TO: HONORABLE MAYOR AND COUNCIL  
FROM: Rosalynn Hughey  
DATE: July 17, 2017  

SUBJECT: ADMINISTRATIVE HEARING OF THE APPEAL OF THE PLANNING DIRECTOR’S RELIANCE ON A CATEGORICAL EXEMPTION FOR CEQA CLEARANCE FOR THE APPROVAL OF A SITE DEVELOPMENT PERMIT AND VESTING TENTATIVE MAP FOR A SITE LOCATED AT SOUTHEAST CORNER OF RACE STREET AND WEST SAN CARLOS STREET (1266 AND 1270 WEST SAN CARLOS STREET, AND 1298, 310 AND 320 RACE STREET)

RECOMMENDATION

a) Conduct an appeal hearing and consider the appeal of the Director of Planning, Building and Code Enforcement’s reliance on a categorical exemption for in-fill development (CEQA Guidelines Section 15332) for a Site Development Permit File No. H17-018, and a Vesting Tentative Map File No. T16-050 (otherwise referred to as “Project” or “Permit and Subdivision Map”) to allow the demolition and removal of the existing buildings, billboard, and hardscape; removal of seven ordinance-size trees; development of an approximately 29,580 square-foot one-story commercial building with associated surface parking and landscaping; and combining three parcels into one on an approximately 2.04-gross-acre site at the southeast corner of Race Street and West San Carlos Street (1266 and 1270 West San Carlos Street, and 1298, 310 and 320 Race Street).

b) Adopt a resolution denying the appeal and upholding the Director of Planning, Building and Code Enforcement’s reliance on an Initial Study/Exemption, and finding that:

(1) The City Council has read and considered the Initial Study/Exemption; and
(2) The Initial Study/Exemption was prepared and completed in compliance with the California Environmental Quality Act of 1970 and state and local CEQA implementation guidelines; and
(3) Reliance on the Initial Study/Exemption reflects the independent judgment and analysis of the City of San José; and
(4) Preparation of a subsequent environmental clearance is not required because no new information is known since the preparation of the Initial Study/Exemption; and

(5) The Director of Planning, Building and Code Enforcement shall transmit copies of the Initial Study/Exemption to any other decision-making body of the City of San José for the Project.

c) Adopt a resolution approving the Site Development Permit File No. H17-018 to allow the demolition and removal of the existing buildings, billboard, and hardscape; removal of seven ordinance-size trees; and development of an approximately 29,580 square-foot one-story commercial building with associated surface parking and landscaping on an approximately 2.04-gross-acre site at the southeast corner of Race Street and West San Carlos Street (1266 and 1270 West San Carlos Street, and 1298, 310 and 320 Race Street).

d) Adopt a resolution approving Vesting Tentative Map File No. T16-050 combining three parcels into one on an approximately 2.04-gross-acre site at the southeast corner of Race Street and West San Carlos Street (1266 and 1270 West San Carlos Street, and 1298, 310 and 320 Race Street).

**OUTCOME**

Denial of the environmental appeal and upholding the exemption will allow the applicant to implement the Permit and Subdivision Map, including the demolition and removal of the existing buildings, billboard, and hardscape; removal of seven ordinance size trees; development of an approximately 29,580 square-foot one-story commercial building with associated surface parking and landscaping; and combining three parcels into one.

Upholding the environmental appeal would void both the approved Permit and Subdivision Map, and require preparation of a new environmental clearance document prior to the reconsideration of the Permit and Subdivision Map.

**EXECUTIVE SUMMARY**

The proposed Project would allow demolition and removal of the existing buildings, billboard, and hardscape; removal of seven ordinance size trees; development of an approximately 29,580 square foot one-story commercial building with associated surface parking and landscaping; and the combination of three lots into one on an approximately 2.04 gross-acre site at the southeast corner of Race Street and West San Carlos Street.

