Draft Environmental Impact Report

380 North 1st Street

SCH No. 2023080670

File No. H23-007 & ER23-075

Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

DAVID J. POWERS & ASSOCIATES, INC.

ENVIRONMENTAL CONSULTANTS & PLANNERS

October 2024

Table of Contents

Section 1.0 Introduction and Purpose 1
1.1 Purpose of the Environmental Impact Report 1
1.2 EIR Process 1
1.3 Final EIR/Responses to Comments 2
Section 2.0 Project Information and Description 3
2.1 Project Location 3
2.2 Project Description 3
2.3 Project Objectives 12
2.4 Uses of the EIR 13
Section 3.0 Environmental Setting, Impacts, and Mitigation 14
3.1 Aesthetics 20
3.2 Agriculture and Forestry Resources 32
3.3 Air Quality 36
3.4 Biological Resources 58
3.5 Cultural Resources 70
3.6 Energy 88
3.7 Geology and Soils 97
3.8 Greenhouse Gas Emissions 109
3.9 Hazards and Hazardous Materials 119
3.10 Hydrology and Water Quality 135
3.11 Land Use and Planning 148
3.12 Mineral Resources 152
3.13 Noise 154
3.14 Population and Housing 174
3.15 Public Services 178
3.16 Recreation 186
3.17 Transportation 190
3.18 Tribal Cultural Resources 209
3.19 Utilities and Service Systems 212
3.20 Wildfire 224
Section 4.0 Growth-Inducing Impacts 225

Section 5.0 Significant and Irreversible Environmental Changes 226
5.1 Irreversible Use of Nonrenewable Resources 226
5.2 Commitment of Future Generations to Similar Use 226
5.3 Irreversible Damage Resulting from Environmental Accidents Associated with the Project 227
Section 6.0 Significant and Unavoidable Impacts 228
Section 7.0 Alternatives 229
7.1 Factors in Selecting Alternatives 229
7.2 Project Alternatives 231
Section 8.0 References 241
Section 9.0 Lead Agency and Consultants 247
9.1 Lead Agency 247
9.2 Consultants 247
Section 10.0 Acronyms and Abbreviations 249

Figures

Figure 2.2-1: Regional Map 4
Figure 2.2-2: Vicinity Map 5
Figure 2.2-3: Aerial Map 6
Figure 2.2-4: Conceptual Site Plan 7
Figure 2.2-5: Building Sections 8
Figure 2.2-6: Building Elevations 9
Figure 2.2-7: Stormwater Plan 11
Figure 3.3-1: Project TAC Sources and Location of the MEI 51
Figure 3.3-2: Cumulative TAC Sources and Maximum TAC Impacts at the Project MEI 54
Figure 3.3-3: Cumulative TAC Sources and Maximum TAC Impacts at the Project Site 57
Figure 3.4-1: Tree Location Map 62
Figure 3.5-1: Building Elevations 77
Figure 3.13-1: Noise Measurement Locations 159
Figure 3.17-1: Existing Bicycle Facilities 196
Figure 3.17-2: Existing Transit Facilities 199

Photos

Photos One and Two 24
Photos Three and Four 25
Photos Five and Six 26
Photos Seven and Eight 27

Tables

Table 3.0-1: Cumulative Projects List 16
Table 3.0-2: Geographic Considerations in Cumulative Analysis 18
Table 3.3-1: Sources and Health Effects of Criteria Air Pollutants and Toxic Air Contaminants 37
Table 3.3-2: BAAQMD Air Quality Significance Thresholds 42
Table 3.3-3: BAAQMD Health Risks and Hazards Thresholds 43
Table 3.3-4: Applicable Control Measures 43
Table 3.3-5: Construction Criteria Pollutant Emissions 46
Table 3.3-6: Project Health Risk Impacts at the Off-Site MEI 50
Table 3.3-7: Cumulative Health Risk Impacts at the Project MEI 55
Table 3.3-8: Cumulative Health Risk Impacts at the Project Site 56
Table 3.4-1: Summary of Existing Trees 61
Table 3.4-2: Tree Replacement Ratios 66
Table 3.6-1: Estimated Annual Energy Use for Existing Office Development 92
Table 3.6-2: Estimated Annual Energy Use of Project Options 93
Table 3.13-1: General Plan Land Use Compatibility Guidelines 157
Table 3.13-2: Long-Term Noise Measurements (dBA) 158
Table 3.13-3: Short-Term Noise Measurements (dBA) 158
Table 3.13-4: Train Vibration Measurements 160
Table 3.13-5: Estimated Construction Noise Levels at Nearby Land Uses (dBA) 162
Table 3.13-6 Estimated Traffic Noise Level (dbA DNL) Increases at Receptors in the Project Vicinity 165
Table 3.13-7: Estimated Transformer Noise Levels at Nearby Residences 166
Table 3.13-8: Estimated Rooftop Equipment Noise Levels at Receiving Land Uses 166
Table 3.13-9: Vibration Levels at Adjacent Buildings Surrounding the Project Site (in/sec) 168
Table 3.17-1: Valley Transportation Authority Bus Routes (within ¼ mile of project site) 197
Table 3.17-2: Project Trip Generation Estimates 206

Table 7.2-1: Comparison of Impacts from Alternatives to the Proposed Project 239

Appendices

Appendix A: Notice of Preparation and Received Comments
Appendix B: Construction Health Risk Assessment
Appendix C: Arborist Report
Appendix D: Historic Resources Evaluation
Appendix E: Geotechnical Investigation
Appendix F: City of San José Greenhouse Gas Reduction Strategy Compliance Checklist
Appendix G: Phase I Environmental Site Assessment
Appendix H: Noise and Vibration Assessment
Appendix I: Transportation Analysis
Appendix J: Transportation Demand Management Plan
Appendix K: Structural Memo

Summary

The City of San José, as the Lead Agency, has prepared this Draft Environmental Impact Report (EIR) for the 380 North First Street project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

As the CEQA Lead Agency for this project, the City of San José is required to consider the information in the EIR along with any other available information in deciding whether to approve the project. The basic requirements for an EIR include discussions of the environmental setting, significant environmental impacts including growth-inducing impacts, cumulative impacts, mitigation measures, and alternatives. It is not the intent of an EIR to recommend either approval or denial of a project.

Summary of Project Location and Description

The approximately 0.49-acre project site (APN 249-44-088) is located at 380 North First Street on the north side of Bassett Street between North First Street and North Second Street in San José. The project proposes to demolish the existing office building and surface parking lot on-site to construct a new seven-story apartment building (totaling approximately 119,170 square feet) with 118 rental units (18 of the units would be reserved to very-low-income, low-income, and moderate-income households). The building would have a maximum height of 82 feet and three inches to the roof and 92 feet to the top of the elevator and stair enclosure.

Summary of Significant Impacts and Mitigation Measures

The following is a summary of the significant impacts and mitigation measures addressed within this Draft EIR. The project description and full discussion of impacts and mitigation measures can be found in Section 2.0 Project Information and Description and Section 3.0 Environmental Setting, Impacts, and Mitigation.

Significant Impact	**Mitigation Measures**
Air Quality	
Impact AIR-1: The project construction would result in health risk impacts that exceed the BAAQMD single-source cancer risk threshold of 10 per million due to project construction DPM emissions.	**MM AIR-1.1:** Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth below: • For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use

Significant Impact	Mitigation Measures
	equipment that meet U.S. Environmental Protection Agency (EPA) Tier 4 interim emission standards for particulate matter (PM_{10} and $PM_{2.5}$). If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 55 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment. • Use of alternatively fueled or electric equipment. • Stationary cranes and construction generator sets shall be powered by electricity. Alternatively, the project applicant could develop a plan that reduces on- and near-site construction diesel particulate matter emissions by a minimum of 55 percent or greater. The plan shall be reviewed and approved by the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest).
Biological Resources	
Impact BIO-1: Construction activities associated with the proposed project (e.g. tree removal) could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.	**MM BIO-1.1:** Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall schedule tree removal, demolition, and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31 (inclusive). **MM BIO-1.2:** If tree removal, demolition, and construction cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests are disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1 through April 30 inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31 inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats

Significant Impact	Mitigation Measures
	immediately adjacent to the construction areas for nests. **MM BIO-1.3:** If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest to ensure that bird nests shall not be disturbed during project construction. **MM BIO-1.4:** Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Director of Planning, Building and Code Enforcement or Director's designee.
Cultural Resources	
Impact CUL-1: Implementation of the proposed project would result in the demolition of the building at 380 North First Street, a Candidate City Landmark listed on the San José Historic Resources Inventory and is also eligible for listing on the CRHR.	**MM CUL-1.1:** Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permitee shall prepare and submit a Historic Resources Mitigation Action Plan (Action Plan) that outlines the specific steps, methodology and timing for how the following documentation will be approached and prepared. The Action Plan shall include roles and responsibilities between the Permittee, City staff, and outside individuals, groups, firms, and consultants. The Action Plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer prior to its implementation. **MM CUL-1.2:** Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permittee shall submit Historic American Building Survey (HABS) documentation for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer. The documentation shall be prepared by a qualified architectural historian meeting the Secretary of the Interior's Professional Qualification Standards. The documentation shall be prepared in accordance with the guidelines established for the Level III HABS documentation consistent with the Secretary of the Interior's Standards for Architectural and Engineering Documentation and shall consist of the following components: A. Drawings – Prepare sketch floor plans of the building to help explain the building.

Significant Impact	Mitigation Measures
	B. Photographs – Photograph the exterior and interior with 35 mm digital photography to clearly depict the appearance of the property and areas of significance. Photographs shall include each elevation of the building, architectural details, and prominent interior spaces and features keyed to the sketch floor plans that meet the digital photography specifications for Level III HABS documentation C. Written Data –Prepare expanded history of the property and architectural significance to supplement the photographs by explaining what is not readily visible. Following review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer, the documentation shall be submitted to and filed with the San José Library's California Room, History San José, and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. **MM CUL-1.3:** Prior to the issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permitee shall submit 3D laser scans of the building to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer. The 3D laser scanning shall include an as-built survey of the existing conditions of the building utilizing 3D Laser Scanning techniques to capture the building's exterior to create a 3D point cloud model for digital documentation/archival purposes. **MM CUL-1.4:** Relocation: Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permittee shall advertise the availability of the building for relocation for a period of no less than 60 days. The advertisement must include notification in a newspaper of general circulation, on a website, and notice placed adjacent to the public right of way on the project site to maximize visibility. The Permittee shall provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the Director of Planning, Building and Code Enforcement or the Director's designee that this condition has been met.

Significant Impact	Mitigation Measures
	If the Permittee or a third party agrees to relocate the building, the following measures must be followed: 1. The Director of Planning, Building and Code Enforcement or the Director's designee, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is feasible for the building. 2. Prior to relocation, the Permittee or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study that establishes the baseline condition of the structure prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved. 3. To protect the building during relocation, the Permittee or third party shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine how the building needs to be reinforced/stabilized before the move. 4. Once moved, the Permittee or third party shall repair and rehabilitate the building, as needed, Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be retained in a manner that preserves the integrity of the building for long-term preservation and reuse. Upon completion of the repairs, a qualified architectural historian shall document and confirm that work was completed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and character-defining features were preserved. The Permittee or third party shall submit a memo report to the City's Historic Preservation Officer documenting the relocation, repair, and reuse prior to issuance of any occupancy permits for the project. **MM CUL-1.5:** Salvage: If the Permittee or a third party does not relocate the structure within an agreed upon time, the structure shall be made available for salvage

Significant Impact	Mitigation Measures
	to companies facilitating the reuse of historic building materials. Prior to issuance of any grading, demolition, or building permits, the Permittee shall advertise the availability of the building for salvage for a period of no less than 30 days. The Permittee shall provide evidence to the Director of Planning, Building and Code Enforcement, or the Director's designee, that this condition has been met. **MM CUL-1.6:** Commemoration and Public Interpretation: Prior to the issuance of any grading or building permits, the Permittee shall retain a qualified historic resources consultant to develop a concept commemorative interpretive program, exhibit, and/or display including, but not limited to interpretive text and historic photographs, art or sculpture, video, interactive media, or oral histories. Prior to the issuance of any occupancy permits, the proposal and design of the commemoration and public interpretation shall be designed by a qualified consultant and submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer for review and approval. The final product shall be implemented by the Permittee in coordination with the City. If a physical object, the commemoration and public interpretation shall be installed in a suitable publicly accessible location on the site as agreed upon by the City.
Impact CUL-2: Project ground disturbing activities could result in a substantial adverse change in the significance of an archaeological resource.	**MM CUL-2.1:** Cultural Sensitivity Training. Prior to issuance of any grading permit, the project applicant shall be required to conduct a Cultural Awareness Training for construction personnel. The training shall be facilitated by a qualified archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commissions for 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. Documentation verifying that Cultural Awareness Training has been conducted shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee. **MM CUL-2.2:** Archaeological Monitoring Plan. Prior to the issuance of any demolition, grading, or building permits, a qualified archaeologist shall prepare an Archaeological Monitoring Plan (AMP) that details the types of archaeological resources that could be found within the Project Area during demolition and construction, and the procedures to follow should any archaeological material be encountered. The AMP

Significant Impact	Mitigation Measures
	shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee. The AMP shall: • provide procedures and guidelines for proper notification to Tribes, agencies, and stakeholders, as needed, • a plan for the evaluation and treatment of archaeological resources that may be encountered, as well as a curation plan. **MM CUL-2.3:** Archaeological Monitoring. A qualified archaeologist shall be presented during below grade construction. The archaeological monitor shall be empowered to halt construction activities at the location of a discovery to review possible archaeological material and to protect the resource while it is being assessed. Archaeological monitoring shall continue until, in the archaeologist's judgment, archaeological resources are no longer likely to be encountered. A report shall also be prepared to document the findings after construction is completed.
Hazards and Hazardous Materials	
Impact HAZ-1: The development of the project could result in exposure to construction workers, neighboring properties, future site occupants, and the environment from soils that have the potential to contain, arsenic, lead, pesticides, and polynuclear aromatic hydrocarbons (PAHs), and other contaminants associated with a historic railroad track being located adjacent north of the subject property.	**MM HAZ-1.1:** Prior to the issuance of any demolition or grading permit (whichever occurs earliest), the project applicant shall retain an environmental professional to collect and analyze shallow soil samples for arsenic, lead, organochlorine pesticides, CAM 17 metals, total petroleum hydrocarbons as diesel and oil, volatile organic compounds, polychlorinated bipheynls (PCBs), and polynuclear aromatic hydrocarbons (PAHs) on the subject property to determine whether elevated concentrations of contaminants in the soil exceed environmental screening levels (ESLs) due to a historic railroad track being located just north to the subject property. The results of soil sampling and testing shall be provided to the City's Supervising Planner of the Planning, Building and Code Enforcement Department and the Municipal Compliance Officer of the City of San José Environmental Services Department for review. If contaminants are found in concentrations above regulatory ESLs, the applicant shall obtain regulatory oversight from Santa Clara County Department of Environmental Health (SCCDEH) or the Department of Toxic Substances Control (DTSC) under their Site Cleanup Plan (SCP). In addition, a Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified hazardous materials consultant. The plan shall establish remedial

Significant Impact	Mitigation Measures
	measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José Environmental Services Department.
Noise	
Impact NOI-1: Construction of the proposed project would result in substantial noise generating activities above the City's noise construction threshold for more than 12 months and occurring within 500 feet of residential uses and 200 feet of commercial uses.	**MM NOI-1.1:** Prior to the issuance of any demolition or grading permits (whichever occurs the earliest), a qualified acoustical consultant shall develop and submit a construction noise logistics plan to the Director of Planning, Building and Code Enforcement or the Director's designee. The construction noise logistics plan shall include noise reduction measures to prevent substantial noise disturbances of affected sensitive receptors. A typical construction noise logistics plan shall include, but not be limited to, the following measures to reduce construction noise levels as low as feasible: • Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses. • Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. • Prohibit unnecessary idling of internal combustion engines. • Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. • Utilize "quiet" air compressors and other stationary noise sources where technology exists. • Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site. • Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.

Significant Impact	Mitigation Measures
	• If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites. • Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
Impact NOI-2: The construction of the project would generate vibration levels that would exceed the City's vibration limit of 0.2 in/sec PPV for conventional buildings adjoining the project site.	**MM NOI-2.1:** Prior to issuance of any demolition or grading permits (whichever occurs earliest), the project applicant shall contract with a licensed Professional Structural Engineer in the State of California to prepare a construction vibration monitoring plan that includes measures to reduce vibration impacts to achieve vibration limit of 0.2 in/sec Peak Particle Velocity (PPV). During construction, the project applicant shall implement the following vibration reduction measures: • A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams, clam shovel drop, and vibratory roller, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds. • Place operating equipment on the construction site at least 10 feet from the project site boundaries shared with the existing substation and restroom buildings to the north. • Smaller equipment to minimize vibration levels to below 0.2 in/sec PPV shall be used at the property lines adjoining adjacent buildings. For example, a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, could be used when compacting materials within 30 feet of the

Significant Impact	Mitigation Measures
	existing substation and restroom buildings to the north. • Avoid using vibratory rollers and clam shovel drops within 30 feet of the existing substation and restroom buildings to the north. • Select demolition methods not involving impact tools. • Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 30 feet of the existing substation and restroom buildings to the north. • Designate a Disturbance Coordinator responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site. The requirements of the construction vibration monitoring plan shall be printed on all construction documents, contracts, and project plans and submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition or grading permits. The project contractors shall adhere to the measures of the construction vibration monitoring plan for all phases of construction.

Summary of Project Alternatives

CEQA requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines state that an EIR must identify alternatives that would feasibly attain the most basic objectives of the project (refer to Section 2.3 for the eight project objectives), but avoid or substantially lessen significant environmental effects, or further reduce impacts that are considered less than significant with the incorporation of mitigation. A summary of project alternatives follows. A full analysis of project alternatives is provided in Section 7.0 Alternatives.

- Location Alternative – A Location Alternative was considered but rejected from further analysis, since the project's impacts would be similar at any infill, urbanized location within the City of San José.

- Preservation Alternative – Relocation of the Historic Resource Off-Site – A Relocation Alternative was considered but rejected from further analysis since any attempt to separate the structure for transportation would cause damage to the building.

- No Project, No Development Alternative – Under the No Project, No Development Alternative, the existing 12,000 square foot office building would be retained. The No Project, No Development Alternative would avoid the project's impacts but would not meet any of the project objectives.

- No Project, Redevelopment Alternative – The No Project, Redevelopment Alternative assumes that the site would be developed at a similar intensity as the proposed project consistent with the General Plan and zoning designations. Impacts under this alternative were found to be similar to those of the proposed project and would likely not fully meet the project's objectives.

- Preservation Alternative – Preservation of Historic Resource On-Site – Under this alternative, it is assumed that the existing building would be converted to residential, yielding approximately 12 to 14 units. A new 12 story residential building would be constructed on the remainder of the site. This alternative would have similar impacts to those of the proposed project. This alternative would likely reduce the project's significant and unavoidable impact to historic resources. However, conversion of the building into residential would require improvements and building code updates that would necessitate alterations to the building that may or may not done in conformance with Secretary of the Interior Standards for Treatment of Historic Properties and in accordance with the California Historic Building Code.

- Reduced Density, Preservation Alternative – This alternative would retain the historic building and construct the proposed residential tower on the remainder of the site where the existing surface parking lot is located. The tower would be the same height as the proposed project, but the overall mass of the building would be reduced as a result of the smaller footprint. This alternative would also convert the existing office building to residential. This alternative would reduce construction air quality and noise impacts. All other impacts would remain similar to the proposed project. Similar to the Preservation Alternative above, this alternative would likely reduce the project's significant and unavoidable impact to historic resources. However, conversion of the building into residential may or may not done in conformance with Secretary of the Interior Standards for Treatment of Historic Properties and in accordance with the California Historic Building Code.

Areas of Known Controversy

Section 15123 of the CEQA Guidelines requires the summary section of a Draft EIR to identify areas of controversy known to the Lead Agency, including issues raised by agencies and the public. Environmental concerns about the project raised in comment letters received on the Notice of Preparation (refer to Appendix A) and at the public scoping meeting were related to the following:

- Aesthetics
- Cultural and tribal cultural resources

- Hydrology and water quality
- Liquefaction
- Noise
- Parking
- Shade
- Traffic
- Utilities
- Vehicle miles travelled

Section 1.0 Introduction and Purpose

1.1 Purpose of the Environmental Impact Report

The City of San José, as the Lead Agency, has prepared this Draft Environmental Impact Report (EIR) for the 380 North First Street project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

As described in CEQA Guidelines Section 15121(a), an EIR is an informational document that assesses potential environmental impacts of a proposed project, as well as identifies mitigation measures and alternatives to the proposed project that could reduce or avoid adverse environmental impacts (CEQA Guidelines 15121(a)). As the CEQA Lead Agency for this project, the City of San José is required to consider the information in the EIR along with any other available information in deciding whether to approve the project. The basic requirements for an EIR include discussions of the environmental setting, significant environmental impacts including growth-inducing impacts, cumulative impacts, mitigation measures, and alternatives. It is not the intent of an EIR to recommend either approval or denial of a project.

1.2 EIR Process

1.2.1 Notice of Preparation and Scoping

In accordance with Section 15082 of the CEQA Guidelines, the City of San José prepared a Notice of Preparation (NOP) for this EIR. The NOP was circulated to local, state, and federal agencies on August 28, 2023. The standard 30-day comment period concluded on September 27, 2023. The NOP provided a general description of the proposed project and identified possible environmental impacts that could result from implementation of the project. The City also held a public scoping meeting on September 11, 2023 to discuss the project and solicit public input as to the scope and content of this EIR. The meeting was held virtually. Appendix A of this EIR includes the NOP and comments received on the NOP.

1.2.2 Draft EIR Public Review and Comment Period

Publication of this Draft EIR will mark the beginning of a 45-day public review period. During this period, the Draft EIR will be available to the public and local, state, and federal agencies for review and comment. Notice of the availability and completion of this Draft EIR will be sent directly to every agency, person, and organization that commented on the NOP, as well as the Office of Planning and Research. Written comments concerning the environmental review contained in this Draft EIR during the 45-day public review period should be sent to:

City of San José
Department of Planning, Building, and Code Enforcement
Attn: Nhu Nguyen, Planner I
200 East Santa Clara Street, 3rd Floor
San José, CA 95113-1905
(408) 535-6894
nhu.nguyen@sanjoseca.gov

1.3 Final EIR/Responses to Comments

Following the conclusion of the 45-day public review period, the City of San José will prepare a Final EIR in conformance with CEQA Guidelines Section 15132. The Final EIR will consist of:

- Revisions to the Draft EIR text, as necessary;
- List of individuals and agencies commenting on the Draft EIR;
- Responses to comments received on the Draft EIR, in accordance with CEQA Guidelines (Section 15088);
- Copies of letters received on the Draft EIR.

Section 15091(a) of the CEQA Guidelines stipulates that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings. If the lead agency approves a project despite it resulting in significant adverse environmental impacts that cannot be mitigated to a less than significant level, the agency must state the reasons for its action in writing. This Statement of Overriding Considerations must be included in the record of project approval.

1.3.1 Notice of Determination

If the project is approved, the City of San José will file a Notice of Determination (NOD), which will be posted within 24 hours of receipt at the County Clerk's Office and available for public inspection for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15094(g)).

Section 2.0 Project Information and Description

2.1 Project Location

The approximately 0.49-acre project site (APN 249-44-088) is located at 380 North First Street on the north side of Bassett Street between North First Street and North Second Street in San José. The project site is currently developed with an existing office building (approximately 12,000 square feet), surface parking lot, and landscaping. There are 20 trees on-site, of which 10 are ordinance sized. Regional, vicinity, and aerial maps of the project site are shown in Figure 2.2-1, Figure 2.2-2, and Figure 2.2-3, respectively.

2.2 Project Description

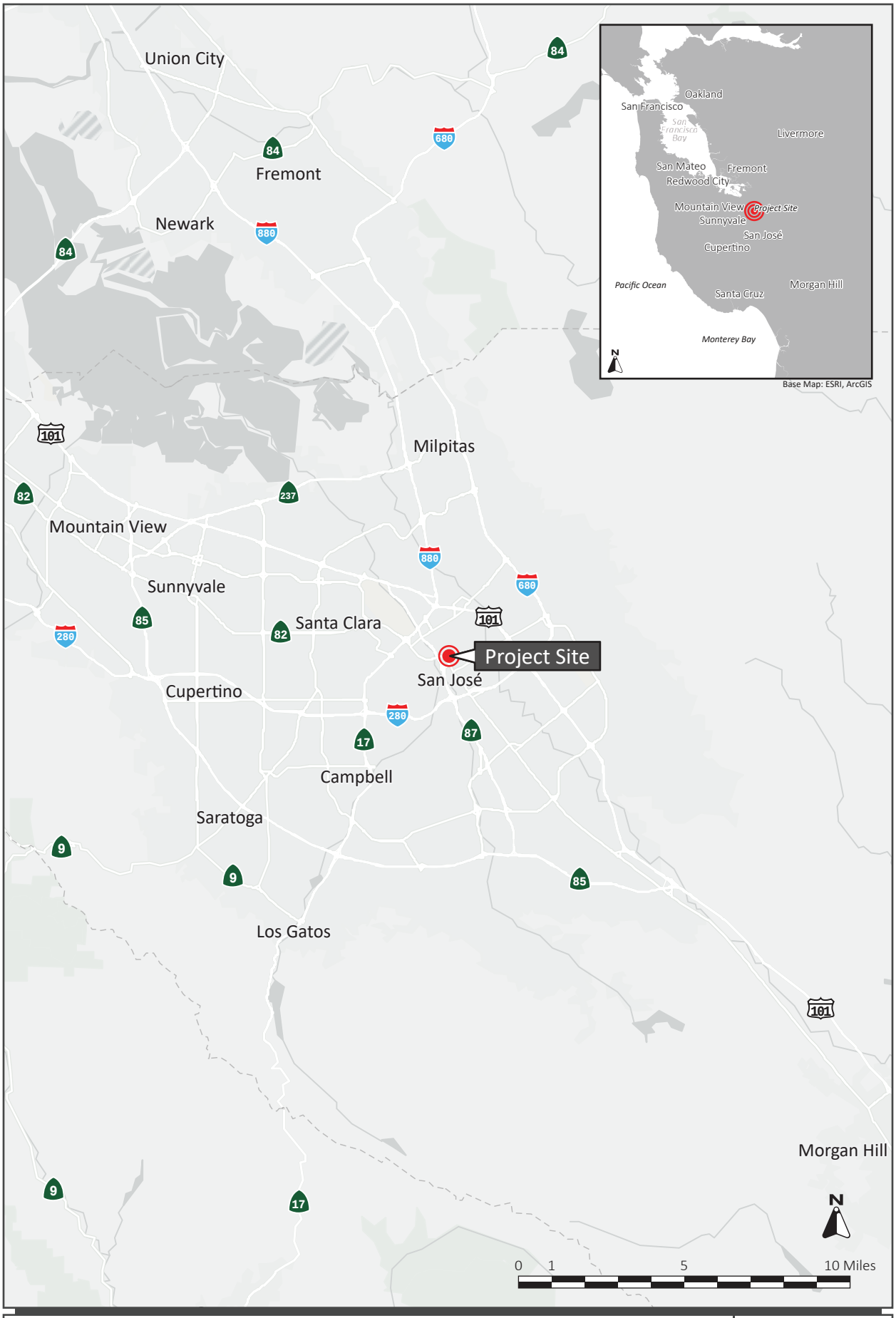
The project applicant proposes to demolish the existing office building and surface parking lot on-site to construct a new seven-story apartment building (totaling approximately 119,170 square feet) with 118 rental units (18 of the units would be reserved to very-low-income, low-income, and moderate-income households). The building would include a leasing office, two lobbies, mail room, bike café[1], amenity space, and club room totaling approximately 3,724 square feet for future residents. The building would have a maximum height of 82 feet and three inches to the roof and 92 feet to the top of the elevator and stair enclosure. A conceptual site plan, building sections, and elevations are shown in Figure 2.2-4, Figure 2.2-5, and Figure 2.2-6.

2.2.1 Parking, Site Access, and Circulation

The project site is currently accessed by a driveway fronting Bassett Street (a one-way roadway) and a driveway fronting North Second Street. As proposed, the project would remove the two existing driveways and construct one 26-foot wide, two-way driveway on Bassett Street. Parking would be accommodated by three levels of stackers on the ground level and one basement level, which would provide up to 74 vehicle parking spaces. All parking would be electric vehicle (EV) capable, including 10 percent with installed electric vehicle supply equipment (EVSE) and 20 percent EV Ready. The project would include 30 bicycle parking spaces (12 short-term and 18 long-term).

Pedestrian access to the site would be provided at the ground level on Bassett Street. The project site is also served by First Street, Second Street, and Julian Street. Bicyclists would access the project site from the bike café located on the northwest corner of the ground level.

[1] The bike café may include a repair station, coffee machine, and bike storage. It would be open 24 hours/day to residents of the building only.



REGIONAL MAP | FIGURE 2.2-1

FIGURE 2.2-2

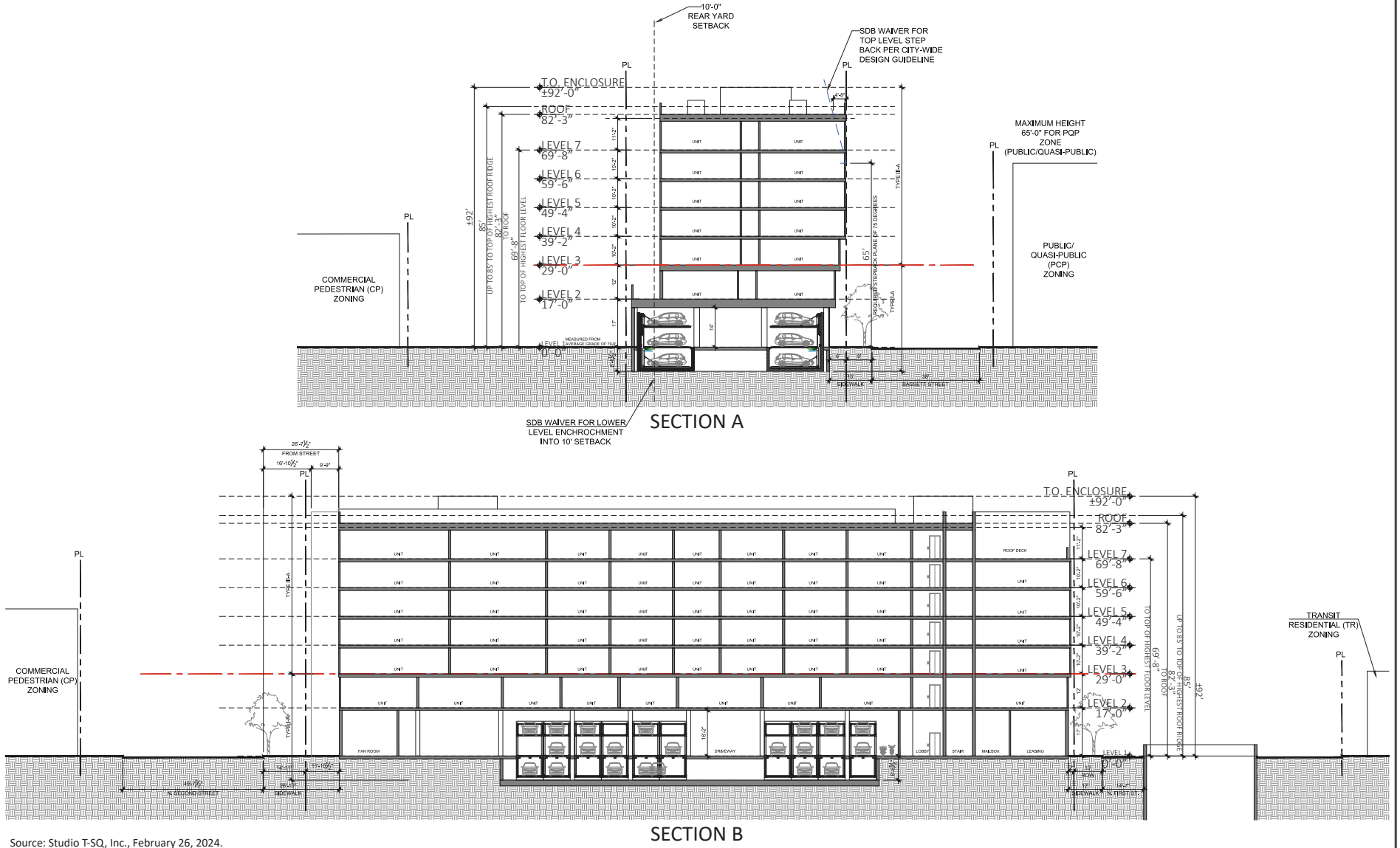
VICINITY MAP

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.2-3

Source: Studio T-SQ, Inc., February 26, 2024.

CONCEPTUAL SITE PLAN

FIGURE 2.2-4



Source: Studio T-SQ, Inc., February 26, 2024.

BUILDING SECTIONS

FIGURE 2.2-5

Source: Studio T-SQ, Inc., February 26, 2024.

BUILDING ELEVATIONS | FIGURE 2.2-6

2.2.1 Landscaping and Stormwater Control

The project would include landscaping on the ground level. The project proposes to remove all 20 of the existing on-site trees. The project applicant would not provide any replacement trees, and the off-site planting fee would be paid for all 56 required replacement trees. Shrubs and vines would be planted in planter boxes along the perimeter of the ground floor, in bioretention planters on the second floor, and in planters on the approximately 430 square foot roof deck, located on the seventh floor.

The existing site currently comprises 18,048 square feet of impervious surface area (86 percent of total area) and 3,029 square feet of pervious surface area (14 percent of total area). Development of the project would result in an additional 1,933 square feet of new impervious surface beyond existing conditions for a total of 19,981 square feet of impervious and 679 square feet of pervious surface area. All stormwater runoff would be treated in six on-site concrete-lined flow-through planters and two self-retaining areas (refer to Figure 2.2-7).[2]

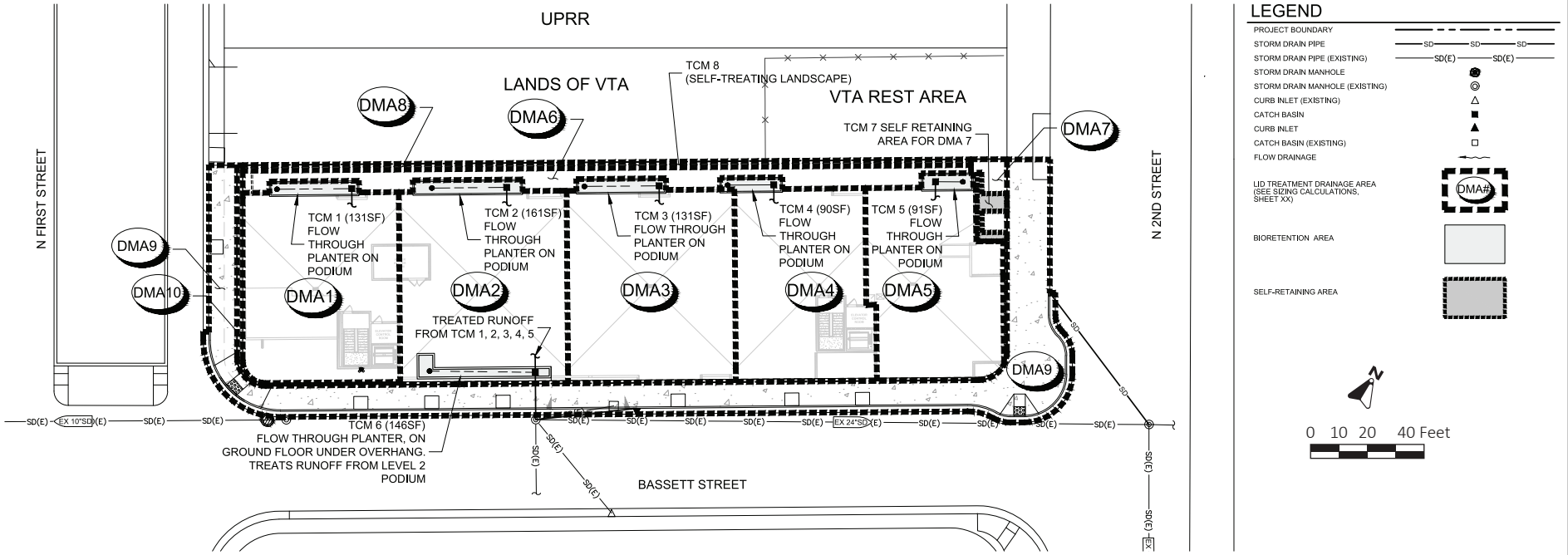
2.2.1 Mechanical Equipment

Based on the project plan set, fire pump, electrical, and trash collection rooms are proposed on the ground floor. A transformer is proposed to be located adjacent to the electrical and trash collection rooms (refer to Figure 2.2-4). The building's heating, ventilation, and air conditioning (HVAC) equipment would be located on the rooftop.

2.2.2 Green Building and Energy Efficiency

The City requires that the project be built in accordance with the California Green Building Standards Code (CALGreen) requirements which includes design provisions intended to minimize wasteful energy consumption and the most recent California Building Code (CBC). The project would also meet the energy efficiency performance requirements of the San José Reach Code.

[2] A self-training area is a landscape area that retains the entire design storm (i.e., no stormwater runoff associated is discharged from the area).



Source: HMH Engineers, February 26, 2024.

STORMWATER PLAN

FIGURE 2.2-7

2.2.3 Transportation Demand Management

The City's Transportation Demand Management (TDM) Program requires projects develop a TDM Plan that meets its TDM Point Targets if the project does not meet the TDM screening criteria. Based on the TDM Plan prepared for the project, the project would be required satisfy 25 TDM Points. The project applicant is proposing to implement the following TDM measures in order to achieve the 25 TDM Points goal:

- PK01: Off-Street Vehicle Parking Spaces (20 points)
- TP02: Provide Bike Share Stations (1 point)
- TP04: Provide Education, Marketing & Outreach (2 points)
- TP16: Unbundle Parking Costs from Property Cost (2 points)

2.2.4 Construction

It is anticipated that construction would take a total of approximately 21 months. Construction phases of the proposed project would include demolition, site preparation, grading/excavation, building construction, and paving. Approximately 2,500 cubic yards (cy) of soil would be transported off-site during earthwork activities.

2.2.5 Envision San José 2040 General Plan and Zoning Designation

The site is designated Transit Residential under the City's General Plan and is within the TR Transit Residential Zoning District. The Transit Residential General Plan land use designation allows for high-density, mixed-use residential development in proximity to transit, jobs, amenities, and services. This designation also supports intensive commercial employment uses, such as office, retail, hotels, hospitals, and private community gathering facilities.

2.3 Project Objectives

Pursuant to CEQA Guidelines Section 15124, the EIR must identify the objectives sought by the proposed project. The stated objectives of the project proponent are to:

1. Provide a financially feasible plan for redevelopment of an underutilized surface parking lot and low-rise office building into housing.
2. Implement the City's General Plan Major Strategy #9: Destination Downtown, by contributing to focused development within the Downtown to support the General Plan's economic, fiscal, environmental, and urban design/placemaking goals.
3. Create an economically integrated neighborhood with new housing units, featuring both affordable and market rate rental apartments.
4. Develop as much housing as possible and feasible in a multi-story high-density building.

5. Provide a variety of unit plans suited for multiple family types - including studios, one-bedroom units, and two-bedroom units.
6. Establish bicycle and pedestrian friendly connectivity to public transit, recreation open spaces, and downtown San José.
7. Build new safe streets and promote pedestrian activity with active programs on the ground level with effective lighting.
8. Incorporate green and healthy development principles that include:
    - Green construction and energy efficient building (i.e., 100 percent electric, photovoltaic (PV) panels, etc.),
    - Reduced parking to promote walkable neighborhoods,
    - Stormwater management, and
    - Meeting Green Building Ordinance and the City's Reach Code.

2.4 Uses of the EIR

This EIR is intended to provide the City of San José, other public agencies, and the general public with the relevant environmental information needed in considering the proposed project. The City of San José anticipates that discretionary approvals by the City, including but not limited to the following, will be required to implement the project addressed in this EIR:

- Site Development Permit
- Encroachment Permit
- Building Permit(s)
- Demolition Permit
- Grading Permit
- Other Department of Public Works Clearances

Section 3.0 Environmental Setting, Impacts, and Mitigation

This section presents the discussion of impacts related to the following environmental subjects in their respective subsections:

3.1	Aesthetics	3.11	Land Use and Planning
3.2	Agriculture and Forestry Resources	3.12	Mineral Resources
3.3	Air Quality	3.13	Noise
3.4	Biological Resources	3.14	Population and Housing
3.5	Cultural Resources	3.15	Public Services
3.6	Energy	3.16	Recreation
3.7	Geology and Soils	3.17	Transportation
3.8	Greenhouse Gas Emissions	3.18	Tribal Cultural Resources
3.9	Hazards and Hazardous Materials	3.19	Utilities and Service Systems
3.10	Hydrology and Water Quality	3.20	Wildfire

The discussion for each environmental subject includes the following subsections:

Environmental Setting – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.

Impact Discussion – This subsection includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts.

- **Project Impacts** – This subsection discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Mitigation measures are numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.
- **Cumulative Impacts** – This subsection discusses the project's cumulative impact on the environmental subject. Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant effects taking place over a period of time. CEQA Guideline Section 15130 states that an EIR should discuss cumulative impacts "when the project's incremental effect is cumulatively considerable." The discussion does not need to be in as great detail as is necessary for project impacts but is to be "guided by the standards of practicality and reasonableness."

The purpose of the cumulative analysis is to allow decision makers to better understand the impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this EIR.

The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence (CEQA Guidelines Section 15130(b)). To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar document (CEQA Guidelines Section 15130(b)(1)). This EIR uses a hybrid approach, and it reflects elements of both the list and projections methods for certain issue areas (i.e., aesthetics and noise) and impact discussions in order to depict the cumulative conditions more accurately. In general, the list method is better at assessing localized and near-term impacts, whereas the projections method provides a more accurate evaluation of cumulative impacts (i.e., population and housing) within the regional context. Pursuant to CEQA Guidelines Section 15130(d), a cumulative discussion from one or more previously certified EIR may be incorporated by reference pursuant to the provisions for tiering and program EIRs. No further cumulative impacts analysis is required when a project is consistent with a general, specific, master or comparable programmatic plan where the lead agency determines that the regional or areawide cumulative impacts of the proposed project have already been adequately addressed, as defined in section 15152(f), in a certified EIR for that plan.

The analysis must determine whether the project's contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3). The cumulative impacts discussion for each environmental issue accordingly addresses the following issues: 1) would the effects of all of past, present, and probable future (pending) development result in a significant cumulative impact on the resource in question; and, if that cumulative impact is likely to be significant, 2) would the contribution from the proposed project to that significant cumulative impact be cumulatively considerable?

Table 3.0-1 identifies the approved (but not yet constructed or occupied) and pending projects within 0.5-mile radius of the project site that are evaluated in the cumulative analysis.

Table 3.0-1: Cumulative Projects List

Name and Location	Description	Distance to Proposed Project	Status
The Kelsey (File Number H20-005) 447 North First Street	Construction of a six-story co-living, mixed income building with 115 units, including 28 apartments dedicated to the developmentally disabled.	0.1 miles	Under Construction
Aviato (File Number SP-17-023, SPA 17-023) 199 Bassett Street	Construction of an 18-story towers with 803 co-living units and 3,800 square feet ground floor retail	0.2 miles	Approved
Westbank Terrain (File Number SP21-045) 323 Terrain Street	Construction of a 319-unit residential building with 12,623 square feet of retail space	0.2 miles	Approved
Arbor (File Number SP21-037) 255 West Julian Street	Construction of a 14-story, 512,031 square feet commercial building.	0.3 miles	Approved
Park View Towers (File Number HA14-009-02) 252 North First Street	Construction of a two-towered (18- and 12-stories) residential building with 215 residential units, 5 townhomes, and 18,537 square feet ground floor retail.	0.2 miles	Approved
Carlysle (File Number H18-025) 51 Notre Dame Avenue	Construction of a 21-story building with approximately 123,479 square foot office space, 290 residential units, and approximately 7,603 square feet of ground floor commercial space.	0.4 miles	Under Construction
Platform 16 (File Number SP18-020, SPA18-020) 440 West Julian Street	Construction of three six-story office buildings totaling 1,023,000 square feet and below-grade parking.	0.5 miles	Under Construction/Paused
Almaden Corner Hotel (File Number H18-038) 8 North Almaden	Construction of a 16-story office building with two towers totaling approximately 2.05 million square feet, including 37,603 gross square feet of ground floor retail and amenity space and 1,416,717 gross square feet of commercial office space; and up to 15 commercial condominium units and extended construction hours to include Saturday work from 7:00 AM to 7:00 PM and 24-hour concrete pours for up to 12 days per year over the course of construction (approximately 51 months).	0.5 miles	Approved
19 North Second Street (File Number SP21-044)	Demolition of the majority of the roof and interior (except for stairway core) of an existing 15,000-square foot, two-story building, the retention and	0.5 miles	Approved

Name and Location	Description	Distance to Proposed Project	Status
	integration of the building walls, street facing facade and a portion of the existing roof and the construction of a 22-story 240-foot high mixed-use 100 percent affordable senior housing project with 220 multi-family residential units and approximately 18,643 square feet of commercial space.		
Echo/Icon (File Number SP21-031, HP21-007) 147 East Santa Clara Street	Construction of a mixed-use project consisting of up to 415 multi-family residential units, 525,000 square feet of commercial space, 8,500 square feet of retail space, and up to 10 commercial condominiums with extended construction hours from 7:00 am to 7:00 pm Monday through Saturday.	0.5 miles	Approved
Almaden Boulevard Tower (File Number H20-021) South Almaden and Post Street	Construction of a 20-story plus penthouse commercial office building, approximately 781,000 gross square feet in size, including 11,750 square feet of ground-floor active use with four stories of underground parking and four stories of above-grade parking.	0.5 miles	Approved
Post and San Pedro Tower (File Number H14-023, HA14-023-02) 171 Post Street	Construction of a 21-story residential tower with 228 residential units and 10,863 square feet of ground floor retail.	0.5 miles	Approved
Greyhound (File Number SP16-021) 70 South Almaden	Construction of 781 residential units with 20,000 square feet of ground floor retail in two high rise towers with 23 to 24 stories including four levels of below-grade parking.	0.5 miles	Approved
27 West (File Number SP18-016) 27 South First Street	Construction of a 22-story, 242-foot-tall mixed-use building consisting of 374 residential units and approximately 35,712 square feet of retail space.	0.5 miles	Approved
Energy Hub (File Number H20-037) 35 South Second Street	Construction of a 21-story mixed residential and commercial building with a total of approximately 721,286 square feet, including 30,790 gross square feet of commercial/retail space on the ground floor and second floor, 194 residential units, 368,093 square feet of office space, and one level of below-grade loading area and three levels of below grade parking, with extended construction hours from 7 AM to 10 PM, Monday to Friday, and 7 AM to 7 PM on	0.5 miles	Approved

Name and Location	Description	Distance to Proposed Project	Status
	Saturdays over a period of approximately 34 months.		
Japantown Mixed-Use 6TH Street (File Number PD15-055)North 6th Street	Planned Development Permit to allow the construction of 520 residential units and 19,191 square feet of commercial space.	0.5 miles	Under Construction
Japantown Mixed-Use 7TH Street (File Number PD20-004) 653 North 6th Street	Construction of 5,540 square feet of gallery space, 8,913 sq for music practice/performance space, and 65 residential units	0.5 miles	Under Review
SuZaCo Mixed-Use Project (File Number H21-026, ER21-085 & HP21-005**)** 142-150 East Santa Clara Street, 130-134 South Fourth Street, and 17-19 South Fourth Street	Construction of a four- to six-story mixed-use, U-shaped building (approximately 75,251 square feet). The maximum height to the top of the roof parapet would be 85 feet. The building would consist of ground floor retail/restaurant space and one level of below-grade retail (totaling approximately 11,790 square feet), while the remaining floors would consist of office space (totaling approximately 63,461 square feet).	0.5 miles	Approved

Source: City of San José. Key Economic Development Projects. Accessed January 24, 2024. https://csj.maps.arcgis.com/apps/instant/attachmentviewer/index.html?appid=95eb2c4821e54ff7b19a55278e742f85

For each resource area, cumulative impacts may occur over different geographic areas. For example, the project's effects on air quality would combine with the effects of projects in the entire air basin, whereas noise impacts would primarily be localized to the surrounding area. The geographic area that could be affected by the proposed project varies depending upon the type of environmental issue being considered. Section 15130(b)(3) of the CEQA Guidelines states that lead agencies should define the geographic scope of the area affected by the cumulative effect. Table 3.0-2 provides a summary of the different geographic areas used to evaluate cumulative impacts.

