Environmental Impact Report

1000 De Anza Residential Project

Prepared by

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with

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ENVIRONMENTAL CONSULTANTS & PLANNERS

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Project Overview

The project site is located at 1000 South De Anza Boulevard. The site is approximately 0.72 acres in gross area and has the General Plan designation of Neighborhood/Community Commercial (NCC) and is located in the Commercial Pedestrian (CP) Zoning District.

The proposed project would involve the demolition of the single-story commercial structure located at 1000 South De Anza Boulevard (372-26-018) in the City of San José. The proposed project would utilize the 'Builders Remedy' provision under State law for jurisdictions which, at the time of application filing do not have a certified Housing Element to construct a seven-story, 120-unit residential building with 5,017 square feet of common open space and a 148-stall parking area with mechanical lifts and eight outdoor guest parking spaces. The building would be 91 feet tall from the top of the grade to the roofline.

Summary of Significant Impacts

The following table summarizes the significant effects and mitigation measures addressed within this Environmental Impact Report (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, & Mitigation.

Significant Impacts	**Mitigation and Avoidance Measures**
Air Quality	
Impact AIR-1: The proposed project would result in a construction cancer risk of 72.00 cases per million and a $PM_{2.5}$ exhaust exposure of 0.47 µg/m,^{3} which would exceed the Air District threshold of 10 cases per million and 0.3 µg/m,^{3} respectively.	**MM AIR-1.1** Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning, Building and Code Enforcement, or the Director's designee, that includes specifications of the equipment to be used during construction. 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. • 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 Tier 4 Final emission standards for PM (PM_{10} and $PM_{2.5}$), if feasible, otherwise: – If use of Tier 4 Final equipment is not available, the contract will alternatively use equipment that meets 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 an 87 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination). – Install electric power lines during early construction phases in order to electrify generators, concrete/industrial saws, and pressure washers during the initial construction period from 2025 through 2027. Alternatively, prior to issuance of any demolition, grading, or building permits (whichever occurs earliest), the applicant may instead develop another construction operations plan demonstrating that the construction equipment used on-site would achieve a reduction in construction diesel particulate matter emissions by 87 percent or greater. Elements of the plan could include a combination of some of the following measures: • Partial use of Tier 4 Final engines or alternatively fueled equipment, • Installation of electric power lines during early construction phases to avoid use of diesel generators and compressors, • Use of electrically-powered equipment, • Forklifts and aerial lifts used for exterior and interior building construction shall be electric or propane/natural gas powered, • Change in construction build-out plans to lengthen phases, and • Implementation of different building techniques that result in less diesel equipment usage. **MM AIR-1.2** The proposed project will include enhanced Best Management Practice measures to control dust and other particulate matter on-site. The Best Management Practice measures must be included in the construction operations plan which will be provided to the Director of Planning, Building and Code Enforcement, or the Director's designee for review prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest). These Best Management Practices to control dust and particulate matter include but are not limited to: • Limit the simultaneous occurrence of excavation, grading, and ground-disturbing construction activities. • Install wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of

	construction. Wind breaks should have at maximum 50 percent air porosity. • Plant vegetative ground cover (e.g., fast-germinating native grass seed) in disturbed areas as soon as possible and watered appropriately until vegetation is established. • Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent. • Minimize the amount of excavated material or waste materials stored at the site. • Hydroseed or apply non-toxic soil stabilizers to construction areas, including previously graded areas, that are inactive for at least 10 calendar days.
Biological Resources	
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.	**MM BIO-1.1** Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive. If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities unless a shorter lead time for the pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the qualified ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the qualified ornithologist shall designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction. Prior to any tree removal, or approval of any grading or demolition permits, the project applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee.

Cultural Resources	
Impact CUL-1: The proposed project would disturb the soils on the project site and would result in the disturbance of undiscovered archeological resources if they are present.	**MM CUL-1.1** 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 project archaeologist in collaboration with a Native American 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. 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.
Hazardous Materials	
Impact HAZ-1: The surface and sub-surface soils on-site could be contaminated due to past agricultural operations. Implementation of the project could expose construction workers and adjacent land uses to residual agricultural soil contamination.	**MM HAZ-1.1** Prior to the issuance of any demolition or grading permit, the project applicant shall retain an environmental professional to collect shallow soil samples on the project site to determine whether organochlorine pesticides and metals (e.g., arsenic and lead) from previous agricultural operations are present on-site at concentrations above established residential environmental screening levels (ESLs). 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 Environmental Compliance Officer of the City of San José Environmental Services Department for review. If pesticide contaminated soils 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 residents and visitors. Evidence of regulatory oversight and a regulatory approved plan shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building and Code Enforcement Department and the Environmental Compliance Officer in the City of San José Environmental Services Department.

NOISE	
Impact NOI-1 Project construction activities cause increased noise levels for a period of more than 12 months, which may cause adverse construction noise impacts on nearby residential and commercial land uses.	**MM NOI-1.1** Pursuant to General Plan Policy EC-1.7, the project applicant shall prepare 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. The construction noise logistics plan shall be submitted to the Director of Planning, Building, and Code Enforcement, or the Director's Designee, for review and approval prior to issuance of a demolition, grading, or building permit (whichever occurs the earliest). Project construction operations shall use best available noise suppression devices and techniques including, but not limited to the following: • Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building, and Code Enforcement, or the Director's designee, that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. • Construct solid plywood fences around ground level construction site adjacent to operational businesses, residences, or other noise-sensitive land uses. A temporary 8-foot noise barrier would provide 5 dBA attenuation for adjacent residential land uses when construction activities occur at the ground level. • If complaints made by nearby residences to the north or to the east are irresolvable, erect a temporary noise control blanket barrier, where feasible, at the property line or on scaffolding just outside the proposed towers facing the residences during construction of the upper floors. This would control construction noise when activities do not occur at the ground level.

	• 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. • 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: Construction vibration levels at the adjacent preschool would range from 0.022 to 0.575, exceeding the General Plan threshold of 0.2 in/sec PPV for buildings of conventional construction.	**MM NOI-2.1** Prior to the issuance of a demolition, grading, or building permit (whichever occurs the earliest, the project applicant shall prepare and submit a Construction Vibration Operations Plan to the Director of Planning, Building, and Code Enforcement, or the Director's Designee. The following measures shall be included in the plan and implemented during construction to reduce vibration levels to 0.2 in/sec PPV or less at the adjacent preschool: • 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 Director of Planning, Building, and Code Enforcement, or the Director's Designee, 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 as far as possible from vibration-sensitive receptors. • 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 adjacent conventional building. • Avoid using vibratory rollers and clam shovel drops near sensitive areas. • Select demolition methods not involving impact tools. • Modify/design or identify alternative construction methods to reduce vibration levels below the limits. • 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 adjacent conventional buildings. • Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.
Transportation	
Impact TRAN-1: The proposed project would result in a VMT of 12.65 per resident which would exceed the threshold of 15 percent below the citywide average, 11.39.	**MM TRAN-1.1** Prior to the issuance of building occupancy permits, the project applicant shall prepare and submit a final Transportation Demand Management (TDM) plan with measures to reduce trips associated with the proposed project. The final TDM Plan shall be submitted to the Director of the Department of Planning, Building, and Code Enforcement or the Director's Designee and the Director of the Department of Transportation or their designee. The traffic report identified a series of options for VMT reduction measures and the applicant is proposing a single measure, included in the traffic report, to reduce the VMT below the threshold. The following measure will be incorporated in the Traffic Demand Management Plan for the proposed project: • **Unbundle On-Site Parking Costs (Tier 4):** The project applicant shall unbundle the cost of a parking space from the rental price of the property. The project will be required to charge the $220 rate, as adjusted over time for inflation as a part of the TDM plan. In addition, as part of the unbundling on-site parking measure, the project is required to include an annual

	monitoring requirement as part of the TDM plan, which establishes an average daily trip (ADT) cap generated by the project of 38 gross AM peak-hour trips and 40 gross PM peak-hour trips.

SUMMARY OF ALTERNATIVES

CEQA requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines specify that an EIR identify alternatives which "would feasibly attain the most basic objectives of the project but avoid or substantially lessen many of the significant environmental effects of the project," or would further reduce impacts that are considered less than significant with the incorporation of identified mitigation. As detailed in the table above, the significant impacts of the project primarily occur during construction and affect air quality, biological resources, cultural resources, hazards and hazardous materials, and noise/vibration, while upon occupancy, the project would result in a significant transportation impact requiring mitigation. The alternatives have been developed to reduce one or more of the significant impacts of the proposed project.

No Project

The No Project Alternative would retain the existing land use on-site as is, a commercial building and associated parking area. If the project site was to remain developed as is, the significant impacts resulting during construction of the proposed project would not occur. This alternative would maintain the baseline conditions, however, the vacant restaurant on site would be occupied, which would generate traffic, air pollutants, greenhouse gases, consume non-renewable resources, place demands on utilities and public services, and generate noise, although all impacts would remain at levels below those that would be caused by the redevelopment of the site with the proposed residential project.

Base General Plan and Zoning District Development Alternative – Commercial Development

The Base General Plan and Zoning District Development Alternative would not allow the proposed residential project as designed and would instead allow for the future construction of another development consistent with the General Plan designation of Neighborhood/Community Commercial (NCC), as well as the development regulations of the CP Commercial Pedestrian Zoning District. This General Plan designation and commercial zoning allows for a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas. General office uses, hospitals and private community gathering facilities are also allowed in this designation. The FAR for any development under the existing General Plan designation would be allowed to have a FAR of up to 3.5 and could range from one to five stories tall (approximately 109,000 square feet of commercial space). A commercial development under the current General Plan designation and CP Zoning District would be shorter than the proposed project and would have a lower floor area (proposed project floor area is 111,932 square feet, FAR of approximately 3.56). Redevelopment of the site consistent with the existing General Plan Designation and Zoning District could result in replacement of the existing restaurant building with a similar or larger commercial

building, which would likely lead to an increase in operational impacts compared to the existing commercial building, as well as construction impacts.

Base General Plan and Zoning District Development Alternative – Affordable Residential Development

The Base General Plan and Zoning District Development Alternative would not allow the proposed project as designed and would instead allow for the future construction of another development consistent with the General Plan designation of Neighborhood/Community Commercial (NCC), as well as the development regulations of the CP Commercial Pedestrian Zoning District. This General Plan designation and commercial zoning allows for one hundred percent (100%) deed restricted affordable housing developments that are consistent with General Plan Policy H-2.9 and Policy IP-5.12. The FAR for any development under the existing General Plan designation would be allowed to have a FAR of up to 3.5 and could range from one to five stories tall (approximately 109,000 square feet of commercial space). The FAR requirement of this designation could be waived with density bonus waivers if the proposed project is 100 percent affordable. The site was also identified as a potential housing site in the City of San José Housing Element 2023 update for 51 affordable housing units. A development consistent with the existing General Plan Designation and Zoning District could result in a high-density 100% affordable residential building that is likely smaller in scale than the proposed project could be developed.

AREAS OF KNOWN CONTROVERSY

Section 15123 of the State 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. Area of public concern include:

The comment letters received in response to the Notice of Preparation are included in Appendix I of this document. Areas of controversy included tree removal, identification of flood zones, vibratory impacts on nearby residential structures, noise impacts, parking issues.

All substantive environmental issues raised in the Notice of Preparation comment letters have been addressed in this Draft EIR.

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 1000 South De Anza Residential 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 April 29th, 2024. The standard 30-day comment period concluded on May 29th, 2024. 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 of San José also held a public scoping meeting on May 13th, 2024 to discuss the project and solicit public input as to the scope and contents of this EIR. The meeting was held on a Zoom video conference at 6:30 pm. 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:

Nhu Nguyen, Planner I
Planning, Building & Code Enforcement Department

City of San José
200 East Santa Clara Street
San José, CA 95113
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 available for public inspection and 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 project site is located at 1000 South De Anza Boulevard in the City of San José. The site is approximately 0.72 acres of gross area and has the General Plan land use designation of Neighborhood/Community Commercial (NCC) and is located in the Commercial Pedestrian (CP) Zoning District. The project site is currently developed with a restaurant building and 32 space parking lot and is adjacent to a restaurant to the north, a preschool to the south and a two-story apartment to the east. The location of the project site can be seen in the regional, vicinity and aerial context in Figures 2.1-1, 2.1-2, and 2.1-3 below.

The NCC General Plan land use designation supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. Neighborhood / Community Commercial uses typically have a strong connection to and provide services and amenities for the nearby community and should be designed to promote that connection with an appropriate urban form that supports walking, transit use and public interaction. General office uses, hospitals and private community gathering facilities are also allowed in this designation. This designation also supports one hundred percent (100%) deed restricted affordable housing developments that are consistent with General Plan Policy H-2.9 and Policy IP-5.12.

The project site is also located within the South De Anza Urban Village area which was determined to have a growth capacity of 463 units of residential development in the Envision 2040 General Plan. Additionally, the site was identified in the 2023-2031 Housing Element as an inventory site for 51 lower-income units.

The CP Zoning District allows for pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the General Plan related to Neighborhood Business Districts. The CP Commercial Pedestrian District also encourages mixed residential/ commercial development where appropriate and is designed to support the commercial goals and policies of the general plan in relation to Urban Villages. This district is also intended to support intensive pedestrian-oriented commercial activity and development consistent with General Plan urban design policies.

2.2 Project Description

The proposed project would involve the demolition of the single-story commercial structure located at 1000 South De Anza Boulevard (372-26-018) in the City of San José. The proposed project would utilize the 'Builders Remedy' provision under State law, Assembly Bill 1893, for jurisdictions which do not have a certified Housing Element at the time of application filing to construct a seven-story, 77,660 square foot, 120-unit residential building with 5,017 square feet of common open space and a 148-stall parking area with mechanical lifts and eight outdoor guest parking spaces. The building

would be 91 feet tall from the top of the grade to the roofline. 16 units in the building are included as below market rate affordable living spaces.

The first floor of the residential building would include a fitness area and bike lockers in addition to the parking garage for the site. Additionally, on the second floor, the building would feature a pool, barbeque area, and resident lounge along with the residential units. The remaining five floors would feature residential units. On the roof of the structure, the project would feature a lounge and outdoor seating area adjacent to rooftop solar panels.

The project would also include mechanical equipment such as an electrical transformer and heating, ventilation, and air conditioning units (HVAC). The electrical transformer would be located in the northwest corner of the site adjacent to the proposed electrical room. The HVAC units would be located on the rooftop along the north and west sides of the building, and also on the southwest corner of the rooftop. The layout of the project and project elevations can be seen in Figures 2.2-1 and 2.2-2 respectively.

2.2.1 Construction Information

The proposed project would be constructed over 14 months and would start as soon as January 2026. The construction of the proposed project would not require pile driving and would involve excavation of a maximum of 10 feet below the ground surface. This excavation would remove approximately 468 cubic yards of soil.

2.2.2 Green Building Features

The proposed project includes all electric appliances and would implement all REACH codes and Green energy standards required by the City of San José. The western side of the project rooftop would have four areas where solar panels would be installed, which would be able to provide approximately 46,000 Kw of energy production upon project occupancy.

2.2.3 Landscaping and Tree Replacement

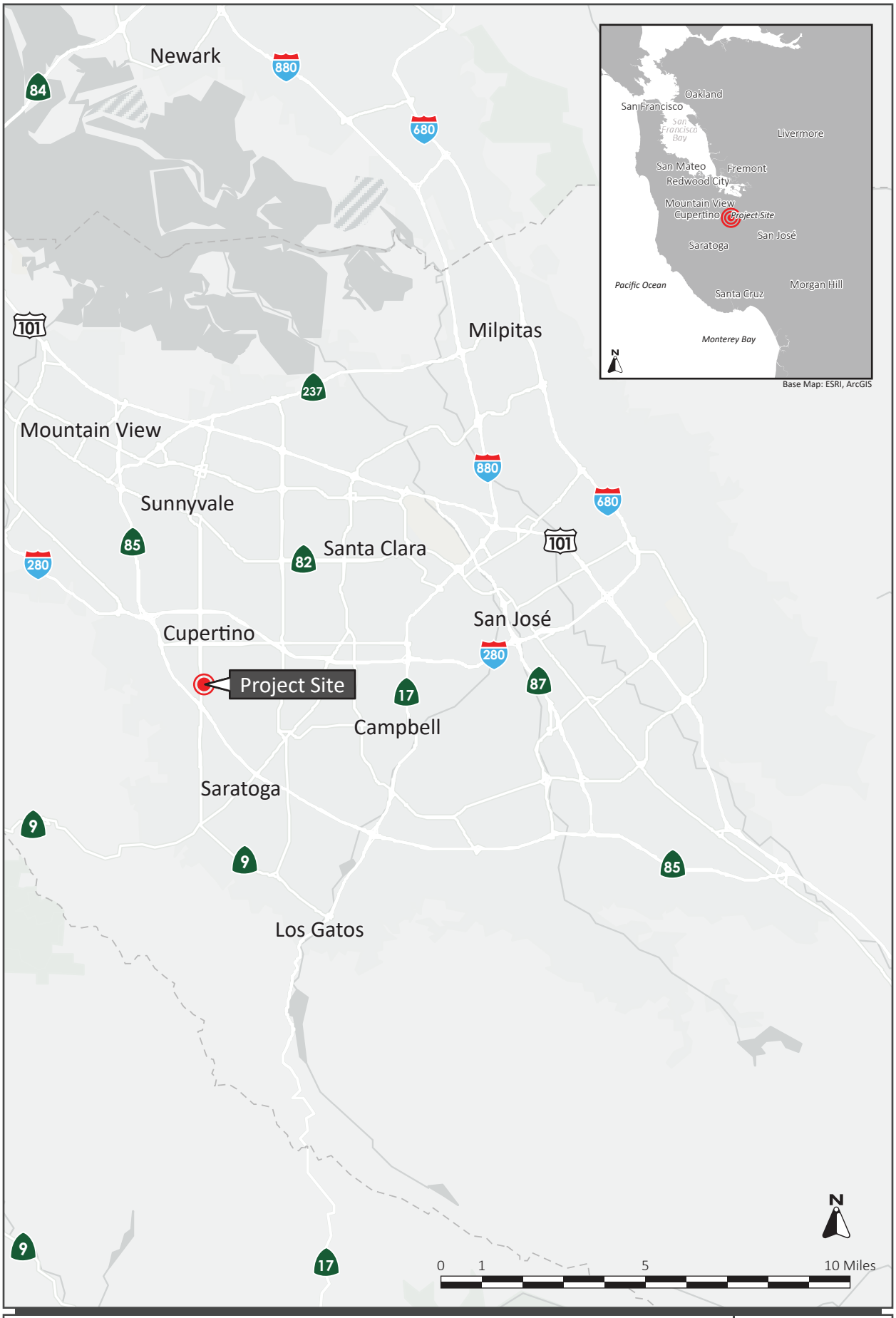
The proposed project would remove 13 trees from the project site. In totality, the proposed project would plant 31 trees, including three trees on sidewalk tree wells. Landscaping for the project would be predominately located on the north side of the site in a bioretention area. The remaining landscaping would be on the perimeter of the project site on the south and east side of the structure including some shrubs and intermittent trees.

2.2.4 Transportation Improvements

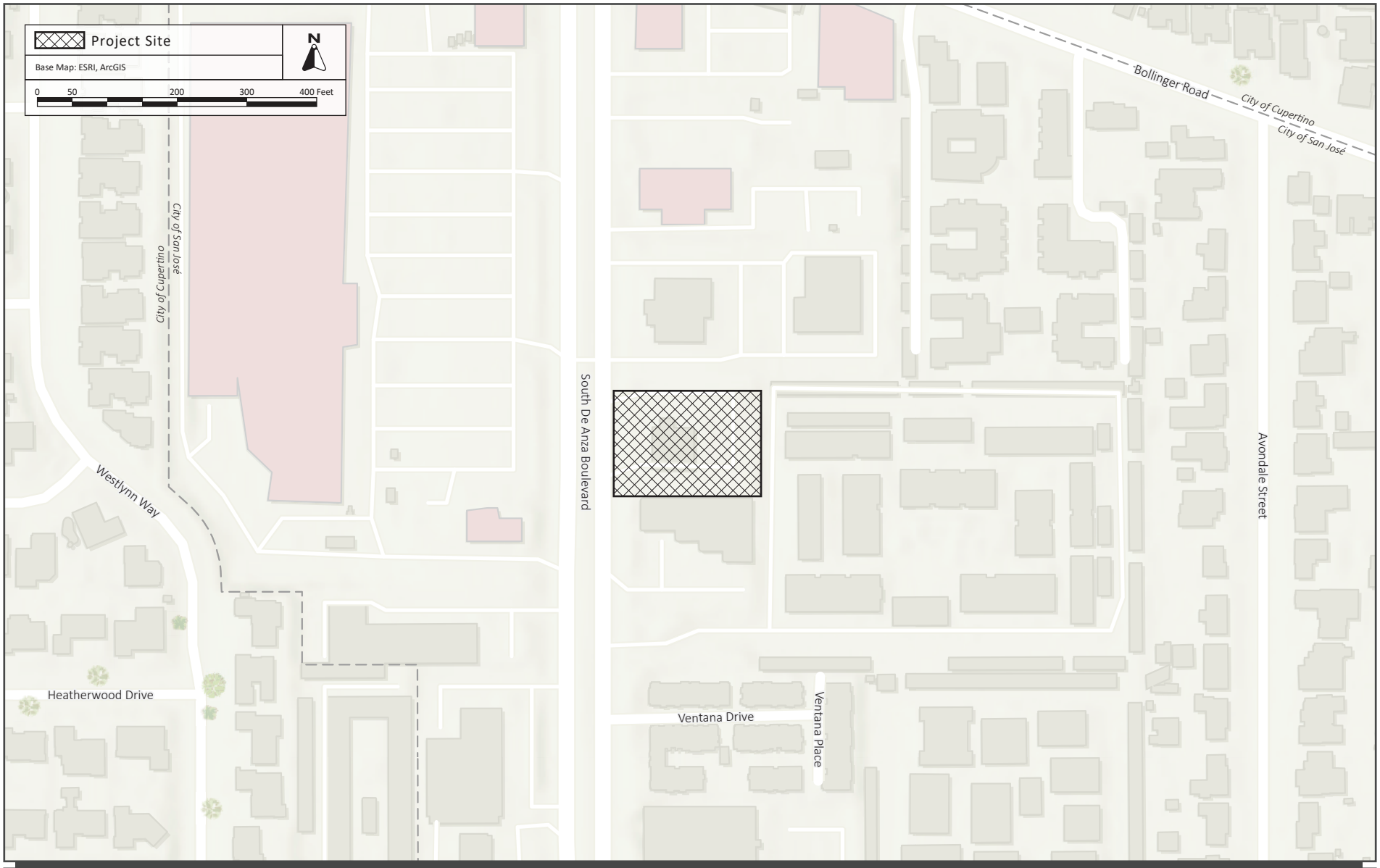
The proposed project would implement pedestrian improvements both on-site and in the surrounding area at the intersections of Bollinger Road/Avondale Street and Bollinger Road/Windsor Street. The project will be required to construct pedestrian facility improvements

including, but not limited to, raised median islands, 12-foot-wide sidewalks with tree wells, and provision of fees for bike lanes.

Additionally, the proposed project would traffic calming measures both on-site and in the surrounding neighborhood at the intersections of Bollinger Road/Avondale Street and Bollinger Road/Windsor Street. The project will be required to construct traffic calming elements including, but not limited to, smaller curb radii. The City will identify specific improvements during the project approval process.



