

**FINDINGS OF FACT AND
STATEMENT OF OVERRIDING CONSIDERATIONS**

FOR THE

**EAST WHISMAN PRECISE PLAN PROJECT
ENVIRONMENTAL IMPACT REPORT**

**CITY OF MOUNTAIN VIEW
NOVEMBER 2019**

Findings of Fact

INTRODUCTION

To support a decision on a project for which an environmental impact report (EIR) is prepared, a lead or responsible agency must prepare written findings of fact (Findings) for each significant effect on the environment identified in the EIR (Section 21081 of the Public Resources Code). The City of Mountain View, as the lead agency, has prepared these Findings for the East Whisman Precise Plan Project. The Findings must be adopted by the Mountain View City Council.

Public Resources Code Section 21081 states that no public agency shall approve or carry out a project for which an EIR that has been certified identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The State California Environmental Quality Act (CEQA) Guidelines (Title 14, California Code of Regulations, Section 15091), list the possible Findings as follows:

- Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
- Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

CEQA Guidelines Section 15093 further provides:

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”

PROJECT BACKGROUND AND OVERVIEW

The proposed project consists of City-initiated revisions to the Mountain View 2030 General Plan to add a new East Whisman Mixed-Use designation. It would also consolidate the zoning designations included in the project area into a single East Whisman Precise Plan zoning district, under Section 36.22 of the City's Municipal Zoning Ordinance.

The proposed Precise Plan would allow an increase in the intensity of office, commercial, hotel, and residential uses within the area. Specifically, the proposed Precise Plan would include up to 2.1 million square feet of net new office uses (and assumes conversion of approximately 2.2 million square feet of industrial and R&D space to office uses), 100,000 square feet of retail uses, 200 hotel rooms, and 5,000 multi-family residential units.

The project does not include a specific development proposal at this time. If the Council certifies the Final EIR and approves the East Whisman Precise Plan, future development proposals would be subject to City review and additional public hearings. The approvals required for a future development project could include Demolition Permits, Development Review Permits, Planned Community Permits, Tentative Map Permits, Grading Permits, and Heritage Tree Removal Permits.

In accordance with CEQA Guidelines, a Notice of Preparation (NOP) was circulated to the public and responsible agencies for input regarding the analysis in the Draft EIR from August 17, 2017 through September 15, 2017, and a public EIR scoping session for the project was held on September 7, 2017. The Draft EIR was circulated for public review for a 45-day comment period, which commenced on June 7, 2019 and ended on July 22, 2019 (Citation 1).

Formal written responses to each of the comments received during the comment period are included in the Final EIR, as well as text revisions to the Draft EIR.

No substantial changes to the Draft EIR were required, and the Final EIR includes the entire Draft EIR by reference. The Final EIR was made available to the public on September 20, 2019.

RECIRCULATION NOT REQUIRED

An EIR is adequate as long as it provides specific response to all specific questions about significant environmental issues, and as long as the EIR, as a whole, reflects a good faith effort at full disclosure. "Recirculation is not required where the new information added to an EIR merely clarifies or amplifies or makes insignificant modification in an adequate EIR." (CEQA Guidelines Section 15088.5(a).)

The EIR is not inadequate nor did any of the commenters disclose any new significant information that would require recirculation of the EIR. No new significant or substantially more severe environmental impacts have been identified that would result from the Project or from an alternative or a new mitigation measure proposed as part of the Project. Moreover, no new feasible mitigation measures or alternatives have been identified that are considerably different from others previously analyzed and would clearly lessen the significant environmental impacts of the Project that the City and the applicant have declined to implement. All of the responses to comments contained in this Final EIR merely provide information that clarifies and amplifies the evaluation of impacts contained in the Draft EIR.

INCORPORATION BY REFERENCE

The Final EIR is hereby incorporated into these Findings in its entirety. Without limitation, this incorporation is intended to elaborate on the comparative analysis of alternatives, the basis for determining the significance of impacts, the scope and nature of mitigation measures, and the reasons for approving the project.

RECORD OF PROCEEDINGS

Various documents and other materials constitute the record of proceedings upon which the City Council bases its findings and decisions contained herein, including, without limitation, the Draft EIR, and the Final EIR. The documents related to the project are located in the offices of the City of Mountain View, Community Development Department, 500 Castro Street, Mountain View, California, 94039.