Table 3.0-2: Geographic Considerations in Cumulative Analysis

Resource Area	Geographic Area
Aesthetics	Project site and adjacent parcels
Agriculture and Forestry Resources	Santa Clara County
Air Quality	San Francisco Bay Area Air Basin
Biological Resources	Project site and adjacent parcels
Cultural Resources	Project site and adjacent parcels
Energy	Energy provider's territory

Table 3.0-2: Geographic Considerations in Cumulative Analysis

Resource Area	Geographic Area
Geology and Soils	Project site and adjacent parcels
GHGs	Planet-wide
Hazards and Hazardous Materials	Project site and adjacent parcels
Hydrology and Water Quality	Coyote Creek watershed
Land Use and Planning/Population and Housing	City of San José
Minerals	Identified mineral recovery or resource area
Noise and Vibration	Project site and adjacent parcels
Public Services and Recreation	City of San José
Transportation/Traffic	City of San José
Tribal Cultural Resources	Project site and adjacent parcels
Utilities and Service Systems	City of San José
Wildfire	Within or adjacent to the wildfire hazard zone

3.1 Aesthetics

3.1.1 Environmental Setting

3.1.1.1 *Regulatory Framework*

State

Senate Bill 743

Senate Bill (SB) 743 was adopted in 2013 and requires lead agencies to use alternatives to level of service (LOS) for evaluating transportation impacts, specifically vehicle miles traveled (VMT). SB 743 also included changes to CEQA that apply to transit-oriented developments, as related to aesthetics and parking impacts. Under SB 743, a project's aesthetic impacts will no longer be considered significant impacts on the environment if:

- The project is a residential or mixed-use residential project, or employment center project and
- The project is located on an infill site within a transit priority area.[3]

SB 743 also clarifies that local governments retain their ability to regulate a project's aesthetics impacts outside of the CEQA process. The project site is located within a TPA.[4]

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José.

[3] An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program or applicable regional transportation plan." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: California Legislative Information. "Chapter 2.7. Modernization of Transportation Analysis for Transit-Oriented Infill Projects [21099- 21099.]." Accessed April 13, 2023. https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PRC&division=13.&part=&chapter=2.7.&article=.

[4] Metropolitan Transportation Commission. Transit Priority Areas (2021). Accessed April 13, 2023. https://opendata.mtc.ca.gov/datasets/MTC::transit-priority-areas-2021-1/explore?location=37.339970%2C-121.895569%2C15.33

Interstate (I-) 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[5]

In Santa Clara County, the one state-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9, Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

Envision San José 2040 General Plan

The 2040 General Plan identifies "gateways", freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The segment of Bird Avenue over I-280 adjacent to the Downtown area is designated as a gateway for scenic purposes. The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to aesthetics and are applicable to the project.

Policy	Description
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.2	Install and maintain attractive, durable, and fiscally- and environmentally- sustainable urban infrastructure to promote the enjoyment of space developed for public use. Include attractive landscaping, public art, lighting, civic landmarks, sidewalk cafes, gateways, water features, interpretive/way-finding signage, farmers markets, festivals, outdoor entertainment, pocket parks, street furniture, plazas, squares, or other amenities in spaces for public use. When resources are available, seek to enliven the public right-of-way with attractive street furniture, art, landscaping and other amenities.
CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City
CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Villages, Corridors, or along Main Streets, commercial and mixed-use building frontages should be placed at or near the street-facing property line with entrances directly to the public sidewalk. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street façade and pedestrian access to buildings.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

[5] California Department of Transportation. "Scenic Highways." Accessed April 13, 2023. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

Policy	Description
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. For example, Chapter 13.32 (Tree Removal Controls) regulates the removal of trees on private property within the City, in part to promote the scenic beauty of the city.

Several sections of the Municipal Code include controls for lighting of signs and development adjacent to residential properties. These requirements call for floodlighting to have no glare and lighting facilities to be reflected away from residential use so that there will be no glare.

The City's Zoning Ordinance (Title 20 of the Municipal Code) includes design standards, maximum building height, and setback requirements.

City Design Guidelines and Design Review Process

Nearly all new private development is subject to a design review process (architecture and site planning). The design review process is used to evaluate projects for conformance with adopted design guidelines and other relevant policies and ordinances. The City prepared and adopted guidelines to assist those involved with the design, construction, review and approval of development in San José. Adopted design guidelines include Residential, Industrial, Commercial, Downtown/Historic, and Downtown Design Guidelines.

City Council Policy 4-2: Public Streetlights

Council Policy 4-2 requires dimmable, programmable lighting for new streetlights, which would control the amount and color of light shining on streets and sidewalks. Light is to be directed downward and outward. New and replacement streetlights should also offer the ability to change the color of the light from full spectrum (appearing white or near white) in the early evening to a monochromatic light in the later hours of the night and early morning. At a minimum, full-spectrum lights should be able to be dimmed by at least 50 percent in late night hours.

City Council Policy 4-3: Outdoor Lighting on Private Developments

Council Policy 4-3 requires private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. Low-pressure sodium lighting is required unless a photometric study is done and the proposed lighting referred to Lick Observatory for review and comment. One of the purposes of this policy is to provide for the continued enjoyment of the night sky and for

continuing operation of Lick Observatory, by reducing light pollution and sky glow. The Downtown area is exempt from this policy.

3.1.1.2 *Existing Conditions*

Project Site

The 0.49-acre project site is located within an urban environment in the City's downtown area. The project site is bounded by railroad tracks to the north, Bassett Street to the south, North First Street to the west, and Second Street to the east. Sidewalks and trees surround the east, south, and west perimeters of the project site.

There is one existing office building (constructed in 1964) on the project site, along with a surface parking lot and landscaping. The two-story rectangular building is in the New Formalism architectural style and is comprised of a flat roof with wide, enclosed overhangs, decorative fascia, and projecting cubed details along its perimeter. The building consists of three two-story concrete arches on the Bassett Street frontage wall, with a matching arch on the First Street frontage wall. The perimeter of the site is enclosed with a decorative wrought-iron fence with concrete block post.

Views of the project site are provided in Photos One through Four.

Surrounding Area

The project site is in an urban, developed area of San José. The project area is a mix of architectural styles and includes historic-age single-family dwellings, historic-age commercial buildings, contemporary multi-story apartment buildings, and stucco clad utilitarian commercial properties. Structures adjacent to the project site range between one and four stories.

Immediately south of the project site, across Bassett Street, is a one-story contemporary style building (located at 360 North First Street (refer to Photo 5). To the west of the project site, are three- and four-story contemporary multi-family apartment buildings (refer to Photo 6). The commercial building, located at 396 North First Street, was constructed in 1926 in the Spanish colonial revival style. To the east of the project site, are three- and four-story contemporary multi-family apartment buildings, and three historic-era single-family houses located at 332, 334, and 336 Second Street (refer to Photos Seven and Eight).

Photo 1: View from Bassett Street

Photo 2: View from N. 1st Street

PHOTOS 1 & 2

Photo 3: View from N 2nd Street

Photo 4: View to back of site

PHOTOS 3 & 4

Photo 5: View from N. 2nd Street to Law Library

Photo 6: View looking northwest from N. 1st Street

PHOTOS 5 & 6

Photo 7: Residential building looking east from N. 2nd Street

Photo 8: Single family looking east from N. 2nd Street

PHOTOS 7 & 8

Scenic Views

Based on the City's General Plan, views of hillside areas (including the foothills of the Diablo Range and the Santa Cruz Mountains, Silver Creek Hills, and Santa Teresa Hills) and the downtown skyline are scenic features in the San José area. The project site is located in a relatively flat urbanized area. Prominent viewpoints from the project site, other than buildings, are limited. The project area has minimal to no scenic views of the Diablo foothills to the east, Santa Cruz Mountains to the west, Santa Teresa Hills to the south, and the Silver Creek hills to the southeast. No natural scenic resources, such as rock outcroppings, are present on-site or in the project area.

Light and Glare

Sources of light and glare are abundant in the urban environment of the project site and project area, including but not limited to streetlights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows.

3.1.2 Impact Discussion

For the purpose of determining the significance of the project's impact on aesthetics, except as provided in Public Resources Code Section 21099, would the project:

1) Have a substantial adverse effect on a scenic vista?
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?
3) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?6 If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Aesthetic values are, by their nature, subjective. Opinions as to what constitutes a degradation of visual character would differ among individuals. One of the best available means for assessing what constitutes a visually acceptable standard for new buildings are the City's design standards and implementation of those standards through the City's design process. The following discussion addresses the proposed changes to the visual setting of the project area and factors that are part of the community's assessment of the aesthetic values of a project's design.

The proposed project would meet the criteria of SB 743 because 1) the project would construct a residential project and 2) the project is located within a transit priority area.[7] Consistent with Public

6 Public views are those that are experienced from publicly accessible vantage points.
[7] MTC. *Transit Priority Areas (2021).* Accessed February 7, 2024. https://opendata.mtc.ca.gov/datasets/MTC::transit-priority-areas-2021-1/explore?location=37.345797%2C-121.908242%2C13.79

Resources Code Section 21099, the project would have a less than significant aesthetics impact. While the project would have a less than significant aesthetic impact, this EIR addresses the CEQA checklist questions for informational purposes.

3.1.2.1 *Project Impacts*

a) Would the project have a substantial adverse effect on a scenic vista?

The project area is flat and prominent views of the Diablo foothills, Santa Cruz Mountains, Santa Teresa Hills, and the Silver Creek hills are limited. The project site and surrounding area have minimal to no scenic views due to the existing built environment with no designated scenic resources. While the proposed project includes construction of a seven-story residential building with a maximum height of up to 85 feet, the proposed project would be consistent with other development in the area. **(Less than Significant Impact)**

b) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

The project site is not located along a state-designated scenic highway. The nearest state-designated highway is SR 9, located more than nine miles southwest of the project site. Therefore, implementation of the proposed project would not damage any scenic resources, such as trees, rock outcroppings, and historic buildings within a state scenic highway. **(Less than Significant Impact)**

c) In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

The project site is located within an urbanized area of downtown San José. The project would involve the demolition of the existing office building and surface parking lot in order to construct a new seven-story apartment building (approximately 118,930 square feet) with 118 rental units. The building would have a maximum height of 85 feet to the roof and 95 feet to the top of the elevator and stair enclosure, which is consistent with the allowed height.

The project has a floor area ratio (FAR) of 5.47, which is below the maximum permitted FAR for the Transit Residential land use designation and the project would be consistent with the intensity of development anticipated in the San José General Plan. The General Plan EIR concluded that new development and redevelopment allowed under the General Plan would alter the appearance of San José; and implementation of applicable policies and regulations (including the City's various Design Guidelines) would avoid substantial degradation of the visual character of the City.

As discussed in Section 3.4 Biological Resources, the project would include the removal of all 20 on-site trees, including 10 ordinance size trees. All trees removed would be replaced in accordance with the City of San José Tree Protection Ordinance, San José Municipal Code Section 13.28, and General Plan Policies MS-21.4, MS-21.5, and MS-21.6. Therefore, the project would not conflict with applicable zoning and other regulations governing the scenic quality of the City's community forest and urban canopy.

Although the City's Zoning Ordinance does not include regulations governing scenic quality, the proposed project would comply with Title 20 of the City's Municipal Code and would be subject to design review conducted as part of the development permit review process to ensure that it conforms with all adopted design guidelines and other relevant policies and ordinances. For these reasons, the proposed project would not conflict with applicable zoning and other regulations governing scenic quality of the City. **(Less than Significant Impact)**

d) Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

The project applicant proposes to construct a seven-story residential building which would result in more visible nighttime lighting than currently exists on-site. The project would include security lighting, parking garage lights, landscape lighting, and decorative outdoor lighting. The project would be subject to Section 20.75.360 of the City's Municipal Code which requires lighting to be directed away from any residential uses so that there will be no glare on surrounding residences and Council Policy 4-3 (refer to Section 3.1.1.2). In addition, the proposed project would be subject to the City's design review process prior to the issuance of development permits to ensure that it is consistent with General Plan policies and the City's Design Standards and Guidelines. Compliance with the Design Standards and Guidelines, City policies, and regulations would reduce glare and control the amount of light shining on streets, sidewalks, and residential properties. Therefore, the proposed project would not adversely affect day or nighttime views in the area from lighting or glare. **(Less than Significant Impact)**

3.1.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative aesthetics impact?

The geographic area for cumulative aesthetics impacts is limited to the project site and adjacent development from which the project site would be visible. None of the cumulative projects identified in Table 3.0-1 are adjacent to the site.

Scenic Vistas

The project site and surrounding area have minimal to no scenic views due to the existing built environment with no designated scenic resources. Therefore, the project would not contribute to a cumulatively significant impact to scenic vistas.

Scenic Resources within a State Scenic Highway

The project would have no impact on scenic resources within a state scenic highway and, therefore, would not contribute to a cumulatively significant impact to those resources.

Scenic Quality

Future cumulative development within the geographic study area would occur in an urbanized environment and, like the project, be subject to the City's applicable zoning and other regulations regarding scenic quality, including the design criteria set forth in the City's General Plan and Citywide Design Standards and Guidelines. Accordingly, the project would not contribute to a cumulatively significant conflict with zoning and other regulations governing scenic quality.

Lighting or Glare

Lighting installed by future cumulative development within the geographic study area would be subject to the design and height standards of City Council Policy 4-3 and the Citywide Design Standards Guidelines, which requires use of exterior materials and lighting fixtures that reduce daytime glare. Therefore, the project would not contribute to a cumulatively significant light and glare impact.

For the reasons described above, the project would have a less than significant cumulative aesthetics impact. **(Less than Significant Cumulative Impact)**

3.2 Agriculture and Forestry Resources

3.2.1 Environmental Setting

3.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is identified as Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[8]

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[9]

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[10] Programs such as CAL FIRE's Fire and Resource Assessment Program and are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.[11]

[8] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed April 13, 2023 http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[9] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[10] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[11] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed April 13, 2023. http://frap.fire.ca.gov/.

3.2.1.2 *Existing Conditions*

Based on the Santa Clara County Important Farmland Finder map[12], the project site does not contain agricultural resources, nor does it contain forest areas or land under Williamson Act contracts.

3.2.2 Impact Discussion

For the purpose of determining the significance of the project's impact on agriculture and forestry resources, would the project:

1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?
3) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?
4) Result in a loss of forest land or conversion of forest land to non-forest use?
5) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

3.2.2.1 *Project Impacts*

a) Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

There are no agricultural resources located on-site including Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency. The project would have no impact on agricultural resources. **(No Impact)**

[12] California Department of Conservation. Important Farmland Finder. Accessed April 13, 2023. https://maps.conservation.ca.gov/DLRP/CIFF/.

b) Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?

The project site is not subject to a Williamson Act contract. The site is located within the Transit Residential zoning district and would not conflict with any zoning for agricultural use. **(No Impact)**

c) Would the project conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?

The project site is zoned Transit Residential and is identified as Urban and Built-Up Land on the California Department of Conservation database. The project site is not zoned for forestland, timberland, or timberland zoned Timberland Production. The project would not impact these resources by conflicting with existing zoning for forest land, timberland, or timberland zoned Timberland Production. **(No Impact)**

d) Would the project result in a loss of forest land or conversion of forest land to non-forest use?

The project site is fully developed and does not contain land uses that could serve as forest land. Therefore, the project would not result in the conversion of forest land to non-forest uses. **(No Impact)**

e) Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

The project site is fully developed and does not contain land uses that could serve as agricultural or forest land. Therefore, the project would not result in the conversion of agricultural or forest land to non-agricultural or non-forest uses. **(No Impact)**

3.2.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant agricultural and forestry resources impact?

The geographic area for cumulative agricultural and forestry resource impacts is Santa Clara County, since these resources are mapped and managed at the county level.

Agriculture Resources

As described above under checklist question a), the project would not result in the conversion of farmland to non-agricultural use. Therefore, the project would not contribute to a cumulatively significant impact from the conversion of farmland to non-agricultural use.

Forestry Resources

As discussed above, the proposed project would not result in the loss of farmland or forestland, the conversion of forestland to non-forest use or the conversion of forest land to non-forest use. Therefore, the project would not contribute to a cumulatively significant impact to those resources.

The project would have no cumulative impact on agriculture and forestry resources. **(No Cumulative Impact)**

3.3 Air Quality

The information in this section is based, in part, on a Construction Heath Risk Assessment prepared by Illingworth and Rodkin, Inc., in November 2023. This report is available as Appendix B.

3.3.1 Environmental Setting

3.3.1.1 *Background Information*

Criteria Pollutants

Criteria air pollutants are pollutants that have established federal or state standards for outdoor concentrations to protect public health. Pursuant with the federal and state Clean Air Acts, the United States Environmental Protection Agency (EPA) and the California Air Resources Board (CARB) have established and enforced the National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS), respectively. The NAAQS and CAAQS address the following criteria air pollutants: ozone (O_3), nitrogen dioxide (NO_2), carbon monoxide (CO), particulate matter with a diameter of 10 microns or less (PM_{10}), particulate matter with a diameter of 2.5 micros or less ($PM_{2.5}$), sulfur dioxide (SO_2), and lead. The CAAQS also includes visibility reducing particles, sulfates, hydrogen sulfide, and vinyl chloride.

Toxic Air Contaminants

Toxic air contaminants (TACs) include airborne chemicals that are known to have short- and long-term adverse health effects. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway). Unlike criteria air pollutants, which have a regional impact, TACs are highly localized and regulated at the individual emissions source level.

DPM is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. DPM is comprised of diesel exhaust which is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (i.e., areas most susceptible to injury).[13] Chemicals in diesel exhaust, such as benzene and formaldehyde, are also TACs identified by the CARB.

An overview of the sources of criteria pollutants and TACs, as well as their associated health effects, is provided in Table 3.3-1.

[13] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed February 7, 2024. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health.

Table 3.3-1: Sources and Health Effects of Criteria Air Pollutants and Toxic Air Contaminants

Pollutants	Description and Sources	Primary Effects
O_3	O_3 is a secondary criteria air pollutant that is the result of a photochemical (sunlight) reaction between reactive organic gases (ROG) and nitrogen oxides (NO_x). Pollutants emitted by motor vehicles, power plants, industrial boilers, refineries, and chemical plants are the common source for this reaction. High O_3 levels are caused by the cumulative emissions of ROG and NO_X. These precursor or primary pollutants react under certain meteorological conditions to form high O_3 levels. Commons sources of ROG and NO_x are vehicles, industrial plants, and consumer products.	• Aggravation of respiratory and cardiovascular diseases • Irritation of eyes • Cardiopulmonary function impairment
NO_2	NO_2 is a reactive gas that combines with nitric oxide (NO) to form NO_x. NO_2 the byproduct of fuel combustion with common sources of NO_2 being emissions from cars, trucks, buses, power plants, and off-road equipment. Sources of NO_2 include motor vehicle exhaust, high temperature stationary combustion, and atmospheric reactions.	• Aggravation of respiratory illness • Reduced visibility
CO	CO is a colorless, odorless, and toxic gas that is the product of incomplete combustion of carbon-containing substances (e.g., when something is burned). Common outdoor sources of CO include mobile vehicles (passenger cars and trucks) and machinery that burn fossil fuels.	• Interferes with oxygen delivery to the body's organ due to binding with the hemoglobin in the blood • Fatigue, headaches, confusion, and dizziness
$PM_{2.5}$ (Fine Particulate Matter) and PM_{10} (Coarse Particulate Matter)	PM is any material that is emitted as liquid or solid particles or a gaseous material, such as dust, soot, aerosols, and fumes. PM_{10} and $PM_{2.5}$ are both small enough particulates to be inhaled into the human lungs, and $PM_{2.5}$ is small enough to deposit into the lungs, which poses an increased health risk compared to PM_{10}. Typical sources of PM include stationary combustion of solid fuels, construction activities, vehicles, industrial processes, and atmospheric chemical reactions.	• Reduced lung function, especially in children • Aggravation of respiratory and cardiorespiratory diseases • Increased cough and chest discomfort • Reduced visibility
SO_2	SO_2 is a pungent and colorless gaseous pollutant that is part of the sulfur oxides (SO_x) group and is the pollutant of greatest concern in the SO_x group. SO_x can react with other compounds in the atmosphere to form small particles. These particles contribute to pollution. SO_2 is primarily formed from fossil fuel combustion at power plants and other industrial facilities. Sources of SO_2 include motor vehicles, locomotives, ships, and off-road diesel equipment that are operated with fuels that contain high levels of sulfur. Industrial processes, such as natural	• Aggravation of respiratory illness • Respiratory irritation such as wheezing, shortness of breath and chest tightness • Increased incidence of pulmonary symptoms and disease, decreased pulmonary function

Pollutants	Description and Sources	Primary Effects
	gas and petroleum extraction, oil refining, and metal processing.	
Lead	Lead is a naturally occurring element that can be found in all parts of the environment including the air, soil, and water. As an air pollutant, lead is present in small particles. The most common historic source of lead exposure was the past use of leaded gasoline in motor vehicles. The exhaust resulting from use of leaded gasoline would release lead emissions into the air. Now, major sources of lead in the air are from ore and metals processing plants and piston-engine aircraft operating on leaded aviation fuel. Other sources are waste incinerators, utilities, and lead-acid battery manufacturers. The highest air concentrations of lead are usually found near lead smelters.	• Adversely affect the nervous system, kidney function, immune system, reproductive and developmental systems and the cardiovascular system
TACs	TACs include certain air pollutants known to increase the risk of cancer and/or a range of other serious health effects. Sources of TAC include, but are not limited to, cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; and building materials and products.	• Cancer • Chronic eye, lung, or skin irritation • Neurological and reproductive disorders

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following groups who are most likely to be affected by air pollution: children under 16, the elderly over 65, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools.

3.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

At the federal level, the EPA is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants, discussed previously; PM, O_3, CO, SO_2, NO_2, and lead.[14]

[14] NO_x is the group of nitrogen compounds (NO_2 and nitric oxide [NO]) that typically represents NO_2 emissions because NO_2 emissions contribute the majority of NO_x exhaust emissions emitted from fuel combustion.

CARB is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Diesel Risk Reduction Plan

To address the issue of diesel emissions in the state, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, this plan involves the application of emission control strategies to existing diesel vehicles and equipment to reduce DPM and other pollutants. Implementation of this plan, in conjunction with stringent federal and CARB-adopted emission limits for diesel fueled vehicles and equipment, including off-road equipment, will significantly reduce emissions of DPM and NO_X.

Regional

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area, which includes the project area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how federal and state air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan. The 2017 Clean Air Plan focuses on the following two related BAAQMD goals and how to achieve them:

- Protect air quality and health at the regional and local scale by attaining all state and national air quality standards and eliminating disparities among Bay Area communities in cancer health risk from TAC; and
- Protect the climate by reducing Bay Area greenhouse gas (GHG) emissions 40 percent below 1990 levels by 2040 and 80 percent below 1990 levels by 2050.[15]

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. Jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing air quality impacts developed by BAAQMD within their CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing

[15] Bay Area Air Quality Management District. *Final 2017 Clean Air Plan.* April 19, 2017. Page 12.

impacts, and recommended mitigation measures. The latest CEQA Air Quality Guidelines are the 2022 CEQA Air Quality Guidelines adopted on April 20, 2023 by the BAAQMD's Board of Directors.

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to air quality and are applicable to the proposed project.

Policy	Description
MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and state law.
MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
MS-11.3	Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

3.3.1.3 *Existing Conditions*

The San Francisco Bay Area (Bay Area) Air Basin is designated a nonattainment area for the federal O_3 and $PM_{2.5}$ standards and for the state O_3, PM_{10}, and $PM_{2.5}$ standards.[16,17] The area has attained both NAAQS and CAAQS for CO, SO_2, and NO_2. As the regional air district, BAAQMD is responsible

[16] Bay Area Air Quality Management District. "Air Quality Standards and Attainment Status." Last Updated January 5, 2017. Accessed December 8. 2023. https://www.baaqmd.gov/about-air-quality/research-and-data/air-quality-standards-and-attainment-status

[17] The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of SO2 or lead. These criteria pollutants are not discussed further.

for attaining the NAAQS and CAAQS for these pollutants. As part of an effort to attain and maintain ambient air quality standards for O_3, PM_{10}, and $PM_{2.5}$, BAAQMD has established thresholds of significance for these air pollutants and their precursors that apply to both construction period and operational period impacts. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce O_3 levels. The highest O_3 levels in the Bay Area occur in the eastern and southern inland valleys where temperatures are higher, there is less wind circulation, and sources of the precursor pollutants (ROG and NO_x) are prominent. In the Bay Area, most PM is generated from the following activities: combustion, factories, construction, grading, demolition, agriculture, and motor vehicles. Motor vehicles are currently responsible for about half of particulates in the Bay Area. Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

Sensitive Receptors

The nearest sensitive receptors are residents of a multi-family building directly north of the project site across the Union Pacific Railroad (UPRR) line, and residents northeast of the project site across North Second Street. Additional residences are located in the project area.

3.3.2 Impact Discussion

For the purpose of determining the significance of the project's impact on air quality, would the project:

1) Conflict with or obstruct implementation of the applicable air quality plan?
2) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?
3) Expose sensitive receptors to substantial pollutant concentrations?
4) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

Note: Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the determinations.

Significance Thresholds

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in April 2023 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$.

The BAAQMD 2022 CEQA Guidelines also includes screening levels for construction and operational criteria air pollutants. Screening levels provide a conservative indication of whether a proposed project would result in significant criteria air pollutants and precursors impacts. Projects that meet the screening levels criteria are considered to have a less than significant impact. For an "Apartment" land use, the screening level for construction criteria air pollutant is 416 dwelling units and 638 dwelling units for operational criteria air pollutants. The construction criteria air pollutant screening levels would not apply to this analysis because the project would include demolition, which precludes the use of the construction screening levels.

The BAAQMD CEQA Air Quality thresholds for criteria air pollutants and fugitive dust used in this analysis are identified in Table 3.3-2. Table 3.3-3 below lists the BAAQMD health risk and hazards thresholds for single-source and cumulative-sources.

Table 3.3-2: BAAQMD Air Quality Significance Thresholds

Criteria Air Pollutant	Construction Thresholds*	Operation Thresholds	Operation Thresholds
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Annual Average Emissions (tons/year)
ROG and NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
CO	Not Applicable	9.0 parts per million (ppm) (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust Control Measures/Best Management Practices	Not Applicable	

* The Air District recommends for construction projects that require less than 1 year to complete, lead agencies should annualize impacts over the scope of actual days that peak impacts would occur rather than over the full year. Additionally, for phased projects that results in concurrent construction and operational emissions. Construction-related exhaust emissions should be combined with operational emissions for all phases where construction and operations overlap.

Source: Bay Area Air Quality Management District. *2022 California Environmental Quality Act Air Quality Guidelines*. April 2023. Pages 3-5 and 3-6.

Table 3.3-3: BAAQMD Health Risks and Hazards Thresholds

Health Risk	Single Source	Combined Cumulative Sources
Cancer Risk	10 per one million	100 per one million
Non-Cancer Hazard Index	1.0	10.0
Annual $PM_{2.5}$ Concentration	0.3 µg/m^3	0.8 µg/m^3 (average)

Notes: µg/m^3 = micrograms per cubic meter

Thresholds are applicable to construction and operational activities.

Source: Bay Area Air Quality Management District. *2022 California Environmental Quality Act Air Quality Guidelines*. April 2023. Pages 3-5 and 3-6.

3.3.2.1 *Project Impacts*

a) Would the project conflict with or obstruct implementation of the applicable air quality plan?

2017 Clean Air Plan

As described in Section 3.3.1.2 Regulatory Framework, the most current air quality plan from BAAQMD is the 2017 Clean Air Plan (CAP). The goals of the 2017 Clean Air Plan include protecting public health (as it relates to air quality) and protecting the climate. The BAAQMD Air Quality Guidelines states that a determination of consistency with the 2017 Clean Air Plan should demonstrate that the project supports the primary goals of the 2017 Clean Air Plan, includes applicable control measures from the 2017 CAP, and does not disrupt or hinder implementation of any 2017 Clean Air Plan control measures. The project's consistency with the Bay Area 2017 CAP is summarized below in Table 3.3-4.

Table 3.3-4: Applicable Control Measures

Control Measure	Project Consistency with Measure Intent
Stationary Source Measures	
SS30 - Residential Fan Type Furnaces: Reduce NO_X emission limits on new and replacement central furnace installations. Explore potential Air District rulemaking options regarding the sale of fossil fuel-based space and water heating systems for both residential and commercial use.	The proposed building would be an all-electric construction. Therefore, the project would be consistent with this measure.
Transportation Measures	
TR2 - Trip Reduction Programs: Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop	The project would be located in proximity to transit, including two light rail stations along First Street and within half a mile walking distance of the Downtown Transit Center located at Santa Clara Street between First and Second Streets. Pursuant to the City's TDM

Control Measure	Project Consistency with Measure Intent
innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	Program, the project would be required to develop a TDM Plan that meets the City's TDM Point Targets. Therefore, the project would be consistent with this measure.
TR9 - Bicycle and Pedestrian Access and Facilities: Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would provide 12 short-term bicycle parking spots on-site and 18 long-term bicycle parking spaces within the storage room of the building. The project would also be required to provide a monetary contribution to a planned Class IV protected bike lane along the project's Second Street frontage pursuant with the City of San José Better Bike Plan 2025. These project features would help encourage people to travel via bicycle. Therefore, the project would be consistent with this measure.
TR13 - Parking Policies: Encourage parking policies and programs in local plans, e.g., reduce minimum parking requirements; limit the supply of off-street parking in transit-oriented areas; unbundle the price of parking spaces; support implementation of demand-based pricing in high-traffic areas.	Effective as of April 10, 2023, the City of San José has no minimum parking requirement for new development proposals. The project would provide 74 vehicle parking stalls for the 118 dwelling units proposed. Additionally, the project would lease or sell accessory automobile parking spaces separately from the dwelling units for the life of the project. These Transportation Demand Management measures would discourage the use of motor vehicles. Therefore, the project would be consistent with this measure.
Energy Measures	
EN2 - Decrease Electricity Demand: Work with local governments to adopt additional energy-efficiency policies and programs. Support local government energy efficiency program via best practices, model ordinances, and technical support. Work with partners to develop messaging to decrease electricity demand during peak times.	The project would be required to comply with the most recent CALGreen requirements, which includes energy efficiency standards to reduce wasteful energy use. For this reason, the project would be consistent with this measure.
Building Measures	
BL1 - Green Buildings: Collaborate with partners such as KyotoUSA to identify energy-related improvements and opportunities for on-site renewable energy systems in school districts; investigate funding strategies to implement upgrades. Identify barriers to effective local implementation of the California Green Building Standards Code (CALGreen; Title 24) statewide building energy code; develop solutions to improve implementation/enforcement. Work with ABAG's BayREN program to make additional funding available for energy-related projects in the buildings	The project would be required to comply with the most recent CALGreen requirements. The project would also procure electricity from San José Clean Energy (SJCE), which provides electricity sourced from a specific percentage of renewable energy sources (either 60 percent at the GreenSource level or 100 percent at the TotalGreen level). Based on these reasons, the project is consistent with this measure.

Control Measure	Project Consistency with Measure Intent
sector. Engage with additional partners to target reducing emissions from specific types of buildings.	
BL4 - Urban Heat Island Mitigation: Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or reroofing/ roofing upgrades for commercial and residential multifamily housing.	The project would be required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements, thereby meeting model building code requirements. Further, the project does not propose any surface parking. Therefore, the project is consistent with this control measure.
Natural and Working Lands Measures	
NW2 - Urban Tree Planting: Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, BAAQMD's technical guidance, best management practices for local plans, and CEQA review.	The project would remove 10 ordinance-sized trees on-site and be required to plant at least 56 new 15-gallon trees on-site. The project would not remove any trees in the public right-of-way. The new tree plantings would be subject to the City's standard permit conditions. Compliance with the City's standard permit condition would ensure the project would be consistent with this measure.
Waste Management Measures	
WA4 - Recycling and Waste Reduction: Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	The City adopted the Zero Waste Strategic Plan which outlines policies to help the City foster a healthier community and achieve its Green Vision goals, including 75 percent diversion by 2013 and zero waste by 2022. In addition, the project would comply with the City's Construction and Demolition Diversion Program during construction which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure.
Water Measures	
WR2 - Support Water Conservation: Develop a list of best practices that reduce water consumption and increase on-site water recycling in new and existing buildings; incorporate into local planning guidance.	The project includes water efficient landscaping and irrigation systems throughout the site. For this reason, the project would be consistent with this measure.

As shown in Table 3.3-4 above, the proposed project would support the primary goals of the 2017 CAP of protecting public health and protecting the climate and would be consistent with control measures that focus on reducing emissions in the transportation, building, and energy sectors.

Additionally, as described in further detail below, the project would not exceed the BAAQMD significance thresholds for criteria air pollutant emissions (refer to Table 3.3-5), therefore, the project would not conflict with 2017 CAP's goal of attaining the NAAQS and CAAQS. As a result, the

project would not conflict with or obstruct the implementation of an applicable air quality plan and the project would have a less than significant impact.

Construction Criteria Air Pollutant Emissions

The California Emissions Estimator Model (CalEEMod) Version 2022.1.0 was used to estimate emissions from on-site construction activity, construction vehicle trips, and evaporative emissions. The model provides emission estimates for both on-site and off-site construction activities. On-site activities are primarily made up of construction equipment emissions, while off-site activity includes worker, hauling, and vendor traffic. The project land use types and size, and anticipated construction schedule described in Section 2.0 Project Description, were entered into CalEEMod. The CARB EMission FACtors 2021 (EMFAC2021) model was used to predict emissions from construction traffic, which includes worker travel, vendor trucks, and haul trucks. The CalEEMod model output along with construction inputs are included in Appendix B.

Average daily emissions were calculated for construction by dividing the annual construction emissions by the number of active construction workdays that year. Table 3.3-5 shows the average daily construction emissions of ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust.

Table 3.3-5: Construction Criteria Pollutant Emissions

Annual Emissions (tons per day)	**ROG**	**NO_x**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2024	0.04	0.34	0.01	0.01
2025	0.44	1.36	0.05	0.04
2026	0.55	0.42	0.01	0.01
Average Daily Emissions (pounds per day)	**ROG**	**NO_x**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2024 (86 construction workdays)	0.97	7.96	0.30	0.27
2025 (261 construction workdays)	3.35	10.42	0.35	0.32
2026 (112 construction workdays)	9.81	7.46	0.22	0.20
Significance Threshold (pounds per day)	54	54	82	54
Exceed Threshold?	*No*	*No*	*No*	*No*

Source: Illingworth & Rodkin, Inc. *380 N. 1st Street Construction Health Risk Assessment*. November 2023.

As shown in Table 3.3-5, project construction emissions would not exceed the BAAQMD significance thresholds during any year of construction. Therefore, project construction would have a less than significant criteria pollutant emissions impact and would not conflict with or obstruct implementation of the 2017 Clean Air Plan.

Operational Criteria Air Pollutant Emissions

As mentioned under Significance Thresholds, the BAAQMD 2022 CEQA Guidelines include screening levels for operational criteria air pollutants. The project's proposed 118 dwelling units do not exceed the 638 dwelling units screening level for a "Apartments" land use.[18] Therefore, project operation would have a less than significant criteria pollutant emissions impact and would not conflict with or obstruct implementation of the 2017 CAP.

As described above, the project would not conflict with or obstruct implementation of the applicable air quality plan. The project design is consistent with the applicable 2017 CAP control measures and project criteria air pollutant emissions (including both construction and operation emissions) would not exceed BAAQMD significance thresholds. Therefore, the project would not conflict with or obstruct implementation of the 2017 CAP. **(Less than Significant Impact)**

b) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?

The Bay Area is designated a nonattainment area for the federal O_3 and $PM_{2.5}$ standards and for the state O_3, PM_{10}, and $PM_{2.5}$ standards. The proposed project would increase criteria pollutants in the Bay Area, contributing to existing violations of O_3 and particulate matter standards. As described in the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. As discussed above under checklist question a), the proposed project would not result in air pollutant emissions exceeding BAAQMD's significance thresholds. As a result, the proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment. **(Less than Significant Impact)**

c) Would the project expose sensitive receptors to substantial pollutant concentrations?

Criteria Air Pollutants

In a 2018 decision (*Sierra Club v. County of Fresno*), the state Supreme Court determined that CEQA requires that when a project's criteria air pollutant emissions would exceed applicable thresholds and contribute a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project's emissions to affect human health in the air basin must be disclosed. State and federal ambient air quality standards are health-based standards, and exceedances of those standards result in continued unhealthy levels of air pollutants. As stated in

[18] Bay Area Air Quality Management District. *2022 California Environmental Quality Act Air Quality Guidelines*. April 2023.

the 2022 BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project has a less than significant impact for criteria pollutants, it is assumed to have no adverse health effect. As previously discussed, the proposed project would not exceed BAAQMD thresholds for operational or construction period criteria pollutant emissions. Therefore, the project would not expose sensitive receptors to substantial criteria pollutant concentrations and would have a less than significant health impact.

Fugitive Dust

Construction activities associated with the project, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. The BAAQMD CEQA Air Quality Guidelines consider these impacts to be less than significant if best management practices are implemented to reduce the emissions. As described below, the project includes a Standard Permit Condition that incorporates the BAAQMD best management practices to reduce fugitive dust related impacts to a less than significant level.

Standard Permit Condition:

The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

- Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) two times per day.
- Cover all haul trucks transporting soil, sand, or other loose material off-site.
- Remove all visible mud or dirt trackout onto adjacent public roads at least once per day using wet power vacuum street sweepers. The use of dry power sweeping is prohibited.
- Limit all vehicle speeds on unpaved roads to 15 mph.
- Pave all new roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 mph.
- Wash off all trucks and equipment, including their tires, prior to leaving the site.
- Treat unpaved roads providing access to sites located 100 feet or further from a paved road with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.

- Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than 2 minutes (A 5-minute limit is required by the state airborne toxics control measure [Title 13, Sections 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at all access points to the site.
- Maintain and properly tune all construction equipment in accordance with the manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the name and phone number of an on-site construction coordinator to contact regarding dust complaints. The on-site construction coordinator shall respond and take corrective action within 48 hours. The sign shall also provide the City's Code Enforcement Complaints email and number and the Air District's General Air Pollution Complaints number to ensure compliance with applicable regulations.

With implementation of the above Standard Permit Condition, the project would have a less than significant impact related fugitive dust emissions. The project would, therefore, not expose sensitive receptors to substantial pollutant concentrations associated with fugitive dust.

Toxic Air Contaminants

Construction

Construction equipment and associated heavy-duty truck traffic emit DPM, which is a known TAC. Construction exhaust emissions pose health risks for sensitive receptors such as surrounding multi-family residences adjacent to the northern project boundary across the rail tracks and multi-family residences along North First Street and North Second Street. The primary community risk impacts associated with construction emissions are cancer risk and exposure to DPM and $PM_{2.5}$.

Operation

The project would not include sources of operational TAC such as a diesel-powered emergency generator. The project traffic trips were not included in the health risk assessment because the net new trips generated by the project would be below 10,000 total vehicles per day, which is the BAAQMD threshold for low-impact roadway sources of TAC, and the majority of the trips would be from light-duty vehicles (i.e., passenger automobiles) that would be dispersed on the roadway system not in a singular location.[19]

Summary of Project TAC Health Risks and Hazards

The health risk assessment completed for the project evaluated potential health effects from the project's construction TAC sources upon sensitive receptors (e.g., residences) within 1,000 feet of the project site. The health risk assessment identified a maximally exposed individual (MEI). The

[19] The project would generate 41 net new daily trips.

project MEI is identified as the sensitive receptor that would be most impacted by the project's construction and operation TAC sources. The MEI for this project is located at a residence south of the Santa Clara County Law Library west of North Second Street.[20] The location of the TAC sources in relation to the MEI are shown in Figure 3.3-1, below. The health risk impacts related to the project's TAC sources are summarized in Table 3.3-6.

Table 3.3-6: Project Health Risk Impacts at the Off-Site MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Impact – Off-Site MEI			
Project Construction (Years 0–2)	20.30 (infant)	0.10	0.02
BAAQMD Single-Source Threshold	10	0.3	1.0
Exceed Threshold?	*Yes*	*No*	*No*

Source: Illingworth & Rodkin, Inc. *380 N. 1st Street Construction Health Risk Assessment*. November 2023.

As shown in Table 3.3-6 above, the health risk impacts associated with construction of the proposed development would exceed the BAAQMD single-source threshold for cancer risk at the location of the residential MEI receptor. The single-source thresholds for $PM_{2.5}$ concentrations and the hazard index would not be exceeded.

Impact AIR-1: The project construction would result in health risk impacts that exceed the BAAQMD single-source cancer risk threshold of 10 per million due to project construction DPM emissions.

Mitigation Measures: The project shall implement the following mitigation measure to reduce health risk impacts to below the BAAQMD single-source threshold for cancer risk:

MM AIR-1.1: Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth below:

- For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use

[20] A property identified as the MEI (red dot) does not mean the individuals at that location have an imminent probability or chance of contracting cancer or experiencing acute/chronic health risks. The health risks computed are conservative calculations that are not reflective of an actual cancer or hazard risks likely to be experienced by a singular individual. Source: Bay Area Air Quality Management District. *Air Quality Guidelines Appendix E: Recommended Methods for Screening and Modeling Local Risks ana Hazards*. August 28, 2023. Page E-99.

Source: Illingworth & Rodkin, Inc., November 30, 2023.

PROJECT TAC SOURCES AND LOCATION OF THE MEI | FIGURE 3.3-1

equipment that meet U.S. Environmental Protection Agency (EPA) Tier 4 interim emission standards for particulate matter (PM_{10} and $PM_{2.5}$). If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 55 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment.

- Use of alternatively fueled or electric equipment.
- Stationary cranes and construction generator sets shall be powered by electricity.

Alternatively, the project applicant could develop a plan that reduces on- and near-site construction diesel particulate matter emissions by a minimum of 55 percent or greater. The plan shall be reviewed and approved by the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest).

With the implementation of MM AIR-1.1, which requires the project to use cleaner construction equipment to reduce exhaust emissions, the project's construction-related cancer risk would be reduced by a minimum of 55 percent or greater from 20.30 per million to 2.01 per million. As a result, the health risk impacts associated with the project would be reduced below the BAAQMD single-source thresholds. Therefore, the project's health risk impacts from construction, with mitigation, would not cause significant adverse health impacts.

With implementation of the identified Standard Permit Condition and mitigation measure MM AIR-1.1, the project would not expose sensitive receptors to substantial pollutant concentrations. **(Less than Significant Impact with Mitigation Incorporated)**

d) Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

Odors are generally considered an annoyance rather than a health hazard. Land uses that have the potential to be sources of odors that generate complaints include, but are not limited to, wastewater treatment plants, landfills, composting operations, and food manufacturing facilities. Heavy-duty construction equipment and vehicles would emit odors, such as diesel exhaust, during use and while idling. These odors would be intermittent, and the odors would disperse with distance. All construction-related odors would cease upon completion of construction. During operations, the proposed residential project would not generate objectionable odors. The project would, therefore, not create objectionable odors that would affect a substantial number of people off-site. **(Less than Significant Impact)**

3.3.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative air quality impact?

The geographic area for cumulative air quality impacts is the San Francisco Bay Area Air Basin. Past, present, and future development projects contribute to the region's adverse air quality impacts on a cumulative basis. By its very nature, air pollution is largely a cumulative impact.

In developing thresholds of significance for air pollution, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's air quality conditions.

Implementation of the 2017 CAP

As described above under checklist question a), the project would be consistent with the 2017 CAP. The project, therefore, would not result in a cumulatively considerable impact to the implementation of the 2017 CAP.

Increase in Criteria Pollutants

As discussed under checklist question a) and b), the construction and operational emissions generated by the project would not exceed the BAAQMD thresholds for criteria air pollutant emissions. Therefore, the project would not result in a cumulatively considerable contribution to criteria pollutant emissions.

Exposure Sensitive Receptors to Substantial Pollutant Concentrations

As discussed under checklist question c), the geographic area for cumulative impacts to sensitive receptors is 1,000 feet from the project site. The cumulative community health risk assessment considered all substantial sources of TACs (such as permitted stationary sources and/or roadways with average daily trips exceeding 10,000 vehicles) that could affect sensitive receptors located within 1,000 feet of the project site. Cumulative community risk sources within 1,000 feet of the project site include North First Street, Coleman Avenue, East Julian Street, and the UPRR. No permitted stationary sources were identified within 1,000 feet of the site. In addition to these TAC sources, the construction health risk impacts from two nearby developments were included in the cumulative community health risk, including Aviato located at 199 Bassett Street and Park View Towers located at 252 North first Street.[21] Figure 3.3-2 shows the locations of the cumulative TAC sources in relation to the project MEI. Table 3.3-7 reports both the project and cumulative community risk impacts at the project MEI.