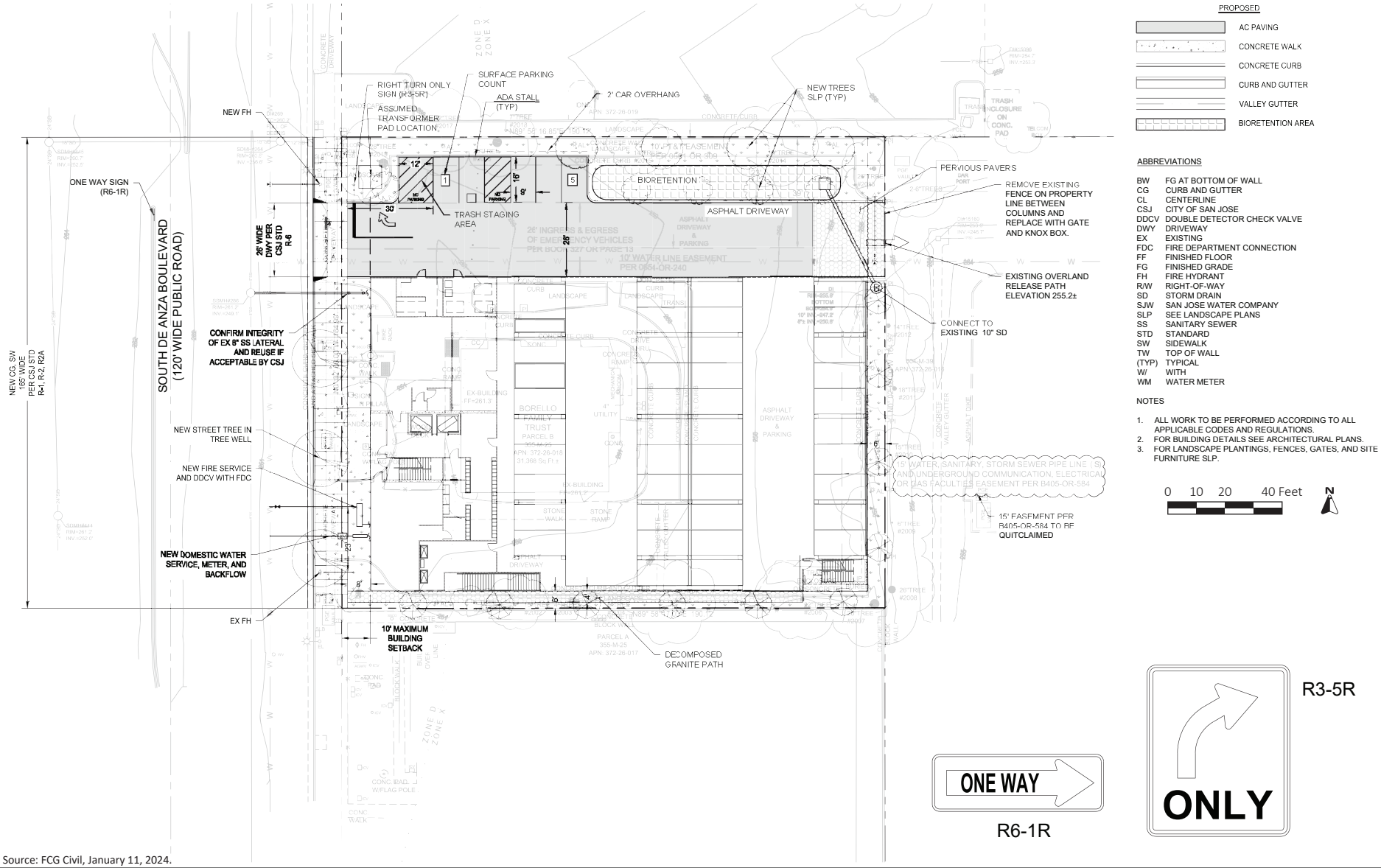
REGIONAL MAP | FIGURE 2.1-1



VICINITY MAP

FIGURE 2.1-2

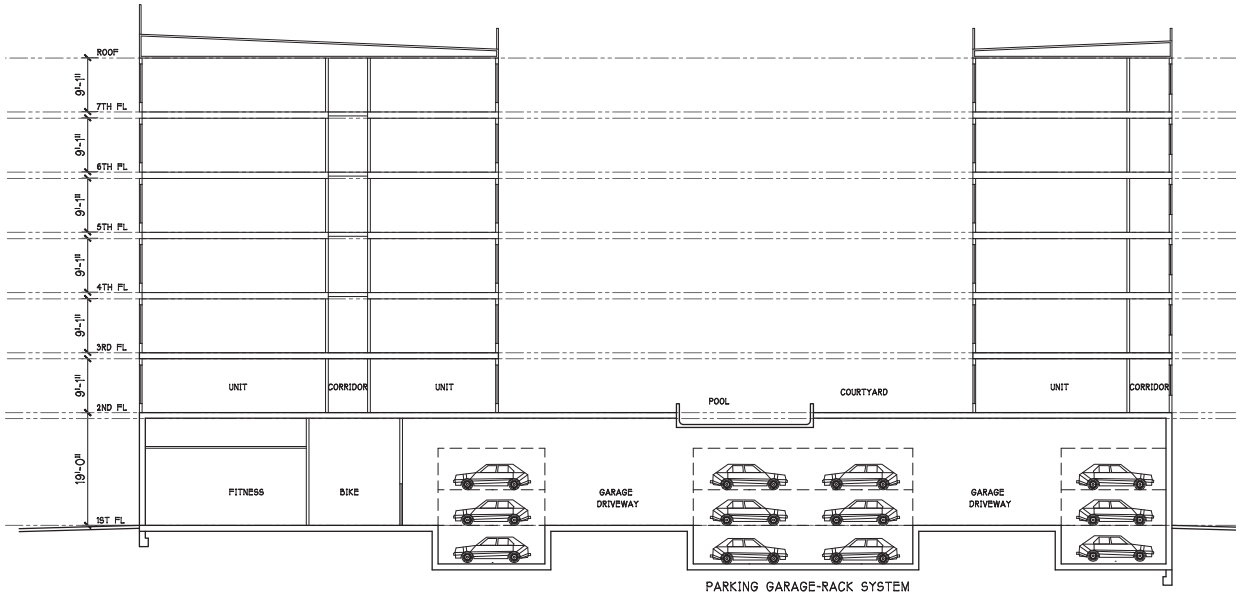
AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.1-3



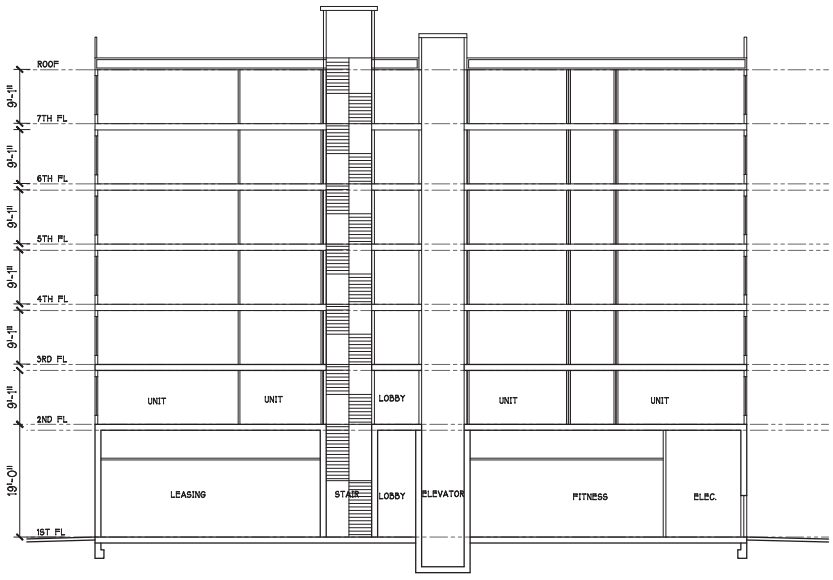
Source: FCG Civil, January 11, 2024.

PROJECT SITE PLAN

FIGURE 2.2-1



SECTION A-A



SECTION B-B

Source: LPMD Architects.

PROJECT ELEVATIONS

FIGURE 2.2-2

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:

- Provide a financially feasible plan for redevelopment of an underutilized parcel with a vacant single-story commercial building and large surface parking lot.
- Implement the City's General Plan and Housing Element by constructing high-density housing within urban village areas.
- Create an economically integrated neighborhood with new housing units, featuring both affordable and market rate rental apartments.
- Maximize housing units to the greatest extent feasible in a multi-story high-density building.
- Provide a variety of unit plans suited for multiple family types – including studios, one-bedroom units, and two-bedroom units.
- Establish bicycle and pedestrian friendly connectivity to the commercial corridor and bus transit.
- Build a safe sidewalk in the frontage with street trees and streetlights to promote pedestrian activity.
- Incorporate green and healthy development principles that include:
    - 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, the general public, and other public agencies with the relevant environmental information needed in considering the proposed project. The City of San José anticipates that following 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
- Parcel Map
- Tree Removal Permit
- Grading Permit
- Demolition Permit
- Building Permit
- State Density Bonus Application

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). Each impact is numbered to correspond to the checklist question being answered. For example, Impact BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also 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)). There are no proposed projects in the area within a quarter mile of the proposed project.

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?

For each resource area, cumulative impacts may occur over different geographic areas. For example, the project 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 3.0-1 provides a summary of the different geographic areas used to evaluate cumulative impacts.

Table 3.0-1: Geographic Considerations in Cumulative Analysis

Resource Area	Geographic Area
Aesthetics	Project site and adjacent parcels
Agriculture and Forestry Resources	Countywide
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
Geology and Soils	Project site and adjacent parcels
GHGs	Planet-wide
Hazards and Hazardous Materials	Project site and adjacent parcels

Table 3.0-1: Geographic Considerations in Cumulative Analysis

Resource Area	Geographic Area
Hydrology and Water Quality	Calabazas Creek watershed
Land Use and Planning/Population and Housing	Citywide
Minerals	Identified mineral recovery or resource area
Noise and Vibration	Project site and adjacent parcels for vibration and out to 500 feet for noise
Public Services and Recreation	Citywide
Transportation/Traffic	Citywide
Tribal Cultural Resources	Project site and adjacent parcels
Utilities and Service Systems	Citywide, and the service providers' service areas
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.[1]

SB 743 also clarifies that local governments retain their ability to regulate a project's aesthetics impacts outside of the CEQA process.

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.

[1] 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 November 15, 2023. https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PRC&division=13.&part=&chapter=2.7.&article=.

Interstate 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.[2]

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 Envision San José 2040 General contains the following policies which are specific to aesthetic resources and applicable to the proposed project:

Policy	Description
CD-1.1	Requires 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-1.7	Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.
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-1.11	To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
CD-1.12	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.

[2] California Department of Transportation. "Scenic Highways." Accessed November 15, 2023. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
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 screened parking vehicles 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-1.18	Encourage the placement of loading docks and other utility uses within parking structures to minimize their visibility and reduce their potential to detract from pedestrian activity.
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.
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 management practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

3.1.1.2 *Existing Conditions*

The project site is located more than two miles from the nearest state designated scenic highway and the project site is also not located within a transit priority area. The existing structure on site is a one-story tile roof building surrounded by a surface parking lot. On the perimeter of the site there are numerous small to medium sized trees screening the site from surrounding uses.

The surrounding uses consist of one to two story commercial and residential buildings and the six lane South De Anza Boulevard with a commercial development beyond. The uses surrounding the project site do not have a unified aesthetic. Pictures of the project site and surrounding areas can be seen in Photos 1 – 5.

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 and surrounding areas are relatively flat and prominent viewpoints, 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.

Photo 1: Roadway looking North.

Photo 2: Roadway looking South.

PHOTOS 1 & 2

Photo 3: View of uses looking North of the Project Site.

Photo 4: View of uses looking East of the Project Site.

Photo 5: View of existing structure.

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?[3] 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?

3.1.2.1 *Project Impacts*

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

The project site is not located on or near a scenic vista as defined in the Envision 2040 General Plan Scenic Corridors Diagram. Therefore, construction of the proposed project would not result in substantial adverse effects on a scenic vista. **(No 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 does not contain identified scenic resources and is located greater than one mile from any state scenic highways in the area. Additionally, the project site does not contain any historic resources. Therefore, the proposed project would not result in impacts to scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. **(No Impact)**

[3] Public views are those that are experienced from publicly accessible vantage points.

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 proposed project is located in a fully urbanized area and would involve the redevelopment of the project site with a seven-story residential building. The proposed project would be inconsistent with the Zoning District of the project site; however, the project is proposed under the 'builders remedy' state housing law provision which would allow an inconsistent development to be constructed. Additionally, the proposed project would be required to comply with the design guidelines set by the City of San José which would require preservation of public views and compatibility with surrounding uses. Therefore, the proposed project would be required to be consistent with the visual quality standards established under the General Plan and municipal codes of the City of San José, and the project would have a less than significant impact. **(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?

All uses surrounding the project site are urban uses and already contribute to an environment with some glare and light affecting existing views. Lighting included within the project would be typical of infill housing in urban environments. Design of the proposed project would incorporate specifications for windows and lighting to limit light or glare affecting surrounding uses, consistent with Zoning Code Section 20.40.530. Therefore, the proposed project would not result in a new source of substantial light and glare and would have a less than significant impact on day or nighttime views in the area. **(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 area of significance for cumulative aesthetics impacts is the project site and adjacent parcels. None of the areas surrounding the project site have views identified as scenic views by the City of San José. Additionally, there are no approved, unbuilt projects on adjacent parcels which would contribute to aesthetics impacts. Therefore, the proposed project would not result in a cumulatively considerable contribution to a significant aesthetics impact and would have a less than significant cumulative 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.[4]

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.[5]

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.[6] 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.[7]

[4] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed August 10, 2023. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[5] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[6] 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)).
[7] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed August 10, 2023. http://frap.fire.ca.gov/.

3.2.1.2 *Existing Conditions*

The project site is located in a fully urbanized location within the city of San José. Based on the California Important Farmland finder tool, the project site is located in Urban Built-up land and does not contain important farmland as defined by the California Department of Conservation. Additionally, the site is not under a Williamson Act Contract and does not contain forest land.

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?

As stated in the Existing Conditions section the project site does not contain Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. Therefore, the proposed project would not result in the conversion of these lands to non-agriculture uses. **(No Impact)**

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

The project site is zoned for commercial development and does not allow for agricultural uses. Additionally, the project site is not under a Williamson Act contract. Therefore, the proposed

project would have no impact as a result of conflict with agricultural zoning or a Williamson Act contract. **(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 for commercial development and does not allow for forest or timberland uses. Therefore, the proposed project would not conflict with an existing zoning of 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?

As stated in the Existing Conditions section, the project site does not contain forest land. Therefore, the proposed project would not result in the loss or 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 proposed project would convert an existing urban use to further urban development. This would not result in changes to the existing environment and would not result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use. Therefore, the proposed project would have no impact from conversion of farmland or forest land 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 cumulative impacts area for agriculture is countywide. As stated in the impact sections above, the proposed project would have no impact on agricultural resources, therefore, the proposed project would not result in a cumulatively considerable contribution to a cumulatively significant agricultural and forestry resources impact. **(No Cumulative Impact)**

3.3 Air Quality

The information in this section is based in part on the Air quality and Greenhouse Gas Assessment completed by Illingworth and Rodkin, Inc. on November 16, 2023. This report is included as Appendix B of this environmental document.

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 Act, the United States Environmental Protection Agency (EPA) and the California Air Resources Board (CARB) have established and enforce 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. Diesel exhaust 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 (most susceptible to injury).[8] 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.

[8] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed December 12, 2023. 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
Ozone (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 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
Nitrogen Dioxide (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, atmospheric reactions	Aggravation of respiratory illness Reduced visibility
Carbon Monoxide (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
Fine Particulate Matter ($PM_{2.5}$) and Coarse Particulate Matter (PM_{10})	Particulate Matter 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 particular matter 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
Sulfur Dioxide (SO_2)	SO_2 is a pungent and colorless gaseous pollutant the 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 particulate matter 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 gas and petroleum extraction, oil refining, and metal processing.	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
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
Toxic Air Contaminants (TACs)	TACs include certain air pollutants known to increase the risk of cancer and/or other serious health effects that range from eye irritation, respiratory issues, and neurological damage. 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; 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 persons 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.[9]

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.

[9] 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.

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 application of emission control strategies to existing diesel vehicles and equipment to reduce DPM (in additional to 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 District (Air District) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as the Air District, must prepare air quality plans specifying how federal and state air quality standards will be met. The Air District's most recently adopted plan is the Bay Area 2017 Clean Air Plan. The 2017 Clean Air Plan focuses on the following two related Air District 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 GHG emissions 40 percent below 1990 levels by 2040 and 80 percent below 1990 levels by 2050.[10]

CEQA Air Quality Guidelines

The Air District 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 the Air District within their CEQA Air Quality Guidelines. The guidelines include information on legal requirements, Air District rules, methods of analyzing 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 Air District Board of Directors.

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

Community Air Risk Evaluation Program

Under the Community Air Risk Evaluation (CARE) program, the Air District has identified areas with high TAC emissions. Impacted communities identified to date are located in Concord, Richmond/San Pablo, San José, eastern San Francisco, western Alameda County, Vallejo, San Rafael, and Pittsburg/Antioch. The main objectives of the program are to:

- Evaluate health risks associated with exposure to TACs from stationary and mobile sources;
- Assess potential exposures to sensitive receptors and identify impacted communities;
- Prioritize TAC reduction measures for significant sources in impacted communities; and
- Develop and implement mitigation measures to improve air quality in impacted communities.

The project site is not located withing the CARE program boundary.

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to air quality and applicable to the proposed project:

Policy	Description
Policy MS-10.1	Assess projected air emissions from new development in conformance with the Air District CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
Policy 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.
Policy MS-10.3	Promote the expansion and improvement of public transportation services and facilities, where appropriate, to both encourage energy conservation and reduce air pollution.
Policy MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with Air District -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.
Policy MS-11.4	Encourage the installation of air filtration, to be installed at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Policy MS-11.7	Consult with the Air District to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed developments.
Policy MS-11.8	For new projects that generate truck traffic, require signage which reminds drivers that the State truck idling law limits truck idling to five minutes.

Policy 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 a minimum, conditions shall conform to construction mitigation measures recommended in the current Air District CEQA Guidelines for the relevant project size and type.
Policy MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.
Policy MS-13.4	Adopt and periodically update dust, particulate, and exhaust control standard measures for demolition and grading activities to include on project plans as conditions of approval based upon construction mitigation measures in the Air District CEQA Guidelines.

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.[11,12] The area has attained both NAAQS and CAAQS for CO, SO_2, and NO_2. As the regional air district, the Air District is responsible 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 $PM_{2.5}$, the Air District 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 particulate matter 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.

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?

[11] Bay Area Air Quality Management District. "Air Quality Standards and Attainment Status." Last Updated January 5, 2017. Accessed November 15, 2023.

[12] 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.

4) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

3.3.2.1 *Project Impacts*

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 the Air District 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 Air District CEQA Air Quality thresholds for criteria air pollutants and fugitive dust used in this analysis are identified in Table 3.3-2.

Table 3.3-2: Air District 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 ppm (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust Control Measures/Best Management Practices	Not Applicable	

Notes: ROG = reactive organic gases; NO_X = oxides of nitrogen; PM_{10} = respirable particulate matter with an aerodynamic resistance diameter of 10 micrometers or less; $PM_{2.5}$= fine particulate matter with an aerodynamic resistance diameter of 2.5 micrometers or less; CO = carbon monoxide

* The Air District recommends for construction projects that require less than one 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 below lists the Air District health risk and hazards thresholds for single-source and cumulative-sources.

Table 3.3-3: Air District 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; $PM_{2.5}$= fine particulate matter with an aerodynamic resistance diameter of 2.5 micrometers or less

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.

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

Clean Air Plan 2017

As demonstrated below in Table 3.3-4 and Table 3.3-5, the proposed project would not result in construction or operational criteria pollutant emissions which would exceed the Air District CEQA Air Quality Guidelines Criteria Air Pollutant impact thresholds. The proposed project, therefore, would not conflict with the 2017 CAP because it would result in emissions lower than the Air District thresholds (shown in Table 3.3-2), is considered urban infill, and would be located near bike paths and transit with regional connections. Because the project would not exceed the Air District impact thresholds, it would not result in the generation of operational-related criteria air pollutants and/or precursors that exceed the thresholds shown in Table 3.3-2. Thus, the project is not required to incorporate project-specific control measures listed in the 2017 CAP. Further, implementation of the project would not inhibit Air District or partner agencies from continuing progress toward attaining state and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described within the 2017 CAP.

Construction Criteria Air Pollutants

Construction emissions were modeled in the air quality assessment for the proposed project. The California Emissions Estimator Model (CalEEMod) Version 2022 was used to estimate emissions from on-site construction activity, construction vehicle trips, and evaporative emissions. The model used the inputs of 120 units of Mid-Rise Apartments and 14,190 square feet of parking area.

The construction schedule assumes that the earliest possible start date for the proposed project would be January 2026 and the project would be built out over a period of approximately 14 months (303 construction workdays), with the earliest year of operation assumed to be 2027. Construction was assumed to occur Monday through Friday from 7:00 am to 5:00 pm. The project would result in the demolition of one structure and the haul of 468 cubic yards of soil.

Based on the construction information provided for the proposed project the project was estimated to have the criteria pollutant emissions provided in Table 3.3-4 below.

Table 3.3-4 Construction Period Emissions

Year	ROG	NOx	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
2026 + 2027 (tons/year)	0.85	1.78	0.07	0.07
Year	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2026+2027 (303 days) (lbs./day)	5.58	11.75	0.47	0.43
Air District Thresholds	**54 lbs per day**	**54 lbs per day**	**82 lbs per day**	**54 lbs per day**
Exceed Threshold	No	No	No	No

Note: Construction includes 2 months of 2027 with a majority of construction occurring in 2026. Original technical documentation assumed a 2025 start date however the shift in the dates would not substantially affect the findings.

Source: Illingworth and Rodkin. 1000 South De Anza Boulevard Residential Project Air Quality & Greenhouse Gas Assessment. November 16, 2023

Based on the construction schedule of the proposed project, the project would not exceed the Air District criteria air pollutant CEQA thresholds and would result in a less than significant criteria air pollutant impact. **(Less than Significant Impact)**

Operational Criteria Air Pollutants

Operational air emissions from the project would be generated primarily from vehicles driven by future residents, employees, and vendors. The proposed project was analyzed using the inputs described above in the construction criteria pollutant section and used in the CalEEMod 2022 modeling software. Table 3.3-5 below shows the operational criteria air pollutant emissions for the year of 2027, which is the earliest year of operation assumed for the proposed project

Table 3.3-5 Operational Period Emissions

Year	ROG	NOx	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
2027 (tons/year)	0.66	0.16	0.34	0.09
Air District Thresholds	10 tons	10 tons	15 tons	10 tons
Year	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2027 (lbs./day)	3.63	0.87	1.87	0.48
Air District Thresholds	**54 lbs per day**	**54 lbs per day**	**82 lbs per day**	**54 lbs per day**
Exceed Threshold	No	No	No	No

Note: Assumes 365 days of operation

Source: Illingworth and Rodkin. 1000 South De Anza Boulevard Residential Project Air Quality & Greenhouse Gas Assessment. November 16, 2023

Based on the annual and daily operational emissions from the initial construction, the proposed project would not exceed the Air District significance thresholds during project operations. **(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 considered a non-attainment area for ground-level O_3, PM_{10}, and $PM_{2.5}$ under both the federal Clean Air Act and state Clean Air Act. The proposed project would increase criteria pollutants in the Bay Area, contributing to existing violations of O_3 standards. Per the Air District 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. 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, the proposed project would not result in any air criteria pollutant emissions exceeding the Air District'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?

Dust Generation

Construction activities 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 loads of soils. Consistent with General Plan Policy MS-13.1, the following Standard Permit Conditions for controlling dust would be implemented during construction to reduce dust and other particulate matter.

Standard Permit Conditions

The project applicant shall implement the following measures during all phases of construction to control dust and exhaust at the project site, consistent with General Plan Policy MS-13.1:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
- Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

During any construction period ground disturbance, the applicant shall ensure that the project contractor will implement measures to control dust and exhaust. Implementation of the measures listed above would reduce the air quality dust and particulate impacts associated with grading and construction to a less than significant level.

Community Risk Impacts

Construction activity and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC and could pose a health risk to nearby sensitive receptors. A health risk assessment was prepared to address project construction impacts on the surrounding off-site sensitive receptors within 1,000 feet of the project site.

Community Risk from Project Construction

The primary community risk impact associated with construction emissions are cancer risk and exposure to $PM_{2.5}$. Diesel exhaust poses both a potential health and nuisance impact to nearby receptors. The maximum modeled annual DPM and $PM_{2.5}$ concentrations were identified at nearby sensitive receptors (as shown in Figure 3.3-1) to find the maximum exposed individuals (MEIs).

The MEIs for the proposed project were determined to be located at Primrose School of Cupertino building south of the project site at 1002 South De Anza Boulevard. The results of the modeling at this MEI are summarized below in Table 3.3-6.

Source: Illingworth & Rodkin, Inc., February 28, 2025.

LOCATION OF MAXIMALLY EXPOSED INDIVIDUAL FOR TACS | FIGURE 4.3-1

Table 3.3-6 Maximum Construction and Operation Risk Impacts at the Off-Site Receptors

Year	Cancer Risk (per million)	$PM_{2.5}$ Exhaust	Hazard Index
Project Construction	**72.00 (infant)**	**0.47**	0.03
Air District Thresholds	**10**	**0.3**	**1.0**
Exceed Threshold	**Yes**	**Yes**	No

Source: Illingworth and Rodkin. 1000 South De Anza Boulevard Residential Project Air Quality & Greenhouse Gas Assessment. November 16, 2023

The proposed project would result in an increased cancer risk of 72.00 cases per million and a $PM_{2.5}$ exhaust exposure of 0.47 µg/m^3 which would exceed the Air District threshold of 10 cases per million and 0.3 µg/m,^{3} respectively. Therefore, the proposed project would result in a significant impact resulting from exposure of sensitive receptors to substantial pollutant concentrations.

Impact AIR-1 The proposed project would result in a construction cancer risk of 72.00 cases per million and a $PM_{2.5}$ exhaust exposure of 0.47 µg/m^3 which would exceed the Air District threshold of 10 cases per million and 0.3 µg/m,^{3} respectively.

Mitigation Measures

The proposed project will implement a feasible plan to reduce DPM by approximately 87 percent to reduce cancer risk and annual $PM_{2.5}$ concentrations from construction.