On June 28, 2017, the Planning Director held a public hearing to consider the Permit and Subdivision Map. On June 27, 2017, prior to the Director’s public hearing, staff received an email (Attachment A) from Janice L. Nelson, Hector Moreno, and Michael Madeiros (appellant) claiming that the analysis in the Initial Study was inadequate to support the use of a categorical exemption because it did not adequately address CEQA Guidelines section 15300.2(c) which states that a categorical exemption cannot be used where there is an reasonable possibility that a project will have
a significant effect on the environment due to “unusual circumstances.” The basis for the appellant’s claim is that pursuant to CEQA Guidelines Section 15300.2(c) there is foreseeable development of a proposed Google campus within the vicinity of the Project site that constitutes an “unusual circumstance” leading to potentially significant traffic impacts and related impacts to noise and air quality. Additionally, the appellant claims that urban decay was not adequately addressed and requires additional environmental study. At the Director’s hearing, staff responded to the concerns raised in the email. The appellant was either not present or did not speak at the hearing.

However, the appellant filed a Notice of Environmental Appeal on Monday July 3, 2017, (Attachment B) to appeal the Project on the grounds that it did not meet the required legal criteria for the CEQA Guidelines Section 15332 categorical exemption for an In-fill Development Project, and that the project will result in significant impacts to traffic, noise, air quality or water quality, in addition to other impacts, due to “unusual circumstances.”

Staff recommends denial of the environmental appeal because the claims raised by the appellant do not raise new significant information requiring additional environmental analysis. The recommendation is based on the following reasons:

1) Substantial evidence does not exist to support the claim that there would be a significant traffic impact or related significant noise, air quality, or water quality impacts due to the speculative nature of a Google campus, because a Google campus within the vicinity of the Project’s site is not a foreseeable project under CEQA; and

2) Substantial evidence does not exist to support the claim that this Project would contribute to urban decay; and

3) The Project qualifies and meets the legal criteria required for a categorical exemption under CEQA Guidelines Section 15332 In-fill Development Projects.

BACKGROUND

Project’s Environmental Review and Director’s Public Hearing

The City prepared an Initial Study to assess the environmental impacts of the Project. CEQA Guidelines Section 15300.2 provides exceptions to the use of categorical exemptions where the use of a categorical exemption is prohibited under certain circumstances. Based on the analysis of the Initial Study and the inapplicability of all of the exceptions under CEQA Guidelines Section 15300.2 to the Project, staff concluded that the Project qualifies for a categorical exemption under CEQA Guidelines Section 15332, for In-fill Development Projects. The Initial Study/Exemption is available for review on the Planning Division’s Environmental webpage at http://www.sanjooseca.gov/index.aspx?NID=5604.

The Planning Director conducted a public hearing on the Permit and Subdivision Map on June 28, 2017. On June 27, 2017, prior to the Director’s hearing, staff received an email from the appellant claiming that the analysis in the Initial Study was inadequate to support the use of a categorical
exemption because it did not adequately address CEQA Guidelines Section 15300.2(c). CEQA Guidelines Section 15300.2(c) states that a categorical exemption cannot be used where there is a reasonable possibility that a project will have a significant effect on the environment due to “unusual circumstances.”

The appellant claims that pursuant to this CEQA Section, a potential Google campus near the vicinity of the Project’s site constitutes an “unusual circumstance” with potentially significant traffic impacts, and related impacts to noise and air quality. Therefore, the appellant’s claim is that the traffic operational analysis that was prepared for the project was inadequate because it did not take into consideration the possibility of a Google campus in the Diridon area as a reasonably foreseeable project. Additionally, the appellant claims that urban decay resulting from the Project was not adequately addressed.

At the June 28, 2017, public hearing staff responded to the concerns raised in the email stating that the traffic operational analysis did not take into consideration a speculative Google campus because the City had not received any formal application for a Google campus in the near vicinity of the Project’s site. Staff also stated that the traffic operational analysis was prepared before the City entered into an exclusive negotiation agreement with Google on June 20, 2017, for the potential sale of some City-owned parcels with no specific project proposed. The appellant was either not present or did not speak at the Director’s hearing. The appellant filed a Notice of Environmental Appeal on Monday July 3, 2017 (Attachment B), to appeal the project on the grounds that it did not meet the required legal criteria for the categorical In-fill exemption under CEQA Guidelines Section 15332, and that the project will result in significant effects to traffic, noise, air quality or water quality, in addition to other impacts, due to “unusual circumstances.”