[21] The Kelsey Ayer Station project located at 447 North First Street (File Number H19-019 and H20-005) is also within 1,000 feet of the project but is excluded from this analysis since it is under construction and expected to be completed prior to the construction of the proposed project.

Source: Illingworth & Rodkin, Inc., November 30, 2023.

CUMULATIVE TAC SOURCES AND MAXIMUM TAC IMPACTS AT THE PROJECT MEI | FIGURE 3.3-2

Table 3.3-7: Cumulative Health Risk Impacts at the Project MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Construction Impact (Mitigated)	2.01	0.01	<0.01
North First Street	0.54	0.03	<0.01
Coleman Avenue	0.12	0.01	<0.01
East Julian Street	0.70	0.03	<0.01
Union Pacific Railroad Line	3.94	<0.01	<0.01
Aviato Construction Impacts	<5.0	<0.15	<0.5
Park View Towers Construction Impacts	<5.0	<0.15	<0.5
Cumulative Total (Mitigated)	<17.31	<0.39	<1.05
BAAQMD Cumulative Source Threshold	100	0.8	10.0
Exceed Threshold? (Mitigated)	*No*	*No*	*No*

Source: Illingworth & Rodkin, Inc. *380 N. 1st Street Construction Health Risk Assessment*. November 2023.

As shown in Table 3.3-7, with the incorporation of mitigation measure MM AIR-1.1, the project's community risk impact would not exceed the cumulative thresholds for increased cancer risk, $PM_{2.5}$ concentration, or HI values. Therefore, the project would not expose sensitive receptors to substantial pollutant concentrations from cumulative sources of TACs.

Odors

On its own, construction and operation of the project would not result in other emissions, such as odors, that would adversely affect a substantial number of people. The nearest cumulative project is The Kelsey at 446 North First Street, which is approximately 575 feet northwest of the project site. This project is currently under construction and is not expected to overlap with the project's future construction. Due to the distance between the project site and the nearest cumulative project and the fact that construction odors are both localized and temporary, there would be no cumulative odor impact from the construction of the project and the nearest cumulative project.

With the implementation of the Standard Permit Condition and mitigation measure MM AIR-1.1, the project would have less than significant cumulative air quality impacts. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

3.3.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies (i.e., General Plan policies MS-10.1, MS-11.1, and MS-11.2) that address existing air quality conditions affecting a proposed project.

Pursuant to General Plan policies MS-10.1, MS-11.1, and MS-11.2, a health risk assessment was prepared to ensure sensitive receptors introduced onto the project site (i.e., future residents) would not be exposed to substantial TAC emissions. Consistent with the methodology used to determine health risks at the off-site MEI (refer to Section 3.3.2.2 Cumulative Impacts) the health risk assessment of future project residents from TAC sources are shown in Figure 3.3-3. Table 3.3-8 summarizes the impacts from cumulative TAC sources upon the project. Details about the health risk modeling, data inputs, and assumptions are provided in Appendix B.

Table 3.3-8: Cumulative Health Risk Impacts at the Project Site

Source	**Cancer Risk (per million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**
North First Street	0.54	0.03	<0.01
Coleman Avenue	0.12	0.01	<0.01
East Julian Street	0.70	0.03	<0.01
Union Pacific Railroad Line	3.94	<0.01	<0.01
Aviato Construction Impacts	<5.0	<0.15	<0.5
Park View Towers Construction Impacts	<5.0	<0.15	<0.5
BAAQMD Single-Source Threshold	10	0.3	1.0
Significant?	*No*	*No*	*No*
Cumulative Total	0.89	<0.04	<0.06
BAAQMD Cumulative Source Threshold	100	0.8	10.0
Exceed Threshold?	*No*	*No*	*No*

Source: Illingworth & Rodkin, Inc. *380 N. 1st Street Construction Health Risk Assessment*. November 2023.

As shown in Table 3.3-8, the health risks at the project site from the existing TAC sources would not exceed the BAAQMD single-source or cumulative source thresholds. Therefore, the project would be consistent with General Plan Policy MS-10.1, MS-11.1 and MS-11.2.

Source: Illingworth & Rodkin, Inc., November 30, 2023.

CUMULATIVE TAC SOURCES AND MAXIMUM TAC IMPACTS AT THE PROJECT SITE | FIGURE 3.3-3

3.4 Biological Resources

The following discussion is based, in part, on an Arborist Report prepared by HMH. The report, dated February 16, 2023, is attached to this EIR as Appendix C.

3.4.1 Environmental Setting

3.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

Individual plant and animal species listed as rare, threatened, or endangered under state and federal Endangered Species Acts are considered special-status species. Federal and state endangered species legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Permits may be required from both the USFWS and CDFW if activities associated with a proposed project would result in the take of a species listed as threatened or endangered. To "take" a listed species, as defined by the State of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" these species. Take is more broadly defined by the federal Endangered Species Act to include harm of a listed species.

In addition to species listed under state and federal Endangered Species Acts, Sections 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, must be considered as part of the environmental review process. These may include plant species listed by the California Native Plant Society and CDFW-listed Species of Special Concern.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. This includes direct and indirect acts, except for harassment and habitat modification, which are not included unless they result in direct loss of birds, nests, or eggs. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitat Regulations

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation by the United States Army Corps of Engineers (USACE), Regional Water Quality Control

Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Fish and Game Code Section 1602

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Section 1602 of the Fish and Game Code. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers approximately 520,000 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

Tree Removal Ordinance

The City of San José Tree Removal Controls (San José Municipal Code, Sections 13.31.010 to 13.32.100) serve to protect all trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 54 inches (4.5 feet) above the natural grade of slope. The ordinance protects both native and non-native tree species. A tree removal permit is required from the City of San José for the removal of ordinance-sized trees. On private property, tree removal permits are issued by the Department of Planning, Building and Code Enforcement. Removal of or modifications to all trees on public property (e.g., street trees within a parking strip or the area between the curb and sidewalk) are handled by the City Arborist.

In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such Heritage Trees. Under the City's Tree Removal Ordinance, specific criteria or findings must be made before a permit for removal of a live or dead Heritage Tree would be granted.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to biological resources and are applicable to the project.

Policy	Description
ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
ER-6.5	Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
MS-21.7	Manage infrastructure to ensure that the placement and maintenance of street trees, streetlights, signs and other infrastructure assets are integrated. Give priority to tree placement in designing or modifying streets.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

3.4.1.2 *Existing Conditions*

The project site is currently developed with an existing office building, surface parking lot, and landscaping. The project site is located in an urbanized area of San José, just north of the Downtown area. Habitats primarily associated with Bay Area special-status species, such as riparian, wetland, salt marsh, freshwater marsh, and serpentine grassland habitats, are not present on-site.

The nearest natural area to the project site is the Guadalupe River riparian area which contains mixed riparian forest, aquatic, and shaded riparian aquatic habitats. The project site is located approximately 0.5 miles east of this riparian area.

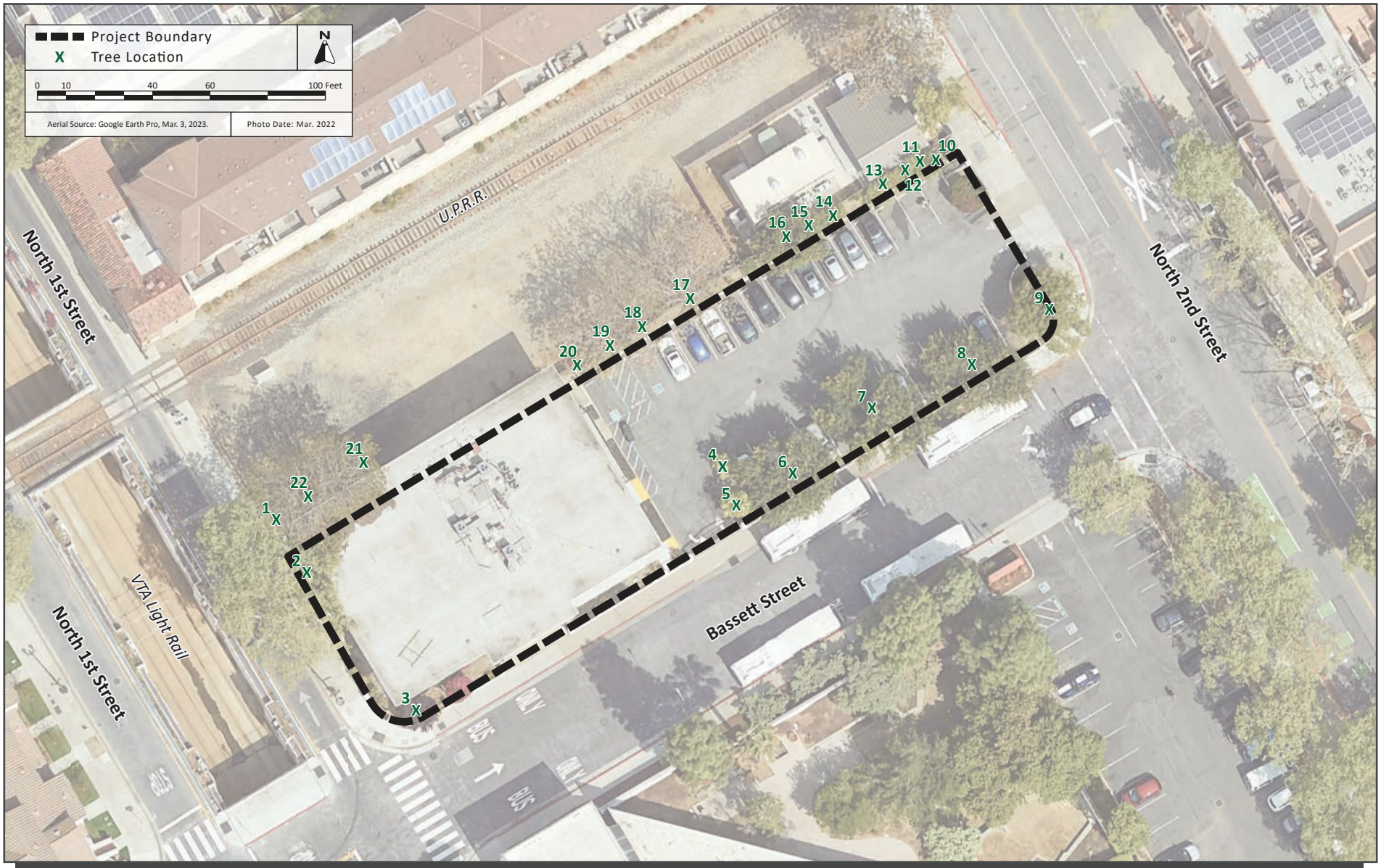
The primary biological resources on the site are trees. There are a total of 20 trees on the project site and two street trees. Of the 22 trees, 12 are ordinance sized. A summary of the trees on and adjacent to the project site is provided in Table 3.4-1 and the location of trees is shown on Figure 3.4-1.

Table 3.4-1: Summary of Existing Trees

Tree Number	Common Name	Circumference (inches)	Condition	Proposed For Removal
1	**London Plane Tree** (street tree)	**42**	**Moderate health**	**No**
2	**London Plane Tree** (street tree)	**53**	**Moderate health**	**No**
3	Purpleleaf Plum	25	Moderate health	Yes
4	Avocado	7	Moderate health	Yes
5	Avocado	11	Moderate health	Yes
6	**Carob**	**101**	**Moderate health**	**Yes**
7	**Carob**	**101**	**Moderate health**	**Yes**
8	**Carob**	**73**	**Moderate health**	**Yes**
9	**Weeping Fig**	**105**	**Poor health**	**Yes**
10	Cherry	9	Moderate health	Yes
11	Citrus	31	Moderate health	Yes
12	Citrus	29	Moderate health	Yes
13	Citrus	29	Poor health	Yes
14	Citrus	17	Moderate health	Yes
15	Pear	19	Moderate health	Yes
16	**Holly Oak**	**39**	**Moderate health**	**Yes**
17	**Tree of Heaven**	**93**	**Poor health**	**Yes**
18	**Tree of Heaven**	**58**	**Poor health**	**Yes**
19	**Tree of Heaven**	**111**	**Poor health**	**Yes**
20	Tree of Heaven	13	Poor health	Yes
21	**Tree of Heaven**	**116**	**Poor health**	**Yes**
22	**Tree of Heaven**	**41**	**Poor health**	**Yes**

Notes: Ordinance sized trees are 38+ inches in circumference. **Bold** denotes ordinance-sized trees

Source: HMH. *Arborist Report 420 South Second Street*. February 16, 2023.



TREE LOCATION MAP | FIGURE 3.4-1

The project site is within the Habitat Plan study area and is designated as Urban-Suburban land.[22] Urban-Suburban land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as areas with one or more structures per 2.5 acres.

3.4.2 Impact Discussion

For the purpose of determining the significance of the project's impact on biological resources, would the project:

1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS?
3) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

3.4.2.1 *Project Impacts*

a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS?

The environment surrounding the project site consists of the fully developed area north of Downtown which does not provide habitats suitable for candidate, sensitive, or special status species as identified in local or regional plans, policies, or regulations, or by the CDFW or USFWS. The proposed project would remove the 20 on-site trees (the two street trees would be retained), which may provide nesting and/or foraging habitat for migratory birds, including raptors.

[22] Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed April 18, 2023. https://scv-habitatagency.org/193/GIS-Data-Key-Maps.

Migratory birds, like nesting raptors, are protected under the Migratory Bird Treaty Act and CDFW Code Sections 3503, 3503.5, and 3800. The CDFW defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance. Construction activities on the project site could result in the loss of eggs or nests. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact.

Impact BIO-1: Construction activities associated with the proposed project (e.g. tree removal) could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.

Mitigation Measures:

In accordance with the MBTA, CDFW, and General Plan Policies ER-5.1 and ER-5.2, the following mitigation measure is included to reduce impacts to raptors and migratory birds during construction.

MM BIO-1.1: Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall schedule tree removal, demolition, and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31 (inclusive).

MM BIO-1.2: If tree removal, demolition, and construction cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests are disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1 through April 30 inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31 inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

MM BIO-1.3: If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest to ensure that bird nests shall not be disturbed during project construction.

MM BIO-1.4: Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Director of Planning, Building and Code Enforcement or Director's designee.

Implementation of mitigation measure MM BIO-1.1 would ensure that construction-related activities of the project take place outside of the nesting season, thus avoiding any incidental loss of fertile eggs or nestlings, or nest abandonment. Alternatively, if tree removals, demolition, and/or construction cannot be scheduled between September 1 and January 31, the implementation of mitigation measures MM BIO-1.2 through MM BIO-1.4 would identify and protect all active nests within the project's area of effect from being disturbed during construction. Therefore, with implementation of mitigation measures MM BIO-1.1 through MM BIO-1.4, the project would not result in significant impacts to nesting birds. **(Less than Significant Impact with Mitigation Incorporated)**

b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?

The project site is in a developed, urban area of San José. There are no streams, creeks, waterways or wetlands located on or adjacent to the site. The nearest riparian habitat to the project site is the Guadalupe River, located approximately 0.5 miles west of the project site. As a result, implementation of the project would not adversely affect any riparian habitat or other sensitive natural community. **(Less than Significant Impact)**

c) Would the project have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means?

The project site does not contain state or federally protected wetland areas. Therefore, the project would not impact state or federally protected wetlands through construction activities. **(No Impact)**

d) Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

The project site is in a developed area and no natural habitat exists on-site that would support endangered, threatened, or special status wildlife species. The project site is developed with an existing building and surface parking. There are no riparian corridors or natural areas on the project site that facilitate wildlife movement or migration. There are no native wildlife nursery sites or habitat for fish on the project site. The Guadalupe River is approximately 0.5 miles west of the site. Implementation of the project would not interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites. **(Less than Significant Impact)**

e) Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

The City of San José maintains the urban landscape by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Removal of trees would be required to conform to the replacement requirements as identified in the Municipal Code Section 13.28.300, General Plan Policies MS-21.4, MS-21.5, MS-21.6 and CD-1.24 and City of San José Tree Removal Ordinance (Municipal Code Section 13.31.010 to 13.32.100).

As shown in Table 3.4-2, the project would result in the removal of 20 trees, including 10 ordinance-sized trees from the project site. Consistent with the City's Tree Removal Ordinance, the project applicant would be required to implement the following Standard Permit Conditions.

Standard Permit Conditions:

- **Tree Replacement.** The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 3.4-2 below, as amended:

Table 3.4-2: Tree Replacement Ratios

Circumference of Tree to be Removed	Replacement Ratios Based on Type of Tree to be Removed			Minimum Size of Each Replacement Tree**
	Native	Non-Native	Orchard	
38 inches or more	5:1*	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

*x:x = tree replacement to tree loss ratio

Note: Trees greater than or equal to 38-inch circumference measured at 54 inches above natural grade shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.

A 38-inch tree equals 12.1 inches in diameter.

** A 24-inch box replacement tree = two 15-gallon replacement trees

Single Family and Two-dwelling properties may replace trees at a ratio of 1:1.

- All 20 of the on-site trees would be removed. Ten trees would be replaced at a 4:1 ratio, six trees would be replaced at a 2:1 ratio, and four trees would be replaced at a 1:1 ratio. The total number and size of replacement trees required to be planted on-site is 56. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.
- In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the

satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage.

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

With implementation of the identified Standard Permit Conditions, the proposed project would not conflict with any ordinance protecting biological resources and would not result in a significant impact to trees and the community forest. **(Less than Significant Impact)**

f) Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

The project site is located within the Habitat Plan and is designated as "Urban-Suburban" land. Private development in the plan area is subject to the Habitat Plan if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;
- The activity is described in Section 2.3.2 Urban Development or in Section 2.3.7 Rural Development;[23]
- In Figure 2-5 of the Habitat Plan, the activity is located in an area identified as "Private Development is Covered," or the activity is equal to or greater than two acres and;
    - The project is located in an area identified as "Rural Development Equal to or Greater than 2 Acres is Covered," or "Urban Development Equal to or Greater than 2 Acres is Covered" or,
    - The activity is located in an area identified as "Rural Development is not Covered" but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied or occupied nesting habitat for western burrowing owl.

The proposed project would require discretionary approval by the City and is consistent with the activity described in Section 2.3.2 of the Habitat Plan. The project site is, however, 0.49 acres in size

[23] Covered activities in urban areas include residential, commercial, and other types of urban development within the Cities of Gilroy, Morgan Hill, and San José planning limits of urban growth in areas designated for urban or rural development, including areas that are currently in the unincorporated County (i.e., in "pockets" of unincorporated land inside the cities' urban growth boundaries).

(below the 2.0-acre threshold) and is not subject to any land cover fee. Consistent with the SCVHP, the project applicant shall implement the following Standard Permit Condition.

Standard Permit Condition:

- The project may be subject to applicable Santa Clara Valley Habitat Plan conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

With implementation of the identified Standard Permit Condition, the project would not conflict with the provisions of the Habitat Plan. **(Less than Significant Impact)**

3.4.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative biological resources impact?

The geographic area for cumulative impacts to biological resources includes the project site and its surrounding area because localized development would affect the same group of biological resources.

Candidate, Sensitive, or Special Status Species

As discussed under checklist question a), the project site does not include sensitive habitats and, therefore, no sensitive special status species are present on-site. Construction of the project, however, could impact nesting birds if present. The cumulative projects identified in Table 3.0 1 could also impact nesting birds during construction. Each development project is required to comply with existing regulations (including the MBTA and Fish and Game Code) to avoid and/or minimize impacts to nesting birds. In addition, the project shall comply with mitigation measures MM BIO-1.1 through MM BIO-1.4. For these reasons, the cumulative projects (including the project) would not result in a significant cumulative impact to nesting birds.

Riparian Habitats or Sensitive Natural Communities

No riparian habitats or sensitive natural communities are present at the project site or adjacent parcels; therefore, the project would not contribute to a significant cumulative impact to those resources.

Wetlands

No wetlands are present at the project site or adjacent parcels; therefore, the project would not contribute to a significant cumulative impact to wetlands.

Movement, Migration, or Use of Native Wildlife Nursery Sites

The project would not substantially interfere with wildlife movement or migration. As there is no physical connection between the project site and the other cumulative projects identified in Table 3.0 1, the project would not contribute to a significant cumulative impact to the movement of wildlife.

Policies or Ordinances Protecting Biological Resources

The project would be in compliance with policies and ordinances protecting biological resources, specifically those outlined in the City's General Plan and Municipal Code that protect trees with the implementation of the identified standard permit condition. The cumulative projects identified in Table 3.0 1 would also be required to comply with the City's General Plan policies and Municipal Code requirements to protect trees. For these reasons, the cumulative projects would not conflict with the City's policies and regulations for tree protection.

Habitat Conservation Plans

The project would comply with the Habitat Plan with the implementation of the identified Standard Permit Condition. Cumulative projects would also be required to comply with the Habitat Plan. For these reasons, the cumulative projects (including the project) would not result in a significant cumulative conflict with the Habitat Plan.

The project would have a less than significant cumulative impact on biological resources. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

3.5 Cultural Resources

The following discussion is based upon a Historic Resources Evaluation and Local Landmark Assessment and an Archaeological Study prepared by Evans & De Shazo (EDS) in October 2022 and June 2023, respectively, and DPR 523 series forms prepared by Michael Baker International in August 2021. The Historic Resources Evaluation is included as Appendix D of this EIR. A copy of the Archaeological Study, which is a confidential report, is on file at the City of San José Department of Planning, Building and Code Enforcement and is available upon request with appropriate credentials.

3.5.1 Environmental Setting

3.5.1.1 *Regulatory Framework*

Federal and State

National Register of Historic Places

The National Register of Historic Places (NRHP) is a comprehensive inventory of known historic resources throughout the United States. The NRHP is administered by the National Park Service and includes buildings, structures, sites, objects, and districts that possess historic, architectural, engineering, archaeological, or cultural significance at the national, state, or local level. A historic resource listed in, or formally determined to be eligible for listing in, the NRHP is, by definition, included in the California Register of Historical Resources (CRHR).[24]

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[25]The guidelines for identifying historic resources during the project review process under CEQA are set forth in Public Resources Code Section 21084.1 and CEQA Guidelines Section 15064.5(a). These provisions of CEQA create three categories of historical resources: mandatory historical resources; presumptive historical resources; and resources that may be found historical at the discretion of the lead agency. These categories are described below.

- **Mandatory Historical Resources**. A resource the State Historical Resources Commission lists on the CRHR, or the State Historical Resources Commission determines to be eligible for listing in the CRHR, is defined by CEQA to be a historical resource. Resources are formally

[24] Refer to Public Resources Code Section 5024.1(d)(1).
[25] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." March 14, 2006.

listed or determined eligible for listing by the State Historical Resources Commission in accordance with the procedures set forth in the provisions of state law relating to listing of historical resources.[26] If a resource has been listed in the CRHR, or formally determined to be eligible for listing by the State Historical Resources Commission under these procedures, it is conclusively presumed to be a historical resource under CEQA.

- **Presumptive Historical Resources**. A resource included in a local register of historic resources as defined by state law[27] or identified as significant in a historical resource survey meeting the requirements of state law,[28] shall be presumed to be historically or culturally significant. The lead agency must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- **Discretionary Historical Resources.** A resource that is not determined to be a significant historical resource under the criteria described above, may, in the discretion of the lead agency, be found to be a significant historical resource for purposes of CEQA, provided its determination is supported by substantial evidence in light of the whole record. The CEQA Guidelines further provide that generally, a lead agency should consider a resource historically significant if the resource is found to meet the criteria for listing on the CRHR, including the following:
    - Criterion 1 (Events): The resource is associated with events or patterns of events that have made a significant contribution to the broad patterns of local or regional history and cultural heritage of California or the United States; or
    - Criterion 2 (Persons): The resource is associated with the lives of persons important to local, California, or national history; or
    - Criterion 3 (Architecture): The resource embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master, or possesses high artistic values, or
    - Criterion 4 (Information Potential): The resource has the potential to yield information important to the prehistory or history of the local area, California, or the nation.[29]

Historical resources eligible for listing in the CRHR must meet one of the criteria of significance described above *and* retain enough of their historic character or appearance to be recognizable as

[26] Set forth in Public Resources Code Section 5024.1 and 14 California Code of Regulations (CCR) Section 4850, et. seq.

[27] Set forth in Public Resources Code Section 5020.1(k), a local register of historical resources is a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution.

[28] Under Public Resources Code Section 5024.1(g), a resource can be identified as significant in a historical resources survey and found to be significant by the State Office of Historic Preservation (i.e., listed in the CRHR) if three criteria are met: (1) the survey has or will be included in the State Historic Resources Inventory; (2) the survey and documentation were prepared in accordance with State Office of Historic Preservation procedures and requirements; and (3) the State Office of Historic Preservation has determined the resource has a significance rating of Category 1 to 5 on Form 523.

[29] Office of Historic Preservation and Department of Parks and Recreation. *CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6*. Accessed February 8, 2024. https://ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.

The concept of integrity is essential to identifying the important physical characteristics of historical resources and in evaluating adverse changes to them. Integrity is defined as "the authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The process of determining integrity is similar for both the California and National Registers, and the same seven variables or aspects to define integrity are used to evaluate a resource's eligibility for listing. These seven characteristics include: 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both state and private lands. The act requires that upon discovery of human remains, construction or excavation activity must cease and the county coroner be notified.

Public Resources Code Sections 5097 and 5097.98

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These procedures are outlined in Public Resources Code Sections 5097 and 5097.98. These codes protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project, and establish the Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains.

Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the county coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are of a Native American, the county coroner must notify the NAHC. The NAHC then notifies those persons most likely to be related to the Native American remains. The code section also stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

Local

Historic Preservation Ordinance

The City of San José Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) provides a framework for the City to identify, protect, and encourage the preservation of significant resources and foster civic pride in the City's cultural resources. The Historic Preservation Ordinance establishes processes for the designation of City Landmarks, City Landmark Districts and Conservation Areas, review of proposed exterior alterations to designated City Landmarks and

properties within City Landmark Districts and Conservation Area, maintenance of a Historic Resources Inventory (HRI), and administration of Mills Act Contracts.

The City of San José also uses the significance criteria for City Landmark eligibility to evaluate properties that are 45 years or older that have not previously been determined to be a significant historical resource under CEQA (Discretionary Resource). Properties that meet the eligibility criteria for listing in the San José Historic Resources Inventory as a Candidate City Landmark have special historical, architectural, cultural, aesthetic, or engineering interest or value of a historical nature and are significant under at least one of the following criteria:

1. Its character, interest or value as a part of the local, regional, state or national history, heritage or culture
2. Its location as a site of a significant historic event
3. Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history
4. Its exemplification of the cultural, economic, social or historic heritage of the city of San José
5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style
6. Its embodiment of distinguishing characteristics of an architectural type or specimen
7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the city of San José
8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation, or which is unique.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to cultural and historical resources and are applicable to the project.

Policy	Description
LU-13.2	Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.
LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
LU-13.5	Evaluate areas with a concentration of historically and/or architecturally significant buildings, structures, or sites and, if qualified, preserve them through the creation of Historic Districts.
LU-13.6	Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or

Policy	Description
	appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.
LU-13.7	Design new development, alterations, and rehabilitation/remodels within a designated or candidate Historic District to be compatible with the character of the Historic District and conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties, appropriate State of California requirements regarding historic buildings and/or structures (including the California Historic Building Code) and to applicable historic design guidelines adopted by the City Council.
LU-13.8	Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.
LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
LU-13.22	Require the submittal of historic reports and surveys prepared as part of the environmental review process. Materials shall be provided to the City in electronic form once they are considered complete and acceptable.
ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

3.5.1.2 *Existing Conditions*

Archaeological Resources

Prehistoric Subsurface Resources

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3,000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay south through the Santa Clara Valley and down to Monterey and San Juan Bautista. Artifacts pertaining to the Ohlone occupation of San José have been found primarily along the City's major

waterways. The project site is not adjacent to waterways, but Guadalupe River is approximately 0.5 miles west of the project site and Coyote Creek is approximately one mile east of the site.
A record search at the Northwest Information Center (NWIC) of the California Historical Resources Information Systems (CHRIS) and a literature review was completed for the project as part of the Archaeological Study. The results of the record search indicate that there are two previously recorded archaeological resources within 0.25 miles of the project area.

A Sacred Lands File inventory request was submitted to the NAHC on April 13, 2023. The NAHC responded on April 18, 2023, with information that the Sacred Lands File was positive for the presence of sacred sites.

Based on the factors described above, the project site is highly sensitivity for buried Native American archaeological deposits and buried archaeological deposits.

On April 28, 2023, EDS completed an archaeological field survey, which consisted of a walk-through survey and review of soil on-site using a hand trowel. No prehistoric artifacts or other indications of an archaeological resource were observed during the survey. However, the project site is developed with a building and parking lot, limiting the percentage of native soil available for surveying.

Historic-Period Subsurface Resources

The project site was vacant until the Southern Pacific railroad purchased the project site from the Knox-Goodrich family in 1920. In that same year, the California Railroad Commission commissioned the construction of several industrial buildings (warehouse and cold storage) under the Security Warehouse and Cold Storage Company. The warehouse and cold storage building along with a rail line spur extended into the project site. The Security Warehouse and Cold Storage Company buildings were demolished by 1956 and the property was purchased by Wood and Nye, an accounting firm. The current existing commercial building on-site was designed by the architectural firm Conrad H. Stieber and Associates and constructed in 1964 by the Sondeno Construction Company. Based on the history of the site, the lack of buildings prior to 1920 and redevelopment of the site in 1964, the project site has a low to moderate sensitivity for subsurface historic period archaeological resources.

Historical Resources

The project site includes a commercial office building and parking lot. As described above, the office building at 380 North First Street is over 50 years old and is listed in the San José Historic Resources Inventory as a Candidate City Landmark based on the documentation and evaluation of the property prepared by Michael Baker International in August 2021.[30]

[30] Michael Baker International identified the existing office building as a potential local landmark based on a reconnaissance-level survey in 2021.

On-Site Structures

The existing two-story concrete block building was constructed in 1964 as a professional office building for Wood, Nye and Co. It was designed by the architectural firm Conrad H. Stieber and Associates in the New Formalism architectural style (also called "Neo Palladianism" or "Neo Formalism"). Features of New Formalism include symmetrical balanced building proportions, emphasized classical columns, highly stylized entablatures[31], arches, geometric massing, and architectural screens (i.e., breeze blocks) to connect the building to the landscape.

The existing office building has a flat roof with wide, enclosed overhangs, decorative fascia, and projecting cubed details along its perimeter. The symmetrical building consists of full-height plate glass windows set between sections of cubed concrete blocks pilasters. The plate glass windows consist of fixed sheet glass with aluminum mullions.[32] Refer to Figure 3.5-1 for photos of the building's exterior façade.

CRHR Evaluation

A Historic Resources Evaluation and Local Landmark Assessment and an Archaeological Study prepared by Evans & De Shazo (EDS) in October 2022 and June 2023.

Criterion 1

The 1964 commercial building and associated landscape is not associated with any event that made a significant contribution to the broad patterns of California's history or cultural heritage. As such, the building and associated landscape is not eligible for listing on the CRHR under Criterion 1.

Criterion 2

Based on a records search of the property, no persons of known historical significance appear to have been associated with the property. Therefore, the property is not eligible for listing on the CRHR under Criterion 2.

Criterion 3

The 1964 building is associated with the New Formalism architectural style, which was popular in the U.S. from around 1950 to 1975. As previously discussed, New Formalism is characterized by the merging of classical elements, such as symmetry, columns, and arches, and stylized decorative features, with modern features, such as overhanging eaves and concrete materials. The 1964 commercial building retains character-defining features associated with New Formalism design. These character-defining features include full-height columns that support arches, wide eave overhangs with stylized fascia, plate glass windows, and belt courses.[33] The design is also evidenced

[31] A horizontal part in classical architecture that rests on the columns.
[32] A mullion is a vertical element that forms a division between units of a window or screen, or is used decoratively.
[33] A belt course is an architectural term to describe a row of stone or brick, set into the facade or side of a building, used to accentuate a sill line or a separation in floors.

Central, projecting section of southeast elevation, facing northeast

Decorative belt course and metal arched hood

BUILDING ELEVATIONS | FIGURE 3.5-1

in the materiality of the building, with stylized concrete block sections, and the columns and steps leading to the main entrance are exposed aggregate concrete.

The building was designed by Conrad H. Stieber, who is not identified as a master architect and was not known for his New Formalist designs or any other architectural styles that would reflect his mastery of design.

The building, while not designed by a master architect, is a representative example of New Formalism design during its period of popularity and, as such, is individually eligible for listing on the CRHR under Criterion 3.

Criterion 4

The building does not convey information about New Formalism architecture. As such, the 1964 commercial building and associated landscape are not eligible for listing in the CRHR under Criterion 4. As discussed above, the project site is highly sensitive for buried Native American archaeological deposits and buried archaeological deposits. The project site has a low to moderate sensitivity for subsurface historic period archaeological resources.

Aspects of Integrity

To qualify for listing in the CRHR, a property must possess significance under one or more of the above-listed criteria and have historic integrity. Historic integrity is based on location, design, setting, materials, workmanship, feeling, and association.

The building retains integrity of location and setting since it has not been moved and the surrounding area has retained a commercial and downtown setting. The integrity of design, materials, workmanship, feeling, and association have not been diminished since no major construction alterations have occurred to the building, and the building is still representative of the New Formalism design. Overall, the property retains all seven aspects of integrity.

In conclusion, the building is eligible for listing on the CRHR under Criterion 3 for its association with New Formalism architecture with a period of significance of 1964 and retains all seven aspects of integrity.

City of San José City Landmark Evaluation

Evans & De Shazo also evaluated the significance of the building as a Candidate City Landmark under San José Municipal Code Section 13.48.110 H (Historic Preservation Ordinance).

1. *Its character, interest or value as part of the local, regional, state or national history, heritage or culture;*

   The building does have significant character, interest, or value to the commercial development of San José. The commercial building is associated with New Formalism architecture and retains

its original 1964 design. Three other instances of New Formalism design are within San José and these buildings were also constructed in the 1960s, which indicates a period of significance for this specific design in San José. In addition, the building has the character necessary to convey these interests and values for designation as a city landmark. Therefore, the 1964 commercial building is eligible for designation as a City landmark under Criterion 1.

2. *Its location as a site of a significant historic event;*
   The building is not linked to any significant historic events. Therefore, the building is not eligible under Criterion 2.

3. *Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;*

   There is no person of significance individually associated with the building. Therefore, the building is not eligible under Criterion 3.

4. *Its exemplification of the cultural, economic, social or historic heritage of the City of San José;*

   There is no evidence that the building exemplifies any cultural, economic, social, or historic heritage of the City of San José. Therefore, the building is not eligible under Criterion 4.

5. *Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;*

   The building does not exhibit a particular architectural style that can be associated with a group of people during a particular period in history. Therefore, the building is not eligible under Criterion 5.

6. *Its embodiment of distinguishing characteristics of an architectural type or specimen;*

   The building has retained its original 1964 design. The building exhibits distinguishing characteristics of the New Formalism architectural style, such as symmetry, columns, arches, stylized decorative feature, overhanging eaves, concrete materials, and minimalist design. Character-defining features include full-height columns with supporting arches and wide eave overhangs with stylized fascia and belt courses. The building material consists of stylized concrete block section and exposed aggregate concrete leading to the main entrance. All these features are representative examples of New Formalism. Therefore, the building is eligible as a Candidate City Landmark under Criterion 6.

7. *Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José;*

Architect Conrad H. Stieber and Sondeno Construction Company are not considered masters in their trade. Therefore, the building is not eligible under Criterion 7.

8. *Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique*.

   The building is representative of New Formalism architectural design, but it does not represent a significant or unique architectural innovation since this architectural design style was well-known by architects. Therefore, the building is not eligible under Criterion 8.

In conclusion, both Michael Baker International and Evans & De Shazo concluded the property meets the significance criteria of a City Landmark under Criteria 1 and 6 as an example of New Formalism architectural style built during a time period (1960s) where New Formalism was prevalent in San José.

3.5.2 Impact Discussion

For the purpose of determining the significance of the project's impact on cultural resources, would the project:

1) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?
2) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?
3) Disturb any human remains, including those interred outside of dedicated cemeteries?

3.5.2.1 *Project Impacts*

a) Would the project cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?

A resource is considered to be historically significant by the City of San José if it is determined to meet the City Landmark significance criteria, is a designated City Landmark, and/or is listed on or is eligible for listing on the CRHR or NRHP.

As discussed above in Section 3.5.1.2, the building at 380 North First Street was determined to be eligible for listing on the CRHR under Criterion 3 for its association with New Formalism architecture and retains all seven aspects of integrity. The building is also listed on the San José Historic Resources Inventory as a Candidate City Landmark and is architecturally significant under criteria 1 and 6 of San José Municipal Code Section 13.48.110 H; therefore, the building is considered a historical resource under CEQA.

Impact CUL-1: Implementation of the proposed project would result in the demolition of the building at 380 North First Street, a Candidate City Landmark listed on the San José Historic Resources Inventory and is also eligible for listing on the CRHR.

Mitigation Measures:

MM CUL-1.1: Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permitee shall prepare and submit a Historic Resources Mitigation Action Plan (Action Plan) that outlines the specific steps, methodology and timing for how the following documentation will be approached and prepared. The Action Plan shall include roles and responsibilities between the Permittee, City staff, and outside individuals, groups, firms, and consultants. The Action Plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer prior to its implementation.

MM CUL-1.2: Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permittee shall submit Historic American Building Survey (HABS) documentation for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer. The documentation shall be prepared by a qualified architectural historian meeting the Secretary of the Interior's Professional Qualification Standards. The documentation shall be prepared in accordance with the guidelines established for the Level III HABS documentation consistent with the Secretary of the Interior's Standards for Architectural and Engineering Documentation and shall consist of the following components:

D. Drawings – Prepare sketch floor plans of the building to help explain the building.

E. Photographs – Photograph the exterior and interior with 35 mm digital photography to clearly depict the appearance of the property and areas of significance. Photographs shall include each elevation of the building, architectural details, and prominent interior spaces and features keyed to the sketch floor plans that meet the digital photography specifications for Level III HABS documentation

F. Written Data –Prepare expanded history of the property and architectural significance to supplement the photographs by explaining what is not readily visible.

Following review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer, the documentation shall be submitted to and filed with the San José Library's California Room, History San José, and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System.

MM CUL-1.3: Prior to the issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permitee shall submit 3D laser scans of the building to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer. The 3D laser scanning shall include an as-built survey of the existing conditions of the building utilizing 3D Laser Scanning techniques to capture the building's exterior to create a 3D point cloud model for digital documentation/archival purposes.

MM CUL-1.4: Relocation: Prior to issuance of any grading, demolition, or building permits (whichever occurs the earliest), the Permittee shall advertise the availability of the building for relocation for a period of no less than 60 days. The advertisement must include notification in a newspaper of general circulation, on a website, and notice placed adjacent to the public right of way on the project site to maximize visibility. The Permittee shall provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the Director of Planning, Building and Code Enforcement or the Director's designee that this condition has been met.

If the Permittee or a third party agrees to relocate the building, the following measures must be followed:

1. The Director of Planning, Building and Code Enforcement or the Director's designee, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is feasible for the building.
2. Prior to relocation, the Permittee or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study that establishes the baseline condition of the structure prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved.

3. To protect the building during relocation, the Permittee or third party shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine how the building needs to be reinforced/stabilized before the move.

4. Once moved, the Permittee or third party shall repair and rehabilitate the building, as needed, Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be retained in a manner that preserves the integrity of the building for long-term preservation and reuse.

   Upon completion of the repairs, a qualified architectural historian shall document and confirm that work was completed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and character-defining features were preserved. The Permittee or third party shall submit a memo report to the City's Historic Preservation Officer documenting the relocation, repair, and reuse prior to issuance of any occupancy permits for the project.

MM CUL-1.5: Salvage: If the Permittee or a third party does not relocate the structure within an agreed upon time, the structure shall be made available for salvage to companies facilitating the reuse of historic building materials. Prior to issuance of any grading, demolition, or building permits, the Permittee shall advertise the availability of the building for salvage for a period of no less than 30 days. The Permittee shall provide evidence to the Director of Planning, Building and Code Enforcement, or the Director's designee, that this condition has been met.

MM CUL-1.6: Commemoration and Public Interpretation: Prior to the issuance of any grading or building permits, the Permittee shall retain a qualified historic resources consultant to develop a concept commemorative interpretive program, exhibit, and/or display including, but not limited to interpretive text and historic photographs, art or sculpture, video, interactive media, or oral histories. Prior to the issuance of any occupancy permits, the proposal and design of the commemoration and public interpretation shall be designed by a qualified consultant and submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer for review and approval. The final product shall be implemented by the Permittee in coordination with the City. If a physical object, the commemoration and public interpretation shall be installed in a suitable publicly accessible location on the site as agreed upon by the City.

Even with implementation of mitigation measures MM CUL-1.1 through MM CUL-1.5, the proposed project would result in the demolition of a CRHR eligible property and Candidate City Landmark

listed in the San José Historic Resources Inventory. As a result, the proposed project would result in a significant unavoidable impact to historical resources. **(Significant and Unavoidable Impact with Mitigation Incorporated)**

b) Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?

Policy ER-10.1 states that for proposed development sites that have been identified as archaeologically or paleontologically sensitive, the City will require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

As discussed in Section 3.4.1.2 Existing Conditions, the project site has a high sensitivity for prehistoric archaeological resources and a low to moderate sensitivity for historic resources. The project would involve significant subsurface work during construction of the below-grade parking garage, which has the potential to encounter unknown subsurface archaeological resources.

Impact CUL-2: Project ground disturbing activities could result in a substantial adverse change in the significance of an archaeological resource.

Mitigation Measure:

The following mitigation measures shall be implemented to reduce impacts to archaeological resources that may be present on the site.

MM CUL-2.1: **Cultural Sensitivity Training.** Prior to issuance of any grading permit, the project applicant shall be required to conduct a Cultural Awareness Training for construction personnel. The training shall be facilitated by a qualified archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commissions for 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. Documentation verifying that Cultural Awareness Training has been conducted shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

MM CUL-2.2: **Archaeological Monitoring Plan.** Prior to the issuance of any demolition, grading, or building permits, a qualified archaeologist shall prepare an Archaeological Monitoring Plan (AMP) that details the types of archaeological resources that could be found within the Project Area during demolition and construction, and the procedures to follow should any archaeological material be encountered. The AMP shall be submitted to the

Director of Planning, Building and Code Enforcement or the Director's designee. The AMP shall:

- provide procedures and guidelines for proper notification to Tribes, agencies, and stakeholders, as needed,
- a plan for the evaluation and treatment of archaeological resources that may be encountered, as well as a curation plan.

MM CUL-2.3: **Archaeological Monitoring.** A qualified archaeologist shall be presented during below grade construction. The archaeological monitor shall be empowered to halt construction activities at the location of a discovery to review possible archaeological material and to protect the resource while it is being assessed. Archaeological monitoring shall continue until, in the archaeologist's judgment, archaeological resources are no longer likely to be encountered. A report shall also be prepared to document the findings after construction is completed.

In accordance with General Plan Policy ER-10.3, the project would also be required to implement the below standard permit condition to reduce or avoid impacts to unknown subsurface cultural resources.

Standard Permit Condition:

- If 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 (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Heritage Commission for 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 shall examine the find. The archaeologist in consultation with the Tribal representative shall 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. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of PBCE or the Director's designee, the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

With implementation of the Standard Permit Condition and Mitigation Measures MM CUL-2.1 through 2.3 listed above, the project's potential impacts to unrecorded subsurface cultural resources would be less than significant. **(Less than Significant Impact with Mitigation Incorporated)**

c) Would the project disturb any human remains, including those interred outside of dedicated cemeteries?

The proposed project would require subterranean excavation for underground parking which may result in the discovery and disturbance of human remains, including those interred outside of dedicated cemeteries. The proposed project would implement the following Standard Permit Condition to reduce the impacts on human remains.

Standard Permit Condition

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following condition occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
    a. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
    b. The MLD identified fails to make a recommendation; or
    c. The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

With implementation of the Standard Permit Condition listed above, redevelopment of the site would have a less than significant impact on human remains, including those interred outside of dedicated cemeteries. **(Less than Significant Impact)**

3.5.2.2 *Cumulative Impacts*

a) Would the project result in a cumulatively considerable contribution to a significant cumulative cultural resources impact?

The geographic area for cumulative impacts to cultural resources includes the project site and adjacent parcels because it is assumed disturbance in the project area would affect similar cultural resources.

Historic Structures

Implementation of the proposed project would result in the loss of a building eligible to be listed on the CRHR and as a Candidate City Landmark at 380 North First Street. The building is representative of the New Formalism architectural style that was prevalent in the 1960s in San José. There are only three buildings built in the same time frame and architectural style in San José. Since the project would result in the demolition in one of the few 1960 New Formalism style buildings in San José, the loss of this building would be cumulatively considerable.

Archaeological Resources

The cumulative projects (refer to the list in Table 3.0-1) may require excavation and grading or other activities that may affect unknown prehistoric cultural resources and/or historic resources. As a result, the City has a Standard Permit Condition all projects must implement [refer to the Standard Permit Condition identified under checklist question b)] to reduce potential impacts to subsurface cultural resources to a less than significant level. In addition, project-level analyses for sites located in archaeologically sensitive areas would determine the necessity of additional mitigation measures to reduce localized and site-specific impacts to these resources. All projects would also be subject to federal, state, and local regulations pertaining to the protection of cultural resources. As a result, the cumulative projects (including the project) would not result in significant cumulative impacts to archaeological resources.

Human Remains

While no cumulative projects are located adjacent to the project site, all cumulative projects (including the project) are required to comply with existing regulations, including California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, and the City's Standard Permit Condition identified under checklist question b) to reduce impacts to human remains (if discovered) to a less than significant level. For these reasons, the cumulative projects (including the project) would not result in significant cumulative impacts to human remains.

While the project would not have a cumulatively considerable impact on subsurface archaeological resources or human remains, demolition of the building at 380 North First Street would be cumulatively considerable. **(Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)**

3.6 Energy

Federal and State

Energy Star and Fuel Efficiency

At the federal level, energy standards set by the EPA apply to numerous consumer products and appliances (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

Renewables Portfolio Standard Program

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

Executive Order B-55-18 To Achieve Carbon Neutrality

In September 2018, Governor Brown issued an executive order, EO-B-55-18 To Achieve Carbon Neutrality, setting a statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter." The executive order requires CARB to "ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal." EO-B-55-18 supplements EO S-3-05 by requiring not only emissions reductions, but also that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO_2 from the atmosphere through sequestration.

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years. Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.