MM AIR-1.1 Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning, Building and Code Enforcement, or the Director's designee, that includes specifications of the equipment to be used during construction. 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.

- 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 Tier 4 Final emission standards for PM (PM_{10} and $PM_{2.5}$), if feasible, otherwise:
    - If use of Tier 4 Final equipment is not available, the contract will alternatively use equipment that meets 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 an 87 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination).
    - Install electric power lines during early construction phases in order to electrify generators, concrete/industrial saws, and

pressure washers during the initial construction period from 2025 through 2027.

Alternatively, prior to issuance of any demolition, grading, or building permits (whichever occurs earliest), the applicant may instead develop another construction operations plan demonstrating that the construction equipment used on-site would achieve a reduction in construction diesel particulate matter emissions by 87 percent or greater. Elements of the plan could include a combination of some of the following measures:

- Partial use of Tier 4 Final engines or alternatively fueled equipment,
- Installation of electric power lines during early construction phases to avoid use of diesel generators and compressors,
- Use of electrically-powered equipment,
- Forklifts and aerial lifts used for exterior and interior building construction shall be electric or propane/natural gas powered,
- Change in construction build-out plans to lengthen phases, and
- Implementation of different building techniques that result in less diesel equipment usage.

MM AIR-1.2 The proposed project will include enhanced Best Management Practice measures to control dust and other particulate matter on-site. The Best Management Practice measures must be included in the construction operations plan, which will be provided to the Director of Planning, Building and Code Enforcement, or the Director's designee for review prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest). These Best Management Practices to control dust and particulate matter include but are not limited to:

- Limit the simultaneous occurrence of excavation, grading, and ground-disturbing construction activities.
- Install wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
- Plant vegetative ground cover (e.g., fast-germinating native grass seed) in disturbed areas as soon as possible and water appropriately until vegetation is established.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.
- Minimize the amount of excavated material or waste materials stored at the site.
- Hydroseed or apply non-toxic soil stabilizers to construction areas, including previously graded areas, that are inactive for at least 10 calendar days.

Implementation of MM AIR-1.1 and MM AIR-1.2 would result in a reduction in DPM of construction, the proposed project's construction cancer risk levels (assuming infant exposure) would be reduced by 87 percent to 8.76 per million and the $PM_{2.5}$ concentration would be reduced by 49 percent to 0.24 $\mu g/m^3$. As a result, the project's construction risks and hazards would be reduced below the Air District single-source thresholds, and the proposed project would have a less than significant health risk impact on surrounding land uses. **(Less than Significant Impact with Mitigation Incorporated)**

Community Risk from Project Operation

In a 2018 decision (*Sierra Club v. County of Fresno*), the state Supreme Court determined 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 the 2017 Air District 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, Air District 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 discussed above, project emissions would be less than significant. **(Less than Significant Impact)**

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

The proposed project would be a residential building which does not feature uses which generate odorous emissions. Therefore, the proposed project would not result in odors which would adversely affect a substantial number of people. **(No Impact)**

3.3.2.2 *Cumulative Impacts*

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

The impact area for cumulative air quality impacts is the San Francisco Air Basin. As stated above, the proposed project would not represent a significant increase in operational criteria air pollutants. Therefore, the proposed project would not result in a cumulatively considerable contribution to a significant cumulative criteria air quality pollutant impact.

The proposed project would result in cumulative air quality impacts when accounting for project construction and existing mobile and stationary sources of TACs. The proposed project would

implement City of San José Standard Permit conditions controlling particulate matter in addition to MM AIR-1.1 and MM AIR-1.2 to reduce the proposed project's single source TAC emissions below the Air District single source CEQA thresholds. The other sources of TACs located within 1000 feet of the proposed project are traffic on Bollinger Road and South De Anza Boulevard, a generator located at the nearby Home Depot, and the Rotten Robbie gas station. The cumulative emissions of the project construction and other nearby sources is summarized below in Table 3.3-7.

Table 3.3-7 Impacts from Combined Sources to MEI

Year	Cancer Risk (per million)	$PM_{2.5}$ Exhaust	Hazard Index
Project Construction (Mitigated)	8.76	0.24	<0.01
Bollinger Road, ADT 38,097	0.17	0.01	<0.01
S. De Anza Boulevard, ADT 18,495	3.23	0.27	<0.01
The Home Depot #6635 (Facility ID # 17733, Generator), Project Site at 415 feet	0.63	<0.01	<0.01
Rotten Robbie #07 (Facility # 108703, Gas Dispensing Facility), Project Site at 730 feet	0.83	-	0.06
Air District Single Source Thresholds	**10**	**0.3**	**1.0**
Exceed Threshold	No	No	No
Cumulative Total (Mitigated)	12.40	<0.44	<0.10
Air District Cumulative Source Threshold	**100**	**0.8**	**10.0**
Exceed Threshold	No	No	No

Source: Illingworth and Rodkin. 1000 South De Anza Boulevard Residential Project Air Quality & Greenhouse Gas Assessment. November 16, 2023.

The cumulative sources of TACs would not result in a total health risk hazard exceeding the Air District cumulative source threshold. Therefore, the proposed project would contribute to a less than significant cumulative health risk impact with mitigation incorporated. **(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 that address existing air quality conditions affecting a proposed project.

City of San José General Plan Policy MS-11.1 requires new residential development projects to incorporate effective mitigation into their designs to avoid significant risks to health and safety. the Air District's recommended thresholds for health risks and hazards, shown in Table 3.3-3, were used to evaluate on-site exposure.

In addition to evaluating health impact from project construction, a health risk assessment was completed to assess the impact existing TAC sources would have on the new proposed sensitive

receptors (residents) that that project would introduce. The same mobile and stationary TAC sources identified above were used in this health risk assessment, including nearby construction.

The sources of nearby TACs included in this analysis were Bollinger Road, South De Anza Boulevard, stationary generator sources located at the Home Depot and Rotten Robbie nearby. The results of the health risk assessment are displayed in Table 3.3-8 below.

Table 3.3-8 Impacts from Combined Sources to Project Site Receptors

Year	Cancer Risk (per million)	$PM_{2.5}$ Exhaust	Hazard Index
Bollinger Road, ADT 38,097	0.17	0.01	<0.01
S. De Anza Boulevard, ADT 18,495	3.23	0.27	<0.01
The Home Depot #6635 (Facility ID # 17733, Generator), Project Site at 415 feet	0.63	<0.01	<0.01
Rotten Robbie #07 (Facility # 108703, Gas Dispensing Facility), Project Site at 730 feet	0.83	-	0.06
Air District Single Source Thresholds	**10**	**0.3**	**1.0**
Exceed Threshold	No	No	No
Cumulative Total (Mitigated)	4.86	<0.29	<0.09
Air District Cumulative Source Threshold	**100**	**0.8**	**10.0**
Exceed Threshold	No	No	No

Source: Illingworth and Rodkin. 1000 South De Anza Boulevard Residential Project Air Quality & Greenhouse Gas Assessment. November 16, 2023

Based on the TAC levels that the new residents would be exposed to, the proposed project would not put new residents at significant risk from TACs existing in the project area, and the proposed project would be consistent with General Plan Policy MS-11.1.

3.4 Biological Resources

The information in this section is based in part on the Arborist Report completed by Moki Smith Tree Specialist, Inc. on July 13, 2023. This report is included as Appendix C of this environmental document.

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.

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to biological resources and applicable to the proposed project:

Policy	Description
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-1.25	Within new development projects, including preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided through design measures, construction, and best management practices. When tree preservation is not feasible include replacement or alternative mitigation measures in the project to maintain and enhance our Community Forest.
ER-2.1	Avoid implementing activities that result in loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of 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.

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, and guidelines.

San José Tree Removal Ordinance

In the City of San José permits are required when removing a street tree, a heritage tree, an ordinance sized tree, or any tree located on multifamily, commercial, industrial, or mixed-use property or in a common area. A heritage tree is defined according to Chapter 13.28 of the City Municipal Code, and an ordinance sized tree is any tree that is either:

- **Single Trunk** - 38 inches or more in circumference at 4.5 feet above ground, or
- **Multi-trunk** - The combined measurements of each trunk circumference, at 4.5 feet above ground, add up to 38 inches or more in circumference.

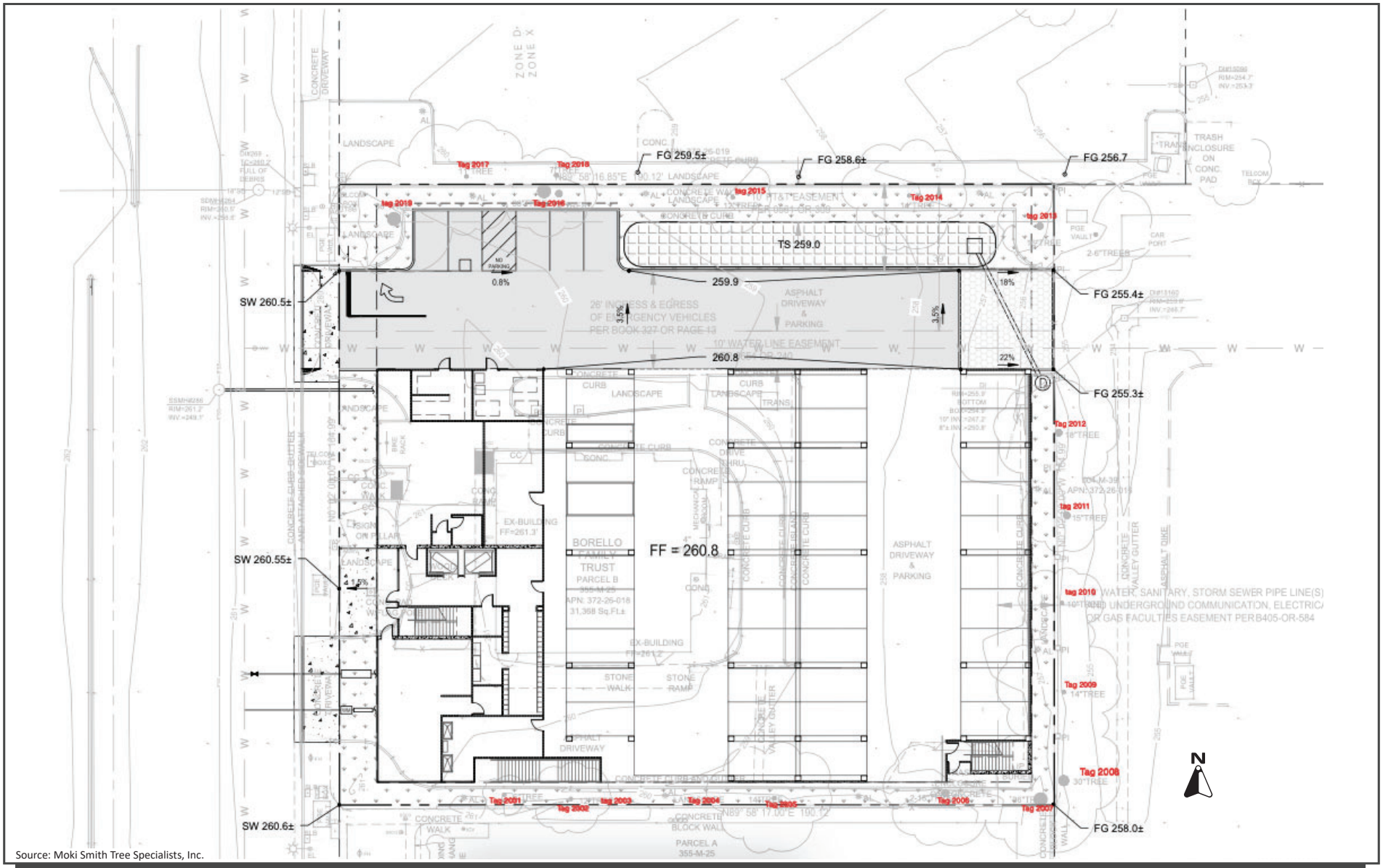
3.4.1.2 *Existing Conditions*

The project site is in a fully urbanized area which does not contain any undisturbed habitats. The project site would provide some habitat in the trees surrounding the site; however, these would be occupied by mostly common urban species. The project site is within the urban/suburban Habitat Plan land use cover.

Riparian habitats generally support rich animal communities and serve as important corridors of movement, particularly for birds and fish. The nearest riparian water body is Calabazas Creek located approximately 3,000 feet east of the project site. Additionally, the McClellan Ranch Preserve is located approximately 1.5 miles west of the project site.

On-site Biological Resources

The biological resources that are present on-site primarily consist of the 19 landscaping trees surrounding the site, 13 of which are ordinance sized. A summary of the trees and their specifications are summarized below in Table 3.4-1. The locations of these trees are displayed in Figure 3.4-1.



Source: Moki Smith Tree Specialists, Inc.

LOCATION OF TREES

FIGURE 3.4-1

Table 3.4-1 Trees On-Site

Tree Tag Number	Tree Name	Diameter at Breast Height in Inches	Circumference in Inches
2001	Texas Privet	6	19
2002	**Evergreen Pear**	**15**	**47**
2003	Raywood Ash	4	13
2004	Raywood Ash	6	19
2005	**Evergreen Pear**	**18**	**57**
2006	**Raywood Ash**	**22**	**69**
2007	**Canary Island Date Palm**	**26**	**82**
2008	**Raywood Ash**	**26**	**82**
2009	Bradford Flowering Pear	6	19
2010	**Raywood Ash**	**15**	**47**
2011	**Raywood Ash**	**18**	**57**
2012	**Evergreen Pear**	**14**	**44**
2013	**Evergreen Pear**	**15**	**47**
2014	Evergreen Pear	10	31
2015	**Evergreen Pear**	**14**	**44**
2016	**Canary Island Date Palm**	**25**	**79**
2017	**Sweetgum**	**12**	**38**
2018	Sweetgum	7	22
2019	**Raywood Ash**	**28**	**88**

Source: Moki Smith Tree Specialists, Inc. Arborist Report. July 13, 2023.
Bolded trees are ordinance sized

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 is a fully developed urban area which does not provide habitats suitable for 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 proposed project would remove the trees on-site which may provide nesting and/or foraging habitat for migratory birds, including raptors.

There are currently 19, on-site trees in and around the project site. As seen in Table 3.4-1, 13 of the trees identified are ordinance sized. 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 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 Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive.

If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities unless a shorter lead time for the pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the qualified ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the qualified ornithologist shall designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.

Prior to any tree removal, or approval of any grading or demolition permits, the project applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee.

With implementation of Mitigation Measure BIO-1.1, the project's impact on nesting birds and raptors would be less than significant. **(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?

There are no riparian habitats or other sensitive natural communities in the immediate project area. The closest sensitive natural communities in the vicinity of the project site are the Calabazas Creek and McClellan Ranch Preserve, which are located approximately 3,000 feet east of the project site and 1.5 miles west of the project site, respectively. The proposed project would replace the existing building and parking lot on-site with a residential structure and would not adversely affect any riparian habitat or 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 is fully developed and is mostly impervious surfaces. The project site does not contain state or federally protected wetlands and the construction of the proposed project would not result in substantial adverse effect on state or federally protected wetlands through direct removal, filling, or hydrological interruption. **(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 fully urbanized area of San José where no natural habitat exists on-site that would support endangered, threatened, or special status wildlife species. The project site is not used as a wildlife corridor by any native resident or migratory fish or wildlife species. Therefore, implementation of the proposed project would not interfere with the movement of any fish or wildlife species. **(No Impact)**

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

The project site is fully developed and does not feature biological resources with the exception of trees on-site. The proposed project would remove 13 trees from the project site and would plant 28 trees on the project site. The proposed project would be required to comply with the following standard permit condition for tree planting as required by the City of San José.

Standard Permit Condition

Tree Replacement. Trees removed for the project shall be replaced at ratios required by the City, as stated in Table 3.4-2 below, as amended:

Table 3.4-2 Tree Replacement Ratios

Circumference of Tree to be Removed	Replacement Ratio - Native	Replacement Ratio - Non-Native	Replacement Ratio - Orchard	Minimum Size of Each Replacement Tree**
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.

- 13 on-site trees would be removed. Five trees would be replaced at a 2:1 ratio, 14 trees would be replaced at a 1:1 ratio. The total number and size of replacement trees required to be planted on-site is 24, 15-gallon trees.
- Prior to the issuance of building permit(s), the permittee shall pay Off-Site Tree Replacement Fee(s) to the City for off-site replacement trees in accordance with the City Council approved Fee Resolution in effect at the time of payment for any replacement trees that cannot be located on-site.
- If there is insufficient area on the project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment
    - 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.
    - Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of building permit(s), in accordance with the City Council approved Fee Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

Therefore, through compliance with the standard permit condition above, the proposed project would not result in conflict with any local policies or ordinances protecting biological resources and would have a less than significant impact on these resources. **(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 SCVHP[13] and is designated as "Urban-Suburban" land. Private development in the plan area is subject to the SCVHP if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;

[13] Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed January 9, 2024. http://www.hcpmaps.com/habitat/.

- The activity is described in Section 2.3.2 Urban Development or in Section 2.3.7 Rural Development;[14]
- In Figure 2-5 of the SCVHP, 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 Two Acres is Covered," or "Urban Development Equal to or Greater than Two 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 SCVHP. Consistent with the SCVHP, the project applicant shall implement the following Standard Permit Condition.

Standard Permit Condition:

- The project may be subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit the proof of payment of nitrogen deposition fees for the Santa Clara Valley Habitat Plan to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan.

With implementation of the identified Standard Permit Condition, the project would not conflict with the provisions of the SCVHP. **(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 cumulative impact area for biological resources is the project site and adjacent parcels. The project site is fully surrounded by urban land uses which do not contain sensitive biological areas. Additionally, the proposed project would result in less than significant impacts to biological resources on the project site and would not contribute to impacts off site, other than nitrogen

[14] 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).

deposition, which would be mitigated through payment of applicable HCP fees noted above. Therefore, the proposed project would not result in a cumulatively considerable contribution to a significant cumulative biological resources impact. **(Less than Significant Cumulative Impact)**

3.5 Cultural Resources

The following discussion is based upon an Archeological Sensitivity Assessment completed by Archaeological/Historical Consultants in August 2023. A copy of the Archeological Sensitivity Assessment, which is a confidential report, is on file at the City of San José Department of Planning and is available upon request with appropriate credentials. A Department of Parks and Recreation 523 (DPR 523) form was also prepared for the structure on site by Urban Programmers dated February 1 2025. This is included in Appendix D of this EIR.

3.5.1 Environmental Setting

3.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act of 1966 (NHPA) and the Archaeological Resource Protection Act of 1979. These laws maintain processes for determination of the effects on historical properties eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA and related regulations (36 Code of Federal Regulations [CFR] Part 800) constitute the primary federal regulatory framework guiding cultural resources investigations and require consideration of effects on properties that are listed or eligible for listing in the NRHP. Impacts to properties listed in the NRHP must be evaluated under CEQA.

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.[15]

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

[15] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." Accessed August 31, 2020. http://www.ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

that existed during the resource's period of significance." The processes of determining integrity are similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity that 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.

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to cultural resources and applicable to the proposed project:

Policy	Description
Policy 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.
Policy LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
Policy 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 appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.

Policy 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.
Policy LU-13.11	Maintain and update an inventory of historic resources in order to promote awareness of these community resources and as a tool to further their preservation. Give priority to identifying and establishing Historic Districts.
Policy LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
Policy ER-9.2	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 their 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.
Policy 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.
Policy 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*

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 at the time of contact with Europeans 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 associated with the Ohlone occupation of San José have been found primarily along the City's major waterways. The project site is located less than 0.25 mile east of prehistoric waterway Regnart Creek, and 0.6 miles west of Calabazas Creek.

A literature review completed for the proposed project identified the area to be low sensitivity for Native American resources.

Historic Subsurface Resources

<u>Mission Period</u>

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during which time the explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and

throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe was established.

The pueblo was originally located several miles northeast of the project site, near the old San José City Hall. This location was prone to flooding and the pueblo was relocated in the late 1780's or early 1790's south to what is now downtown San José. The current intersection of Santa Clara Street and Market Street in downtown San José was the center of the second pueblo. The second pueblo site is located approximately 7.8 miles northeast of the project site.

Post-Mission Period to Mid-Twentieth Century

In the mid-1800's, San José began to be redeveloped as the United States took over the territory from Mexico and new settlers began to arrive in California as a result of the gold rush and the expansion of business opportunities in the west.

The project site has been occupied by four different families since the mid 1800's which contributed to its historic relevance. In 1868, the land on which the project area was located was patented to Daniel Parks and the only structure near the project area was located halfway between the project site and Calabazas Creek. From 1887 to 1929 the Parks land was owned by the Cottle and Stewart families. These families continued the operation of the land under agricultural uses but the project site did not appear to be occupied by residences at this time. Based on the Literature Search conducted for the site, it does not appear that Park, Cottle, or Stewart family members ever lived on the project site. The final family to own the site prior to the current development was the Morgan family, who moved to the project area by 1918 and continued living there through the end of the 1960s. The Morgan family constructed a house and outbuilding which could be seen on topographic maps in 1941. The restaurant that was constructed in 1975 is currently present on site.

While municipal refuse disposal would likely have disposed of unwanted objects near their residence because there was no waste disposal service available in the area at that time. Previous research in the San José area has shown that small houses only occupied for a few decades before city refuse removal, are less likely to create discrete deposits that would be considered to contain significant information potential. The project site, therefore, has a moderate sensitivity for buried historic period archaeological deposits.

Historic Resources

According to the analysis in the DPR 523 form prepared for the site, the existing building was constructed in 1975 as a Carl's Jr. fast food restaurant. The original building design of a corporate style replicated in many locations was modified and is not a significant example of commercial-fast food design. The history of the property does not show a significant association with the history of San Jose, California or the United States. It was one of many such restaurants owned by the Carl's Jr. LLC corporation located in Anaheim, California with very few ties to the local area. The documentation and evaluation concluded the property is not associated with important persons or events and the building architecture was not exemplary or represent the work of a master architect

or builder, and therefore, is not eligible for listing in the California Register of Historic Places nor is the property eligible for listing in the San José Historic Resources Inventory as a Candidate City Landmark. A review of the City of San José Historical Resources Inventory identified a commercial building at 7290 Billinger Road, approximately 576 feet north of the project site, as the only historic resource in the project vicinity. [16]

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?

The property is not eligible for listing in the California Register of Historic Places nor is the property eligible for listing in the San José Historic Resources Inventory as a Candidate City Landmark; therefore, the property is not considered a historical resource pursuant to CEQA Guidelines Section 15064.5, nor are there any adjacent historical resources that would be affected by the introduction of the proposed new seven-story residential development. Therefore, demolition of the building on-site and construction of the new housing project would not result in a change in the significance of a historical resource and the proposed project would have no impact. **(No Impact)**

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

Based on the literature search, the project site has a moderate sensitivity for archeological resources. Grading and trenching of the project site would disturb undiscovered resources if they are present on-site. The proposed project would comply with the City's Standard Permit Condition for subsurface cultural resources seen below.

[16] City of San José. Historic Resources Inventory. https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/historic-resources/historic-resources-inventory. Accessed January 23, 2024.

Standard Permit Condition

- **Subsurface Cultural Resources.** 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 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 Planning, Building, and Code Enforcement 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 the standard permit condition above the project would protect resources, however there is a potential that the construction team would not be able to identify specific cultural artifacts. Therefore, the proposed project could cause a substantial adverse change to archeological resources on site, if present, by constructing the residential building.

Impact CUL-1 The proposed project would disturb the soils on the project site and would result in the disturbance of undiscovered archeological resources if they are present.

Mitigation Measure

MM CUL-1.1 **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 project archaeologist in collaboration with a Native American 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. 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.

Through compliance with MM CUL-1.1, and the Standard Permit Condition above, the project permittee would be required to properly train construction workers to identify sensitive resources and to have a procedure for protecting any resources found during excavation and grading of the site. Therefore, the proposed project would result in a less than significant impact with mitigation incorporated. **(Less than Significant Impact with Mitigation Incorporated)**

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

As stated above, the project site would have low sensitivity for Native American resources on-site which could include burial grounds which may be undiscovered at this time. The project site has been previously disturbed and excavation of the project site would only extend to a depth of 10 feet below the ground surface, therefore it is unlikely that these resources would be encountered on the project site. In the unlikely event that human remains are encountered, the proposed project would be required to comply with the following standard permit condition.

Standard Permit Condition

- **Human Remains.** 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 (PBCE) 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 conditions 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:
    - 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.
    - The MLD identified fails to make a recommendation; or
    - 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.

Through compliance with the standard permit condition above, the project permittee would be required to properly handle findings of undiscovered human remains and this would reduce any impacts to a less than significant level. **(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 cultural resource cumulative impact area includes the project site and adjacent parcels. The proposed project would not result in significant impacts to historic resources and has the potential to impact buried archaeological resources, if they are present on the site, which would be mitigated through MM CUL-1.1 and MM CUL-1.2. There are no other pending, approved or reasonably foreseeable projects on adjacent parcels, and therefore, the proposed project would result in a less than significant cumulative impact. **(Less than Significant Cumulative Impact)**

3.6 Energy

3.6.1 Environmental Setting

3.6.1.1 *Regulatory Framework*

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.[17] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[18]

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.[19]

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).
- San José Clean Energy (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.

