

Oakland Road Industrial Project

File No. H20-018

Initial Study / Mitigated Negative Declaration

RESPONSES TO PUBLIC COMMENTS AND TEXT CHANGES

October 2021

CEQA Lead Agency:



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In Consultation with:



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Attachments

Attachment A – All Public Comments to IS/MND During Public Review Period

Attachment B - Revised Transportation Analysis (Hexagon Consultants, 2020).

Attachment C – Email Correspondence Between the City of San José and VTA

SECTION 1

SUMMARY OF PUBLIC REVIEW

The Oakland Road Industrial Project Initial Study /Mitigation Negative Declaration (IS/MND) was circulated for public review for a 20-day review period, from June 22, 2021, to July 12, 2021. The City undertook the following actions to inform the public of the availability of the IS/MND:

- A public Notice of Intent (NOI) to adopt an IS/MND was emailed to members of the public who had indicated interest in the project as well as agencies and organizations listed below on June 22, 2021;
- A public Notice of Intent to adopt an IS/MND was posted with the Santa Clara County Recorder's Office on June 22, 2021;
- A newsflash of the NOI was created on the City of San Jose's website at <https://www.sanjoseca.gov/news-stories/news-stories>; and
- A copy of the IS/MND and associated technical reports were made available on the City's website at <https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/negative-declaration-initial-studies/oakland-road-industrial-project-h20-018>

NOI Recipients

- Association of Bay Area Governments
- Bay Area Air Quality Management District
- California Air Resource Board
- California Department of Fish and Wildlife
- California Department of Transportation
- California Energy Commission
- California Environmental Protection Agency
- Metropolitan Transportation Commission
- Santa Clara County Roads and Airport
- Santa Clara Valley Open Space Authority
- Santa Clara Valley Transportation Authority
- Santa Clara Valley Water District
- United States Fish and Wildlife Service
- Santa Clara Valley Audubon Society
- Preservation Action Council of San José
- SPUR
- Greenbelt Alliance
- San José Downtown Association
- Sierra Club Loma Prieta Chapter
- Pacific Gas & Electric

- San José Water Company
- The Office of Mayor Sam Liccardo
- Council Districts 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10
- City of San José Planning Commission
- Christopher Burton, Director of Planning, Building and Code Enforcement
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SECTION 2

SUMMARY OF COMMENTS

During the 20-day circulation period, the City of San José received four comment letters from two organizations, one agency, and one individual.

In summary, the comments received on the IS/MND did not raise any new issues about the project's environmental impacts or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND. CEQA does not require formal responses to comments on an IS/MND, only that the lead agency consider the comments received [CEQA Guidelines §15074(b)].

Nevertheless, responses to the comments are included in this document to provide a complete environmental record.

The following pages contain a list of the agencies and persons that submitted comments on the IS/MND and the City's responses to comments received on the IS/MND. The specific comments have been excerpted from the letter and are presented as "Comment" with each response directly following ("Response"). Copies of the actual letters and email submitted to the City of San José are attached to this document.

The original public comment letters are included in Attachment A.

SECTION 3**AGENCIES AND PERSONS COMMENTING ON
THE IS/MND**

	Comment Received From	Date of Letter	Response on Page
A.	Pacific Gas and Electric Company (PG&E)	June 23, 2021	7
B.	Robin Roemer	July 9, 2021	8
C.	Tamien Nation of the Greater Santa Clara County	June 28, 2021	17
D.	Santa Clara Valley Transportation Authority (VTA)	July 12, 2021	21

SECTION 3

RESPONSE TO COMMENTS

This memo responds to comments on the IS/MND as they relate to the potential environmental impacts of the project under CEQA. Numbered responses correspond to comments in each comment letter. Copies of the comment letters are attached, see Attachment A.

A. RESPONSE TO PG&E

Comment A1: PG&E will review the submitted plans in relationship to any existing Gas and Electric facilities within the project area. If the proposed project is adjacent/or within PG&E owned property and/or easements, we will be working with you to ensure compatible uses and activities near our facilities.

Attached you will find information and requirements as it relates to Gas facilities (Attachment 1) and Electric facilities (Attachment 2). Please review these in detail, as it is critical to ensure your safety and to protect PG&E's facilities and its existing rights.

This plan review process does not replace the application process for PG&E gas or electric service your project may require. For these requests, please continue to work with PG&E Service Planning: https://www.pge.com/en_US/business/services/building-and-renovation/overview/overview.page.

If the project being submitted is part of a larger project, please include the entire scope of your project, and not just a portion of it. PG&E's facilities are to be incorporated within any CEQA document. PG&E needs to verify that the CEQA document will identify any required future PG&E services.

An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project and as it relates to any rearrangement or new installation of PG&E facilities.

Any proposed uses within the PG&E fee strip and/or easement, may include a California Public Utility Commission (CPUC) Section 851 filing. This requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851 filing is required.

This letter does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed. PG&E will provide a project specific response as required.

Response A1: The applicant will comply with all applicable permit application requirements, as described by PG&E in the comment above. The project's estimated PG&E needs have been identified in the IS/MND. The applicant will coordinate with PG&E on any plan review or CPUS Section 851 filing. This comment does not provide new information that would change the project's impact, provide new information that would require additional analysis or result in new significant impacts or mitigation measures beyond those already analyzed and disclosed in the IS/MND and associated appendices. The comment does not present new information that would require recirculation of the IS/MND pursuant of CEQA Guidelines Section 15073.5.

B. RESPONSE TO ROBIN ROEMER

Comment B1: The traffic analysis by Robert Del Rio, Hexagon Transportation Consultants, prepared for OOL, LLC contains a number of mistakes, important omissions, unclear statements and unsubstantiated claims that require responses, corrections, and/or amendments. Particular the VMT analysis and the suggested mitigation is problematic and partly without substantial evidence.

It is also in parts inconsistent with the traffic analysis done by Robert Del Rio, Hexagon Transportation Consultants, for the Charcot Extension project, which itself has been deeply flawed (see Santa Clara County Superior Court Case No. 20CV370153).

The analysis consistently refers to the City of San Jose’s “Transportation Analysis Handbook, 2018” The handbook has been updated in April 2020. The analysis needs to be updated to ensure consistency with the 2020 guidelines.

Response B1: The comment above is vague about what is wrong with the Transportation Analysis. No specific CEQA issues are identified. The court case noted in the comment has yet to be decided. The Transportation Analysis prepared for the Oakland Road Industrial project was prepared separately from the Charcot Extension project’s Transportation Analysis, therefore, further discussion of the Charcot Extension Transportation Analysis is not necessary. Appendix F, the Oakland Road Office and R&D Development Transportation Analysis prepared by Hexagon Transportation Consultants, Inc. is consistent with the City’s April 2020 Transportation Analysis Handbook (see page iii of Appendix B). The Transportation Analysis was prepared consistently with the 2020 Transportation Analysis Handbook, though the 2018 date was incorrectly noted in the report. The date has been corrected in the report to reflect the current 2020 guidelines that were applied. Please see Section 4 of this document which identifies the text changes.

Comment B2: The analysis falsely claims that the 24,100 s.f. of industrial space are screened from CEQA- and VMT-analysis. The handbook clearly states:

“In no case should a small infill project be screened out if it is a part of a larger project or “site”.

Response B2:As stated on page 154 of the IS/MND, the project meets the City’s 2020 Transportation Analysis Handbook industrial land use screening criteria (30,000 square feet of total gross floor area or less); however, the office component of the project does not meet the screening criterion for small infill office projects and a CEQA transportation analysis was required to address potential significant VMT impacts. The Transportation Analysis analyzed the project description and did not anticipate or speculate any future developments. For these reasons, the industrial portion of the project was appropriately screened per Council Policy 5-1, and its VMT impacts are considered less than significant by policy. The VMT impact for the proposed warehouse/office use has been addressed with mitigation measures TR-1.1-1.4, which include development of a Transportation Demand Management (TDM) Plan, installation of a raised median island on Oakland Road, an employee commute trip reduction education program, and implementation of a ride-sharing program.

Comment B3: The analysis recommends:

“Provide a standard 12-foot wide sidewalk with tree wells along the project frontage on Oakland Road.”

The site plan does not show such a sidewalk configuration. The analysis further recommends:

“Provide a new solar powered Braco shelter at the existing bus stop located 500 feet south of the project site on southbound Oakland Road. The City of San Jose and Santa Clara VTA are in support of these bus stop improvements.”

It is unclear what a “Braco” shelter is. Presumably, this refers to a shelter made by the company “Brasco”. It is unclear, why the shelter has be from a specific brand. The claim that City and VTA are in support of the bus stop improvement is unsubstantiated.

Response B3: As described in the IS/MND, the project will be subject to standard sidewalk conditions as part of the development permit. VTA has verified the bus stop improvement and recommended the installation of a Brasco shelter. Brasco is a brand name for a type of shelter. While this is the preferred brand identified by VTA, the project is not conditioned to any specific brand as long as it complies with VTA’s needs. This comment does not require new analysis or result in any new impacts or mitigation measures that would require the recirculation of the IS/MND.

Comment B4: The analysis inconsistently uses “Old Oakland” and “Oakland” as name for the same roadway.

Response B4: The Transportation Analysis has been revised to be consistent throughout to refer to the roadway as Oakland Road (see Attachment B). The use of the two roadway names does not require new analysis or result in any new impacts or mitigation measures that would require the recirculation of the IS/MND.