California Green Building Standards Code

CALGreen establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and

healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. CALGreen covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars II program in 2022 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2026 through 2035. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[34]

Regional and Local

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be Zero Net Carbon Emissions (ZNE) by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- SJCE will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San Jose by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

Reach Building Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted Reach Code Ordinance (Reach Code) to reduce energy related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San Jose. It requires new residential construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through a higher Energy Design Ratings and be electrification ready. Effective August 1, 2021, all new construction developments are required to be all-electric buildings with no natural gas infrastructure. In addition, the Reach Code requires EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

[34] California Air Resources Board. "Advanced Clean Cars II." Accessed June 27, 2023. https://ww2.arb.ca.gov/our-work/programs/advanced-clean-cars-program/advanced-clean-cars-ii.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to cultural and historical resources and are applicable to the project.

Policy	Description
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.4	Promote energy efficient construction industry practices.
MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.

3.6.1.1 *Existing Conditions*

Total energy usage in California was approximately 7,359 trillion British thermal units (Btu) in the year 2021, the most recent year for which this data was available.[35] Out of the 50 states, California is ranked second in total energy consumption and 49th in energy consumption per capita. The breakdown by sector was approximately 20 percent (1,473 trillion Btu) for residential uses, 19 percent (1,397 trillion Btu) for commercial uses, 23 percent (1,704 trillion Btu) for industrial uses, and 38 percent (2,785 trillion Btu) for transportation.[36] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

In 2022, California's in-state electricity generated equaled about 80 percent of California electricity sales and the remaining 20 percent of the state's electricity supply came from out of state sources. California's net electricity generation in June 2023 was approximately 17,172 thousand MWh with the largest source from nonhydroelectric renewables at 42 percent. The remaining source percentages are as follows: 27 percent from natural gas-fired power plants, 21 percent from

[35] United States Energy Information Administration. "California State Energy Profile." Accessed January 9, 2024. https://www.eia.gov/state/print.php?sid=CA.
[36] Ibid.

hydroelectric renewable resources, nine percent from nuclear power, and the remaining one percent from coal-fired and petroleum fired power plants.[37]

In 2022, a total of approximately 17,102 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[38] Electricity in Santa Clara County in 2022 was consumed primarily by the non-residential sector at 12,852 kWh (75 percent) followed by the residential sector consuming 4,250 kWh (25 percent). SJCE is the City of San José energy utility and would provide electricity service to the project site.

Fuel for Motor Vehicles

In 2022, California produced approximately 124 million barrels of crude oil.[39] Retail sales of gasoline estimated approximately 13,640 millions of gallons of gasoline and 2,290 millions of gallons of diesel were sold in California in 2022.[40] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 25.4 mpg in 2021.[41]

Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was updated in April 2022 to require all cars and light duty trucks achieve an overall industry average fuel economy of 49 mpg by model year 2026.[42,43]

Energy Use of Existing Development

The approximate electricity and natural gas used by the existing building on-site is shown below in Table 3.6-1.

[37] United States Energy Information Administration. "California Net Electricity Generation by Source." June 2023. Accessed September 29, 2023. https://www.eia.gov/state/?sid=CA#tabs-4.
[38] California Energy Commission. "Electricity Consumption by County." Accessed September 29, 2023. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[39] U.S. Energy Information Administration. "Petroleum & Other Liquids, California Field Production of Crude Oil." September 27, 2023. https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mcrfpca1&f=a
[40] California Energy Commission. "2022 California Annual Retail Fuel Outlet Report Results (CEC-A15) Energy Assessments Division." August 16, 2023. Accessed September 29, 2023. https://www.energy.ca.gov/data-reports/energy-almanac/transportation-energy/california-retail-fuel-outlet-annual-reporting.
[41] United States Environmental Protection Agency. "The 2022 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." December 2022. Accessed September 29, 2023. https://www.epa.gov/system/files/documents/2022-12/420r22029.pdf.
[42] United States Department of Energy. "Energy Independence & Security Act of 2007." Accessed September 29, 2023. http://www.afdc.energy.gov/laws/eisa.
[43] United States Department of Transportation. "USDOT Announces New Vehicle Fuel Economy Standards for Model Year 2024-2026." September 29, 2023. Accessed September 29, 2023. https://www.nhtsa.gov/press-releases/usdot-announces-new-vehicle-fuel-economy-standards-model-year-2024-2026.

Table 3.6-1: Estimated Annual Energy Use for Existing Office Development

Electricity Use (kWh)[1]	Natural Gas Use (kBtu)[2]	Gasoline (gallons per year)[1]
254,023	285,003	8,900

kWh = kilowatt-hour, kBtu = one thousand British thermal units

[1] Electricity: 21,168.6 kWh * (12,000 square feet/1,000 square feet) = 2,540 kWh. Source: California Air Pollution Control Officers Association. *California Emissions Estimator Model Version 2022.1 Appendix G, Default Data Tables*. April 2022. Table G-28.

[2] Natural Gas: 23,750 kBtu * (12,000 square feet/1,000 square feet) = 285,000 kBtu. Source: California Air Pollution Control Officers Association. *California Emissions Estimator Model Version 2022.1 Appendix G, Default Data Tables*. April 2022. Table G-28.

[3] For gasoline use, an average fuel economy of 25.4 mpg and estimated VMT of 226,072 per year for the existing office was assumed. (226,072 vehicle miles per year)/(25.4 miles per gallon. Source: California Air Pollution Control Officers Association. *California Emissions Estimator Model Version 2022.1 Appendix G, Default Data Tables*. April 2022. Table G-20.

3.6.2 Impact Discussion

For the purpose of determining the significance of the project's impact on energy, would the project:

1) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?
2) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?
3) Result in a substantial increase in demand upon energy resources in relation to projected supplies?

3.6.2.1 *Project Impacts*

a) Would the project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

Energy would be consumed during the construction and operational phases of the project as discussed below.

Energy Use During Construction

The construction phase would require energy for the transportation of building materials, preparation of the site for grading, and the actual construction of the building. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks.

Construction of the project would require demolition, preparation of the site, grading, trenching, building construction, paving, and finishing of the building interior. The overall construction

schedule and process is designed to be efficient in order to avoid excess monetary costs. Equipment and fuel would not be used wastefully on the sites because of the added expense associated with renting the equipment, maintaining it, and fueling it. Furthermore, construction of the project would occur in an urbanized area in proximity to roadways, construction supplies, and workers, making it more efficient than construction occurring in outlying, undeveloped areas. For these reasons, the construction process for the project would be efficient.

In addition, energy would not be wasted or used inefficiently by construction equipment as the proposed project shall implement the City's Standard Permit Condition for air quality to restrict equipment idling times and require the applicant to post signs on the project site reminding workers to shut off idling equipment, thus reducing the potential for energy waste. Consistent with Mitigation Measure MM AIR-1, equipment would be selected to reduce emissions during construction; therefore, energy would not be wasted or used inefficiently by construction equipment. The project would also be required to divert 75 percent of construction and demolition, thereby minimizing energy impacts from the creation of waste. For these reasons, the construction of the project would not use energy in a wasteful manner.

Energy Use During Project Operation

Operation of the project would consume energy for building heating and cooling, lighting, and appliance use. Operational energy would also be consumed by residents to and from the project site. The net increase in energy use of the project is summarized in Table 3.6-2 below.

Table 3.6-2: Estimated Annual Energy Use of Project Options

Source	Electricity (kWh)	Natural Gas (kBtu)	Gasoline (gallons)[3]
Existing Use	254,023	285,003	8,900
Project	754,157	0[2]	46,935[4]
Net Energy Total	500,134	0	38,035

kWh = kilowatt-hour, kBtu = one thousand British thermal units

[1] Source: Illingworth & Rodkin, Inc. *380 N. 1st Street Construction Health Risk Assessment*. November 2023.

[2] The project would be 100 electric without natural gas infrastructure.

[3] For gasoline use, an average fuel economy of 25.4 mpg was used to estimate the gallons of gasoline.

[4] The VMT for the project was estimated to be 1,192,155 VMT per year. Source: Source: Illingworth & Rodkin, Inc. *380 N. 1st Street Construction Health Risk Assessment*. November 2023.

As shown in Table 3.6-2 above, the project would result in an increase in energy demand (electricity and gasoline) compared to existing conditions. However, the increase in energy demand due to the project would not represent a wasteful or inefficient use of energy resources because the project would be required to comply with Title 24 and CALGreen requirements to reduce energy consumption. the project, as proposed, would be 100 percent electric. In addition, the project would be required to prepare and implement a TDM plan to reduce project VMT (pursuant with the City of San José TDM Ordinance). Proposed TDM measures could include, but are not limited to,

bike share stations and unbundling parking costs from property costs (refer to Section 3.17 Transportation). The TDM plan would incentivize the use of alternative methods of transportation to and from the site, which would reduce the project's gasoline demand. The project's location would also reduce gasoline use from private vehicles given the project site's proximity to existing transit and mix of uses. Therefore, the project would not result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project operation.

Overall, the project involves the construction and operation of a conventional multi-family residential building. As a result, there is nothing atypical or unusual about the project's construction or operations that would result in wasteful, inefficient, or unnecessary consumption of energy. For the reasons discussed above, the project would not result in a wasteful use of energy. **(Less than Significant Impact)**

b) Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

The project would comply with the current energy efficiency standards set forth in Title 24, Climate Smart SJ, the City's Reach Code and Private Sector Green Building Policy, and the City's Municipal Code chapters identified in Section 3.6.1.1 Regulatory Framework pertaining to energy, water, and construction and demolition efficiencies. While the project would result in an increase in demand on existing energy resources, the project would be required to comply with applicable regulations and City policies that would conserve energy and water and reduce fuel consumption and waste generation. For these reasons, the proposed project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. For these reasons, the project would comply with state and local plans for renewable energy and energy efficiency. **(Less than Significant Impact)**

c) Would the project result in a substantial increase in demand upon energy resources in relation to projected supplies?

Electricity

The demand for electricity in California will continue to increase through 2035 due to population growth, climate change, and transportation trends (e.g., increased EV usage). The Statewide electricity consumption in 2021 was approximately 280,000 GWh and is forecasted to increase up to approximately 358,738 GWh in 2035.[44] Efficiency and production capabilities, such as SB 100, would help meet increased electricity demand in the future, such as improving energy efficiency in existing and future buildings, establishing energy efficiency targets, inclusion of microgrids and

[44] California Energy Commission. *2022 Integrated Energy Policy Report Update*. May 10, 2023. Page 57.

zero-net energy buildings, and integrating renewable technologies.[45] The project would be built to the most recent CALGreen requirements and Title 24 energy efficiency standards, which would improve the efficiency of the overall project.

Electricity supply and demand data and reporting are provided at the state level. At most, the project would result in a net increase in approximately 0.5 GWh of electricity use, which would be less than a 0.0002 percent increase in the State's 2021 annual use. Also, refer to the discussion under checklist question a) as to why the project would not result in wasteful, inefficient, or unnecessary consumption of energy. For these reasons, the project's increase in electricity use would not result in a significant increase in demand on electrical energy resources in relation to projected supplies statewide.

Natural Gas

Natural gas supply and demand data and reporting is provided at the state level. Statewide natural gas demand is projected to decline at an annual average rate of 1.1 percent per year through 2035, and gas demand will continue to decrease as the state moves towards carbon neutrality by 2045 or sooner.[46] The project would not result in any substantial increase in natural gas demand relative to projected supply because it would not use any natural gas. Therefore, the project would not result in wasteful, inefficient, or unnecessary consumption of energy as discussed under checklist question a).

Fuel for Motor Vehicles

Project trips would increase gasoline use by approximately 38,035 gallons per year compared to existing conditions. This increase is small (less than 0.003 percent) when compared to the 11,495 million gallons of gasoline consumed in California in 2022. The project's gasoline use would be reduced given its proximity to existing transit and implementation of TDM measures as required by City ordinance. Furthermore, new automobiles purchased by future occupants of the project would be subject to fuel economy and efficiency standards applied throughout the State of California, which means that over time, the fuel efficiency of vehicles associated with the project would improve. For the above reasons, the project would not result in a significant increase in gasoline demand relative to projected supply. Also, refer to the discussion under checklist question a) as to why the project would not result in wasteful, inefficient, or unnecessary consumption of energy. **(Less than Significant Impact)**

[45] California Energy Commission. "2016 Integrated Energy Policy Report." Accessed April 2, 2021. https://ww2.energy.ca.gov/2016_energypolicy/

[46] California Gas and Utilities. *2022 California Gas Report.* Pages 6 and 10.

3.6.2.2 *Cumulative Impacts*

a) Would the project result in a cumulatively considerable contribution to a significant cumulative energy impact?

By its nature, energy is a cumulative resource. The geographic area for cumulative energy impacts is the state. Past, present, and future development projects contribute to the state's energy impacts. If the project is determined to have a significant energy impact, it is concluded that the impact is cumulatively considerable. As discussed under checklist questions a) through c) above, the project would not result in significant energy impacts with the implementation of City Standard Permit Conditions and Mitigation Measure AIR-1. The project would not result in significant cumulative energy impacts. **(Less than Significant Cumulative Impact)**

3.7 Geology and Soils

The following discussion is based, in part, on a Geotechnical Investigation prepared for the project by Rockridge Geotechnical. A copy of the Geotechnical Investigation report, dated April 14, 2023, is included as Appendix E to this EIR.

3.7.1 Environmental Setting

3.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and state agencies for their use in planning and controlling new construction. Areas within an Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed in 1990 following the 1989 Loma Prieta earthquake. The SHMA directs the California Geological Survey (CGS) to identify and map areas prone to liquefaction, earthquake-induced landslides, and amplified ground shaking. CGS has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, landslides, and ground shaking, including the central San Francisco Bay Area. The SHMA requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the seismic hazard is present and identify measures to reduce earthquake-related hazards.

California Building Standards Code

The CBC prescribes standards for constructing safe buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years.

California Division of Occupational Safety and Health Regulations

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

Public Resources Code Section 5097.5

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These materials are valued for the information they yield about the history of the earth and its past ecological settings. California Public Resources Code Section 5097.5 specifies that unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

City of San José

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to geologic and seismic hazards and are applicable to the project.

Policy	Description
ES-4.9	Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level.
ES-4.10	Update the San José Building Code, Fire Prevention Code and Municipal Code to address geologic, fire, flooding and other hazards, and to respond to changes in applicable State Codes.
EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
EC-3.2	Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
EC-4.2	Approve development in areas subject to soils and geologic hazards, including un-engineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated

Policy	Description
	and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 15.
EC-4.7	Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the 2016 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

3.7.1.2 *Existing Conditions*

Regional Geology

The project site is located in Santa Clara Valley, which is bounded by the Diablo Range to the east and the Santa Cruz Mountains to the west. The Santa Clara Valley is underlain by sedimentary and metamorphic rocks of the Franciscan Complex. Overlying these rocks are alluvial sediments deposited by streams draining the adjacent mountains during recent geologic times (Holocene age). The alluvial deposits consist of unconsolidated to semi-consolidated sand, silt, clay, and gravel.[47] [48]

[47] R.J. McLaughlin, J.C. Clark, E.E. Brabb, E.J. Helley, and C.J. Colon. USGS. *Geologic Maps and Structure Sections of the Southwestern Santa Clara Valley and Southern Santa Cruz Mountains, Santa Clara and Santa Cruz Counties, California*. 2001.

[48] E.J. Helley, R.W. Graymer, G.A. Phelps, P.K. Showalter, and C.M. Wentworth. *Quaternary Geology of Santa Clara Valley, Santa Clara, Alameda, and San Mateo Counties, California: A digital database*. May 1994.

On-Site Geologic Conditions

Soils and Topography

The project site is relatively flat and is underlain by Holocene-age alluvial deposits. Alluvial fan deposits generally consist of a mixture of fine-grained and coarse-grained deposits and are deposited by rivers and streams. The results of the soil testing indicate that the alluvium underlying the site generally consists of about 12 to 14 feet of loose to dense silty sand interbedded with medium stiff to hard silty to sandy clay.

According to the CBC, soils with a Plasticity Index (PI) of 15 or less are not considered expansive. The soils on-site have a PI of 23.1 and are considered to be expansive.[49]

Seismicity and Seismic Hazards

The San Francisco Bay Area is recognized by geologists as one of the most seismically active regions in the United States. Significant earthquakes occurring in the Bay Area are generally associated with the San Andreas Fault system, which spans the Coast Ranges from the Pacific Ocean to the San Joaquin Valley. The closest active fault to the Downtown area is the Hayward fault zone, located approximately six miles to the east. Other potentially active faults within ten miles include the San Andreas, Monte Vista – Shannon, and Calaveras faults. There are no active faults on the project site.

The project site is not located within an Alquist-Priolo Earthquake Fault Zone or a Santa Clara County Fault Rupture Hazard Zone.[50]

Liquefaction and Lateral Spreading

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. According to the project's Geotechnical Investigation, the site is within a state-designated liquefaction hazard zone.

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. The project-level Geotechnical Investigation concluded the potential for lateral spreading on-site is low.

[49] U.S. Department of Agriculture. *Custom Soil Resource Report of Santa Clara Area, California, Western Part*. April 18, 2023.
[50] Santa Clara County. "Geologic Hazard Zones." Accessed April 18, 2023. https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=5ef8100336234fbdafc5769494cfe373

Landslides

Landslides occur when the stability of a slope changes from a stable to an unstable condition. The site is not located within a Santa Clara County Landslide Hazard Zone.[51] The project area is relatively flat; therefore, the probability of landslides occurring at the site during a seismic event is low.

Groundwater

Groundwater was encountered at depths of 11 to 20 feet below the ground surface (bgs) during the subsurface investigation completed as part of the Geotechnical Investigation (refer to Appendix E). Based on a review of data from the State of California Water Resources Control Board, historic groundwater levels range from 10.4 to 19.8 feet bgs.[52] The groundwater level at the site is expected to fluctuate several feet seasonally with potentially larger fluctuations annually, depending on the amount of rainfall. Therefore, for purposes of this analysis, it assumed that groundwater would be encountered at a depth of 10 feet bgs at the project site.

Paleontological Resources

Paleontological resources are the fossilized remains of organisms from prehistoric environments in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These sediments have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. According to the City's Paleontological Sensitivity Map, the project site is located in an area of high paleontological sensitivity at depth.[53]

3.7.2 Impact Discussion

For the purpose of determining the significance of the project's impact on geology and soils, would the project:

1) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
    - Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?
    - Strong seismic ground shaking?

[51] Santa Clara County. "Geologic Hazard Zones." Accessed April 18, 2023. https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=5ef8100336234fbdafc5769494cfe373
[52] Rockridge Geotechnical. *Geotechnical Investigation Proposed Apartment Building 380 North First Street San José, California*. April 14, 2023.
[53] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011. Figure 3.11-1.

- Seismic-related ground failure, including liquefaction?
- Landslides?

2) Result in substantial soil erosion or the loss of topsoil?
3) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?
4) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?
5) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?
6) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

3.7.2.1 *Project Impacts*

a) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides?

Fault Rupture

The project site is not located within an Alquist-Priolo Earthquake Fault Zone or a Santa Clara County Fault Rupture Hazard Zone[54], making fault rupture at the site unlikely. While existing faults are located within 10 miles of the site, such as the Calaveras Fault and Hayward Fault, the proposed project is outside of the fault zones, and significant impacts from fault ruptures would not occur.

Seismic Ground Shaking

The project site is located within the seismically active San Francisco Bay Area which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake by 2045. As mentioned above in Section 3.7.1.2, no active faults have been mapped on-site and, as a result, the risk of fault rupture is low. However, the project site is within the State of California Seismic Hazard Zone. The project site and area are relatively flat and have a low potential for lateral spreading during seismic events.

In accordance with the CBC, City's General Plan, and Municipal Code, and to avoid or minimize potential damage from seismic shaking, the proposed development would be built using standard

[54] Santa Clara County. "Geologic Hazard Zones." Accessed April 18, 2023. https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=5ef8100336234fbdafc5769494cfe373

engineering and seismic safety design techniques. Consistent with City requirements, the following Standard Permit Conditions shall be implemented by the proposed project to ensure all structures are designed to address seismic hazards.

Standard Permit Conditions:

- A Geotechnical Report shall be submitted, reviewed, and approved by the City Geologist. The Geotechnical Report shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center report, SCEC, 1999). A recommended minimum depth of 50 feet should be explored and evaluated in the investigation. The City Geologist will review the Geotechnical Report and issue a Geologic Clearance.
- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

Landslides

The project site is not located within a landslide hazard zone according to the County of Santa Clara's *Geologic Hazard Zones* Map.[55] As such, the proposed project would not pose a risk to human or building safety due to earthquake-induced landslides.

Liquefaction

The project site is in a State Seismic Hazard Zone for Liquefaction. According to the City's Municipal Code, a Certificate of Geologic Hazard Clearance is required for the project due to its location within a Geologic Hazard Zone. A Certificate of Geologic Hazard Clearance must be issued for the proposed project prior to issuance of a grading permit.

By subjecting the proposed project to review by the City of San José's Geologist and requiring geologic hazard clearance from the Director of Public Works, and adhering to the Standard Permit Conditions described above, hazards posed by seismically induced liquefaction would be reduced to less than significant.

[55] Santa Clara County. Geologic Hazard Zones. Accessed April 18, 2023. https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=5ef8100336234fbdafc5769494cfe373

Lateral Spreading

The project site has a low potential for lateral spreading.

With the implementation of the Standard Permit Conditions, the project would not directly or indirectly cause substantial adverse effects, including loss, injury, or death from fault rupture, seismic-related ground shaking or ground failure, or landslides. **(Less than Significant Impact)**

---

b) Would the project result in substantial soil erosion or the loss of topsoil?

The project site is developed and level, which limits the potential for substantial soil erosion. The potential for erosion would be highest during the grading and excavation phase of the project. Ground-disturbing activities would include site-specific grading for foundations, access driveways, and utility trenches. These activities could increase the exposure of on-site soils to wind and water erosion. The project would be required to comply with the City's Grading Ordinance as a Standard Permit Condition (see Section 4.10 Hydrology and Water Quality), which includes the implementation of erosion and dust control during site preparation. Implementation of the City's Grading Ordinance, in combination with the following Standard Permit Conditions, would reduce the project's potential erosion impacts to a less than significant level.

Standard Permit Conditions:

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

The General Plan Final EIR concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant. Because the project would comply with the regulations identified in the General Plan Final EIR and adhere to the Standard Permit Conditions above, the project would not result in substantial soil erosion. **(Less than Significant Impact)**

---

c) Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

The project site is located within a State Seismic Hazard zone for liquefaction, but the potential for lateral spreading to occur on-site is low. The proposed project would be required to use standard engineering and seismic safety design techniques during project construction. Additionally, the project would be constructed in conformance with a site-specific geotechnical investigation (refer

to Standard Permit Condition above). The site is not located on soil that is or would become unstable and result in on- or off-site landslide, lateral spreading, subsidence or collapse.

Groundwater in the project area is known to occur at depths ranging from 10.4 to 19.8 feet bgs. The project site would be excavated to a depth of approximately 10 feet for the below-grade parking garage. Since excavation activities on-site would likely encounter groundwater, the proposed project would require dewatering during construction (refer to Section 3.10 Hydrology and Water Quality of this document). Consistent with City policy, the project would implement the following Standard Permit Condition to reduce and/or avoid impacts related to dewatering.

Standard Permit Condition:

- If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

The project would not result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse by employing standard design and engineering practices and adhering to the City's grading permit requirements that prevent on- and off-site flooding, landslides, and differential settlement. **(Less than Significant Impact)**

d) Would the project be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?

As discussed in Section 3.1.7.2, the soils on-site have a PI greater than 15 and are considered expansive. As discussed in the General Plan Final EIR, compliance with the City's General Plan policies regarding soil and landslide hazards would reduce hazards associated with expansive soils and new development and redevelopment to a less than significant level. Consistent with the General Plan policies identified in Section 3.7.1.1 and as previously noted, the project would be required through a Standard Permit Condition to prepare a design-level geotechnical report and implement recommendations regarding the structural design and engineering techniques to reduce impacts from expansive soils (as well as other geologic hazards). Consistent with the conclusions of the General Plan Final EIR, by conforming with state and local regulations and the recommendations of the design-level geotechnical report, the project would not create substantial direct or indirect risks to life or property. **(Less than Significant Impact)**

e) Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

The project would connect to the existing sanitary sewer system and would not require the use of septic tanks or alternative wastewater disposal systems. **(No Impact)**

f) Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

The General Plan Final EIR recognized that while development allowed under the General Plan could directly impact paleontological resources, implementation of General Plan policies and existing regulations and programs would reduce potential impacts to a less than significant level. As such, the following Standard Permit Condition would be applied to the project to reduce and avoid impacts to unidentified paleontological resources.

Standard Permit Conditions

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the PBCE.

Consistent with the conclusions of the General Plan Final EIR, implementation of the Standard Permit Conditions described above would enable the identification and preservation of any undiscovered paleontological resources encountered during construction and ensure that impacts to paleontological resources would be less than significant. **(Less than Significant Impact)**

3.7.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant geology and soils impact?

The geographic area for cumulative geology and soils impacts includes the project site and adjacent parcels because it is assumed that the effects of ground disturbing activities during construction would be limited to the project site and surrounding area.

Fault Rupture, Seismic Ground Shaking and Failure, and Landslides

As discussed under checklist question a), with the implementation of the identified Standard Permit Condition, the existing seismic and seismic-related hazard conditions would not be exacerbated by the project such that it would impact (or worsen) on- or off-site geology and soil conditions. Future cumulative projects listed in Table 3.0-1 would also be required to implement the City's Standard Permit Conditions and site-specific geotechnical reports to ensure all structures are designed to address seismic hazards. For this reason, the project would not contribute to a cumulatively significant impact due to seismic or seismic-related hazards.

Soil Erosion or Loss of Topsoil

As discussed under checklist question b), the General Plan Final EIR concluded that future cumulative development, including the project, would be required to comply with all applicable City regulatory programs and Standard Permit Conditions pertaining to construction-related erosion to reduce impacts to a less than significant level. Therefore, the project would not result in a significant cumulative impact due to soil erosion or loss of topsoil.

On- or Off-Site Landslide, Lateral Spreading, Subsidence, Liquefaction, or Collapse

The project and all cumulative projects would be constructed in accordance with design-level geotechnical investigations and the City's grading permit requirements, which identify standard practices to reduce soil-related hazards to a less than significant level. A design-level geotechnical investigation and grading permit are required of the project as a Standard Permit Condition under checklist question a). Compliance with the City's Standard Permit Conditions would ensure that the cumulative projects (including the proposed project) would not contribute to soil-related hazards on the site.

Expansive Soil

As discussed under checklist question d), the General Plan Final EIR concluded that future development (including the cumulative projects) in compliance with General Plan policies that require the preparation of a design-level geotechnical investigation would not result in significant impacts from expansive soils. All cumulative projects would comply with the General Plan by preparing design-level geotechnical investigations and implementing the recommendations in those investigations and would not result in a significant cumulative impact from expansive soils.

Septic Tanks or Alternative Wastewater Systems

As discussed under checklist question e) the project would not require the use of septic tanks or alternative wastewater disposal systems. Therefore, the project would not contribute to a significant cumulative impact due to these alternative wastewater systems.

Paleontological Resources

The project would be required to comply with General Plan policies and existing regulations and programs to reduce impacts to paleontological resources. All cumulative projects within the City of San José would be required to comply with the same General Plan policies and existing regulations and programs as the project to protect paleontological resources.

With the implementation of identified Standard Permit Conditions, the project would have a less than significant cumulative geology and soils impact. **(Less than Significant Cumulative Impact)**

3.8 Greenhouse Gas Emissions

The information in this section is based in part on a City of San José Greenhouse Gas Reduction Compliance checklist completed by the project applicant. The checklist is available in Appendix F of this EIR.

3.8.1 Environmental Setting

3.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO_2 equivalents (CO_2e). The most common GHGs are carbon dioxide (CO_2) and water vapor but there are also several others, most importantly methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO_2 and N_2O are byproducts of fossil fuel combustion
- N_2O is associated with agricultural operations such as fertilization of crops
- CH_4 is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty
- HFCs are now used as a substitute for CFCs in refrigeration and cooling
- PFCs and SF_6 emissions are commonly created by industries such as aluminum production and semiconductor manufacturing

An expanding body of scientific research supports the theory that global climate change is currently causing changes in weather patterns, average sea level, ocean acidification, chemical reaction rates, and precipitation rates, and that it will increasingly do so in the future. The climate and several naturally occurring resources within California are adversely affected by the global warming trend. Increased precipitation and sea level rise will increase coastal flooding, saltwater intrusion, and degradation of wetlands. Mass migration and/or loss of plant and animal species could also occur. Potential effects of global climate change that could adversely affect human health include more extreme heat waves and heat-related stress; an increase in climate-sensitive diseases; more frequent and intense natural disasters such as flooding, hurricanes and drought; and increased levels of air pollution.

3.8.1.2 *Regulatory Framework*

State

Assembly Bill 32 and State Bill 32

Under the California Global Warming Solutions Act, also known as AB 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources. The first Scoping Plan was approved by CARB in 2008 and must be updated at least every five years. Since 2008, there have been two updates to the Scoping Plan.

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO_2e ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

2022 Scoping Plan

On December 15, 2022, CARB approved the 2022 Scoping Plan. The 2022 Scoping Plan provides a sector-by-sector guide on how to reduce man-made (i.e., anthropogenic) GHG emissions by 85 percent below 1990 levels and achieve carbon neutrality by 2045 over a 25-year horizon.[56] The primary focus of the 2022 Scoping Plan is to reduce the usage of fossil fuels by electricizing the transportation sector, procuring electricity from renewable resources, phasing out natural gas in land use developments, and building transit-oriented communities that encourage multi-modal transportation. If implemented successfully, the 2022 Scoping Plan would not only reduce GHG emissions but also reduce smog-forming air pollution (NO_x) by 71 percent and reduce fossil fuel demand by 94 percent. The 2022 Scoping Plan also details natural carbon capture and storage process along with mechanical carbon capture programs to address the remaining 15 of anthropogenic GHG emissions that will remain post-2045. To meet these goals, CARB also includes a revised goal of reducing state GHG emissions 48 percent below 1990 levels by 2030.

Senate Bill 375 and Plan Bay Area 2050

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035. The per capita GHG emissions reduction targets for passenger vehicles in the Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

[56] CARB. *2022 Scoping Plan for Achieving Carbon Neutrality*. November 16, 2022. Page 5.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2050.

Plan Bay Area 2050 is a long-range plan for the nine-county San Francisco Bay Area that provides strategies that increase the availability of affordable housing, support a more equitable and efficient economy, improve the transportation network, and enhance the region's environmental resilience. Plan Bay Area 2050 promotes the development of a variety of housing types and densities within identified priority development areas (PDAs). PDAs are areas generally near existing job centers or frequent transit that are locally identified for housing and job growth.[57]

Play Bay Area 2050 includes a goal to increase the number of households that live within 0.5 mile of frequent transit by 2050. Plan Bay Area 2050 promotes strategies that support active and shared modes, combined with a transit-supportive land use patterns, which together are forecasted to lower the share of Bay Area residents that drive to work alone from 50 percent in 2015 to 33 percent in 2050, resulting in a decrease in GHG emissions. Plan Bay Area 2050 also includes goals to expand TDM initiatives that support and augment employers' commute programs, providing a path to emissions reductions.

SB 100

SB 100, known as the 100 Percent Clean Energy Act of 2018, was adopted on September 10, 2018. The overall goal is to have all retail electricity sold in California procured from 100 percent renewable and zero-carbon resources by the year 2045. SB 100 also modified the renewables portfolio standard to 50 percent by 2025 and 60 percent by 2030.

Executive Order B-55-18 and Assembly Bill 1279

Executive Order B-55-18 was issued in September 2018. It ordered a new statewide goal of achieving carbon neutrality no later than 2045 and to maintain net negative emissions thereafter.

Assembly Bill 1279, also known as the California Climate Crisis Act, was approved on September 16, 2022, and codifies the statewide goal set by Executive Order B-55-18 of achieving net zero GHG emissions no later than the year 2045 and maintaining net negative emissions thereafter. In addition, this bill has a statewide goal of reducing anthropogenic GHG emissions by 85 percent below the 1990 levels by the year 2045. The bill requires CARB to work with relevant state agencies to ensure that updates to the scoping plan identify and recommend measures to achieve these policy goals and strategies that enable CO_2 removal solutions and carbon capture, utilization, and

[57] Association of Bay Area Governments and Metropolitan Transportation Commission. *Plan Bay Area 2050*. October 21, 2021. Page 20.

storage technologies in California are implemented. The bill requires CARB to submit an annual report.

Advanced Clean Cars II Regulation

To continue reducing air pollutants and GHG emissions in the transportation sector, CARB adopted the Advanced Clean Cars II Regulations (Resolution 22-12) on August 25, 2022. The new regulation requires that by 2035 all new passenger cars, trucks, and SUVs sold in California will be zero emissions. This regulation bans the sale of new gasoline or diesel passenger cars, trucks, and SUVs in California from automakers. Beginning in 2026, 35 percent of new vehicle sales must be zero-emission vehicles and plug-in hybrid electric vehicles and that percentage will increase per year. By 2030, 70 percent of new vehicle sales will be zero-emissions vehicles and by the 2035 model year 100 percent of new vehicle sales will be zero-emissions. CARB will limit the use of plug-in hybrid electric vehicles in the percentage requirements to keep the manufacturing of zero-emissions as the primary goal. Existing gasoline cars can continue to be driven and sold as used cars beyond 2035. CARB is required to track and report on the zero-emissions vehicle market development annually.

California Building Standards Code – Title 24 Part 11 and Part 6

The CALGreen Code is part of the California Building Standards Code under Title 24, Part 11.[58] The CALGreen Code encourages sustainable construction standards that incorporate planning/design, energy efficiency, water efficiency resource efficiency, and environmental quality. These green building standard codes are mandatory statewide and are applicable to residential and non-residential developments. The most recent CALGreen Code (2022 CALGreen Code) was effective as of January 1, 2023.

The California Building Energy Efficiency Standards (California Energy Code) is under Title 24, Part 6 and is overseen by the CEC. This code includes design requirements to conserve energy in new residential and non-residential developments. This Energy Code is enforced and verified by cities during the planning and building permit process. The 2022 Energy Code replaced the 2019 Energy Code as of January 1, 2023. There are new 2022 standards for single-family residences, multi-family residences, and non-residential uses.[59,60,61] Major changes include electric-ready single-family and multi-family residence and solar photovoltaic systems and energy storage systems for residential and commercial developments.

[58] Refer to https://www.dgs.ca.gov/BSC/Resources/Page-Content/Building-Standards-Commission-Resources-List-Folder/CALGreen#:~:text=CALGreen%20is%20the%20first%2Din,to%201990%20levels%20by%202020.
[59] California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Single-Family Residential." Revised July 15, 2022. Accessed January 18, 2024. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Single-family_Whats_New_Summary_ADA.pdf.
[60] California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Multifamily." Revised August 4, 2022. Accessed January 18, 2024. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Multifamily_Whats_new_Summary_ADA.pdf.
[61] California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Nonresidential." Revised August 4, 2022. Accessed January 18, 2024. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Nonresidential_Whats_New_Summary_ADA.pdf.

Requirements for EV charging infrastructure are set forth in Title 24 of the California Code of Regulations and are regularly updated on a three-year cycle. The CALGreen standards consist of a set of mandatory standards required for new development, as well as two more voluntary standards known as Tier 1 and Tier 2. The 2022 CALGreen standards require deployment of additional EV chargers in various building types, including multi-family residential, hotel, and non-residential land uses. They include requirements for both EV capable parking spaces and the installation of EV supply equipment for multi-family residential and nonresidential buildings. The 2022 CALGreen standards also include requirements for both EV readiness and the actual installation of EV chargers. The 2022 CALGreen standards include both mandatory requirements and more aggressive voluntary Tier 1 and Tier 2 provisions:

- CALGreen Tier 1 standards require multi-family developments and hotels with less than 20 units to have 35 percent of the total number of parking spaces EV ready; if there are more than 20 units, 10 percent of the parking spaces must be provided with EV supply equipment. These standards also require 30 percent of total parking spaces to be EV capable and 33 percent of parking spaces to be EV capable with EV supply equipment for non-residential and non-hotel uses.
- CALGreen Tier 2 standards require multi-family developments and hotels with less than 20 units to have 40 percent of the total number of parking spaces EV ready; if there are more than 20 units, 15 percent of the parking spaces must be provided with EV supply equipment. For non-residential and non-hotel uses, 45 percent of total parking spaces require EV capable spaces and 33 percent of parking spaces require EV capable spaces provided with EV supply equipment.

CALGreen also requires new construction and demolition projects to have a diversion of at least 65 percent of the construction waste generated. CALGreen also allows a disposal reduction option that can be met when the project's disposal rate is 2.0 pounds per square foot or less for non-residential and high-rise residential construction or 3.4 pounds per square foot or less for low-rise residential construction.

Regional and Local

2017 Clean Air Plan

To protect the climate, the 2017 Clean Air Plan prepared by BAAQMD includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

BAAQMD CEQA Thresholds for Evaluating Climate Impacts from Land Use Projects and Plans

On April 20, 2022, the BAAQMD Board of Directors adopted the Justification Report: CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans. The report includes BAAQMD's thresholds of significance for use in determining whether a proposed project or plan will have a significant impact on climate change and provides the substantial

evidence to support these thresholds. The April 2022 GHG thresholds replace the GHG thresholds set forth in the May 2017 BAAQMD CEQA Air Quality Guidelines and represent what is required of new land use development projects and plans to achieve California's long-term climate goal of carbon neutrality by 2045.

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be ZNE by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- SJCE will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San José by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

City of San José Reach Building Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted Reach Code Ordinances (reach codes) to reduce energy related GHG emissions consistent with the goals of Climate Smart San José. The reach codes apply to new construction projects in San José. The reach codes require EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

San José 2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by SB 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multi-modal transportation, water conservation, and solid waste reduction. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.

3.8.1.3 *Existing Conditions*

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in weather patterns.

The project site is currently developed with an existing office building (approximately 12,000 square feet), surface parking lot, and landscaping. The existing development generates GHGs through building heating and cooling, electricity use, solid waste disposal, and vehicle travel to and from the site.

3.8.2 Impact Discussion

For the purpose of determining the significance of the project's impact on greenhouse gas emissions, would the project:

1) Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?
2) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?

3.8.2.1 *Thresholds of Significance*

Pursuant with BAAQMD, for land use projects to result in a less than significant GHG emissions impact, the land use project would need to comply with threshold A or B below.

A. Projects must include, at a minimum, the following project design elements:
    1. Buildings
        a. The project will not include natural gas appliances or natural gas plumbing (in both residential and nonresidential development).
        b. The project will not result in any wasteful, inefficient, or unnecessary energy usage as determined by the analysis required under CEQA Section 21100(b)(3) and Section 15126.2(b) of the State CEQA Guidelines.
    2. Transportation
        a. Achieve a reduction in project-generated VMT below the regional average consistent with the current version of the California Climate Change Scoping Plan (currently 15 percent) or meet a locally adopted Senate Bill 743 VMT target, reflecting the recommendations provided in the Governor's Office of Planning and Research's Technical Advisory on Evaluating Transportation Impacts in CEQA:
            i. Residential projects: 15 percent below the existing VMT per capita
            ii. Office projects: 15 percent below the existing VMT per employee
            iii. Retail projects: no net increase in existing VMT
        b. Achieve compliance with off-street electric vehicle requirements in the most recently adopted version of CALGreen Tier 2.

B. Be consistent with a local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b)

3.8.2.2 *Project Impacts*

a) Would the project generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?

Construction Emissions

Construction activities on-site would result in temporary GHG emissions. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD have established a quantitative threshold or standard for determining whether a project's construction related GHG emissions are significant. Project construction would occur over a period of approximately 21 months and would result in the approximate release of 432 $MTCO_2e$.[62] Since these impacts would only occur during construction, the proposed project would not result in a significant contribution to GHG emission. The proposed project construction activity and resulting GHG emissions would not interfere with the implementation of SB 32.

Operational Emissions

Global climate change is by its very nature a cumulative impact. BAAQMD adopted GHG thresholds of significance to assist in the review of projects under CEQA (refer to Section 3.8.2.1 above). These thresholds were designed to establish the level at which BAAQMD has determined that GHG emissions would cause significant environmental impacts and achieve the state's emission reduction target. The GHG emission thresholds identified by BAAQMD are qualitative thresholds with the project either incorporating specific project design features or demonstrating compliance with a qualified GHG reduction strategy. The City's 2030 GHGRS is a qualified GHG reduction strategy that is designed to meet statewide GHG reduction targets for 2030 set by SB 32. Therefore, the latter BAAQMD threshold is used. Projects that comply with the policies and strategies outlined in the 2030 GHGRS would have less than significant GHG impacts under CEQA.

The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. These strategies include achieving zero net carbon for residential construction, renewable energy development, retrofits of existing buildings to remove natural gas demands, achieving a zero-waste goal, modernization of Caltrain, and water conservation. The proposed project would comply with specific measures of the GHGRS, as discussed below.

The project is consistent with the Land Use/Transportation Diagram designation of the General Plan. Therefore, the project's GHG emissions are accounted for in the citywide GHG emissions inventory addressed in the GHGRS, provided the project complies with applicable GHG reduction measures identified in the GHGRS. As discussed in more detail below under checklist question b), the project applicant has completed the Greenhouse Gas Reduction Strategy Consistency Checklist

[62] This represents the unmitigated emissions, without implementation of Mitigation Measure AIR-1.1.

(refer to Appendix F), which documents the project's compliance with the GHGRS and demonstrates the project would result in a less than significant GHG emissions impact.

As stated above, the proposed project would result in temporary GHG emissions during construction which would not contribute to interference with SB 32 and the project's ongoing operational GHG emissions would be covered by the GHGRS given the project is consistent with the General Plan and the project incorporates applicable requirements of the GHGRS. Therefore, the proposed project would result in a less than significant GHG impact during construction and operation. **(Less than Significant Impact)**

b) Would the project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?

2022 Scoping Plan

As described in Section 3.8.1.2 Regulatory Framework, the 2022 Scoping Plan is a document that plans how the state will achieve carbon neutrality by 2045 and reduce human caused emissions to 85 percent below 1990 levels by 2045. The BAAQMD qualitative thresholds were designed to ensure future projects complete their "fair share" of implementing carbon reduction design features to help achieve the state's carbon neutrality goal. A project that can meet the energy and transportation design elements outlined in the BAAQMD thresholds or is consistent with a qualified GHG reduction strategy is consistent with the goals outlined in the 2022 Scoping Plan and would not hinder the state from achieving carbon neutrality. As described below, the project would be consistent with the City's qualified GHGRS (refer to Appendix F). Therefore, the proposed project would not exacerbate the cumulative GHG problem and the project's contribution would not be cumulatively considerable as it does not impede California's ability to achieve carbon neutrality.

2017 Clean Air Plan

As discussed in Section 3.3 Air Quality, the project is consistent with the 2017 Clean Air Plan because it supports the primary goals of the 2017 Clean Air Plan and is consistent with applicable control measures that reduce both criteria air pollutant and GHG emissions.

2030 Greenhouse Gas Reduction Strategy

As mentioned in Section 3.8.1.2 Regulatory Framework, projects that are consistent with the GHGRS would have a less than significant impact related to GHG emissions through 2030. The GHGRS includes seven strategies for emissions reductions. These include use of SJCE, achieving zero net carbon for residential construction, renewable energy development, retrofits of existing buildings to remove natural gas demands, achieving a zero-waste goal, modernization of Caltrain, and water conservation. The proposed project would comply with specific measures of the GHGRS, as follows (refer to Appendix F). The proposed project is consistent with the Land Use/Transportation Diagram designation of General Plan. The entire building would be 100 percent electric in compliance with the City's Reach Code, no natural gas infrastructure would be included.

Additionally, the project would implement a TDM program, and be consistent with the 2030 GHGRS through compliance with the State's Model Water Efficient Landscape Ordinance and the City's Water-Efficient Landscape Ordinance (Chapter 15.11 of the San José Municipal Code) and would include landscaping and landscaped shading of the parking areas and walkways. Additionally, the project would include low-flow fixtures and appliances and would utilize recycled water for the outdoor landscaping based on availability. Lastly, the project would be constructed in accordance with the latest CBC, green building regulations/CALGreen, the City's Council Policy 6-32, and the City's Green Building Ordinance.

Climate Smart San José

Climate Smart San José, adopted by the City, is a community-wide initiative intended to create a more sustainable, connected, and economically inclusive City. Climate Smart San José is aligned with General Plan growth patterns and General Plan policies which prioritize automobile-alternative transportation modes, encourage denser development, and ensure energy-efficient features are included in new buildings.

As discussed in Section 4.6 Energy, the project would be designed and constructed in compliance with the City of San José Council Policy 6-32 and the City's Green Building Ordinance. In addition, Action MS-2.11 of the General Plan requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. For these reasons, the project is consistent with the City's climate action goals as set forth in Climate Smart San José.

The project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. **(Less than Significant Impact)**

3.8.2.3 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant GHG emissions impact?

As discussed above, GHG emissions have a broader, global impact; therefore, if a project would result in a significant project-level GHG impact, it would also result in a significant cumulative GHG impact. The discussion above under checklist questions a) and b) show that the project would not have a significant GHG emissions impact. Therefore, the project would not result in a cumulatively considerable contribution to a significant cumulative GHG emissions impact. **(Less than Significant Cumulative Impact)**

3.9 Hazards and Hazardous Materials

The following discussion is based, in part, on a Phase I Environmental Site Assessment (ESA) prepared for the project by Silicon Valley Environmental Group, Inc. A copy of the Phase I ESA, dated June 16, 2022, is included as Appendix G to this EIR.

3.9.1 Environmental Setting

3.9.1.1 *Regulatory Framework*

Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Worker health and safety and public safety are key issues when dealing with hazardous materials. Proper handling and disposal of hazardous material is vital if it is disturbed during project construction. Cal/OSHA enforces state worker health and safety regulations related to construction activities. Regulations include exposure limits, requirements for protective clothing, and training requirements to prevent exposure to hazardous materials. Cal/OSHA also enforces occupational health and safety regulations specific to lead and asbestos investigations and abatement.

Federal and State

<u>Federal Aviation Regulations Part 77</u>

Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above the ground.

<u>Comprehensive Environmental Response, Compensation, and Liability Act</u>

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law created a tax on the chemical and petroleum industries and provided broad federal authority to respond directly to

releases or threatened releases of hazardous substances that may endanger public health or the environment. Over five years, $1.6 billion was collected and the tax went to a trust fund for cleaning up abandoned or uncontrolled hazardous waste sites. CERCLA accomplished the following objectives:

- Established prohibitions and requirements concerning closed and abandoned hazardous waste sites;
- Provided for liability of persons responsible for releases of hazardous waste at these sites; and
- Established a trust fund to provide for cleanup when no responsible party could be identified.

The law authorizes two kinds of response actions:

- Short-term removals, where actions may be taken to address releases or threatened releases requiring prompt response; and
- Long-term remedial response actions that permanently and significantly reduce the dangers associated with releases or threats of releases of hazardous substances that are serious, but not immediately life-threatening. These actions can be completed only at sites listed on the EPA's National Priorities List.