[17] California Building Standards Commission. "California Building Standards Code." Accessed December 11, 2023. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[18] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed December 11, 2023. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.
[19] California Air Resources Board. "Advanced Clean Cars II." Accessed December 11, 2023. https://ww2.arb.ca.gov/our-work/programs/advanced-clean-cars-program/advanced-clean-cars-ii.

Private Sector Green Building Policy (Council Policy 6-32)

Council Policy 6-32 requires Applicable Projects to achieve minimum green building performance levels using the Council adopted reference standards as specified below:

- Commercial/Industrial Tier 1 (< 25,000 square feet) - LEED Applicable NC Checklist
- Commercial/Industrial Tier 2 (≥ 25,000 square feet) - LEED Silver
- Residential < 10 units Tier 1 - GreenPoint or LEED Checklist
- Residential ≥ 10 units Tier 2 - GreenPoint Rated 50 points or LEED Certified
- High Rise Residential (75' or higher) - LEED Certified

Energy and Water Building Performance Ordinance

In December 2018, the City of San José voted to adopt this ordinance to help the City reach Climate Smart San José's greenhouse gas emission reduction and water conservation goals by encouraging efficiency in large commercial and multifamily buildings.

The ordinance requires commercial and multi-family buildings 20,000 square feet and over to track their yearly whole building energy and water usage data with the EPA platform ENERGYSTAR Portfolio Manager® and share this data with the City. The City will publish a subset of summary data to support market transparency and recognize high-performing buildings across San José.

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to energy resources and applicable to the proposed 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 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-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 or other area functions.
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
MS-6.8	Maximize reuse, recycling, and composting citywide.

MS-14.2	Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.
MS-14.3	Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategy Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.
MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.
MS-17.2	Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system to areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other 2040 General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.
MS-18.5	Reduce citywide per capita water consumption by 25% by 2040 from a baseline established using the 2010 Urban Water Management Plans of water retailers in San José.
MS-18.6	Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.
MS-19.1	Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
MS-19-4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
PR-6.4	Consistent with the Green Vision, complete San José's trail network and where feasible develop interconnected trails with bike lanes to facilitate bicycle commuting and recreational uses.
LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections, and including secure and convenient bike storage.

TR-1.4	Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking, and transit facilities. Encourage investments that reduce vehicle travel demand.
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 ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

3.6.1.2 *Existing Conditions*

The total energy usage in California was approximately 7359.4 trillion British thermal units (Btu) in the year 2021, the most recent year for which this data was available.[20] 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 20.0 percent (1,473.2 trillion Btu) for residential uses, 19.0 percent (1,396.7 trillion Btu) for commercial uses, 23.2 percent (1,704.4 trillion Btu) for industrial uses, and 37.8 percent (2,785.1 trillion Btu) for transportation.[21] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

In 2020, California produced approximately 70 percent of the electricity it consumed and the rest was imported from outside the state, including from Mexico.[22] California's non-carbon dioxide emitting electric generation (from nuclear, large hydroelectric, solar, wind, and other renewable sources) accounted for more than 49 percent of total in-state generation for 2022.[23] Electricity from coal-powered plants located out of state has continued to decrease since 2006 due to a state law limiting new long-term financial investments in power plants that meet California emissions standards.

California's total system electric generation in 2021 was approximately 197,165,106 megawatt-hours (MWh), which was down three percent from 2020's total generation of approximately 201,784,204 MWh.[24] In 2023 nonhydroelectric renewable sources represented the largest portion

[20] United States Energy Information Administration. "State Profile and Energy Estimates, 2020." Accessed August 11, 2023. https://www.eia.gov/state/?sid=CA#tabs-2.
[21] United States Energy Information Administration. "State Profile and Energy Estimates, 2020." Accessed August 11, 2023. https://www.eia.gov/state/?sid=CA#tabs-2.
[22] U.S. Energy Information Administration. State Profile and Energy Estimates: California. August 11, 2023. https://www.eia.gov/state/?sid=CA#tabs-3
[23] Ibid.
[24] U.S. Energy Information Administration. *State Electricity Profiles; California Electricity Profile 2021.* August 11, 2023. And Ibid. *California Electricity Profile 2020.* August 11, 2023.

of the state's electricity sources (at 38 percent). Natural gas fired generation accounted for more than 33 percent of all renewable electricity generation.[25]

Electricity in Santa Clara County in 2021 was consumed primarily by the non-residential sector (74 percent), followed by the residential sector consuming 23 percent. In 2021, a total of approximately 16,904 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[26]

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and the Pacific Gas and Electric Company (PG&E) delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity from entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2022, California's natural gas supply came from a combination of in-state production and imported supplies from other western states and Canada.[27] In 2021 residential and commercial customers in California used 33 percent of the state's natural gas, power plants used 0.01 percent, the industrial sector used 33 percent.[28] In 2021, Santa Clara County used less than one percent of the state's total consumption of natural gas.[29] The project site does not currently consume gas resources, as the restaurant building is vacant.

Fuel for Motor Vehicles

In 2022, California produced 124 million barrels of crude oil and in 2019, 19.2 billion gallons of gasoline were sold in California. [30] [31] 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

[25] U.S. Energy Information Administration. State Profile and Energy Estimates: California. August 11, 2023. https://www.eia.gov/state/?sid=CA#tabs-3

[26] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed August 11, 2023. http://ecdms.energy.ca.gov/elecbycounty.aspx.

[27] California Gas and Electric Utilities. 2022 *California Gas Report.* Accessed August 11, 2023. https://www.socalgas.com/sites/default/files/Joint_Utility_Biennial_Comprehensive_California_Gas_Report_2022.pdf.

[28] United States Energy Information Administration. "Natural Gas Consumption by End Use. 2021." Accessed August 11, 2023. https://www.eia.gov/state/?sid=CA#tabs-2.

[29] California Energy Commission. "Natural Gas Consumption by County." Accessed August 11, 2023. http://ecdms.energy.ca.gov/gasbycounty.aspx.

[30] U.S. Energy Information Administration. "Petroleum & Other Liquids, California Field Production of Crude Oil." August 11, 2023. https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mcrfpca1&f=a

[31] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed August 11, 2023. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.

miles per gallon (mpg) in the mid-1970s to 25.4 mpg in 2021.[32] 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. [33,34]

The building on the project site is vacant and does not have existing energy demand and does not generate vehicle trips.

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?

Construction would be scheduled for five days a week for 14 months (approximately 303 construction workdays). Construction activities would include demolition, site preparation, grading, trenching, building construction, architectural coating, and paving. The proposed project includes several measures that would improve the efficiency of the construction process such as restricting equipment idle times to five minutes or less and requiring the applicant to post signs on-site reminding workers to shut off idle equipment (refer Standard Permit Conditions identified in Section 3.3 Air Quality). Additionally, the project would comply with the City's Construction and Demolition Diversion Program. For these reasons, the proposed project would not result in a

[32] United States Environmental Protection Agency. "The 2022 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." December 2022. https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1010U68.pdf.

[33] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed August 11, 2023. http://www.afdc.energy.gov/laws/eisa.

[34] United States Department of Transportation. USDOT Announces New Vehicle Fuel Economy Standards for Model Year 2024-2026." Accessed August 11, 2023. https://www.nhtsa.gov/press-releases/usdot-announces-new-vehicle-fuel-economy-standards-model-year-2024-2026.

significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction.

Operation of the proposed project would result in energy consumption in the form of electricity use for household activities and fuel consumption from vehicle trips. Based on the CalEEMod analysis performed for the Air Quality Assessment, the proposed project would consume approximately 1,734 kWh per day of electricity based on the proposed land uses. The proposed project would not include natural gas appliances or heating in compliance with the San José Reach Code. Additionally, the proposed project would result in approximately new 974,809 vehicle miles traveled yearly, and at the average fuel efficiency of 25.4 miles per gallon, the proposed project would consume approximately 38,378 gallons of gas per year. The proposed project would implement a TDM plan to reduce trips and would be consistent with CALGreen requirements which would result in as efficient energy consumption as possible during project operations. Therefore, the proposed project would result in a less than significant energy consumption impact. **(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 be served by SJCE and would be built in accordance with CALGreen requirements, Title 24 of the California Code of Regulations, City of San José Council Policy 6-32, and the City's Green Building Ordinance. Implementation of the proposed project would not conflict with or obstruct implementation of a state or local plan for renewable energy or 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?

The proposed project would result in the increase of approximately 370 residents on the project site. Based on the size of the project the energy consumption on-site would be approximately 633,162 kWh per year, and the residents of the project would use approximately 38,378 gallons of gasoline based on the estimated trips generated by the project. This increase in residents does not represent a significant increase in energy consumption compared to the overall use in the City of San José. Additionally, any energy used by the residential development would be subject to policies included in the Envision 2040 General Plan to ensure efficient use of energy on-site. **(Less than Significant Impact)**

3.6.2.2 *Cumulative Impacts*

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

The cumulative impact area for energy resources is within the energy provider's territory. The proposed project would be constructed in compliance with applicable policies and clean energy ordinances which reduce the demand for energy resources of the proposed project. Compliance with policies which reduce the demand for energy would make the project consistent with state and local energy regulations on a regional or state level. Therefore, the proposed project would not conflict with these policies controlling energy consumption on a statewide level and would result in less than significant cumulative contribution to energy impacts. **(Less than Significant Cumulative Impact)**

3.7 Geology and Soils

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.

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to geology and soil resources and applicable to the proposed 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, as necessary, 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-3.3	The City of San José Building Official shall require conformance with state law regarding seismically vulnerable unreinforced masonry structures within the City.
EC-3.4	The City of San José will maintain up-to-date seismic hazard maps with assistance from the California Geological Survey (or other state agencies) under the Alquist-Priolo Earthquake Fault Zoning Act and the California Seismic Hazards Mapping Act.
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 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 15 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.

3.7.1.2 *Existing Conditions*

The project site is located in northern 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.[35][36]

Liquefaction and Soil Expansion

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. Based on California geologic hazard maps the project site is in an area of low liquefaction risk.[37]

The project site is underlain by Urbanland-Botella complex soils. These soils feature a linear extensibility of three to six percent. Linear extensibility is used to determine the shrink-swell potential of soils. The shrink-swell potential is low if the soil has a linear extensibility of less than three percent; moderate if three to six percent; high if six to nine percent; and very high if more than nine percent. If the linear extensibility is more than three percent, shrinking and swelling can cause damage to buildings, roads, and other structures and to plant roots. Therefore, the site has a moderate shrink swell potential.

[35] 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.
[36] 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.
[37] USGS. Earthquake Zones of Required Investigation Cupertino Quadrangle. California Geological Survey. Cupertino Quadrangle. September 23, 2002. https://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps.

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 project site is the San Andreas fault zone, located approximately five miles to the west of the site. Other potentially active faults within ten miles include the Hayward, Monte Vista-Shannon, and Calaveras faults. There are no active faults in the project area.[38]

Lateral Spreading

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. Areas of San José most prone to lateral spreading include lands adjacent to Guadalupe River and Coyote Creek. Guadalupe River is located approximately seven miles east of the project site and Coyote Creek further beyond that. The project site is 3000 feet west of Calabazas Creek which is less susceptible to lateral spreading because most of it is channelized. At these distances from water bodies, the potential for lateral spreading on-site is negligent.

Landslides

Landslides occur when the stability of a slope changes from a stable to an unstable condition. The site is not located within the Santa Clara County Landslide Hazard Zone. The project area is relatively flat; therefore, the probability of landslides occurring at the site during a seismic event is low.[39]

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)?

[38] USGS. U.S. Quaternary Faults. USGS Geologic Hazards Science Center Golden, CO. Accessed August 2023. https://usgs.maps.arcgis.com/apps/webappviewer/index.html?id=5a6038b3a1684561a9b0aadf88412fcf.
[39] County of Santa Clara. Geologic Hazards Zones, Map 20, 2012. Accessed August 16, 2023. https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=5ef8100336234fbdafc5769494cfe373.

- Strong seismic ground shaking?
- 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?

Based on the location of the project site, the proposed project would not be constructed in an area with a known fault and would not experience seismic-related ground failure. Additionally, based on the landforms and soils underlaying the site, the project site would not experience substantial liquefaction as a result of strong seismic shaking and is on flat ground and would not be affected by landslides. Further the proposed project would be required to comply with the following standard permit condition requiring preparation of a geotechnical investigation.

Standard Permit Condition

- 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.

- 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 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.
- 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.

With the inclusion of this standard permit condition, the project permittee would be required to comply with State of California regulations for earthquake safety. Therefore, the proposed project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault; and the proposed project would have a less than significant impact. **(Less than Significant Impact)**

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

As stated above, the proposed project would be required to comply with City of San José standard permit conditions for soil management during construction. This would prevent exposed soils and sediments on-site from undergoing significant erosion as a result of construction activity. Additionally, all soils exposed during construction of the proposed project would be stabilized by landscaping. Therefore, the proposed project would not result in substantial erosion or loss of topsoil and would have a less than significant impact. **(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 in an area of low liquefaction risk and is not located in a landslide hazards zone. Additionally, the project site is not located near river channels or other topographic features which would result in lateral spreading or collapse. Therefore, the proposed project would not result in geologic hazards from unstable soils or geologic units. **(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?

The project site is underlain by soil with moderate potential for expansive properties. As stated above the proposed project would be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José and would ensure that the future building on the site is designed to properly account for soils-related hazards on the site. Therefore, through compliance with standard permit conditions provided by the City of San José, the proposed project would have a less than significant impact from creating risks associated with expansive soils. **(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 proposed project would be connected to existing local utilities for wastewater located within South De Anza Boulevard. Therefore, the proposed project would not result in the use of septic tanks or alternative wastewater disposal system. **(No Impact)**

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

In the City of San José, Holocene alluvial fan deposits are known to have some potential to contain paleontological resources at depths greater than 10 feet below the ground surface. The proposed project would require excavation to maximum depths of approximately 10 feet below the ground surface which is not expected to encounter paleontological resources. In the event that paleontological resources are discovered on-site during construction, the proposed project would be required to comply with the following standard permit condition.

Standard Permit Condition

- **Paleontological Resources.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee 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 PBCE or the Director's designee.

Therefore, the proposed project would protect any paleontological resources discovered on-site during construction and would have a less than significant impact. **(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 cumulative impact area for geology and soils impacts is the project site and adjacent parcels. The proposed project would comply with the standard permit conditions required by the City of San José and would result in less than significant impacts resulting from geologic hazards present around the project site. There are no pending, approved, or foreseeable projects present on adjacent parcels. Therefore, the proposed project would not cumulatively considerable contribution to a cumulatively significant geology and soils impact. **(Less than Significant Cumulative Impact)**

3.7.3 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 geology and soils conditions affecting a proposed project.

General Plan Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated 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-site or on adjoining properties. Pursuant to the Envision 2040 General Plan FEIR, prior to issuance of site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San José Public Works department for review and confirmation that the proposed development fully complies with the CBC and all City policies and ordinances.

Additionally, Policy EC-4.4 requires all new development to conform to the City of San José's Geologic Hazard Ordinance. To ensure that proposed development sites are suitable, Action EC-4.11 requires the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards and require review and implementation of mitigation measures as part of the project approval process.

The project site contains soils with moderate expansion potential. Consistent with Action EC-4.11, the project applicant would be required to submit a design-specific geotechnical report. The proposed project would be built and maintained in accordance with a design-specific geotechnical report and applicable regulations including the most recent CBC, which contains the regulations

that govern the construction of structures in California. Adherence to the CBC would reduce seismic related impacts and ensure that the new development proposed within areas of geologic hazards would not be endangered by hazardous site conditions.

Because the proposed project would comply with the design-specific geotechnical report, the CBC, and regulations identified in the Envision 2040 General Plan FEIR, the project would comply with General Plan Policies EC-4.2 and EC-4.4.

3.8 Greenhouse Gas Emissions

The information in this section is based in part on the Air Quality and Greenhouse Gas Assessment included in Appendix B. This report was completed by Illingworth & Rodkin Inc. on November 16, 2023.

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.[40] 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.

[40] 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), the Air District, 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.[41]

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 Precent Clean Energy Act of 2018, was adopted on September 10, 2018. The overall goal is to have all retail electricity sold in California be 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

[41] 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 the 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.[42] 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.[43,44,45] Major changes include electric-ready single-family and multi-family residence and solar photovoltaic systems and energy storage systems for residential and commercial developments.

[42] Refer to https://codes.iccsafe.org/content/CAGBC2022P1.
[43] California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Single-Family Residential." Revised July 15, 2022. Accessed August 11, 2023. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Single-family_Whats_New_Summary_ADA.pdf.
[44] California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Multifamily." Revised August 4, 2022. Accessed August 11, 2023. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Multifamily_Whats_new_Summary_ADA.pdf.
[45] California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Nonresidential." Revised August 4, 2022. Accessed August 11, 2023. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Nonresidential_Whats_New_Summary_ADA.pdf.

Requirements for electric vehicle (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 the Air District 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.

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

On April 20, 2022, the Air District 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 the Air District'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 Air District 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.

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. 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 Rating and be electrification ready. In addition, the reach codes require EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

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).
- San José Clean Energy (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.

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.

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to greenhouse gases and applicable to the proposed 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-1.4	Foster awareness of San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
MS-2.11	Require new development to incorporate green building policies, 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 effectiveness of passive solar design.).
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
MS-5.6	Enhance the construction and demolition debris recycling program to increase diversion from the building sector.
MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
MS-21.1	Manage the Community Forest to achieve San José's environmental goals for water and energy conservation, wildlife habitat preservation, stormwater retention, heat reduction in urban areas, energy conservation, and the removal of carbon dioxide from the atmosphere.
TR-1.16	Develop a strategy to construct a network of public and private alternative fuel vehicle charging/fueling stations city wide. Revise parking standards to require the installation of electric charging infrastructure at new large employment sites and large, multiple family residential developments.

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 does not currently have active uses that contribute GHGs to the region because the building is vacant and vehicles do not make trips to visit 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?

Project-Level Impact

Pursuant with the Air District, 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 vehicle miles traveled (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
        a. 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?

As stated above, the greenhouse gas emissions of the proposed project would be less than significant if the proposed project is consistent with Air District Threshold A or B. The proposed project is a residential development utilizing the builder's remedy process and would not be consistent with the site's General Plan land use designation of Neighborhood Community Commercial. Therefore, the proposed project would not be consistent with the San José GHG Reduction Strategy, in which projects need to demonstrate consistency with the General Plan to ensure their GHG emissions are consistent with what was evaluated for the site as part of the GHG emissions resulting from General Plan buildout, and that were accounted for in the GHGRS. The proposed project would be required to be consistent with Air District Threshold A to have a less than significant GHG impact.

Based on analysis prepared by Illingworth and Rodkin (Appendix B), the proposed project would utilize all electrical appliances and would meet CALGreen Building Standards Code requirements that are considered to be energy efficient. The proposed project will also include enough EV charging spaces to comply with the City's and CALGreen Tier 2 requirements and would have a VMT of 12.6 which is above the City's threshold of 15% below citywide average (or 11.39). The project would implement MM TRAN-1.1 to reduce project VMT below the threshold of significance. Therefore, the proposed project would be consistent with the building and transportation requirements included in the BAQQMD GHG impact thresholds and would have a less than significant impact resulting from GHG emissions. **(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?

The City of San José has a Greenhouse Gas Reduction Strategy (GHGRS) and enforces its building codes, which aim to reduce GHG emissions. The proposed project would include the use of solar panels on the rooftop of the building, would enroll in San José Clean Energy, and would promote bicycle-oriented modes of transportation. The proposed project would also develop a TDM plan to reduce trips generated by the project site and would utilize low water consumption landscaping to reduce water demand. Therefore, if individual projects conform to City building Codes, they will conform with the GHGRS and would not conflict with local plans, policies, or regulations applicable to GHG emissions. The proposed project would be constructed in conformance with at minimum the 2022 CalGreen and the Title 24 Building Codes, which requires high-efficiency water fixtures, water efficient irrigation systems, and compliance with current energy efficiency standards. Compliance with these standards ensures compliance with State and federal plans, policies, and regulations applicable to GHG emissions. **(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 in Section 3.8 Greenhouse Gas Emissions, GHG emissions have a broader, global impact; therefore, the project's cumulative GHG impacts are discussed above. **(Less than Significant Cumulative Impact)**

3.9 Hazards and Hazardous Materials

The information in this section is based in part on the Phase 1 Site Assessment completed in September 2023 by Cornerstone Earth Group. This report is included in Appendix E of this environmental document.

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

Federal Aviation Regulations Part 77

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.

Comprehensive Environmental Response, Compensation, and Liability Act

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.[46]

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

[46] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed August 11, 2023. 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.[47]

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).[48]

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.[49] The EPA is currently considering a proposed ban on on-going use of

[47] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed August 11, 2023. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.
[48] California Environmental Protection Agency. "Cortese List Data Resources." Accessed August 11, 2023. https://calepa.ca.gov/sitecleanup/corteselist/.
[49] United States Environmental Protection Agency. "EPA Actions to Protect the Public from Exposure to Asbestos." Accessed August 11, 2023. https://www.epa.gov/asbestos/epa-actions-protect-public-exposure-asbestos

asbestos.[50] 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

Polychlorinated biphenyls (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.[51] 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.

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to hazards and hazardous materials and applicable to the proposed project:

Policy	Description
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present use to determine if any potential environmental conditions exist that could adversely impact the community or environment.

[50] Ibid.
[51] California Regional Water Quality Control Board. *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit.* November 2015.

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	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-7.4	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-based paint and asbestos containing materials, shall be implemented in accordance with State and Federal laws and regulations.
EC-7.5	In 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	When 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 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 navigation.
TR-14.3	For development in the vicinity of airports, take into consideration the safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San Jose International and Reid-Hillview airports.
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.

3.9.1.2 *Existing Conditions*

Historic Uses of Project Site

The following information was generated from a review of aerial photographs, topographic maps, and fire insurance maps of the area. Table 3.9-1 below summarizes the uses of the site from 1897 to present date based on available information.

Table 3.9-1 Historic Uses of the Project Site

Dates	Development Observed in Imagery
1897-1902	No structures are depicted in imagery of the project site
1902- 1939	No imagery is available between these dates
1939 - 1974	The project site is occupied by an orchard and a residence up until 1950, then the orchard is replaced by row crops and, by 1974, the project site consists of undeveloped land
1980 - present	The existing commercial building can be seen on site

The commercial building on the project site was occupied by two different restaurants which are not associated with storage or use of significant quantities of hazardous materials.

Based on the agricultural uses that existed for several decades, pesticides which may have been applied to crops may be present in residual quantities in soils on-site.

Historic Uses of Surrounding Area

The following information was generated from a review of aerial photographs, topographic maps, and fire insurance maps of the area. Table 3.9-2 below summarizes the uses of the area surrounding the project site from 1897 to present date based on available information.

Table 3.9-2 Historic Uses of the Surrounding Area

Dates	Development Observed in Imagery
1897-1902	No structures are present in areas surrounding the project site.
1902- 1939	No imagery is available between these dates
1939 - 1974	The surrounding areas are occupied mainly by orchards and a few residential areas until the mid-1950's. By 1974, the existing commercial building to the west and apartment complex to the east were constructed.
1980 - present	The surrounding area is occupied by existing commercial and residential development

Current Uses of Project Site

The project site is currently occupied by a vacant restaurant building. The project site is not listed on any hazardous condition regulatory databases. Based on a site visit conducted by Cornerstone

Earth Group on August 9th, 2023, an electric transformer was observed on the northeast corner of the building but no leaks were observed coming from the transformer.

Current Uses of Surrounding Area

Current uses surrounding the project site include a commercial use to the north, a residential development to the east, and a preschool located to the south.

Based on a review of regulatory databases, several businesses on adjoining properties to the east, west and south of the Site were associated with hazardous material use/storage, and generation or disposal of hazardous wastes. These listings are common for commercial facilities in urban settings and are not indicative of hazardous material releases.

Based on the information presented in the Phase 1 Site Assessment, no off-Site spill incidents were reported that appear likely to significantly impact soil, soil vapor or groundwater beneath the project site.

Lead and Asbestos

Lead based paints and coatings were banned in 1978 by the Consumer Product Safety Commission. The commercial building on the project site was constructed in approximately 1974. Based on the age of the building on-site, the paints and materials may contain lead. Additionally, soils near wooden structures could be contaminated by lead through the use of termite controlling pesticides. Therefore, soils near spaces previously occupied by residences on site may contain lead from pesticides.

Additionally, due to the age of the structure on site building materials may contain asbestos materials common to construction in the early 1970's.

Groundwater Information

Based on information in the California Geotracker database provided in the Phase 1, groundwater below the project site is likely at depths of greater than 75 feet. Groundwater likely flows toward the northeast.

