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## MEMORANDUM

Date: June 5, 2017

To: Eric Luchini, City of Pleasanton Community Development Department, Planning Division

CC: Project File

From: Christy Herron, CEQA Project Manager

**Subject: Review of Final Supplemental Environmental Impact Report  
For the Johnson Drive Economic Development Zone**

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The City of Pleasanton (City) is moving forward with the Final Supplemental Environmental Impact Report (Final SEIR, or SEIR) for the Johnson Drive Economic Development Zone (EDZ, proposed EDZ, or project). The SEIR was prepared pursuant to the California Environmental Quality Act (CEQA) (Pub. Res. Code §21000 *et seq.*) and the state *CEQA Guidelines* (14 Cal. Code Regs. §15000 *et seq.*). More than a year has elapsed since the Final SEIR was published in March 2016. ESA has, at the City's request, reviewed the Final SEIR to determine whether new information has arisen that could trigger its recirculation prior to the City's consideration of it for certification. Briefly, it has not. The reasons for this conclusion are provided below.

### A. CEQA Requires Recirculation in Limited Circumstances

Recirculation of a Draft EIR prior to certification is required only when "significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review under Section 15087 but before certification" (Pub. Res. Code §21092.1; CEQA Guidelines §15088.5). The term "information" can refer to "changes in the environmental setting as well as additional data or other information" (CEQA Guidelines §15088.5). "Significant new information" is defined as a disclosure showing that:

1. A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented;
2. A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance;
3. A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it; or
4. The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.



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By comparison, recirculation is not required when new information merely amplifies, clarifies, or makes insignificant modifications to an adequate EIR (CEQA Guidelines §15088.5(b)).

## B. No Significant New Information has Arisen Since Publication of the Final SEIR

As discussed below, no information has arisen since the publication of the Final SEIR that meets the definition of “significant new information” as defined in *CEQA Guidelines* Section 15088.5(a).

### ***No significant new information has been added to the Project Description***

The City has confirmed that the proposed EDZ, including the anticipated land development program, has not changed from its description in Chapter 3.0, Project Description, of the EIR.

### ***No significant new information has been added to the Environmental Setting***

Descriptions of existing physical conditions in the area of the EDZ are presented and described in the SEIR Setting sections for each of the four main environmental topics – namely, Aesthetics, Air Quality, Noise, and Traffic and Transportation – as well as all other environmental topics discussed in the document. The discussions of the environmental setting are based on actual physical conditions as they existed on the date of publication of the Notice of Preparation for the Draft SEIR (NOP), August 25, 2014 – this date established the baseline for the SEIR.

A visit to the area of the EDZ conducted on April 16, 2017 indicated no substantial changes to the physical conditions as described in the SEIR have taken place within the area of the proposed EDZ. The City has confirmed this conclusion.

### ***No significant new information has been added to the Regulatory Setting***

Although some changes have taken place, no substantial changes to the regulations, rules, and plans as described in the SEIR Regulatory Setting discussions have occurred that would result in significant new information, as discussed below. Specific examples include:

**City of Pleasanton General Plan and Municipal Codes.** The City has not updated the General Plan or municipal codes cited in the SEIR.

**City of Pleasanton Climate Action Plan.** The City has not updated its Climate Action Plan.

**Bay Area Air Quality Management District Clean Air Plan.** The most recent revision to the BAAQMD Clean Air Plan was adopted in April 2017; the SEIR includes a discussion of the previous version of the Clean Air Plan that was adopted in 2010. The revised plan does not constitute significant new information because the CEQA significance criteria previously recommended by the BAAQMD have not changed, and, therefore, the



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conclusions addressing air quality impacts in the Draft SEIR (which conservatively assumed significant and unavoidable impacts related to air emissions from operation of new uses within the area of the proposed EDZ) are not likely to change, nor are any new potentially significant impacts likely to be identified.