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priorities List. CERCLA was amended by the Superfund Amendments and Reauthorization Act on October 17, 1986.[63]

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA), enacted in 1976, is the principal federal law in the United States governing the disposal of solid waste and hazardous waste. RCRA gives the EPA the authority to control hazardous waste from the "cradle to the grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also sets forth a framework for the management of non-hazardous solid wastes.

The Federal Hazardous and Solid Waste Amendments (HSWA) are the 1984 amendments to RCRA that focused on waste minimization, phasing out land disposal of hazardous waste, and corrective action for releases. Some of the other mandates of this law include increased enforcement

[63] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed February 8, 2024. https://www.epa.gov/superfund/superfund-cercla-overview.

authority for the EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.[64]

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB).[65]

Toxic Substances Control Act

The Toxic Substances Control Act (TSCA) of 1976 provides the EPA with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics, and pesticides. The TSCA addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls (PCBs), asbestos, radon, and lead-based paint.

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of a property. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The Santa Clara County Department of Environmental Health reviews CalARP risk management plans as the CUPA.

Asbestos-Containing Materials

Friable asbestos is any asbestos-containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl floor tiles, and transite siding made with cement. The EPA began phasing out use of friable asbestos products in 1973 and issued a ban in 1978 on manufacture, import, processing, and distribution of some asbestos-containing products and new uses of asbestos products.[66] The EPA is currently considering a proposed ban on on-going use of

[64] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed April 18, 2023. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.
[65] California Environmental Protection Agency. "Cortese List Data Resources." Accessed April 18, 2023. https://calepa.ca.gov/sitecleanup/corteselist/.
[66] United States Environmental Protection Agency. "EPA Actions to Protect the Public from Exposure to Asbestos." Accessed April 18, 2023. https://www.epa.gov/asbestos/epa-actions-protect-public-exposure-asbestos

asbestos.[67] National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

CCR Title 8, Section 1532.1

The United States Consumer Product Safety Commission banned the use of lead-based paint in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by the Cal/OSHA Lead in Construction Standard, CCR Title 8, Section 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If lead-based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

Regional and Local

Municipal Regional Permit Provision C.12.f

PCBs were produced in the United States between 1955 and 1978 and used in hundreds of industrial and commercial applications, including building and structure materials such as plasticizers, paints, sealants, caulk, and wood floor finishes. In 1979, the EPA banned the production and use of PCBs due to their potential harmful health effects and persistence in the environment. PCBs can still be released to the environment today during demolition of buildings that contain legacy caulks, sealants, or other PCB-containing materials.

With the adoption of the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP) by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, Provision C.12.f requires that permittees develop an assessment methodology for applicable structures planned for demolition to ensure PCBs do not enter municipal storm drain systems.[68] Municipalities throughout the Bay Area are currently modifying demolition permit processes and implementing PCB screening protocols to comply with Provision C.12.f. Buildings constructed between 1950 and 1980 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit. Single family homes and wood-frame structures are exempt from these requirements.

Regional and Local

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hazards and hazardous materials and are applicable to the project.

[67] United States Environmental Protection Agency. "EPA Actions to Protect the Public from Exposure to Asbestos." Accessed April 18, 2023. https://www.epa.gov/asbestos/epa-actions-protect-public-exposure-asbestos
[68] California Regional Water Quality Control Board. *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit.* November 2015.

Policy	Description
EC-6.2	Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Requires proper disposal of hazardous materials and wastes at licensed facilities.
EC-6.6	Address through environmental review all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
EC-6.7	Do not approve land uses and development that use hazardous materials that could impact existing residences, schools, day care facilities, community or recreation centers, senior residences, or other sensitive receptors if accidentally released without the incorporation of adequate mitigation or separation buffers between uses.
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
EC-7.3	Where a property is located in proximity to known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the satisfaction of the City's Environmental Compliance Officer and appropriate regional, state and federal agencies prior to approval of a development or redevelopment project.
EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
EC-7.5	On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.
EC-7.8	Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other

Policy	Description
	applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation of dispersion of dust and sediment runoff.
TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

City of San José Emergency Operations Plan

The City of San José Emergency Operations Plan (EOP) provides an overview of the jurisdiction's approach to emergency operations. The City's EOP is designed to establish the foundational policies and procedures that define how the City will effectively prepare for, respond to, recover from, and mitigate against natural or human-caused disasters. This includes assigning City departmental roles and responsibilities during disaster response and recovery activities, establishing communication and coordination procedures, and the logistics for disseminating information and resources, among other similar items.

Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

The Mineta San José International Airport Comprehensive Land Use Plan (CLUP) is intended to safeguard the general welfare of the inhabitants within the vicinity of the airport and aircraft occupants. The CLUP establishes an airport land use planning area, referred to as the Airport Influence Area (AIA). The AIA is a composite of areas surrounding the airport that are affected by noise, height, and safety considerations. The CLUP includes land use compatibility guidelines, with topics such as noise and building height, to ensure that surrounding land uses and development do not interfere with the airport's continuing operations.

3.9.1.2 *Existing Conditions*

Historic Uses of the Project Site

By 1891 the project site was developed with a residential structure, prior to that it was undeveloped. Between 1931 and 1956, the project site is developed with a large commercial building. According to the 1950 Fire Insurance Map, this building was occupied by Security Warehouse & Cold Storage Company. Between 1960 and 1963, aerial maps show the project site undeveloped. The existing office building (approximately 12,000 square feet), along with the surface parking lot and landscaping, was constructed in 1964.

Potential On-Site Sources of Contamination

The project site is not listed on the Cortese List or other regulatory databases as a known source or suspected source of contamination or as a site that contains hazardous materials or hazardous waste.[69] No environmental concerns, Recognized Environmental Concerns (RECs)[70], or Controlled RECs (CRECs)[71] were identified with respect to either project site.

Potential on-site sources of contamination associated with past historical uses and the existing developments on the project site are discussed below.

Asbestos Containing Materials

Due to changes in federal regulations regarding the use of products containing asbestos, buildings constructed prior to the 1970s have a higher potential to contain asbestos in roof coatings, floor tiles, ceiling tiles, and cementitious products such as pipes or shingles.

The project site was constructed in 1964 and, therefore, is likely to contain asbestos.

Polychlorinated Biphenyls

Site visits conducted by Silicon Valley Environmental Group, Inc. during preparation of the Phase I ESA did not identify any past or present use of PCBs at the project site.

Lead Based Paint

In 1978, the U.S. Consumer Product Safety Commission lowered the permissible levels of lead contained in paints and prohibited application of lead-based paint to housing constructed or

[69] CalEPA. "Cortese List Data Resources" Accessed April 18, 2023. https://www.envirostor.dtsc.ca.gov/public/map/?global_id=38330005

[70] A REC is defined as the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment.

[71] A CREC is defined as a past release of hazardous substances or petroleum products that has been addressed to the satisfaction of the applicable regulatory authority, with hazardous substances or petroleum products allowed to remain in place subject to the implementation of required controls.

rehabilitated with federal assistance. Based on the age of the building, lead-based paint is likely to be present.

Potential Off-Site Sources of Contamination

Federal and state databases were searched to determine the potential for the project site to be affected by releases from off-site sources of contamination within one mile of the project site. The Phase I ESA identified several sites within the vicinity of the project site that are listed on various regulatory databases. However, none of these sites pose an environmental concern to the project site based on one or more of the following: (1) the listed property holds an operating permit (which does not imply a release); (2) the site's distance from and/or topographic position relative to the site; and (3) the site has been remediated and granted "No Further Action" status by the appropriate regulatory agency.

The Phase I ESA identified one Potential Environmental Concern (PEC)[72]. The PEC is related to the railroad tracks located immediately north of the project site, which could be a source of pesticides and arsenic.

Other Hazards

Airport Operations

The Mineta San José International Airport is located approximately 1.3 miles northwest of the project site. The project site is not located within the AIA or any safety zones identified in the CLUP for the Mineta San José International Airport.[73]

Wildfires

The proposed project is located in an area of San José that is not within a wildland urban interface area or a very high fire hazard severity zone.[74]

3.9.2 Impact Discussion

For the purpose of determining the significance of the project's impact on hazards and hazardous materials, would the project:

1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

[72] PECs are environmental situations at or concerning a property which, if not attended to, or if circumstances on site were to change or be altered in certain ways; might produce or cause environmental liability and/or possible corrective action(s) to mitigate.
[73] City of San José. Public Property Detail. Accessed April 18, 2023. https://portal.sanjoseca.gov/deployed/sfjsp
[74] California Department of Forestry and Fire Protection. "Wildland Hazard & Building Codes." Accessed April 18, 2023. https://egis.fire.ca.gov/FHSZ/.

2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?
6) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?
7) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

3.9.2.1 *Project Impacts*

a) Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Construction

Construction of the project would involve the use of potentially hazardous materials, including vehicle fuels, oils, and fluids. All hazardous materials would be transported, contained, stored, used, and disposed of in accordance with manufacturers' instructions and would be handled in compliance with all applicable standards and regulations. Construction-related hazardous materials use would be temporary, and does not constitute routine transport, use, or disposal. The proposed project would include demolition of the existing building on-site. Any hazardous materials (e.g., debris or soil containing lead-based paint or coatings) that would be removed from the site during project construction would be properly disposed of. In addition, the proposed project would be subject to the City's Standard Permit Conditions and mitigation measure MM HAZ-1 listed under checklist question b) below, which would reduce potential impacts associated with transportation and disposing contaminated soil and other hazardous materials, as necessary, to less than significant.

Operation

Once operational, the project would routinely store and use small quantities of cleaning supplies, maintenance chemicals, herbicides and pesticides. No other hazardous materials would be used or stored on the site. These materials would be managed in accordance with existing laws and

regulations that ensure that the routine transport, storage, use, and disposal of these materials would not result in a significant hazard to the public or environment.

The project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. **(Less than Significant Impact with Mitigation Incorporated)**

---

b) Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Soil Contamination

As described in Section 3.9.1.2 Existing Conditions, the Phase I ESA identified one PEC associated with the railroad tracks located immediately north of the project site. Railroad corridors can present residual contamination from past pesticides and arsenic use. When soil disturbance occurs, these contaminants can become airborne and pose a health hazard to construction workers, nearby sensitive receptors, and the environment.

Impact HAZ-1: The development of the project could result in exposure to construction workers, neighboring properties, and the environment from soils that have the potential to contain, arsenic, lead, pesticides, and polynuclear aromatic hydrocarbons (PAHs), and other contaminants associated with a historic railroad track being located adjacent to the north boundary of the subject property.

Mitigation Measures:

MM HAZ-1.1: Prior to the issuance of any demolition or grading permit (whichever occurs earliest), the project applicant shall retain an environmental professional to collect and analyze shallow soil samples for arsenic, lead, organochlorine pesticides, CAM 17 metals, total petroleum hydrocarbons as diesel and oil, volatile organic compounds, polychlorinated bipheynls (PCBs), and polynuclear aromatic hydrocarbons (PAHs) on the subject property to determine whether elevated concentrations of contaminants in the soil exceed environmental screening levels (ESLs) due to a historic railroad track being located just north to the subject property. The results of soil sampling and testing shall be provided to the City's Supervising Planner of the Planning, Building and Code Enforcement Department and the Municipal Compliance Officer of the City of San José Environmental Services Department for review.

If contaminants are found in concentrations above regulatory ESLs, the applicant shall obtain regulatory oversight from Santa Clara County Department of Environmental Health (SCCDEH) or the Department of Toxic Substances Control (DTSC) under their Site Cleanup Plan (SCP). In addition, a Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified hazardous materials consultant. The plan shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José Environmental Services Department.

With implementation of mitigation measure MM HAZ-1.1 above, contaminated soils on-site would be properly identified, characterized, removed, and disposed of prior to ground-disturbing activities, thus preventing exposure of construction workers, nearby sensitive receptors, future occupants, and the environment to soil contaminants from construction of the project.

Asbestos-Containing Materials and Lead-Based Paint

Since the building on-site was constructed prior to 1978, it is reasonable to assume that ACMs and LBP materials are present on-site. Demolition of the building could release asbestos particles and expose construction workers and nearby building occupants to harmful levels of asbestos. If lead-based paint is still bonded to the building materials, its removal is not required prior to demolition. If the lead-based paint is flaking, peeling, or blistering, it shall be removed prior to demolition. It would be necessary to follow applicable Cal/OSHA regulations and any debris containing lead must be disposed appropriately.

The project would be required to implement the following Standard Permit Conditions to reduce impacts due to the presence of ACMs and/or lead-based paint:

Standard Permit Conditions:

- In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.

- All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
    - Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
    - During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
    - Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

With implementation of the Standard Permit Conditions above, the project would have a less than significant impact from ACMs and LBP.

Polychlorinated Biphenyls

No PCBs were observed during preparation of the Phase I ESA. However, based on the age of the on-site building, the building materials may contain PCBs. Demolition of the building could release PCBs in the environment. The proposed project would be required to submit a PCB Screening Assessment Form when applying for a demolition permit to demolish the existing building on-site.

With adherence to the City of San José permitting requirements and Regional Water Quality Control Board (RWQCB) regulations, demolition of the building would reduce potential hazardous materials impacts to construction workers, adjacent uses, and nearby residences from PCBs to a less than significant level.

With implementation of the identified Standard Permit Conditions and mitigation measure MM HAZ-1, the proposed project would result in a less than significant hazard to the public and/or the environment. **(Less than Significant Impact with Mitigation Incorporated)**

c) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

The project site is located within one-quarter mile of Hillbrook School. As discussed above, the project, with the implementation of mitigation measure MM HAZ-1.1 and the Standard Permit Conditions, would not emit significant hazards or hazardous materials impacts from construction or operation. For this reason, the project would not result in hazards or hazardous materials impacts within proximity to existing schools. **(Less than Significant Impact with Mitigation Incorporated)**

d) Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

As discussed in Section 3.10.1.2 Existing Conditions, the project site is not on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. **(No Impact)**

e) If located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

The project site is located within two miles of a public airport or public use airport. The nearest airport, Mineta San José International Airport, is located approximately 1.3 miles northwest of the project site. The project site is not located within the AIA, safety zones, or the 60 dBA community noise equivalent level (CNEL) 2037 aircraft noise contour identified in the Mineta San José International Airport 2020 Amended Master Plan EIR[75]. Additionally, at the project site, buildings with heights lower than 150 feet are not considered a potential aviation hazard. Under Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace", any proposed structure on the project site exceeding approximately 48 feet in height above ground level (AGL) / 128 feet above mean sea level (AMSL) would require submittal to the FAA for airspace safety review. As the maximum proposed building height exceeds 48 feet AGL, the Permitee shall obtain from the FAA a "Determination of No Hazard" for the proposed building's rooftop corners and any additional higher points. Upon compliance with conditions set forth by the FAA in its determinations, the proposed buildings would not result in an aviation hazard.**(Less than Significant Impact)**

f) Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Construction and operation of the project, which would be done in accordance with City building and fire codes and regulations, would not impair implementation of or physically interfere with the

[75] https://www.flysanjose.com/sites/default/files/noise/2037_CNEL.pdf

City's adopted EOP. In addition, emergency vehicles would be able to access the site via Bassett Street. As discussed under checklist question d) in Section 3.17 Transportation, the project would meet the San José Fire Department (SJFD) requirements that all portions of the buildings be within 150 feet of a SJFD access road and a minimum of six feet clearance from the property line to all sides of the buildings. Additionally, the project would be constructed in accordance with current building and fire codes to ensure structural stability and safety. The SJFD would review the final site design for consistency with applicable fire department standards. For these reasons, the project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. **(Less than Significant Impact)**

g) Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

As discussed in Section 3.9.1.2 Existing Conditions, the project site is located in an urbanized area of San José and is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones. Therefore, the project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires. **(No Impact)**

3.9.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant hazards and hazardous materials impact?

The geographic area for cumulative hazards and hazardous materials impacts includes the project site and adjacent parcels.

Routine Transport, Use, or Disposal of Hazardous Materials

None of the cumulative projects, which include residential, office, and commercial developments, would involve the routine transport, use, or disposal of hazardous materials other than minor quantities required for emergency operations (e.g., diesel generators), cleaning, maintenance, or landscaping. Further, all of the cumulative projects (including the project) would be required to comply with all applicable standards and regulations put in place to minimize impacts from the transport, use, storage, and disposal of hazardous materials. Therefore, the cumulative projects (including the project) would not result in a significant cumulative impact due to routine transport, use, or disposal of hazardous materials.

Release of Hazardous Materials

As discussed above under checklist question b), with the implementation of mitigation measure MM HAZ-1.1 and the Standard Permit Conditions, the project would not create a significant hazard to the public or the environment through the release of hazardous materials (specifically contaminated soil, ACMs, and LBP into the environment. All cumulative projects would be subject

to federal and state regulations regarding hazardous materials in addition to local regulations, including the Standard Permit Conditions identified under checklist question b) for the project. Furthermore, in accordance with General Plan Policy EC-7.2, cumulative projects would be required to mitigate any potential impacts to the public and environment due to soil contamination. Based on the above discussion, the cumulative projects would not create a significant cumulative hazard to the public or environment through the release of hazardous materials.

Hazardous Emissions, Materials, Substances, or Wastes within One-Quarter Mile of a School

Two of the cumulative projects listed in Table 3.0-0 is located within 0.25 mile of Horace Mann Elementary School (Echo/Icon at 147 East Santa Clara Street and SuZaCo Mixed-Use Project). The project is a mixed-use project consisting of residential, commercial and retail. The project and other future cumulative projects (including the project) would be required to comply with existing regulations and policies to reduce hazardous materials impacts to a less than significant level. Therefore, the cumulative projects would not contribute to significant cumulative hazardous emissions within one-quarter mile of Hillbrook High School.

Hazardous Materials Sites Under Government Code Section 65962.5

As the project site is not on any lists of hazardous materials sites compiled pursuant to Government Code Section 65962.5, the project would not contribute to a significant cumulative impact pertaining to sites on the Cortese List.

Airport Safety Hazards or Excessive Noise

As discussed under checklist question e) the project site is not within the AIA, safety zones, or 60 dBA CNEL noise contour identified in the Mineta San José International Airport CLUP. As such, the project would not contribute to a significant cumulative impact pertaining to safety hazards or excessive noise from being proximate to an airport.

Emergency Response and Evacuation Plans

As stated under checklist question f), the City's EOP is principally is designed to establish the foundational policies and procedures that define how the City will effectively prepare for, respond to, recover from, and mitigate against natural or human-caused disasters. None of the cumulative projects identified in Table 3.0 1 (which are all typical development projects) would change the EOP or necessitate its revision. All cumulative projects would be constructed and operated in accordance with City building and fire codes and would be reviewed by the SJFD for consistency with applicable fire department standards. As such, the project would not cumulatively contribute to a significant emergency response impact.

Wildland Fire Hazards

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones. As such, the project would not contribute to a significant cumulative wildland fire impact.

The project with the implementation of mitigation measure MM HAZ-1.1 and the Standard Permit Conditions identified under checklist question b) would have a less than significant cumulative hazards and hazardous materials impact. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

3.10 Hydrology and Water Quality

3.10.1 Environmental Setting

Federal and State

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. Regulations set forth by the EPA and the SWRCB have been developed to fulfill the requirements of this legislation. EPA regulations include the NPDES permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the Regional Water Quality Control Boards (RWQCBs). The project site is within the jurisdiction of the San Francisco Bay RWQCB.

Under Section 303(d) of the federal Clean Water Act, the SWRCB and RWQCBs are required to identify impaired surface water bodies that do not meet water quality standards and develop total maximum daily loads (TMDLs) for contaminants of concern. The list of the state's identified impaired surface water bodies, known as the "303(d) list" can be found on the SWRCB's website.[76]

National Flood Insurance Program

The Federal Emergency Management Agency (FEMA) established the National Flood Insurance Program (NFIP) to reduce impacts of flooding on private and public properties. The program provides subsidized flood insurance to communities that comply with FEMA regulations protecting development in floodplains. As part of the program, FEMA publishes Flood Insurance Rate Maps (FIRMs) that identify Special Flood Hazard Areas (SFHAs). An SFHA is an area that would be inundated by the one-percent annual chance flood, which is also referred to as the base flood or 100-year flood.

Statewide Construction General Permit

The SWRCB has implemented an NPDES General Construction Permit for the State of California (Construction General Permit). For projects disturbing one acre or more of soil, a Notice of Intent (NOI) must be filed with the RWQCB by the project sponsor, and a Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction and filed with the RWQCB by the project sponsor. The Construction General Permit includes requirements for training, inspections, record keeping, and, for projects of certain risk levels, monitoring. The general purpose of the requirements is to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

[76] California State Water Resources Control Board. "2020-2022 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report)." Accessed April 20, 2023. https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html.

Regional

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Municipal Regional Permit Provision C.3

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in May 2022 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.[77] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 5,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

In addition to water quality controls, the MRP requires new development and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to local rivers, streams, and creeks. Projects may be deemed exempt from these requirements if: (1) the post-project impervious surface area is less than, or the same as, the pre-project impervious surface area; (2) the project is located in a catchment that drains to a hardened (e.g., continuously lined with concrete) engineered channel or channels or enclosed pipes, which extend continuously to the Bay, Delta, or flow controlled reservoir, or, in a catchment that drains to channels that are tidally influenced; or (3) the project is located in a catchment or subwatershed that is highly developed (i.e., that is 70 percent or more impervious).[78]

[77] California Regional Water Quality Control Board San Francisco Region. Municipal Regional Stormwater NPDES Permit, Order No. R2-2022-0018, NPDES Permit No. CAS612008. May 11, 2022.

[78] The Hydromodification Applicability Maps developed the permittees under Order No. R2-2009-0074 were prepared using this standard, adjusted to 65 percent imperviousness to account for the presence of vegetation on the photographic references used to determine imperviousness. Thus, the maps for Order No. R2-2009-0074 are accepted as meeting the 70 percent requirement.

Municipal Regional Permit Provision C.12.g

Provision C.12.g of the MRP requires co-permittee agencies to implement a control program for PCBs that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs wasteload allocation in the Basin Plan by March 2030.[79] Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. Municipalities throughout the Bay Area are updating their demolition permit processes to incorporate the management of PCBs in demolition building materials to ensure PCBs are not discharged to storm drains during demolition. Buildings constructed between 1950 and 1980 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit. Single-family residential and wood frame structures are exempt.

Water Resources Protection Ordinance and District Well Ordinance

Valley Water operates as the flood control agency for Santa Clara County. Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program. Well construction and deconstruction permits, including borings 45 feet or deeper, are required under Valley Water's Well Ordinance 90-1. Under Valley Water's Water Resources Protection Ordinance, projects within Valley Water property or easements are required to obtain encroachment permits.

2021 Groundwater Management Plan

The 2021 Groundwater Management Plan (GWMP) describes the Valley Water's comprehensive groundwater management framework, including existing and potential actions to achieve basin sustainability goals and ensure continued sustainable groundwater management. The GWMP covers the Santa Clara and Llagas subbasins, which are located entirely in Santa Clara County. Valley Water manages a diverse water supply portfolio, with sources including groundwater, local surface water, imported water, and recycled water. About half of the county's water supply comes from local sources and the other half comes from imported sources. Imported water includes the District's State Water Project and Central Valley contract supplies and supplies delivered by the San Francisco Public Utilities Commission (SFPUC) to cities in northern Santa Clara County. Local sources include natural groundwater recharge and surface water supplies. A small portion of the county's water supply is recycled water.

Local groundwater resources make up the foundation of the county's water supply, but they need to be augmented by the District's comprehensive water supply management activities to reliably meet the county's needs. These include the managed recharge of imported and local surface water and in-lieu groundwater recharge through the provision of treated surface water and raw water, acquisition of supplemental water supplies, and water conservation and recycling.[80]

[79] California Regional Water Quality Control Board San Francisco Region. Municipal Regional Stormwater NPDES Permit, Order No. R2-2022-0018, NPDES Permit No. CAS612008. May 11, 2022.
[80] Valley Water. *2021 Groundwater Management Plan, Santa Clara and Llagas Subbasins*. November 2021.

Construction Dewatering Waste Discharge Requirements

Each of the RWQCBs regulate construction dewatering discharges to storm drains or surface waters within its Region under the NPDES program and Waste Discharge Requirements.

Local

Management of Pollutants During Demolition of Applicable Projects Policy 6-28

All projects involving building demolition are subject to screening requirements for Polychlorinated Biphenyls (PCBs) in priority building materials. Prior to demolition, applicants shall submit a PCBs Screening Assessment Form, complete any relevant testing, and provide all documentation as outlined in Policy 6-28.

Post-Construction Urban Runoff Management Policy 6-29

The City of San José's Post-Construction Urban Runoff Management Policy 6-29 was adopted to establish an implementation framework, consistent with Provision C.3 of the MRP. This policy requires all new and redevelopment projects to implement post-construction best management practices (BMPs) and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

Post-Construction Hydromodification Management Policy 8-14

The City of San José's Post-Construction Hydromodification Management Policy 8-14 establishes an implementation framework for projects that are subject to hydromodification controls in the Municipal Regional Stormwater NPDES permit. The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

City of San José Grading Ordinance

All development projects, whether subject to the Construction General Permit or not, shall comply with the City of San José's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the project will submit to the Director of Public Works and Erosion Control Plan detailing BMPs that will prevent the discharge of stormwater pollutants.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hydrology and water quality and are applicable to the project.

Policy	Description
EC-5.1	The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.
EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
ER-8.4	Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.
ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff on-site.
ER-9.6	Require the proper construction and monitoring of facilities that store hazardous materials in order to prevent contamination of the surface water, groundwater and underlying aquifers. In furtherance of this policy, design standards for such facilities should consider high groundwater tables and/or the potential for freshwater or tidal flooding.
MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
MS-3.5	Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
MS-20.2	Avoid locating new development or authorizing activities with the potential to negatively impact groundwater quality in areas that have been identified as having a high degree of aquifer vulnerability by the Santa Clara Valley Water District or other authoritative public agency.
MS-20.3	Protect groundwater as a water supply source through flood protection measures and the use of stormwater infiltration practices that protect groundwater quality. In the event percolation facilities are modified for infrastructure projects, replacement percolation capacity will be provided.
IN-1.1	Provide and maintain adequate water, wastewater, and stormwater services to areas in and currently receiving these services from the City.
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.7	Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties.

Policy	Description
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.

3.10.1.1 *Existing Conditions*

Hydrology and Drainage

The project site does not contain surface water resources. The nearest surface water resource is the Guadalupe River located approximately 0.5 miles west of the site. Water from the project site is currently channeled into storm drains located on Bassett Street. These storm drains connect to the City's storm drain system which carries runoff into the Guadalupe River, and eventually into the San Francisco Bay.

According to the EPA, the Guadalupe River is currently listed on the 303(d) list of impaired waterways for pesticides, mercury, and trash. [81]

Flooding

According to the FEMA FIRM the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard that is outside the 100-year flood plain.[82] There are no City floodplain requirements for Zone D.

Seiches, Tsunamis, and Mudflows

A seiche is the oscillation of water in an enclosed body of water such as a lake or the San Francisco Bay. There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche.

A tsunami is a sea wave generated by an earthquake, landslide, or other large displacement of water in the ocean. There are no bodies of water near the project site that would affect the site in the event of a tsunami.[83] A mudflow is the rapid movement of a large mass of mud formed from loose soil and water. The project site and surrounding area are relatively flat. The project site is not susceptible to mudflows.

Groundwater

The project site is located in the Santa Clara Plain subbasin, which covers 280 square miles extending from the southern San Francisco Bay to the Coyote Narrows near Metcalf Road. Historic

[81] United States Environmental Protection Agency. *Waterbody Quality Assessment Report for 2016 Waterbody Report for Guadalupe River (Santa Clara Co.)*. 2016. Accessed April 20, 2023. https://mywaterway.epa.gov/community/95050/overview.
[82] Federal Emergency Management Agency. *Flood Insurance Rate Map: Santa Clara County Panel 234 of 830*. Map Number 06085C0232H. May 18, 2009.
[83] Association of Bay Area Governments. "Tsunami Maps and Information." Accessed April 20, 2023. http://resilience.abag.ca.gov/tsunamis/.

groundwater levels on-site range from 10.4 to 19.8 bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns. Therefore, for purposes of this analysis, it assumed that groundwater would be encountered at a depth of 10 feet bgs at the project site. The project site is not located within a designated groundwater recharge zone.[84]

3.10.2 Impact Discussion

For the purpose of determining the significance of the project's impact on hydrology and water quality, would the project:

1) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?
2) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:
    - result in substantial erosion or siltation on- or off-site;
    - substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;
    - create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or
    - impede or redirect flood flows?
4) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?
5) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

3.10.2.1 *Project Impacts*

a) Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Construction Impacts

Construction activities, such as grading and excavation, may result in temporary impacts to surface water quality in local waterways. When disturbance to underlying soil occurs, surface water that

[84] Valley Water. *2021 Groundwater Management Plan*. Figure 2-1. November 2021.

flows across the site may contain sediments may be dislodged and discharged to the storm drainage system. The project would disturb approximately 0.49 acres of soil, which is below the one-acre threshold requiring conformance with the Construction General Permit. Development projects in San José are required to comply with the City's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the project applicant is required to submit an Erosion Control Plan for the project. The Erosion Control Plan would detail the BMPs to be implemented during the construction phase to prevent the discard of stormwater pollutants and minimize erosion (refer to Section 3.7 Geology and Soils for more information regarding the implementation and requirements of the City's Grading Ordinance and Erosion Control Plan).

Pursuant to City requirements, the following Standard Permit Conditions are required of the project to reduce potential construction-related water quality impacts.

Standard Permit Conditions:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Compliance with the City's Grading Ordinance and the Standard Permit Conditions identified above would ensure that non-significant quantities of soil and construction byproducts enters the storm drain system and local waterways as a result of the project.

Dewatering

Groundwater in the project area is known to occur at depths ranging from 10.4 to 19.8 feet bgs. The project site would be excavated to a depth of approximately 10 feet for the below-grade parking garage, which could interfere with the shallow groundwater aquifer. It is anticipated that dewatering would be required during project construction. In the event that dewatering is required, the project applicant shall implement the following Condition of Approval.

Condition of Approval:

- The proposed project involves dewatering activities; therefore, the Storm Water Pollution Prevention Plan shall be prepared and include provisions for the proper management of dewatering effluent. At a minimum, all dewatering effluent will be contained prior to discharge to allow the sediment to settle out, and be filtered, if necessary, to ensure that only clear water is discharged to the storm or sanitary sewer system. In areas of suspected groundwater contamination (i.e., underlain by fill or near sites where chemical releases are known or suspected to have occurred), groundwater will be analyzed by a state-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the applicant will work with the San Francisco Bay Regional Water Quality Control Board and/or the local wastewater treatment plant to determine appropriate disposal options.

Post-Construction Impacts

The project would replace more than 5,000 square feet of impervious surface at the project site; therefore, it would be subject to Provision C.3 of the MRP. This requires the project to incorporate site design, source control and runoff treatment controls to reduce the rates, volumes and pollutant loads of runoff from the project. The project would reduce and treat surface runoff in six on-site concrete-lined flow-through planters and five self-retaining areas.

In addition to the requirements of Provision C.3, the project would be subject to the Standard Permit Conditions and Condition of Approval identified above, which mandate compliance with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29).

The combination of project design measures, Standard Permit Conditions, and Condition of Approval would reduce and treat surface runoff in accordance with state and local standards, thus preventing substantial degradation of surface or ground water quality. **(Less than Significant Impact)**

b) Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

It is assumed that groundwater would be encountered at a depth of 10 feet bgs at the project site and dewatering would be required during project construction. The short-term discharge of water produced from construction dewatering to the sanitary sewer would be acceptable, under permit by the City of San José Environmental Services Department-Watershed Protection Division, in accordance with the Watershed Protection discharge requirements. The maximum duration of a short-term permit to discharge to the sanitary sewer system is one year. Discharge to the storm drain system requires approval from the San Francisco Bay RWQCB. Compliance with local and regional policies and regulations would avoid any water quality impacts to groundwater during construction.

The project would rely on existing sources of water and the City's existing water delivery system. Although the project would increase the demand for water within the City, this increase would be marginal and would not result in the overdraft of any groundwater basins (refer to Section 3.19 Utilities and Service Systems for a discussion of the project's water demand as relates to supplies).[85] The project site is not located within a designated groundwater recharge zone. For these reasons, the project would not establish groundwater wells to supply the site, deplete groundwater supply, or interfere with groundwater recharge. **(Less than Significant Impact)**

c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows?

The project would not alter the course of a stream or river. The project would create 1,315 square feet of new impervious surface beyond existing conditions for a total of 19,363 square feet of impervious and 1,348 square feet of pervious surface area. As discussed under checklist question a), the project would be subject to Provision C.3 of the MRP and would be required to incorporate site design, source control and runoff treatment controls to reduce the rates, volumes and pollutant loads of runoff from the project. The project proposes to treat runoff in six on-site concrete-lined flow-through planters and five self-retaining areas. In addition to the requirements of Provision C.3, the project would be subject to the Standard Permit Conditions identified above, which mandate compliance with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29).

[85] SCVWD. *2016 Groundwater Management Plan*. Figure 1-3. 2016.

With adherence to the requirements of Provision C.3 of the MRP and the City's Standard Permit Conditions, the project would not create substantial new sources of polluted runoff. Additionally, the project would improve the quality of stormwater runoff leaving the project site and entering the City's storm drainage system. Finally, the project would be required to manage erosion and sedimentation during construction in accordance with the City's Municipal Code and the Construction General Permit. **(Less than Significant Impact)**

d) Would the project risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones?

As described in Section 3.10.1.2 Existing Conditions, the project site is not located near a large body of water and would not be subject to a seiche or tsunami. The project site is located in Zone D, which are not zones that contain 100-year floodplains.

As discussed under checklist question a) in Section 3.9 Hazards and Hazardous Materials, the proposed residential uses could store small amounts of cleaning chemicals; however, no other routine use, storage, transportation, or disposal of hazardous materials are proposed. In addition, the risk of flooding on-site is not significant (e.g., the site is not within a 100-year floodplain). Additionally, the project would be required to comply with Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the RWQCB Municipal Regional NPDES Permit requirements to reduce the impacts of stormwater runoff on post-construction water quality [refer to checklist question a)]. For these reasons, the project would result in a less than significant risk for releasing pollutants due to inundation. **(Less than Significant Impact)**

e) Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Water Quality Control

As discussed in checklist question a), the project would comply with the City's Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the RWQCB MRP requirements and would implement the City's Standard Permit Conditions addressing construction- and operational-related surface runoff quality. Thus, the project would not conflict with or obstruct implementation of the San Francisco Bay Basin Plan.

Santa Clara Plain and Llagas Subbasin Groundwater Management Plan

As discussed in Section 3.10.1.1 Regulatory Framework, the project site is within the Santa Clara Plain groundwater subbasin, and this subbasin has not been identified in the GWMP as being overdrafted. Implementation of the project would not interfere with any actions set forth by Valley Water in its GWMP regarding groundwater recharge, transport of groundwater, and/or groundwater quality. In addition, as discussed under checklist question b), the project would not substantially decrease groundwater supplies or substantially interfere with groundwater recharge.

With implementation of the City's Standard Permit Conditions, the project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. **(Less than Significant Impact)**

3.10.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant hydrology and water quality impact?

The geographic area for cumulative hydrology and water quality impacts is the Coyote Creek Watershed, since the effects of the project on hydrology and water quality would be limited to the watershed in which it is located.

Water Quality Standards and Discharge Requirements

All cumulative projects (including the project) are required to adhere to state and local regulations, and to implement the City's Standard Permit Conditions, to comply with water quality standards and waste discharge requirements, thereby resulting in less than significant impacts to surface or ground water quality. These regulations are in place to ensure individual projects do not result in a significant cumulative impact. The General Plan Final EIR concluded that adherence to these regulations by future projects would ensure associated impacts to water quality are less than significant. For these reasons, the cumulative projects (including the project) would not result in a significant cumulative impact to water quality.

Groundwater Supplies and Recharge

The impact of cumulative projects within the Coyote Creek Watershed on groundwater supplies and recharge is contingent on the condition of its associated groundwater basin, its water demand, project-specific information (e.g., any permanent dewatering requirements), and effects on recharge facilities. All cumulative projects within the Coyote Creek Watershed would be required to comply with Valley Water's Santa Clara and Llagas Subbasin GWMP and state regulations (including those identified in Section 3.10.1.1 Regulatory Framework) protecting groundwater resources.

As discussed in Section 3.19 Utilities and Service Systems, existing water supplies are available to meet the demand of the project in addition to existing and projected demand during normal, single-dry, and multiple-dry years. Because of this and the fact that the project would not directly affect groundwater supplies or groundwater recharge and would result in an increase of previous surfaces on the sites compared to existing conditions (thereby resulting in a corresponding increase in surface infiltration), the project would not result in a cumulatively considerable decrease in groundwater supplies or interfere substantially with groundwater recharge such that the project would impede sustainable groundwater management of the basin.

Alteration of Existing Drainage Patterns

Cumulative projects (including the project) are required to adhere to General Plan policies, Standard Permit Conditions, and existing regulations (including the Construction General Permit [for sites greater than one acre] and Provision C.3) to manage stormwater runoff and erosion and reduce impacts to a less than significant level. These regulations are in place to ensure individual projects do not result in a significant cumulative impact. The General Plan Final EIR concluded that adherence to these regulations would ensure that future projects do not alter existing drainage patterns in a manner that would result in on- or off-site erosion or flooding. As discussed under checklist question c), the project would comply with existing regulations. Therefore, the cumulative projects (including the project) would not result in a significant cumulative impact regarding on- or off-site erosion or flooding.

Project Inundation

Any risk of project inundation due to floods, tsunamis, or seiches resulting in the release of pollutants would be reduced to a less than significant level by compliance with existing regulations regarding the use, storage, transport, and disposal of hazardous materials, as well as requirements of the Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the RWQCB MRP. The project would store its minimal hazardous materials used on the site properly in compliance with existing regulations, and the project site is at low risk from flooding and not subject to tsunamis and seiches. Thus, the project would not have a cumulatively considerable contribution to a significant cumulative risk of pollutant release due to inundation.

Conflicts with Water Quality Control and Sustainable Groundwater Management Plans

All cumulative projects would be required to adhere to General Plan policies, Standard Permit Conditions and existing regulations to ensure compliance with water quality control plans and the GWMP. The plans are in place to ensure individual projects do not result in a cumulative impact to water quality or groundwater management. The General Plan Final EIR concluded that adherence to these regulations would ensure that future projects would not conflict with surface or groundwater management. As discussed under checklist question e), the project would comply with the Basin Plan and not conflict with the GWMP. For these reasons, the project would not result in a cumulatively considerable contribution to a significant cumulative impact on water quality or groundwater management.

With the implementation of Standard Permit Conditions and Condition of Approval, the project would have a less than significant cumulative impact on hydrology and water quality. **(Less than Significant Cumulative Impact)**

3.11 Land Use and Planning

3.11.1 Environmental Setting

3.11.1.1 *Regulatory Framework*

Local

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding land use and planning related impacts and are applicable to the project.

Policy	Description
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
CD-4.9	For development subject to design review, the design of new or remodeled structures will be consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.

TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

Comprehensive Land Use Plan for Norman Y. Mineta San José International Airport

The CLUP for Mineta San José International Airport, adopted by the Santa Clara County ALUC on May 25, 2011 and amended on November 16, 2016, is intended to safeguard the general welfare of the inhabitants within the vicinity of the airport and the aircraft occupants. The CLUP is also intended to ensure that surrounding new land uses do not affect the airport's continued operation.

3.11.1.2 *Existing Conditions*

The site is designated Transit Residential under the City's General Plan and is within the TR Transit Residential Zoning District. The Transit Residential designation allows for high-density, mixed-use residential development in proximity to transit, jobs, amenities, and services. This designation also supports intensive commercial employment uses, such as office, retail, hotels, hospitals, and private community gathering facilities. The site is currently developed with an existing office building (approximately 12,000 square feet), surface parking lot, and landscaping.

Surrounding land uses include a VTA utility yard and residential uses to the north, a law library and bus terminal station to the south, and residential and commercial uses to the east and west (refer to Figure 2.2-3 in Section 2.0 Project Information and Description).

3.11.2 Impact Discussion

For the purpose of determining the significance of the project's impact on land use and planning, would the project:

1) Physically divide an established community?
2) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

3.11.2.1 *Project Impacts*

a) Would the project physically divide an established community?

Changes in land use are not adverse environmental impacts in and of themselves, however, they may create conditions that adversely affect existing uses in the immediate vicinity. As proposed, the project would demolish the existing office building and surface parking lot to construct a new seven-story apartment building (approximately 119,170 square feet) with 118 rental units which is consistent with the existing land uses in the area. The proposed project does not include any features that would physically divide the community (e.g., roadway, railway, or highway). The

proposed project would be consistent with the existing uses in the project area and would not physically divide an established community. **(Less than Significant Impact)**

b) Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

General Plan and Zoning Consistency

The project applicant proposes to develop the site with 118 rental units, which is consistent with the Transit Residential designation.[86] As described within the individual sections of this document, with implementation of the City's Standard Permit Conditions and regulatory requirements the project would not cause a significant environmental impact due to a conflict with plans, policies or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Accordingly, the project would not conflict with any General Plan or Municipal Code, plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

Santa Clara Valley Habitat Plan Consistency

As described in Section 3.4 Biological Resources, the proposed project is considered a covered activity under the Habitat Plan, and with implementation of the Standard Permit Condition (i.e., conformance with applicable Habitat Plan conditions and fees), the project would not conflict with provisions of the Habitat Plan

Comprehensive Land Use Plan for Norman Y. Mineta San José International Airport

The project site is located approximately 1.3 miles southeast of the Mineta San José International Airport. The project site is not located within the AIA or any safety zones identified in the CLUP for the Mineta San José International Airport; therefore, the project would not conflict with the CLUP.

As discussed above, the project would not conflict with the General Plan, zoning, Habitat Plan, or CLUP. With implementation of the Standard Permit Condition identified under checklist question f) in Section 3.4 Biological Resources, the project would not conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. **(Less than Significant Impact)**

[86] The Transit Residential designation allows 50 to 250 dwelling units per acre, which equates to a maximum of up to 122 dwelling units on the 0.49-acre project site.

3.11.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant land use and planning impact?

The geographic area for cumulative land use impacts is within the City of San Jose boundary. Land uses in the City are regulated through the General Plan. The General Plan Final EIR concluded that build out of the 2040 General Plan in accordance with its policies and actions would result in less than significant land use impacts. As discussed under checklist questions a) and b), the proposed project is consistent with its General Plan land use designations and is consistent with applicable General Plan policies, zoning, the Habitat Plan, and the CLUP. With the implementation of the Standard Permit Condition identified under checklist question f) in Section 3.4 Biological Resources, the project would have a less than significant cumulative land use impact. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

3.12 Mineral Resources

3.12.1 Environmental Setting

3.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

The Surface Mining and Reclamation Act (SMARA) was enacted by the California legislature in 1975 to address the need for a continuing supply of mineral resources, and to prevent or minimize the negative impacts of surface mining to public health, property, and the environment. As mandated under SMARA, the State Geologist has designated mineral land classifications in order to help identify and protect mineral resources in areas within the state subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board (SMGB), after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

Pursuant to the mandate of the SMARA, the SMGB has designated the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, SR 87, and Hillsdale Avenue as containing mineral deposits that are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the SMGB have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation.

3.12.1.2 *Existing Conditions*

The Communications Hill area in central San José is the only area within the City of San José that is designated by the State Mining and Geology Board as containing mineral deposits of regional significance. The project site is not on or adjacent to Communications Hill (approximately 4.3 miles south).

3.12.2 Impact Discussion

For the purpose of determining the significance of the project's impact on mineral resources, would the project:

1) Result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?
2) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

3.12.2.1 *Project Impacts*

a) Would the project result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?

As discussed above in Section 3.12.1.2 Existing Conditions, the Communications Hill area is the only area within the City of San José that is designated as containing mineral deposits of regional significance. The project site is not on or adjacent to Communications Hill. As a result, the project would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. **(No Impact)**

b) Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

The project site is not in an area of San José or Santa Clara County with known mineral resources. For these reasons, the project would not result in the loss of availability of a locally important mineral resource recovery site. **(No Impact)**

3.12.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant mineral resources impact?

The geographic area for cumulative mineral resources impacts is an identified mineral recovery or resource area. As discussed above, the project site is not located in an area of San José or Santa Clara County with known mineral resources. Therefore, the project would have no cumulative impact. **(No Cumulative Impact)**

3.13 Noise

The information in this section is based in part on the Noise and Vibration Assessment prepared by Illingworth & Rodkin, Inc. in December 2023. This report is available as Appendix H of this EIR.

3.13.1 Environmental Setting

3.13.1.1 *Background Information*

Noise

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a decibel scale, which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the A-weighted decibel, or dBA.

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[87] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Vibration amplitude can be quantified using Peak Particle Velocity (PPV), which is defined as the maximum instantaneous positive or negative peak of the vibration wave. PPV has been routinely used to measure and assess ground-borne construction vibration. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 inches/second (in/sec) PPV.

[87] L_{eq} is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 PM and 7:00 AM. Community Noise Equivalent Level (CNEL) includes an additional five dB applied to noise occurring between 7:00 PM and 10:00 PM. Where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq}.

3.13.1.2 *Regulatory Framework*

State and Local

California Green Building Standards Code

For commercial uses, CALGreen (Section 5.507.4.1 and 5.507.4.2) requires that wall and roof-ceiling assemblies exposed to the adjacent roadways have a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the commercial property falls within the 65 dBA L_{dn} or greater noise contour for a freeway or expressway, railroad, or industrial or stationary noise source. The state requires interior noise levels to be maintained at 50 dBA $L_{eq(1\text{-}hr)}$ or less during hours of operation at a proposed commercial use.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to noise and vibration and are applicable to the proposed project.

Policy	Description
Policy EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, State and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: Interior Noise Levels • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. Exterior Noise Levels • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan or Table 3.13-1 in this EIR). The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below: For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to

Policy	Description
	elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.
Policy EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable;" or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
Policy EC-1.6	Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.
Policy EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or building that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to: excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

Table 3.13-1: General Plan Land Use Compatibility Guidelines

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care[1]						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

Notes: [1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

Normally Acceptable:

Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

Conditionally Acceptable:

Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.

Unacceptable:

New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies.

3.13.1.3 *Existing Conditions*

The noise environment at the site and surrounding area is primarily characterized by vehicle traffic along North First Street and the below-grade VTA light rail tracks. Traffic noise along SR 87, other surrounding roadways, and intermittent aircraft associated with Mineta San José International Airport also contribute to the noise environment.

Existing Ambient Noise Levels

A noise monitoring survey consisting of two long-term (LT-1 and LT-2) and two short-term (ST-1 and ST-2) noise measurements was completed at the site and the surrounding area. Table 3.13-2 and Table 3.13-3 below summarizes the long-term noise measurements and short-term noise measurements, respectively. All measurement locations are shown in Figure 3.13-1.