Google Exclusive Negotiation Agreement

At the June 20, 2017, City Council hearing the Council voted to enter into an Exclusive Negotiation Agreement (ENA) with Google for acquisition and potential development of some City-owned properties in the Diridon Station Area. This ENA is a non-binding agreement with a term limit of one year for the preparation of a Memorandum of Understanding (MOU). Moreover, Google has no Development Permit applications on file with the City. This ENA is not a project under CEQA; it is an agreement that enables the City to negotiate with Google on the potential sale of specific city-owned properties, and there is no project or reasonably foreseeable project under CEQA.

Appeal of Environmental Determination

A timely appeal of the Director of Planning, Building and Code Enforcement’s adoption of a categorical exemption was filed on July 3, 2017, (Attachment B) by the appellant. Pursuant to Section 21.04.140 of Title 21 of the San José Municipal Code, an appeal of an environmental clearance determination must be heard by the City Council, and such appeal shall be considered only on the issues that were raised previously, either orally or in writing, to a recommending body or a decision-making body at or prior to a public hearing whenever the underlying project is considered at a public hearing.
Upon conclusion of the environmental appeal hearing, the City Council may find that the categorical exemption has been completed in accordance with the requirements of CEQA, that on the basis of the whole record there is no substantial evidence that the project will have a significant effect on the environment, and that the categorical exemption reflects the City’s independent judgment and analysis. If the Council makes such a finding, it shall uphold the Director of Planning, Building and Code Enforcement’s adoption of the categorical exemption.

If the City Council finds that the categorical exemption is inadequate, the City Council shall direct staff to prepare additional environmental analysis. The approval of the Permit and Subdivision Map by the Director of Planning, Building and Code Enforcement will be nullified. A new decision shall be made after the new environmental document is prepared and considered by the appropriate decision maker.

ANALYSIS

Environmental Appeal

Pursuant to Section 21.04.140 of Title 21 of the San Jose Municipal Code, an appeal shall be considered by the City Council only on the issues that were raised previously either orally or in writing to a recommending body or a decision-making body at or prior to a public hearing whenever the underlying project is considered at a public hearing.

This section addresses staff’s response to comments raised by the appellant in Attachment A and B. The analysis below summarizes the concerns raised by the appellant and provides staff’s responses demonstrating that the categorical exemption satisfies the requirements of CEQA.

Comment 1: In the June 27, 2017, email correspondence (Attachment A), the appellant claims that although a Google campus is not a consequence of this Project, it is a reasonably foreseeable project, and under CEQA Section 15300.2(c) constitutes an “unusual circumstance” resulting in potentially significant traffic impacts, and related impacts to noise and air quality. The appellant claims that the Project cannot be categorically exempt because the traffic operational analysis prepared for the Project is inadequate, in that, according to the appellant, the analysis did not take into account a Google campus within the near vicinity of the Project site in the baseline condition and 30,000 new workers that a Google campus would bring, and because a Google campus is reasonably foreseeable along with a high trip-generating use on the Project site there could be significant traffic impacts. In the July 3, 2017, Notice of Environmental Appeal (Attachment B), the appellant claims that due to “unusual circumstances,” the Project will result in significant environmental effects.

Response 1: For the reasons discussed below, the CEQA Guidelines Section 15300.2(c) Exceptions does not apply.