Comment B5: The analysis cites General Plan policy TR-2.1.:

“Coordinate the planning and implementation of citywide bicycle and pedestrian facilities and supporting infrastructure. Give priority to bicycle and pedestrian safety and access improvements at street crossings and near areas with higher pedestrian concentrations (school, transit, shopping, hospital, and mixed-use areas) (TR-2.1);

According to the City’s Bike Plan, the installation of protected bike lanes on Oakland Road is a priority project for the City. The analysis fails to mention or considers this at all and provides no indication how the proposed development would be coordinated with the implementation of these bike facilities.

Instead it simply and boldly states: “The project would not [...] conflict with any adopted plans or policies for new bicycle facilities.”

The analysis further cites General Plan policy TR-8.4.

“Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use (TR-8.4);”

According to the analysis itself, the project will provide significantly more parking space than required (21 spaces above requirement/~20%). The analysis provides no discussion of how this substantial violation of TR-8.4. will be addressed.

The analysis further cites General Plan policy LU-9.1.:

“Create a pedestrian-friendly environment by connecting new residential development with safe, convenient, accessible, and pleasant pedestrian facilities. Provide such connections between new development, its adjoining neighborhood, transit access points, schools, parks, and nearby commercial areas”

Yet, the project and analysis fail policy LU-9.1. as the project does not provide a pedestrian-friendly environment as it is not providing convenient pedestrian connections to the immediately adjacent shopping center. The analysis fails to address the violation of policy LU-9.1.

Response B5: Class II bike lanes exist along Oakland Road in the project vicinity. Any further bike improvements along Oakland Road would be carried out as a separate project by the City. As stated in the Section 4.17 of the IS/MND, the proposed project would not impede or impair the existing bicycle lanes. Existing pedestrian sidewalks along Oakland Road connect the project site to the adjacent shopping center and would not include any new curb cuts to create new vehicle and pedestrian/bicyclists conflict areas. The statement in the IS/MND that the project would not conflict with any adopted plans or policies for new bicycle facilities is correct, as nothing about the project on private property would inhibit the City’s ability to implement any plans for new bicycle facilities in the area. Additionally, the project includes mitigation measure MM TR-1.2 which enhances pedestrian and bicycle safety along the project frontage by removing the ability to make vehicle left turns from the project driveway. The minimum required vehicle parking for the project is 125 vehicle parking spaces and the project would provide 128 parking spaces. The comment does not provide new information that would require additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant to CEQA Guidelines Section 15073.5.

Comment B6: Figure 3 clearly shows the project site to be in an area declared “Immitigable VMT Area” by the City of San Jose. Yet in the further analysis the project is shown to be able to sufficiently mitigate VMT. Either the VMT heat map provided by the City is wrong or the VMT mitigation analysis is wrong. Which one is it? The analysis fails to address and solve this contradiction.

Response B6: Figure 3 in the Transportation Analysis has been revised to show the correct project location. The project site is in a “Mitigable VMT Area”. The comment does not provide new information that would require additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant of CEQA Guideline Section 15073.5.

Comment B7: The analysis claims to incorporate background conditions from “approved but not yet completed developments”. The analysis however fails to incorporate changes in traffic patterns from the approved but not yet completed Charcot Extension project. The analysis should have worked with the City to ensure that this obviously missing data in the Approved Trips Inventory (ATI) is provided. Especially since the author of this traffic analysis was also the lead traffic consultant for the Charcot Extension.

Response B7: Although the Charcot Avenue Extension is an approved project, it is not known at this time whether the extension will be built. Due to the uncertainty of the roadway extension, it was not assumed under background conditions.

Comment B8: According to General Plan Policy TR-2.22 pedestrian and bicyclist counts should be collected in addition to traffic counts. The analysis provides no pedestrian and bicyclist counts and therefore fails to adequately assess the impact on pedestrian and bicyclists.

Response B8: Pedestrian and bicycle counts are typically included with new intersection turning movement counts. However, no new traffic counts were collected for this project. Due to the current COVID-19 pandemic situation, the City of San José is requiring that all new traffic counts for study intersections be put on hold until further notice when conditions return to more normal levels. Instead of conducting new counts, the City's Department of Transportation (DOT) is requesting that an annual growth factor of one percent (1%) be applied to historical count data. Accordingly, a one percent annual growth factor was applied to the turning movement counts provided by DOT staff, which was included in the analysis to assess project impacts on pedestrians and bicyclists. The comment does not provide new information that would require additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant of CEQA Guideline Section 15073.5.

Comment B9: The intersection analysis is incurably flawed as it use unsubstantiated vehicle flow conditions in its modelling, specifically for the eastbound left turn lane from Oakland into Brokaw/Murphy. The model assumes a maximum capacity of 3150 cars/h for the two left lanes combined. Adjusted for a green time of 31.4 seconds per cycle this suggests that the model believes that ~26.25 cars are able to make a left turn per cycle. This is empirically wrong. Based on actual observations on January 29, 2019, a maximum of 16 cars is able to make a left-turn at the intersection per cycle during congested PM peak hour conditions. That means that the model is significantly underestimating the current and future delay at the intersection.

Similar to how the church rejected empirical claims by Galileo and Copernicus because they conflicted with beliefs and previous writings and teachings, it seems likely that the applicant and their traffic consultant will argue that their theoretical modelling based on historic manuals should take precedence over clearly observable empirical fact. This is nonsense.

This commentator is willing to wager \$200 made payable to a non-profit of the City's choosing, if the applicant, traffic consultant or the City is able to practically demonstrate that 25 or more drivers are able to safely make a left-turn from Oakland Road into eastbound Murphy at this intersection during a 31.4 second green time.

Response B9: The intersection level of service analysis discussed in the IS/MND followed the City of San José procedures as outlined in the Transportation Analysis Handbook, 2020. All study intersections were evaluated based on the *2000 Highway Capacity Manual* (HCM) level of service methodology using TRAFFIX software. This method evaluates signalized intersection operations on the basis of average control delay time for all vehicles at the intersection. TRAFFIX is also the Congestion Management Plan (CMP)-designated intersection level of service methodology; thus, the City of San José employs the CMP default values for the analysis parameters. The analysis of intersection operations is outside the bounds of CEQA, with passage of SB 743 requiring evaluation of projects using VMT

and the City's adoption of City Council Policy 5-1 in 2018 establishing the metrics by which CEQA transportation impacts will be evaluated using VMT. The comment does not provide new information that would require additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant of CEQA Guideline Section 15073.5.

Comment B10: The analysis describes Brokaw Road as having "standard bike lanes". But, the analysis provides no definition of what a standard bike lane is. The City's Bike Plan 2025 defines separated bike lanes as the intended standard for San Jose. Brokaw currently does not have separated bike lanes.

Response B10: The term, "Standard bike lanes," refers to Class II bike lanes which are dedicated on-street space for bicyclists in the roadway, delineated with painted pavement stripes and symbols on the roadway surface. This definition can be found on page 15 of the Transportation Analysis. Class II bicycle lanes are usually provided in each direction on two-way streets and on one side of one-way streets according to the San Jose Better Bike Plan 2025." The comment does not provide new information that would require additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant of CEQA Guideline Section 15073.5.

Comment B11: The analysis shows that the intersection of Ridder Park Drive and Brokaw Road causes back ups to the I-880 off-ramp in PM peak hours. Further, it states

"Currently, there are no queuing issues along Brokaw Road at the I-880 freeway ramps. During both the AM and PM peak periods, the westbound left-turn movement at the I-880 Northbound Ramps/Brokaw Road intersection is heavy, but no queuing issues occur and the queues clear in one signal cycle."

Both is inconsistent with the arguments made by Robert Del Rio in the Charcot Extension traffic analysis that blamed the Brokaw/I-880 interchange itself for causing congestion in the area.

The statements are even more surprising given the fact that this traffic analysis shows much higher traffic counts along Brokaw Road than the Charcot EIR did.

The TA further writes: Overall, the network of sidewalks and bike lanes exhibits good connectivity and would provide employees of the project with safe routes to transit stops and other points of interest in the area. This seems highly inconsistent with the Charcot EIR which claims there is limited connectivity especially for pedestrians and bicyclists in the area. It is baffling that a licensed engineer could come to such two widely differing conclusions about the same area in the timeframe of about 12 months.

Response B11: The comment above pertains to a separate project that is not a part of the proposed project, the Oakland Road Industrial Project, and is therefore not a comment on the proposed project's environmental effects. Nonetheless, for the sake of correcting the record, the Charcot Avenue Extension EIR (Appendix K, page 5) states the Charcot extension would relieve general congestion along multiple roadways, including Brokaw Road as follows: "The proposed Charcot Avenue extension will provide an additional east-west connection between First Street and Oakland Road and relieve traffic congestion during peak commute periods on Brokaw Road, Trimble Road, and Montague Expressway

that currently serve as the primary east-west roadways and run parallel to the Charcot Avenue extension.” The Transportation Analysis prepared for the Oakland Road Industrial project by Hexagon Transportation Consultants and dated May 10, 2021, does not state that there is no congestion in the area. On page 19 of the Transportation Analysis prepared by Hexagon, it states that while traffic volumes along Brokaw Road at the I-880 ramps and Ridder Park are heavy, and that some queuing issues do occur as a result, no significant operational issues were observed in the field. Note that field observations for the Oakland Road study were conducted in September of 2020 during the COVID-19 pandemic, while the Charcot report was completed in April of 2019 during pre-pandemic conditions. The Oakland Road report includes the following language: “Due to the current COVID-19 pandemic situation, traffic volumes are generally lower than under “normal” conditions. However, it is still valuable to observe traffic conditions in the field to identify any existing operational deficiencies.” The comment does not provide new information that would require additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant of CEQA Guideline Section 15073.5.