FINDINGS

These Findings are based on substantial evidence contained in the Final EIR for the East Whisman Precise Plan Project, relevant technical studies supporting the EIR's analysis, and other supporting documentation included in the administrative record. As previously stated, the Draft EIR addresses the potential effects on the environment that are associated with the project, and the Final EIR includes the Draft EIR comments received on the Draft EIR and text revisions to the Draft EIR. These documents, as well as relevant technical studies, are available for review at the City of Mountain View Community Development Department. This section provides a summary of the significant environmental effects of the project that are discussed in the EIR and provides written findings for each of those significant effects accompanied by a brief explanation of the rationale for each finding.

SUMMARY OF IMPACTS

The Final EIR indicated that significant effects on the environment to the following environmental resources would occur if the project were implemented:

- Air Quality (construction toxic air contaminants, including dust and diesel exhaust)
- Hazardous Materials (existing contamination)
- Noise and Vibration (groundborne vibration)
- Transportation (light rail delay)
- Transportation (transit delay at intersections with a deficient level of service)
- Transportation (project-level VMT)
- Cumulative Transportation (cumulative-level VMT)
- Utilities (infrastructure impacts)

The environmental impacts listed above would be reduced to less-than-significant levels through the incorporation of mitigation measures into the project for all impacts except those related to transit delay at intersections with a deficient level of service and Project-level and cumulative-level VMT. A Statement of Overriding Consideration has been prepared for the significant, unavoidable impacts. The mitigation measures are listed under each of the impacts below and are included in a Mitigation Monitoring and Reporting Program, which has been prepared separately from these findings (Citation 2).

Significant Impacts that are Mitigated to Less-Than-Significant Levels

The Final EIR identifies the following significant adverse impacts that are reduced to a less-than-significant level by the mitigation measures identified in the Final EIR. Impact TRA-4 would be reduced to no impact with mitigation, as also described below.

AIR QUALITY IMPACTS

Impact AQ-3: Emissions of criteria pollutants during construction of future project under the Precise Plan could exceed Bay Area Air Quality Management District (BAAQMD) thresholds and result in a significant impact.

Mitigation

The following mitigation measure is included in the project to reduce emissions during project construction to a less-than-significant level.

MM AQ-3.1: Construction criteria pollutant and toxic air contaminant quantification shall be required on individual projects developed under the Precise Plan once construction equipment and phasing details are available through modeling to identify impacts and, if necessary, include measures to reduce emissions below the applicable BAAQMD construction thresholds. Reductions in emissions can be accomplished through, not limited to, the following measures:

- Construction equipment selection for low emissions;
- Use of alternative fuels, engine retrofits, and added exhaust devices;
- Low-VOC paints;
- Modify construction schedule; and
- Implementation of BAAQMD Basic and/or Additional Construction Mitigation Measures for control of fugitive dust.

Impact AQ-4: Health risks associated with exposure to toxic air contaminants (TACs) during temporary construction activities associated with development under the Precise Plan could significantly impact sensitive receptors.

Mitigation

Implementation of MM AQ-3.1 during development of future projects under the Precise Plan would reduce TAC-related health impacts at sensitive receptors to a less than significant level.

HAZARDOUS MATERIALS IMPACTS

Impact HAZ-3: Future construction and demolition activities could expose construction workers, the environment, and area residents to potentially unacceptable health risks from contaminated groundwater, soils, and soil gas.

Mitigation

The following mitigation measure is included in the project to reduce hazardous materials impacts to a less-than-significant level.

MM HAZ-3.1: Prior to the start of any redevelopment activity, a property-specific Phase I Environmental Site Assessment (ESA) shall be completed in accordance with ASTM Standard Designation E 1527-13 (or the standard that is effective at the time the Phase I ESA is conducted) to identify Recognized Environmental Conditions, evaluate the property history, and establish if the property is likely to have been impacted by chemical releases. Soil, soil vapor, and/or groundwater quality studies shall subsequently be conducted, if warranted based on the findings of the property-specific Phase I ESAs, to evaluate if mitigation measures are needed to protect the health and safety of construction workers, the environment, and area residents.