Under CEQA Guidelines Section 15300.2(c), the City would be unable to rely upon a CEQA exemption if there were a “reasonable possibility” that an activity will have a significant effect on the environment due to “unusual circumstances.” This exception where the City cannot rely upon a categorical exemption under CEQA applies only when both unusual circumstances and a significant
impact as a result of those unusual circumstances are shown. Berkeley Hillside Preservation v. City of Berkeley (2015) 60 Cal.4th 1086, 1104. The city need only consider whether there is a significant impact as a result of unusual circumstances if it finds that there are unusual circumstances. Id. This Project has neither unusual circumstances nor any significant impacts for the reasons that follow:

a) No Unusual Circumstances

The appellant claims that a Google campus is reasonably foreseeable and should have been included in the baseline condition against which the Project should have been evaluated. Under CEQA, the baseline is the existing environmental setting. A Google campus near the Project site is not an existing project; Google has not filed a development permit application with the City to determine a future Google campus in proximity to this Project. As discussed in the Background section above, the City and Google entered into an ENA as of June 20, 2017, to discuss the potential sale of various City-owned parcels. There is no additional information on the scope of a Google campus (i.e., project boundaries, parcels, land uses, a formal Development Permit, etc.), including how these City-owned sites (referenced in the ENA) may be included within the context of a Google campus. For the City to perform a formal traffic analysis (as recommended by the appellant), additional details would be needed for the size and location of a proposed Google campus, submitted to the City in a formal application for proposed land uses and/or development. Without a formal application such an analysis would be entirely speculative.

b) No Significant Impacts

Due to the small size of the Project, in accordance with City Council Policy 5-3 Traffic Impact Policy, a Traffic Impact Analysis was not required. However, a traffic operational analysis was completed to identify operational issues that may occur as a result of the project. Most of the Project site’s trips are already considered to be on the area roadways, the baseline reflects that the Project site is currently developed with several commercial buildings (approximately 30,305 sq. ft.) and the new retail development (approximately 29,580 sq. ft.) is forecast to generate two (2) fewer trips during the AM peak hour, and only seventeen (17) additional PM peak-hour trips. The increase in the Project’s PM peak hour is not sufficient volume to impact operations of local intersections. The appellant claims that the Project proposes a high-trip generation use that will lead to unique traffic impacts (and related air quality and noise impacts). The Project does not generate a significant number of trips compared to the existing retail use. Moreover, the proposed Project is general retail, which is not all unique for this area, and is similar to the previous retail sporting goods store. Therefore, there are no significant traffic impacts associated with the Project, including related air quality and noise impacts.

The Project will not violate any water quality standards because all projects including this Project are required to comply with City, state, and federal standards (regulatory standards) for demolition and construction activities, such as the City of San José Grading Ordinance, City of San José Post-Construction Urban Runoff Management Policy, and San Francisco Bay Regional Water Quality Control Board (RWQCB) requirements, as summarized below.

The Project site is located in a fully developed area within the City, and no surface water bodies are present on or adjacent to the Project site. Pursuant to the National Pollutant Discharge Elimination
System (NPDES), General Permit for Construction, and the City requirements, standard measures based on RWQCB recommendations have been included in the Project to reduce potential construction-related water quality impacts. The Project will comply with the City of San José Grading Ordinance, including implementation of erosion and dust control measures during site preparation, and with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges. In addition, the project would implement the RWQCB standard construction Best Management Practices (BMPs) to reduce stormwater pollutants during construction. The nearest surface water is the Los Gatos Creek, approximately 0.5 miles to the east of the Project site. The City of San José owns and maintains the municipal storm drainage system which serves the Project site. The lines that serve the Project site drain into Los Gatos Creek. Los Gatos Creek flows to the Guadalupe River which carries stormwater from the storm drains into San Francisco Bay. The impacts related to substantial erosion or siltation on or off-site due to substantial alteration of the existing drainage pattern of the Project site would be less than significant because the Project would not substantially alter the existing drainage pattern of the site in that the drainage pattern would be very similar to existing conditions, and the surface drainage is designed in accordance with California Building Code and recommendations provided in the site-specific geotechnical report prepared for the Project. The Project would not deplete groundwater supplies, interfere with groundwater recharge, or otherwise affect groundwater because the Project site is currently paved and does not contribute to groundwater recharge. Additionally, excavation during construction would require relatively shallow cuts (i.e., four feet, and up to nine feet for utility trenching) and, therefore, would not come in contact with groundwater.