Comment B12: The analysis suggests that as the project will pay the NSJADP impact fee and since those fees could go toward pedestrian facility improvements, that the project is providing pedestrian improvements outside of the project area. This is wrong. There is no substantial evidence that significant amounts of the NSJADP impact fees will actually go towards pedestrian facility improvements. Quite contrary, even City staff as argued that the NSJADP is heavily car centric and too little focused on active transportation modes. Further, the City is planning to retire the NSJADP and the associated impact fee in the near future. Depending on the project approval process that might mean that the project will not be required to pay those impact fees anymore. It would therefore cease to be a mitigation measure and would need to be replaced with a different mitigation measure.

Response B12: The project does not have impacts to on-site or off-site pedestrian facilities that warrant mitigation. The North San Jose Area Development Policy (NSJADP) impact fees are applied to all projects in the North San José Area. The fees collected fund a program to alleviate automobile congestion, including intersection improvements, new streets, extension and/or widening of existing streets, as well as regional improvements to Santa Clara County expressways and State highway facilities. The plan also includes multimodal improvements consisting of enhanced bus services, shuttle services, light rail improvements, new grid streets, and continuous bicycle connections on major streets and trails, in line with the City’s NSJADP. The NSJADP impact fee imposed on this project could help fund planned pedestrian improvements in the area; however, it is not being relied upon to reduce any significant impacts from the Oakland Road Industrial project. As discussed in Section 4.17 of the IS/MND, the project would not inhibit pedestrian flow through the area by reducing sidewalk width or eliminating pedestrian connections. The project proposes new sidewalks throughout the site to ensure connections from the right-of-way to the project site. The comment does not provide new information that would require additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant of CEQA Guideline Section 15073.5.

Comment B13: The analysis further recommends that the project installs a raised median on Oakland Road to prevent left turns into and out of the project driveway as a traffic calming measure. The analysis further argues that this would improve pedestrian and bicycle safety. This claim is

unsubstantiated. Installing a median would not eliminate any turn-movements that conflict with pedestrian movements.

Furthermore, median islands are typically installed to facilitate pedestrian crossing. Oakland Road is a fast-moving 6-lane arterial road. Installing a median island would likely encourage additional pedestrian crossings of this arterial road mid-block without any marked crosswalk. It is completely unsubstantiated how this would increase pedestrian safety. In fact, it would likely lead to more and importantly, preventable traffic deaths.

It is also unsubstantiated how this would lead to calmer and slower traffic on Oakland Road. It is also inconsistent with a later statement in the TA.

It is more than disappointing that the analysis completely fails to mention anywhere that in December 2019 a pedestrian died in this section of Oakland Road. The analysis is also superficial in its general assessment of the pedestrian infrastructure and activity in the project area. The analysis should have noted that the Oakland/McKay intersection is missing a crosswalk on its south leg, limiting easy access to the northbound VTA bus stop across the street from the project.

The analysis claims that the existing pedestrian facilities provide good connectivity between the site and the surrounding land uses and transit stops in the study area. This is unsubstantiated and “good connectivity” is undefined. It is surprising given the missing crosswalks at intersections, pedestrian-unfriendly slip lanes, limited sidewalks on Oakland Road towards Fox Lane, and limited pedestrian connectivity to the adjacent shopping center.

Response B13: As described in the Transportation Analysis, a median island already exists at this location. The existing median island is painted (double yellow lines) and includes raised pavement markings (chatter bars). The project would add a raised curb design to the existing median island to create a more substantial physical barrier. A raised median island would prevent illegal left turns to and from the project driveway, thereby eliminating the potential for vehicle-pedestrian conflicts at the project driveway due to illegal left turns. Furthermore, signalized crosswalks exist on Oakland Road at Brokaw Road and McKay Drive and currently provide safe pedestrian crossings. As described in the IS/MND and the Transportation Analysis, pedestrian and bike facilities in the immediate vicinity of the Oakland Road Office project site are continuous and adequate. Sidewalks are provided along both sides of Oakland Road and extend north towards Fox Lane and south towards Brokaw Road. The existing sidewalk along the project frontage on Oakland Road provides a direct connection to the adjacent shopping center and an existing bus stop. The comment does not provide new information that would require additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant of CEQA Guideline Section 15073.5.

Comment B14: There is no substantial discussion or evidence of why the southbound bus stop is in “much need” of improvement, while the northbound bus stop isn’t.

Response B14: The VTA has indicated that the bus stops along the project frontage have been removed by VTA and consolidated to the bus stop at Oakland Road/Brokaw Road (approximately 600 feet south of the project site in front of Chase Bank). This bus stop has no shelter. For this reason, the VTA have asked for a new solar powered bus shelter at the southbound location. The IS/MND states that the project would include such as shelter (page 152). Therefore, this comment does not provide new information that would require

additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant of CEQA Guideline Section 15073.5.

Comment B15: The analysis further recommends that the project “should” implement TDM program. There is no substantial evidence that a) such TDM program would lead to the necessary reductions in VMT, b) the City of San Jose will enforce the TDM mitigation as there is no publicly available information on any past enforcement and c) could enforce the TDM mitigation even if the City were to try to do so as there are no penalties for failing to implement and maintain a TDM program. For these reason, implementing a TDM program is not an allowable mitigation measure and should not count towards VMT reduction goals.

Response B15: As stated in the Transportation Analysis and IS/MND, the City’s VMT Evaluation Tool showed that the proposed mitigation measures would reduce the project’s VMT impact by approximately 20 percent. City monitoring/enforcement would occur through City review and approval of the TDM Plan and annual monitoring reports for three years and then upon request of the Zoning Administrator for the life of the project.

Comment B16: The analysis is inconsistent in describing where U-turns would happen for vehicles wanting to go north on Oakland Road. It is sometimes described as Oakland/Brokaw and sometimes as Oakland/N. Front Way.

Response B16: The Transportation Analysis prepared by Hexagon Consultants (2020) has been revised to describe the U-turns as Oakland Road/N. Front Way, see Attachment B. The comment does not provide new information that would require additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant of CEQA Guideline Section 15073.5.

Comment B17: The analysis provides traffic data for I-280 Ramps & Brokaw Road. This is impossible.

Response B17: This typographical error has been corrected to I-680 in the Transportation Analysis prepared by Hexagon Consultants (2020). The comment does not provide new information that would require additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant of CEQA Guideline Section 15073.5.

Comment B18: The intersection analysis results on page 34 seem inconsistent with the 2018 VTA CMP report observations. There is no substantial evidence that the traffic model used is sufficiently accurate in describing reality in San Jose.

Response B18: As shown in the table below from the Transportation Analysis, the existing PM peak hour intersection level of service analysis prepared for the proposed project very closely matches the 2018 VTA CMP intersection level of service results for two of the three CMP intersections. The level of service analysis in the Transportation Analysis shows that one of the three CMP intersections is currently operating at LOS C during the PM peak hour, while the CMP 2018 reports the intersection as operating at LOS B during the PM. LOS is a qualitative description of operating conditions ranging from LOS A, or free-flow

conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. The City of San José level of service standard for intersections is LOS D or better. As previously stated in Response B9, the analysis of intersection level of service is no longer a CEQA issue with passage of SB 743 requiring evaluation of projects to use the vehicle miles traveled (VMT) metric. The comment does not provide new information that would require additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant of CEQA Guideline Section 15073.5.

CMP Intersection	Source	Existing PM Peak Hour	
		Avg. Delay (sec)	LOS
I-880 SB Ramps & Brokaw Rd	July 27, 2021 TA	40.1	D
	2018 CMP	39.5	D
I-880 NB Ramps & Brokaw Rd	July 27, 2021 TA	31.2	C
	2018 CMP	11.2	B
Oakland Rd & Brokaw Rd	July 27, 2021 TA	50.0	D
	2018 CMP	49.7	D

Comment B19: Although outside of the scope of the project, it should be noted that the analysis describes Oakland Road as having a design speed of 45 mph despite its posted speed limit of 40mph. This implies that SJ DOT road design entices drivers to go five miles above the speed limit at all times.

Even worse, according to the City of San José Complete Streets Design Standards & Guidelines, Oakland Road as a City Collector road should have a design and target speed of not higher than 30mph, not 40mph and most definitely not 45mph.

This is unacceptable for a “Vision Zero” City.

Response B19: This comment is outside the scope of this project because it pertains to a design issue beyond what is required for development of the proposed building, and thus, is not an indication of any environmental impact that would result from the project. The comment does not provide new information that would require additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant of CEQA Guideline Section 15073.5.

C. RESPONSE TO TAMIEN NATION OF THE GREATER SANTA CLARA COUNTY

Comment C1: This letter constitutes a formal request for tribal consultation under the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21080.3.1 subdivisions (b), (d) and (e)) for the mitigation of potential project impacts to tribal cultural resource for the above referenced project. Tamien Nation requested formal notice and information for all projects within your agency’s geographical jurisdiction and received notification on June 9, 2021, regarding the above referenced project.

Tamien Nation requests consultation on the following topics checked below, which shall be included in consultation if requested (Public Resources Code section 21080.3.2, subd. (a):

- Alternatives to the project
- Recommended mitigation measures
- Significant effects of the project

Tamien Nation also requests consultation on the following discretionary topics checked below (Public Resources Code section 21080.3.2(, subd. (a):

- Type of environmental review necessary
- Significance of tribal cultural resources, including any regulations, policies or standards used by your agency to determine significance of tribal cultural resources
- Significance of the project’s impacts on tribal cultural resources
- Project alternatives and/or appropriate measures for preservation or mitigation that we may recommend, including, but not limited to:

- (1) Avoidance and preservation of the resources in place, pursuant to Public Resources Code section 21084.3, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks or other open space, to incorporate the resources with culturally appropriate protection and management criteria;
- (2) Treating the resources with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resources, including but not limited to the following:
 - a. Protecting the cultural character and integrity of the resource;
 - b. Protection the traditional use of the resource; and
 - c. Protecting the confidentiality of the resource.