Table 3.13-2: Long-Term Noise Measurements (dBA)

Noise Measurement Location	Daytime Average Weekday L_{eq}	Nighttime Average Weekday L_{eq}	Daytime Average Weekend L_{eq}	Nighttime Average Weekends L_{eq}	Day-Night Average (9/9/23) DNL	Day-Night Average (9/10/23) DNL	Day-Night Average (9/11/23) DNL
LT-1: 35 feet west of the centerline of North Second Street and 30 feet south of the railroad trucks in the northeastern corner of the project site	56 to 65	46 to 61	55 to 65	49 to 58	62 to 63	62 to 63	63
LT-2: 15 feet from the centerline of the southbound travel lane of North First Street and 25 feet south of the railroad tracks at the corner of a multi-family residence west of the project site	59 to 67	50 to 64	57 to 63	52 to 62	65 to 66	65 to 66	67

Table 3.13-3: Short-Term Noise Measurements (dBA)

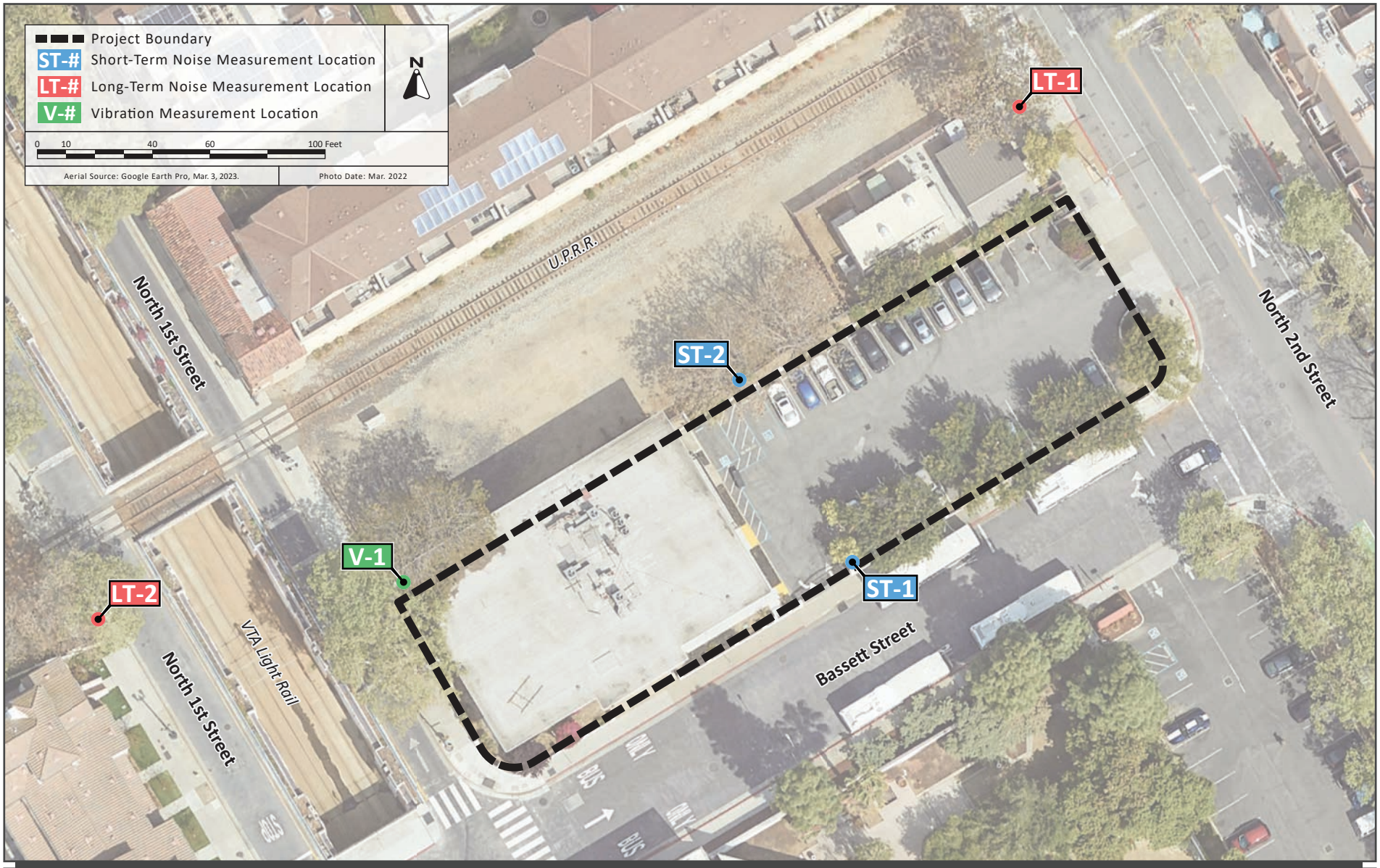
Noise Measurement Location	Date, Time	L_{max}	$L_{(1)}$	$L_{(10)}$	$L_{(50)}$	$L_{(90)}$	L_{eq}
ST-1: 35 feet north of the centerline of Bassett Street	9/8/2023, 11:10-11:20	99	92	74	63	50	77
ST-2: 65 feet south of the edge of the adjoining railroad tracks	9/8/2023, 11:20-11:30	73	70	64	54	48	51

ST = short-term; L_{max} = maximum A-weighted noise level during the measurement period; $L_{(1)}$, $L_{(10)}$, $L_{(50)}$, $L_{(90)}$ = The A-weighted noise levels that are exceeded 1%, 10%, 50%, and 90% of the time during the measurement period; L_{eq} = The average A-weighted noise level during the measurement period.
Source: Illingworth & Rodkin Inc. *380 North First Street Residential Project Noise and Vibration Assessment.* December 2023.

Existing Vibration Environment

Vibration measurements were made near the northwestern corner of the project site, at the approximate setback of the proposed building (refer to marker labeled V-1 in Figure 3.13-1). Measurement V-1 was located approximately 55 feet from the edge of the at-grade railroad tracks to the north of the site and approximately 45 and 60 feet from the edge of the below-grade VTA tracks to the west of the site.

Six observed and recorded vibration measurements of VTA light rail train activity were measured and the results are shown in Table 3.13-4. Vibration levels ranged from 47 to 57 vibration decibels (VdB), and the average was 49 VdB.



NOISE MEASUREMENT LOCATIONS | FIGURE 3.13-1

Table 3.13-4: Train Vibration Measurements

Date, Time	Type of Train	Track	Direction of Travel	Speed	Distance from V-1	Vibration Level at V-1
9/15/2023, 10:04 a.m.	VTA	Near	Northbound	10 mph	45 feet	57 VdB
9/15/2023, 10:15 a.m.	VTA	Near	Northbound	10 mph	45 feet	54 VdB
9/15/2023, 10:16 a.m.	VTA	Far	Southbound	10 mph	60 feet	47 VdB
9/15/2023, 10:20 a.m.	VTA	Near	Northbound	10 mph	455 feet	56 VdB
9/15/2023, 10:27 a.m.	VTA	Far	Southbound	10 mph	60 feet	48 VdB
9/15/2023, 10:33 a.m.	VTA	Far	Southbound	10 mph	60 feet	48 VdB

VTA = Valley Transportation Authority; mph = miles per hour; VdB = vibration decibels.

Source: Illingworth & Rodkin Inc. *380 North First Street Residential Project Noise and Vibration Assessment.* December 2023.

Existing Noise-Sensitive Receptors

The nearest sensitive receptors are residents of a multi-family building directly north of the project site across the Union Pacific railroad line, and residents northeast of the project site across North Second Street. Additional residences are located in the project area.

3.13.2 Impact Discussion

For the purpose of determining the significance of the project's impact on noise, would the project result in:

1) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?
2) Generation of excessive groundborne vibration or groundborne noise levels?
3) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

3.13.2.1 *City of San José Standards*

Construction Noise

For temporary construction-related noise to be considered significant, construction noise levels would have to substantially increase ambient noise levels at sensitive receptors. The City of San José considers large or complex projects involving substantial noise-generating activities and lasting more than 12 months significant when within 500 feet of residential land uses or within 200 feet of commercial land uses or offices. While the City of San José does not establish noise level thresholds for construction activities, this analysis uses the following exterior daytime noise limits established by the Federal Transit Administration (FTA) to identify the potential for impacts due to substantial temporary construction noise:

- 80 dBA L_{eq} shall be enforced at residential land uses,
- 85 dBA L_{eq} shall be enforced at commercial land uses, and
- 90 dBA L_{eq} shall be enforced at industrial land uses.

Operational Noise

Development allowed by the General Plan would result in increased traffic volumes along roadway throughout San José. The City of San José considers a significant noise impact to occur where existing noise sensitive land uses would be subject to permanent noise level increases of 3.0 dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level, or five dBA DNL or more where noise levels would remain normally acceptable, as defined in General Plan Policy EC-1.2.

Construction Vibration

The City of San José relies on guidance developed by Caltrans to address vibration impacts from development projects in San José. A vibration limit of 12.7 millimeters per second (mm/sec; 0.5 inch/sec) PPV is used for buildings that are structurally sound and designed to modern engineering standards. A conservative vibration limit of 5.0 mm/sec (0.2 inches/sec) PPV has been used for buildings that are found to be structurally sound but where structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of 2.0 mm/sec (0.08 inches/sec) PPV is used to provide the highest level of protection.

3.13.2.2 *Project Impacts*

a) Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Temporary Construction Noise

Noise impacts resulting from construction depend upon the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise-sensitive areas. Construction noise impacts primarily result when construction activities occur during noise-sensitive times of the day (e.g., early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise-sensitive land uses, or when construction lasts over extended periods of time.

Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. During each stage of construction, there would be a different mix of equipment operating, and noise levels would vary by stage and vary within stages, based on the amount of equipment in operation and the location at which the equipment is operating. Most demolition and construction noise fall within the range of 80 to 90 dBA at a distance of 50 feet from the source.

Construction of the project is planned to occur between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, over a period of 21 months. Estimated construction noise levels are presented in Table 3.13-5 below.

Table 3.13-5: Estimated Construction Noise Levels at Nearby Land Uses (dBA)

Phase of Construction	North Residences (115 feet ft)	East Residences (210 feet)	South Library (95 feet)	West Residences & Commercial (240 feet)
Demolition	79	74	81	73
Site Preparation	75	70	77	69
Excavation/Utilities	79	74	81	73
Superstructure	76	71	78	70
Building –Exterior	72	66	73	65
Building – Interior/ Architectural Coating	71	66	73	65
Landscaping/Paving	74	69	76	68

Phase of Construction	North Residences (115 feet ft)	East Residences (210 feet)	South Library (95 feet)	West Residences & Commercial (240 feet)

L_{eq} = The average A-weighted noise level during the measurement period.
Note: The construction noise levels from the proposed project were measured at the receiving property lines of buildings surrounding the project site.
Source: Illingworth & Rodkin Inc. *380 North First Street Residential Project Noise and Vibration Assessment*. December 2023.

As shown in Table 3.13-5**,** construction noise levels would intermittently range from 65 to 79 dBA L_{eq} at existing residential uses in the project vicinity when construction activities are focused near the center of the project site and from 65 to 74 dBA L_{eq} at the nearest library and commercial uses.

All residential property lines would be 80 feet or more from the nearest project boundary. At this distance, construction noise levels would range from 74 to 82 dBA L_{eq}, assuming all equipment per phase operating simultaneously. Therefore, construction noise would potentially exceed the exterior threshold of 80 dBA L_{eq} at residential land uses by up to 2 dBA. Construction noise would not exceed the 85 dBA L_{eq} threshold at the nearest library or commercial land use.

The project site is located within 500 feet of existing residential uses and within 200 feet of existing nonresidential uses. Additionally, total construction with substantial noise generating activities is expected to last for a period of more than twelve months.

Impact NOI-1: Construction of the proposed project would result in substantial noise generating activities above the City's noise construction threshold for more than 12 months and occurring within 500 feet of residential uses and 200 feet of commercial uses.

Mitigation Measures:

MM NOI-1.1: Prior to the issuance of any demolition or grading permits (whichever occurs the earliest), a qualified acoustical consultant shall develop and submit a construction noise logistics plan to the Director of Planning, Building and Code Enforcement or the Director's designee. The construction noise logistics plan shall include noise reduction measures to prevent substantial noise disturbances of affected sensitive receptors. A typical construction noise logistics plan shall include, but not be limited to, the following measures to reduce construction noise levels as low as feasible:

- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

The heaviest noise-generating construction activities would occur at the ground level during the first year of construction. With the implementation of GP Policy EC-1.7, Municipal Code requirements, and mitigation measure MM NOI-1.1, construction noise levels during the first year of construction would be reduced to less than 80 dBA L_{eq} by using best available noise suppression devices and techniques. After the first year, construction activities are not expected to exceed 80 dBA L_{eq} at the property line of the nearest residential uses. Therefore, the temporary construction noise impact would be reduced to a less than significant level.

Permanent Operational Noise

Project Vehicular Traffic Increase

In general, a traffic noise increase of less than three dBA is not perceptible to people, while a five-dBA increase is noticeable. Traffic volumes on project area roadways would have to approximately double for the resulting traffic noise levels to increase by three dBA. Therefore, permanent increases in ambient noise levels of less than three dBA are considered to be less than significant.

The proposed project would generate increased traffic volumes along roadway segments near the project site, as summarized in Table 3.13-6 below.

Table 3.13-6 Estimated Traffic Noise Level (dbA DNL) Increases at Receptors in the Project Vicinity

Roadway	Segment	Estimated Noise Level Increase
North First Street	South of East Julian Street	0
North First Street	East Julian Street to Bassett Street	0
North First Street	North of Bassett Street	0
North Second Street	South of East Julian Street	0
North Second Street	East Julian Street to Bassett Street	0
North Second Street	North of Bassett Street	0
East Julian Street	West of North First Street	0
East Julian Street	North First Street to North Second Street	0
East Julian Street	East of North Second Street	0
Bassett Street	West of North First Street	0
Bassett Street	North First Street to North Second Street	1

dBA = The average A-weighted noise level during the measurement period; DNL = Day/Night Average Sound Level
Source: Illingworth & Rodkin Inc. *380 North First Street Residential Project Noise and Vibration Assessment*. December 2023.

As shown in Table 3.13-6, the additional traffic generated from the project (which is estimated from peak hour project trips) would increase the existing noise levels on nearby roadways by one dBA DNL on Bassett Street between North First Street to North Second Street. The project would not increase noise levels on any other roadway segment. Therefore, the project would not result in a permanent increase in ambient noise levels in the vicinity of the project due to project vehicular traffic.

Mechanical Equipment

The project would include a transformer along the eastern façade of in the northeastern corner of the building, and HVAC on the rooftop. The proposed fire pump is not included in the noise analysis since it would be located within the ground-level parking structure and would be shielded from surrounding sensitive receptors.

Transformers

The transformer would be in the direct line of sight of the residences to the north and east. Table 3.13-7 summarizes the transformer noise at these receptors assuming no attenuation.

Table 3.13-7: Estimated Transformer Noise Levels at Nearby Residences

Receptor	Distance from Transformer (feet)	Hourly L_{eq} (dBA)	DNL (dBA)	Noise Level Increase, DNL (dbA)
North Residences	100	34	41	0
East Residences	85	36	42	0

dBA = The average A-weighted noise level during the measurement period; L_{eq} = The average A-weighted noise level during the measurement period.; DNL = Day/Night Average Sound Level
Source: Illingworth & Rodkin Inc. *380 North First Street Residential Project Noise and Vibration Assessment*. December 2023.

As shown in Table 3.13-7, the transformer equipment would not result in a three dBA DNL increase. The hourly average noise levels would also not exceed the 55 dBA threshold at the property lines of the nearest residences west of the site.

Heating, Ventilation, and Air Conditioning

The roof plan shows HVAC units located along the center of the building, about 35 feet from the northern and southern edges of the rooftop and about 10 feet from the eastern and western edges of the rooftop. The potential noise impact from the HVAC equipment was modeled at the surrounding buildings with a 15 dBA attention or reduction assumed for elevated receptors to the north and south and a 10 dBA attenuation assumed for the elevated receptors to the east and west. The noise levels from the HVAC equipment are summarized in Table 3.13-8.

Table 3.13-8: Estimated Rooftop Equipment Noise Levels at Receiving Land Uses

Receptor	Distance from HVAC Equipment (feet)	Hourly L_{eq} (dBA)	DNL (dBA)	Noise Level Increase, DNL (dbA)
North Residences	95	44[a]	50[a]	0
East Residences	95	49[b]	55[b]	1
South Library	70	46[a]	53[a]	0
West Residences	105	48[b]	54[b]	0

[a] A conservative attenuation of 15 dBA is assumed for these receptors due to the elevation of the rooftop equipment and a 35-foot setback from the edge.

[b] A conservative attenuation of 10 dBA is assumed for these receptors due to the elevation of the rooftop equipment and a 10-foot setback from the edge.

dBA = The average A-weighted noise level during the measurement period; L_{eq} = The average A-weighted noise level during the measurement period.; DNL = Day/Night Average Sound Level
Source: Illingworth & Rodkin Inc. *380 North First Street Residential Project Noise and Vibration Assessment*. December 2023.

As shown in Table 3.13-8, the project's HVAC equipment would not result in a three dBA DNL increase. The hourly average noise levels would also not exceed the 55 dBA threshold at the property lines of the nearest residences west of the site.

Based on the results shown in Table 3.13-7 and Table 3.13-8, mechanical equipment noise would not result in a measurable or detectable increase over existing ambient noise levels at the residential land uses in the project vicinity. Therefore, the project would not have a significant permanent noise impact pertaining to mechanical equipment.

Truck Loading and Unloading

The project would have a loading area along Bassett Street near the southeastern corner of the building. Truck maneuvering noise would include a combination of engine, exhaust, and tire noise, as well as the intermittent sounds of back-up alarms and releases of compressed air associated with truck/trailer air brakes. Receptors to the north, east, and west would be shielded from the loading zone but the library to the south of the project site would have direct line-of-sight. Assuming up to one delivery per day, the hourly average noise level during the loading hour would be up to 59 dBA L_{eq} at 50 feet, and the day-night average noise level would be 45 dBA DNL at 50 feet.

The distance from the center of the loading area to the nearest property line of the library to the south of the project site is 65 feet. At this distance, maximum noise levels would be up to 63 dBA. The hourly average noise level would be up to 57 dBA L_{eq}, and the day-night average noise level would be 43 dBA DNL. Based on these noise levels, the truck activity would not result in a measurable or detectable increase (zero dBA DNL increase) and the noise levels would not exceed the City's Municipal Code of 60 dBA at the nearest property line of the library.

Total Combined Project Operational Noise

The combination of noise from traffic, mechanical equipment, and truck loading and unloading would result in an increase of one dBA DNL at all existing noise sensitive receptors in the project vicinity. Therefore, the project would not result in a substantial permanent increase over ambient noise levels in the project vicinity.

With implementation of mitigation measure MM NOI-1.1, the project would not result in a temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the General Plan and noise ordinance, or applicable standards of other agencies. **(Less than Significant Impact with Mitigation Incorporated)**

b) Would the project result in generation of excessive groundborne vibration or groundborne noise levels?

Construction of the proposed project may generate perceptible vibration when heavy equipment or impact tools (e.g., jackhammers, hoe rams) are used in the vicinity of nearby sensitive land uses. Construction activities would include site demolition work, preparation work, excavation,

foundation work, and new building framing and finishing. Impact pile driving (which generates substantial vibration) is not proposed as a method of construction.

According to General Plan Policy EC-2.3, a continuous vibration limit of 0.2 in/sec PPV is used to minimize damage at buildings of conventional construction and a continuous vibration limit of 0.08 in/sec PPV is used to minimize the potential for cosmetic damage to historical structures. The vibration limits contained in this policy are conservative and designed to provide the ultimate level of protection for existing buildings in San José. The nearest historical building is the Borcher Brothers Building, a San José City Landmark, located approximately 85 feet north of the project site. At this distance, vibration levels due to construction activities at the project site would be below 0.06 in/sec PPV. Therefore, vibration levels due to construction activities at the site would not exceed the 0.08 in/sec PPV threshold for historical buildings.

All other buildings in the immediate vicinity of the project site would consist of normal conventional construction materials and would be subject to the City's 0.2 in/sec PPV threshold. Table 3.13-9 summarizes the vibration levels at the adjacent buildings to the project site.

Table 3.13-9: Vibration Levels at Adjacent Buildings Surrounding the Project Site (in/sec)

Equipment		Historical North Residences (85 feet)	East Residences (85 feet)	South Library (55 feet)	West Residences & Commercial (100 feet)	North VTA Utility Yard (5 feet)
Clam shovel drop		0.053	0.053	0.085	0.044	**1.186**
Hydromill (slurry wall)	in soil	0.002	0.003	0.002	0.047	0.053
	in rock	0.004	0.007	0.004	0.100	0.002
Vibratory Roller		0.055	0.055	0.088	0.046	**1.233**
Hoe Ram		0.023	0.023	0.037	0.019	**0.523**
Large bulldozer		0.023	0.023	0.037	0.019	**0.523**
Caisson drilling		0.023	0.023	0.037	0.019	**0.523**
Loaded trucks		0.020	0.020	0.032	0.017	**0.446**
Jackhammer		0.009	0.009	0.015	0.008	**0.206**
Small bulldozer		0.001	0.001	0.001	0.001	0.018

Bold = exceedance of 0.2 in/sec PPV threshold for vibration levels

Source: Illingworth & Rodkin Inc. *380 North First Street Residential Project Noise and Vibration Assessment*. December 2023.

As shown in Table 3.13-9, project construction activities would potentially generate vibration levels up to 1.2 in/sec PPV at the VTA utility yard north of the project site. At these vibration levels, there

is a 20 percent chance of cosmetic damage to the VTA building (refer to Figure 2 in Appendix H). No minor or major damage is expected at buildings farther away.

Impact NOI-2: Construction of the project would generate vibration levels that would exceed the City's vibration limit of 0.2 in/sec PPV for conventional buildings adjoining the project site.

Mitigation Measures:

MM NOI-2.1: Prior to issuance of any demolition or grading permits (whichever occurs earliest), the project applicant shall contract with a licensed Professional Structural Engineer in the State of California to prepare a construction vibration monitoring plan that includes measures to reduce vibration impacts to achieve vibration limit of 0.2 in/sec Peak Particle Velocity (PPV). During construction, the project applicant shall implement the following vibration reduction measures:

- A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams, clam shovel drop, and vibratory roller, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds.
- Place operating equipment on the construction site at least 10 feet from the project site boundaries shared with the existing substation and restroom buildings to the north.
- Smaller equipment to minimize vibration levels to below 0.2 in/sec PPV shall be used at the property lines adjoining adjacent buildings. For example, a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, could be used when compacting materials within 30 feet of the existing substation and restroom buildings to the north.
- Avoid using vibratory rollers and clam shovel drops within 30 feet of the existing substation and restroom buildings to the north.
- Select demolition methods not involving impact tools.
- Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of

dropping heavy objects, within 30 feet of the existing substation and restroom buildings to the north.

- Designate a Disturbance Coordinator responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

The requirements of the construction vibration monitoring plan shall be printed on all construction documents, contracts, and project plans and submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition or grading permits. The project contractors shall adhere to the measures of the construction vibration monitoring plan for all phases of construction.

Implementation of MM NOI-2.1 would reduce construction vibration generated by the project below the City's vibration limits and to a less than significant level by implementing a vibration monitoring plan and best available vibration suppression techniques that would ensure that construction-related vibration is below the City's threshold of 0.2 in/sec PPV. **(Less than Significant Impact with Mitigation Incorporated)**

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

The San José International Airport is located approximately 1.3 miles northwest of the project site. The project site is located outside the 60 dBA CNEL/DNL noise contour line identified in the CLUP for airport. Therefore, the project would not expose people residing or working in the project area to excessive noise levels due to airport operations or aircraft. **(Less than Significant Impact)**

3.13.2.3 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant noise impact?

The geographic area for cumulative noise and vibration impacts is based on the noise sources. Construction noises and vibration have the potential to add to construction noise occurring at other sites within approximately 500 feet from the source; therefore, the geographic area for construction noise is identified as locations within 500 feet of the project site. Project operation noise has the potential to add to operational noises at other sites within approximately 300 feet from the source; therefore, the geographic area for cumulative operational noise impacts with the project is 300 feet from the project sites. For traffic noise, the geographic area is identified as the surrounding roadway network.

Temporary Construction Ambient Noise Levels and Groundborne Vibration

No cumulative projects are located within 500 feet of the project sites that would contribute to a cumulative construction noise impact with the project. The nearest cumulative project, The Kelsey Residential Project, is under construction and located approximately 575 feet north of the project site. Additionally, the project would be required to implement MM NOI-1.1 and MM NOI-2.1 to reduce construction noise and vibration impacts to less than significant levels, respectively. With mitigation the project would not contribute to a significant cumulative increase in ambient noise levels.

Permanent Operation Ambient Noise Levels

The project would contribute to cumulative traffic noise increases under future conditions. A significant cumulative traffic noise increase would occur if two criteria are met: 1) if the cumulative traffic noise level increase was three dBA DNL or greater for future levels exceeding 60 dBA DNL or was three dBA DNL or greater for future levels at or below 60 dBA DNL; and 2) if the project would make a cumulatively considerable contribution to the overall traffic noise increase. A cumulatively considerable contribution would be defined as an increase of one dBA DNL or more attributable solely to the proposed project. Based on the small number of trips the project would generate (35 peak AM trips and 36 peak PM trips), it is not expected that the project would contribute to a cumulative traffic noise increase. There are no cumulative projects located within 500 feet of the project site that would contribute to a cumulative operational noise impact.

Expose People to Excessive Noise Levels from Airport Operations

As discussed under checklist question c), the project would have no impact (and therefore, no cumulative impact) on exposing people residing or working in the project area to excessive noise levels due to airport operations.

The project with the implementation of mitigation measure MM NOI-1.1 and MM NOI-2.1 t would have a less than significant cumulative noise impact. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

3.13.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing noise conditions affecting a proposed project (General Plan Policy EC-1.1, which is summarized below:

- The City's acceptable exterior noise level standard is 60 dBA DNL or less for the proposed residential land uses.

- The City's acceptable interior noise level standard is 45 dBA DNL or less for the proposed residential land uses.

The future noise environment at the site would be from vehicular traffic along North First Street, the below-grade VTA railroad tracks, nearby SR 87, and local roadways.

Future Exterior Noise Environment

The project would include a roof deck in the southwestern corner of the proposed building on the seventh floor approximately 69 feet above the ground. The center of the roof deck would be set back approximately 40 feet from the centerline of Bassett Street and approximately 45 feet from the centerline of the northbound lanes of North First Street. The elevation and setback of the center of the roof deck would provide a minimum attenuation of 10 dBA. With this partial shielding, the future exterior noise levels at the center of the roof deck would be below 60 dBA DNL. This would meet the City's normally acceptable threshold for residential uses.

Future Interior Noise Environment

Standard residential construction provides an approximately 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with the windows closed provides an approximately 20 to 25 dBA of noise reduction in interior spaces. The western façade of the proposed building facing North First Street and the VTA tracks would be set back from the centerline of the northbound lanes of the roadway by approximately 25 feet. At this distance, the residential units facing North First Street and the VTA tracks would be exposed to future exterior noise levels ranging from 68 to 70 dBA DNL. Assuming windows would be partially open, the future interior noise levels in these units would be up to 55 dBA DNL. The eastern façade of the proposed building facing North Second Street would be set back from the centerline of the roadway by approximately 40 feet. At this distance, the residential units facing North Second Street would be exposed to future exterior noise levels ranging from 64 to 65 dBA DNL. Assuming windows to be partially open, future interior noise levels in these units would be up to 50 dBA DNL. Residential units on the western and eastern façade of the building would experience interior noise levels above 45 dBA DNL.

Implementation of the following Conditions of Approval would ensure that interior noise standard of 45 dBA DNL is met.

Condition of Approval:

- The project applicant shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential units. The project applicant shall conform with any special building construction

techniques requested by the City's Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking. The final design plans shall include the following noise insulation features or features that are equivalent:

- Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all residential units on the project site, so that windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.
- Preliminary calculations indicate that residential units located along the western façade of the proposed building would require windows and doors with a minimum rating of 31 STC with adequate forced-air mechanical ventilation to meet the interior noise threshold of 45 dBA DNL.
- Units located along the eastern façade would require standard construction materials with the incorporation of a suitable form of forced-air mechanical ventilation to meet the 45 dBA DNL threshold.

The above noise insulation features would reduce interior levels to 45 dBA DNL or less for residential units located along the western and eastern building façades.

3.14 Population and Housing

3.14.1 Environmental Setting

3.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[88] The City of San José Housing Element and related land use policies were last updated in June 2023.

Regional

Plan Bay Area 2050

Plan Bay Area 2050 is a long-range plan for the nine-county San Francisco Bay Area that provides strategies that increase the availability of affordable housing, support a more equitable and efficient economy, improve the transportation network, and enhance the region's environmental resilience. Plan Bay Area 2050 promotes the development of a variety of housing types and densities within identified PDAs. PDAs are areas generally near existing job centers or frequent transit that are locally identified for housing and job growth.[89]

ABAG allocates regional housing needs to each city and county within the San Francisco Bay Area, based on statewide goals. These allocations are designed to lay the foundation for Plan Bay Area 2050's long-term envisioned growth pattern for the region. ABAG also develops a series of forecasts and models to project the growth of population, housing units, and jobs in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Forecasting and Modeling Report, which is a technical overview of the growth forecasts and land use models upon which Plan Bay Area 2050 is based.

[88] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed February 29, 2024. http://hcd.ca.gov/community-development/housing-element/index.shtml.

[89] Association of Bay Area Governments and Metropolitan Transportation Commission. *Plan Bay Area 2050*. October 21, 2021. Page 20.

3.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 959,256 in January 2023 with a rate of 2.86 persons per household.[90] The City currently has an approximately 944,179 household population.[91] Full build out of the General Plan includes 120,000 new dwelling units and 382,200 new jobs by 2040. Development approved under the General Plan is projected to increase the City's residential population to 1,313,811.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of dwelling units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing. According to the Downtown Strategy 2040 Final EIR, the current ratio of jobs to employed residents in San José is estimated to be 0.8, making the city "housing rich".

3.14.2 Impact Discussion

For the purpose of determining the significance of the project's impact on population and housing, would the project:

1) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?
2) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

3.14.2.1 *Project Impacts*

a) Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

A project can induce substantial population growth by 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (i.e., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

[90] State of California Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2021-2023, with 2020 Benchmark." May 2023. Accessed October 30, 2023. https://dof.ca.gov/forecasting/demographics/estimates/e-5-population-and-housing-estimates-for-cities-counties-and-the-state-2020-2023/.
[91] Ibid.

The project would construct a new seven-story apartment building with 118 rental units, which would result in approximately 337 residents on-site.[92] As discussed under checklist question b) in Section 4.11 Land Use and Planning, the proposed project is consistent with the site's land use designation and, therefore, is consistent with the build out analyzed in the General Plan Final EIR. Additionally, the project would not extend a road or other infrastructure or remove obstacles to population growth (refer to the discussion in Section 3.19 Utilities and Service Systems about adequate wastewater treatment capacity) that would indirectly induce growth. **(Less than Significant Impact)**

b) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

There are no existing residential units on the site. For this reason, the implementation of the project would not displace existing residents from the project site that would necessitate the construction of housing elsewhere. **(No Impact)**

3.14.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant population and housing impact?

The geographic area for cumulative population and housing impacts is the City of San José.

Unplanned Population Growth

Land uses in the City are regulated through the General Plan. The General Plan Final EIR concluded that build out of the 2040 General Plan in accordance with its policies and actions would result in less than significant land use impacts.[93] As discussed above under checklist question a), the housing created by the project would not result in unplanned growth nor would it have an impact on the jobs/housing imbalance. In addition, the project does not include extending infrastructure or removing obstacles that would result in unplanned growth. For these reasons, the project would not result in a cumulatively considerable contribution to significant cumulative unplanned population growth.

Displace People or Housing

As discussed above under checklist question b), the project would not displace residents. For this reason, the project would not contribute to a significant cumulative displacement of residents

[92] The average number of residents is calculated from 2.86 persons per household from the State of California Department of Finance. 118 dwelling units * 2.86 persons per household = 337 persons.
[93] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011. Page 194.

necessitating the construction of replacement housing considerable contribution to displaced housing or people.

The project would not contribute to a significant cumulative population and housing impact. **(Less than Significant Cumulative Impact)**

3.15 Public Services

3.15.1 Environmental Setting

3.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Government Code Sections 65995 through 65998 set forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Regional

Countywide Trails Master Plan

The Santa Clara County Trails Master Plan Update is a regional trails plan approved by the Santa Clara County Board of Supervisors. It provides a framework for implementing the County's vision of providing a contiguous trail network that connects cities to one another, cities to the county's regional open space resources, County parks to other County parks, and the northern and southern urbanized regions of the County. The plan identifies regional trail routes, sub-regional trail routes, connector trail routes, and historic trails.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to public facilities and services and are applicable to the project.

Policy	Description
ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 1. For police protection, achieve a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, achieve a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. 4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community. 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
ES-3.8	Use the Land Use/Transportation Diagram to promote a mix of land uses that increase visibility, activity and access throughout the day and to separate land uses that foster unsafe conditions.
ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
ES-3.10	Incorporate universal design measures in new construction, and retrofit existing development to include design measures and equipment that support public safety for people with diverse abilities and needs. Work in partnership with appropriate agencies to incorporate technology in public and private development to increase public and personal safety.
ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
ES-3.13	Maintain emergency traffic preemption controls for traffic signals.
ES-3.14	Encourage property maintenance and pursue appropriate code enforcement to reduce blight, crime, fire hazards or other unsafe conditions associated with under-maintained and under-utilized properties.
ES-3.20	Require private property owners to remove excessive/overgrown vegetation (e.g., trees, shrubs, weeds) and rubbish to the satisfaction of the Fire Chief to prevent and minimize fire risks to surrounding properties.
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies

3.15.1.2 *Existing Conditions*

Fire Service

Fire protection services for the project site is provided by the SJFD. The SJFD consists of 34 stations distributed throughout the City. The closest fire station to the project site is Station 1, located at 225 Market Street, which is approximately 0.2 miles southwest of the project site.

For fire protection services, the General Plan identifies a total response time goal of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

Police Service

Police protection services are provided by the City of San José Police Department (SJPD). The police headquarters is located at 201 West Mission Street, approximately 0.8 miles northwest of the project site.

For police protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.

Schools

The project site is located within the San José Unified School District (SJUSD). The project site is within the attendance boundaries of Grant Elementary, located at 470 East Jackson Street (approximately 1.3 miles northeast of the site), Muwekma Ohlone Middle School, located at 850 North Second Street (approximately 1.8 miles north of the site), and San José High School, located at 275 North 24th Street (approximately 2.6 miles east of the site).[94]

Parks

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City operates and maintains more than 3,600 acres of regional and neighborhood/community-serving parkland, including 202 neighborhood-serving parks and 10 regional parks.[95]

The nearest park to the project site is Ryland Park (located approximately 0.1 miles northwest of the site).

[94] San José Unified School District. "SchoolSite Locator." Accessed April 21, 2023. http://apps.schoolsitelocator.com/?districtcode=25499#.
[95] City of San José. *Annual Report on City Services FY 2022-23*. Accessed April 21, 2023. https://www.sanjoseca.gov/your-government/appointees/city-auditor/services-report/current-report

Libraries

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 25 branch libraries. The nearest libraries are Dr. Martin Luther King Jr. and Joyce Ellington Library, both of which are approximately 1.3 miles from the project site.

3.15.2 Impact Discussion

For the purpose of determining the significance of the project's impact on public services, would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

1) Fire protection?
2) Police protection?
3) Schools?
4) Parks?
5) Other public facilities?

3.15.2.1 *Project Impacts*

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services?

The project proposes to develop the site with 118 rental units, which is consistent with the Transit Residential General Plan land use designation. The General Plan Final EIR concluded that while implementation of the General Plan would result in an increase in the need for fire protection services, it would not result in the need for fire stations in excess of those currently planned. In addition, the General Plan includes policies that address the provision of fire services within the City. Implementation of these policies provides mitigation for additional fire services required within the City as a result of implementation of the General Plan. Therefore, the project would not require the construction of new or expanded fire facilities. In addition, the project would be constructed in accordance with current building codes and SJFD would review project plans to ensure appropriate safety features are incorporated to reduce fire hazards. In accordance with General Plan Policy ES-3.11, the project would provide adequate fire suppression infrastructure. **(Less than Significant Impact)**

b) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services?

The project area is served by the SJPD Central Division, which currently serves approximately 200,000 residents. The project would increase the SJFD Central Division residential service population by approximately 337 residents (or approximately 0.002 percent). The project is consistent with the General Plan. The General Plan Final EIR concluded that implementation of the General Plan would not result in the need for new standalone police facilities but may require expansion of existing police facilities. The construction of any expanded facilities would require environmental review and would not be anticipated to result in significant adverse environmental impacts. The project's incremental increase in police protection services compared to existing conditions would not require new or expanded police protection facilities (the construction of which could cause significant environmental impacts) beyond what was identified in the General Plan Final EIR in order to maintain acceptable service ratios, response times or other performance objectives for police protection services. In addition, SJPD would review the final site design, including proposed landscaping, access, and lighting, to ensure that the project) provides adequate safety and security measures. **(Less than Significant Impact)**

c) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for schools?

The project would generate additional K-12 students due to the increase in housing units on-site. Planned growth under the General Plan would generate an additional 11,079 students in the SJUSD. Based on the SJUSD student generation rates, multi-family residential development generates approximately 0.133 elementary students, 0.071 middle school students, and 0.062 high school students per unit. As a result, it is estimated that the project would generate a total of 16 elementary students, nine middle school students, and eight high school students.

Per California Government Code Section 65996, certain construction projects require payment of a development fee to the school district associated with the project location. The applicant would be responsible for the payment of development fees to the districts to offset the demand placed on school facilities by the project. According to Government Code Section 65996 (3)(h), payment of such fees constitutes full mitigation of any school impacts under CEQA. Therefore, impacts from the increase in school enrollment would be offset by the required payment of development fees during the Building permit stage. Pursuant to state law, the project would have a less than significant impact on school facilities or services and would not, by itself, require new school facilities to be constructed**. (Less than Significant Impact)**

d) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for parks?

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) which requires new housing projects to provide 3.0 acres of neighborhood/community serving parkland per 1,000 population, provide recreational facilities on-site, and/or pay an in-lieu fee. The proposed project would result in approximately 337 people on-site. The project would be required to pay the applicable PDO/PIO fees at the Building permit stage. The project's PDO/PIO fees would be used for neighborhood serving elements (such as playgrounds/tot-lots and basketball courts) within 0.75 miles of the project site, and/or community serving elements (such as soccer fields and community gardens) within a three-mile radius of the project site, consistent with General Plan Policies PR-2.4 and PR-2.5.

Since the proposed project would be required to comply with payment of the PDO/PIO fees, implementation of the project would not result in significant impacts to park and recreational facilities in San José. **(Less than Significant Impact)**

e) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for other public facilities?

Full build out of the General Plan is projected to increase the City's residential population to 1,313,811. The existing and planned library facilities in the City would provide approximately 0.68 square feet of library space per capita for the anticipated population under build out of the General Plan by the year 2035, which is above the City's service goal of 0.59 square feet of library space per capita.[96] The additional 337 residents resulting from the implementation of the project are consistent with the growth planned in the General Plan. Therefore, while the project would increase the use of local libraries including the Dr. Martin Luther King Jr. and Joyce Ellington Library compared to existing conditions, the project would not require the construction of new library facilities beyond what was analyzed in the General Plan Final EIR. **(Less than Significant Impact)**

[96] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011. Page 637.

3.15.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant public services impact?

The geographic area considered for cumulative public service impacts is the City of San José.

Fire Protection

As previously discussed under checklist question a), the General Plan Final EIR concluded that implementation of the General Plan would not necessitate the construction of new fire stations. All the cumulative projects within the City of San José are consistent with the growth and development assumed in the General Plan. Therefore, the cumulative projects would not result in a significant cumulative impact to fire protection facilities and services. In addition, all cumulative projects in the City would be constructed in accordance with current building codes and reviewed by SJFD to ensure appropriate safety features are incorporated to reduce fire hazards.

Police Protection

As previously discussed under checklist question b), the General Plan Final EIR concluded that implementation of the General Plan would not result in the need for new standalone police facilities but may require expansion of existing police facilities. All cumulative projects identified in Table 3.0-1 within the City of San José, including the project, are consistent with the growth assumed in the General Plan and, therefore, would not result in greater impacts than what was identified in the General Plan Final EIR. Each project in the City would be required to assess the potential for the project to increase demand for police protection services. SJPD would review the final site design of cumulative projects, including proposed landscaping, access, and lighting, to ensure that the project provides adequate safety and security measures. The construction of any expanded facilities would require environmental review and would not be anticipated to result in significant adverse environmental impacts. Therefore, the project, in combination with other cumulative projects, would not result in a cumulatively considerable impact on police protection services.

Schools

Students in the project area can potentially attend Grant Elementary, Muwekma Ohlone Middle School, and San José High School. Eight of the cumulative projects identified in Table 3.0-1 would generate students at these same schools.[97] The cumulative projects would generate approximately 174 students at Grant Elementary School, 116 students at Muwekma Ohlone Middle School, and 95 students at San José High School.

[97] San José Unified School District. SchoolSite Locator. Accessed May 8, 2023. https://portal.schoolsitelocator.com/apps/ssl/?districtcode=25499

As required by state law (Government Code Section 65996), cumulative projects that include residential development (such as the project) are required to pay school fees to mitigate the increase in demand on schools generated by new development to a less than significant level. Therefore, the cumulative projects (including the project) would not result in a significant cumulative impact on local schools.

Parks

Cumulative projects in the City (including the project) would be required to implement the City's Standard Permit Condition of complying with the PDO/PIO. As a result, the project would not result in a significant cumulative impact on parks.

Libraries

As previously discussed under checklist question e), the General Plan Final EIR concluded that existing and planned library facilities would satisfy the General Plan service goal of 0.59 square feet of library space per capita under buildout of the General Plan. All cumulative projects identified in Table 3.0-1, including the project, are consistent with the growth assumed in the General Plan. For this reason, the cumulative projects (including the project) would not result in a significant cumulative impact to library facilities.

With the implementation of Conditions of Approval identified under checklist questions c) and d), the project would not contribute to a significant cumulative public services impact. **(Less than Significant Cumulative Impact)**

3.16 Recreation

3.16.1 Environmental Setting

3.16.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

City of San José

Activate San José Strategic Plan (2020-2040)

ActivateSJ is a people-focused, service-driven plan adopted by the City of San José in 2020. The plan focuses on guiding principles of stewardship, nature, equality and access, identity, and public life. The five guiding principles speak directly to what San José residents value and expect from a parks and recreation department in the 10th largest city in the nation. They are strategic priorities that will carry San José into the future, help us identify opportunities and guide decisions, which may include the development of regional capital-centric Greenprints.

The plan is a 20-year strategic plan for the City of San José's Department of Parks, Recreation and Neighborhood Services which will ensure that neighborhood parks continue to be destinations for residents, that regional parks showcase the best of San José, that community centers continue to serve as points of connection, and that the Parks and Recreation Department continues to enhance the quality of life in our diverse neighborhoods.

Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects over 50 units, it is the City's decision as to whether the project will dedicate land for a new public park site or accept a fee in-lieu of land dedication. Deed-restricted affordable housing projects that meet the City's affordability criteria are subject to the PDO and PIO and

receive a 50 percent credit toward the parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to recreation and are applicable to the project.

Policy	Description
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
PR-1.3	Provide 500 square feet per 1,000 population of community center space.
PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/ tot-lots, basketball courts, etc.) within a 3/4-mile radius of the project site that generates the funds.
PR-2.6	Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or include one or more of these elements in its project design.
PR-3.2	Provide access to an existing or future neighborhood park, a community park, recreational school grounds, a regional park, open space lands, and/or a major City trail within a 1/3 mile radius of all San José residents by either acquiring lands within 1/3 mile or providing safe connections to existing recreation facilities outside of the 1/3 mile radius. This is consistent with the United Nation's Urban Environmental Accords, as adopted by the City for recreation open space.

3.16.1.2 *Existing Conditions*

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City operates and maintains more than 3,600 acres of regional and neighborhood/community-serving parkland, including 202 neighborhood-serving parks and 10 regional parks.[98] The City also operates 47 community centers, which offer recreation classes, athletic programs, wellness, youth activities, senior nutrition, and other activities.

The nearest park to the project site is Ryland Park (located approximately 0.1 miles northwest of the site). The nearest community center is Jacinto Siquig Northside Community Center (located approximately 0.6 miles northeast of the site).

[98] City of San José. *Annual Report on City Services FY 2022-23*. Accessed April 21, 2023. https://www.sanjoseca.gov/your-government/appointees/city-auditor/services-report/current-report

3.16.2 Impact Discussion

For the purpose of determining the significance of the project's impact on recreation:

1) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

3.16.2.1 *Project Impacts*

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

The proposed project would result in approximately 337 new residents on-site, which would increase the use of parks and community centers in the surrounding area. As discussed in checklist question d) in Section 3.15 Public Services, the project would be required to pay the applicable PDO/PIO fees. The project's PDO/PIO fees would be used for neighborhood serving elements (such as playgrounds/tot-lots and basketball courts) within 0.75 miles of the project site, and/or community serving elements (such as soccer fields and community gardens) within a three-mile radius of the project site, consistent with General Plan Policies PR-2.4 and PR-2.5. For these reasons, the minimal increase in park use by project residents would not substantially deteriorate existing park facilities. **(Less than Significant Impact)**

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

As discussed under checklist question a) above, the project would pay the applicable PDO/PIO in-lieu fees. No specific improvements are identified at this time in relation to the fees that would be paid and the project does not propose any public recreational facilities. The project would not require the construction of new recreational facilities or the expansion of existing facilities with the potential to adversely affect the environment to support City service goals. **(Less than Significant Impact)**

3.16.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant recreation impact?

The geographic area considered for cumulative recreation impacts is the City of San José.

Increase in Use of Recreational Facilities

Cumulative projects within the City of San José would be required to offset their recreational impacts by providing on-site recreational facilities, dedicating parkland, and/or paying in-lieu fees. These actions would mitigate substantial physical deterioration of existing facilities citywide. For this reason, the cumulative development (including the project) would not result in significant cumulative impacts to park and recreational facilities.

Construction or Expansion of Recreational Facilities

On its own, the project would not require the construction or expansion of additional recreational facilities. All cumulative projects (including the project) would be subject to the aforementioned requirements of the City's PDO and PIO to offset their demands on park and recreational facilities to a less than significant level. The General Plan Final EIR concluded that payment of fees under the Quimby Act (i.e. the City's PDO/PIO fees) would reduce impacts to recreational facilities from build out of the General Plan to a less than significant level.[99] No specific recreational improvements are identified at this time in relation to the PDO/PIO fees that would be paid by the project. The cumulative projects (including the project) would not require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.

