

43531 Ellsworth Street Project Abbreviated Infill Exemption Initial Study/ CEQA Checklist

December 9, 2024

Prepared for:

City of Fremont
39550 Liberty Street
Fremont, CA

Prepared By:

Lamphier-Gregory

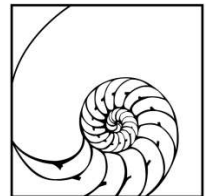


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I – Introduction

Executive Summary

This document serves as an Initial Study/Infill Exemption Checklist for the 43531 Ellsworth Street Project. This document has been prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15063, for determining whether the proposed Project at 43531 Ellsworth Street may have a significant effect on the environment. This Initial Study/Infill Checklist includes:

- A description of the proposed Project,
- An assessment of whether the Project qualifies for a CEQA exemption pursuant to CEQA Guidelines Section 15332 as an Infill Development Project, and
- An examination of whether there are Project-specific significant effects that are peculiar to the Project or its site, and that would pose an exception to a CEQA exemption pursuant to CEQA Guidelines Section 15300.2

The 43531 Ellsworth Street Project poses a unique circumstance. As a proposed single-family residence located within a residentially zoned neighborhood, approval of the Project would typically be a non-discretionary administrative approval, and not subject to CEQA. However, pursuant to a prior administrative permit to construct a small addition to a then-existing residence, that residence was structurally damaged. The owner of the property (the Project applicant) then demolished a substantial portion of that prior residence and cleared the property of all debris. No demolition permit was applied for, and no demolition permit was approved for this action. The former residence that was substantially demolished was a historic resource as defined by the City of Fremont Municipal Code and CEQA Guidelines, and the loss of that historic resource is a significant and unavoidable impact that is peculiar to the Project and its site. This significant effect poses an exception to any CEQA exemptions that might otherwise apply to the Project. In light of this significant environmental effect, this initial Study/Infill Checklist concludes that a focused Environmental Impact Report (EIR) shall be prepared for the Project, specifically focused on the topic of historic resources.

Organization of this Initial Study/Infill Checklist

This document is organized into the following sections:

- Introduction – introduces the document and provides pertinent information related to this Initial Study/Infill Checklist, including Lead Agency contact information
- Project Description - presents a detailed description of the Project's location and setting, applicable planning policies and regulations, a description of the Project site (including an alternative baseline condition prior to demolition of the former historic resource), details about the proposed new construction, and a listing of Project approvals sought by the Project applicant from the City of Fremont.
- Infill Exemption/Initial Study Checklist - this section provides an abbreviated Initial Study to assess whether the Project qualifies for a CEQA exemption pursuant to CEQA Guidelines Section 15332, and whether there are Project-specific significant effects that are peculiar to the Project or its site that pose an exception to a CEQA exemption pursuant to CEQA Guidelines Section 15300.2, thereby necessitating preparation of an EIR, and
- Lead Agency Determination – providing the City of Fremont's conclusion that an EIR shall be prepared for the Project, focused on the topics of historic resources, and unusual circumstances and cumulative impacts related to historic resources.

Project Information

- 1. Project Title:** 43531 Ellsworth Street – Single Family Residential
- 2. Lead Agency Name and Address:** City of Fremont
Community Development Department
39550 Liberty Street
Fremont, CA 94538
- 3. Case Planner Contact Information:** Spencer Shafsky, Planner II
City of Fremont Community Development Department
phone: (510) 494-4452
email at: SShafsky@fremont.gov
- 4. Project Location:** 43531 Ellsworth Street, Fremont, CA 94539
Assessor's Parcel Number 513-0619-006
- 5. Owner/Project Applicant:** Sandeep Dhankhar
43531 Ellsworth Street
Fremont, CA 94539
- 6. Existing General Plan Designation:** Low to Medium Density Residential (LM)
- 7. Existing Zoning:** Duplex and Two-family Residential (R-2)
- 8. Requested Permits:** Historic Architectural Review – new construction
'Retrospective' demolition permit

The Project will also require subsequent administrative permits for work within and close to the public right-of-way, grading, stormwater control, and related building permits

- 9. Other Public Agency Approvals:** No other public agency approvals are required for the proposed project
- 10. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code §21080.3.1? If so, is there a plan for consultation that includes, for example, the determination of significance of impacts to tribal cultural resources, procedures regarding confidentiality, etc.?**

As addressed in this Initial Study, the California Native American tribes traditionally and culturally affiliated with the Project area have been contacted to inform them of the Project, with an invitation for consultation at their request.