- (2) Permanent conservation easements or other interests in real property, with culturally

appropriate management criteria for the purposes of preserving or utilizing the resources or places.

(4) Protecting the resource.

Additionally, Tamien Nation would like to receive any cultural resources assessments or other assessments that have been completed on all or part of the project's potential "area of project effect" (APE), including, but not limited to:

1. The results of any record search that may have been conducted at an Information Center of the California Historical Resources Information System (CHRIS), including, but not limited to:
 - A listing of any and all known cultural resources have already been recorded on or adjacent to the APE;
 - Copies of any and all cultural resource records and study reports that may have been provided by the Information Center as part of the records search response;
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - Whether the records search indicates a low, moderate or high probability that unrecorded cultural resources are located in the potential APE; and
 - If a survey is recommended by the Information Center to determine whether previously unrecorded cultural resources are present.
2. The results of any archaeological inventory survey that was conducted, including:
 - Any report that may contain site forms, site significance, and suggested mitigation measures.

All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure in accordance with Government Code Section 6254.10.

3. The results of any Sacred Lands File (SFL) check conducted through Native American Heritage Commission. The request form can be found at http://www.nahc.ca.gov/slf_request.html. USGS 7.5-minute quadrangle name, township, range, and section required for the search.
4. Any ethnographic studies conducted for any area including all or part of the potential APE; and
5. Any geotechnical reports regarding all or part of the potential APE.

We would like to remind your agency that CEQA Guidelines section 15126.4, subdivision (b)(3) states that preservation in place is the preferred manner of mitigating impacts to archaeological sites. Section 15126.4, subd. (b)(3) of the CEQA Guidelines has been interpreted by the California Court of Appeal to mean that “feasible preservation in place must be adopted to mitigate impacts to historical resources of an archaeological nature unless the lead agency determines that another form of mitigation is available and provides superior mitigation of impacts.” *Madera Oversight Coalition v. County of Madera* (2011) 199 Cal.App.4th 48, disapproved on other grounds, *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439.

Tamien Nation expects to begin consultation within 30 days of your receipt of this letter. Please contact Tamien Nation’s lead contact person identified in the attached request for notification.

Response C1: The Oakland Road Industrial Project IS/MND was circulated for public review for a 20-day review period, from June 22, 2021 to July 12, 2021. The City did not receive Tamien Nation's request for notification of all AB 52 projects until June 28th, after the start of the public review period. Under AB 52, a tribe must request notification and consultation prior to release of the Notice of Intent (NOI) for an IS/MND.

Per AB 52, the City emailed Mr. Galvan (Ohlone Tribe) in January of this year regarding the subject project, as the Ohlone Tribe has previously requested notification under AB 52. No response was received from the Ohlone Tribe within the 30 days mandated by AB52. It is the City’s understanding that the Tamien Nation was not on the NAHC list until March 2021, which is why they would not have received earlier notification.

At the time of preparation of this IS/MND in early 2021, Tamien Nation’s June 28, 2021 request for notification of all projects with an IS/MND was not in effect, and the Tamien Nation had not been identified yet as a tribal contact by the Native American Heritage Commission. However, the City’s Department of Planning, Building and Code Enforcement (PBCE) responded to the request for consultation on the project during the public review period of the IS/MND. Although the tribe was consulted in good faith by the City during the CEQA commenting period, such consultation was not mandated by AB52 because the tribe was not recognized at the time of commencement of the CEQA review process, nor had the tribe requested AB52 notification prior to the City’s release of the NOI.

City staff from PBCE met with Chairwoman Geary via Zoom on August 5, 2021 to discuss the project . The City followed up on August 18, 2021 via email to formally close the consultation process.

Given the concerns expressed by the Tamien Nation, the following mitigation measures were clarified (revised language underlined):

- i. **MM CUL-1.1: Preliminary Investigation.** The proposed project shall conduct presence/absence exploration for all areas that would be impacted by the project. Subsurface exploration shall be completed prior to any ground disturbing activities including grading, potholing for utilities, and building foundation removal. If these activities or similar ground-disturbing activities need to be completed prior to presence/absence work, then an archaeological monitor shall be required. As part of this effort, at least one trench shall be mechanically excavated below existing stratigraphic layers to eliminate the potential for Native American deposits and provide a better understanding for potential historic-era soil surfaces. Both the project archaeologist and a Native American representative registered with the Native American

Heritage Commission from the City of San Jose and that is traditionally and culturally affiliated with the geographic area, as described in Public Resources Code Section 21080.3, shall be present during the preliminary investigation involving subsurface exploration.

- ii. **MM CUL-1.2: Research Design and Work Plan.** If archaeological deposits or features that appear eligible to the California Register are identified during any stage of exploration, and if the project cannot be redesigned to avoid the cultural resource, an archaeological research design and work plan shall be prepared by a qualified archaeologist in consultation with a Native American Representative registered with the Native American Heritage Commission from the City of San José and that is traditionally and culturally affiliated with the geographic area, as described in Public Resources Code Section 21080.3. The plan shall be designed to facilitate archaeological excavation and evaluate any cultural resources discovered by the California Register eligibility criteria to assess if any qualify as historical resources. Should the plan be required, it shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee.

- iii. **MM CUL-1.4:** In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement or Director's designee and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement will be notified, and a qualified archaeologist in consultation with a Native American representative registered with the Native American Heritage Commission from the City of San Jose and that is traditionally and culturally affiliated with the geographic area, as described in Public Resources Code Section 21080.3 will examine the find. The archaeologist and Native American representative will 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. If the finds do not meet the definition of a historical or archaeological resource, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then it should be avoided by project activities. Project personnel should not collect or move any cultural material. Fill soils that may be used for construction purposes should not contain archaeological materials.

In addition, the project applicant has agreed to a voluntary permit condition further expanding Native American participation via a cultural sensitivity training to be conducted prior to construction activities.

The revised mitigation measure language (also shown in Section 4 of this memo) enhances the previous mitigation and no further CEQA analysis is required. The comment does not result in new or more significant impacts or additional mitigation and therefore, the IS/MND does not require recirculation.

D. RESPONSE TO VTA

Comment D1: Local transit services are provided by VTA Route 66 along Oakland Road with a nearside northbound stop at the corner of Oakland Road and McKay Drive, and a southbound stop approximately 500 feet south of the development and by VTA Route 60 along Brokaw Road/Murphy Avenue with farside east/westbound stops in the intersection with Oakland Road. The northbound Route 66 bus stop currently is a pole with no amenities and there is no crosswalk in the southside of the intersection. In the plan set, there is a recommendation to upgrade stop amenities but there are no specifics given. We recommend to either install a south signalized crosswalk or to move the bus stop to the farside with a concrete landing for ADA ramp deployment through the landscaping and sidewalk tree removal to prevent jaywalking, and that any amenities added does not impede on pedestrian circulation, ADA accessibility, or fall within the bus's dynamic envelope. Southbound Route 66 bus stop currently has a bench and is planned to have a solar powered shelter installed. Similar considerations should apply to prevent any negative impacts.

During the construction, we recommend ensuring that provisions be made to minimize impact to the flow of traffic and preserve pedestrian and bike ROW. For construction VTA has a Bus Stop Placement, Closures and Relocations Policy (<https://www.vta.org/sites/default/files/documents/busstoppolicy.pdf>). Prior to any construction or bus stop impact, please contact bus.stop@vta.org.

Response D2: As described in Section 4.17 of the IS/MND, the project will include the addition of a brasco shelter, or equivalent product, at the bus stop on Brokaw Road, as was agreed upon by the applicant and VTA in March 2021. The comment does not provide new information that would require additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant of CEQA Guideline Section 15073.5.

SECTION 4

REVISED TEXT TO THE IS/MND

Page 63, paragraph 1, line 7: “As part of this effort, at least one trench shall be mechanically excavated below existing stratigraphic layers to eliminate the potential for Native American deposits and provide a better understanding for potential historic-era soil surfaces. Both the project archaeologist and a Native American representative registered with the Native American Heritage Commission from the City of San Jose and that is traditionally and culturally affiliated with the geographic area, as described in Public Resources Code Section 21080.3, shall be present during the preliminary investigation involving subsurface exploration.”

Page 63, paragraph 2, line 4: “... an archaeological research design and work plan shall be prepared by a qualified archaeologist in consultation with a Native American Representative registered with the Native American Heritage Commission from the City of San José and that is traditionally and culturally affiliated with the geographic area, as described in Public Resources Code Section 21080.3. The plan shall be designed to facilitate...”

Page 63, paragraph 4, line 3: “...the Director of Planning, Building and Code Enforcement or Director’s designee and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement will be notified, and a qualified archaeologist in consultation with a Native American representative registered with the Native American Heritage Commission from the City of San Jose and that is traditionally and culturally affiliated with the geographic area, as described in Public Resources Code Section 21080.3 will examine the find. The archaeologist and Native American representative will...”

Page 154, paragraph 2, line 1: “The City of San José’s ~~2018~~ 2020 Transportation Analysis Handbook...”

Page 157, paragraph 4, line 1: “...City of San José’s Transportation Analysis Handbook (April-~~2018~~, 2020, Section 4.8, “Intersection Operations Analysis”)...”