At properties identified as being impacted or potentially impacted by Recognized Environmental Conditions pertaining to contaminated soil, soil vapor and/or groundwater (based on the professional judgement of the environmental professional and/or determination by the City based on the property-specific Phase I ESA or subsequent studies), a Site

Management Plan (SMP) shall be prepared prior to development activities to establish management practices for handling contaminated soil, soil vapor, groundwater, or other materials during construction activities. The SMP shall be prepared by an Environmental Professional and submitted to the overseeing regulatory agency (e.g., U.S. Environmental Protection Agency, Regional Water Quality Control Board and/or County Department of Environmental Health) for review and approval prior to commencing construction activities. Management of site risks during earthwork activities in areas where impacted soil, soil vapor, and/or groundwater are present or suspected, shall be described. Worker training requirements, and health and safety measures shall be described. The SMP shall also be submitted to the City of Mountain View Planning Division for review. The project developer shall also submit to the City agency approval of the SMP or provide documentation of a regulatory agency's decision declining involvement in the project.

NOISE IMPACTS

Impact NOI-4: Construction activities during implementation of the Precise Plan could result in significant groundborne vibration-related impacts to existing structures.

Mitigation

The following mitigation measure is included in the project to reduce noise impacts to a less-than-significant level.

MM NOI-4.1: Use drilled piles (which cause lower vibration levels) where geological conditions permit their use. In areas where project construction is anticipated to include vibration-generating activities, such as pile driving or use of vibratory rollers, in close proximity to existing structures, site-specific vibration studies should be conducted to determine the area of impact and to identify appropriate mitigation measures which may include the following:

- Identification of sites that would include vibration compaction activities such as pile driving and have the potential to generate ground-borne vibration, and the sensitivity of nearby structures to ground-borne vibration. Vibration limits should be applied to all vibration-sensitive structures located within 200 feet of the project. A qualified structural engineer should conduct this task.
- Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions.
- Construction contingencies would be identified for when vibration levels approached the limits.

- At a minimum, vibration monitoring should be conducted during initial demolition activities and during pile driving activities. Monitoring results may indicate the need for more or less intensive measurements.
- When vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.
- Conduct post-survey on structures where either monitoring has indicated high levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

TRANSPORTATION IMPACTS

Impact TRA-4: Street C would result in increased light rail vehicle delay due to the slower train speeds through the crossing, disrupting the existing facility.

Mitigation

The following mitigation measure is included in the project to entirely avoid light rail vehicle delay-related impacts; thus, there would be no impact.

MM TRA-4.1: The proposed Street C shall be removed from the Precise Plan and replaced with a grade-separated multi-use path (public pedestrian and bicycle access). This improvement would eliminate disruption of the existing light rail facility and there would be no impact.

UTILITIES IMPACTS

Impact UTL-1: Future large-scale, site-specific development projects associated with implementation of the Precise Plan could result in impacts to the existing water, sewer, and storm drainage infrastructure. Proposed new development may require upsizing and/or improvements to nearby water distribution, sewer, and storm drainage infrastructure to accommodate growth associated with larger projects.

Mitigation

The following mitigation measure is included in the project to reduce water, sewer, and stormwater infrastructure impacts to a less-than-significant level.

MM UTL-1.1: The City shall require, determined on a project by project basis, the preparation of a site-specific utility analysis of applicable water, sewer, and stormwater infrastructure systems adjacent to and downstream of the project site to identify capacity issues. The utility impact analysis will be submitted to the Planning Division as part of future project applications. The analysis will determine the proportional utility impact fees to be paid under the nexus

study and will identify any other utility infrastructure improvements required as a result of individual projects.

Finding

Mitigation measures have been incorporated into the project that avoid or reduce the above described significant impacts to a less-than-significant level (or no-impact level). The City of Mountain View hereby finds that implementation of the mitigation measures described above are feasible and are hereby adopted and incorporated into the project. Adoption of these mitigation measures will reduce impacts to a less-than-significant of no-impact level by requiring mitigation measures of future development under the Precise Plan.

Significant and Unavoidable Impacts

The Final EIR identifies the following significant and unavoidable impacts.

TRANSPORATION IMPACTS

Impact TRA-3: Implementation of the Precise Plan would have a significant and unavoidable effect on transit vehicle operations, in particular at those intersections with a deficient level of service.

Finding

The Santa Clara Valley Transportation Authority (VTA) will make transit service changes over time based on ridership performance standards and land use density targets. Increased or modified public transit service is reviewed and approved by a publicly appointed decision body (i.e., the VTA board). Transit operational improvements, such as signal coordination and transit vehicle preemption, could reduce the magnitude of peak-hour congestion on transit operations and potentially improve the overall reliability of transit in congested areas. Operational and service improvements within the Precise Plan area would not fully mitigate impacts to a less than significant level; therefore, the impact remains significant and unavoidable.