Airports

The Norman Y. Mineta San José International Airport is located approximately 6.4 miles northeast of the project site. As previously mentioned, FAR Part 77 requires that the 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 ground. For the project site, due to the distance from the airport, the project site is not within the height restricted area and projects at the site would require submittal to the FAA for airspace safety review. As the proposed project would have a maximum height of 97

feet, notification to the FAA is not required to determine the potential for the project to create an aviation hazard because the site is outside of the imaginary surface limits.[52]

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?
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?

The proposed project would be a residential building which would involve limited use of hazardous materials on-site, e.g. typical household cleaning chemicals. The proposed project would not routinely transport hazardous materials, would not use hazardous materials at the project site, and would not require the disposal of hazardous materials during project operations. Therefore, the proposed project would have a less than significant impact from creating hazards to the public. **(Less than Significant Impact)**

[52] Norman Y. Mineta San José International Airport. Notice Requirement Criteria for Filing FAA Form 7460-1. September 2013.

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?

Agricultural Soil Contamination

The project site was historically used for agricultural uses for many decades, and this would have involved the use of pesticides which may have contaminated the soil on-site. Disturbing the soils would expose workers on-site to potential hazardous materials and would represent an impact associated with the project.

Impact HAZ-1 The surface and sub-surface soils on-site could be contaminated due to past agricultural operations. Implementation of the project could expose construction workers and adjacent land uses to residual agricultural soil contamination.

Mitigation Measures

The following mitigation measures would be implemented to reduce the risk of exposure to residual agricultural contamination on construction workers and adjacent properties:

MM HAZ-1.1 Prior to the issuance of any demolition or grading permit, the project applicant shall retain an environmental professional to collect shallow soil samples on the project site to determine whether organochlorine pesticides and metals (e.g., arsenic and lead) from previous agricultural operations are present on-site at concentrations above established residential environmental screening levels (ESLs). 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 Environmental Compliance Officer of the City of San José Environmental Services Department for review.

If pesticide contaminated soils 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 residents and visitors. Evidence of regulatory oversight and a regulatory approved plan shall be provided to Supervising Environmental Planner of the City of San José Planning, Building and Code Enforcement Department and the Environmental Compliance Officer in the City of San José Environmental Services Department.

Implementation of the identified mitigation measure would reduce the risk of construction worker and adjacent land use exposure to residual agricultural contaminated soils and/or groundwater. In addition, dust control measures (as identified in Section 3.3, Air Quality) would be implemented during all applicable phases of construction. For these reasons, adjacent land uses and construction workers would not be exposed to contaminated soils and/or groundwater. **(Less than Significant Impact with Mitigation Incorporated)**

Asbestos and Lead Hazards

Since the building on-site was constructed prior to 1978, it is reasonable to assume that Asbestos Containing Building Materials (ACMs) and Lead Based Paint (LBP) materials are present on-site. When the existing structure is demolished, asbestos particles could be released and expose construction workers and nearby building occupants to harmful levels of asbestos. If LBP is still bonded to the building materials, its removal is not required prior to demolition. If the LBP is flaking, peeling, or blistering, it shall be removed prior to demolition. It would be necessary to follow applicable Occupational Safety and Health Administration (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 LBP:

Standard Permit Condition

Asbestos and Lead-Based Paint.

- 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 District (Air District) regulations. Removal of materials containing more than one-percent

asbestos shall be completed in accordance with the Air District requirements and notifications.

Materials containing more than one-percent asbestos are also subject to the Air District regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with the Air District requirements and notifications. With implementation of the Standard Permit Conditions, the project would have a less than significant impact from ACMs and LBP. **(Less than Significant Impact)**

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 a quarter mile of four Montessori or preschools with the closest being adjacent to the site to the south. The proposed project would construct a residential use at the project site which is not a use that is associated with the emission or handling of hazardous materials. Therefore, the proposed project would result in a less than significant impact on existing or proposed schools as a result of emission or handling of hazardous materials. **(Less than Significant Impact)**

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?

The project site is not listed on the list of sites compiled pursuant to Government Code Section 65962.5. Therefore, disturbance of the project site would not create a significant hazard to the public or environment as a result of developing a contaminated site. **(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 not located within two miles of a public airport or public use airport. Therefore, the proposed project would not result in a safety hazard or excessive noise resulting from people residing or working near an airport use. **(No Impact)**

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

The proposed project would not change access to the existing project site and would not alter evacuation routes. In addition, the project would be constructed in accordance with current

building and fire codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan to avoid unsafe building conditions. Therefore, the proposed project would be consistent with existing emergency response plans and emergency evacuation plans and would have a less than significant impact. **(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?

The project site is located outside the designated California Fire Hazard Severity Zones.[53] Therefore, the proposed project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires. **(Less than Significant 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 cumulative impact area for hazards and hazardous impacts is the project site and adjacent parcels. The proposed project would not result in significant impacts from exposure to hazards and hazardous materials, with the potential exception for encountering contaminated soil from previous agricultural activities including application of pesticides, and there are no existing hazards and hazardous materials impacts on surrounding parcels, other than the similar potential for agricultural pesticides to exist on the site. There are no approved, pending, or foreseeable projects on the adjacent parcels. Therefore, the proposed project would not result in a cumulatively considerable contribution to a cumulatively significant hazards and hazardous materials impact. **(No Cumulative Impact)**

[53]Calfire. California Fire Hazard Severity Zones viewer. Accessed September 13, 2023. https://www.arcgis.com/home/webmap/viewer.html?panel=gallery&layers=31219c833eb54598ba83d09fa0adb346.

3.10 Hydrology and Water Quality

3.10.1 Environmental Setting

3.10.1.1 *Regulatory Framework*

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 Environmental Protection Agency (EPA) and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA regulations include the National Pollutant Discharge Elimination System (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 on the SWRCB's website.[54]

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

[54] California State Water Resources Control Board. "2020-2022 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report)." May 11, 2022. Accessed August 11, 2023. https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html.

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.

Regional and Local

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.[55] 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

[55] 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.

(3) the project is located in a catchment or subwatershed that is highly developed (i.e., that is 70 percent or more impervious).[56]

Municipal Regional Permit Provision C.12.f

Provision C.12.f 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.[57] 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.

[56] 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.

[57] 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.

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.[58]

Post-Construction Urban Runoff Management (City Council Policy No. 6-29)

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the MRP. City Council Policy No. 6-29 requires new development 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 or replace 10,000 square feet or more of impervious surfaces.

Post-Construction Hydromodification Management (City Council Policy No. 8-14)

The City of San José's Policy No.8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Policy No. 8-14 requires new development and redevelopment projects that create or replace one acre or more of impervious surface area, and are located within a subwatershed that is less than 65 percent impervious, to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt generation, or other impacts to local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). Projects that do not meet the minimum size threshold, drain into tidally influenced areas or directly into the Bay, or are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

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.

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to hydrology and water quality and applicable to the proposed 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

[58] Valley Water. *2021 Groundwater Management Plan, Santa Clara and Llagas Subbasins*. November 2021.

	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 onsite.
MS-3.5	Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
IN-1.1	Provide and maintain adequate water, wastewater, and stormwater services to areas in and currently receiving these services from the City.
IN-3.4	Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to: • Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems.
IN-3.7	Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.

3.10.1.2 *Existing Conditions*

The project site is located within the Calabazas Creek watershed which runs north and deposits water into the San Francisco Bay. According to the 303(d) impairment list, Calabazas Creek is impaired for pesticides and is impaired in its use for aquatic life.[59] The project site is located approximately 3000 feet west of Calabazas Creek so any drainage from the site would be transported by the stormwater drainage system provided by the City of San José. Under existing conditions the project site is comprised of 28,225 square feet of impervious surfaces.

[59] EPA. My Waterway Database. Accessed August 14, 2023. https://mywaterway.epa.gov/community/1000%20S%20De%20Anza%20Blvd,%20San%20Jose,%20CA,%2095129,%20USA/overview.

Groundwater on the project site is 75 feet below the ground surface.[60] There are no wells located on site. The project site is not located within a dam failure inundation zone for either the James J. Lenihan Dam or Anderson Dam. The project site is located partially within the Zone D flood hazard zone and partially in an area with a Zone X flood hazard. Flood Hazard Zone D is where there are possible but undetermined flood hazards or unstudied areas and Flood Hazard Zone X is an area of moderate flood hazard or 0.2% annual chance of flooding, usually the area between the limits of the 100 year and 500-year flood plains.

The project site is located within a drainage area of greater than 65 percent impervious areas which is defined as an area where hydromodification of a channel would not occur if impervious surfaces increased.

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?

[60] Cornerstone Earth Group. Phase 1 Site Assessment. September 2023.

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

Implementation of the proposed project would involve excavation and grading activities on-site. Ground-disturbing activities would temporarily increase the amount of debris on-site and grading activities could increase erosion and sedimentation that could be carried by runoff into the San Francisco Bay. The project site is approximately 0.72-acre in size and would not disturb more than one acre of soil; therefore, the project would not be required to obtain an NPDES General Permit for Construction Activities. All development projects in the City are, however, required to comply with the City of San José's Grading Ordinance[61] whether or not the project is required to obtain an NDPES General Construction Permit. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant shall submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan shall detail BMPs that would be implemented to prevent the discharge of stormwater pollutants.

Pursuant to City requirements, the following Standard Permit Conditions have been included in the project to reduce potential construction-related water quality impacts.

Standard Permit Condition

- Construction-related water quality.
- 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.

[61] The San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality when a site is under construction.

- 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.

With implementation of the identified Standard Permit Conditions, construction of the proposed project would have a less than significant impact on water quality. **(Less than Significant Impact)**

Operational Impacts

The proposed project would result in replacement of more than 50 percent of existing impervious surfaces on the project site, although overall impervious surface area would decrease after redevelopment, by approximately 3,543 square feet. Therefore, the proposed project would be subject to City of San José Site Design, Source Control, and Treatment System requirements. The project includes new pervious areas, directs stormwater towards landscaped parts of the site, and features a bioretention area sized according to the uniform intensity method for storm flows. Therefore, the proposed project would manage stormwater on site in compliance with City of San José policies and would result in less than significant operational water quality impacts. **(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?

The project site is mostly impervious surfaces and does not currently offer opportunities for infiltration of groundwater. Upon redevelopment, pervious surface area would increase slightly, by approximately 3,543 square feet, incrementally increasing infiltration. Additionally, groundwater is estimated to be approximately 75 feet below the ground surface of the site. Based on this information, the proposed project would not result in reduction of infiltration and would not impact the flow of groundwater because the project design would not require subterranean spaces and excavation would only extend to approximately 10 feet below the ground surface. Therefore, the proposed project would have a less than significant impact on groundwater supplies and would not impede sustainable groundwater management of the basin **(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 proposed project would decrease the overall amount of impervious surface area of the project site which would result in modification of some drainage on site. As stated in the existing conditions section, the project site is within an area where impervious surfaces account for 65 percent or more of the drainage area, therefore, increases in impervious surfaces would not result in hydromodification of channels near the project site. Additionally, the proposed project would reduce impervious surfaces on the site by approximately 3,543 square feet which would allow for more water to infiltrate on-site than under existing conditions. This would further reduce the amount of water that would runoff the project site. Therefore, the proposed project would result in a less than significant impact resulting from alteration of existing drainage patterns of the site. **(Less than Significant Impact)**

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

As stated above, the project site is not located within a tsunami hazard zone and is not located near a body of water which would have a seiche occur during seismic activity. Additionally, the project site is not within the dam failure hazard areas for either the James J. Lenihan Dam or Anderson Dam. As stated above the project site is located within Flood Hazard Zone D and Zone X which are not areas which have specified flood hazards or regulatory requirements. Therefore, the proposed project would not result in risks of release of pollutants due to project inundation during flooding events. **(Less than Significant Impact)**

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

The project site is not located within a groundwater recharge area and would not result in impediment of groundwater on the project site because the depth of excavation is proposed to be approximately 10 feet and depth of groundwater under the site is approximately 75 feet below the ground. Additionally, the proposed project would decrease impervious surface area on the site by approximately 3,543 square feet, incrementally increasing infiltration, and not rely on extraction of groundwater resources beneath the site. Therefore, the proposed project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. **(No 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 impact area for cumulative hydrology and water quality impacts is the Calabazas Creek Watershed. The proposed project would not result in impacts to water quality of ground water on the project site and would not result in a considerable contribution to runoff or other pollutants in water. Additionally, because the project site is within a watershed of greater than 65 percent impervious surfaces, the proposed project would not contribute to an ongoing impact associated with increased runoff. Therefore, the proposed project would not result in a cumulatively considerable contribution to a cumulatively significant hydrology and water quality impact. **(Less than Significant Cumulative Impact)**

3.11 Land Use and Planning

3.11.1 Environmental Setting

3.11.1.1 *Regulatory Framework*

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to land use and planning and applicable to the proposed project:

Policy	Description
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-1.15	Consider the relationship between street design, use of the public right-of-way, and the form and uses of adjoining development. Address this relationship in the Urban Village Planning process, development of new zoning ordinances, and the review of new development proposals in order to promote a well-designed, active, and complete visual street environment.
CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate. • Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways. • Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area. • Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies. • Locate retail and other active uses at the street level. • Create easily identifiable and accessible building entrances located on street frontages or paseos. • Accommodate the physical needs of elderly populations and persons with disabilities. • Integrate existing or proposed transit stops into project designs.
CD-4.5	For new development in transition areas between identified growth areas and non-growth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, viewshed, or other land use compatibility concerns.

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.
CD-5.9	To promote safety and to minimize noise and vibration impacts in residential and working environments, design development that is proposed adjacent to railroad lines to provide the maximum separation feasible between the rail line and dwelling units, yards, or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, devote areas of development closest to an adjacent railroad line to use as parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth. In industrial facilities, where the primary function is the production, processing or storage of hazardous materials, for new development follow the setback guidelines and other protective measures called for in the City's Industrial Design Guidelines when such facilities are to be located adjacent to or near a main railroad line.
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.
IP-1.5	Maintain a Zoning Ordinance and Subdivision Ordinance that aligns with and supports the Land Use/Transportation Diagram and the 2040 General Plan goals and policies. Develop new Zoning Districts which enumerate uses and establish development standards including heights to achieve vital mixed-use complete communities and facilitate their implementation.
IP-1.6	Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram and advance 2040 General Plan Vision, goals and policies and benefit community welfare.
IP-1.7	Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics which require special consideration due to those constraints.
IP-1.8	Consider and address potential land use compatibility issues, the form of surrounding development, and the availability and timing of infrastructure to support the proposed land use when reviewing rezoning or prezoning proposals.

3.11.1.2 *Existing Conditions*

The project site has the General Plan designation of Neighborhood/Community Commercial (NCC) and is zoned Commercial Pedestrian (CP).

The NCC General Plan Designation supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. Neighborhood / Community Commercial uses typically have a strong connection to and provide services and amenities for the nearby community and should be designed to promote that connection with an appropriate urban form that supports walking, transit use and public interaction. General office uses, hospitals and private community gathering facilities are also allowed in this designation. This designation also supports one hundred percent (100%) deed restricted affordable housing developments that are consistent with General Plan Policy H-2.9 and Policy IP-5.12.

The project site is also located within the South De Anza Urban Village area which was determined to have a capacity of 463 units of residential development remaining in the Envision 2040 General Plan. Additionally, the site was identified in the 2023-2031 Housing Element as an inventory site for 51 lower income units.

The zoning for CP allows for pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the general plan related to Neighborhood Business Districts. The CP Commercial Pedestrian District also encourages mixed residential/ commercial development where appropriate, and is designed to support the commercial goals and policies of the general plan in relation to Urban Villages. This district is also intended to support intensive pedestrian-oriented commercial activity and development consistent with general plan urban design policies.

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?

The proposed project would redevelop a site currently occupied by a restaurant building and associated parking lot. The proposed project would not result in new roadways or physical barriers

which may restrict movement within the surrounding community. Therefore, the proposed project would have a less than significant impact. **(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?

The residential development would build 120 units of housing on the project site which has a General Plan land use designation of Neighborhood/Community Commercial (NCC) and is located in the CP Commercial Pedestrian Zoning District.

The NCC General Plan land use designation supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. General office uses, hospitals and private community gathering facilities are also allowed in this designation. This designation also supports one hundred percent (100%) deed restricted affordable housing developments that are consistent with General Plan Policy H-2.9 and Policy IP-5.12.

The CP Zoning District is intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. This zoning district is designed to support the goals and policies of the General Plan related to Neighborhood Business Districts. The zoning district also encourages mixed residential and commercial development where appropriate and is designed to support the commercial goals and policies of the general plan in relation to Urban Villages. This would support intensive pedestrian-oriented commercial activity and development consistent with general plan urban design policies, including Neighborhood Business Districts, neighborhood centers, multi-tenant commercial development along city connector and main streets as designated in the general plan, and small corner commercial establishments. The proposed project is located within the South De Anza Boulevard Urban Village which had a capacity of 508 residential units allocated to it in the Envision 2040 General Plan. The Urban Village had 463 residential units remaining in its capacity.

The proposed residential project would not be consistent with the existing NCC General Plan designation or CP Zoning District regulations; however, the project applicant is pursuing a builder's remedy application consistent with the Housing Affordability Act, which allows a project to be constructed as a non-conforming land use when a lead agency does not have a state-certified Housing Element at the time of application. Additionally, the proposed project would comply with all other environmental regulations and policies adopted by the City for purposes of reducing or avoiding the environmental effects associated with development. Therefore, the proposed project would not result in a conflict with a land use plan, policy, or regulation related to an environmental effect. **(Less than Significant Impact)**

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 cumulative impact area for land use and planning impacts is the City of San José. The General Plan currently allows for over 120,000 new dwelling units over the planning horizon to the year 2040, accommodating a growth in resident population of 360,000. The proposed project would be inconsistent with the land use designation of the site by developing housing; however, the future project residents would not the increase in population beyond what was included in the General Plan, because the proposed project is located within the South De Anza Boulevard Urban Village which has residential capacity (approximately 463 units) that the project would utilize and implement. The 120-units proposed by the project would be allowed by the Urban Village residential capacity which was included in the General Plan growth analysis. Therefore, this increase would not be cumulatively considerable and would not result in a significant cumulative impact on land use policy or planning efforts. **(Less than Significant Cumulative Impact)**

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*

In the City of San José, the only mineral resources identified in the city are located at Communications Hill. The project site is located approximately nine miles northwest of the Communications Hill area. Therefore, mineral resources are not expected to be found on the project site.

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 stated above, the proposed project would not be constructed in an area of a known mineral resource that would be of value to the region and residents of the state. Therefore, the proposed project would have no impact on these resources. **(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?

As stated above, the proposed project would not be constructed in an area of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. Therefore, the proposed project would have no impact on these resources. **(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 cumulative impact area for mineral resources is the specifically identified mineral resource areas. The proposed project would not result in any impacts to mineral resources and would not be constructed in an area of mineral resource supplies. Therefore, the proposed project would not result in a cumulatively considerable contribution to a cumulatively significant mineral resources impact. **(No Cumulative Impact)**

3.13 Noise

The following discussion is based in part on a Noise and Vibration Assessment prepared by Illingworth & Rodkin, Inc. on November 16, 2023. This report is included as Appendix F to this environmental document.

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.[62] 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.

[62] 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 Building Standards Code

The CBC establishes uniform minimum noise insulation performance standards to protect persons within new buildings housing people, including hotels, motels, dormitories, apartments, and dwellings other than single-family residences. Title 24 mandates that interior noise levels attributable to exterior sources do not exceed 45 L_{dn}/CNEL in any habitable room. Exterior windows must have a minimum Sound Transmission Class (STC) of 40 or Outdoor-Indoor Transmission Class (OITC) of 30 when the property falls within the 65 dBA DNL noise contour for a freeway or expressway, railroad, or industrial source.

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to noise and applicable to the proposed project:

Policy	Description
Policy EC-1.1	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 Envision 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 (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the Norman Y. Mineta San José International Airport, the Downtown Core Area, and along major roadways. For the remaining areas of the City, the following standards apply: – 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. There will be common use areas available to all residents that meet the 60 dBA exterior standard. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. – For single-family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as back yards.
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-1.3	New nonresidential land uses will mitigate noise generation to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.
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.
Policy EC-1.9	Noise studies are required for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, mitigation will be implemented so that recurring maximum instantaneous noise levels do not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms.
Policy EC-2.1	Near light and heavy rail lines or other sources of ground-borne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural design features that reduce vibration to levels at or below the guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.
Policy EC-1.11	Continue to require safe and compatible land uses within the Norman Y. Mineta International Airport noise zone (defined by the 65 CNEL contour as set forth in State law) and encourage aircraft operating procedures that minimize noise.
Policy 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 buildings 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. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building 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.

3.13.1.3 *Existing Conditions*

Existing Ambient Noise Levels

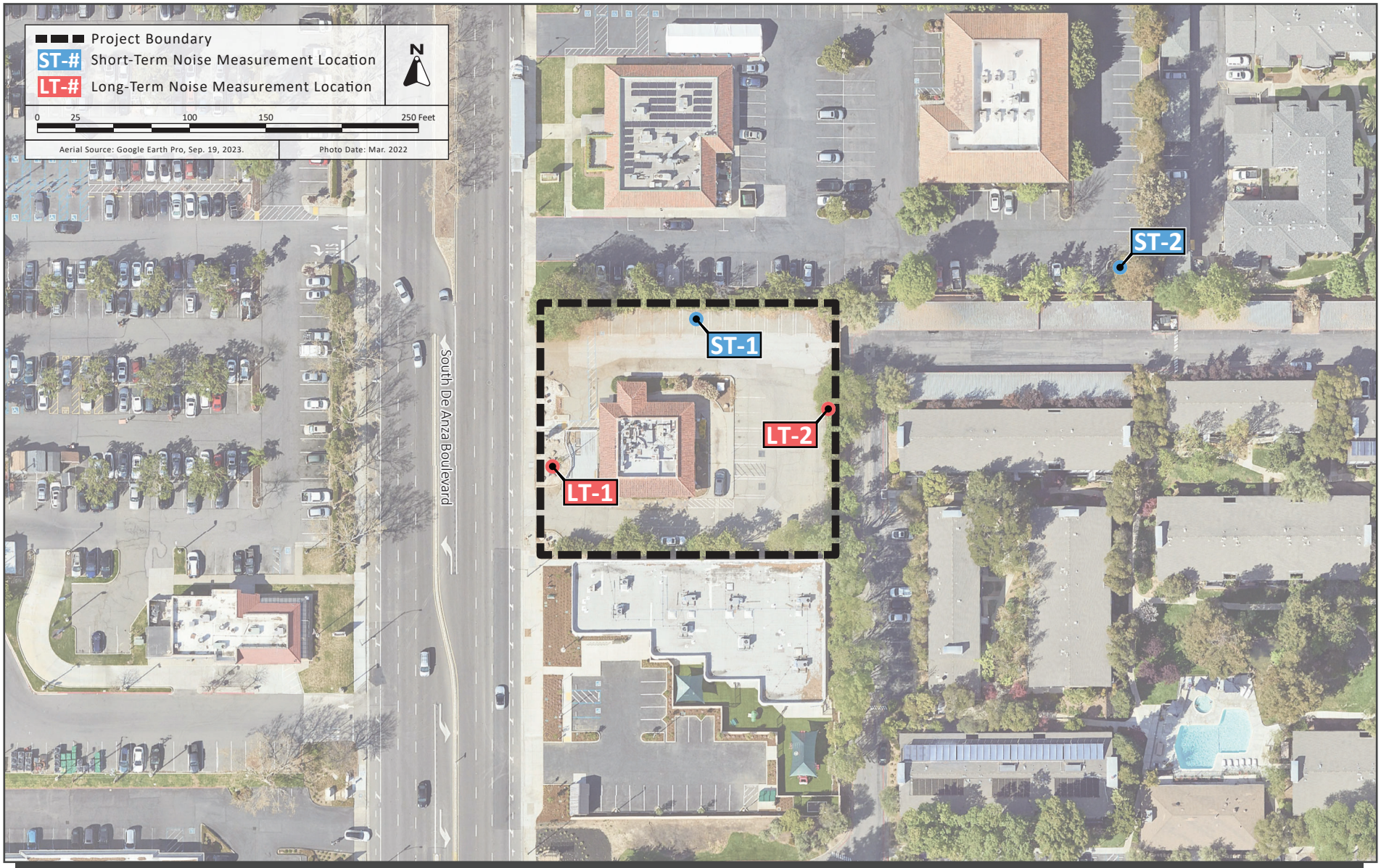
The project site is located on De Anza Boulevard between Bollinger Road and Clarendon Street. The surrounding uses include commercial uses to the north and west, a preschool to the south, and residential uses to the east.

Existing ambient noise at the project site results primarily from vehicular traffic along De Anza Boulevard. Table 3.13-1 shows the existing ambient noise levels in the project vicinity. Figure 3.13-1 shows the location of noise measurements in relation to the project site.