Page 158, Table 4.17-2, under Signalized Intersection column: “~~I-280~~ I-880 SB Ramps & Brokaw Rd”

Page 158, Table 4.17-2, under Signalized Intersection column: “~~I-280~~ I-880 NB Ramps & Brokaw Rd”

**ATTACHMENT A ALL PUBLIC COMMENTS TO IS/MND DURING
PUBLIC REVIEW PERIOD**



June 23, 2021

Maira Blanco
City of San Jose
200 E Santa Clara St
San Jose, CA 95113

Ref: Gas and Electric Transmission and Distribution

Dear Maira Blanco,

Thank you for submitting the Oakland Road Industrial Project plans for our review. PG&E will review the submitted plans in relationship to any existing Gas and Electric facilities within the project area. If the proposed project is adjacent/or within PG&E owned property and/or easements, we will be working with you to ensure compatible uses and activities near our facilities.

Attached you will find information and requirements as it relates to Gas facilities (Attachment 1) and Electric facilities (Attachment 2). Please review these in detail, as it is critical to ensure your safety and to protect PG&E's facilities and its existing rights.

Below is additional information for your review:

1. This plan review process does not replace the application process for PG&E gas or electric service your project may require. For these requests, please continue to work with PG&E Service Planning: https://www.pge.com/en_US/business/services/building-and-renovation/overview/overview.page.
2. If the project being submitted is part of a larger project, please include the entire scope of your project, and not just a portion of it. PG&E's facilities are to be incorporated within any CEQA document. PG&E needs to verify that the CEQA document will identify any required future PG&E services.
3. An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project and as it relates to any rearrangement or new installation of PG&E facilities.

Any proposed uses within the PG&E fee strip and/or easement, may include a California Public Utility Commission (CPUC) Section 851 filing. This requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851 filing is required.

This letter does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed. PG&E will provide a project specific response as required.

Sincerely,

Plan Review Team
Land Management



Attachment 1 – Gas Facilities

There could be gas transmission pipelines in this area which would be considered critical facilities for PG&E and a high priority subsurface installation under California law. Care must be taken to ensure safety and accessibility. So, please ensure that if PG&E approves work near gas transmission pipelines it is done in adherence with the below stipulations. Additionally, the following link provides additional information regarding legal requirements under California excavation laws: <https://www.usanorth811.org/images/pdfs/CA-LAW-2018.pdf>

1. **Standby Inspection:** A PG&E Gas Transmission Standby Inspector must be present during any demolition or construction activity that comes within 10 feet of the gas pipeline. This includes all grading, trenching, substructure depth verifications (potholes), asphalt or concrete demolition/removal, removal of trees, signs, light poles, etc. This inspection can be coordinated through the Underground Service Alert (USA) service at 811. A minimum notice of 48 hours is required. Ensure the USA markings and notifications are maintained throughout the duration of your work.
2. **Access:** At any time, PG&E may need to access, excavate, and perform work on the gas pipeline. Any construction equipment, materials, or spoils may need to be removed upon notice. Any temporary construction fencing installed within PG&E's easement would also need to be capable of being removed at any time upon notice. Any plans to cut temporary slopes exceeding a 1:4 grade within 10 feet of a gas transmission pipeline need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.
3. **Wheel Loads:** To prevent damage to the buried gas pipeline, there are weight limits that must be enforced whenever any equipment gets within 10 feet of traversing the pipe.

Ensure a list of the axle weights of all equipment being used is available for PG&E's Standby Inspector. To confirm the depth of cover, the pipeline may need to be potholed by hand in a few areas.

Due to the complex variability of tracked equipment, vibratory compaction equipment, and cranes, PG&E must evaluate those items on a case-by-case basis prior to use over the gas pipeline (provide a list of any proposed equipment of this type noting model numbers and specific attachments).

No equipment may be set up over the gas pipeline while operating. Ensure crane outriggers are at least 10 feet from the centerline of the gas pipeline. Transport trucks must not be parked over the gas pipeline while being loaded or unloaded.

4. **Grading:** PG&E requires a minimum of 36 inches of cover over gas pipelines (or existing grade if less) and a maximum of 7 feet of cover at all locations. The graded surface cannot exceed a cross slope of 1:4.
5. **Excavating:** Any digging within 2 feet of a gas pipeline must be dug by hand. Note that while the minimum clearance is only 12 inches, any excavation work within 24 inches of the edge of a pipeline must be done with hand tools. So to avoid having to dig a trench entirely with hand tools, the edge of the trench must be over 24 inches away. (Doing the math for a 24 inch



wide trench being dug along a 36 inch pipeline, the centerline of the trench would need to be at least 54 inches [$24/2 + 24 + 36/2 = 54$] away, or be entirely dug by hand.)

Water jetting to assist vacuum excavating must be limited to 1000 psig and directed at a 40° angle to the pipe. All pile driving must be kept a minimum of 3 feet away.

Any plans to expose and support a PG&E gas transmission pipeline across an open excavation need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

6. Boring/Trenchless Installations: PG&E Pipeline Services must review and approve all plans to bore across or parallel to (within 10 feet) a gas transmission pipeline. There are stringent criteria to pothole the gas transmission facility at regular intervals for all parallel bore installations.

For bore paths that cross gas transmission pipelines perpendicularly, the pipeline must be potholed a minimum of 2 feet in the horizontal direction of the bore path and a minimum of 12 inches in the vertical direction from the bottom of the pipe with minimum clearances measured from the edge of the pipe in both directions. Standby personnel must watch the locator trace (and every ream pass) the path of the bore as it approaches the pipeline and visually monitor the pothole (with the exposed transmission pipe) as the bore traverses the pipeline to ensure adequate clearance with the pipeline. The pothole width must account for the inaccuracy of the locating equipment.

7. Substructures: All utility crossings of a gas pipeline should be made as close to perpendicular as feasible ($90^\circ \pm 15^\circ$). All utility lines crossing the gas pipeline must have a minimum of 12 inches of separation from the gas pipeline. Parallel utilities, pole bases, water line 'kicker blocks', storm drain inlets, water meters, valves, back pressure devices or other utility substructures are not allowed in the PG&E gas pipeline easement.

If previously retired PG&E facilities are in conflict with proposed substructures, PG&E must verify they are safe prior to removal. This includes verification testing of the contents of the facilities, as well as environmental testing of the coating and internal surfaces. Timelines for PG&E completion of this verification will vary depending on the type and location of facilities in conflict.

8. Structures: No structures are to be built within the PG&E gas pipeline easement. This includes buildings, retaining walls, fences, decks, patios, carports, septic tanks, storage sheds, tanks, loading ramps, or any structure that could limit PG&E's ability to access its facilities.

9. Fencing: Permanent fencing is not allowed within PG&E easements except for perpendicular crossings which must include a 16 foot wide gate for vehicular access. Gates will be secured with PG&E corporation locks.

10. Landscaping: Landscaping must be designed to allow PG&E to access the pipeline for maintenance and not interfere with pipeline coatings or other cathodic protection systems. No trees, shrubs, brush, vines, and other vegetation may be planted within the easement area. Only those plants, ground covers, grasses, flowers, and low-growing plants that grow unsupported to a maximum of four feet (4') in height at maturity may be planted within the easement area.



11. Cathodic Protection: PG&E pipelines are protected from corrosion with an “Impressed Current” cathodic protection system. Any proposed facilities, such as metal conduit, pipes, service lines, ground rods, anodes, wires, etc. that might affect the pipeline cathodic protection system must be reviewed and approved by PG&E Corrosion Engineering.

12. Pipeline Marker Signs: PG&E needs to maintain pipeline marker signs for gas transmission pipelines in order to ensure public awareness of the presence of the pipelines. With prior written approval from PG&E Pipeline Services, an existing PG&E pipeline marker sign that is in direct conflict with proposed developments may be temporarily relocated to accommodate construction work. The pipeline marker must be moved back once construction is complete.

13. PG&E is also the provider of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E’s facilities must be reviewed and approved by PG&E to ensure that no impact occurs which may endanger the safe operation of its facilities.



Attachment 2 – Electric Facilities

It is PG&E's policy to permit certain uses on a case by case basis within its electric transmission fee strip(s) and/or easement(s) provided such uses and manner in which they are exercised, will not interfere with PG&E's rights or endanger its facilities. Some examples/restrictions are as follows:

1. Buildings and Other Structures: No buildings or other structures including the foot print and eave of any buildings, swimming pools, wells or similar structures will be permitted within fee strip(s) and/or easement(s) areas. PG&E's transmission easement shall be designated on subdivision/parcel maps as **"RESTRICTED USE AREA – NO BUILDING."**
2. Grading: Cuts, trenches or excavations may not be made within 25 feet of our towers. Developers must submit grading plans and site development plans (including geotechnical reports if applicable), signed and dated, for PG&E's review. PG&E engineers must review grade changes in the vicinity of our towers. No fills will be allowed which would impair ground-to-conductor clearances. Towers shall not be left on mounds without adequate road access to base of tower or structure.
3. Fences: Walls, fences, and other structures must be installed at locations that do not affect the safe operation of PG&E's facilities. Heavy equipment access to our facilities must be maintained at all times. Metal fences are to be grounded to PG&E specifications. No wall, fence or other like structure is to be installed within 10 feet of tower footings and unrestricted access must be maintained from a tower structure to the nearest street. Walls, fences and other structures proposed along or within the fee strip(s) and/or easement(s) will require PG&E review; submit plans to PG&E Centralized Review Team for review and comment.
4. Landscaping: Vegetation may be allowed; subject to review of plans. On overhead electric transmission fee strip(s) and/or easement(s), trees and shrubs are limited to those varieties that do not exceed 15 feet in height at maturity. PG&E must have access to its facilities at all times, including access by heavy equipment. No planting is to occur within the footprint of the tower legs. Greenbelts are encouraged.
5. Reservoirs, Sumps, Drainage Basins, and Ponds: Prohibited within PG&E's fee strip(s) and/or easement(s) for electric transmission lines.
6. Automobile Parking: Short term parking of movable passenger vehicles and light trucks (pickups, vans, etc.) is allowed. The lighting within these parking areas will need to be reviewed by PG&E; approval will be on a case by case basis. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications. Blocked-up vehicles are not allowed. Carports, canopies, or awnings are not allowed.
7. Storage of Flammable, Explosive or Corrosive Materials: There shall be no storage of fuel or combustibles and no fueling of vehicles within PG&E's easement. No trash bins or incinerators are allowed.