Impact TRA-5: The Precise Plan would result in a project-level and cumulative VMT impact due to project generated VMT on both a citywide and countywide level.

Finding

East Whisman is currently an employment-centric area with no residents and over 15,000 jobs, as compared to City of Mountain View's average of 0.97 jobs-to-residents ratio and Santa Clara County's average of 0.53 jobs-to-residents ratio. Transportation Demand Management (TDM)

programs and land use changes would be needed to achieve at least a 15 percent reduction in the Precise Plan VMT per capita below countywide thresholds.

To reduce the potential project generated VMT impact on both a project-level and cumulative basis, the following actions could be taken: increase the TDM effectiveness requirements or modify the project size and/or land use mix. Given the difficulty of increasing TDM requirements even greater than what is required in the Precise Plan and the land use changes proposed as part of the Precise Plan, neither an increased TDM effectiveness requirement, or additional housing is considered feasible mitigation; therefore, the VMT impact remains significant and unavoidable.

ALTERNATIVES TO THE PROPOSED PROJECT

In addition to the project, the following alternatives were evaluated in the Draft EIR, and are more fully described in Section 6.0 of the Draft EIR.

No Project Alternative: Under the No Project Alternative, development would occur consistent with the current General Plan and zoning in the East Whisman area. The constraining factor on development is the zoning, which is predominantly ML (Limited Industrial), allowing up to 0.35 FAR for office, R&D and light industrial uses. Additional FAR consistent with the General Plan would require rezoning. The General Plan identified an increase in office intensity for the area (and no residential uses) for the East Whisman Change Area. However, the existing zoning only supports about 100,000 square feet of additional office floor area, and the intensification of employment density within existing light industrial and R&D buildings. Implementation of infrastructure projects described in the General Plan and funded by development fees would continue.

Finding

The No Project Alternative, while feasible, could result in more severe VMT impacts; though, it would reduce the significant, unavoidable transit delay impact. It would not meet any project objectives related to creating a mixed-use, transit-oriented development. For all these reasons, the No Project Alternative is considered infeasible and is not adopted.

Additional Housing Alternative: East Whisman is currently an employment-centric area with a no residents and over 15,000 jobs, as compared to City of Mountain View's average of 0.97 jobs-to-residents ratio and Santa Clara County's average of 0.53 jobs-to-residents ratio. The proposed addition of 5,000 units in East Whisman would bring the Precise Plan ratio closer to the City and County average. The Additional Housing Alternative evaluates the additional residential development needed to achieve at least a 15 percent reduction in VMT per capita below Existing Conditions. This alternative assumes:

- 7,500 housing units (2,500 more than the proposed Precise Plan)
- 2.2 million square feet of existing R&D and industrial space rebuilt/re-occupied as office space (no net new office space, whereas the Precise Plan proposes 2.1 million square feet)
- 100,000 square feet of retail and restaurant uses (same as the proposed Precise Plan)
- 200 hotel rooms (same as the proposed Precise Plan)

Finding

This alternative would reduce the significant and unavoidable VMT impact to a less than significant level. The transit delay impact would remain significant due to increases in area traffic. The already less than significant greenhouse gas (GHG) emissions impact would be further lessened. The Additional Housing Alternative would meet project objectives related to creating a mixed-use, transit-oriented development; however, the lack of office development would not be consistent with the specified General Plan East Whisman Change area policies calling for greater office intensity. In addition, based on economic feasibility analyses, residential development has a lower return than office development, so some office development may be necessary to create the full range of public improvements envisioned by the Precise Plan. For these reasons, the Additional Housing Alternative is considered infeasible and is not adopted.

Reduced Office Alternative: The Reduced Office Alternative would include 1.7 million square feet of net new office space (as compared to the proposed project's 2.1 million square feet), 2.2 million square feet of existing R&D and industrial space rebuilt/re-occupied as office space, and would include the same 5,000 housing units, 100,000 square feet of retail and restaurant space, and 200 hotel rooms as the proposed project. The Reduced Office Alternative would represent a 26 percent reduction in the amount of office space allowed in the Precise Plan area.

Finding

While temporary construction-related air pollutant and GHG emissions would be less, the Reduced Office Alternative would increase the severity of the operational VMT impact on an areawide and citywide basis, with countywide VMT being slightly less but still above the impact threshold. GHG emissions per service population would also increase. The Reduced Office Alternative would meet project objectives related to creating a mixed-use, transit-oriented development; though with lesser office intensity. For all these reasons, the Reduced Office Alternative is considered infeasible and is not adopted.

