drivers that would otherwise turn left from Camden onto Union Avenue would turn left from Camden onto the new Taper Avenue (the northeast corner of the development). It may even be possible to eliminate the left turn from Camden onto Union Avenue. This would eliminate the queuing problem for those turning left onto Union Avenue. This would require the closing of Bercaw to enable a long left turn pocket to be added

- Vehicles who must now wait to turn right onto Camden Avenue from Union Avenue due to being blocked by people waiting to go north, will now turn right at Union Avenue at the New Taper Avenue access point instead. This will dramatically reduce the number of vehicles queuing in the north bound lanes of Union Avenue. This would require using part of the frontage road that borders Union Avenue and is south of New Public Street as right turn lane.
- With fewer vehicles turning at the Union Avenue and Camden Avenue intersection, the cycle length at this intersection could be shortened dramatically and create more frequent cycles. This would reduce or eliminate the need to coordinate traffic on Union Avenue because with shorter cycles the cars queuing would be far shorter.
- The new intersections would off-load much of the volume of traffic from Camden Avenue and Union Avenue onto the New Taper Avenue.
- The amount of space devoted to roads may be about as much as is required in the current plans.
- Part of the new Taper Avenue and main street could be underground to provide easy access to the garages and maintain the pedestrian nature of Cambrian Park Plaza.
- Because drivers in the current plan would need to travel the length of both Camden and Union Avenues to reach the intersection at Chelsea, the New Taper Avenue plan would result in much shorter driving distances with less congestion.

Response JJ.28: Comment JJ.28 primarily discusses vehicular congestion, delay, and queueing along Union and Camden Avenues and suggests various roadway improvements or adjustments to reduce congestion on roadways. The comment also suggests that identified signal coordination may not work or have adverse effects on vehicular travel. The City's transportation goals and policies prioritize the improvement of multi-modal travel (walking, biking, and transit use) via land use planning and effective site design. Therefore, the implementation of mixed-use projects, such as the proposed project, improvement to pedestrian, bicycle, and transit facilities along with project design promote the use of alternative travel modes to meet the City's goals. Adding vehicular capacity to the roadway system when the additional capacity may have an adverse effect on alternative mode of travel does not align with the City's goals and policies. The comment is noted but does not provide substantive information in regard to the project's effect on traffic impacts per CEQA requirements (as it is related to traffic operations and not VMT, per SB 743).

The intent of arterials such as Union Avenue and Camden Avenue is to serve vehicular throughput. Ideally, any traffic congestion should be focused on these major roadway thoroughfares rather than smaller residential streets, Furthermore, the addition of roadway capacity, such as that recommended by the use of the project roadway, is not consistent with the City of San José policies which aim to improve the transportation system to encourage the use of non-auto travel modes

Comment JJ.29: "Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive transportation demand management (TDM) program, or developments located near major transit hubs or within Urban Villages and other growth areas". Not only will there need to be a minimum number of parking spaces, parking spaces

will need to be easily found and prioritized according to the needs of the entity. It might be okay for a person shopping at a store to be have a long walk to the store. However, this may be unacceptable to a patron of the hotel when they have baggage to carry. That means there will need to be a system that will enable patrons of businesses and residents to easily locate an available parking space close to their destination Yet, this same parking space needs to be available for other entities whenever the original driver did not need it. All this needs to be done, even if the driver is unfamiliar with the parking garages and the location of their destination. https://www.parkingdetection.com/

Response JJ.29: Comment JJ.29 has been noted. The ability for future residents and patrons to find parking spaces within the project site is not a CEQA-related issue. Therefore, no further response is required.

Comment JJ.30: A car does not need to be fully autonomous in order to influence the way people park their cars. The car seen in the video Mercedez Self Parking is a 2021 Mercedes Benz capable of locating a parking space and parking itself. When it is next needed it will drive itself to pick up the driver. Presumably, there will already be tenants that will have this technology by the time Cambrian Park Plaza is rebuilt. Will the garage be an appropriate design to accommodate them? How will this influence parking lot designs twenty years in the future if the majority of tenants or visitors have it?

Response JJ.30: Comment JJ.30 has been noted. The possible future use of self-parking automobiles is not a CEQA-related issue. Therefore, no further response is required.

Comment JJ.31: Policy TR-8.6: Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive transportation demand management (TDM) program, or developments located near major transit hubs or within Urban Villages and other growth areas. With a limited number of parking spaces it may be necessary that users of the garage are closely monitored and vehicles that are abandoned or not authorized are removed quickly. In the environmental impact report mention is made of uncoupling parking from the rental of living spaces. I think that this is a great idea. This will encourage people to have fewer vehicles and enable people with more than the permitted number of cars to park them in the garage. However, these policies may create issues regarding who is entitled to be in the garage at night. An Automated Parking Management might resolve some of these issues.

Response JJ.31: Comment JJ.31 has been noted. The proposed parking garages would be accessed from driveways located at Union Avenue and Woodward Road and Camden Avenue and Taper Avenue. Automated parking management is not proposed by the project; however, the operations of the proposed parking garages is not a CEQA-related issue. Therefore, no further response is required.

Comment JJ.32: I doubt if people will want to bother to plug in their vehicle and return later in the day to unplug and move their car. For this reason, there will need to be ample electric vehicle charging stations to enable people to plug in when they arrive and unplug when they leave. By the time Cambrian Park Plaza is completed more people will have electric cars and there will be increasing demand as time passes. That may mean having many people who may want to plug in their vehicle even if it is already partially charged. Electric Vehicle charging equipment capable of load sharing would enable this to be done. However, there would need to be some means to

distinguish those that needed a quick charge from those that could wait many hours for their vehicle to be charged. To minimize the cost of installation it might make sense to use load sharing for Electric Vehicles. https://evocharge.com/resources/how-electric-vehicle-charging-load-management-works/

Response JJ.32: The project proposes 97 electric vehicle charging stations and will be in compliance with the Reach Code . The cost of installing electric vehicle charging is not a CEQA-related issue. Therefore, no further response is warranted.

Comment JJ.33: "Street names are to be selected by the developer and submitted to the Department of Planning, Building and Code Enforcement for clearance and approval before the tract map is recorded"

"C. Streets continuing for some length in one general alignment shall have only one name". On a map this intersection is shown as the Chelsea and Union Avenue intersection. Stratford is a short block away. However, that is hard to tell when looking at this street name sign. You can't see the arrow that is pointing to the right on the Chelsea sign in the picture. I think these street name signs were meant to be located a block further west to tell people to go one way for Stratford and the other for Chelsea. I feel that this sign confuses drivers as to what is the name of the roadway at this intersection. Chelsea, New Public Street and Taper could all be name Taper in order to comply with the San Jose naming conventions. Chelsea meets with Stratford with a few houses from Union Avenue. So only three or four house would need to change their street names.

Response JJ.33: Comment JJ.33 has been noted. However, this comment concerning street names is not a CEQA-related issue. Therefore, no further response is required. City staff will determine street naming requirements and consider the comment in that context.