8. Streets and Roads: Access to facilities must be maintained at all times. Street lights may be allowed in the fee strip(s) and/or easement(s) but in all cases must be reviewed by PG&E for proper clearance. Roads and utilities should cross the transmission easement as nearly at right angles as possible. Road intersections will not be allowed within the transmission easement.

9. Pipelines: Pipelines may be allowed provided crossings are held to a minimum and to be as nearly perpendicular as possible. Pipelines within 25 feet of PG&E structures require review by PG&E. Sprinklers systems may be allowed; subject to review. Leach fields and septic tanks are not allowed. Construction plans must be submitted to PG&E for review and approval prior to the commencement of any construction.

10. Signs: Signs are not allowed except in rare cases subject to individual review by PG&E.

11. Recreation Areas: Playgrounds, parks, tennis courts, basketball courts, barbecue and light trucks (pickups, vans, etc.) may be allowed; subject to review of plans. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications.

12. Construction Activity: Since construction activity will take place near PG&E's overhead electric lines, please be advised it is the contractor's responsibility to be aware of, and observe the minimum clearances for both workers and equipment operating near high voltage electric lines set out in the High-Voltage Electrical Safety Orders of the California Division of Industrial Safety (<https://www.dir.ca.gov/Title8/sb5g2.html>), as well as any other safety regulations. Contractors shall comply with California Public Utilities Commission General Order 95 (http://www.cpuc.ca.gov/gos/GO95/go_95_startup_page.html) and all other safety rules. No construction may occur within 25 feet of PG&E's towers. All excavation activities may only commence after 811 protocols has been followed.

Contractor shall ensure the protection of PG&E's towers and poles from vehicular damage by (installing protective barriers) Plans for protection barriers must be approved by PG&E prior to construction.

13. PG&E is also the owner of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed and approved by PG&E to ensure that no impact occurs that may endanger the safe and reliable operation of its facilities.

The traffic analysis by Robert Del Rio, Hexagon Transportation Consultants, prepared for OOL, LLC contains a number of mistakes, important omissions, unclear statements and unsubstantiated claims that require responses, corrections, and/or amendments. Particular the VMT analysis and the suggested mitigation is problematic and partly without substantial evidence.

It is also in parts inconsistent with the traffic analysis done by Robert Del Rio, Hexagon Transportation Consultants, for the Charcot Extension project, which itself has been deeply flawed (see Santa Clara County Superior Court Case No. 20CV370153).

SJ TA handbook edition

The analysis consistently refers to the City of San Jose's "Transportation Analysis Handbook, 2018"¹ The handbook has been updated in April 2020². The analysis needs to be updated to ensure consistency with the 2020 guidelines.

Screening criteria

The analysis falsely claims that the 24,100 s.f. of industrial space are screened from CEQA- and VMT-analysis.³ The handbook clearly states:

"In no case should a small infill project be screened out if it is a part of a larger project or "site".⁴

Recommendations

The analysis recommends:

"Provide a standard 12-foot wide sidewalk with tree wells along the project frontage on Oakland Road."⁵

The site plan⁶ does not show such a sidewalk configuration.

The analysis further recommends:

"Provide a new solar powered Braco shelter at the existing bus stop located 500 feet south of the project site on southbound Oakland Road. The City of San Jose and Santa Clara VTA are in support of these bus stop improvements."⁷

It is unclear what a "Braco" shelter is. Presumably, this refers to a shelter made by the company "Brasco". It is unclear, why the shelter has be from a specific brand. The claim that City and VTA are in support of the bus stop improvement is unsubstantiated.

"Oakland Road" name

The analysis inconsistently uses "Old Oakland" and "Oakland" as name for the same roadway.

¹ E.g. page iii

² Can be found at <https://www.sanjoseca.gov/home/showdocument?id=28461>

³ E.g. page iii.

⁴ Transportation Analysis Handbook, p. 10

⁵ Page vi

⁶ Figure 2

⁷ Page vi

Discussion of General Plan policies

The analysis cites General Plan policy TR-2.1.:

“Coordinate the planning and implementation of citywide bicycle and pedestrian facilities and supporting infrastructure. Give priority to bicycle and pedestrian safety and access improvements at street crossings and near areas with higher pedestrian concentrations (school, transit, shopping, hospital, and mixed-use areas) (TR-2.1);”⁸

According to the City’s Bike Plan, the installation of protected bike lanes on Oakland Road is a priority project for the City. The analysis fails to mention or considers this at all and provides no indication how the proposed development would be coordinated with the implementation of these bike facilities.

Instead it simply and boldly states: “The project would not [...] conflict with any adopted plans or policies for new bicycle facilities.”

The analysis further cites General Plan policy TR-8.4.

“Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use (TR-8.4);”⁹

According to the analysis itself, the project will provide significantly more parking space than required (21 spaces above requirement/~20%).¹⁰ The analysis provides no discussion of how this substantial violation TR-8.4. will be addressed.

The analysis further cites General Plan policy LU-9.1.:

“Create a pedestrian-friendly environment by connecting new residential development with safe, convenient, accessible, and pleasant pedestrian facilities. Provide such connections between new development, its adjoining neighborhood, transit access points, schools, parks, and nearby commercial areas”¹¹

Yet, the project and analysis fail policy LU-9.1. as the project does not provide a pedestrian-friendly environment as it is not providing convenient pedestrian connections to the immediately adjacent shopping center. The analysis fails to address the violation of policy LU-9.1.

Inconsistency in CSJ VMT map and tool

Figure 3¹² clearly shows the project site to be in an area declared “Immitigable VMT Area” by the City of San Jose. Yet in the further analysis the project is shown to be able to sufficiently mitigate VMT. Either the VMT heat map provided by the City is wrong or the VMT mitigation analysis is wrong. Which one is it? The analysis fails to address and solve this contradiction.

⁸ Page 4

⁹ Page 5

¹⁰ Page 40

¹¹ Page 5

¹² Page 7

Background conditions

The analysis claims to incorporate background conditions from “approved but not yet completed developments”.¹³ The analysis however fails to incorporate changes in traffic patterns from the approved but not yet completed Charcot Extension project. The analysis should have worked with the City to ensure that this obviously missing data in the Approved Trips Inventory (ATI) is provided. Especially since the author of this traffic analysis was also the lead traffic consultant for the Charcot Extension.

Non-vehicle counts

According to General Plan Policy TR-2.22 pedestrian and bicyclist counts should be collected in addition to traffic counts. The analysis provides no pedestrian and bicyclist counts and therefore fails to adequately assess the impact on pedestrian and bicyclists.

Intersection analysis Oakland/Brokaw

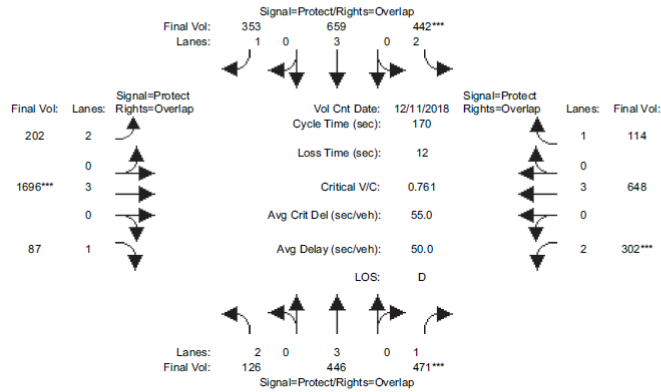
The intersection analysis is incurably flawed as it use unsubstantiated vehicle flow conditions in its modelling, specifically for the eastbound left turn lane from Oakland into Brokaw/Murphy. The model assumes a maximum capacity of 3150 cars/h for the two left lanes combined. Adjusted for a green time of 31.4 seconds per cycle this suggests that the model believes that ~26.25 cars are able to make a left turn per cycle. This is empirically wrong. Based on actual observations on January 29, 2019, a maximum of 16 cars is able to make a left-turn at the intersection per cycle during congested PM peak hour conditions. That means that the model is significantly underestimating the current and future delay at the intersection.

Similar to how the church rejected empirical claims by Galileo and Copernicus because they conflicted with beliefs and previous writings and teachings, it seems likely that the applicant and their traffic consultant will argue that their theoretical modelling based on historic manuals should take precedence over clearly observable empirical fact. This is nonsense.

This commentator is willing to wager \$200 made payable to a non-profit of the City’s choosing, if the applicant, traffic consultant or the City is able to practically demonstrate that 25 or more drivers are able to safely make a left-turn from Oakland Road into eastbound Murphy at this intersection during a 31.4 second green time.