Demolition and construction of the proposed Project, in compliance with the regulatory standards, would not result in significant water quality impacts.

Neither the Project nor the baseline condition present unusual circumstances because the Project is small to modest scale. The project is one-story and approximately 29,580 sq. ft. in size replacing approximately 30,305 sq.ft. of space. Additionally, the Project does not include a unique use, in that the existing use on the Project site is retail, and retail uses are fairly common near the Project site and surrounding areas along West San Carlos Avenue. Therefore, substantial evidence supports the City’s determination as the lead agency that there are no unusual circumstances or significant impacts related to the Project, pursuant to Guidelines Section 15300.2 (c), that would preclude the City from finding the Project exempt under CEQA Guidelines Section 15332 In-fill Development Projects. The CEQA in-fill exemption is appropriate for this Project.

Comment 2: The appellant, in the June 27, 2017, email correspondence (Attachment A), raised a concern that the Project’s proposed use could lead to urban decay, and therefore requires additional study.

Response 2: The appeal suggests urban decay could result from development of the retail Project on the Project site, without citing or providing any market conditions or other facts to support the claim. The general definition of the term “urban decay” is the decay, deterioration, or blight of an urban area or building(s), due to neglect or age. Urban decay is often a result of buildings suffering from deferred maintenance during extended building vacancies, often due to poor economic conditions,
leading to physical blight as the buildings deteriorate. The proposed Project is to replace an existing unoccupied retail building with new structures and landscaping. The appellant claims that the likelihood of a Google campus near the Project site would cause urban decay. However, even if the City had an application for development by Google in the vicinity of this Project, which it does not, it is likely that there would be an increase in retail demand, therefore, the appellant’s claim of urban decay is without basis, with or without a speculative Google Campus.

Comment 3: In the July 3, 2017, Notice of Environmental Appeal (Attachment B), the appellants’ claim that the Project does not meet the legal criteria for the use of a categorical exemption under CEQA Guidelines Section 15332.

Response 3: For the Project to qualify for a categorical exemption, in this case a categorical exemption under CEQA Guidelines Section 15332 In-fill Development Projects, it must be demonstrated that the exceptions under CEQA Guidelines Section 15300.2 are inapplicable to the Project. A detailed Initial Study was prepared for the Project Initial Study to assess the environmental impacts. Further discussion and clarification is provided in the Analysis section above under Responses 1 and 2.

CEQA Guidelines Section 15300.2, Exception
a) Location: The site is flat and surrounded by existing commercial development. The Project site is not located in a sensitive environment or adjacent to any sensitive habitat.

b) Cumulative impact: There is no evidence of a potential significant cumulative impact on the environment from the proposed Project. It has been determined that the Project will not cumulatively impact traffic, noise, air quality, or water quality.

c) Unusual circumstances: The project would not result in any significant effects on the environment due to unusual circumstances. The proposed Project site does not have any unusual circumstances that would negatively impact the environment. Refer to discussion above under response 1-3.

d) Scenic highways: The Project site is not in proximity or visible to any designated scenic highway. The Project therefore, would not have any adverse environmental effects on scenic highways or resources.

e) Hazardous waste sites: The Project site is not located on a list of identified hazardous waste sites designated by the State of California.

f) Historical resources: There are no historical resources located on the Project site.

The Project meets the criteria outlined in the categorical exemption section 15332 Infill Development Project of the CEQA Guidelines as discussed below:

a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations: The project site has a General Plan land use designation of Combined Industrial/Commercial and is zoned Combined Industrial/Commercial. The proposed commercial use is consistent with the General Plan designation and the Zoning District.
b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses: The property is 2.04 gross acres which is less than five acres, and is located within the City’s limits, surrounded by commercial and residential (urban uses).

c) The project site has no value as habitat for endangered, rare, or threatened species: The project site and its surrounding uses are fully developed. The site has no value for endangered, rare or threatened species because it does not contain nor is it situated within close proximity to any rivers, waterways, or riparian habitat. Under the Santa Clara Valley Habitat Conservation Plan, the project has a land cover type of Urban-suburban and is less than two acres.

d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality: The Project would not result in any significant effects on the environment. (Refer to discussion above in Responses 1-3.)

e) The site can be adequately served by all required utilities and public service: The Project site is located within an urbanized area with adequate sewer, water, and electricity service.