The project would not result in a cumulatively significant impact to recreational facilities. **(Less than Significant Cumulative Impact)**

[99] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* SCH: 2009072096. September 2011. Page 636.

3.17 Transportation

The following discussion is based, in part, on a Transportation Analysis and Transportation Demand Management Plan prepared for the proposed project by Hexagon Transportation Consultants, Inc. The reports, dated November 2023 and October 2023, respectively, are included as Appendix I to this EIR.

3.17.1 Environmental Setting

3.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2050 in October 2021, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2050.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a VMT metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires analysis of VMT in determining the significance of transportation impacts. Local jurisdictions were required by the Governor's Office of Planning and Research (OPR) to implement a VMT policy by July 1, 2020.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Notably, projects located within 0.50 mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional and Local

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and

transportation demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy, the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, a residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing citywide average VMT per capita or 15 percent below the existing regional average VMT per capita, whichever is lower. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access and recommend transportation improvements. The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1; however, it does negate the City's Protected Intersection policy as defined in Policy 5-3.

Transportation Demand Management

In December 2022, City Council adopted and updated Title 20 of the Municipal Code to remove mandatory minimum parking requirements based on the project size and use (Ordinance No. 30857). In conjunction, the ordinance expanded transportation demand management project requirements to encourage new and existing residents to shift trips from single-occupancy vehicles to alternatives such as transit, biking and walking. These transportation demand management requirements can be fulfilled with infrastructure (such as building or expanding bicycle and pedestrian facilities) or programs such as providing transit passes or bike share memberships to tenants. The TDM Program requires the project to coordinate with the City to develop a TDM Plan that meets its TDM Point Targets. However, if a project component passes the TDM screening criteria, it is not required to develop a TDM Plan as part of San Jose Municipal Code requirements.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to recreation and are applicable to the project.

Policy	Description
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
TR-1.4	Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes giving first consideration to improvement of bicycling, walking and transit facilities and services that encourage reduced vehicle travel demand.

Policy	Description
	• Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems. • The City Council may consider adoption of a statement of overriding considerations, as part of an EIR, for projects unable to mitigate their VMT impacts to a less than significant level. At the discretion of the City Council, based on CEQA Guidelines Section 15021, projects that include overriding benefits, in accordance with Public Resources Code Section 21081 and are consistent with the General Plan and the Transportation Analysis Policy 5-1 may be considered for approval. The City Council will only consider a statement of overriding considerations for (i) market-rate housing located within General Plan Urban Villages; (ii) commercial or industrial projects; and (iii) 100% deed-restricted affordable housing as defined in General Plan Policy IP-5.12. Such projects shall fund or construct multimodal improvements, which may include improvements to transit, bicycle, or pedestrian facilities, consistent with the City Council Transportation Analysis Policy 5-1. • Area Development Policy. An "area development policy" may be adopted by the City Council to establish special transportation standards that identifies development impacts and mitigation measures for a specific geographic area. These policies may take other names or forms to accomplish the same purpose.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
TR-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements. • Downtown. Downtown San José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.
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.
CD-3.3	Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
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.

Policy	Description
LU-10.5	Facilitate the development of housing close to jobs to provide residents with the opportunity to live and work in the same community.

3.17.1.2 *Existing Conditions*

Roadway Network

Regional access to the project site is provided by SR 87, I-280, I-880, and United States Highway (US 101). Local access to the site is provided by First Street, Second Street, Julian Street, and Bassett Street. These roadways are described below:

SR 87 is a north-south six-lane freeway (two mixed-flow lanes and one high-occupancy vehicle (HOV) lane in each direction) that resides entirely within San José. SR 87 provides direct connections to SR 85, I-280, and US 101. SR 87 provides access to and from the project site via full interchanges at Julian Street and Taylor Street.

I-280 is an eight-lane freeway in the vicinity of the project site. It extends northwest to San Francisco and east to King Road in San José, at which point it makes a transition to I-680 to Oakland. Access to and from the project site is provided via interchanges with SR 87 and US 101.

I-880 is an eight-lane freeway (three mixed-flow lanes and one HOV lane in each direction) in the vicinity of the project area. It extends along the eastern side of San Francisco Bay from San José to Oakland. South of its interchange with I-280 in west San José, I-880 becomes SR 17 and extends southward to Santa Cruz. Access to and from the project site is provided via a full interchange at First Street.

US 101 is primarily a north-south freeway that extends northward through San José to San Francisco and southward through Gilroy into Salinas. US 101 provides access to and from the project site via its full interchange at Julian Street/McKee Road as well as indirect access via SR 87, I-880, and I-280.

First Street is a north-south roadway located along the western project frontage, designated as a Grand Boulevard per the Envision San José 2040 General Plan. It extends from Alviso southward to Alma Avenue where it transitions into Monterey Road. Within the vicinity of the project site, the Blue and Green light rail transit lines run within the center median along First Street, with one travel lane (one northbound and one southbound lane) on each side of the light-rail tracks. First Street provides access to and from the project site via Bassett Street.

Second Street is a north-south two-lane undivided roadway located along the project's eastern frontage, designated as a Local Connector Street per the General Plan. Second Street provides access to the project site via Bassett Street.

Julian Street is an east-west roadway that extends between Terraine Street and US 101, where it transitions to McKee Road. Within the project vicinity, Julian Street is a designated Local Connector Street in the General Plan. Julian Street would provide access to the project site via First Street and Bassett Street.

Bassett Street is an east-west local roadway that extends from Pleasant Street eastward to Second Street where it terminates. Bassett Street would provide direct access to the project site via a proposed full-access driveway.

Pedestrian Facilities

Pedestrian access is provided via sidewalks along all of the surrounding streets, including the project frontages on First Street, Second Street, and Bassett Street. At the intersection of First Street and Bassett Street, there are crosswalks and ADA-compliant ramps available at all four approaches. There is a north-south crosswalk with ADA compliant ramps at the intersection of Second Street and Bassett Street but no crosswalk across Second Street. The nearest crossing of Second Street is located at the intersection of Second Street and Julian Street, approximately 450 feet south of Bassett Street.

Bicycle Facilities

There are Class II, III, and IV bikeways throughout the project area. Class II bikeways (bike lanes) are striped bike lanes on roadways that are marked by signage and pavement markings. Class III bikeways are bike routes and only have signs to help guide bicyclists on recommended routes to certain locations. Class IV bikeways are protected bike lanes that are physically separated from motor vehicles and are facilities exclusive for bicyclists. A list of the bikeways within the vicinity of the project site are provided below by class category:

- Class II Bikeways
    - Empire Street, between First Street and 22nd Street
    - Jackson Street, between Ninth Street and 13th Street
    - Taylor Street, between First Street and Walnut Street
    - Coleman Avenue, between Santa Teresa Street and Taylor Street
    - Second Street, between Taylor Street and Julian Street; between William Street and Keyes Street
    - Third Street, between Jackson Street and St. James Street
    - Fourth Street, between Hedding Street and Santa Clara Street; between San Salvador Street
    - and Reed Street
    - Seventh Street, between Empire Street and San Fernando Street
    - Thirteenth Street, between Hedding Street and Santa Clara Street
- Class III Bikeways

    - Hawthorne Way, between San Pedro Street and First Street
    - San Pedro Street, between Hedding Street and Ryland Street
    - Mission Street, between Guadalupe Freeway and Seventh Street
    - Seventh Street, between Empire Street and Hedding Street
    - St. John Street, between Fourth Street and Seventeenth Street
    - First Street, between San Salvador Street and St. John Street
    - Second Street, between San Carlos Street and St. John Street
- Class IV Bikeways
    - San Fernando Street, between Cahill Street and Tenth Street
    - Third Street, between St. James Street and Reed Street
    - Fourth Street, between Santa Clara Street and San Salvador Street
    - Tenth Street, between Hedding Street and I-280 Ramps
    - Eleventh Street, between Hedding Street and I-280 Ramps

The existing bicycle facilities are shown on Figure 3.17-1.

Transit Services

Existing transit services in the study area are provided by the Santa Clara Valley Transportation Authority VTA, Caltrain, Altamont Commuter Express (ACE), and Amtrak. The project site is within a quarter of a mile walking distance of two light rail stations along First Street and within half a mile walking distance of the Downtown Transit Center located at Santa Clara Street between First and Second Streets. Diridon Transit Center on Cahill Street provides connections between local and regional bus routes, light rail lines, and commuter rail lines.

Valley Transportation Authority Bus Service

VTA provides the main bus service in Santa Clara County. Along with the regular bus services, VTA operates Rapid Bus services that provide limited-stop services at frequent intervals that are less than 15 minutes during the daytime hours. Within a quarter of a mile walking distance of the project site there are 13 bus routes available. The nearest bus stop is located along Bassett Street, directly across from the project site frontage and is served by Routes 72 and 73. All the bus routes within a quarter mile of the project site are listed in Table 3.17-1.

Source: Hexagon Transportation Consultants, Inc.

EXISTING BICYCLE FACILITIES | FIGURE 3.17-1

Table 3.17-1: Valley Transportation Authority Bus Routes (within ¼ mile of project site)

Bus Route	Route Description	Nearest Stop (Street Intersection)	Stop Frequency (minutes)[1]
Frequent Route 22	Palto Alto Transit Center to Eastridge Transit Center	Santa Clara/First	15
Frequent Route 23	DeAnza College to Alum Rock Transit Center vis Stevens Creek	Santa Clara/First	12 – 15
Frequent Route 61	Sierra & Piedmont to Good Samaritan Hospital	First/Taylor	15
Local Route 64A	McKee & White to Ohlone-Chynoweth Station	Santa Clara/First	30[2]
Local Route 64B	McKee & White to Almaden Expressway & Camden	Santa Clara/First	30[2]
Frequent Route 66	North Milpitas to Kaiser San José	First (Second/Santa Clara	12 – 15
Frequent Route 68	San José Diridon Station to Gilroy Transit Center	First (Second)/Santa Clara	15 – 20
Frequent Route 72	Downtown San José to Senter & Monterey via McLaughlin	First/Bassett	5 – 20
Frequent Route 73	Downtown San José to Senter & Monterey via Senter	First/Bassett	10 – 15
Rapid Route 500	San José Diridon Station to Downtown San José	Santa Clara/First	15 – 20
Rapid Route 522	Palo Alto Transit Center to Eastridge Transit Center	Santa Clara/First	10 – 15
Rapid Route 523	Berryessa BART to Lockheed Martin via De Anza College	Santa Clara/First	15 – 20
Rapid Route 568	Gilroy/Morgan Hill to San José Diridon Station	First (Second)/Santa Clara	15 – 40

Notes: [1] Approximate headways during peak commute periods. [2] Local Routes 64A and 64B provide frequent service between San Jose Diridon Station and McKee/White, with approximately 15-minute headways during peak commute periods.

Source: Hexagon Transportation Consultants, Inc. *380 North First Street Residential Development Transportation Analysis*. March 2023.

Valley Transportation Authority Light Rail Service

The Santa Clara VTA currently operates the 42.2-mile VTA light rail line system extending from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View and Sunnyvale. The service operates nearly 24 hours a day with 15-minute headways or stops during much of the day.

The Green (Winchester-Old Ironsides) and Blue (Baypointe-Santa Teresa) light rail transit lines operate along First Street in the vicinity of the project site. The St. James Light Rail Transit Station platforms are located along First Street and Second Street, less than half a mile walking distance south from the project site. The Japantown/Ayer Light Rail Transit Station is approximately 0.2 miles north of the project site. The Diridon Transit Center is accessible via the Green light rail transit line and serves as a transfer point to Caltrain, ACE, and Amtrak services.

Caltrain Service

Commuter rail service between San Francisco and Gilroy is provided by Caltrain, which currently operates 92 weekday trains that carry approximately 47,000 riders on an average weekday. Trains stop frequently at the Diridon Station between 4:28 AM and 10:30 PM in the northbound direction, and between 6:31 AM and 1:38 AM in the southbound direction. Caltrain provides passenger train service seven days a week and provides extended service to Morgan Hill and Gilroy during commute hours. The project site is located approximately 1.5 miles from the San José Diridon Station.

Altamont Commuter Express Service

The Altamont Commuter Express Service provides commuter rail service between Stockton, Tracy, Pleasanton, and San José during commute hours, Monday through Friday. Service is limited to four westbound trips in the morning and four eastbound trips in the afternoon and evening with headways averaging 60 minutes. ACE trains stop at the Diridon Station between 6:32 AM and 9:17 AM in the westbound direction, and between 3:35 PM and 6:38 PM in the eastbound direction.

Amtrak Service

Amtrak provides daily commuter passenger train service along the 170-mile Capitol Corridor between the Sacramento region and the Bay Area, with stops in San José, Santa Clara, Fremont, Hayward, Oakland, Emeryville, Berkeley, Richmond, Martinez, Suisun City, Davis, Sacramento, Roseville, Rocklin, and Auburn. The Capitol Corridor trains stop at the San José Diridon Station seven times during the weekdays between approximately 7:37 AM and 9:05 PM in the westbound direction. In the eastbound direction, Amtrak stops at the Diridon Station seven times during the weekdays between 6:40 AM and 7:15 PM.

The existing transit facilities in the area are shown on Figure 3.17-2.

Source: Hexagon Transportation Consultants, Inc.

EXISTING TRANSIT FACILITIES | FIGURE 3.17-2

3.17.2 Impact Discussion

For the purpose of determining the significance of the project's impact on transportation, would the project:

1) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?
2) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?
3) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?
4) Result in inadequate emergency access?

3.17.2.1 *Project Impacts*

a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

Bicycle Facilities

The project would generate approximately six new bicycle trips during the AM and PM peak hours. This increase in bicycle trips would not conflict with the planned bicycle facility infrastructure identified in the City's General Plan and the 2025 Better Bike Plan. Various General Plan policies and actions have been adopted to implement planned improvements and ensure the City meets its objectives of enhancing the bikeway network, increasing the mode share of bicycle travelers, and promoting auto-alternative modes of transport.

The San José Better Bike Plan 2025 identifies the following planned bicycle facility improvements near the project site that would benefit the project:

- Class I bike trail planned for the San Pedro Street Undercrossing, between Ryland Street and Bassett Street,
- Class II bike boulevard planned for Bassett Street, between Guadalupe River Trail and Second Street, and
- Class IV protected bike planned for Coleman Avenue, between Julian Street and Santa Teresa Street

The project would not impede the construction of these planned bicycle facilities. The project would be required to implement the following Condition of Approval.

Condition of Approval:

- The project applicant shall contribute its proportional share of in-lieu cost for future implementation of a Class IV protected bike lane along the project Second Street frontage pursuant with the City of San José Better Bike Plan 2025.

Implementation of the above Condition of Approval would improve bicycle connectivity in the project vicinity and to other existing bicycle facilities. Additionally, installing a protected bike lane may encourage future residents and visitors to ride bikes rather than drive.

Pedestrian Facilities

As described in Section 3.17.1.2 Existing Conditions, pedestrian facilities in the project area consist of sidewalks, crosswalks, and pedestrian signals at signalized intersections. There are sidewalks along the project frontages on North First Street, Second Street, and Bassett Street. Based on the project site plans, the sidewalk widths would be widened to 10 feet along Bassett Street and 12 feet along North First Street. The sidewalk along North Second Street would be maintained at 15 feet. These sidewalk widths would comply with the minimum sidewalk widths from the "San José Complete Street Design Standards and Guidelines."

TDM Policy

As discussed above in Section 3.17.1.1, the City's TDM Program requires the project to coordinate with the City to develop a TDM Plan that meets its TDM Point Targets. However, if a project component passes the TDM screening criteria, it is not required to develop a TDM Plan. Per the TDM screening criteria, the project as proposed would not meet screening criteria for small infill residential projects. Based on the TDM Plan prepared for the project, the project would be required satisfy 25 TDM Points. The project is proposing to implement the following TDM measures in order to achieve the 25 TDM Points goal:

- PK01: Off-Street Vehicle Parking Spaces (20 points)
- TP02: Provide Bike Share Stations (1 point)
- TP04: Provide Education, Marketing & Outreach (2 points)
- TP16: Unbundle Parking Costs from Property Cost (2 points)

Transit Facilities

As described in Section 3.17.1.2 Existing Conditions, the project site is within walking distance of bus stops and two VTA light rail stations. Due to the accessibly of public transit, it is assumed that some residents of the project would utilize existing transit services. The increase in transit riders is consistent with both the General Plan Final EIR, which concluded that implementation of the General Plan would increase transit ridership, and VTA operations reports, which indicated that transit routes in the project vicinity have available capacity to serve increases in ridership.

Based on the above, the proposed project would not conflict with a program, plan, ordinance or policy regarding roadway, transit, bicycle, or pedestrian facilities. **(Less than Significant Impact)**

b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

City Council Policy 5-1 has established screening criteria to determine which projects require a detailed VMT analysis. Within the screening criteria, residential projects or components of projects would be exempt from VMT analysis under the following conditions: 1) the site is located within a Planned Growth Area as defined by the General Plan; 2) the site is located within 0.5 miles of an existing major transit stop or an existing stop along a high-quality transit corridor; 3) the site is located in an area in which the per capita VMT is less than or equal to the CEQA significance threshold for the land use; 4) the project has a minimum of 35 units per acre; 5) the project has no more than the minimum number of parking spaces required (if located in Downtown, the number of parking spaces must be adjacent to the lowest amount allowed; however, if the parking is shared, publicly available, and/or "unbundled", the number of parking spaces can be up to the zoned minimum); and 6) the project would not negatively impact transit, bike or pedestrian infrastructure. The project does not meet the screening criteria; therefore, a detailed CEQA transportation analysis (i.e., VMT analysis) was prepared for the residential project.

The City of San José VMT Evaluation tool was used to calculate the project's VMT. Pursuant to City Policy 5-1, a project would have a significant impact on residential VMT when the estimated project generated VMT exceeds the existing citywide average VMT per capita minus 15 percent or existing regional average VMT per capita minus 15 percent, whichever is lower. The citywide average VMT is 11.94 VMT per capita, which is lower than the regional average per capita VMT. Therefore, the significance threshold for this project is 10.12 VMT per capita.[100]

Based on the City's VMT Evaluation Tool for, the residential project would generate a 7.90 VMT per capita, which is below the threshold of 10.12 VMT per capita. The lower VMT per capita is likely due to the project site's proximity to transit, bicycle, and other multimodal modes of travel. The project site is surrounded by bicycle and pedestrian facilities and two light rail stations are approximately a third of a mile north and south of the site. Japantown/Ayer Light Rail Station is approximately 1,055 feet north and the St. James light rail station is approximately 1,585 feet south of the site. More residents within the project area are likely to use public transit or other modes of travel because the infrastructure is readily available. Based on the VMT analysis and these factors, the project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). **(Less than Significant Impact)**

[100] Citywide average VMT equates to 11.94 VMT per capita. A 15 percent reduction would equate to 10.12 VMT per capita (11.94 VMT per capita * 0.15 = 1.791 VMT per capita → 11.94 VMT per capita – 1.791 VMT per capita = 10.12 VMT per capita).

c) Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Geometric Design

Site Access and On-site Circulation

The project would be primarily accessed via a new left-in/left-out 26-feet wide driveway off Bassett Street, which would grant access to the on-site parking garage. Along the project's driveways, Bassett Street is a one-way eastbound roadway. It is anticipated that 22 inbound vehicle trips would enter the parking garage during the PM peak hour. All inbound traffic would turn left into the driveway. Therefore, no conflicts would occur between inbound project driveway vehicles and traffic on Bassett Street. No outbound traffic issues would occur since vehicles would queue in the parking garage and not queue on Bassett Street.

Sight Distance

The minimum acceptable sight distance is equivalent to the American Association of State Highway Transportation Officials (AASHTO) stopping sight distance, which vary depending on roadway speeds. Bassett Street has a posted speed limit of 25 mph, which would equate to an AASHTO sight distance of 200 feet to the west (Bassett Street is eastbound traffic only). Therefore, a driver exiting the proposed driveway on Bassett Street must be able to see 200 feet to the west along Bassett Street. On-street parking is prohibited for vehicles, but VTA buses are allowed to park along Bassett Street. To ensure exiting vehicles have proper sight distance of oncoming traffic, the following Condition of Approval would be required of the project to maintain adequate sight distance.

Condition of Approval:

- The project applicant shall coordinate with the City's Department of Public Works to provide signage along Bassett Street to prohibit buses from parking along the curb starting approximately 25 feet (one car-length) to the west of the proposed project driveway prior to the issuance of a Certificate of Occupancy.
- The proposed landscaping along Bassett Street should be maintained so that the vision of drivers exiting the project driveway is not obstructed.

Incompatible Uses

As shown in Figure 2.2-3, the project site is adjacent to commercial buildings to the north and south and residential buildings to the west and east. As discussed under Section 3.11 Land Use and Planning, the proposed residential development is consistent with the project site's land use designation (Transit Residential) and, therefore, has been found programmatically compatible with the surrounding developments by the General Plan FEIR. Since the project's land use is compatible with uses in the area, the project's use of circulation systems also would be compatible and would not create a hazard. The project does not propose a use that would bring unusual equipment on the

roadways (e.g., farm equipment). Therefore, the project would not result in a significant impact due to incompatible uses.

Based on the above analysis, the project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). Impacts would be less than significant. **(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

The proposed project would not result in changes to surrounding circulation systems or established evacuation routes. The City requires consistency with applicable fire department standards before building permits are approved. The SJFD requires that all portions of the building be within 150 feet of a fire department access road and requires a minimum of three feet clearance from the property line along all sides of the building. No emergency vehicles, including fire trucks and ambulances, would have access to the interior parking level. Per the site plans, red fire lane markings would be painted on the edge of the sidewalk that borders Bassett Street and along the sidewalk that borders North Second Street. Emergency vehicles would be able to park along these two streets and access the building in emergency situations. Also, the project would be required to comply with the City of San José policies and ordinances requiring adequate emergency access for the project site. The proposed project would not interfere with the emergency response to the project area; therefore, the proposed project would result in a less than significant impact to emergency access to and around the project site. **(Less than Significant Impact)**

3.17.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant transportation impact?

The geographic area for cumulative transportation resource impacts is the City of San José.

Program, Plan, Ordinance, or Policy Addressing the Circulation System

As discussed in detail in Section 3.17.3 Non-CEQA Effects, the results of the LOS analysis show that, measured against applicable municipal LOS standards, all signalized study intersections would continue to operate at an acceptable LOS under background conditions (which includes existing traffic volumes plus traffic volumes from approved but not yet occupied projects) with the addition of traffic from the project. For this reason, the cumulative projects (including the proposed project) would be consistent with applicable LOS standards and the CMP.

There are no other cumulative projects in the vicinity of the project sites that would contribute to the same less than significant transit, bicycle, or pedestrian facilities impacts as the proposed project. For this reason, there is no cumulative transit, bicycle, or pedestrian facilities impact.

Vehicle Miles Traveled

Projects must demonstrate consistency with the General Plan to address cumulative VMT impacts. Consistency with the City's General Plan is based on the project's density, design, and conformance to the General Plan goals and policies. The General Plan Circulation Element includes a set of long-range, multi-modal transportation goals and policies that provide for a transportation network that is safe, efficient, and sustainable (i.e., minimizes environmental, financial, and neighborhood impacts). These transportation goals and policies are intended to improve multi-modal accessibility to all land uses and create a city where people are less reliant on driving to meet their daily needs. As identified under Section 3.17.1.1 Regulatory Framework, the General Plan policies listed encourage the use of non-automobile transportation modes to minimize vehicle trip generation and reduce VMT. If a project is consistent with the General Plan, it is considered part of the cumulative solution to meet the General Plan's long-range transportation goals and, therefore, would result in a less than significant cumulative impact. If a project is determined to be inconsistent with the General Plan, a cumulative impact analysis is required per the City's Transportation Analysis Handbook.

The project is consistent with the General Plan and its policies because the proposed land use is consistent with the existing General Plan land use designation on the project site and the project would:

- Be a higher-density residential development located within half a mile of public transit options, including VTA bus routes and light rail, and in a low VMT per capita area.
- Be integrated with the City's transportation system, including transit, roads, and pedestrian facilities.
- Not negatively impact existing transit, bicycle, or pedestrian infrastructure, nor conflict with any adopted plans or policies for new transit, bicycle, or pedestrian facilities.
- Implement transportation demand management measures to reduce vehicle trips and vehicle miles traveled pursuant with the City's TDM ordinance.

Based on the above reasons, the project would not result in a significant, cumulative VMT impact.

Hazards from Geometric Design or Incompatible Uses

There are no other cumulative projects in the vicinity of the project sites that would contribute to the same less than significant hazards from geometric design or incompatible uses as the proposed project. Further, cumulative projects would be subject to the City's standard review to ensure adequate driveway sight distance, site access, and on-site circulation. For this reason, there are no cumulative hazards from geometric design or incompatible uses. **(Less than Significant Cumulative Impact)**

Emergency Access

There are no other cumulative projects in the vicinity of the project sites that would contribute to the same less than significant impact to emergency access as the proposed project. Furthermore, cumulative projects would be subject to the SJFD minimum fire access and clearance requirements. For this reason, there is no cumulative impact to emergency access. **(Less than Significant Cumulative Impact)**

3.17.3 Non-CEQA Effects

While the evaluation of project CEQA impacts on the transportation system is based on VMT, in accordance with City of San José Transportation Policy (Policy 5-1), the following discussion is included for informational purposes. Policy 5-1 requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and transportation improvements. None of the study intersections studied in the LTA report were CMP intersections as identified by VTA; therefore, the project is not expected to affect any CMP-designated intersections.

3.17.3.1 *Trip Generation*

Project trip generation was estimated by applying to the size and use of the development the appropriate trip generation rates. The average trip generation rates for Multi-Family Housing – Mid Rise (Land Use 221) as published in the Institute of Transportation Engineers (ITE) *Trip Generation Manual, 11th Edition* (2021) were applied to the proposed number of residential units.[101] Based on the trip generation rates and the project size, it is estimated that, prior to any trip reductions, the proposed development would generate 44 trips (10 inbound and 34 outbound) during the AM peak-hour and 46 trips (28 inbound and 18 outbound) during the PM peak-hour, as summarized in Table 3.17-2 below.

Table 3.17-2: Project Trip Generation Estimates

				AM Peak Trips				PM Peak Trips			
Land Use	**Project Size**	**Total Daily Rate**	**Total Daily Trips**	**Rate**	**In**	**Out**	**Total**	**Rate**	**In**	**Out**	**Total**
Multifamily Housing (Mid-Rise	118 Dwelling Units	4.54	536	0.37	10	34	44	0.39	28	18	46
Location Based Reduction[1]			-118		-2	-7	-9		-6	-4	-10

[101] Although the project site is within ½-mile of rail transit (St. James LRT Station), trip generation rates for the "Not Close to Rail Transit" land use subcategory were selected since multimodal trip reductions are already accounted for a part of the location-based adjustment.

VMT-Based Reduction[2]	-7	0	0	0	0	0	0
Project Trips After Reduction	**411**	**8**	**27**	**35**	**22**	**14**	**36**

[1] The place type for the project site is obtained from the City of San José VMT Evaluation Tool (February 29, 2019). The location-based vehicle mode shares are obtained from Table 6 of the City of San José Transportation Analysis Handbook (April 2020). The trip reductions are based on the percent of mode share for all of the other modes of travel beside vehicle.

[2]Existing and project VMTs were estimated using the City of San José VMT Evaluation Tool. It is assumed that every percent reduction in VMT per-employee is equivalent to one percent reduction in peak-hour vehicle trips.

Source*:* Hexagon Transportation Consultants, Inc. *380 N. First Street Residential Development Transportation Analysis*. March 2023.

Trip Reduction

In accordance with San José's Transportation Analysis Handbook, the project is eligible for adjustments and reductions from the baseline (gross) trip generation. Based on the San José guidelines, the project qualifies for a location-based adjustment. The location-based adjustment reflects the project's vehicle mode share based on the place type in which the project is located per the San José Travel Demand Model. The project's place type was obtained from the San José VMT Evaluation Tool*.* Based on the Tool, the project site is located within a designated urban area with high access to transit. Therefore, the baseline project trips were adjusted to reflect an urban high-transit mode share. Urban high-transit is characterized as an area with high density, good accessibility, high public transit access, low single-family homes, middle-aged and older housing stock. Residential developments within urban high-transit areas have a vehicle mode share of 78 percent. Thus, a 22 percent reduction was applied to the trips generated by the proposed project, as shown in Table 3.17-2 above.

Additionally, based on the San José VMT Evaluation Tool, the project is anticipated to generate 7.90 VMT per-capita in an area that currently generates approximately 8.03 VMT per-capita. It is assumed that every percent reduction from the existing per-capita VMT is equivalent to one percent reduction in peak-hour vehicle trips. Thus, the project trip estimates were reduced by 1.62 percent to reflect the reduction in peak hour trips.

Net Project Trips

After applying the ITE trip rates and appropriate trip reductions, it is estimated that the project would generate an additional 411 daily vehicle trips, with 35 trips (8 inbound and 27 outbound) occurring during the AM peak hour and 36 trips (22 inbound and 14 outbound) occurring during the PM peak hour.

3.17.3.2 *Intersection Operations*

Intersection LOS was evaluated based on the standards of the City of San José. The analysis shows that all signalized study intersections are projected to operate at an acceptable LOS, based on the City of San José standards, under background conditions and background plus project conditions during both the AM and PM peak hours (refer to Appendix I for intersection LOS calculations).

3.17.3.3 *Signal Warrant Analysis*

A peak hour traffic signal warrant check was conducted for the unsignalized study intersections of First Street and Bassett Street and Second Street and Bassett Street. The results indicate that projected traffic volumes at the study intersections would not meet the signal warrant checks under peak hour conditions with the project.

3.18 Tribal Cultural Resources

3.18.1 Environmental Setting

3.18.1.1 *Regulatory Framework*

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or until it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources, or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- A resource determined by the lead agency to be a TCR.

3.18.1.2 *Existing Conditions*

A Sacred Lands File inventory request was submitted to the NAHC on April 13, 2023. The NAHC responded on April 18, 2023 with information that the Sacred Lands File was positive for the presence of sacred sites. Therefore, the site is highly sensitive for buried Native American archaeological deposits. As discussed in Section 3.4 Cultural Resources, the project site also has a high sensitivity for buried archaeological deposits.

AB 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be significantly impacted by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the Lead Agency. In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in the consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. The Ohlone Tribe submitted a request in July of 2018 for notification of projects requiring a Negative Declaration, a Mitigated Negative

Declaration, or an Environmental Impact Report that would involve ground-disturbing activities within the City of San José. Then, in response to a more specific verbal request in a meeting with City staff and the representative on July 12, 2018, clarification was received that such notification be sent only for projects in the City of San José that involve ground disturbing activities in Downtown, and that such requests may be sent via e-mail only. In addition, on May 28, 2021, the Tamien Nation requested notification of all projects requiring a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report within the City of San José.

The City of San José initiated AB 52 consultation on September 5, 2023. Notification was sent to The Ohlone Indian Tribe, the Indian Canyon Mutsun Band of Costanoan, and Tamien Nation. The Indian Canyon Mutsun Band of Costanoan and Tamien Nation requested to consult pursuant to AB 52.

3.18.2 Impact Discussion

For the purpose of determining the significance of the project's impact on tribal cultural resources, would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

1) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?
2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

3.18.2.1 *Project Impacts*

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

The project area is highly sensitivity for buried Native American archaeological deposits and buried archaeological deposits. As noted above, the Indian Canyon Mutsun Band of Costanoan and Tamien Nation requested to consult pursuant to AB 52. As discussed in Section 3.4 Cultural Resources, the proposed project would be required to implement Standard Permit Conditions and MM CUL-2.1 through 2.3, which address any accidental disturbance of cultural resources and set forth the appropriate procedure to be followed in the event of discovery and would reduce impacts to unrecorded subsurface cultural resources (if found). The tribes did not recommend any additional

measures be implemented to reduce impacts to tribal cultural resources and AB 52 consultation was concluded. Therefore, the proposed project would not cause a substantial adverse change in the significance of a tribal cultural resource that is listed on local or state registers. **(Less than Significant Impact with Mitigation Incorporated)**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

As discussed above under checklist question a), project area has a high sensitivity for buried Native American archaeological deposits and buried archaeological deposits. Refer to discussion under checklist question a) above. **(Less than Significant Impact with Mitigation Incorporated)**

3.18.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant tribal cultural resources impact?

The geographic area considered for tribal cultural resources is the project site and adjacent parcels (within 1,000 feet of the project sites). The cumulative projects listed in Table 3.0-1 may require excavation and grading or other activities that may affect tribal cultural resources. No prehistoric archaeological resources were identified in the project area. However, as noted previously, the project area is highly sensitivity for buried Native American archaeological deposits and buried archaeological deposits. The project and other cumulative projects would be required to implement Standard Permit Conditions or mitigation measures that would avoid impacts and/or reduce them to a less than significant level consistent with CEQA and AB 52 requirements. These projects would also be subject to the federal, state, and county laws regulating archaeological resources and human remains. Therefore, the project in combination with other cumulative projects would not result in a significant cumulative tribal cultural resources impact. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

3.19 Utilities and Service Systems

3.19.1 Environmental Setting

3.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in June 2021.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program. Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025. CalRecycle released an analysis titled “Analysis of the

Progress Toward the SB 1383 Organic Wase Reduction Goals" in August of 2020, which recommended maintaining the disposal reduction targets set forth in SB 1383.[102]

California Green Building Standards Code for Construction, Waste Reduction, Disposal and Recycling

In January 2010, the State of California adopted the California Green Building Standards Code, establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels or to meet the local construction and demolition waste management ordinance, whichever is more stringent (see San José-specific CALGreen building code requirements in the local regulatory framework section below):

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition ("C&D") debris, or meeting the local construction and demolition waste management ordinance, whichever is more stringent (see San José-specific CALGreen building code requirements in the local regulatory framework section below); and Providing readily accessible areas for recycling by occupants.

Local

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to utilities and service systems and applicable to the proposed project:

Policy	Description
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.

[102] CalRecycle. Analysis of the Progress Toward the SB 1383 Organic Wase Reduction Goals. August 18, 2020. https://www2.calrecycle.ca.gov/Publications/Details/1693#:~:text=Analysis%20of%20the%20Progress%20Toward,(DRRR%2D2020%2D1693)&text=SB%201383%20establishes%20targets%20to,75%20percent%20reduction%20by%202025.

Policy	Description
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.
EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

In addition to the above-listed San José General Plan policies, new development in San José is also required to comply with programs that mandate the use of water-conserving features and appliances and the Santa Clara County Integrated Watershed Management (IWM) Program, which minimizes solid waste.

San José Zero Waste Strategic Plan/Climate Smart San José

The Climate Smart San José provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San Jose goals, including 75 percent waste diversion by 2013 and zero waste by 2022. The Climate Smart San Jose also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

San José Sewer System Management Plan

The purpose of the Sewer System Management Plan (SSMP) is to provide guidance to the City in the operation, maintenance, and rehabilitation of the sewer assets of the City of San José. The SSMP includes construction standards and specifications for the installation and repair of the collection system and its associated infrastructure.

Private Sector Green Building Policy

The City of San José's Green Building Policy for new private sector construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building

goals early in the design process. This policy establishes baseline green building standards for private sector construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety, and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources.

Construction and Demolition Diversion Deposit Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50 percent of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The minimum project valuation for a deposit is $2,000 for an alteration-renovation residential project and $5,000 for a non-residential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if construction and debris materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities. Though not a requirement, the permit holder may want to consider conducting an inventory of the existing building(s), determining the material types and quantities to recover, and salvaging materials during deconstruction.

California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal and Recycling

The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that qualify under CALGreen, which is more stringent than the state requirement of 65 percent (San José Municipal Code Section 9.10.2480).

3.19.1.2 *Existing Conditions*

Water Service and Supply

Water service is provided to the City of San José by three water retailers, San José Water Company (SJWC), the City of San José Municipal Water System, and the Great Oaks Water Company. Water service to the project site is provided by the SJWC. The service area of SJWC is 139 square miles, including most of the cities of San José and Cupertino, the entire cities of Campbell, Monte Sereno, Saratoga, the Town of Los Gatos, and parts of unincorporated Santa Clara County. Potable water provided to the service area is sourced from groundwater, imported treated water, and local surface water. The site is currently developed with a general office building. The existing office

building has a water demand of approximately 5,843 gallons per day (gpd), or 2,132,808 gallons of water per year.[103] A 10-inch water line in North First Street delivers water to the site.

South Bay Water Recycling (SBWR) is the regional permit holder for recycled water in San José, Santa Clara and Milpitas, ensuring compliance with State regulations for recycled water quality and use. SBWR's recycled water system consists of over 150 miles of pipeline, five pump stations, and 10 million gallons of storage in reservoirs. Recycled water is used to irrigate large landscape areas and other non-potable applications. The site is not currently served with recycled water.

Sanitary Sewer/Wastewater Treatment

Wastewater from the project sites is treated at the San José-Santa Clara Regional Wastewater Facility (the Facility), which is administered and operated by the City's Department of Environmental Services. The Facility has the capacity to treat 167 million gallons per day (mgd) of wastewater during dry weather and treats 110 mgd on average.[104] The City of San José currently generates approximately 69.8 mgd of dry weather average flow, leaving 38.8 mgd of excess treatment capacity at the Facility for the City's wastewater treatment demands.[105]

Wastewater from the project site is conveyed to the City's sewer system via an eight-inch main line in North First Street. The General Plan Final EIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 85 percent of the total on-site water use. The existing use is assumed to generate approximately 1,812,887 gallons of wastewater per year or 4,967 gpd of wastewater.[106]

Storm Drainage

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. The project site is located within an urbanized area served by an existing storm drainage system. Currently, the project site is approximately 87 percent (approximately 18,048 square feet) covered with impervious surfaces. Surface runoff from the project site flows into a 24-

[103] Indoor water demand was calculated using a rate of 177,734 gallons per year per 1,000 square feet from CalEEMod. [177,734 gallons per year per 1,000 square feet * (12,000 square feet/1,000)] = 2,132,808 gallons per year of indoor water demand. Daily water demand calculated by dividing the annual water demand by 365 days. Source: California Air Pollution Control Officers Association. *California Emissions Estimator Model Version 2022.1 Appendix G, Default Data Tables*. April 2022. Table G-31.

[104] San José-Santa Clara Regional Wastewater Facility. "San José-Santa Clara Regional Wastewater Facility Fact Sheet." Accessed July 5, 2023. https://www.sanjoseca.gov/home/showpublisheddocument/32061/637267825445900000.

[105] City of San José. *Envision San José 2040 General Plan Integrated Draft Program Environmental Impact Report.* SCH: 2009072096. September 2011. Page 648.

[106] 132,808 gallons per year of indoor water demand * 0.85 = 1,812,887 gallons of wastewater per year. Daily wastewater generation calculated assuming 365 days of operation.

inch storm drain line or a 10-inch storm drain line in Bassett Street. Surface runoff from the Bassett Street storm drains discharge into the Guadalupe River watershed.[107]

Solid Waste

Santa Clara County's IWMP was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. Based on the IWMP, the County has adequate landfill capacity. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. According to the IWMP, the County has adequate disposal capacity beyond 2030. [108] Solid waste generated within the County is transported to Guadalupe Mines, Kirby Canyon, Newby Island, and Zanker Road landfills. The City has an existing contract with Newby Island Sanitary Landfill (NISL). As of February 2024, the NISL has a preliminary approximate remaining airspace of 11.4 cubic yards[109] and an estimated closure date of 2041.[110]

The existing office building on the project site generates approximately 11 tons of solid waste per year.[111]

3.19.2 Impact Discussion

For the purpose of determining the significance of the project's impact on utilities and service systems, would the project:

1) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?
2) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?
3) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?
4) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

[107] City of San José. "All Watersheds." Accessed October 30, 2023. https://www.sanjoseca.gov/home/showpublisheddocument/1240/636618313753300000.
[108] City of San José. *Envision San José 2040 General Plan Draft Program EIR*. June 2011. Page 631.
[109] CalRecycle. "Facility Information Toolbox (FacIT) Archived." April 15, 2023. https://www2.calrecycle.ca.gov/Docs/Home/GetDocument?publicKey=106232&opt=dln.
[110] Boccaleoni, Anthony. Republic Services. Personal Communication. May 12, 2023.
[111] Solid waste generation based on a CalEEMod rate of 0.930 ton per 1,000 square feet. (0.930 tons per 1,000 square feet * (12,000 square feet /1,000)] = 11.16 tons per year. Source: California Air Pollution Control Officers Association. *California Emissions Estimator Model Version 2022.1 Appendix G, Default Data Tables*. April 2022. Table G-36.

5) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

3.19.2.1 *Project Impacts*

a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Water Facilities

The proposed project would result in the construction of 118 new apartment units which would add approximately 337 residents to the site. The water demand expected for the proposed project would be approximately 4,279,338 gallons of water per year or 11,724 gpd (assuming 365 days of operation).[112] This would be an approximately 2,146,530 gallons per year increase (101 percent increase) or 5,881 gpd. The potable and irrigation water demands of the project would be met by SJWC, as is discussed under checklist question b) below. The project would connect to the existing 10-inch water line in North First Street. The project would not require the construction or expansion of water delivery systems or the expansion of the boundaries of the SJWC service area. Therefore, the project would not result in significant environmental effects related to the relocation or construction of new or expanded water facilities.

Sanitary Sewer and Wastewater System

The proposed project is estimated to generate 4,065,371 gallons of wastewater per year or 11,138 gpd of wastewater (assuming 365 days of operation).[113] The project would result in a net increase of 2,252,484 gallons per year or 6,171 gpd of wastewater compared to the existing office use.

Wastewater from the project site would be conveyed to the City's sewer system via the eight-inch diameter main line in North Second Street. Wastewater would then be treated at the Facility which has adequate capacity to accommodate the increased demand created by the project (refer to discussion under checklist question c). No relocation or construction of new or expanded treatment facilities would be required to serve the proposed project. The proposed project does not include the construction of any additional sewer mains or sewer lines, aside from lateral connections to

[112] Indoor water demand was calculated using a rate of 36,266 gallons per year per dwelling unit from CalEEMod. (36,266 gallons per year per dwelling unit * 118 dwelling units = 4,279,388 gallons per year of indoor water demand). Daily water demand calculated by dividing the annual water demand by 365 days. Source: California Air Pollution Control Officers Association. *California Emissions Estimator Model Version 2022.1 Appendix G, Default Data Tables*. April 2022. Table G-30.

[113] Wastewater is assumed to be 95 percent of the total on-site water use (4,279,338 gallons of water*0.95 = 4,065,371 gallons of wastewater). The General Plan Final EIR assumes residential wastewater generation is 95 percent of total water usage.

existing mains. Installation of sanitary sewer laterals for the new building would occur during grading of the site and would result in minimal impacts.

The project would comply with all applicable Public Works requirements to ensure sanitary sewer mains would have sufficient capacity to serve the proposed project. The General Plan Final EIR concluded that implementation of General Plan policies IN-3.3, IN-3.4, and IN-3.5, requiring future development to provide adequate sewer system capacity, would reduce project-level impacts to a less than significant level. In addition, the project would comply with CALGreen requirements and the City's Private Sector Green Building Policy. Since the proposed development is consistent with planned growth in the City, the project would not require expansion or relocation of the existing City infrastructure.

Stormwater Drainage

Impervious surfaces on-site would increase by approximately 1,315 square feet under project conditions. This net increase in impervious surfaces would result in a corresponding increase in stormwater runoff. While there would be a slight increase in stormwater runoff, the existing storm drainage system would continue to be able to accommodate the runoff from the project site. There are existing storm drain mains in Bassett Street, which would serve the project site. Installation of storm sewer laterals for the site areas would occur during grading of the site and would result in minimal impacts.

All new and redeveloped projects, including the project, regardless of size and land use would be required to implement post-construction BMPs and TCM consistent with City Policy No. 6-29, Post-Construction Urban Runoff Management. Compliance with these regional and local regulatory requirements would reduce stormwater runoff. Additionally, the project would be required to comply with the RWQCB MRP as described in Section 3.10 Hydrology and Water Quality. With the project's adherence to these requirements, the existing storm drainage system would have sufficient capacity to support the proposed project. For these reasons, no new storm water treatment or disposal facilities would need to be constructed to accommodate the proposed project.

Electric Power, Natural Gas, and Telecommunications

Existing utility lines would be utilized by the project for electric power and telecommunications services. No natural gas connections would be required since the building would be 100 percent electric. Although the project would increase the demand on existing facilities in the City, relocation of existing or construction of new facilities would not be needed to serve the proposed project. The project would be required to detail the exact locations for all utility connections and utility plans would be subject to review by the City. The project would coordinate with the appropriate electric power and telecommunication providers on providing service to the site. Therefore, the proposed project would not result in significant impacts from construction or relocation of new or expanded electric power, natural gas, or telecommunications utilities.

For the reasons above, the project would not require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities. Impacts would be less than significant. **(Less than Significant Impact)**

b) Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

As mentioned above, the proposed project would use approximately 4,279,338 gallons of water per year or 11,724 gpd. The project would increase the projected water demand compared to the existing office use.

The SJWC provides water service to the project site and adopted an UWMP in June 2021 to assess water supply and demand requirements within the service area. The UWMP accounted for existing and planned growth analyzed in the General Plan Final EIR (including the proposed project) and found insufficient water supplies would be available during normal, single-dry, and multiple-dry years within its service area without conservation measures.[114] In accordance with Section 10632(a) of the California Water Code, the UWMP included a water shortage contingency plan that includes measures such as annual water supply and demand assessment and conservation measures to address supply deficiencies, should one occur. Conservation measures include mandatory and voluntary measures such as reductions in the amount and time when landscaping can be irrigated, requiring automatic hose shutoffs, requiring restaurants to only provide water on request, requiring hotels to offer opt out of linen service, and restricting water use for decorative water features such as fountains and pools. These conservation measures would preserve water supplies during dry years. The project would also be designed to be water efficient with implementation of the CALGreen requirements and the City's Private Sector Green Building Policy. Therefore, sufficient water supplies would be available to serve the proposed project and reasonably foreseeable future development during normal and dry years. **(Less than Significant Impact)**

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

As described in checklist question a), wastewater generated by the proposed project (11,138 gpd) would be treated at the Facility. The City currently has approximately 38.8 mgd of excess wastewater treatment capacity. The proposed project would be consistent with the growth assumptions in the General Plan Final EIR and the Facility would have adequate capacity to serve 100 percent of the project's projected demand in addition to its existing commitments. **(Less than Significant Impact)**

[114] San Jose Water Company. 2020 Urban Water Management Plan. June 2021. Pages 7-24 through 7-26.

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

The project is estimated to generate up to 29 tons of solid waste per year. [115] Compared to existing conditions, the project would generate a net increase of up to 18 tons of solid waste per year.