**Assembly Bill 52 (Native Americans: California Environmental Quality Act).** In September 2014, the California Legislature passed Assembly Bill (AB) 52, which added provisions to the Public Resources Code regarding the evaluation of impacts on tribal cultural resources under CEQA, and consultation requirements with California Native American tribes. In particular, AB 52 now requires lead agencies to analyze project impacts on “tribal cultural resources” separately from archaeological resources (Pub. Res. C §§21074, 21083.09). AB 52 also requires lead agencies to engage in additional consultation procedures with respect to California Native American tribes (Pub. Res. Code §§21080.3.1, 21080.3.2, 21082.3). On June 3, 2016, the California Natural Resources Agency released a revised proposal to update Appendix G of the CEQA *Guidelines* related to tribal cultural resources.

Notably, AB 52’s provisions only apply to EIRs that have a NOP filed on or after July 1, 2015. Because the NOP for the proposed EDZ SEIR was published prior to this date, the EDZ was determined to be not subject to AB 52 requirements. Regardless of the applicability of AB 52’s provisions, the SEIR was reviewed with regards to potential impacts to Native American resources. As described in the SEIR, surveys that took place within the area of the proposed EDZ and in the vicinity found no significant cultural resources. In addition, the City submitted a sacred lands search request to the Native American Heritage Commission (NAHC) on September 5, 2014. A response was received on September 16, 2014, and confirmed that a records search of NAHC’s sacred lands file did not indicate the presence of Native American cultural resources in the area of the EDZ or in the vicinity. Therefore, regardless of the applicability of AB 52 to the proposed EDZ, the SEIR indicates that there would be no significant impacts to tribal cultural resources.

***No significant new information has been added regarding the Approach to Analysis (Methodology)***

No substantial changes to analytical methodologies as described in the SEIR have taken place that would result in significant new information, as discussed below. Specifically:

**Alameda Countywide Travel Demand Model.** The SEIR analysis used the City’s travel demand model for cumulative projections, and the city’s model uses Alameda County’s Countywide Travel Demand Model as its basis. Neither the City’s travel demand model nor the Countywide Travel Demand Model has been updated since 2014.

**Senate Bill 743 and Analysis of Vehicle Miles Traveled.** Although analysis of traffic impacts related to an increase in Vehicle Miles Traveled (VMT) is not yet required under CEQA, it is widely believed that the adoption of Senate Bill 743 will require this analysis in the near future. Regardless, the SEIR included a VMT analysis



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partly in response to the adoption of SB 743, and disclosed the results. The VMT analysis used three different vehicle trip accounting methods and the results from all three indicated an increase in VMT per capita.

***No significant new information has been added that changes Impact Conclusions or Recommended Mitigation Measures***

Because no changes to the EDZ have been proposed and no substantial changes to setting, regulatory setting, or analytical methodologies have taken place, no changes to any of the impact conclusions or proposed mitigation measures are required.

The analysis of cumulative impacts in the SEIR relied on cumulative scenarios included in the City's travel demand model, General Plan and regional projections, and planned development within the vicinity of the area of the proposed EDZ. As discussed above, there have been no substantial changes to the City's travel demand model and no updates to the General Plan. In addition, no new regional projections have been finalized by the regional planning agencies (Association of Bay Area Governments and Metropolitan Transportation Commission). The City has also confirmed that no additional projects have been proposed within 1,000 feet of the area of the proposed JDEZ that would result in impacts not already considered in the SEIR. Therefore, no changes to any of the cumulative impact conclusions or proposed mitigation measures addressing cumulative impacts are required.

***No significant new information has been added relating to Alternatives***

The City has confirmed that no new feasible alternatives that are considerably different from the alternatives assessed in the SEIR and that would lessen the environmental impacts of the proposed EDZ have been identified.

### **C. Additional Comments Submitted on the Final EIR After the Public Review Period**

“Significant new information” may include public comments submitted after the close of the public comment period on the Draft SEIR, if the information identifies a new significant impact, or a substantially more severe impact, or a new feasible alternative (that is considerably different from those alternatives analyzed in the Draft SEIR) or new mitigation measures. The City has confirmed that no comments including significant new information have been submitted since the close of the public review period for the Draft SEIR.

### **D. Conclusions**

Based on ESA's review and as discussed in this memo, no significant new information has arisen since publication of the Final SEIR. Recirculation is not required under these circumstances.