Table 3.13-1: Existing Ambient Noise Levels

Noise Measurement Location	Day and Time	dBA L_{eq}	Daytime dBA L_{eq}	Nighttime L_{eq}
Short Term Noise Measurements				
ST-1: Approximately 90 feet east of centerline of De Anza Boulevard	8/22/2023	57	--	--
ST-2: Approximately 425 feet east of centerline of De Anza Boulevard	8/22/2023	52	--	--
Long Term Noise Measurements				
LT-1: Approximately 65 feet east of centerline of De Anza Boulevard	8/22/2023 to 8/23/2023	69	64 to 71	52 to 66
LT-2: Approximately 245 feet east of centerline of De Anza Boulevard	8/22/2023 to 8/23/2023	54 to 55	48 to 58	39 to 51

Source: Illingworth & Rodkin, Inc. *1000 South De Anza Boulevard Residential Project Noise and Vibration Assessment, San José, California.* November 16, 2023.



LOCATION OF NOISE MEASUREMENTS | FIGURE 3.13-1

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 *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?

Construction Noise

As noted in Section 2.2 Project Description, project construction would occur for a period of 14 months. During this time, construction activities would occur between 7:00 a.m. and 7:00 p.m. on weekdays. Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. Construction of the project would involve demolition of the existing building and pavement, site preparation, grading, excavation, trenching, and paving which would temporarily increase noise levels at nearby sensitive land uses. Because the project would increase noise levels due to construction activities within 500 feet of residences for a period of more than 12 months, the project would result in a temporary significant noise impact.

Impact NOI-1 Project construction activities cause increased noise levels for a period of more than 12 months, which may cause adverse construction noise impacts on nearby residential and commercial land uses.

Mitigation Measures:

MM NOI-1.1 Pursuant to General Plan Policy EC-1.7, the project applicant shall prepare 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. The construction noise logistics plan shall be submitted to the Director of Planning, Building, and Code Enforcement, or the Director's designee, for review and approval prior to issuance of a demolition, grading, or building permit (whichever occurs the earliest). Project construction operations shall use best available noise suppression devices and techniques including, but not limited to the following:

- Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building, and Code Enforcement, or the Director's designee, that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- Construct solid plywood fences around ground level construction site adjacent to operational businesses, residences, or other noise-sensitive land uses. A temporary eight-foot noise barrier would provide 7 dBA attenuation for adjacent residential land uses when construction activities occur at the ground level.
- If complaints made by nearby residences to the north or to the east are irresolvable, erect a temporary noise control blanket barrier, where feasible, at the property line or on scaffolding just outside the proposed towers facing the residences during construction of the upper floors. This would control construction noise when activities do not occur at the ground level.
- 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.

- 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.

Compliance with MM NOI-1.1 would ensure the project’s construction noise impacts would be less than significant. **(Less than Significant Impact with Mitigation Incorporated)**

Operational Noise

Permanent noise level increases from project operations would be generated by traffic from future residents and visitors of the proposed residences, parking garage activity, and mechanical equipment operation. A significant permanent noise increase would occur if the project would increase noise levels at noise-sensitive receptors by three dBA or more where ambient noise levels exceed the “normally acceptable” noise level standard. Where ambient noise levels are at or below the ”normally acceptable” noise level standard, noise level increases of five dBA or more would be considered significant. The City’s General Plan defines “normally acceptable” noise levels as 55 dBA DNL or less for residential uses and 60 dBA DNL for commercial uses.

As discussed in Section 3.13.1.2 Existing Conditions above, the existing noise levels near the project site range from 52 to 69 dBA which is above the City’s “normally acceptable” noise level for residential uses. A significant impact would occur if the proposed project would permanently increase ambient noise levels by three dBA.

Traffic Noise

De Anza Boulevard has an average daily traffic volume of 34,951 trips per day under existing conditions. As noted in Section 3.17 Transportation, the project would result in 459 daily trips. Therefore, based on a review of existing and existing plus project traffic volumes, the project would not result in a doubling of traffic on roadway segments in the project vicinity and project generated traffic noise would be less than one dBA. The project, therefore, would not result in a significant permanent traffic noise increase. **(Less than Significant Impact)**

Mechanical Equipment Noise

As discussed in Section 2.2 Project Description, the project would include use of mechanical equipment such as an electrical transformer and heating, ventilation, and air conditioning units (HVAC). The electrical transformer would be located in the northwest corner of the site adjacent to the proposed electrical room and the HVAC units would be located along the north and west sides of the building on the rooftop as well as in the southwest corner of the rooftop.

Transformers up to 1,000 kVA typically generate noise levels up to 64 dB, as measured at one meter (3.28 feet). Assuming the transformer runs continuously during daytime and nighttime hours, noise levels would be 30 dBA L_{eq} at the nearest residential property line (approximately 175 feet) and 53 dBA L_{eq} at the nearest commercial property line. When compared to existing ambient noise levels at the nearest residential (55 dBA) and commercial (69 dBA) property lines, transformer and electrical room operation would not be audible above the existing noise environment. Therefore, noise levels generated by the transformers and electrical room equipment would not exceed ambient conditions or the City's Municipal Code thresholds at receiving residential and commercial uses.

Typical HVAC units for multi-family residential buildings cycle on and off continuously throughout a 24-hour period and generate noise levels of up to 62 dBA at a distance of 20 feet. Assuming all rooftop equipment running simultaneously, noise levels generated by these units would be up to 43 dBA L_{eq} at the commercial buildings adjacent the north of the project site and 42 dBA L_{eq} at the residential buildings adjacent to the east of the project site. Noise levels generated by these units would be up to 40 dBA Leq at the school building just south of the project site and up to 37 dBA Leq at the commercial buildings to the west, across De Anza Boulevard from the project Site. Thus, project-generated mechanical equipment noise would not result in a measurable or detectable noise level increase compared to existing conditions. **(Less than Significant Impact)**

Parking Garage Noise

Operation of the proposed ground level parking garage would generate noise from car doors opening and closing, engines starting, car horns, and vehicle circulation. As noted in Section 2.2 Project Description, the parking garage would be wrapped by the building façade, include 148 parking spaces, and include a three-tiered mechanical lift system that would allow three vehicles to be parked vertically. Typical noise levels generated by parking structures of this size are 54 dBA L_{eq} during the nighttime and up to 64 dBA L_{eq} during the daytime when measured at the edge of the structure. Assuming a 10 to 15 dBA Leq attenuation from building façade, project-generated parking garage noise would be 51 dBA DNL at the nearest commercial uses to the north, 55 dBA DNL at the nearest residences to the east, 58 dBA DNL at the preschool to the south (treated as a commercial use), and 43 dBA DNL at the commercial uses to the west, across De Anza Boulevard from the project site. Thus, project-generated parking lot noise would not exceed the City's Municipal Code threshold of 55 dBA DNL at the nearest residential uses, or 60d dBA DNL at the nearest commercial uses. **(Less than Significant Impact)**

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. As discussed in Section 2.2 Project Description, construction activities would include demolition, site preparation, excavation, foundation work, and new building framing and finishing. Pile driving (which generates substantial vibration) is not proposed.

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.

A review of the City of San José Historical Resources Inventory identified a commercial building at 7290 Billinger Road, approximately 576 feet north of the project site, as the only historic resource in the project vicinity. Due to the distance between the project site and the nearest historic building at 7290 Bollinger Road, vibration levels would not exceed the 0.2 in/sec PPV threshold.

Construction of the project would generate vibration levels up to 0.575 in/sec PPV at the adjacent preschool, up to 0.125 at the residences to the east, and 0.077 at the commercial uses to the north of the project site. Therefore, vibration levels would exceed the City's 0.2 in/sec PPV threshold at the adjacent preschool.

Impact NOI-2 Construction vibration levels at the adjacent preschool would range from 0.022 to 0.575, exceeding the General Plan threshold of 0.2 in/sec PPV for buildings of conventional construction.

Mitigation Measure:

MM NOI-2.1 Prior to the issuance of a demolition, grading, or building permit (whichever occurs the earliest, the project applicant shall prepare and submit a Construction Vibration Operations Plan to the Director of Planning, Building, and Code Enforcement, or the Director's designee. The following measures shall be included in the plan and implemented during construction to reduce vibration levels to 0.2 in/sec PPV or less at the adjacent preschool:

- 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 Director of Planning, Building, and Code Enforcement, or the Director's designee, 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 as far as possible from vibration-sensitive receptors.
- 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 adjacent conventional building.

- Avoid using vibratory rollers and clam shovel drops near sensitive areas.
- Select demolition methods not involving impact tools.
- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- 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 adjacent conventional buildings.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

With implementation of the above mitigation measures, project construction vibration would be reduced to below the City's 0.2 in/sec PPV threshold at the adjacent preschool. **(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 project site is located approximately 6.4 miles away from the nearest airport, the San José Mineta International Airport. Therefore, the project site is located outside of the area covered under the adopted airport land use plan and would not expose people residing or working in the project area to excessive noise levels. **(No Impact)**

3.13.2.2 *Cumulative Impacts*

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

Cumulative noise impacts would include either cumulative traffic noise increases under future conditions or temporary construction noise from cumulative construction projects.

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 five dBA 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 project.

Future noise levels in the project vicinity would be one dBA DNL greater than existing conditions. As discussed under checklist question a above, project-generated traffic would result in noise level increase of less than one dBA. Therefore, the project would not result in a significant cumulative traffic noise increase and would not make a "cumulatively considerable" contribution to the overall traffic noise increase.

The nearest planned or approved project to the project site would be the Hotel De Anza project located at 1510 South De Anza Boulevard (a four story, 124 room hotel). The Hotel De Anza project is located approximately one mile south of the project site and is on the opposite side of SR 85. Due to the distance between the 1510 South De Anza Boulevard site and the proposed project site, the project would result in a less than significant cumulative impact. **(Less than Significant Cumulative Impact)**

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.

Residential Outdoor Use Areas

The proposed project would be located in an urban area where ambient noise levels are approximately 52 to 69 dBA. As shown in Figure 2.2-1, the project would include a courtyard on the second floor and an outdoor seating area on the rooftop level. The courtyard would be approximately 170 feet from the centerline of South De Anza Boulevard and surrounded by the proposed building on three sides (north, east, and west sides and open to the south). Due to the shielding provided by the building and the setback from De Anza Boulevard, future exterior noise levels at the center of the courtyard would be below 60 dBA DNL. The rooftop seating area would be located on the east side of the rooftop, approximately 240 feet from the centerline of South De Anza Boulevard. The elevation of the rooftop and the western building façade would shield receptors from South De Anza Boulevard traffic noise, resulting in future exterior noise levels below 60 dBA DNL. Thus, all outdoor use areas would be within the City's "normally acceptable" noise range of 60 dBA DNL and lower.

Future Interior Use Areas

Future exterior noise levels would be 70 dBA at the western building façade, 56 dBA at the northern, 56 dBA at the eastern, and 67 dBA at the southern building facades. Standard residential construction provides 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. Therefore, future interior noise levels would be 55 dBA, 41 dBA, 41 dBA, and 52 dBA at the northern, western, eastern, and southern building

facades respectively. The project would therefore be required to implement the following Standard Permit Condition to reduce noise levels at proposed residential units on the northern and southern building facades to below the City's threshold.

Standard Permit Condition:

1. 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 ambient interior noise levels to 45 dBA DNL or lower and achieve the instantaneous noise objective of 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms within the residential unit. 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.

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 are 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.[63] The City of San José Housing Element and related land use policies were last updated in June 2023, however, certification by the state had not been achieved at the time the subject project application was received by the City.

Regional and Local

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.[64]

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.

[63] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed August 15, 2023. https://www.hcd.ca.gov/planning-and-community-development/housing-elements.
[64] Association of Bay Area Governments and Metropolitan Transportation Commission. *Plan Bay Area 2050*. October 21, 2021. Page 20.

City of San José Housing Element 2023-2031

The Housing Element is part of San José's Envision 2040 General Plan, a community-based plan that serves as the blueprint for the City's growth. The Housing Element identifies the city's housing needs and opportunities and establishes goals and strategies to inform housing decisions. The plan intended to achieve the construction of 62,200 units of residential development by 2031 with a variety of household types serving all income levels. The City has an expected population growth of 360,000 residents by 2040.

3.14.1.2 *Existing Conditions*

The project site is currently occupied by a restaurant building which is vacant and its associated parking lot surrounding the building. The existing building does not provide housing or jobs to the City of San José.

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)?

The proposed project would construct 120 multifamily residential units, and house approximately 370 residents[65], on a site zoned for commercial development. As stated above, the project site is located within the South De Anza Urban Village which has a capacity for 463 residential units. The proposed project would be covered under this proposed growth assumption which is consistent with the Envision 2040 General Plan population growth assumptions. Therefore, the proposed project would not induce substantial unplanned population growth in the city and would have a less than significant impact. **(Less than Significant Impact)**

[65] The project would contribute 120 units at a rate of 3.08 residents per unit. This would equate to approximately 370 residents for the development.
United States Census Bureau. City of San José Fast Facts. Accessed September 21, 2023. https://www.census.gov/quickfacts/fact/table/sanjosecitycalifornia/PST045222

b) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

The project site does not contain existing housing units and the proposed project would not result in displacement of substantial numbers of people or housing units. **(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 cumulative area for population growth is the City of San José. The proposed project is located within the South De Anza Boulevard Urban Village which has 463 units of residential capacity that is not used at this time. The 120-units constructed as a part of the proposed project would be supported by the Urban Village residential capacity which was included in the General Plan growth analysis. Therefore, the contribution of the proposed project would not be cumulatively considerable and would not result in a significant impact from an increase in population. **(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) was approved by the California legislature to preserve open space and parkland in the State. 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. As described below, the City has adopted a Parkland Dedication Ordinance (PDO) and a Park Impact Ordinance (PIO), consistent with the Quimby Act.

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 and Local

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.

Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO)

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 onsite. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication, or provide a combination of these solutions. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO and PIO.

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to public services and applicable to the proposed project:

Policy	Description
ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: • 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. • 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. • Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. • Measure service delivery to identify the degree to which services are meeting the needs of San José's community. • Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
Policy ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 SF of space per capita in library facilities.
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-3.14	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.
Policy 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.
Policy 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.
Policy PR-1.12	Regularly update and utilize San José's Parkland Dedication Ordinance / Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.
Policy 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 0.75-mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

3.15.1.2 *Existing Conditions*

Fire Services

Fire protection services for the project site are provided by the City of San José Fire Department (SJFD). The SJFD consists of 34 stations distributed throughout the City. The closest fire station to the project site is Station 15, located at 1248 South Blaney Avenue, which is approximately 0.75 miles southeast 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 7.4 miles northeast 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 (nonemergency) calls.

Schools

The project site is located within the Cupertino Union School District (CUSD) and Fremont Union High School District (FUHSD). The nearest public schools to the project site are Dilworth Elementary, located at 1101 Strayer Drive (approximately 1.25 miles southeast of the site), Miller Middle School, located at 6151 Rainbow Drive (approximately 1.1 miles southeast of the site), and Lynbrook High School, located at 1280 Johnson Avenue (approximately 1.5 mile southeast of the site).

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 a total of 3,621 acres of regional and neighborhood/community-serving parkland, including, but are not limited to, 10 regional parks, 202 neighborhood parks, 299 park playgrounds, 46 community centers, and approximately 64 miles of trail.

The nearest park to the project site is Calabazas Park, located 0.59 miles southeast of the project site. The associated Calabazas Community Garden is also located 0.59 miles southeast of the project site.

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 library is the Calabazas Branch Library, approximately 0.66 miles southeast of 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 proposed project would result in the redevelopment of the project site with a use which adds population to the City of San José. The increased density of people on the project site would increase the need for fire protection in the City of San José. The San José General Plan determined that development in the General Plan would result in an increase in calls for fire protection services but is not anticipated to result in the need for construction of fire stations in excess of those currently planned. The proposed project would utilize the 'Builders Remedy' process to build residential uses on a commercial site which would be inconsistent with the expected growth in the General Plan.

Although the growth on this project site was not directly planned in the General Plan, the proposed project is in the South De Anza Urban Village with a capacity for 463 new residential units and would contribute 370 people in an urbanized fire service area which would not result in a significant demand for additional fire protection services. Therefore, the proposed project would have a less than significant impact on the service ratios, response times, or other performance objectives for fire protection services and no new or physically altered governmental facilities would be required to serve the project site. Additionally, in the event that new facilities are required as a result of cumulative growth in the area, the City would conduct additional environmental analysis, based on the location and details of any proposed new public facilities, to determine if significant environmental impacts would occur, and devise adequate measure to mitigate any significant impacts. **(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 proposed project would redevelop the project site with a residential use which adds population to the City of San José. The increased density of people on the project site would increase the need for police service in the City of San José. The San José General Plan determined that development in the General Plan would result in an increase in calls for service and may require the need for expansion of existing police facilities or the location of new facilities within planned growth areas. Construction of new police facilities identified in the General Plan would require supplemental environmental review but they were not anticipated to have significant adverse environmental impacts.

The proposed project would utilize the 'builder's remedy' process to build a residential building on a site planned for commercial uses which would be inconsistent with the expected growth in the General Plan. Because the project would be located within the South De Anza Urban Village which has residential capacity consistent with the General Plan, the proposed project would contribute 370 people in an urbanized area which would not result in a significant demand for additional law enforcement services. Therefore, the proposed project would have a less than significant impact on the service ratios, response times, or other performance objectives for fire protection services and no new or physically altered governmental facilities would be required to serve the project site. **(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 City of San José General Plan estimated future housing within their respective attendance boundaries would add 375 new students to the CUSD and 580 students to the FUHSD under full build out of the General Plan. Based on the size of the project, the new development would increase the demand for schools by 23 students to the CUSD (a five percent increase over the General Plan growth) and nine students to FUHSD (a one percent increase over the General Plan growth).[66] The General Plan FEIR determined that the CUSD would need one additional elementary/ middle school facility and the FUHSD would need one additional high school to support the General Plan growth. The additional schools planned for these districts would have capacity to provide for the growth created by the proposed project. These additional students would not significantly increase the needs for schools in these jurisdictions and would not result in a need for new or physically altered school facilities because the capacity of the existing schools would be adequate to maintain service ratios and performance objectives for schools in the project area. **(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?

[66] CUSD Student Generation for Multifamily attached units (K-8) = 0.19 students per unit x 120 units = 23 students
FUHSD Student Generation for Multifamily attached units = 0.07 students per unit x 99 units = 9 students
Fremont Union High School District. Projected Enrollments from 2022 to 2027. Enrollment Projection Consultants. https://resources.finalsite.net/images/v1674170884/fuhsdorg/bnyvzlpu4kovphpdxm6z/2022-23FUHSDForecastUpdateReportFINAL.pdf

The City of San José has a Parks Dedication Ordinance (PDO) 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. Based on the 2010 Census Data, Number of People Per Unit, data the proposed project would increase the City population by 358 new residents, thereby increasing the demand for parks by 1.07 acres.[67] The project proposes approximately 5,017 square feet of recreational open space including a residential lounge, entertainment area, and pool space. In addition to the recreational facilities proposed on-site, the project would be required pay the applicable Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (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.

Since the project applicant 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?

Library Facilities

The City of San José has been expanding and constructing new library facilities over the last decade to meet the needs of current residents. The General Plan policies maintain the City's current policy of providing at least 0.59 square feet of library space per capita. Development and redevelopment allowed under the General Plan would increase the City's residential population to 1,313,811, approximately 342,578 residents above the existing population. The City's existing and planned facilities would provide approximately 0.68 square feet of library space for the anticipated population under the General Plan by 2035.

The Envision 2040 General Plan FEIR concluded that development and redevelopment allowed under the proposed General Plan would be adequately served by existing and planned library facilities. The proposed increase in residents at the project site would represent an increase of 218 square feet of library demand as part of the planned residential growth in the City. Therefore, implementation of the project would not result in significant impacts to library facilities in San José. **(Less than Significant Impact)**

[67] This value is different than the other population count because the Department of Parks and Recreation utilizes a different source for parkland obligation.

3.15.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a cumulatively significant public services impact?

The cumulative impact area for public services impacts is the City of San José. The proposed project would not result in significant expansion of public services on its own. The development expected in the General Plan is not expected to result in new or expanded facilities for public services. Additionally, the proposed project is located within the South De Anza Boulevard Urban Village which has 463 units of residential capacity that is not used at this time. The 120-units constructed as a part of the proposed project would be supported by the Urban Village residential capacity which was included in the General Plan growth analysis. Therefore, the demand for public services created by would be insignificant compared to the total growth citywide.

The fire protection services in the city would adequately serve the population expected in build out of the General Plan and the proposed project would not increase the demand for these services. The General Plan EIR determined that although the increase in population may require new police facilities, they would not create an environmental impact since they would be constructed in the urbanized areas and compliant with CEQA. The proposed project would increase the demand for these services but as assumed in the General Plan EIR, any new facilities would not result in impacts on the environment. Finally, the proposed project would be required to pay parks fees and would minimally increase needs for library facilities. Therefore, the proposed project would not result in a cumulatively considerable contribution to a cumulatively significant public services impact. **(Less than Significant Cumulative Impact)**

3.16 Recreation

3.16.1 Environmental Setting

3.16.1.1 *Regulatory Framework*

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) was approved by the California legislature to preserve open space and parkland in the State. 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. As described below, the City has adopted a Parkland Dedication Ordinance (PDO) and a Park Impact Ordinance (PIO), consistent with the Quimby Act.

Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO)

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 onsite. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication, or provide a combination of these solutions. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO and PIO.

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to recreation resources and applicable to the proposed 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-2.6	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 a total of 3,621 acres of regional and neighborhood/community-serving parkland, including, but are not limited to, 10 regional parks, 202 neighborhood parks, 299 park playgrounds, 46 community centers, and approximately 61 miles of trail.

The nearest park to the project site is Calabazas Park, located 0.59 miles southeast of the project site. The associated Calabazas Community Garden is also located 0.59 miles southeast of the project site.

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 City of San José has a PDO 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. Based on the 2010 Census Data, Number of People Per Unit, data the proposed project would increase the City population by 358 new residents and create the need for

1.074 additional acres of parkland.[68] The project proposes approximately 5,017 square feet of recreational open space including a residential lounge, entertainment area, and pool space. In addition to the recreational facilities proposed on-site, the project would be required to pay the applicable Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (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. **(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?

The proposed project does not include the construction of recreational facilities beyond the recreational open space included in the project noted previously. Additionally, should the City decide to undertake new or expanded park facilities to serve the project and planned growth in the area, the City would undertake an environmental study for that project specific park project once the location and details were known, as required by CEQA, and develop mitigation measures to address any significant impacts, as park projects rarely result in significant, unmitigable impacts. Therefore, the proposed project would not result in significant impacts associated with the construction or expansion of recreational facilities. **(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 cumulative impact area for recreational resources is the City of San José. The proposed project would have less than significant impacts on recreational resources through compliance with PDO and PIO fees. Additionally, the proposed project is located within the South De Anza Boulevard Urban Village which has 463 units of residential capacity that is not used at this time. The 120-units constructed as a part of the proposed project would be supported by the Urban Village residential capacity which was included in the General Plan growth analysis. The project's compliance with General Plan policies PR-2.4 and PR-2.5 would prevent impacts to San José park resources and would result in less than significant impacts. **(Less than Significant Cumulative Impact)**

[68] This value is different than the other population count because the Department of Parks and Recreation utilizes a different source for parkland obligation.

3.17 Transportation

The information in this section is based in part on the Transportation Analysis completed by Hexagon Transportation Consultants on March 4, 2025. This report is included as Appendix G of this environmental document.

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 vehicle miles traveled (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 average citywide VMT per capita. Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact.

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.

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to transportation resources and applicable to the proposed project:

<table>
<tr><th>Policy</th><th>Description</th></tr>
<tr><td>TR-1.1</td><td>Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).</td></tr>
<tr><td>TR-1.2</td><td>Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.</td></tr>
<tr><td>TR-1.3</td><td>Increase substantially the proportion of commute travel using modes other than the single-occupant vehicle. The 2040 commute mode split targets for San José residents and workers are present in the following table:
<table>
<tr><td colspan="3">Commute Mode Split Targets for 2040</td></tr>
<tr><td rowspan="2">Mode</td><td colspan="2">Commute Mode Split Targets for 2040</td></tr>
<tr><td>2008</td><td>2040 Goal</td></tr>
<tr><td>Drive alone</td><td>77.8%</td><td>No more than 40%</td></tr>
<tr><td>Carpool</td><td>9.2%</td><td>At least 10%</td></tr>
<tr><td>Transit</td><td>4.1%</td><td>At least 20%</td></tr>
<tr><td>Bicycle</td><td>1.2%</td><td>At least 15%</td></tr>
<tr><td>Walk</td><td>1.8%</td><td>At least 15%</td></tr>
</table>
</td></tr>
</table>

	Other means (including work at home)	5.8	See Note 1
	Source: 2008 data from American Community Survey (2008) Note 1: Working at home is not included in the transportation model, so the 2040 Goal shows percentages for only those modes currently included in the model.		
TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.		
TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.		
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 towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.		
TR-5.3	Develop 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.		
TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.		
TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.		
TR-8.9	Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.		
CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Corridors, Main Streets, and other locations where appropriate: • Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways. • Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area. • Provide pedestrian connections as outlined in the Urban Design Connections Goal and Policies. • Local retail and other active uses at the street level. • Create easily identifiable and accessible building entrances located on street frontages or paseos. • Accommodate the physical needs of elderly populations and persons with disabilities.		