Full Project application materials are available for review upon request from the Planning Department at City of Fremont (see contact information, above).

III - Project Description

This section describes the proposed Project at 43531 Ellsworth Street as evaluated in this Initial Study/Infill Checklist. The following includes a description of the Project's location and setting, applicable planning policies and regulations, a description of the Project site (including an alternative baseline condition prior to substantial demolition of the former historic resource), details about the proposed new construction, and a listing of Project approvals sought for the Project from the City of Fremont.

CEQA Guidelines and the Fremont Planning Code are both clear that all components of a proposed development project shall be considered concurrently pursuant to CEQA review, rather than segmented into components. For this Project, all components of the proposed new residence include the demolition of an historic resource as a pre-requisite for construction of the now proposed residence. The City does not have an opportunity to consider action on a demolition permit, as the former building was substantially demolished without obtaining such a permit. However, the City of Fremont still has the responsibility under CEQA to consider the full environmental consequences of an action to approve the new residence.

Project Location

The Project site is located at 43531 Ellsworth Street within the Core Area of the Mission San Jose Historic District of the City of Fremont, one block east of Mission Boulevard (see **Figure 1**). The surrounding residential neighborhood bounded by Ellsworth, Anza, Cedar and Bryant Street is, "one of the oldest residential blocks in the Mission San Jose area. Until recently, this block was developed primarily with small, one-story single-family houses of different architectural styles dating from the late 19th century through the early 20th century."¹ The northerly portion of this block (where the Project site is located) remains primarily as older single-family homes, with no sidewalk or curb-and-gutter along Ellsworth Street. Over time, many of the older houses further to the south and on both sides of Ellsworth Street have been demolished and replaced with triplexes and other multi-family housing. In this portion of the block, Ellsworth Street has sidewalks, curb-and-gutter, street trees and streetlights.

Other notable surrounding land uses include the Ohlone College one block to the east, on the opposite side of Mission Boulevard; a commercial corner and the Washington Township Museum of Local History at the intersection of Ellsworth and Anza; and the Mission San Jose Elementary School one block west on the opposite side of Bryant Street. The historic Mission San Jose sits at the heart of the Historic District two blocks to the north and one block to the east, at the intersection of Washington Street and Mission Boulevard. The original Mission San Jose was established in 1797, was destroyed by an earthquake in 1868, and was rebuilt to its present configuration in 1985.

¹ City of Fremont, *Mission San Jose Historic Overlay District Design Guidelines and Regulations*, 1998 and as amended through 2010, page 35



Figure 1
Project Location and Surrounding Land Uses

Applicable General Plan Policies, Planning and Zoning Regulation, and Design Guidelines/Regulations

General Plan

The Project site has a General Plan land use designation of Residential - Low to Medium Density Residential (LM), with other LM and Residential - Low Density (L) land use designations throughout the block (see **Figure 2A**). The LM designation is intended for patio home development, mobile home parks, and for older parts of the City characterized by a mix of single-family homes and small multi-unit buildings. Residential densities within this land use classification range from 8.8 to 14.5 units per acre, corresponding to site area of 3,000 to 5,000 square feet per dwelling unit. While a mix of housing types may be present, this land use classification is intended to retain the basic character of single-family neighborhoods, such as front and rear yards, driveways and garages. Correlating zoning includes small-lot Planned Developments, R-2, R-G, and some of the lower density R-3 zoning districts.