Substantial evidence supports the City’s determination as the lead agency that: 1) there are no unusual circumstances related to the Project site and the proposed development on the site, pursuant to CEQA Guidelines Section 15300.2 (c), that would lead to significant impacts that preclude the Project from being found exempt under CEQA Guidelines Section 15332 In-fill Development Projects, and 2) the proposed Project pursuant to CEQA Guidelines Section 15300.2 qualifies for a categorical exemption under CEQA Guidelines Section 15332, for In-fill Development Projects.

EVALUATION AND FOLLOW UP

If the Council denies the environmental appeal and upholds the Director of Planning, Building and Code Enforcement’s approval of the Permit and Subdivision Map and categorical exemption, the applicant can proceed with obtaining demolition, grading, and building permits.

POLICY ALTERNATIVES

As discussed in the Analysis section, the Council has one distinct decision to make. The Council can either:

a. Approve the use of the categorical exemption and deny the environmental appeal; or

b. Grant the environmental appeal and require that additional environmental review be conducted, resulting in a new environmental document that would have to be reviewed and approved by the City of San José prior to the reconsideration of the Permit and Subdivision Map. Staff does not believe that further environmental review to include consideration of a speculative Google campus is possible because there is no current project, project description or details regarding the nature, scope, and location of the
potential Google campus or its proximity to the subject Project that would be necessary to perform any further CEQA review for this Project.

Staff recommends that the City Council deny the environmental appeal and uphold the Director of Planning, Building and Code Enforcement’s approval of the Permit and Subdivision Map and reliance on a categorical exemption.

PUBLIC OUTREACH

Pursuant to the requirements in Title 21 of the San José Municipal Code for environmental appeals, a hearing notice for the City Council public hearing was mailed to the owners and tenants of all properties located within 500 feet of the project site, and a copy of this City Council Memorandum was mailed to adjacent property owners, the appellants, and applicant.

COORDINATION

The preparation of this memorandum was coordinated with the Department of Public Works and the City Attorney’s Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable Zoning Code provisions and General Plan goals and policies.

CEQA

Exempt, CEQA Section 15332 - In-fill Development Projects.
CONCLUSION

Because the appeal does not raise new environmental issues, or provide new information to the adequacy of the environmental analysis, the categorical exemption meets the requirements of CEQA and additional environmental review is not required. Staff recommends that the City Council uphold the use of the categorical exemption.

/s/
ROSALYNN HUGHEY, INTERIM DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Steve McHarris, Planning Official, at (408) 535-7819.

Attachment: Attachment A - June 27, 2017 comment letter from appellant
Attachment B – July 3, 2017 Notice of Environmental Appeal
RE: Proposed Permits T16-050/H17-018, Environmental Review and Initial Study

Dear Director,

This comment letter regards the proposed “West San Carlos and Race Street Commercial Development Project,” (“the Project”) the Site Development Permit, Tentative Map, Conditional Use Permit, and related entitlements necessary for the development of this project.

According to public materials including the Initial Study, the Project entails demolishing a small office building, as well as the former Mel Cotton’s Sporting Goods store and a small warehouse building used by Mel Cotton’s, and removing a billboard all currently on a 2.04 acre site. The Project proponent proposes to build a single-story 29,580 square foot commercial building with 101 parking spaces.
Staff proposes to apply a categorical exemption under the California Environmental Quality Act ("CEQA"; "the Act") Guidelines to sidestep full environmental review. Specifically, staff is proposing application of the Guidelines § 15332 "infill exemption." Under CEQA Guidelines § 15332 a project is categorically exempt as "infill development" if (i) it is consistent with the applicable general plan and zoning designations; (ii) occurs within city limits on a site no more than five acres substantially surrounded by urban uses; (iii) has no value as habitat for endangered species; (iv) would not result in significant effects to traffic, noise, air quality or water quality; and (v) can be adequately served by utilities and public services.