Comment JJ.34: Main Street could be seen as a continuation of Woodard Road. Should the current Main Street be a continuation of Woodard Road?

Response JJ.34: Response JJ.33 addresses Comment JJ.34 (please refer to this response).

Comment JJ.35: The park is dominated by an amphitheater. I have a couple of concerns regarding it. The first is that performances will likely result in loud sounds which may be interpreted as noise for some. The second is that it may draw large crowds. Both of these may be problematic for nearby residents. The final concern is that it dominates the theme of the park and when unused may look out of place. If there is an anticipation that it will be used regulatory as an amphitheater and not disturb residents then this would be a wonderful addition. If it is likely to be rarely used as an amphitheater, should some other use them be considered? The park may be better served by another theme that is more appropriate for general use. Perhaps a garden setting with shrubs and beds of flows would be more appropriate.

Response JJ.35: The stage is proposed near the center of the community park approximately 250 feet from the nearest existing residential land uses located on Wyrick Avenue and Bercaw Lane. The stage would be partially shielded by an

earthen berm and two-to three-story single-family residences that would be constructed with the project along the southeast boundary of the project site. Since the stage would not be used for concerts or other formalized events that would have the potential to generate substantial noise, and would be shielded by intervening buildings, intermittent or infrequent noise occurring at the stage would not be significant at off-site residences. As such, this aspect does not change the noise impact evaluation and conclusions of the Draft EIR. Therefore, the project does not propose to replace the amphitheater use. The remaining concerns and opinions in Comment JJ.35 are not related to CEQA or the adequacy of the EIR analysis and no further response is required.

SECTION 5.0 DRAFT EIR TEXT REVISIONS

This section contains revisions to the text of the Cambrian Park Mixed Use Village project Draft EIR dated November 2021. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Page 9 Section 2.2.2, Proposed Project; the text will be **REVISED** in the fifth paragraph as follows:

Single-Family Homes

The project includes 48 single-family homes, located on both sides of the proposed new street along the east/southeast boundary of the site. ~~Eighteen~~ Twenty seven of the single-family homes will include accessory dwelling units (ADUs), which consist of ~~300 to 400~~ 440 square feet of living space within the footprint of the home and having a separate exterior door, which can function as a separate living unit or in-law quarters.

Page 10 Section 2.2.2, Proposed Project; the text will be **REVISED** in Table 2.0-1 as follows:

Table 2.0-1: Development Summary

Proposed Land Use	Size	Parking Provided	Parking Ratio
Hotel	229 rooms	275 spaces	1.2/room
Ground Floor Retail/Restaurant	4,610 square feet		
Assisted Living and Independent Living/Office	110 assisted living rooms 50 independent senior units/ 160,000 s.f.	81 25 ~~180~~ spaces	1.2/1,000 s.f.
Apartments	305 units	458 spaces	1.5/unit
Ground Floor Retail/Restaurant	50,990 s.f.	230 spaces	5/1,000 s.f.
Townhouses	25 units	63 spaces	2.5/unit
Single-Family Homes	48 units, Including 27 ~~18~~ ADUs	120 spaces	2.5/unit
Community Park / Publicly Accessible Open Space	4.0 acres	-	-
Residential and Commercial Common and Private Open Space	6.2 acres		
s.f. = square feet			

Page 19 Section 2.2.2, Proposed Project; the text will be **ADDED** to the fifth paragraph as follows:

The proposed project would provide 1,012 below-grade parking spaces, 94 surface parking spaces, and 146 private garage spaces, for a total of 1,252 parking spaces (including 97 EV parking stalls).

Page 51 Section 3.3.1.3, Existing Conditions; the text under Existing Air Pollutant Levels will be **REVISED** as follows:

The data shows that during the past few years, the project area has exceeded the state and/or federal O_3, PM_{10}, and $PM_{2.5}$ ambient air quality standards. ~~**Error! Reference source not found.**~~ Table 3.3-2 lists air quality trends in data collected at the San José Station for the past five years and published by the BAAQMD, which is the most recent time-period available.

Pages 56-57 Section 3.3.2, Impact Discussion; Checklist Question b); Table 3.3-4 will be **REVISED** as follows:

Table 3.3-4: CalEEMod Land Use Inputs and Project Land Uses

Land Uses	Size	Units	Square Feet/Acres
CalEEMod Land Use Inputs			
Apartments	320	Residential units	340,220 s.f.
Sit Down Restaurant (ground floor of apartment building)	--	--	42,000 s.f.
Retail (Strip Mall/ground floor of apartment building)	--	--	18,000 s.f.
Hotel	230	Rooms	165,740 s.f. (includes rooms and 4,610 s.f. of retail/restaurant space)
Enclosed Parking	1,225	Space	490,000 s.f.
Surface Parking (Parking Lot)	98	Space	39,200 s.f.
Single-Family Homes	49	Residential units	113,620 s.f.
City Park (Publicly Accessible Park)	--	--	2.26 acres
Other Non-Asphalt Surfaces (Open Space)	--	--	319,470 s.f./7.3 acres
Alternative 1: Assisted Living Building (Congregate Care)	185	Rooms	160,000 s.f.
Alternative 2: General Office Building	--	--	160,000 s.f.
Proposed Project Land Uses			
Apartments	305	Residential units	348,390 s.f.
Sit Down Restaurant (ground floor of apartment building)	--	--	35,695 s.f.
Retail (Strip Mall/ground floor of apartment building)	--	--	15,295 s.f.
Hotel	229	Rooms	165,740 s.f. (includes rooms and 4,610 s.f.

Table 3.3-4: CalEEMod Land Use Inputs and Project Land Uses			
Land Uses	**Size**	**Units**	**Square Feet/Acres**
			of retail/restaurant space
Enclosed Parking	1,158 ~~1,012~~	Space	490,000 s.f.
Surface Parking	94	Space	39,200 s.f.
Single-Family Homes	48 (with 27 ADUs)	Residential units	113,588 s.f.
Publicly Accessible Park	--	--	2.3 acres
Open Space	--	--	7.9 acres
Alternative 1: Assisted Living Building	160	110 Assisted Living Rooms 50 Independent Senior Living Units	125,740 s.f. (Assisted Living Space) 58,320 s.f. (Independent Senior Units)
Alternative 2: General Office Building	--	--	160,000 s.f.
Notes: The proposed project and the modeled assumptions are approximately the same size. The increase in square footage of the Assisted Living Building by 20,000 square feet would not change the construction assumptions.			

Page 59 Section 3.3.2, Impact Discussion, Checklist Question b); the text in mitigation measure MM AIR-2.1 will be **REVISED** as follows:

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

1. All diesel construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 emission standards (i.e., Tier 4 Interim ~~or Final~~ engine standard) for NO_x and PM (PM_{10} and $PM_{2.5}$), if feasible, otherwise,

    a. If use of Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination). The use of Tier 3

equipment shall not exceed 5 percent of all equipment usage (described in terms of total horsepower hours during a phase).