¹³ Page 8

Intersection #3084: BROKAW/OAKLAND



Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Min. Green:	7	10	10	7	10	10	7	10	10	7	10	10
Y+R:	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Volume Module: >> Count Date: 11 Dec 2018 << 5:15-6:15												
Base Vol:	126	446	471	442	659	353	202	1696	87	302	648	114
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	126	446	471	442	659	353	202	1696	87	302	648	114
Added Vol:	0	0	0	0	0	0	0	0	0	0	0	0
PasserByVol:	0	0	0	0	0	0	0	0	0	0	0	0
Initial Fut:	126	446	471	442	659	353	202	1696	87	302	648	114
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Volume:	126	446	471	442	659	353	202	1696	87	302	648	114
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	126	446	471	442	659	353	202	1696	87	302	648	114
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
FinalVolume:	126	446	471	442	659	353	202	1696	87	302	648	114
Saturation Flow Module:												
Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	0.83	1.00	0.92	0.83	1.00	0.92	0.83	1.00	0.92	0.83	1.00	0.92
Lanes:	2.00	3.00	1.00	2.00	3.00	1.00	2.00	3.00	1.00	2.00	3.00	1.00
Final Sat.:	3150	5700	1750	3150	5700	1750	3150	5700	1750	3150	5700	1750
Capacity Analysis Module:												
Vol/Sat:	0.04	0.08	0.27	0.14	0.12	0.20	0.06	0.30	0.05	0.10	0.11	0.07
Crit Moves:	*****											
Green Time:	16.1	38.7	60.1	31.4	53.9	85.6	31.7	66.5	82.6	21.4	56.2	87.6
Volume/Cap:	0.42	0.34	0.76	0.76	0.36	0.40	0.34	0.76	0.10	0.76	0.34	0.13
Delay/Veh:	73.5	55.2	54.1	71.6	44.9	26.5	60.5	46.4	23.7	80.2	43.1	21.4
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	73.5	55.2	54.1	71.6	44.9	26.5	60.5	46.4	23.7	80.2	43.1	21.4
LOS by Move:	E	E	D	E	D	C	E	D	C	F	D	C
HCM2k95thQ:	8	12	40	26	16	22	10	41	5	20	15	6

Note: Queue reported is the number of cars per lane.

“Standard bike lanes”

The analysis describes Brokaw Road as having “standard bike lanes”.¹⁴ But, the analysis provides no definition of what a standard bike lane is. The City’s Bike Plan 2025 defines separated bike lanes as the intended standard for San Jose. Brokaw currently does not have separated bike lanes.

¹⁴ Page 15

Inconsistency with statements made by Robert Del Rio in Charcot EIR

The analysis shows that the intersection of Ridder Park Drive and Brokaw Road causes back ups to the I-880 off-ramp in PM peak hours. Further, it states

“Currently, there are no queuing issues along Brokaw Road at the I-880 freeway ramps. During both the AM and PM peak periods, the westbound left-turn movement at the I-880 Northbound Ramps/Brokaw Road intersection is heavy, but no queuing issues occur and the queues clear in one signal cycle.”

Both is inconsistent with the arguments made by Robert Del Rio in the Charcot Extension traffic analysis that blamed the Brokaw/I-880 interchange itself for causing congestion in the area.

The statements are even more surprising given the fact that this traffic analysis shows much higher traffic counts along Brokaw Road than the Charcot EIR did.

The TA further writes: Overall, the network of sidewalks and bike lanes exhibits good connectivity and would provide employees of the project with safe routes to transit stops and other points of interest in the area.¹⁵ This seems highly inconsistent with the Charcot EIR which claims there is limited connectivity especially for pedestrians and bicyclists in the area. It is baffling that a licensed engineer could come to such two widely differing conclusions about the same area in the timeframe of about 12 months.

NSJADP fee as mitigation measure

The analysis suggests that as the project will pay the NSJADP impact fee and since those fees **could** go toward pedestrian facility improvements, that the project is providing pedestrian improvements outside of the project area. This is wrong. There is no substantial evidence that significant amounts of the NSJADP impact fees will actually go towards pedestrian facility improvements. Quite contrary, even City staff as argued that the NSJADP is heavily car centric and too little focused on active transportation modes. Further, the City is planning to retire the NSJADP and the associated impact fee in the near future. Depending on the project approval process that might mean that the project will not be required to pay those impact fees anymore. It would therefore cease to be a mitigation measure and would need to be replaced with a different mitigation measure.

Raised median as pedestrian improvement and assessment of pedestrian facilities

The analysis further recommends that the project installs a raised median on Oakland Road to prevent left turns into and out of the project driveway as a traffic calming measure. The analysis further argues that this would improve pedestrian and bicycle safety. This claim is unsubstantiated. Installing a median would not eliminate any turn-movements that conflict with pedestrian movements.

Furthermore, median islands are typically installed to facilitate pedestrian crossing. Oakland Road is a fast-moving 6-lane arterial road. Installing a median island would likely encourage additional pedestrian crossings of this arterial road mid-block without any marked crosswalk. It is completely unsubstantiated

¹⁵ Page 39

how this would increase pedestrian safety. In fact, it would likely lead to more and importantly, preventable traffic deaths.

It is also unsubstantiated how this would lead to calmer and slower traffic on Oakland Road. It is also inconsistent with a later statement in the TA.¹⁶

It is more than disappointing that the analysis completely fails to mention anywhere that in December 2019 a pedestrian died in this section of Oakland Road. The analysis is also superficial in its general assessment of the pedestrian infrastructure and activity in the project area. The analysis should have noted that the Oakland/McKay intersection is missing a crosswalk on its south leg, limiting easy access to the northbound VTA bus stop across the street from the project.

The analysis claims that the existing pedestrian facilities provide good connectivity between the site and the surrounding land uses and transit stops in the study area.¹⁷ This is unsubstantiated and “good connectivity” is undefined. It is surprising given the missing crosswalks at intersections,¹⁸ pedestrian-unfriendly slip lanes,¹⁹ limited sidewalks on Oakland Road towards Fox Lane, and limited pedestrian connectivity to the adjacent shopping center.

Bus stop improvement

There is no substantial discussion or evidence of why the southbound bus stop is in “much need” of improvement, while the northbound bus stop isn’t.

TDM as mitigation measure

The analysis further recommends that the project “should” implement TDM program. There is no substantial evidence that a) such TDM program would lead to the necessary reductions in VMT, b) the City of San Jose will enforce the TDM mitigation as there is no publicly available information on any past enforcement and c) could enforce the TDM mitigation even if the City were to try to do so as there are no penalties for failing to implement and maintain a TDM program. For these reason, implementing a TDM program is not an allowable mitigation measure and should not count towards VMT reduction goals.

U-turn inconsistencies

The analysis is inconsistent in describing where U-turns would happen for vehicles wanting to go north on Oakland Road. It is sometimes described as Oakland/Brokaw and sometimes as Oakland/N. Front Way

280 & Brokaw Road

The analysis provides traffic data for I-280 Ramps & Brokaw Road.²⁰ This is impossible.

¹⁶ Page 29: “Note that since the project driveway would be restricted to right turns in and out due to the center median (i.e., striped median with chatter bars) along Oakland Road, some U-turns would occur at the study intersections of Oakland Road/McKay Drive and Oakland Road/Brokaw Road.

¹⁷ Page 15

¹⁸ Oakland/Fox and Oakland/McKay

¹⁹ Oakland/Brokaw

²⁰ Page 34

Intersection traffic operations LOS

The intersection analysis results on page 34 seem inconsistent with the 2018 VTA CMP report observations. There is no substantial evidence that the traffic model used is sufficiently accurate in describing reality in San Jose.

Design speed / stopping sight distance

Although outside of the scope of the project, it should be noted that the analysis describes Oakland Road as having a design speed of 45 mph despite its posted speed limit of 40mph.²¹ This implies that SJ DOT road design entices drivers to go five miles above the speed limit at all times.

Even worse, according to the City of San José Complete Streets Design Standards & Guidelines, Oakland Road as a City Collector road should have a design and target speed of not higher than 30mph, not 40mph and most definitely not 45mph.

This is unacceptable for a “Vision Zero” City.

²¹ Page 37



TAMIEN NATION
of the Greater Santa Clara County
P.O. Box 8053, San Jose, California 95155
(707) 295-4011 tamien@tamien.org

June 28, 2021

Maira Blanco, Planner II
City of San Jose
Sent Via Email: maira.blanco@sanjoseca.gov

RE: Formal Request for Tribal Consultation Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code section 21080.3.1, subds. (b),(d) and (e) INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION, Oakland Road Industrial Project File No.: H20-018

Dear Ms. Blanco,

This letter constitutes a formal request for tribal consultation under the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21080.3.1 subdivisions (b), (d) and (e)) for the mitigation of potential project impacts to tribal cultural resource for the above referenced project. Tamien Nation requested formal notice and information for all projects within your agency's geographical jurisdiction and received notification on June 9, 2021, regarding the above referenced project.

Tamien Nation requests consultation on the following topics checked below, which shall be included in consultation if requested (Public Resources Code section 21080.3.2, subd. (a):

- Alternatives to the project
- Recommended mitigation measures
- Significant effects of the project

Tamien Nation also requests consultation on the following discretionary topics checked below (Public Resources Code section 21080.3.2, subd. (a):

- Type of environmental review necessary
- Significance of tribal cultural resources, including any regulations, policies or standards used by your agency to determine significance of tribal cultural resources
- Significance of the project's impacts on tribal cultural resources
- Project alternatives and/or appropriate measures for preservation or mitigation that we may recommend, including, but not limited to:

- (1) Avoidance and preservation of the resources in place, pursuant to Public Resources Code section 21084.3, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks or other open space, to incorporate the resources with culturally appropriate protection and management criteria;
- (2) Treating the resources with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resources, including but not limited to the following:
 - a. Protecting the cultural character and integrity of the resource;
 - b. Protection the traditional use of the resource; and
 - c. Protecting the confidentiality of the resource.
- (3) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- (4) Protecting the resource.