	• Integrate existing or proposed transit stops into project designs.
CD-3.6	Encourage a street grid with lengths of 600 feet or less to facilitate walking and biking. Use design techniques such as multiple building entrances and pedestrian paseos to improve pedestrian and bicycle connections.

3.17.1.2 *Existing Conditions*

Existing Roadway Network

The project site is regionally accessible by State Route 85 (SR-85). SR-85 is a six-lane freeway that starts at US-101 in South San Jose and heads northwest to Mountain View, where it connects with US-101. Access to the project site is provided by the interchange of SR-85 and De Anza Boulevard.

Local access to the site is provided by De Anza Boulevard, Bollinger Road, and Clarendon Street/Fallenleaf Lane.

De Anza Boulevard is a north-south six-lane arterial roadway that extends from Interstate (I-280) southward and ultimately becomes Saratoga Sunnyvale Road south of Prospect Road. The roadway is designated as a Main Street in the General Plan between Bollinger Road and Prospect Road, which includes the frontage of the project. On-street parking is prohibited along both sides of the roadway. De Anza Boulevard has a raised median island and left-turn pockets at signalized intersections. Sidewalks and bike lanes are located on both sides of the roadway near the project site.

Bollinger Road is an east-west two- to four-lane arterial roadway that extends from De Anza Boulevard eastward and ultimately becomes Moorpark Avenue east of Lawrence Expressway. It is designated as an On-Street Primary Bicycle Facility in the General Plan east of De Anza Boulevard. Bike lanes are provided on both sides of the roadway.

Clarendon Street/Fallenleaf Lane is an east-west two-lane residential roadway that extends approximately one third of a mile eastward and westward from De Anza Boulevard.

Existing Pedestrian, Bicycle and Transit Facilities

The primary pedestrian facilities near the project site are the sidewalks located on De Anza Boulevard, Bollinger Road and Clarendon Street/Fallenleaf Lane. Crosswalks and ramps are ADA compliant at most crossings near the project site.

Class II, III, and IV bike lanes are provided in areas around the project site A Class II Bikeway (Bike Lane) is a striped bike lane on roadways that are marked by signage and pavement markings. The following roadway segments have Class II bikeways.

- De Anza Boulevard, along its entire length (including along the west project frontage)
- Bollinger Road, along its entire length
- Rainbow Drive, along its entire length

- Blaney Avenue, north of Bollinger Road
- Stelling Road, along its entire length

A Class III bikeway is a bike route that only has signage to help guide bicyclists on recommended routes to certain locations. The following roadway segments have Class III bikeways.

- Blaney Avenue, between Bollinger Road and Prospect Road
- Pacifica Drive, east of Torre Avenue
- Clifford Drive, along its entire length
- Estates Drive, between Clifford Drive and La Mar Drive
- La Mar Drive, along its entire length

A Class IV Bikeway (Protected Bike Lane is a bike lane on roadways that include a vertical separation between the separated bikeway and the through vehicular traffic. Protected bike lanes are currently being constructed or have been implemented along the following roadways:

- McClellan Road, between De Anza Boulevard and Imperial Avenue
- Pacifica Drive, between De Anza Boulevard and Torre Avenue

Existing Transit Facilities

Existing transit services near the project site are provided by the Santa Clara Valley Transportation Authority (VTA). The bus lines that operate within a quarter mile walking distance of the project site include VTA Local Route 25 and Local Route 51. The nearest northbound bus stop, which is served by Local Routes 25 and 51, is located approximately 700 feet north of the project site at the northeast corner of the De Anza Boulevard and Bollinger Road intersection. The nearest southbound bus stop serving Route 51 is located along De Anza Boulevard, 500 feet south of Bollinger Road. Finally, the nearest eastbound stop serving Route 25 is located along Bollinger Road, 400 feet east of De Anza Boulevard. These bus routes are not considered high quality transit because they have headways greater than 15 minutes during peak commute periods.

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?

Policy and Roadway Facilities

The Circulation Element of the General Plan identifies multi-modal transportation goals and policies for safe, efficient, and sustainable transportation. Furthermore, the project site is located within the South De Anza Boulevard Urban Village which includes sites along South De Anza Boulevard between Bollinger Road and Rainbow Drive. The urban villages are defined as walkable, bicycle-friendly, transit-oriented, mixed-use areas that provide both housing and jobs to support the policies and goals of the General Plan. The existing urban village does not have an adopted village plan, however it can be assumed that it would have goals and policies similar to those of other San José urban village plans. Based on the design and location of the proposed project, Hexagon Transportation Consultants determined that the project would be consistent with goals and policies typical to San José urban village plans because the project provided walkable, bicycle-friendly, transit-oriented housing. The project has bicycle supporting parking and repair room, would be located close to local services, and would comply with a Transportation Demand Management Plan (TDM). Therefore, the proposed project would not conflict with the plans and policies addressing circulation in the urban plan area.

The proposed project would not result in conflicts with existing circulation on the roadway adjacent to the proposed project because the project would be required to comply with the required improvements from the San José Department of Transportation based on the site design. These include:

- Maintaining proposed landscaping along De Anza Boulevard so that drivers exiting the project driveway will have adequate view of pedestrians along the sidewalk and bicycle-users within the bike lane
- Allowing storage space for at least two inbound vehicles (50 feet) between parking lot entrance and the sidewalk on De Anza Boulevard
- Providing a minimum 24-foot width drive aisles to meet City standards for two-way access
- The project should coordinate with the City to determine requirements for stacked parking spaces.
- Per City direction, the project will be required to reconstruct the existing left-turn median island pocket within the median of De Anza Boulevard per SJDOT standards.

Bicycle Facilities

There are multiple bicycle facilities surrounding the project site including the bike lane located along the frontage of South De Anza Boulevard. The San José Better Bike Plan 2025 indicates that there are multiple bicycle facilities planned for the areas around the project site including:

- Blaney Avenue – Class III bike boulevards between Bollinger Road and Prospect Road
- De Anza Boulevard – Class IV protected bike lane between Bollinger Road and Rainbow Drive
- Bollinger Road – Class IV protected bike lane between De Anza Boulevard and Lawrence Expressway

Additionally, the proposed project would be subject to a monetary contribution for the implementation of the planned Class IV protected bike path on De Anza Boulevard project frontage which would improve bicycle connectivity around the project site. Therefore, the proposed project would beneficially impact the bicycle facilities around the project site.

Pedestrian Facilities

The areas around the project site are served by sidewalks and crosswalks with ADA compliant ramps at local intersections. These routes are fully connected and would not be negatively impacted by the proposed project because the project would enhance the sidewalks through widening. New 12-foot wide sidewalks with tree wells along the De Anza Boulevard project frontage would be constructed as part of the project. Therefore, the proposed project would not result in impacts on the pedestrian facility network.

Transit Services

The project site is primarily served by two VTA bus routes, Local Routes 25 and 51. The nearest northbound bus stop is located approximately 700 feet north of the project site at the northeast corner of the De Anza Boulevard/Bollinger Road, which is served by Local Routes 25 and 51. VTA has a per capita annual ridership of approximately 11 trips per person per year. Based on this metric, the proposed project would generate approximately 3,000 transit rides per year.[69] Although the proposed project would contribute increased amounts of ridership to the transit services, there would not be a significant increase from the proposed project alone. Therefore, the proposed project would have a less than significant impact on transit services. **(Less than Significant Impact)**

b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

According to the Council Policy 5-1, a residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average citywide VMT per capita. Currently, the reported citywide average is 13.40 VMT per capita, which is less than the regional average. This equates to a significant impact threshold of 11.39 VMT per capita. The proposed project would not meet the screening requirements for this VMT policy because it is located more than 0.5 miles from a transit stop with headways of less than 15 minutes. Therefore, a

[69] MTC/ABAG. Vital Signs Website. Historical Trend For Daily Transit Ridership by Operator. Accessed February 8, 2024. https://vitalsigns.mtc.ca.gov/indicators/transit-ridership.

transportation assessment was required to analyze the VMT generated by the residential development.

The transportation assessment determined that the proposed project would result in a VMT of 12.65 miles per resident, which would exceed the threshold of 11.39. Therefore, the proposed project would result in a significant impact by generating VMT higher than a 15 percent reduction in the citywide average. The traffic report prepared for the project identified a series of options for VMT reduction measures. The applicant is required to implement the following measure included in the traffic report, to reduce the VMT below the threshold:

Impact TRAN-1 The proposed project would result in a VMT of 12.65 per resident which would exceed the threshold of 15 percent below the citywide average, 11.39.

Mitigation Measure

MM TRAN-1.1 Prior to the issuance of building occupancy permits, the project applicant shall prepare and submit a final Transportation Demand Management (TDM) plan with measures to reduce trips associated with the proposed project. The final TDM Plan shall be submitted to the Director of the Department of Planning, Building, and Code Enforcement or the Director's Designee and the Director of the Department of Transportation or their designee. The following measure will be incorporated in the Traffic Demand Management Plan for the proposed project:

- **Unbundle On-Site Parking Costs (Tier 4):** The project applicant shall unbundle the cost of a parking space from the rental price of the property. The project will be required to charge the $220 rate, as adjusted over time for inflation as a part of the TDM plan. In addition, as part of the unbundling on-site parking measure, the project applicant is required to include an annual monitoring requirement as part of the TDM plan, which establishes an average daily trip (ADT) cap generated by the project of 38 gross AM peak-hour trips and 40 gross PM peak-hour trips.

Implementation of mitigation measure MM TRAN-1.1 above would reduce the VMT generated by the project by enhancing pedestrian and bicycle safety and the pedestrian facility network within the project area, and by discouraging residents from owning cars by charging an additional fee for parking.

As a part of the TDM plan residents must rent parking spaces separately from their residential spaces. This increases the cost of auto ownership, thereby discouraging auto ownership and use, which reduces VMT. For this measure to be effective, surrounding streets must have parking restrictions in place, such as metered parking, time limits restricting overnight parking, and residential parking permits (RPP) for which Project residents are not eligible. On-street parking is currently prohibited along both sides of De Anza Boulevard in the vicinity of the project site. The proposed project would reduce the project VMT to less than significant (11.37 VMT per capita),

below the threshold of 11.39 VMT per capita, through implementation of Programmatic TDM measures alone (Tier 4 of the San José TDM policy) by offering unbundled on-site parking at a minimum monthly parking cost of $220 per parking space, which would serve to discourage a larger share of residents from owning cars.

Therefore, the proposed project would have a less than significant VMT impact with incorporation of mitigation measures. **(Less than Significant Impact with Mitigation Incorporated)**

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)?

The Local Transportation Analysis evaluated the project driveway and on-site circulation. The proposed project would have adequate sight distance for exiting vehicles and although there would be some queuing at the entrance to the proposed project, the short queues would not result in significant hazards to traffic flow on South De Anza Boulevard. The circulation on-site would comply with the City of San José policies for safe on-site circulation and not result in impacts due to geometric design. Therefore, the proposed project would have a less than significant impact resulting from circulation hazards. **(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

The project site is currently accessible by emergency vehicles and is within the service area of the City of San José. The proposed project would comply with the requirements for access and all plans would be reviewed by the respective emergency services for consistency with their needs. Therefore, the proposed project would not result in inadequate emergency access at 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 cumulative resource area for transportation impacts is the City of San José. Generally, to address cumulative impacts, projects must demonstrate consistency with the Envision San José 2040 General Plan based on the project's density, design, and conformance to the General Plan goals and policies.

As stated under impact (a), the proposed project would not prohibit the completion of planned improvement of bicycle, pedestrian, or transit facilities and recommends potential project contributions towards the future improvement of the facilities. Additionally, the proposed project would be consistent with the goals and policies of typical adopted Urban Village Plans. Therefore,

the proposed project would align with the cumulative transportation goals for the City of San José and would not result in a cumulatively considerable contribution to a cumulatively significant transportation impact. **(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 vehicle miles traveled (VMT), in accordance with City San José Transportation Policy (Policy 5-1), the following discussion is included for informational purposes because City Council 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.

Project Trip Generation

The proposed project would construct 120 dwelling units on the project site. This would result in a net increase of approximately 459 daily vehicle trips, with 44 trips (10 inbound and 34 outbound) occurring during the AM peak hour and 47 trips (29 inbound and 18 outbound) occurring during the PM peak hour. A summary of project trip generation, and trip reductions, is included below in Table 3.17-1.

Table 3.17-1 Project Trip Generation Estimates

Land Use	Daily Trips	AM Trips In	AM Trips Out	Total AM Trips	PM Trips In	PM Trips Out	Total PM Trips
120 Mid Rise Units	545	10	34	44	29	18	47
Location Based Reduction[1]	-71	-1	-4	-5	-4	-2	-6
VMT Based Reduction[2]	-15	0	-1	-1	-1	0	-1
Project Trips After Reductions	459	9	29	38	24	16	40

Source: Hexagon Transportation Consultants. 1000 S. De Anza Boulevard Residential Development Transportation Analysis. March 2025.

[1] The place type for the project site is obtained from the City of San Jose VMT Evaluation Tool (April 2023). The location-based vehicle mode shares are obtained from Table 6 of the City of San Jose Transportation Analysis Handbook (April 2023). 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 Jose VMT Evaluation Tool. It is assumed that every percent reduction in VMT per-capita is equivalent to one percent reduction in peak-hour vehicle trips.

Parking On-Site

The proposed project includes 148 vehicle stalls within the parking area. There are no current minimum vehicle parking requirements in the City of San José, therefore, the proposed project would not conflict with parking minimums required at the project site.

According to the City's Bicycle Parking Standards (Chapter 20.90.60, Table 20-190), the project is required to provide bicycle parking for the 120 residential units at a rate of one bicycle parking space per four residential units. Therefore, the project would require 30 on-site bicycle parking spaces. Of the required residential bicycle parking, City standards require that at least 80 percent be short-term bicycle spaces and at most 20 percent be secured long-term bicycle spaces. The project site would include a bicycle room which will include a minimum of 12 short term and 18 long term parking spaces to meet the requirements for bicycle parking.

Intersection Operations

Future Intersection Operation Conditions

The operations analysis shows that the signalized study intersection of De Anza Boulevard/Bollinger Road is projected to operate at acceptable levels of service, based on the City of Cupertino[70] and Congestion Management Plan level of service standards, under background conditions and background plus project conditions during both the AM and PM peak hours. The addition of project traffic will not have an adverse effect on intersection operations.

Intersection Queueing

De Anza Boulevard/Bollinger Road

The queuing analysis prepared by Hexagon Transportation Consultants shows that projected queues at the northbound left-turn movement will be adequately served by the existing queue storage space under existing, background conditions, and background plus project conditions.

De Anza Boulevard/Fountain Park Apartments Driveway

The queuing analysis conducted by Hexagon Transportation Consultants shows that projected queues at the southbound left-turn movement will be adequately served by the existing queue storage space within the median under existing, background conditions, and background plus project conditions. Although the project would contribute to U-turning traffic, queue lengths are not anticipated to lengthen with the addition of project traffic.

[70] The City of Cupertino is referred to here because the intersection is on the edge of the City of San José and would be beholden to their parameters

3.18 Tribal Cultural Resources

The following discussion is based upon an Archeological Sensitivity Assessment completed by Archaeological/Historical Consultants in August 2023. A copy of the Archeological Sensitivity Assessment, which is a confidential report, is on file at the City of San José Department of Planning and is available upon request with appropriate credentials.

3.18.1 Environmental Setting

3.18.1.1 *Regulatory Framework*

State

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*

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 3000 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.

The Ohlone people were hunter/gatherers focused on hunting, fishing, and collecting seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay. The customary way of living, or lifeway, of the Costanoan/Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate, and the impact of the California mission system established by the Spanish in the area beginning in 1777.

Artifacts pertaining to the Ohlone occupation of San José have been found primarily along the City's major waterways. The project site is located less than 0.25 mile west of prehistoric waterway Regnart Creek, and 0.6 mile east of Calabazas Creek.

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 site is located less than 0.25 mile east of prehistoric waterway Regnart Creek, and 0.6 miles west of Calabazas Creek which are considered sensitive areas for prehistoric and archaeological deposits, including tribal cultural objects. No other tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified based on available information.

Assembly Bill 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 subject to significant impacts 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 downtown area of the City of San José. The tribal representatives for the Ohlone Tribe, and other tribes known to have traditional lands and cultural places within the City of San José, were sent the Notice of Preparation for the proposed project on April 29, 2024.

A request for consultation was received by the City on May 6, 2024 from the Indian Canyon band of Costanoan Ohlone People and a consultation meeting was held with the Tribal Representative on May 29, 2024. The meeting concluded that the site may be archeologically sensitive. Therefore, the tribe recommends cultural sensitivity training and that project design should prioritize native landscaping and greenery. Refer to the Section 3.5 Cultural Resources in this EIR for more information about archeological sensitivity and permit conditions for subsurface finds. All mitigation measures and edits have been accepted and consultation concluded on May 29, 2024. Any subsurface artifacts found on-site would be addressed consistent with the standard measures identified in the Envision 2040 General Plan FEIR. Therefore, the proposed project would have a less than significant impact on tribal cultural resources. **(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 stated above the proposed project would not result in impacts to tribal cultural resources with the implementation of mitigation measure MM CUL-1.1 and Standard Permit Conditions. Therefore, the proposed project would not result in 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. **(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 cumulative impact area for tribal cultural resources is the project site and adjacent parcels. The proposed project would not result in significant impacts to sensitive tribal cultural resources on-site with the implementation of identified mitigation. Because the proposed project would reduce its impacts to a less than significant level, and there are no other pending, approved, or reasonably foreseeable projects on adjacent parcels, it would not contribute to a significant cumulative impact on tribal cultural resources. **(Less than Significant Cumulative Impact)**

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 site is served by the San Jose Water Company (SJW), who 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 610

SB 610 amended state law, effective January 1, 2002, to improve the link between information on water supply availability and certain land use decisions made by cities and counties. SB 610 requires preparation of a WSA containing detailed information regarding water availability to be provided to the decision-makers prior to approval of specified large development projects. This WSA must be included in the administrative record that serves as the evidentiary basis for an approval action by the city or county on such projects. Under SB 610, WSAs must be furnished to local governments for inclusion in any environmental documentation for certain projects subject to CEQA. Pursuant to the California Water Code (Section 10912[a]), projects that require a WSA include any of the following:

- A proposed residential development of more than 500 dwelling units;
- A proposed shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space;
- A proposed commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space;
- A proposed hotel or motel, or both, having more than 500 rooms;
- A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area;
- A mixed-use project that includes one or more of the projects identified in this list; or
- A project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project.

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.[71]

Assembly Bill 1826

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses and multi-family dwellings with five or more units that generate two or more cubic yards of commercial solid waste per week. AB 1826 sets a statewide goal for 50 percent reduction in organic waste disposal by the year 2020."

California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal and Recycling

In January 2023, the State of California adopted the most recent version of the California Green Building Standards Code ("CALGreen"), establishing mandatory green building standards for all new and qualifying remodeled structures 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

[71] 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.

of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- 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.
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 José goals, including 75 percent waste diversion by 2013 and zero waste by 2022. The Climate Smart San José 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% 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 C&D 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 Supply

Water service is provided to the City of San José by three water retailers, SJW, the City of San José Municipal Water System, and the Great Oaks Water Company. Water service to the project site is provided by SJW. The service area of SJW 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 vacant restaurant building and a parking lot. The site currently uses no water on site because the building on site is vacant. A water line in South De Anza Boulevard delivers water to the site.

Wastewater Services

Wastewater from the City of San José is treated at the San José-Santa Clara Regional Wastewater Facility (RWF) which is administered and operated by the City Department of Environmental Services. The RWF treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents.[72] The City generates approximately 69.8 million gallons per day (mgd) of dry weather sewage flow. The City's capacity allocation at the RWF is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

There is an existing eight-inch sewer line in South De Anza Boulevard, which serves the project site. The General Plan FEIR 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 80 percent of the total on-site water use. The existing building is assumed to not generate wastewater because it is vacant.

[72] City of San Jose. San José-Santa Clara Regional Wastewater Facility. Accessed September 27, 2023. https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/water-utilities/regional-wastewater-facility.

Storm Drainage

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. The lines that serve the project site drain into Calabazas Creek and carry stormwater from the storm drains into San Francisco Bay. The project site is approximately 3000 feet west of Calabazas Creek. There is no overland release of stormwater directly into any water body from the project site.

Currently, the project site is 93 percent (approximately 30,611 square feet) covered with impervious surfaces. There is an existing 27-inch storm drain main along the South De Anza Boulevard project frontage, which would serve the project site.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (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.

The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. According to the IWMP, the County has adequate disposal capacity beyond 2030. All solid waste in San José is landfilled at Newby Island Sanitary Landfill (NISL). The City has an existing contract with NISL which has an estimated closure date for NISL is 2032.[73] The City has an annual disposal allocation for 395,000 tons per year and as of January 2023, NISL had approximately 12.4 million cubic yards of capacity remaining.[74] In 2019, there were approximately 600,000 tons of material generated in San Jose that was disposed in various landfills throughout the State. Newby Island, however, only received approximately 290,000 of that tonnage.

The site currently contains a commercial building previously used as a restaurant and is currently vacant, therefore the project site does not currently generate solid waste.

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?

[73] Personal Communications. June 2, 2022. Rachelle Huber Newby Island Landfill Environmental Manager.
[74] Personal Communications. May 12, 2023. Anthony Boccaleoni Division Manager.

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?
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?

The project applicant would construct a residential development which would add approximately 370 residents to the project site. Based on average CalEEMod water use rates for mid-rise apartments, the proposed project would require approximately 11,932 gallons of water per day and generate 9,545 gallons of wastewater per day based on an 80 percent conversion rate. This is a very small portion of existing water and wastewater consumption and would not result in new or expanded facilities to serve the proposed project.

The proposed project would utilize approximately 767,437 kWhrs of electricity per year. This energy consumption is significantly less than one percent of the existing power generation and the proposed project would not generate a demand great enough to result in new or expanded facilities for electricity. Therefore, the proposed project would have a less than significant impact on electrical generation.

The proposed project would not generate demand for natural gas resources because it would utilize all electrical appliances and heating systems. Therefore, the proposed project would not necessitate the creation or modification of new or expanded natural gas facilities.

The area of the project site is currently served by existing telecommunication services. The project would require connections to these services but would not require further expansion of telecommunication facilities because the increase in usage would represent a very small percentage of existing usage. **(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?

The Envision 2040 General Plan FEIR determined that the City of San José would generate water demand that could exceed water supply during dry and multiple dry years after 2025. The FEIR concluded existing regulations and proposed policies would substantially reduce demand resulting from current and future development to a level where demand would not exceed supply during normal, dry, or multiple dry years. The proposed project would comply with the water conservation policies MS-3.1, MS-3.2, and MS-3.3 identified in the General Plan, which would serve to limit the increased water consumption at the site. Although the water demand created by new residents at the project site was not covered by the water supply planning completed for the General Plan in 2010 (given the water supply planning assumed water demand resulting from commercial development on the site), the project would be consistent with the overall residential growth in the South De Anza Urban Village so there would not be new water demand from the future residents beyond that which was assumed in the General Plan. Additionally, the proposed project would require approximately 11,932 gallons of water use per day, which is not a substantial increase for SJW. Compared to the water consumption from the approximately 4,100 square foot restaurant on site, which was approximately 3,627 gallons per day, the proposed project would consume approximately 8,305 gallons of water more per day.

The portion of the City of San José served by the San Jose Water Company consumed approximately 15,000,000 gallons of water per day in 2020, and the increase in water consumption by the proposed project would be significantly less than 0.1 percent of the total water consumed in the portion of the City within SJW's service area. Therefore, the proposed project would result in a less than significant impact and there would be sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple 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 stated above, the proposed project would generate 9,545 gallons of wastewater per day. This would be 0.02 percent of the remaining allocation of the RWF and would not result in projected demand exceeding the wastewater commitments. Therefore, the proposed project would not represent a significant increase in wastewater above existing commitments and would not impact the RWF's capacity to adequately provide wastewater treatment. **(Less than Significant Impact)**

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 proposed project would generate 88.8 tons of solid waste per year. The proposed project would include recycling pick up areas for residents which would provide a reduction in solid waste sent to landfills. The current capacity of the NISL landfill is 12.4 million cubic yards of waste with the

City of San José contributing 290,000 tons of solid waste per year. The proposed project would result in an increase of approximately 0.03 percent of solid waste contributed by San Jose to the NISL landfill per year, therefore the proposed project would result in a less than significant impact associated with attainment of solid waste reduction goals. **(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 maximizing recycling and alternative disposal to divert solid waste from landfills. The Zero Waste Strategic Plan, in combination with existing regulations and programs, would ensure that the proposed project would not result in significant impacts on solid waste disposal capacity in excess of state or local standards or in excess of NISL capacity. **(Less than Significant Impact)**

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 cumulative study area for utilities is the City of San José or the service area of the utility provider, such as SJW. As stated above the proposed project would comply with the goals and policies included in the General Plan. The General Plan FEIR identifies cumulative impacts of development planned within the City and determined that planned development would not result in cumulative impacts on utilities in the City. Although the proposed project would contribute to an increase in the use of the utilities along with the other builder's remedy projects, the proposed project is located within the South De Anza Boulevard Urban Village which has 463 units of residential capacity that is not used at this time. The 120-units constructed as a part of the proposed project would be supported by the Urban Village residential capacity which was included in the General Plan growth analysis. Therefore, the proposed project would not result in cumulatively considerable contribution to any significant cumulative utilities and service systems impacts. **(Less than Significant Cumulative Impact)**

3.20 Wildfire

3.20.1 Environmental Setting

3.20.1.1 *Regulatory Framework*

State

Fire Hazard Severity Zones

CAL FIRE is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZs), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. FHSZs are divided into areas where the state has financial responsibility for wildland fire protection, known as state responsibility areas (SRAs), and areas where local governments have financial responsibility for wildland fire protection, known as local responsibility areas (LRAs). Homeowners living in an SRA are responsible for ensuring that their property is in compliance with California's building and fire codes. Only lands zoned for very high fire hazard are identified within LRAs.