Page 59 Section 3.3.2, Impact Discussion, Checklist Question b); the text in Impact AIR-1 will be **ADDED** as follows:

Impact AIR-1: Project construction could result in significant fugitive dust (DPM and $PM_{10)}$ emissions.

Mitigation Measures: The following mitigation measures are proposed as part of the project to reduce significant fugitive dust impacts to a less than significant level.

Page 61 Section 3.3.2, Impact Discussion, Checklist Question b); the text in Impact AIR-2 will be **ADDED** as follows:

Impact AIR-2: Emissions from construction activities would exceed the BAAQMD criteria pollutant threshold of 54 pounds per day for NO_x emissions for the first two years of construction by up to 47 pounds per day for both project variants (Alternatives 1 and 2).[239] **(Significant Impact)**

Mitigation Measures: The following mitigation measures are proposed as part of the project to reduce significant construction NO_x emissions impacts to a less than significant level.

Page 63 Section 3.3.2, Impact Discussion, Checklist Question b); the text under the first paragraph will be **ADDED** and **REVISED** as follows:

The project could potentially include three stand-by emergency diesel generators located in the first basement levels of the mixed-use residential and retail building, assisted living (Alternative 1)/office (Alternative 2) building, and hotel building. Generator specifications are not known at the time of this study, so the generators analyzed in this assessment are estimated to be as large as 500-kilowatts (kW) powered by 670 horsepower (HP) diesel engines. Generators are typically tested periodically and would power the buildings in the event of a power failure. For modeling purposes, it was assumed that these generators would be operated primarily for testing and maintenance purposes that require, perhaps, about one hour per month of operation. California Air Resources Board (CARB) and BAAQMD requirements limit these engine operations to 50 hours each per year of non-emergency operation. The modeling assumed that total operation of the generators would be 50 hours per year. The emissions for three emergency generators on-site were evaluated and are shown in Table 3.3-6.

[239] Development Alternative 1 would include 48 single-family houses, 25 townhouses, 305 apartment units, 229 hotel rooms, up to 40,481 square feet of restaurant space, 17,349 square feet of retail, and a 180-bed assisted living complex. Alternative 2 includes the same land uses as Alternative 1, with the exception of the replacement of the assisted living complex with 160,000 square feet of office space.

Annual emissions were predicted using CalEEMod and daily emissions were estimating assuming 365 days of operation. Table 3.3-6 shows net average daily operational emissions of ROG, NO_X, total PM_{10}, and total $PM_{2.5}$ during operation of the project.

~~**Table 3.3-6: Operational Period Emissions**~~

~~***Scenario***~~	~~***ROG***~~	~~***NOx***~~	~~***PM_{10}***~~	~~***$PM_{2.5}$***~~
~~2024 Assisted Living Variant Annual Project Operational Emissions (*tons/year*)~~	~~7.07~~	~~4.60~~	~~5.12~~	~~1.47~~
~~2024 Office Variant Annual Project Operational Emissions (*tons/year*)~~	~~7.19~~	~~4.95~~	~~5.60~~	~~1.60~~
~~2024 Annual Existing Operational Emissions (*tons/year*)~~	~~2.71~~	~~2.48~~	~~3.40~~	~~0.93~~
~~Assisted Living Variant Net Annual Emissions~~	~~4.36~~	~~2.13~~	~~1.72~~	~~0.54~~
~~Office Variant Net Annual Emissions~~	~~4.48~~	~~2.47~~	~~2.20~~	~~0.67~~
~~*BAAQMD Thresholds (tons /year)*~~	~~*10 tons*~~	~~*10 tons*~~	~~*15 tons*~~	~~*10 tons*~~
~~***Exceed Threshold?***~~	~~*No*~~	~~*No*~~	~~*No*~~	~~*No*~~
~~2024 Assisted Living Variant Net Daily Operational Emissions (*pounds/day*)[1]~~	~~23.9~~	~~11.7~~	~~9.4~~	~~3.0~~
~~2024 Office Variant Net Daily Operational Emissions (*pounds/day*)[1]~~	~~24.6~~	~~13.5~~	~~12.1~~	~~3.7~~
~~*BAAQMD Thresholds (pounds/day)*~~	~~*54* lbs.~~	~~*54* lbs.~~	~~*82* lbs.~~	~~*54* lbs.~~
~~***Exceed Threshold?***~~	~~*No*~~	~~*No*~~	~~*No*~~	~~*No*~~

~~Notes: [1] Assumes 365-day operation.~~

Table 3.3-6: Operational Period Emissions

Scenario	***ROG***	***NOx***	***PM_{10}***	***$PM_{2.5}$***
2024 Assisted Living Variant Annual Project Operational Emissions (*tons/year*)	7.07	4.60	5.12	1.47
2024 Office Variant Annual Project Operational Emissions (*tons/year*)	7.19	4.95	5.60	1.60
2024 Emergency Diesel Generators Annual Emissions *(tons/years)*	0.08	0.23	0.01	0.01
2024 ADU's Annual Project Operational Emissions (*tons/year*)	0.11	0.09	0.14	0.04
2024 Assisted Living Variant Total Annual Emissions (*tons/year*)	7.26	4.92	5.27	1.52
2024 Office Variant Total Annual Emissions (*tons/year*)	7.38	5.27	5.75	1.65
2024 Annual Existing Operational Emissions (*tons/year*)	2.71	2.48	3.40	0.93
Assisted Living Variant Net Annual Emissions	4.55	2.44	1.87	0.59
Office Variant Net Annual Emissions	4.67	2.79	2.35	0.72
BAAQMD Thresholds (tons /year)	*10 tons*	*10 tons*	*15 tons*	*10 tons*
Exceed Threshold?	*No*	*No*	*No*	*No*
2024 Assisted Living Variant Net Daily Operational Emissions (*pounds/day*)[1]	24.93	13.37	10.25	3.23

Table 3.3-6: Operational Period Emissions				
2024 Office Variant Net Daily Operational Emissions (*pounds/day*)[1]	25.59	15.29	12.88	3.95
BAAQMD Thresholds (pounds/day)	*54* lbs.	*54* lbs.	*82* lbs.	*54* lbs.
Exceed Threshold?	*No*	*No*	*No*	*No*
Notes: [1] Assumes 365-day operation.				

Page 64 Section 3.3.2, Impact Discussion, Checklist Question c); the text in the first paragraph will be **REVISED** as follows:

During project operation, the project would generate some truck traffic, consisting of mostly light-duty vehicles. ~~The project does not propose any onsite stationary sources (e.g., emergency generator with diesel engine) at the time of this analysis.~~ The project could potentially include three stand-by emergency diesel generators on the basement levels of the mixed-use residential and retail building, assisted living (Alternative 1)/office (Alternative 2) building, and hotel building.