Environmentally Superior Alternative(s): Based upon the above discussion, the No Project Alternative would be the environmentally superior alternative. This alternative, however,

would not fully fulfill of the Precise Plan's objectives for the density of new residential units in the area, and, as explained above, the Council finds it to be infeasible for that reason.

The Additional Housing Alternative would be the environmentally superior alternative (out of the analyzed alternatives) because it would reduce significant, unavoidable VMT impact to a less than significant level, though not the significant transit delay impact. Though temporary air pollutant and GHG emissions would be higher due to additional construction, the already less than significant GHG impact would be further lessened. The Additional Housing Alternative would meet project objectives related to creating a mixed-use, transit-oriented development; however, this alternative would not be consistent with the specified General Plan East Whisman Change area policies and Draft EIR objectives calling for greater office intensity, and may not create the full range of public improvements envisioned by the Precise Plan.

SIGNIFICANT UNAVOIDABLE IMPACTS

The Final EIR and the CEQA Findings of Fact conclude that implementing the East Whisman Precise Plan will result in certain significant impacts to the environment that cannot be avoided or substantially lessened with the application of feasible mitigation measures or feasible alternatives. A Statement of Overriding Considerations is therefore necessary to comply with CEQA, Public Resources Code, Section 21081, and the State CEQA Guidelines, Section 15093. The significant and unavoidable impacts and the benefits related to the Precise Plan are described below. The City Council has carefully weighed these impacts and benefits and finds that the benefits of implementing the Precise Plan outweigh the following significant and unavoidable environmental impacts.

- **Transportation: Transit Vehicle Delay Impacts** - Implementation of the Precise Plan would result in a significant and unavoidable effect on transit vehicle operations at intersections with a deficient level of service.
- **Transportation: Project-level and cumulative-level VMT** - Impacts due to project generated VMT on both a citywide and countywide basis.

The City Council finds that each of the following specific economic, legal, social, technological, environmental and other considerations and benefits of the Precise Plan, separately and independently, outweigh the unavoidable adverse environmental effects of the project, and each one is an overriding consideration independently warranting project approval. The Council finds that the significant unavoidable impacts of the project are overridden by each of these individual considerations, standing alone. The significant unavoidable environmental effects remaining after adoption of mitigation measures are considered acceptable in light of these significant benefits of the Precise Plan, as described in this statement of overriding considerations.

STATEMENT OF OVERRIDING CONSIDERATIONS

The City of Mountain View finds that the East Whisman Precise Plan Project has benefits that outweigh the significant, unavoidable impacts identified above. The benefits of the project are:

- A. Includes significant new land use strategies in the area such as “character area targets” that blend a mix of uses with multimodal transportation options for new residents and employees. These strategies will allow area residents and employees to make local trips in the area by walking and biking. This will help reduce the area’s vehicle miles travelled per capita and use of private automobiles, thereby helping achieve longer-range goals to lessen air pollution, traffic impacts, and greenhouse gas emissions;
- B. Improves the area’s and City’s job-housing balance by allowing up to 5,000 new units in East Whisman, and a jobs-housing linkage program ensuring they will be provided prior to new office development;
- C. Provides a strategy to increase the amount of affordable housing in the area; and
- D. Sets requirements for new public parks and open spaces, providing valuable passive and active recreation amenities for nearby residents.

SUMMARY

- Based on the foregoing Findings and the information contained in the record, the City Council has made the following findings with respect to each of the significant effects of the project:
 - Changes or alterations have been required in, or incorporated into, the project, which avoid or mitigate the significant effects on the environment to a less-than-significant level.
 - To the extent that those changes or alterations are within the responsibility and jurisdiction of another public agency, those changes have been, or can and should be, adopted by that other agency.
 - Based on the foregoing Findings and the information contained in the record, it is determined that all significant effects on the environment due to the approval of the project have been eliminated or substantially lessened to a less-than-significant level, with the exception of the significant unavoidable transit delay and vehicle miles travelled impacts listed on the preceding pages for which a Statement of Overriding Consideration is adopted.

CITATIONS

1. City of Mountain View. 2019. Draft Environmental Impact Report for the City of Mountain View East Whisman Precise Plan Project.
2. City of Mountain View. 2019. Mitigation Monitoring and Reporting Program for the City of Mountain View East Whisman Precise Plan Project.