California Fire Code Chapter 47

Chapter 47 of the California Fire Code sets requirements for wildland-urban interface fire areas that increase the ability of buildings to resist the intrusion of flame or burning embers being projected by a vegetation fire, in addition to systematically reducing conflagration losses through the use of performance and prescriptive requirements.

California Public Resources Code Section 4442 through 4431

The California Public Resources Code includes fire safety regulations that restrict the use of equipment that may produce a spark, flame, or fire; require the use of spark arrestors on construction equipment that uses an internal combustion engine; specify requirements for the safe use of gasoline-powered tools on forest-covered land, brush-covered land, or grass-covered land; and specify fire suppression equipment that must be provided onsite for various types of work in fire-prone areas. These regulations include the following:

- Earthmoving and portable equipment with internal combustion engines would be equipped with a spark arrestor to reduce the potential for igniting a wildland fire (Public Resources Code Section 4442);
- Appropriate fire suppression equipment would be maintained during the highest fire danger period, from April 1 to December 1 (Public Resources Code Section4428);
- On days when a burning permit is required, flammable materials would be removed to a distance of 10 feet from any equipment that could produce a spark, fire, or flame, and the construction contractor would maintain appropriate fire suppression equipment (Public Resources Code Section 4427); and

- On days when a burning permit is required, portable tools powered by gasoline-fueled internal combustion engines would not be used within 25 feet of any flammable materials (Public Resources Code Section 4431).

California Code of Regulations Title 14

The California Board of Forestry and Fire Protection has adopted regulations, known as SRA Fire Safe Regulations, which apply basic wildland fire protection standards for building, construction, and development occurring in a SRA. The future design and construction of structures, subdivisions and developments in SRAs are required to provide for the basic emergency access and perimeter wildfire protection measures discussed in Title 14.

Fire Management Plans

CAL FIRE has developed an individual Unit Fire Management Plan for each of its 21 units and six contract counties. CAL FIRE has developed a strategic fire management plan for the Santa Clara County Unit, which covers the project area and addresses citizen and firefighter safety, watersheds and water, timber, wildlife and habitat (including rare and endangered species), unique areas (scenic, cultural, and historic), recreation, range, structures, and air quality. The plan includes stakeholder contributions and priorities and identifies strategic areas for pre-fire planning and fuel treatment as defined by the people who live and work with the local fire issues.

Local

San José Fire Department Wildland-Urban Interface Fire Conformance Policy

Buildings proposed to be built within the SJFD WUI shall comply with all WUI materials and construction methods per CBC Chapter 7A and CRC Section R337.[75] The applicant shall, prior to construction, provide sufficient detail to demonstrate that the building proposed to be built complies with this policy. Building Permit Plans are also to be approved by the SJFD.

3.20.1.2 *Existing Conditions*

The project site is located within the urbanized area of San José. According to Calfire Wildfire Hazard Severity Zone maps, the project site is not located in the high or very high fire hazard area.[76]

[75] San José Fire Department. *Wildland-Urban Interface (WUI) Fire Conformance Policy.* January 1, 2017. https://www.sanjoseca.gov/Home/ShowDocument?id=9345.

[76] California Department of Forestry and Fire Protection. Fire Hazard Severity Zones in State Responsibility Area. https://calfire-forestry.maps.arcgis.com/apps/webappviewer/index.html?id=988d431a42b242b29d89597ab693d008. Accessed September 29, 2023

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)**

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[e]). This section of the Draft EIR is intended to evaluate the impacts of such growth in the surrounding environment. Examples of projects likely to have significant growth-inducing impacts include removing obstacles to population growth, for example by extending or expanding infrastructure beyond what is needed to serve the project. Other examples of growth inducement include increases in population that may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects.

The proposed project would not result in a significant expansion in infrastructure because the project site is already served by utilities and public services. The proposed project would increase the permanent population of the site; however, this growth would not lead to significant increases in the use of community service facilities beyond those expected in the General Plan. The proposed housing on the site would be part of the planned growth within the Urban Village the site is located within, which growth was accounted for in the General Plan EIR. Additionally, as stated in the Utilities and Service Systems Section (Section 3.19), the proposed project would not require the expansion of utilities facilities and, therefore, would not encourage future growth that would need expanded utilities. The proposed project would not result in significant economic or population growth beyond what is proposed by the project itself. **(Less than Significant Impact)**

Section 5.0 Significant and Irreversible Environmental Changes

CEQA and the CEQA Guidelines require that an EIR address "significant irreversible environmental changes which would be involved in the proposed project, should it be implemented." [§15126(c)] The proposed project would result in the redevelopment of a currently developed site. The project would result in irreversible environmental changes to the project site by removing the existing structure and removing trees, however, those changes would not be significant given the building is not a historical resource under CEQA and the trees are ordinary specimens that will be replaced with replacement plantings on the site.

Future development on-site would involve the use of non-renewable resources both during construction phases and future operations/use of the site. Construction would include the use of building materials, including materials such as petroleum-based products and metals that cannot reasonably be re-created. Construction also involves significant consumption of energy, usually petroleum-based fuels that deplete supplies of non-renewable resources. The proposed project would also result in increased operational consumption of water compared to the existing commercial use.

The City of San José encourages the use of building materials that include recycled materials and makes information available on those building materials to developers. The new building would be built to current codes, which require insulation and design to minimize wasteful energy consumption. The proposed development would be constructed in compliance with the City's Council Policy 6-32 and the City's Green Building Ordinance. In addition, the project would be constructed consistent with City Council Policy 6-29 and the Regional Water Quality Control Board Municipal Regional Stormwater National Pollution Discharge Elimination System Permit to avoid impacts to waterways from any increase in impervious surfaces. Lastly, the site provides a residential building in proximity to existing transportation networks. The proposed project would, therefore, facilitate an efficient use of resources over the lifetime of the project.

Section 6.0 Significant and Unavoidable Impacts

The proposed project, with implementation of identified mitigation measures, would not result in any significant and unavoidable impacts.

Section 7.0 Alternatives

CEQA requires that an EIR identify alternatives to a project as it is proposed if the project would result in one or more significant unavoidable impacts. Two key provisions from the CEQA Guidelines pertaining to the discussion of alternatives are included below:

> **Section 15126.6(a).** Consideration and Discussion of Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, 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, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.
>
> **Section 15126.6(b).** Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or be more costly.

Other elements of the Guidelines discuss that alternatives should include enough information to allow a meaningful evaluation and comparison with the proposed project. The CEQA Guidelines state that if an alternative would cause one or more additional impacts, compared to the proposed project, the discussion should identify the additional impact, but in less detail than the significant effects of the proposed project.

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) consistency with the project's objectives, and 3) the feasibility of the alternatives available. Each of these factors is discussed below.

7.1 Objectives Of the Project

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:

- Provide a financially feasible plan for redevelopment of an underutilized parcel with a vacant single-story commercial building and large surface parking lot.

- Implement the City's General Plan and Housing Element by constructing high-density housing within urban village areas.
- Create an economically integrated neighborhood with new housing units, featuring both affordable and market rate rental apartments.
- Maximize housing units to the greatest extent feasible in a multi-story high-density building.
- Provide a variety of unit plans suited for multiple family types – including studios, one-bedroom units, and two-bedroom units.
- Establish bicycle and pedestrian friendly connectivity to the commercial corridor and bus transit.
- Build a safe sidewalk in the frontage with street trees and streetlights to promote pedestrian activity.
- Incorporate green and healthy development principles that include:
    - Reduced parking to promote walkable neighborhoods,
    - Stormwater management, and
    - Meeting Green Building Ordinance and the City's Reach Code.

7.2 Significant Impacts of the Project

As mentioned above, the CEQA Guidelines advise that the alternatives analysis in an EIR should be limited to alternatives that would avoid or substantially lessen any of the significant effects of the project and would achieve most of the basic project objectives. Significant impacts of the project include:

- **Impact AIR-1:** The proposed project would result in a construction cancer risk of 72.00 cases per million and a PM2.5 exhaust exposure of 0.47 µg/m3 which would exceed the Air District threshold of 10 cases per million and 0.3 µg/m3 respectively.
- **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.
- **Impact CUL-1:** The proposed project would disturb the soils on the project site and could result in the disturbance of undiscovered archeological resources, if they are present.
- **Impact HAZ-1**: The surface and sub-surface soils on-site could be contaminated due to past agricultural operations. Implementation of the project could expose construction workers and adjacent land uses to residual agricultural soil contamination.
- **Impact NOI-1:** Project construction activities would cause increased noise levels for a period of more than 12 months, which may cause adverse construction noise impacts on nearby residential, preschool, and commercial land uses.
- **Impact NOI-2**: Construction vibration levels at the adjacent preschool would range from 0.022 to 0.575 in/sec PPV, exceeding the General Plan threshold of 0.2 in/sec PPV for buildings of conventional construction.

- **Impact TRAN-1:** The proposed project would result in a VMT of 12.60 per resident which would exceed the threshold of 15 percent below the Citywide average, 11.39.

All of these impacts would be mitigated to less than significant with the implementation of the identified mitigation measures. Therefore, the proposed project would not have any significant, unavoidable environmental impacts.

7.3 Alternatives to the Proposed Project

Pursuant to the CEQA Guidelines: "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, 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 and evaluate the comparative merits of the alternatives." (CEQA Guidelines, § 15126.6, subd. (a), italics added.) As this implies, "an agency may evaluate on-site alternatives, off-site alternatives, or both." (Mira Mar, supra, 119 Cal.App.4th at p. 491.) The CEQA Guidelines thus do not require analysis of off-site alternatives in every case. Nor does any statutory provision in CEQA "expressly require a discussion of alternative project locations." (119 Cal.App.4th at p. 491 citing §§ 21001, subd. (g), 21002.1, subd. (a), 21061.) CEQA Guidelines Section 15126.6(c) provides: “Among the factors that may be used to eliminate alternatives from detailed discussion in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.”

7.3.1 Feasibility of Alternatives

CEQA, the CEQA Guidelines, and the case law on the subject have found that feasibility can be based on a wide range of factors and influences. The Guidelines advise that such factors may 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]).

7.3.2 Analysis of Project Alternatives

Based upon the significant impacts in Section 7.2 there are no significant impacts related to the size of the project once built and occupied. All of the impacts are related to construction activity other than VMT impacts, which are expressed on a per capita basis, and would be the same regardless of the size of the project. Biological impacts of any alternatives resulting in construction on the project site would result in disturbance of nesting birds or tree removal and therefore none of these impacts could be reduced by alternatives. The same is true for Cultural Resources impacts and Hazards and Hazardous materials impacts which would have similar impacts for any project requiring ground disturbance and foundation preparation. Additionally, any project designed with a basement garage would have greater impacts and no design alternative would reduce effects on cultural resources. Only reducing the scale of project construction would mitigate impacts to

construction air quality and if the construction timeframe was reduced below a 12-month period the construction noise could be reduced to a less than significant level.

7.3.2.1 *Alternatives Considered and Rejected from Further Consideration*

Location Alternative

CEQA Guidelines Section 15126.6(2)(A) provides: "The key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location." In this case, the proposed project would not result in any significant unavoidable impacts, but rather would result in a variety of significant impacts (summarized in Section 7.2 above) that are typical of infill development and not related to the site's location (other than VMT) , i.e. any unique, unusual, or especially sensitive resources on or near the site, and these impacts would be reduced through commonly employed mitigation measures known to be effective at reducing these impacts to less than significant levels in circumstances like those present on and around the project site. Additionally, relocation of the project to another site would not result in a reduction of impacts associated with the proposed project, because it would cause those impacts, largely related to construction activity near residences, to occur at another location. Residential uses are frequently placed near other similar uses and in residential neighborhoods, and constructing the project at an alternative location that was similarly situated near housing would lead to similar construction related impacts that would require essentially the same mitigation measures identified for the project to reduce impacts to less than significant levels. The project VMT impact might be reduced if an alternative location was chosen in a part of the City where VMT was lower, perhaps along a high quality transit line. For these reasons, consideration of an alternative location does not present obvious opportunities to avoid or lessen the project's effects.

Even so, the possibility of an alternate project location was analyzed and determined to be infeasible for the following reasons.

In order to identify an alternative site that might be reasonably considered to "feasibly accomplish most of the basic purposes" of the project, and would also reduce significant impacts, it was assumed that such a site would ideally have the following characteristics:

- Vacant or developed with unoccupied buildings
- Controlled by the Applicant
- Would reduce impacts of the proposed project

The location alternative would require the proposed project to be constructed at an alternative location owned or otherwise controlled by the project proponent. The project proponent is not a public agency capable of invoking eminent domain, therefore, any alternative location(s) would need to be sites which the applicant was capable of acquiring.

The feasibility of the project proponent acquiring or controlling a similar property suitable for meeting the project objectives identified for the proposed project is unknown. Further, CEQA Guideline Section 15126.6(a) indicates an EIR shall "describe a range of reasonable alternatives to the project, or to the location," (emphasis added) which case law has confirmed means an EIR need not always include a location alternative, which as noted above, is more meaningful for a public agency able to acquire an alternative site through eminent domain, if needed, while a private project applicant is limited to a site(s) they can feasibly acquire or control. Therefore, discussion of an alternative location for the proposed project is not required or useful and this alternative is rejected from further consideration.

Reduced Scale Alternative

This EIR discloses that no significant unavoidable project impacts would result from the scale of the project once built and occupied, as the project won't exceed any thresholds related to the size of the future project populations, the amount of new trips produced or the amount of air pollution that is emitted, nor would the project exceed the capacity of the infrastructure available to support it. Additionally, all impacts that would occur from occupancy of the proposed project are capable of being mitigated to less than significant levels. The primary impacts of the project would result from construction. Therefore, a reduced scale alternative that would reduce the overall size of the project construction activity would reduce the impacts of the project by shortening the construction timeframe and/or reducing the number/duration of heavy equipment used on-site. Under a reduced scale alternative, the proposed project would be downsized sufficiently to reduce construction impacts created by the proposed project commensurately, such as construction air quality and noise.

Impacts to air quality during construction were associated with the Cancer Risk Rate and particulate matter exceeding the thresholds established by the Air District. The proposed project was found to have a cancer risk rate of approximately seven times the established threshold without mitigation and a fine particulate matter emission approximately 30 percent higher than the threshold. Therefore, the reduced scale project would have to reduce the size of the project to one-seventh of its current design to proportionally reduce the Cancer Risk Rate from construction activities below the thresholds (without mitigation). This would reflect a project of 10-15 units on the site, which would be likely implemented in the form of a townhouse style development. Additionally, if the scale was reduced, the project would likely have greater setbacks and vibratory equipment would not be needed along the boundaries of the site. A reduction of this degree would \ result in a small project that would not meet the project objectives or the City's development goals within an urban village. With only 10-15 townhouse style units, a reduced scale development would also significantly reduce the number of proposed affordable residential units as well.

Reducing the scale of the project would still require the removal of trees and disturbance of soils underlaying the site. As a result, the biological, cultural/tribal cultural resources, and hazardous materials impacts would remain significant and would require mitigation to reduce impacts to less than significant. Therefore, reducing the scale of the project would not substantially lessen or avoid these impacts.

Further, a reduction in the scale of the project sufficient to reduce construction-related air quality impacts below Air District thresholds, i.e. about one seventh the size of the current project or 10-15 units, without mitigation would not meet the objectives of the project to provide housing in a high-density development in the urban village, as development at such a reduced scale would not represent a high-density development. Therefore, a reduced scale development alternative is not considered further.

7.3.2.2 *Alternatives Considered*

No Project – No Development Alternative

The CEQA Guidelines [§15126(d)4] require that when a project would result in a significant unavoidable impact, an EIR must 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."

The No Project Alternative would retain the existing land use on-site as is, a commercial building and associated parking area. If the project site was to remain developed as is, the significant impacts resulting during construction of the proposed project would not occur. This alternative would maintain the baseline conditions, however, the vacant restaurant on site would be occupied and impacts associated with the operations of this restaurant would apply under a no project alternative. This would include traffic, air pollution, operational noise, public services, and utilities demands. This alternative would not meet any of the project objectives.

Base General Plan and Zoning District Development Alternative

The Base General Plan and Zoning District Development Alternative would not allow the proposed project as designed and would instead allow for the future construction of another development consistent with the Neighborhood/Community Commercial (NCC) General Plan land use designation and the CP Commercial Pedestrian Zoning District. The NCC General Plan land use designation and CP Zoning District allows for a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas. General office uses, hospitals and private community gathering facilities are also allowed in this designation. One hundred percent (100%) deed restricted affordable housing developments that are consistent with General Plan Policy H-2.9 and Policy IP-5.12 are also allowed under the NCC General Plan land use designation and CP Zoning District. The analyses of both a future commercial development or a 100 percent deed restricted affordable housing development allowed under the Base General Plan and Zoning District Development Alternative are described below.

Commercial Development

Under this alternative, it is assumed that the proposed project would not be constructed and the project site would instead be redeveloped with a commercial development consistent with the

current NCC General Plan land use designation and CP Zoning District. A commercial building developed under the current land use designation and zoning could be taller than the proposed project and could have greater floor area.

A commercial development consistent with the existing General Plan Designation and Zoning District could result in a replacement of the existing restaurant building on site with a similar or larger commercial building. The FAR for any development under the existing General Plan designation would be allowed to have a FAR of up to 3.5 and could be a maximum of 120 feet tall according to the urban village maximum height (approximately 109,000 square feet of commercial space). A commercial development under the current General Plan designation and CP Zoning District could be taller than the proposed project and would have a similar floor area (proposed project floor area is 111,932 square feet). This would require similar site disturbance and would construct buildings of similar or larger scale to the proposed project adjacent to the same sensitive receptors. This would create construction impacts and require excavation comparable to the proposed project, which would result in similar impacts. Therefore, this alternative would roughly equivalent and would not avoid, any of the impacts identified for the proposed project.

Affordable Residential Development

Under this alternative, it is assumed that the proposed project would not be constructed and the project site would instead be redeveloped with a 100 percent deed restricted affordable residential development consistent with the current NCC General Plan land use designation and CP Zoning District. The site was identified as a potential housing site in the City of San José Housing Element 2023 update which requires the development of at least 51 affordable housing units on site (based on the capacity of other housing sites in the City that have received Planning entitlements). A development consistent with the existing General Plan Designation and Zoning District could result in a high-density 100% affordable residential building that is likely similar or smaller in scale than the proposed project could be developed. This is because the maximum FAR and height requirements for this project site could be waived with State density bonus waivers if the proposed project is 100 percent affordable. The residential development would require similar site disturbance and would construct buildings of similar or smaller scale to the proposed project adjacent to the same sensitive receptors. This would create construction impacts and require excavation comparable to the proposed project, which would result in similar impacts. In the event a mixed-use project or high-density affordable housing project required below-grade parking, that would entail additional excavation beyond what is required for the project, and lead to greater construction impacts. An affordable residential development would serve the housing needs of the City of San José by helping to meet regional housing goals. Therefore, this alternative would marginally reduce, but would not avoid, any of the impacts identified for the proposed project.

7.3.3 Comparison of Environmental Impacts for Alternatives to the Project

A comparison of alternatives based upon whether they avoid or substantially lessen the significant environmental effects is shown in the table below.

Impacts	Proposed Project	No Project Alternative	Develop with Base General Plan and Zoning Development Alternative- Commercial	Develop with Base General Plan and Zoning Development Alternative – Residential
Aesthetics	LTS	**NI**	LTS	LTS
Agricultural and Forestry Resources	NI	NI	NI	NI
Air Quality	LTSM	**LTS**	LTSM	LTSM
Biological Resources	LTSM	**NI**	LTSM	LTSM
Cultural Resources	LTSM	**NI**	LTSM	LTSM
Energy	LTS	LTS	LTS	LTS
Geology and Soils	LTS	**NI**	LTS	LTS
Greenhouse Gas Emissions	LTS	LTS	LTS	LTS
Hazards and Hazardous Materials	LTSM	**NI**	LTSM	LTSM
Hydrology and Water Quality	LTS	**NI**	LTS	LTS
Land Use	LTS	**NI**	LTS	LTS
Mineral Resources	NI	NI	NI	NI
Noise	LTSM	**LTS**	LTSM	LTSM
Population and Housing	LTS	**NI**	LTS	LTS
Public Services	LTS	LTS	LTS	LTS
Recreation	LTS	**NI**	LTS	LTS
Transportation/Traffic	LTSM	**LTS**	LTSM	LTSM
Tribal Cultural Resources	LTSM	**NI**	LTSM	LTSM
Utilities and Service Systems	LTS	LTS	LTS	LTS
Wildfire	NI	NI	NI	NI
Meets City’s Objectives?	Yes	No	No	No

7.3.4 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 Alternative, which would retain the existing commercial building on site and reopen the closed restaurant. Retaining the commercial restaurant on the site would avoid all construction and generate operational impacts consistent with baseline conditions. Among the alternatives that would allow for redevelopment of the site, the Base General Plan and Zoning Development Alternative would allow for the construction of either a one to five story (approximately 109,000 square feet of floor area) commercial building or a 100 percent affordable residential building of up to 51 units. The 100 percent affordable housing developments could be smaller than the proposed project based on the goals of the City for the project site. A smaller project would marginally decrease the environmental impacts associated with construction air quality and noise on site. Therefore, the Base General Plan and Zoning Development Alternative -Affordable Residential Development is the environmentally superior alternative; however, it would not achieve all of the project objectives.

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Section 10.0 Acronyms and Abbreviations

AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACM	Asbestos-Containing Material
ALUC	Airport Land Use Commission
APN	Assessor's Parcel Number
ATCM	Asbestos Airborne Toxic Control Measure
Air District	Bay Area Air District
Bay Area	San Francisco Bay Area
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
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
CFC	Chlorofluorocarbon
CFR	Code of Federal Regulations
CGS	California Geological Survey
CH_4	Methane
CLUP	Comprehensive Land Use Plan
CNEL	Community Noise Equivalent Level
CO	Carbon Monoxide
CO_2	Carbon Dioxide

CO_2e	Carbon Dioxide Equivalents
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
FAA	Federal Aviation Administration
FAR	Federal Aviation Regulations
FHSZ	Fire Hazard Severity Zone
FMMP	Farmland Mapping and Monitoring Program
GHG	Greenhouse Gases
GHGRS	Greenhouse Gas Reduction Strategy
GWh	Gigawatt Hour
GWP	Global Warming Potential
Habitat Plan	Santa Clara Valley Habitat Plan
HSWA	Hazardous and Solid Waste Amendments
L_{eq}	Energy-Equivalent Sound/Noise Descriptor
L_{max}	Maximum A-weighted noise level during a measurement period
LOS	Level of Service
LRA	Local Responsibility Area
MBTA	Migratory Bird Treaty Act
$MMTCO_2e$	Million Metric Tons of Carbon Dioxide Equivalent
MND	Mitigated Negative Declaration
mpg	Miles per Gallon
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
NO_2	Nitrogen Dioxide
NOA	Naturally Occurring Asbestos
NOD	Notice of Determination
NO_x	Nitrogen Oxides
NRHP	National Register of Historic Places
O_3	Ozone
PCB	Polychlorinated Biphenyls
PCF	Perfluorocarbon
PDA	Priority Development Areas
PG&E	Pacific Gas and Electric Company
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
PPV	Peak Particle Velocity
R&D	Research and Development
RAP	Removal Action Plan
RCRA	Resource Conservation and Recovery Act
ROG	Reactive Organic Gases
RTP	Regional Transportation Plan
RWQCB	Regional Water Quality Control Board
SB	State Bill
SCS	Sustainable Communities Strategy
SF_6	Sulfur Hexafluoride
SHMA	Seismic Hazards Mapping Act
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
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminants
Title 24	Title 24, Part 6 of the California Code of Regulations
TSCA	Toxic Substances Control Act
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
VMT	Vehicle Miles Traveled
Williamson Act	California Land Conservation Act
WUI	Wildland-Urban Interface
ZNE	Zero Net Carbon Emission