Page 68 Section 3.3.2, Impact Discussion, Checklist Question c); the text in Table 3.3-6 will be **REVISED** as follows:

Table 3.3-6: Maximum Project Risk Impacts at the Off-Site Receptors				
Source		**Cancer Risk (per million)**	**Annual $_{PM2.5}$ ($\mu g/m^3$)**	**Hazard Index**
Project Construction (Years 0-3)	Unmitigated	**69.58[1]**	**0.49[2]**	0.02[1]
	Mitigated	7.14[1]	0.09[2]	<0.01[1]
Project Operation – Traffic (Years 4-7)	Alternative 1 Traffic	0.88	0.15	<0.01
	Alternative 2 Traffic	0.91	0.16	<0.01
Project Operation – Three 500-kW, 670-HP Generators (Years 4-7)		0.46	<0.01	<0.01
Total Project Impact –Alternative 1 Assisted Living	Unmitigated	**70.92**	**0.49**	0.02
	Mitigated	8.48	0.15	<0.01
Total Project Impact –Alternative 2 Office Variant	Unmitigated	**70.95**	**0.49**	<0.01
	Mitigated	8.51	0.16	<0.01
BAAQMD Single-Source Threshold		***>10.0***	***>0.3***	***>1.0***
Exceed Threshold?	Unmitigated	***Yes***	***Yes***	*No*
	Mitigated	*No*	*No*	*No*
Notes: [1]Based on the location of the Early Discoveries CDC – Cambrian Park daycare. [2]Based on the location of a single-family home.				

Table 3.3-6: Maximum Project Risk Impacts at the Off-Site Receptors

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Early Discoveries CDC – Cambrian Park Daycare (MEI)			
Project Construction (Years 0-3) Unmitigated	**69.58**[1]	**0.49**[2]	0.02[1]
Mitigated	7.14[1]	0.09[2]	<0.01[1]
Project Operation (Years 4-7)			
Assisted Living Variant Traffic	0.88	0.15	<0.01
Office Variant Traffic	0.91	0.16	<0.01
Total Project Impact – Includes Assisted Living Variant Traffic			
Unmitigated	**70.46**	**0.49**	0.02
Mitigated	8.02	0.15	<0.01
Total Project Impact – Includes Office Variant Traffic			
Unmitigated	**70.49**	**0.49**	<0.01
Mitigated	8.05	0.16	<0.01
BAAQMD Single-Source Threshold	***>10.0***	***>0.3***	***>1.0***
Exceed Threshold?			
Unmitigated	***Yes***	***Yes***	*No*
Mitigated	*No*	*No*	*No*
TrueHeart Family Daycare Exposure[3]			
Project Construction Unmitigated	8.06	0.03	<0.01
Mitigated	0.83	<0.01	<0.01
Project Operation (Years 4-7)			
Assisted Living Variant Traffic	0.09	0.01	<0.01
Office Variant Traffic	0.10	0.01	<0.01
Total Project Impact – Includes Assisted Living Variant Traffic			
Unmitigated	8.15	0.03	<0.01
Mitigated	0.92	0.01	<0.01
Total Project Impact – Includes Office Variant Traffic			
Unmitigated	8.16	0.03	<0.01
Mitigated	0.93	0.01	<0.01
Residential Exposure[3]			
Project Construction Unmitigated	**23.96**	**0.49**	0.02
Mitigated	2.42	0.09	<0.01
Project Operation (Years 4-30)			
Assisted Living Variant Traffic	0.25	0.15	<0.01
Office Variant Traffic	0.27	0.16	<0.01
Total Project Impact – Includes Assisted Living Variant Traffic			
Unmitigated	**24.21**	**0.49**	0.02
Mitigated	2.67	0.15	<0.01
Total Project Impact – Includes Office Variant Traffic			
Unmitigated	**24.23**	**0.49**	<0.01
Mitigated	2.69	0.16	<0.01

Notes: [1]Based on the location of the Early Discoveries CDC – Cambrian Park daycare.
[2]Based on the location of a single-family home to the east of the site.
[3]Listed for informational purposes
Bold denotes an exceedance of the single-source threshold.

Pages 110-111 Section 3.6.2, Impact Discussion; Tables 3.6-3 and 3.6-4 and text will be **REVISED** as follows:

Table 3.6-3: Assisted Living Variant Annual Energy Demand		
Land Use	**Electricity (kWh)**	**Natural Gas (kBtu)**
Apartments Mid Rise – 320 units	1,321,070	2,764,620
City Park – 2.26 acres	0	0
Townhouses – 25 units	126,136	468,075
Assisted Living – 185 beds	763,745	1,598,300
Hotel – 230 rooms	1,262,940	7,343,940
Single-Family Housing – 49 units ~~(incl. 18 ADUs)~~	396,438	0
ADUs – 27 units	218,845[a]	0
Strip Mall – 18,000 square feet	192,420	42,660
Sit Down Restaurant – 42,000 square feet	1,374,240	8,730,960
Enclosed Parking with Elevator – 1,225 spaces	2,871,400	0
Parking Lot – 98 spaces	13,720	0
Total:	8,540,954~~8,322,109~~	20,948,555
Existing Development	*1,928,820*	*403,912*
Increase:	**6,612,134 ~~6,393,289~~**	**20,544,643**

Source: Illingworth & Rodkin, Inc. *Cambrian Park Plaza Air Quality and Greenhouse Gas Emission Assessment*. April 2021 ~~September 18, 2020~~.

[a] Note that the electricity for 27 ADUs is conservative since these were modeled as single-family houses. The electricity usage for the ADUs would be less than the modeled estimate. In addition, the model assumed natural gas usage for all uses except the single-family houses and ADUs. This is a conservative estimate since the project would have no natural gas usage, except for the commercial kitchen in the assisted living facility per the City's Reach Code.

As shown in Table 3.6-3 above, implementation of the Assisted Living Variant would increase electricity use on-site by approximately 6.64 million kWh per year and natural gas usage by approximately 20.5 million kBtu per year.

Table 3.6-4: Office Variant Annual Energy Demand		
Land Use	**Electricity (kWh)**	**Natural Gas (kBtu)**
Apartments Mid Rise – 320 units	1,321,070	2,764,620
City Park – 2.26 acres	0	0
Townhouses – 25 units	126,136	468,075
Office – 160,000 square feet	2,852,800	2,619,200
Hotel – 230 rooms	1,262,940	7,343,940
Single-Family Housing – 49 units	396,438	0
ADUs – 27 units	218,845[a]	0
Strip Mall – 18,000 square feet	192,420	42,660

Table 3.6-4: Office Variant Annual Energy Demand		
Sit Down Restaurant – 42,000 square feet	1,374,240	8,730,960
Enclosed Parking with Elevator – 1,225 spaces	2,871,400	0
Parking Lot – 98 spaces	13,720	0
Total:	10,630,009 ~~10,411,164~~	21,969,455
Existing Development	*1,928,820*	*403,912*
Increase:	**8,701,189 ~~8,482,344~~**	**21,565,543**

Source: Illingworth & Rodkin, Inc. *Cambrian Park Plaza Air Quality and Greenhouse Gas Emission Assessment*. April 2021 ~~September 18, 2020~~.