Additionally, Tamien Nation would like to receive any cultural resources assessments or other assessments that have been completed on all or part of the project's potential "area of project effect" (APE), including, but not limited to:

1. The results of any record search that may have been conducted at an Information Center of the California Historical Resources Information System(CHRIS), including, but not limited to:
 - A listing of any and all known cultural resources have already been recorded on or adjacent to the APE;
 - Copies of any and all cultural resource records and study reports that may have been provided by the Information Center as part of the records search response;
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - Whether the records search indicates a low, moderate or high probability that unrecorded cultural resources are located in the potential APE; and
 - If a survey is recommended by the Information Center to determine whether previously unrecorded cultural resources are present.
2. The results of any archaeological inventory survey that was conducted, including:
 - Any report that may contain site forms, site significance, and suggested mitigation measures.

All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure in accordance with Government Code Section 6254.10.

3. The results of any Sacred Lands File (SFL) check conducted through Native American Heritage Commission. The request form can be found at http://www.nahc.ca.gov/slf_request.html. USGS 7.5-minute quadrangle name, township, range, and section required for the search.
4. Any ethnographic studies conducted for any area including all or part of the potential APE; and
5. Any geotechnical reports regarding all or part of the potential APE.

We would like to remind your agency that CEQA Guidelines section 15126.4, subdivision (b)(3) states that preservation in place is the preferred manner of mitigating impacts to archaeological sites. Section 15126.4, subd. (b)(3) of the CEQA Guidelines has been interpreted by the California Court of Appeal to mean that “feasible preservation in place must be adopted to mitigate impacts to historical resources of an archaeological nature unless the lead agency determines that another form of mitigation is available and provides superior mitigation of impacts.” *Madera Oversight Coalition v. County of Madera* (2011) 199 Cal.App.4th 48, disapproved on other grounds, *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439.

Tamien Nation expects to begin consultation within 30 days of your receipt of this letter. Please contact Tamien Nation’s lead contact person identified in the attached request for notification.

Quirina Geary
Chairwoman
PO Box 8053
San Jose, CA 95155
(707) 295-4011
qgeary@tamien.org

Please refer to identification number TN-20210622-01 in any correspondence concerning this project. Thank you for providing us with this notice and the opportunity to comment.

Sincerely,



Quirina Geary
Chairwoman

cc: Native American Heritage Commission

Connor Tutino

From: Torney, Lola <lola.torney@vta.org>
Sent: Monday, July 12, 2021 11:44 AM
To: Blanco, Maira
Cc: plan.review
Subject: VTA Comments on Oakland Road Industrial Project (H20-018)

[External Email]

Hi Maira,

Below are VTA's comments on the Oakland Road Industrial project. Please let me know if you have any questions. Thanks!

Bus Stop Impacts and Pedestrian Access

Local transit services are provided by VTA Route 66 along Oakland Road with a nearside northbound stop at the corner of Oakland Road and McKay Drive, and a southbound stop approximately 500 feet south of the development and by VTA Route 60 along Brokaw Road/Murphy Avenue with farside east/westbound stops in the intersection with Oakland Road. The northbound Route 66 bus stop currently is a pole with no amenities and there is no crosswalk in the southside of the intersection. In the plan set, there is a recommendation to upgrade stop amenities but there are no specifics given. We recommend to either install a south signalized crosswalk or to move the bus stop to the farside with a concrete landing for ADA ramp deployment through the landscaping and sidewalk tree removal to prevent jaywalking, and that any amenities added does not impede on pedestrian circulation, ADA accessibility, or fall within the bus's dynamic envelope. Southbound Route 66 bus stop currently has a bench and is planned to have a solar powered shelter installed. Similar considerations should apply to prevent any negative impacts.

During the construction, we recommend ensuring that provisions be made to minimize impact to the flow of traffic and preserve pedestrian and bike ROW. For construction VTA has a Bus Stop Placement, Closures and Relocations Policy (<https://www.vta.org/sites/default/files/documents/busstoppolicy.pdf>). Prior to any construction or bus stop impact, please contact bus.stop@vta.org.

~Lola Torney

Lola Torney | She/Her
Transportation Planner III
Bicycle and Pedestrian Program

Santa Clara Valley Transportation Authority
3331 North First Street, Building B
San José, CA 95134-1927
Phone [408-321-5830](tel:408-321-5830)



**ATTACHMENT B REVISED TRANSPORTATION ANALYSIS
(HEXAGON CONSULTANTS, 2020)**



HEXAGON TRANSPORTATION CONSULTANTS, INC.

Oakland Road Office and R&D Development

Transportation Analysis

Prepared for:

OOL, LLC

July 27, 2021



Hexagon Transportation Consultants, Inc.

Hexagon Office: 4 North Second Street, Suite 400

San Jose, CA 95113

Hexagon Job Number: 20BJ10

Phone: 408.971.6100

Client Name: OOL, LLC

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Areawide Circulation Plans Corridor Studies Pavement Delineation Plans Traffic Handling Plans Impact Fees Interchange Analysis Parking Transportation Planning Traffic Calming Traffic Control Plans Traffic Simulation Traffic Impact Analysis Traffic Signal Design Travel Demand Forecasting

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Executive Summary

This report presents the results of the Transportation Analysis (TA) conducted for a proposed research and development (R&D) and office development on Oakland Road in San Jose, California. The vacant two-acre project site is located within the North San Jose Area Development Policy (NSJADP) boundary per the Envision San Jose 2040 General Plan. As proposed, the project would construct two buildings totaling 39,100 square feet (s.f.). Building 1 would consist of 21,900 s.f. of research and development (R&D) space and 2,200 s.f. of warehouse space. Building 2 would consist of 15,000 s.f. of office space. The project site is located on the west side of Oakland Road, approximately 1,000 feet north of Brokaw Road. Access to the site would be provided via one right-in/right-out driveway on Oakland Road. This study was conducted for the purpose of identifying the potential transportation impacts related to the proposed development.

The potential transportation impacts of the project were evaluated following the standards and methodologies established in the City of San Jose's *Transportation Analysis Handbook, 2020*. Based on the City of San Jose's Transportation Analysis Policy (Policy 5-1) and the *Transportation Analysis Handbook*, the transportation analysis report for the project includes a California Environmental Quality Act (CEQA) transportation analysis (TA) and a local transportation analysis (LTA). The CEQA transportation analysis comprises an evaluation of Vehicle Miles Traveled (VMT). The LTA supplements the CEQA transportation analysis by identifying transportation operational issues via an evaluation of weekday AM and PM peak hour traffic conditions for intersections. The LTA also includes an analysis of site access, on-site circulation, parking, and effects to transit, bicycle, and pedestrian facilities.

CEQA Transportation Analysis

The City of San Jose's *Transportation Analysis Handbook, 2020* includes screening criteria for projects that are expected to result in a less-than-significant VMT impact based on the project description, characteristics and/or location. The screening criteria set forth in the *Transportation Analysis Handbook* for small infill industrial and office projects are described below.

Screening Criteria for Small Infill Projects

- Industrial of 30,000 square feet of total gross floor area or less
- Office of 10,000 square feet of total gross floor area or less

The project is proposing to construct 21,900 s.f. of R&D space and 2,200 s.f. of warehouse space for a total of 24,100 s.f. of industrial space. Since the industrial component of the project meets the screening criterion (i.e., totals less than 30,000 s.f.), the industrial component of the project is expected to result in a less-than-significant VMT impact and no CEQA transportation analysis is required.

Since the project is proposing to construct 15,000 s.f. of office space (i.e., more than 10,000 s.f.), the office component of the project does not meet the screening criterion for small infill office projects and a CEQA transportation analysis is required to address potential significant VMT impacts.

The project VMT estimated by the City's VMT Evaluation Tool is 15.18 per employee. The project VMT, therefore, exceeds the threshold of 12.22 VMT per employee. According to the *Transportation Analysis Handbook*, projects located in areas where the existing VMT is above the established threshold (such as the project study area) are referred to as being in "high-VMT areas", and projects in high-VMT areas are required to include a set of VMT reduction measures that would reduce the project VMT to the extent possible.

Project Impact

Since the VMT generated by the office component of the project would exceed the threshold of significance for general employment uses in the area, the project would result in a significant transportation impact on VMT, and mitigation measures are required to reduce the VMT impact.

Project Mitigation

The following recommended multi-modal improvements and Transportation Demand Management (TDM) measures, as described in detail in Chapter 3, should be implemented to mitigate the significant VMT impact:

1. **Pedestrian Network Improvements**
2. **Traffic Calming Measures**
3. **Increase Transit Accessibility**
4. **End of Trip Bicycle Facilities**
5. **Commute Trip Reduction Marketing and Education**
6. **Telecommuting and Alternative Work Schedule Program**
7. **Ride-Sharing Program**

Based on the City's VMT Evaluation Tool, implementing the recommended mitigation measures would lower the project VMT to 12.17 per employee (a reduction of about 20%), which would reduce the project impact to a less-than-significant level (below the threshold of 12.22 VMT per employee).

Local Transportation Analysis

Project Trip Generation

After applying the ITE trip rates to the proposed project and applying the appropriate trip adjustments, the project would be expected to generate 365 new daily vehicle trips, with 24 new trips occurring during the AM peak hour and 26 new trips occurring during the PM peak hour. Using the inbound/outbound splits contained in the ITE *Trip Generation Manual*, the project would produce 20 new inbound trips and 4 new outbound trips during the AM peak hour, and 5 new inbound trips and 21 new outbound trips during the PM peak hour.

Intersection Traffic Operations

The results of the intersection level of service analysis show that the signalized study intersections are currently operating at acceptable levels of service during the AM and PM peak hours of traffic and would continue to operate acceptably under background and background plus project conditions. Thus, the signalized study intersections would not be adversely affected by the project.