Given the City's annual disposal allocation at NISL (709,000 tons per year[116]), NISL's remaining capacity (9.3 million tons), and the project's net increase in solid waste generation (18 tons), there is sufficient capacity at NISL to serve the project. In addition, the project would be required to conform to City plans and policies to reduce solid waste generation and increase waste diversion, such as the Zero Waste Strategic Plan and General Plan Policies IN-1.5, IN-5.1, IN-5.3, IN-5.4, and IP-3.8. The project would be required to meet the City's current diversion goal of 75 percent waste reduction and zero waste goal post-2022 by complying with the policies and strategies mandated in the City's Zero Waste Strategic Plan. The General Plan Final EIR determined that the increase in waste generated by build out of the General Plan (which includes the project) would not result in an exceedance of capacity at existing landfills or otherwise impair the attainment of solid waste reduction goals.[117] **(Less than Significant Impact)**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

Consistent with CALGreen requirements, the proposed project would be required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 75 percent of nonhazardous construction/demolition debris (by weight), and implement other waste reduction measures. Additionally, the estimated increases in solid waste generation from future development would be avoided through implementation of the City's Zero Waste Strategic Plan. By adhering to the requirements of CALGreen and the Zero Waste Strategic Plan, the project would not conflict with applicable statutes and regulations related to solid waste, including CALGreen, AB 939, AB 341, and local waste diversion requirements. **(Less than Significant Impact)**

[115] Indoor water demand was calculated using a rate of 0.247 tons per dwelling unit from CalEEMod. (0.247 tons per year per dwelling unit * 118 dwelling units = 29 tons of solid waste per year). Source: California Air Pollution Control Officers Association. *California Emissions Estimator Model Version 2022.1 Appendix G, Default Data Tables*. April 2022. Table G-36.

[116] The sum of the waste generated by the City sent to the landfill equates to 709,000 tons per year (260,000 tons comes from residential sources, 254,000 tons comes from commercial, industrial and institutional sources, and 195,000 tons comes from construction and demolition sources).

[117] City of San José. *Envision San José 2040 General Plan Integrated Draft Program Environmental Impact Report.* SCH: 2009072096. September 2011. Page 664.

3.19.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant utilities and service systems impact?

The geographic study area for cumulative impacts to utilities and service systems is citywide or within the applicable utility's service area.

Water Supply

The geographic area for cumulative water supply is the service area of the SJWC. The project (would be within normal growth projections for the SJWC system. As described above, SJWC has sufficient capacity to serve future development within the SJWC service area and the project. For these reasons, there is no significant cumulative water supply impact.

Wastewater Treatment Capacity

The geographic area for cumulative wastewater treatment is the service area of the Facility. As discussed under checklist question c), there is sufficient treatment capacity at the Facility for the build out of the General Plan and the project. Therefore, the project would not contribute to a significant cumulative impact to wastewater treatment capacity.

Solid Waste

The geographic area for cumulative landfill capacity is the County. As discussed under checklist question d), the General Plan Final EIR determined that the increase in waste generated by build out of the General Plan (which includes the project and the cumulative projects) would not result in an exceedance of capacity at existing landfills or otherwise impair the attainment of solid waste reduction goals. Cumulative projects in the City (including the project) would be required to conform to City plans and policies to reduce solid waste generation and increase waste diversion, such as the Zero Waste Strategic Plan and General Plan Policies IN-1.5, IN-5.1, IN-5.3, IN-5.4, and IP-3.8. As such, the cumulative projects would not result in a significant cumulative solid waste impact.

Solid Waste Reduction Regulations

All cumulative projects (including the project) are required to adhere to the requirements of the Zero Waste Strategic Plan and General Plan policies, thereby complying with applicable statutes and regulations related to solid waste, including CALGreen, AB 939, AB 341, and local waste diversion requirements. Therefore, the cumulative projects (including the project) would not contribute to a significant cumulative impact due to noncompliance with federal, state, or local management and reduction statues and regulations related to solid waste.

Based on the above, the project would not result in a cumulatively considerable contribution to a significant cumulative utilities and service systems impact. **(Less than Significant Cumulative Impact)**

3.20 Wildfire

3.20.1 Environmental Setting

3.20.1.1 *Existing Conditions*

The project site is located in an urbanized area of San José. The project site is not located in or near State responsibility areas or lands classified as Very High FHSZ. The project site is not in any fire hazard severity zone in a State Responsibility Area. The nearest Very High FHSZ is approximately 4.8 miles east of the project site.[118]

3.20.2 Impact Discussion

For the purpose of determining the significance of the project's impact on wildfire, if located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

1) Substantially impair an adopted emergency response plan or emergency evacuation plan?
2) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?
3) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?
4) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

3.20.2.1 *Project Impacts*

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **(No Impact)**

3.20.2.2 *Cumulative Impacts*

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in cumulative wildfire impacts. **(No Cumulative Impact)**

[118] California Department of Forestry and Fire Protection. "Wildland Hazard & Building Codes." Accessed April 18, 2023. https://egis.fire.ca.gov/FHSZ/.

Section 4.0 Growth-Inducing Impacts

Would the project foster or stimulate significant economic or population growth in the surrounding environment?

The CEQA Guidelines require that an EIR identify the likelihood that a proposed project could "foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment" (Section 15126.2[d]). This section of the EIR is intended to evaluate the impacts of such growth in the surrounding environment.

A project can have direct and/or indirect growth-inducement potential. Direct growth inducement results if a project involves construction of new housing that would result in new residents moving to the area. A project can have indirect growth-inducement potential if it establishes substantial new permanent employment opportunities (e.g., commercial, industrial, or governmental enterprises) or if it involves a substantial construction effort with substantial short-term employment opportunities and indirectly stimulates the need for additional housing and services to support the new employment demand. Similarly, under CEQA, a project could indirectly induce growth if it expands roadway capacity or removes an obstacle to additional growth and development, such as removing a constraint on required public services or utilities (e.g., adding a sewage treatment plant that has capacity to serve demand beyond the associated project).

The project is an "infill" project, meaning that the project area is within the City's existing boundaries, already served by existing infrastructure, and planned for urban uses. The project would result in direct population growth as a result of the approximately 337 new residents (refer to Section 3.14 Population and Housing). As discussed in Section 3.11 Land Use and Planning, the project is consistent with the Transit Residential General Plan designation. As discussed in Section 3.15 Public Services and Section 3.19 Utilities and Service Systems, the existing fire and police protection services, schools, park and recreational facilities, libraries, and utility service system have sufficient capacity to serve the proposed project while continuing to serve existing and planned development.

There are no undeveloped areas adjacent or in the immediate vicinity of the project site and the project would not remove any obstacles that would help facilitate additional growth that could significantly affect the physical environment. The project does not include the expansion of existing infrastructure that would facilitate growth in the project area or other areas of the City. Therefore, the project would not result in growth-inducing impacts beyond what was envisioned in the City's General Plan. **(Less than Significant Impact)**

Section 5.0 Significant and Irreversible Environmental Changes

Pursuant to CEQA Guidelines Section 15126.2(d), an EIR must identify significant irreversible environmental changes that would be caused by the proposed project being analyzed. Significant irreversible changes include the 1) irreversible use of nonrenewable resources, 2) commitment of future generations to similar use, and 3) irreversible damage resulting from environmental accidents associated with the project.

5.1 Irreversible Use of Nonrenewable Resources

Construction of the project would require the use of nonrenewable construction material, such as concrete, metals, plastics, and glass. Nonrenewable resources and energy would also be consumed during the manufacturing and transportation of building materials, preparation of the sites, and construction of the buildings. The City of San José encourages the use of building materials that include recycled materials and requires new development to meet minimum green building design standards. The project would be built to current codes (including Title 24, CalGreen, and Municipal Code), which require insulation and design to minimize wasteful energy consumption.

The operational phases would consume energy for multiple purposes including building heating and cooling, lighting, appliances, and electronics. Energy, in the form of fossil fuels, would be used to fuel vehicles traveling to and from the project site. The project would be required to comply with Title 24 and CALGreen requirements to reduce energy consumption. Additionally, the project would be 100 percent electric. In addition, the project would be required to prepare and implement a TDM plan to reduce project VMT (pursuant with the City of San José TDM Ordinance). Proposed TDM measures could include, but are not limited, to bike share stations and unbundling parking costs from property costs (refer to Section 3.17 Transportation). The TDM plan would incentivize the use of alternative methods of transportation to and from the site, which would reduce the project's gasoline demand. The project's location would also reduce gasoline use given the project site's proximity to existing transit and mixed of uses. In addition, the project is an infill development which would make use of underutilized land in proximity to existing regional roadways, transit, and amenities. For the reasons discussed above, the project would minimize the use of nonrenewable resources.

5.2 Commitment of Future Generations to Similar Use

Development of the project would commit resources to prepare the site, construct the building, and operate the building, but it would not result in development of undeveloped land. In addition, the project is an infill development which would make use of underutilized land by developing the sites at a higher density than it is currently. This would limit commitment of the project site to these uses for the useful life of the building, consistent with the City's General Plan. Development of the

project would not result in other land use changes in the surrounding area. For these reasons, the project would not commit future generations to changes in land use.

5.3 Irreversible Damage Resulting from Environmental Accidents Associated with the Project

The project does not propose hazardous uses, and its operation would not be expected to cause environmental accidents. As discussed in Section 3.9 Hazards and Hazardous Materials, there are no significant unmitigable hazards and hazardous materials conditions on-site or off-site that would substantially affect the public and surrounding environment. There are no significant unmitigable geology and soils impacts which would result from implementation of the project. For these reasons, the project would not result in irreversible damage that may result from environmental accidents.

Section 6.0 Significant and Unavoidable Impacts

A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the Project is implemented as it is proposed. The following significant and unavoidable impacts have been identified as resulting from the project:

- **Impact CUL-1 and CUL-C:** Implementation of the proposed project would result in the demolition of a building eligible for listing as a Candidate City Landmark and eligible for listing on the CRHR at 380 North First Street.

Section 7.0 Alternatives

CEQA requires that an EIR identify alternatives to a project as it is proposed. The CEQA Guidelines specify that the EIR should identify alternatives which "would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." The purpose of the alternatives discussion is to determine whether there are alternatives of design, scope, or location which would substantially lessen the significant impacts, even if those alternatives "impede to some degree the attainment of the project objectives" or are more expensive (CEQA Guidelines Section 15126.6).

In order to comply with the purposes of CEQA, it is important to identify alternatives that reduce the significant impacts anticipated to occur if the project is implemented and try to meet as many of the project's objectives as possible. The CEQA Guidelines emphasize a commonsense approach – the alternatives should be reasonable, "foster informed decision making and public participation," and focus on alternatives that avoid or substantially lessen the significant impacts. The range of alternatives selected for analysis is governed by the "rule of reason" which requires the EIR to discuss only those alternatives necessary to permit a reasoned choice. An EIR is not required to consider alternatives which are infeasible.

The three critical factors to consider in selecting and evaluating alternatives are, therefore: (1) the significant impacts from the proposed project which could be reduced or avoided by an alternative, (2) the project objectives, and (3) the feasibility of the alternatives available. These factors are discussed below.

7.1 Factors in Selecting Alternatives

7.1.1 Significant Impacts of the Project

As explained above, the CEQA Guidelines Section 15126.6 states that the alternatives analysis in an EIR should be limited to alternatives that are feasible and would avoid or substantially lessen any of the significant effects of the project and achieve most of the basic project objectives. Potentially significant environmental impacts that would result from the proposed Project are evaluated in Chapter 3.0, Environmental Setting, Impacts, and Mitigation Measures, of this EIR. As discussed throughout this EIR, with implementation of mitigation measures and standard requirements, many of the potentially significant impacts resulting from the project would be reduced to a less-than-significant level.

Impacts that would be mitigated to less than significant levels are summarized below.

- **Impact AIR-1:** The project construction would result in health risk impacts that exceed the BAAQMD single-source cancer risk threshold of 10 per million due to project construction DPM emissions.

- **Impact BIO-1.1:** Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.
- **Impact CUL-2:** Project ground disturbing activities could result in a substantial adverse change in the significance of an archaeological resource.
- **Impact HAZ-1:** Construction of the project could result in exposure of construction workers, adjacent uses, and the environment to soil contamination, including residual contamination from past pesticide and arsenic use associated with the railroad tracks.
- **Impact NOI-1:** Construction of the proposed project would result in noise generating activities above the City's noise construction threshold by exceeding 12 months and occurring within 500 feet of residential uses and 200 feet of commercial uses.
- **Impact NOI-2:** The project would exceed the City's vibration limit of 0.2 in/sec PPV for conventional buildings adjoining the project site.

The following impacts listed below and summarized in Section 6.0 Significant and Unavoidable Impacts would remain significant and unavoidable.

- **Impact CUL-1 and CUL-C:** Implementation of the proposed project would result in the demolition of a Candidate City Landmark building listed in the San José Historic Resources Inventory and eligible for listing on the CRHR at 380 North First Street.

7.1.2 Project Objectives

While CEQA does not require that alternatives must be capable of meeting all of the project objectives, their ability to meet most of the basic objectives is considered relevant to their consideration. As identified in Section 2.2 Project Objectives, the objectives for the project are as follows:

1) Provide a financially feasible plan for redevelopment of an underutilized surface parking lot and low-rise office building into housing.
2) Implement the City's General Plan Major Strategy #9: Destination Downtown, by contributing to focused development within the Downtown to support the General Plan's economic, fiscal, environmental, and urban design/placemaking goals.
3) Create an economically integrated neighborhood with new housing units, featuring both affordable and market rate rental apartments.
4) Develop as much housing as possible and feasible in a multi-story high-density building.
5) Provide a variety of unit plans suited for multiple family types - including studios, one bedroom units, and two bedroom units.
6) Establish bicycle and pedestrian friendly connectivity to public transit, recreation open spaces, and downtown San José.
7) Build new safe streets and promote pedestrian activity with active programs on the ground level with effective lighting.
8) Incorporate green and healthy development principles that include:

- Green construction and energy efficient building (i.e., 100 percent electric, PV panels, etc.),
- Reduced parking to promote walkable neighborhoods,
- Stormwater management, and
- Meeting Green Building Ordinance and the City's Reach Code.

7.2 Project Alternatives

The City considered the following alternatives to the proposed project:

- Location Alternative
- No Project Alternative
- Preservation Alternative – Relocation of Historic Resource Off-Site
- Preservation Alternative – Preservation of Historic Resource On-Site
- Reduced Density, Preservation Alternative

7.2.1 Feasibility of Alternatives

CEQA, the CEQA Guidelines, and case law interpreting CEQA and the CEQA Guidelines have found that feasibility can be based on a wide range of factors and influences. The CEQA Guidelines state that such factors can include (but are not necessarily limited to) the suitability of an alternate site, economic viability, availability of infrastructure, consistency with a general plan or with other plans or regulatory limitations, jurisdictional boundaries, and whether the project proponent can "reasonably acquire, control or otherwise have access to the alternative site (Section 15126.6[f][1])."

7.2.2 Project Alternatives Considered but Rejected from Further Analysis

7.2.2.1 *Location Alternative*

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is "whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location".[119]

Location alternatives are frequently considered to reduce the site-specific impacts of a project. Any project of this size and intensity could be expected to have similar operational impacts, as well as impacts associated with project construction. Alternative sites with less transit access could result in VMT impacts and could result in increased operational air pollutant emissions and noise from additional traffic trips.

[119] CEQA Guidelines Section 15126.6(f)(2)(A)

The Downtown area and surrounding neighborhoods have historic structures and historic districts throughout. A suitable alternative location within the Downtown area would not necessarily preclude impacts to historic structures on-site or adjacent. An alternative site outside the general Downtown area could reduce the impact to historic structures but could increase other impacts due to location relative to services. Further, a location alternative would still result in redevelopment of a site, and the location alternative's construction-related air quality and noise impacts would be comparable to the project because some amount of demolition and grading would be expected. Given that it would likely be infill development, there would also be similar sensitive receptors in proximity to the location alternative site. Other identified mitigated impacts to archaeological, biological resources and hazardous materials would likely remain the same as the project because this alternative would also include grading and excavation, as well as removal of all landscaping trees on-site. Therefore, since no suitable alternative site that could meet the basic objectives of the project would reduce all significant impacts, a feasible location alternative was not identified and was not evaluated further.

7.2.2.2 *Preservation Alternative – Relocation of the Historic Resource Off-Site*

As previously discussed, the on-site building is considered a historical resource under CEQA.

Historic buildings can be relocated in many circumstances, depending on structural condition, building materials, location, and the availability and suitability of a receiver site. Based on an assessment by the applicant's structural engineer, it was determined that relocation of the existing building to an alternative location is not feasible (refer to Appendix K of this EIR). In order to relocate the building, a large amount of soil (approximately 3,000 cubic yards) would need to be excavated around the perimeter of the building and the basement prior to lifting the building.[120] The building is a two-story concrete structure with a basement and has not been designed to be lifted from any point, and the foundations are the heaviest part of the structure. The main entry of the building is structurally independent from the base of the building with independent foundations. In order to relocate the building from its current location, the structural system would need to be selectively demolished in order to remove the architectural components prior to relocation. The building would also need to be divided into transportable sections[121], which could compromise the integrity of the building. Therefore, the building would have to be lifted from the foundations and it would not be possible to limit incidental horizontal and vertical movement during this process, which would impart loads on the structure that it was not designed for. This would likely cause severe damage or collapse of the structure. Any attempt to separate the structure into smaller pieces that could be reassembled later would be extremely difficult and would also cause significant damage to the structure. To reconnect the structure in a building code compliant way would necessitate adding significant structural members to the building that would change its appearance and ability to function in the same way. Therefore, relocation of the building was not considered further.

[120] Nelson, Bill. Principal Structural Engineer, Nelson Structural Engineers. Personal Communication. July 15, 2024.
[121] The building would need to be divided into section because of 1) the method of construction as noted above, 2) the limited size of the surrounding roadways, and 3) the surrounding development (including light rail infrastructure) and urban forest.

7.2.3 Project Alternatives Evaluated

This EIR evaluates the following alternatives:

- No Project Alternative
- Preservation Alternative, Preservation of Historic Resource On-Site
- Reduced Density, Preservation Alternative

7.2.3.1 *No Project Alternative*

The CEQA Guidelines [§15126(d)4] require that an EIR specifically discuss a "No Project" alternative, which shall address both "the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services."

No Project, No Development Alternative

The No Project Alternative would retain the existing 12,000 square foot office building as is (No Project, No Development Alternative).

Comparison of Environmental Impacts

The No Project, No New Development Alternative would avoid the project's mitigated and significant and unavoidable impacts to the environment, because it would not change existing conditions.

Relationship to Project Objectives

The No Project Alternative, No Development Alternative would not meet any of the project objectives outlined in Section 2.3 and 7.1.2 of this EIR. The City would lose the opportunity to redevelop an underutilized site within the Downtown area.

Conclusion

The No Project, No Development Alternative would avoid the project's impacts but would not meet any of the project objectives.

No Project, Redevelopment Alternative

If the proposed project were not approved, it is possible that an alternative development proposal may be proposed for the project site in the future. The Transit Residential designation allows for a maximum residential density of 250 dwelling units per acre, which translates to 122 units on the 0.49-acre site. Under the land use designation, the maximum floor area ratio for commercial uses is 12.0, up to 25 stories. Based on the General Plan land use designation and Zoning District for the

project site, permitted uses include a variety of high density residential, office, retail, hotels, and mixed uses. Under this alternative, it is assumed that the site would be developed at a similar intensity as the proposed project. Additionally, it would be speculative to assume that a future project would attempt to incorporate the eligible historic resource as part of its design because of the building's small footprint relative to the size of the full site. Retention of the building would not allow for the highest and best redevelopment and use of the site.

Comparison of Environmental Impacts

A summary comparison of the significant environmental impacts of the project and the No Project, Redevelopment Alternative is provided in Table 7.2-1. Given that this alternative would still result in the redevelopment of the project site, the alternative's construction-related air quality and noise impacts would be comparable to the project because amount of demolition and grading and proximity to sensitive receptors would be the same.

Other identified mitigated impacts to archaeological, biological resources and hazardous materials would remain the same as the project because this alternative would also include grading and excavation, as well as removal of all landscaping trees on-site.

As noted above, it would be speculative to assume this alternative would avoid demolition of the existing building.

Relationship to Project Objectives

Since the No Project, Redevelopment Alternative could consist of a variety of use types allowed under the General Plan and Zoning District, it would be speculative to assume that only housing would be developed on the site. The project's objectives are centered on providing a high-density residential building in proximity to transit. Any type of development that did not provide housing would not meet the project's objectives (Objectives 1 and 3 through 5). It is possible that this alternative could meet Objectives 2, and 6 through 8.

Conclusion

The No Project, Redevelopment Alternative would result in similar environmental impacts as the proposed project and would likely not fully meet the project's objectives as summarized above.

7.2.3.2 *Preservation Alternative – Preservation of Historic Resource On-Site*

As noted in Section 3.4, the building at 380 North First Street is eligible for listing on the CRHR and is eligible for listing as a Candidate City Landmark. Under this alternative, the historic resource would be retained on-site, and a new apartment building would be constructed on the remaining portion of the site. Under this alternative, it is assumed that the existing building would be converted to residential, yielding approximately 12 to 14 units.[122] In order to provide 118 rental units, the

[122] Lee, Chris. Architect, Studio T-SQ., Inc. Personal Communication. June 19, 2024.

proposed building would be increased from seven to a minimum of 12 stories (including one level of ground floor parking).[123] Under this alternative, it is assumed that parking would be provided in one level of ground floor parking.

Comparison of Environmental Impacts

A summary comparison of the significant environmental impacts of the project and the Preservation Alternative – Preservation of Historic Resource On-Site is provided in Table 7.2-1.

Under this alternative, construction air quality and noise impacts would be similar to the proposed project. Excavation for the new residential building with reduced footprint would result in slightly reduced air quality impacts compared to the one level of below grade parking assumed for the proposed project. However, it could also result in an extended construction timeframe depending on the total number of floors to be constructed.

This alternative's impacts to biological resource would remain the same as the proposed project. This alternative would have the same impact on nesting birds on or in the vicinity of the site due to tree removal. The significant unavoidable impacts to historic resources would be avoided under this alternative. Additional mitigation measures would be required to ensure the historic building would not be damaged during construction.

This alternative would still be required to implement all other mitigation measures, Standard Permit Conditions, and Conditions of Approval identified for the proposed project. As a result, the impacts to noise, hazardous waste, biological resources, and subsurface cultural resources would be reduced to a less than significant level consistent with the proposed project. Construction of this alternative would still require substantial excavation and construction that would contribute to cancer risk for nearby sensitive receptors.

This alternative would likely reduce the project's significant and unavoidable impact to historic resources. However, conversion of the building into residential would require improvements and building code updates that would necessitate alterations to the building that may or may not done in conformance with Secretary of the Interior Standards for Treatment of Historic Properties and in accordance with the California Historic Building Code.

Relationship to Project Objectives

Preservation Alternative – Preservation of Historic Resource On-Site would meet all the objectives for the proposed project.

[123] The footprint of the existing building takes up approximately 40 percent of the 0.49-acre lot. Under this alternative, 60 percent of the site would be developable. The proposed seven-story building is approximately 118,930 square feet or an average of 16,990 square feet per floor. Assuming 60 percent of the site would developable, each floor of the alternative would be approximately 10,194 square feet. To achieve the same number of rental units, it is assumed that this alternative would need to be a minimum of 11 stories. More floors might be required depending on the how many units could actually be accommodated per floor once all infrastructure (such as elevators) is accounted for.

Conclusion

The alternative would avoid the significant and unavoidable impact to the historic building, which would be preserved on-site and would meet all the project objectives.

7.2.3.1 *Reduced Density, Preservation Alternative*

The Reduced Density, Preservation Alternative would be a hybrid of the other alternatives which would retain the historic building and construct the proposed residential tower on the remainder of the site where the existing surface parking lot is located. The tower would be the same height as the proposed project, but the overall mass of the building would be reduced as a result of the smaller footprint. The footprint of the existing building takes up approximately 40 percent of the 0.49-acre lot. Under this alternative, 60 percent of the site would be developable. However, similar to the Preservation Alternative – Preservation of Historic Resource On-Site, this alternative would convert the existing building to residential, yielding approximately 12 to 14 units. It is assumed that this alternative would provide approximately 84 residential units (which represents a 70 percent unit reduction compared to the proposed project). The alternative would include one level of below grade parking, which would provide approximately 44 parking spaces.

Comparison of Environmental Impacts

A summary comparison of the significant environmental impacts of the project and the Reduced Density, Preservation Alternative is provided in Table 7.2-1.

Under this alternative, construction air quality and noise impacts would be slightly reduced compared to the proposed project since the amount of demolition would be reduced due to the retention of the historic building. In addition, this alternative would require a smaller basement level than the proposed project, which would result in less excavation and grading.

The impacts to biological resource would remain the same as the proposed project. This alternative would have the same impact on nesting birds on or in the vicinity of the site. The significant unavoidable impacts to historic resources would be avoided under this alternative. Additional mitigation measures would be required to ensure the historic building would not be damaged during construction of the residential tower next to it.

This alternative would still be required to implement all other mitigation measures, Standard Permit Conditions, and Conditions of Approval identified for the proposed project. As a result, the impacts to noise, hazardous waste, biological resources, and subsurface cultural resources would be reduced to a less than significant level consistent with the proposed project. Construction of this alternative would still require substantial excavation and construction that would contribute to cancer risk for nearby sensitive receptors.

This alternative would likely reduce the project's significant and unavoidable impact to historic resources. However, conversion of the building into residential would require improvements and

building code updates that would necessitate alterations to the building that may or may not done in conformance with Secretary of the Interior Standards for Treatment of Historic Properties and in accordance with the California Historic Building Code.

Relationship to Project Objectives

Preservation Alternative 2 would not meet the project's objectives to the same extent. Under this alternative, fewer residential units would be provided.

Conclusion

The alternative would avoid the significant and unavoidable impact to the historic building, which would be preserved on-site and would partially meet the project objectives.

7.2.4 Environmentally Superior Alternative

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. If the environmentally superior alternative is the "No Project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives (Section 15126.6(e)(2)).

Based on the above discussion, the environmentally superior alternative is the No Project, No Development Alternative. The No Project, No Development Alternative would retain the site in its current condition with the historic building. Retaining the status quo on the site would avoid all construction and operational impacts associated with the project, including the significant and unavoidable loss of the historic resource and air quality impacts from construction. Therefore, the No Project Alternative is the environmentally superior alternative; however, it would not achieve the project objectives.

CEQA Guidelines Section 15126.6 (e)(2) states that "if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives. Beyond the No Project Alternative, the Reduced Development, Preservation Alternative would be the environmentally superior alternatives.

The Reduced Development, Preservation Alternative would slightly reduce construction air quality and noise impacts compared to the proposed project since the historic building would be retained and less demolition is required. In addition, this alternative would require a smaller basement level than the proposed project, which would result in less excavation and grading. The biological resource impacts would remain the same as the proposed project. This alternative would have the same impact on nesting birds on or in the vicinity of the site. The significant unavoidable impacts to historic resources would be avoided under this alternative. This alternative would still be required to implement all other mitigation measures, Standard Permit Conditions, and Conditions of Approval identified for the proposed project. As a result, the impacts to noise, hazardous waste, biological resources, and subsurface cultural resources would be reduced to a less than significant level consistent with the proposed project. Construction of this alternative would still require

substantial excavation and construction that would contribute to cancer risk for nearby sensitive receptors.

The Reduced Development, Preservation Alternative would be the environmentally superior alternative beyond the No Project Alternative because it would avoid the project's significant and unavoidable impact to historic resources. However, it would only partially meet the project's objectives since it would provide 40 percent fewer residential units than the proposed project.

Table 7.2-1: Comparison of Impacts from Alternatives to the Proposed Project

Impacts	Proposed Project	No Project, No Development	No Project, Redevelopment	Preservation Alternative – Preservation of Historic Resource On-Site	Reduced Density, Preservation Alternative
Impact AIR-1: The project construction would result in health risk impacts that exceed the BAAQMD single-source cancer risk threshold of 10 per million due to project construction DPM emissions.	LTS/M	**NI**	LTS/M	LTS/M	LTS/M
Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.	LTS/M	**NI**	LTS/M	LTS/M	LTS/M
Impact CUL-1: Implementation of the proposed project would result in the demolition of an eligible CRHR listing and Candidate City Landmark at 380 North First Street.	SU	**NI**	SU	LTS/M	LTS/M
Impact CUL-3: Project ground disturbing activities could result in a substantial adverse change in the significance of an archaeological resource.	LTS/M	**NI**	LTS/M	LTS/M	LTS/M
Impact HAZ-1: Construction of the project could result in exposure of construction workers, adjacent uses, and the environment to soil contamination, including residual	LTS/M	**NI**	LTS/M	LTS/M	LTS/M

Impacts	Proposed Project	No Project, No Development	No Project, Redevelopment	Preservation Alternative – Preservation of Historic Resource On-Site	Reduced Density, Preservation Alternative
contamination from past pesticide and arsenic use associated with the railroad tracks.					
Impact NOI-1: Construction of the proposed project would result in noise generating activities above the City's noise construction threshold by exceeding 12 months and occurring within 500 feet of residential uses and 200 feet of commercial uses.	LTS/M	**NI**	LTS/M	LTS/M	LTS/M
Impact NOI-2: The project would exceed the City's vibration limit of 0.2 in/sec PPV for conventional buildings adjoining the project site.	LTS/M	**NI**	LTS/M	LTS/M	LTS/M
Meets Project's Objectives?					
Objective 1	Yes	No	Unknown	Yes	Partially
Objective 2	Yes	No	Yes	Yes	Partially
Objective 3	Yes	No	Unknown	Yes	Partially
Objective 4	Yes	No	Unknown	Yes	Partially
Objective 5	Yes	No	Unknown	Yes	Partially
Objective 6	Yes	No	Unknown	Yes	Partially
Objective 7	Yes	No	Unknown	Yes	Partially
Objective 8	Yes	No	Unknown	Yes	Partially

Notes: LTS/M = less than significant impact with mitigation incorporated; LTS = less than significant impact; NI = no impact

Bold text indicate being environmentally superior to the proposed project.

Section 8.0 References

The analysis in this Environmental Impact Report is based on the professional judgement and expertise of the environmental specialists preparing this document, based upon review of the site, surrounding conditions, site plans, and the following references:

Association of Bay Area Governments and Metropolitan Transportation Commission. *Plan Bay Area 2050*. October 21, 2021. Page 20.

Association of Bay Area Governments. "Tsunami Maps and Information." Accessed April 20, 2023. http://resilience.abag.ca.gov/tsunamis/.

Bay Area Air Quality Management District. *Final 2017 Clean Air Plan.* April 19, 2017. Page 12.

Bay Area Air Quality Management District. "Air Quality Standards and Attainment Status." Last Updated January 5, 2017. Accessed December 8. 2023.

Bay Area Air Quality Management District. *2022 California Environmental Quality Act Air Quality Guidelines*. April 2023.

Boccaleoni, Anthony. Republic Services. Personal Communication. May 12, 2023.

California Air Resources Board. "Advanced Clean Cars II." Accessed June 27, 2023. https://ww2.arb.ca.gov/our-work/programs/advanced-clean-cars-program/advanced-clean-cars-ii.

California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed February 7, 2024. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health.

California Department of Conservation. *Important Farmland Finder*. Accessed April 13, 2023. https://maps.conservation.ca.gov/DLRP/CIFF/.

California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed April 13, 2023 http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.

California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.

California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed April 13, 2023. http://frap.fire.ca.gov/.

California Department of Forestry and Fire Protection. "Wildland Hazard & Building Codes." Accessed April 18, 2023. https://egis.fire.ca.gov/FHSZ/.

California Department of Transportation. "Scenic Highways." Accessed April 13, 2023. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed February 24, 2022. http://hcd.ca.gov/community-development/housing-element/index.shtml.

California Energy Commission. "Electricity Consumption by County." Accessed September 29, 2023. http://ecdms.energy.ca.gov/elecbycounty.aspx.

California Energy Commission. "2022 California Annual Retail Fuel Outlet Report Results (CEC-A15) Energy Assessments Division." August 16, 2023. Accessed September 29, 2023. https://www.energy.ca.gov/data-reports/energy-almanac/transportation-energy/california-retail-fuel-outlet-annual-reporting.

California Energy Commission. *2022 Integrated Energy Policy Report Update*. May 10, 2023. Page 57.

California Energy Commission. "2016 Integrated Energy Policy Report." Accessed April 2, 2021. https://ww2.energy.ca.gov/2016_energypolicy/

California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Single-Family Residential." Revised July 15, 2022. Accessed January 18, 2024. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Single-family_Whats_New_Summary_ADA.pdf.

California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Multifamily." Revised August 4, 2022. Accessed January 18, 2024. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Multifamily_Whats_new_Summary_ADA.pdf.

California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Nonresidential." Revised August 4, 2022. Accessed January 18, 2024. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Nonresidential_Whats_New_Summary_ADA.pdf.

California Gas and Utilities. *2022 California Gas Report.* Pages 6 and 10.

California Legislative Information. "Chapter 2.7. Modernization of Transportation Analysis for Transit-Oriented Infill Projects [21099- 21099.]." Accessed April 13, 2023. https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PRC&division=13.&part=&chapter=2.7.&article=.

California Regional Water Quality Control Board. *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit.* November 2015.

California Regional Water Quality Control Board. *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit.* November 2015.

California Regional Water Quality Control Board San Francisco Region. Municipal Regional Stormwater NPDES Permit, Order No. R2-2022-0018, NPDES Permit No. CAS612008. May 11, 2022.

California State Water Resources Control Board. "2020-2022 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report)." Accessed April 20, 2023. https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html.

CARB. *2022 Scoping Plan for Achieving Carbon Neutrality*. November 16, 2022. Page 5.

CalEPA. "Cortese List Data Resources" Accessed April 18, 2023. https://www.envirostor.dtsc.ca.gov/public/map/?global_id=38330005

CalRecycle. Analysis of the Progress Toward the SB 1383 Organic Wase Reduction Goals. August 18, 2020. https://www2.calrecycle.ca.gov/Publications/Details/1693#:~:text=Analysis%20of%20the%20Progress%20Toward,(DRRR%2D2020%2D1693)&text=SB%201383%20establishes%20targets%20to,75%20percent%20reduction%20by%202025.

CalRecycle. "Facility Information Toolbox (FacIT) Archived." April 15, 2023. https://www2.calrecycle.ca.gov/Docs/Home/GetDocument?publicKey=106232&opt=dln.

City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011.

City of San José. "Public Property Detail." Accessed April 18, 2023. https://portal.sanjoseca.gov/deployed/sfjsp

City of San José. *Activate SJ Strategic Plan (2020-2040)*. Accessed April 21, 2023. https://www.sanjoseca.gov/your-government/departments-offices/parks-recreation-neighborhood-services/general-information/activatesj

City of San José. "All Watersheds." Accessed October 30, 2023. https://www.sanjoseca.gov/home/showpublisheddocument/1240/636618313753300000.

E.J. Helley, R.W. Graymer, G.A. Phelps, P.K. Showalter, and C.M. Wentworth. *Quaternary Geology of Santa Clara Valley, Santa Clara, Alameda, and San Mateo Counties, California: A digital database*. May 1994.

Federal Emergency Management Agency. *Flood Insurance Rate Map: Santa Clara County Panel 234 of 830*. Map Number 06085C0232H. May 18, 2009.

Metropolitan Transportation Commission. *Transit Priority Areas (2021)*. Accessed April 13, 2023. https://opendata.mtc.ca.gov/datasets/MTC::transit-priority-areas-2021-1/explore?location=37.339970%2C-121.895569%2C15.33

Office of Historic Preservation and Department of Parks and Recreation. *CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6*. Accessed February 8, 2024. https://ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

R.J. McLaughlin, J.C. Clark, E.E. Brabb, E.J. Helley, and C.J. Colon. USGS. *Geologic Maps and Structure Sections of the Southwestern Santa Clara Valley and Southern Santa Cruz Mountains, Santa Clara and Santa Cruz Counties, California*. 2001.

Rockridge Geotechnical. *Geotechnical Investigation Proposed Apartment Building 380 North First Street San José, California*. April 14, 2023.

Santa Clara County. *Geologic Hazard Zones*. Accessed April 18, 2023. https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=5ef8100336234fbdafc5769494cfe373

Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed April 18, 2023. https://scv-habitatagency.org/193/GIS-Data-Key-Maps.

San José Unified School District. "SchoolSite Locator." Accessed April 21, 2023. http://apps.schoolsitelocator.com/?districtcode=25499#.

San José Unified School District. SchoolSite Locator. Accessed May 8, 2023. https://portal.schoolsitelocator.com/apps/ssl/?districtcode=25499

San Jose Water Company. 2020 Urban Water Management Plan. June 2021. Pages 7-24 through 7-26.

San José-Santa Clara Regional Wastewater Facility. "San José-Santa Clara Regional Wastewater Facility Fact Sheet." Accessed July 5, 2023. https://www.sanjoseca.gov/home/showpublisheddocument/32061/637267825445900000.

State of California Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2021-2023, with 2020 Benchmark." May 2023. Accessed October 30, 2023. https://dof.ca.gov/forecasting/demographics/estimates/e-5-population-and-housing-estimates-for-cities-counties-and-the-state-2020-2023/.

U.S. Department of Agriculture. Custom Soil Resource Report of Santa Clara Area, California, Western Part. April 18, 2023.

United States Department of Energy. "Energy Independence & Security Act of 2007." Accessed September 29, 2023. http://www.afdc.energy.gov/laws/eisa.

United States Department of Transportation. "USDOT Announces New Vehicle Fuel Economy Standards for Model Year 2024-2026." September 29, 2023. Accessed September 29, 2023. https://www.nhtsa.gov/press-releases/usdot-announces-new-vehicle-fuel-economy-standards-model-year-2024-2026.

United States Energy Information Administration. "California State Energy Profile." Accessed January 9, 2024. https://www.eia.gov/state/print.php?sid=CA.

United States Energy Information Administration. "California Net Electricity Generation by Source." June 2023. Accessed September 29, 2023. https://www.eia.gov/state/?sid=CA#tabs-4.

United States Energy Information Administration. Energy Information Administration. "Petroleum & Other Liquids, California Field Production of Crude Oil." September 27, 2023. https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mcrfpca1&f=a

United States Environmental Protection Agency. "The 2022 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." December 2022. Accessed September 29, 2023. https://www.epa.gov/system/files/documents/2022-12/420r22029.pdf.

United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed February 8, 2024. https://www.epa.gov/superfund/superfund-cercla-overview.

United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed April 18, 2023. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.

California Environmental Protection Agency. "Cortese List Data Resources." Accessed April 18, 2023. https://calepa.ca.gov/sitecleanup/corteselist/.

United States Environmental Protection Agency. "EPA Actions to Protect the Public from Exposure to Asbestos." Accessed April 18, 2023. https://www.epa.gov/asbestos/epa-actions-protect-public-exposure-asbestos

United States Environmental Protection Agency. "EPA Actions to Protect the Public from Exposure to Asbestos." Accessed April 18, 2023. https://www.epa.gov/asbestos/epa-actions-protect-public-exposure-asbestos

Valley Water. *2021 Groundwater Management Plan, Santa Clara and Llagas Subbasins*. November 2021.

United States Environmental Protection Agency. *Waterbody Quality Assessment Report for 2016 Waterbody Report for Guadalupe River (Santa Clara Co.)*. 2016. Accessed April 20, 2023. https://mywaterway.epa.gov/community/95050/overview.

Section 9.0 Lead Agency and Consultants

9.1 Lead Agency

City of San José
Department of Planning, Building, and Code Enforcement
David Keyon, Principal Planner
Nhu Nguyen, Environmental Planner

9.2 Consultants

David J. Powers & Associates, Inc.
Environmental Consultants and Planners
Shannon George, Principal Project Manager
Natalie Noyes, Senior Project Manager
Mimi McNamara, Associate Project Manager
Ryan Osako, Graphic Artist

Evans & De Shazo
Archaeological and Historical Resources Consultants
Sally Evans, Principal Archaeologist
Stacey De Shazo, Principal Architectural Historian
Nicole LaRochelle, Architectural Historian

HMH
Arborist
William Sowa, Principal, Vice President

Hexagon Transportation Consultants
Transportation Consultants and Engineers
Robert Del Rio, Vice President, Principal
Luis Descanzo, Associate

Illingworth & Rodkin, Inc.
Air Quality and Acoustical Consultants
James Reyff, Principal
Michael Thill, Principal
Carrie Janello, Senior Consultant
Casey Divine, Consultant

Rockridge Geotechnical
Geotechnical Engineers and Consultants
Craig S. Shields, Principal Engineer
Darcie Maffioli, Senior Engineer

Silicon Valley Environmental Group, Inc
Phase I Environmental Services
Stuart G. Solomon, Senior Assessor

Section 10.0 Acronyms and Abbreviations

AASHTO	American Association of State Highway Transportation Officials
AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACE	Altamont Commuter Express
ACM	asbestos-containing material
AIA	Airport Influence Area
ALUC	Airport Land Use Commission
AMP	Archaeological Monitoring Plan
APN	Assessor's Parcel Number
ATCM	air toxic control measure
BAAQMD	Bay Area Air Quality Management District
Bay Area	San Francisco Bay Area
BMP	Best Management Practice
bgs	below ground surface
Btu	British thermal unit
CAAQS	California Ambient Air Quality Standard
CAL FIRE	California Department of Forestry and Fire Protection
Cal/OSHA	California Department of Industrial Relations, Division of Occupational Safety and Health
CalARP	California Accidental Release Prevention
CalEEMod	California Emissions Estimator Model
CalEPA	California Environmental Protection Agency
CALGreen	California Green Building Standards
Caltrans	California Department of Transportation
CARB	California Air Resources Board
CBC	California Building Standards Code
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CDDD	Construction and Demolition Diversion Deposit
CFC	chlorofluorocarbon

CFR	Code of Federal Regulations
CGS	California Geological Survey
CHRIS	California Historical Resources Information Systems
CH_4	methane
CLUP	Comprehensive Land Use Plan
CMP	Congestion Management Program
CNEL	Community Noise Equivalent Level
CO	carbon monoxide
CO_2	carbon dioxide
CO_2e	carbon dioxide equivalents
CREC	Controlled Recognized Environmental Concern
CRHR	California Register of Historical Resources
CUPA	Certified Unified Program Agency
dBA	A-weighted decibel
DNL	Day/Night Average Sound Level
DPM	diesel particulate matter
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
EO	Executive Order
EPA	Environmental Protection Agency
ESA	Environmental Site Assessment
EV	Electric vehicle
EVSE	Electric vehicle supply equipment
FAA	Federal Aviation Administration
FAR	Federal Aviation Regulations
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zone
FIRM	Flood Insurance Rate Map
FMMP	Farmland Mapping and Monitoring Program
FTA	Federal Transit Administration
GHG	greenhouse gas
GHGRS	Greenhouse Gas Reduction Strategy

GWh	gigawatt hour
GWP	Global Warming Potential
GWMP	Groundwater Management Plan
Habitat Plan	Santa Clara Valley Habitat Plan
HABS	Historic American Building Survey
HFC	hydrofluorocarbon
HRI	Historic Resources Inventory
HOV	high-occupancy vehicle
HSWA	Hazardous and Solid Waste Amendments
HVAC	heating, ventilation, and air conditioning
ibid	Same source as previous footnote
IWIM	Integrated Watershed Management
kWh	kilowatt-hour
kBtu	one thousand British thermal units
L_{eq}	Energy-Equivalent Sound/Noise Descriptor
L_{max}	Maximum A-weighted noise level during a measurement period
LBP	lead-based paint
LID	Low Impact Development
LOS	Level of Service
LRA	Local Responsibility Area
LTA	Local Transportation Analysis
MBTA	Migratory Bird Treaty Act
MEI	maximally exposed individual
mgd	million gallons per day
$MMTCO_2e$	million metric tons of carbon dioxide equivalent
MND	Mitigated Negative Declaration
mpg	miles per gallon
MRP	Municipal Regional Permit
MSL	mean sea level
MTC	Metropolitan Transportation Commission
N_2O	nitrous oxide
NAAQS	National Ambient Air Quality Standard

NAHC	Native American Heritage Commission
NCP	National Contingency Plan
NESHAP	National Emission Standards for Hazardous Air Pollutants
NFIP	National Flood Insurance Program
NISL	Newby Island Sanitary Landfill
NO_2	nitrogen dioxide
NOA	naturally occurring asbestos
NOD	Notice of Determination
NOP	Notice of Preparation
NO_x	nitrogen oxides
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
NWIC	Northwest Information Center
NOI	Notice of Intent
OPR	Office of Planning and Research
O_3	ozone
PCB	polychlorinated biphenyls
PCBE	Planning, Building and Code Enforcement
PEC	Potential Environmental Concern
PFC	perfluorocarbon
PDA	Priority Development Areas
PDO	Parkland Dedication Ordinance
PG&E	Pacific Gas and Electric Company
PI	Plasticity Index
PIO	Park Impact Ordinance
PM	particulate matter
PM_{10}	particulate matter with a diameter of 10 microns or less
$PM_{2.5}$	particulate matter with a diameter of 2.5 microns or less
ppm	parts per million
PPV	Peak Particle Velocity
R&D	Research and Development
RAP	Removal Action Plan

RCRA	Resource Conservation and Recovery Act
REC	Recognized environmental condition
RHNA	Regional Housing Need Allocation
ROG	reactive organic gases
RTP	Regional Transportation Plan
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SBWR	South Bay Water Recycling
SCS	Sustainable Communities Strategy
SF_6	sulfur hexafluoride
SFHA	Special Flood Hazard Area
SFPUC	San Francisco Public Utilities Commission
SHMA	Seismic Hazards Mapping Act
SJCE	San José Clean Energy
SJFD	San José Fire Department
SJPD	San José Police Department
SJUSD	San José Unified School District
SJWC	San José Water Company
SMARA	Surface Mining and Reclamation Act
SMGB	State Mining and Geology Board
SMP	Site Management Plan
SO_x	sulfur oxides
SR	State Route
SRA	State Responsibility Area
SSMP	Sewer System Management Plan
SWRCB	State Water Resources Control Board
SWPPP	Storm Water Pollution Prevention Plan
TACs	Toxic Air Contaminants
TCM	Treatment Control Measures
TCR	Tribal Cultural Resources
TDM	Transportation Demand Management
Title 24	Title 24, Part 6 of the California Code of Regulations

TMDL	total maximum daily loads
TSCA	Toxic Substances Control Act
UPRR	Union Pacific Railroad
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
UWMP	urban water management plan
Valley Water	Santa Clara Valley Water District
VMT	vehicle miles traveled
VTA	Santa Clara Valley Transportation Authority
Williamson Act	California Land Conservation Act
WUI	wildland-urban interface
ZNE	zero net carbon emission