[a]Note that the electricity for 27 ADUs is conservative since these were modeled as single-family houses. The electricity usage for the ADUs would be less than the modeled estimate. In addition, the model assumed natural gas usage for all uses except the single-family houses and ADUs. This is a conservative estimate since the project would have no natural gas usage, except for the commercial kitchen in the assisted living facility per the City's Reach Code. In addition, 320 apartment units and 49 single-family units were modeled. The project proposes 305 apartment units and 48 single-family units. Therefore, the energy for these units provided in this table provides a conservative estimate.

As shown in Table 3.6-4, implementation of the Office Variant would increase electricity use on-site by approximately 8.7~~5~~ million kWh per year and natural gas usage by approximately 21.6 million kBtu per year.

Pages 112-113 Section 3.6.2, Impact Discussion; the text in the last paragraph of Page 12 will be **REVISED** as follows:

The project is a mixed-use development that would create housing and jobs in a city that currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident). The implications of this imbalance are that many residents leave San José five times per week to commute to and from work, typically by personal vehicle. By adding 455~~394~~ units of additional housing (includes 428 standard units and 27 ADUs) in the City and up to approximately 200 jobs (assuming one worker per 300 square feet of commercial/retail space provided) under the Assisted Living Variant and approximately 730 jobs under the Office Variant, the proposed project would incrementally decrease the imbalance between jobs and employed residents.

Page 136 Section 3.8.2, Impact Discussion; the text will be **ADDED** after the second paragraph as follows:

- **Condition of Approval**: The project would include a condition of approval that requires 10 percent of building materials to be local (from within 100 miles) and recycling or reusing at least 50 percent of construction waste or demolition materials.

Page 139 Section 3.8.2, Impact Discussion; General Plan Policy Conformation; the text in the third paragraph will be **REVISED** as follows:

Policies CD-3.2 & CD-5.1: The project provides bicycle connections to the two adjacent major streets, with two new ~~street~~ driveway entrances on Union Avenue and two new driveway entries on Camden Avenue. In addition, the project includes direct pedestrian and bicycle access to the proposed commercial plaza area and community park via the main entrance to the site at the Camden Avenue/Union Avenue intersection, and a pedestrian/bicycle path at the Wyrick Avenue entrance on the east side of the site. New public streets with sidewalks and pedestrian/bicycle paths throughout the site are designed to accommodate the anticipated increase in pedestrian and bicycle activity on the site, as well as providing pedestrian and bicycle connectivity to the surrounding community.

Page 143 Section 3.9.1.1, Regulatory Framework, Regional and Local; the text will be **ADDED** after the first paragraph as follows:

Santa Clara Valley Water District Ordinance 90-1

Santa Clara Valley Water District (Valley Water) regulates the classification, construction, and destruction of wells and other deep excavations. This ordinance requires the permitting for digging, boring, drilling, deepening, refurbishing, or destroying a water well, observation well, monitoring well, exploratory boring (45 feet or deeper), or other deep excavation that intersects the groundwater aquifers of Santa Clara County. A project must first obtain a permit from the district's Wells and Water Production Unit before conducting these activities.

Page 144 Section 3.9.1.2, Existing Conditions; Historical Uses of the Project Site; the text will be **REVISED** as follows:

Based on the 1968 aerial photograph, Camden High School was located northwest of the site (on Camden Avenue).~~the northwest portion of the site was once the location of Camden High School~~.

Page 147 Section 3.9.1.2, Existing Conditions; Other Environmental Conditions; the text will be **ADDED** as follows:

According to the Santa Clara Valley Water District (SCVWD), an abandoned well is present on the northwestern portion of the project site, near the current Bank of the West building. The abandoned 726-foot well was a water production well operated by San Jose Water Works. The well has a sanitary seal located near the former gas station as of 1996.

In addition to the abandoned well identified in Draft EIR Section 3.9.1.2, Existing Conditions under the Other Environmental Conditions subheading on page 147, there are two remediation wells and two monitoring wells with permit numbers: 14W00317, 14W00318, C20151008001-1 and C20151008002-1, located at the center of the property. These wells were installed to monitor and remediate contamination from a prior dry cleaner on-site, which is discussed in Section 3.9.1.2, Existing Conditions, pages 144 through 146.

Page 151 Section 3.9.2 Impact Discussion, Checklist Question b; the following text will be **ADDED** after the second paragraph as follows:

On-site Wells

As stated in Section 3.9.1.2, there are two existing remediation wells and two monitoring wells on-site.

Condition of Approval: On-site wells shall be closed in accordance with applicable regulations, including Ordinance 90-1, upon demolition of buildings and remediation of soils, which are to be subject to an approved remediation plan. All investigatory and remedial work is being completed under the regulatory oversight of the San Francisco Bay Regional Water Quality Control Board (RWQCB).

Page 162 Section 3.10.1.2, Existing Conditions; the text in the first paragraph under the discussion of Storm Drainage will be **ADDED** as follows:

Runoff from the site is ultimately discharged into Los Gatos Creek and Ross Creek which flows to the Guadalupe River and then the San Francisco Bay.

Page 162 Section 3.10.1.2, Existing Conditions; the text in the third paragraph under the discussion of Flooding will be **REVISED** as follows:

Based on the SCVWD dam failure inundation hazard maps, the project site is within the Lenihan Dam/Lexington Reservoir failure inundation zone. Most of the site is subject to a maximum inundation depth of less than one feet and small portions of the site are subject to inundation depths of one to two feet. ~~the project site is outside of both the Lexington Dam and Anderson Dam failure flood inundation hazard zones.~~

Page 166 Section 3.10.2, Impact Discussion, Checklist Question d); the text will be **REVISED** as follows:

Based on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (Map No. 06085C0243H ~~06085C0228H~~, dated May 18, 2009), the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard. There are no floodplain requirements for Zone D.

Page 162 Section 3.10.1.2, Existing Conditions; the text in the second paragraph under the discussion of Flooding will be **REVISED** as follows:

Based on the SCVWD dam failure inundation hazard maps, ~~the project site is outside of both the Lexington Dam and Anderson Dam failure flood inundation hazard zones~~ the project site is within the Lenihan Dam/ Lexington Reservoir failure inundation zone. Most of the project site subject to a maximum inundation depth of less than one feet and small portions of the site are subject to inundation depths of one to two feet.

Page 165 Section 3.10.2, Impact Discussion, Checklist Question b); the text in the first paragraph will be **REVISED** as follows:

The proposed project is located within the Santa Clara Subbasin, one of two groundwater basins located within the City of San José Urban Growth Boundaries. Planned buildout within the scope of the 2040 General Plan does not include areas within any of the Santa Clara Valley Water District's numerous recharge facilities (operated in seven major recharge systems)~~18 major groundwater recharge systems~~. The Santa Clara Subbasin has not been identified as a groundwater basin in a state of overdraft.