The purpose of the Initial Study was, presumably, to determine whether the Project meets these elements of the § 15332 infill exemption. Based on the CEQA Checklists appended to each substantive section, Staff concluded that there would be no significant impacts to the specific areas required to be studied in element (iv) of the infill exemption.

Staff considered several potential exceptions to the exemption, beginning at PDF page 66 of the Initial Study and found none to be applicable. Staff did not, however, consider application of the exception found at 15300.2 subd. (c), which prohibits application of categorical exemptions for a project where "there is a reasonable possibility that the
activity will have a significant effect on the environment due to unusual circumstances.”

Based on the conditions surrounding the Project, application of the 15300.2(c) exception to the Infill Exemption would seem to apply. This is true in particular because of foreseeable development of the proposed “Google campus,” within the near vicinity of the Project’s site. The proposed campus, which is being proposed to abut West San Carlos Street approximately 1,600 feet from the Project site, could nearly double the city’s white-collar workforce, by about 30,000 individuals.

While the Google campus is not a consequence of the proposed Project, it is reasonably foreseeable for purposes of study of potential traffic impacts. The June 2017 Traffic Operations Analysis prepared by Hexagon Transportation Consultants is not a full traffic study and did not appear to take into account the potential impacts of this immense new development proposed for the immediate vicinity of the proposed project. Because of that project’s reasonable foreseeability, the City’s impact analysis suffers for two reasons: first, it is incomplete, because appropriate baselines for traffic impacts were not used; and second, because the reasonably foreseeable development, along with the unique traffic impacts of a high-trip generation use on the Project site supports a fair argument that there could be...
significant impacts on traffic (and therefore, noise and air quality as well). Given the potential uses for the site and surrounding uses, there is also a concern that urban decay was not adequately considered or studied, and should be the subject of a more appropriate environmental review process.

For the foregoing reasons, we are requesting that the City conduct a full traffic study with the appropriate baselines before adopting the categorical infill exemption for the proposed Project.

In addition, we are requesting that the City keep us individually noticed of any proceedings or developments related to the Project as interested parties. Thank you for your attention to these comments.

Best Regards,

Hector Moreno
3280 San Rivas Dr, San Jose, CA 95148

Janice L. Nelson
1259 Farringdon Drive, San Jose, CA 95127

Michael Medeiros
325 Cureton Place, San Jose, CA 95137
NOTICE OF ENVIRONMENTAL APPEAL

TO BE COMPLETED BY PLANNING STAFF

FILE NUMBER
H17-018

TYPE OF ENVIRONMENTAL DETERMINATION (EIR, MND, EX)
Exemption

RECEIPT # 0023 0920
AMOUNT $100.00
DATE 7/3/17
BY OK

TO BE COMPLETED BY PERSON FILING APPEAL

PLEASE REFER TO ENVIRONMENTAL APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE.

THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE FOLLOWING ENVIRONMENTAL DETERMINATION:

June 28, 2017 approval of
CEQA Exemption for Site Development Permit H17-018 / Vesting Tent, Map T16-050; Commercial Building at 320 Race Street

REASON(S) FOR APPEAL (For additional comments, please attach a separate sheet):
The project does not meet the legal criteria for the claimed exemption from CEQA (Infill Exemption per Sec. 15332).
The project will result in significant effects to traffic, noise, air quality or water quality, in addition to other impacts, due to "unusual circumstances."

PERSON FILING APPEAL

NAME
Janice L. Nelson, Hector Moreno, Michael Madeiros

ADDRESS
1259 Farringdon Dr. (Nelson)

SIGNATURE

for JLN

DAYTIME TELEPHONE (415) 369-9400

CITY San Jose

STATE CA

ZIP CODE 95127

DATE 6/30/17

CONTACT PERSON

(IF DIFFERENT FROM PERSON FILING APPEAL)

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PLEASE CALL THE APPOINTMENT DESK AT (408) 535-3555 FOR AN APPLICATION APPOINTMENT.