Page 166 Section 3.10.2, Impact Discussion, Checklist Question d); the text will be **REVISED** as follows:

The project is located in a Flood Zone D according to FEMA Flood Insurance Rate Maps. A Flood Zone D indicates undetermined flood hazard for the site and is reserved for areas where no flood hazard analysis has been conducted. The project site is located outside of the 100-year floodplain of Los Gatos Creek, the closest waterway to the site. Based on the SCVWD dam failure inundation hazard maps, ~~the project site is outside of both the Lexington Dam and Anderson Dam failure flood inundation hazard zones.~~ the project site is within the Lenihan Dam/ Lexington Reservoir failure inundation zone. As stated in Section 3.9.2, Impact Discussion, Checklist Question a), Page 148, the storage of small quantities of cleaning supplies and maintenance chemicals on-site would be in compliance with applicable federal, state, and local handling, storage and disposal requirements. In addition, the project site is located inland of the San Francisco Bay and would not be subject to inundation following a tsunami or seiche.[240] Therefore, the project would not risk release of pollutants due to inundation from flooding, tsunamis, or seiches.

Page 166 Section 3.10.2, Impact Discussion, Checklist Question d); the text will be **REVISED** as follows:

The project is located in a Flood Zone D according to FEMA Flood Insurance Rate Maps. A Flood Zone D indicates undetermined flood hazard for the site and is reserved for areas where no flood hazard analysis has been conducted. ~~The project site is located outside of the 100-year floodplain of Los Gatos Creek, the closest waterway to the site~~. The project site is not located within a Special Flood Hazard Area (SFHA), since flood risks are undetermined, but possible in the area.

Pages 184-185 Section 3.12.2, Impact Discussion, Checklist Question a); the text will be **REVISED** as follows:

Mitigation Measures: The potential short-term noise impacts associated with construction of the project would be mitigated by the implementation of General Plan Policy EC-1.7, which requires the use of available noise suppression devices and techniques and limits construction hours near residential uses per the City's Municipal Code. For such large or complex projects, such as the

[240] California Department of Conservation. *Santa Clara County Tsunami Inundation Maps.* https://www.conservation.ca.gov/cgs/tsunami/maps/Santa-Clara. Accessed August 31, 2020.

proposed project, the Policy requires the implementation of a construction noise logistics plan. The following mitigation measures are therefore proposed as part of the project to reduce construction noise impacts to a less than significant level.

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

- Construction shall be limited to the hours of 7:00 AM to 7:00 PM Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement or Director's designee that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. Work outside of the allowable hours of operation would not be allowed and would be corrected by the disturbance coordinator if violated.

- The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.

- The unnecessary idling of internal combustion engines shall be prohibited.

- Staging areas and stationary noise-generating equipment shall be located as far as possible from noise-sensitive receptors such as residential uses (a minimum of 200 feet).

- The surrounding neighborhood shall be notified early and frequently of the construction activities.

- A "noise disturbance coordinator" shall be designated to respond to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.

Pages 185-186 Section 3.12.2, Impact Discussion, Checklist Question a); the text will be **REVISED** as follows:

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

- Utilize 'quiet' models of air compressors and other stationary noise sources where technology exists.
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment when located within 200 feet of adjoining sensitive land uses. Temporary noise barrier fences would provide a five dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- If stationary noise-generating equipment must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used. Any enclosure openings or venting shall face away from sensitive receptors.
- Ensure that generators, compressors, and pumps are housed in acoustical enclosures.
- Locate cranes as far from adjoining noise-sensitive receptors as possible.
- During final grading, substitute graders for bulldozers, where feasible. Wheeled heavy equipment are quieter than track equipment and should be used where feasible.
- Substitute nail guns for manual hammering, where feasible.

- Substitute electrically powered tools for noisier pneumatic tools, where feasible.

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

The noise reduction measures implemented as part of the construction noise logistics plan would provide a minimum of 5 dBA of noise reduction assuming the acoustical shielding provided by temporary noise barriers. Average construction noise levels would be reduced to 81 dBA L_{eq} at 50 feet from the center of the construction activity when shielded by noise barriers. The mitigated construction noise levels would exceed ambient daytime hourly average noise levels (59 dBA L_{eq}) by 5 dBA L_{eq} when construction occurs within 350 feet of the worst-case receptors (Bercaw Lane residential receptors). The area represented by the 350-foot distance encompasses about one-third of the project site. Approximately two-thirds of the project site would be developed outside of the 350 foot impact zone. In addition, the vast majority of proposed construction activities would occur near the northwest corner of the site, which is typically 400 to 600 feet from Bercaw lane residences. Given the overall construction timeline of 28 months, it is reasonable to conclude that mitigated construction noise levels would not exceed the construction noise thresholds at individual noise sensitive land uses in the vicinity of the site for a period exceeding 12 months.

Page 189 Section 3.12.2, Impact Discussion, Checklist Question a); Table 3.12-6 will be **REVISED** as follows:

Table 3.12-6: Project Traffic Noise Increase

Roadway	***Segment***	***Existing PM Peak Hour Volume***	***Background Plus Project PM Peak Hour Volume Assisted Living Variant***	***Background Plus Project PM Peak Hour Volume Office Variant***	***Relative Noise Level Increase, (dBA DNL) Assisted Living Variant/Office Variant***
Union Avenue	North of Camden Avenue	1,495	~~1487~~ 1,510	1,496~~0~~	0/0
	South of Camden Avenue	1,680	~~1878~~ 1,901	1,912~~06~~	1/1
Camden Avenue	West of Union Avenue	3,106	~~3149~~ 3,172	3,172~~66~~	0/0
	East of Union Avenue	3,381	~~3686~~ 3,709	3,698~~2~~	0/0

Page 190 Section 3.12.2, Impact Discussion, Checklist Question a); the text in the third paragraph will be **REVISED** as follows:

Residences along Bercaw Lane to the south and east of the site are exposed to hourly ambient noise levels of approximately 51 dBA L_{eq}. These residences would be exposed to parking and circulation noise from the single-family homes along the eastern border of the site. As mentioned previously, a ~~an~~ seven ~~eight~~-foot noise barrier is proposed between the project site and the residences to the south and east. The calculated hourly average noise levels at the adjacent residential properties behind the seven-foot noise barrier would be 36~~34~~ dBA L_{eq}, assuming one vehicle trip per unit during the peak hour (i.e., 75 ~~49~~ trips).[241] This noise level would be below ambient traffic noise levels, and below the City's threshold of 60 dBA DNL for exterior noise levels. For this reason, and those described above, project noise due to parking and circulation would result in a less than significant impact. **(Less than Significant Impact)**

Page 184 Section 3.12.2, Impact Discussion, Checklist Question a); Table 3.12-8 will be **REVISED** as follows:

Table 3.12-8: Cumulative Traffic Noise Increase

Roadway	***Segment***	***Existing PM Peak Hour Volume***	***Cumulative No Project PM Peak Hour Volume***	***Cumulative Plus Project PM Peak Hour Volume Assisted Living/Office Variant***	***Relative Noise Level Increase, (dBA DNL) Assisted Living/Office Variant***
Union Avenue	North of Camden Avenue	1495	1512	152~~70~~4/151~~3~~0~~7~~	0/0
	South of Camden Avenue	1680	1839	197~~2~~49/198~~3~~7~~7~~	1/1
Camden Avenue	West of Union Avenue	3106	3167	3209~~186~~/3209~~3~~	0/0
	East of Union Avenue	3381	3510	372~~60~~3/371~~5~~0 9	0/0
Source: Hexagon Transportation Consultants and Illingworth & Rodkin, Inc., September 2020.					

Page 196 Section 3.12.2, Non-CEQA Effects; the text in the first paragraph will be **REVISED** as follows:

The *Illingworth & Rodkin* report concluded that construction of a ~~six~~ seven-foot high noise barrier at the property line would result in a reduction of outdoor noise to acceptable noise levels at these rear

[241] The noise assessment assumed that an eight-foot noise barrier was proposed. The project proposes to construct a seven-foot noise barrier. The seven-foot noise barrier (a height decrease of one foot) could result in a one dB increase in noise levels at the nearby single-family houses (which would result in noise levels up to 35 dB). The noise levels would continue to be below the City's threshold of 60 dBA DNL for exterior noise levels. Therefore, the impacts of the project's parking lot and circulation noise on nearby residences would not change. Personal Communications. Thill, Michael, Illingworth & Rodkin (Noise Consultant). Re: Cambrian Park Plaza EIR - Noise. October 27, 2021.

yards, which is identified as a condition of approval for the project. Noise levels in the remaining residential yards would meet the 60 dBA DNL noise level objective.

Page 197 Section 3.12.2, Non-CEQA Effects; the text under the conditions of approval will be **REVISED** as follows:

Conditions of Approval:

- Provide a minimum ~~six~~ seven-foot noise barrier, as measured above the pad elevation, to acoustically shield the rear yard of the nearest single-family residences to Camden Avenue. The noise barrier shall be solid over the entire surface of the barrier and at its base (e.g., no cracks or gaps) and be constructed from barrier materials having a minimum surface weight of three lbs/ft^2. Suitable barrier materials include, but are not limited to, wood fence boards (one-inch nominal thickness), pre-cast concrete panels, or masonry.
- Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, so that windows can be kept closed to control noise in the noise sensitive land uses. This would apply to buildings containing ground-floor commercial and office uses.
- Provide sound rated windows and doors to maintain interior noise levels at acceptable levels for noise sensitive land uses. Preliminary calculations assuming wood siding construction (STC 39) and a window to wall ratio of 40 percent or less show that sound-rated windows with minimum STC ratings of 32 to 34 would reduce interior noise levels to acceptable levels at the units facing Union Avenue and/or Camden Avenue. The remaining residential and non-residential uses would be compatible with standard construction methods and closed windows. The specific determination of what noise insulation treatments are necessary shall be conducted during final design of the project. This would apply to buildings containing ground-floor commercial and office uses.
- The project applicant shall retain a qualified acoustical specialist to prepare a detailed analysis of interior residential noise levels resulting from all exterior sources during the final design phase of each project construction phase pursuant to requirements set forth in the State Building Code. The study will review the final site plan, building elevations, and floor plans for affected residential buildings prior to construction and confirm building treatments necessary to reduce residential interior noise levels to 45 dBA DNL or lower, and address and adequately control the noise from adjacent rooftop equipment. Treatments would include, but are not limited to, sound-rated windows and doors as described above, sound-rated wall and window constructions, acoustical caulking, protected ventilation openings, etc. The specific determination of what noise insulation treatments are necessary shall be conducted on a unit-by-unit basis during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee, along with the building plans and approved design, prior to issuance of a building permit for the applicable residential building.

Page 199 Section 3.13.1.1, Regulatory Framework; the text in the second paragraph will be **REVISED** as follows:

The Camden/Hillsdale Urban Village consists of 108 acres and has a growth capacity of 2,000 jobs and 450 ~~560~~ residential units upon full build-out of the General Plan.[242]

Page 202 Section 3.13.2, Impact Discussion, Checklist Question a); the second and third paragraphs will be **REVISED** as follows:

The proposed project would result in a net increase in housing citywide of approximately 428394 new housing units. Additionally, the Assisted Living Variant proposes a 110-bed assisted living facility. Assuming a rate of 3.19 persons per household for the apartments, townhomes, and single-family houses, ~~and~~ one resident per bed in the assisted living facility and one resident per senior unit, and two residents per ADU, the project would result in 1,42042 ~~42~~ new residents. The Assisted Living Variant also proposes a 230-room hotel, 18,000 square feet of retail, and 42,000 square feet of restaurant space. The San José Employment Density and FAR Assumptions by Land Use Type rates were used to estimate the number of jobs created under the Assisted Living Variant. Based on the retail rate of 250 gross (square feet per employee and the hotel and restaurant rate of 2,000 gross square feet per employee, the proposed commercial uses would result in a total of 176 employees. The Office Variant would replace the 110~~85~~-bed and 50 independent senior unit assisted living facility with 160,000 square feet of office space. Using the Traditional Office Space rate of 300 gross square feet per employee, the office uses under the Office Variant would generate 533 employees. In total, the Office Variant would place approximately 1,260 ~~1,257~~ residents on-site and create approximately 709 jobs.

The project would develop land already planned for job and housing growth in the Envision San José 2040 General Plan. The project is located in the Camden/Hillsdale Urban Village,[243] which has a growth capacity of 2,000 jobs and 450 ~~560~~ residential units upon full build-out of the General Plan.[244]

Page 210 Section 3.14.2, Impact Discussion, Checklist Question d); the text in the second paragraph will be **REVISED** as follows:

The proposed project would include residential development and is expected to include school-age children. Students generated by the project would attend schools within the Campbell Union High School District and the Cambrian School District. The proposed project would increase the student population in the area by approximately 9694 ~~94~~ students, according to the SJUSD student generation

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[242] [242] City of San José. *Envision San José 2040 General Plan.* Adopted November 1, 2011. As amended March 16, 2020. Appendix 5 – Planned Job Capacity and Housing Growth Areas by Horizon. https://www.sanjoseca.gov/home/showdocument?id=22359

[243] The project is within the Camden/Hillsdale Urban Village Plan area identified in the General Plan; however, the Urban Village Plan has not yet been adopted. The proposed project meets the criteria of a signature project, as defined by the City of San José, since it includes residential and commercial space within an Urban Village.

[244] City of San José. *Envision San José 2040 General Plan.* Adopted November 1, 2011. As amended March 16, 2020. Appendix 5 – Planned Job Capacity and Housing Growth Areas by Horizon. https://www.sanjoseca.gov/home/showdocument?id=22359

factors of 0.238 students per dwelling unit.[245] Increasing the student population by 94 students would not require the construction of new schools; however, this increase would place a new demand on school facilities in the area.

Page 210 Section 3.14.2, Impact Discussion, Checklist Question d); the text in the fifth paragraph will be **REVISED** as follows:

The proposed project includes approximately ~~7.1~~ four acres of publicly accessible open space including 2.26 acres of central community parks and plaza area, plus a dog park, fitness park, playground, and forest park promenade.

Page 215 Section 3.15.2, Impact Discussion, Checklist Question a); the text in the first paragraph will be **REVISED** as follows:

The proposed project would increase the use of existing neighborhood and regional parks due to the establishment of new housing. The addition of 305~~320~~ apartment units, 25 townhome units, 48~~9~~ single-family dwellings, ~~and~~ a 110~~85~~-bed assisted living facility, 50 independent senior units, and 27 ADUs is estimated to increase the local population by 1,42042 persons.[246] The office project variant would reduce this number by approximately ~~185~~ 160 persons, resulting in less demand on parks, as the assisted living residents would be replaced with office uses.

Pages 242-243 Section 3.16.4, Operational Issues Not Related to CEQA; Table 3.16-3 and Table 3.16-4 will be **REVISED** as follows:

Table 3.16-3: Project Trip Generation Estimates – Assisted Living Variant

Land Use	Daily	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Proposed Land Uses							
Single-Family Homes – 48 units	453	9	27	36	30	18	48
ADUs – 27 units	198	3	9	12	9	6	15
Townhomes – 25 units	183	3	9	12	9	5	14
Apartments – 305 units	1,659	29	81	110	82	52	134
Retail – 17,349 sf	655	10	6	16	32	34	66
Restaurant – 40,481 sf	4,541	221	181	402	245	150	395
Hotel – 229 rooms	2,801	82	60	142	82	85	167
Assisted Living – ~~110~~ 180 beds[1]	~~286~~ 468	21~~13~~	13~~8~~	34~~21~~	18~~11~~	29~~18~~	47~~29~~
Independent Senior Living Units - 50	366 ~~185~~	5~~4~~	18~~6~~	23~~10~~	18~~7~~	10~~6~~	28~~13~~
Total Project Trips (before reductions)	**10,760 ~~10,763~~**	**375 ~~371~~**	**377 ~~378~~**	**752 ~~749~~**	**498**	**373 ~~368~~**	**871 ~~866~~**

[245] San José Unified School District. *Development Fee Justification Study.* April 2014.
[246] California Department of Finance. "E-5 City/County Population and Housing Estimates." May 2020. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/

Table 3.16-3: Project Trip Generation Estimates – Assisted Living Variant							
Land Use	**Daily**	**AM Peak Hour**			**PM Peak Hour**		
		In	**Out**	**Total**	**In**	**Out**	**Total**
Total Project Trips (after reductions)	**8,196 ~~7,925~~**	**292 ~~285~~**	**300 ~~286~~**	**592 ~~571~~**	**303 ~~288~~**	**229 ~~216~~**	**532 ~~504~~**
Existing Retail Uses – 170,427 sf	*-6,434*	*-147*	*-73*	*-220*	*-256*	*-239*	*-495*
Pass-by Reduction	*255*	*0*	*0*	*0*	*0*	*0*	*0*
Net Project Trips	**2,017 ~~1,746~~**	**145 ~~138~~**	**227 ~~213~~**	**372 ~~351~~**	**47 ~~32~~**	**-10 ~~-23~~**	**37 ~~9~~**

Notes:

1 Note that the traffic analysis assumed 180 assisted living beds and 50 independent senior units. The project proposes 110 assisted living beds and 50 independent senior units. Therefore, the traffic analysis provides a conservative estimate of daily trips generated.

~~The traffic study evaluated 180 assisted living beds. The project proposes 110 assisted living beds and 50 independent senior living units. Based on Personal Communications with Hexagon Transportation Consultants on October 20, 2021, this change would result in an increase of three daily trips, three fewer AM peak hour trips and five fewer PM peak hour trips as shown in this table. The conclusions of the level of service analysis (LOS) in the traffic study would not change.~~

Table 3.16-4: Project Trip Generation Estimates – Office Variant							
Land Use	**Daily**	**AM Peak Hour**			**PM Peak Hour**		
		In	**Out**	**Total**	**In**	**Out**	**Total**
Proposed Land Uses							
Single-Family Homes – 48 units	453	9	27	36	30	18	48
ADUs – 27 units	198	3	9	12	9	6	15
Townhomes – 25 units	183	3	9	12	9	5	14
Apartments – 305 units	1,659	29	81	110	82	52	134
Retail – 17,349 sf	655	10	6	16	32	34	66
Restaurant – 40,481 sf	4,541	221	181	402	245	150	395
Hotel – 229 rooms	2,801	82	60	142	82	85	167
Office – 160,000 sf	1,558	160	26	186	29	155	184
Total Project Trips (before reductions)	**11,850**	**514**	**390**	**904**	**509**	**499**	**1,008**
Total Project Trips (after reductions)	**8,811 ~~8,715~~**	**~~399~~**	**295 ~~290~~**	**694 ~~689~~**	**295 ~~291~~**	**320 ~~318~~**	**615 ~~609~~**
Existing Retail Uses – 170,427 sf	*-6,434*	*-147*	*-73*	*-220*	*-388*	*-362*	*-750*
Pass-by Reduction	*255*	*0*	*0*	*0*	*132*	*123*	*255*
Net Project Trips	**2,632 ~~2,536~~**	**252**	**222 ~~217~~**	**474 ~~469~~**	**39 ~~35~~**	**81 ~~79~~**	**120 ~~114~~**

Pages 249 Section 3.16.4, Operational Issues Not Related to CEQA; the text in the second paragraph next to the third bullet point will be **REVISED** as follows:

- *Camden Avenue and Taper Avenue/Project Driveway* – The project is proposing to install a new traffic signal at the existing intersection of Taper Avenue and Camden Avenue. A new south leg at the intersection would serve as a project driveway. The new signalized intersection would provide a controlled ~~full~~ access point to the project site along Camden

Avenue with protected left-turn phasing for the westbound left-turn movement on Camden Avenue and crosswalks with pedestrian signal heads on Camden Avenue. The implementation of the new signal also would include a restriction of access to and from Taper Avenue to right-in and right-out only to and from Camden Avenue. The existing eastbound left-turn movement from Camden Avenue to Taper Avenue would be eliminated. Access to and from Taper Avenue at the new project access would not be permitted.

Page 278 Section 3.18.2, Impact Discussion, Checklist Question b); the text will be **ADDED** after the second paragraph as follows:

In addition, decorative fountains are proposed in the public open space areas and 27 ADUs. The total water use of all fountains would be 62 gallons per day and 200 gallons per day for the ADUs. This usage is accounted for in the Water Efficient Landscape Worksheet on L 10.41 (provided in the applicant's plan set dated November 8, 2021, where the worksheet shows that the fountain areas (Estimated Total Water Use (ETWU)) fit within the Maximum Allowed Water Allowance (MAWA). Furthermore, the water within the fountains would be recycled within the fountain to conserve water use.