General Plan Implementation Program 2-2.5.G calls for overlay zoning districts as needed to supplement zoning standards, with additional regulations that reflect public policy objectives for a particular place or resource. The Project site is located within three overlay districts:

- Historic Overlay District, which applies to areas that include existing historic buildings and adjacent areas deemed important to the character of the district
- Neighborhood Conservation Area, which applies to areas that may not meet Secretary of the Interior Standards for historic districts, but which have distinct architectural styles or vernacular characteristics which could be threatened by incompatible development, and
- Hillside Overlay combining district, where there may be lands on which development capacity is limited because of detrimental geologic conditions

Mission San Jose Historic Overlay District Design Guidelines and Regulations

The Project site is located within the Mission San Jose Historic Overlay District and subject to the *Mission San Jose Historic District Design Guidelines and Regulations*. The purpose of the Mission San Jose Historic District Design Guidelines and Regulations (MSJ Guidelines and Regulations) is to conserve the existing character of the Mission San Jose Historic Overlay District (see **Figure 3A**). The MSJ Guidelines and Regulations describe and illustrate how to design buildings and landscapes considered appropriate to the historic context, and the City's approving bodies use these MSJ Guidelines and Regulations to measure the acceptability of a project. The MSJ Guidelines and Regulations apply to all Fremont Register Resources, all commercial and institutional development, and to all multi-family housing developments in the Mission San Jose Historic Overlay District. They do not apply to the Ohlone Village shopping center or to single-family homes, unless those properties also are Fremont Register Resources, or are within a Conservation Area.

The Project site is located within the Mission San Jose Neighborhood Conservation Area (see **Figure 3B**). The MSJ Guidelines and Regulations for this area are intended to guide property owners in preparing plans that do not erode the historic character of the Mission San Jose Neighborhood Conservation Area any further. Future residential development in the MSJ Neighborhood Conservation Area is expressly intended to accommodate both expansion of existing dwelling units and construction of new dwelling units to a maximum of two units per parcel. In place of the open and spacious yard environments that once characterized this neighborhood's residential properties, the present objective is to encourage development of mid-parcel outdoor areas of a somewhat private nature and intimate scale such as courtyards, screened patios, decks and balconies.

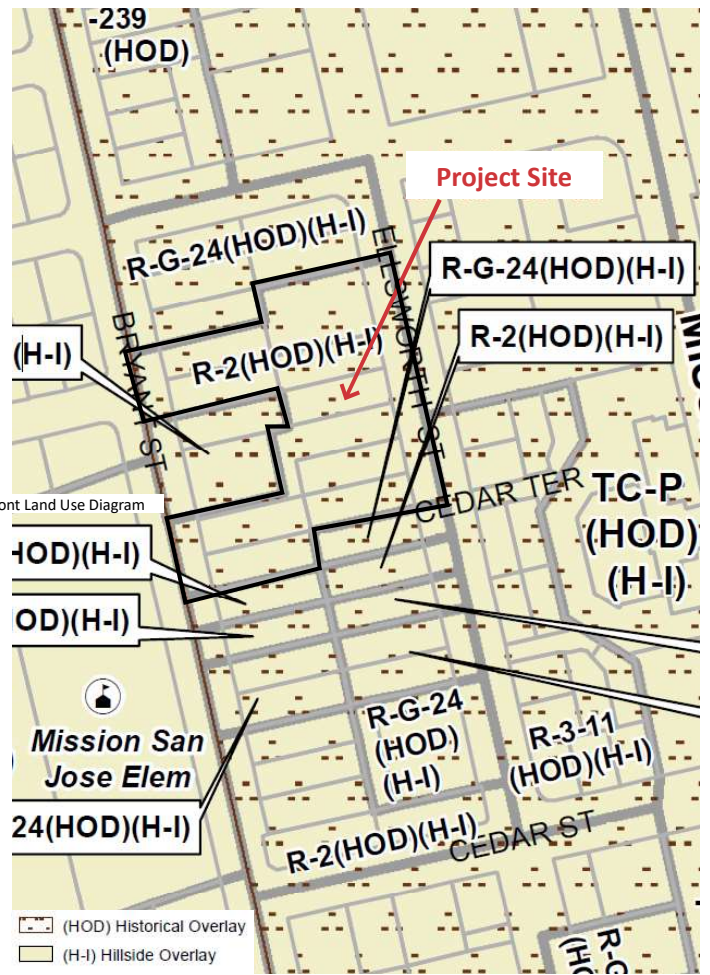
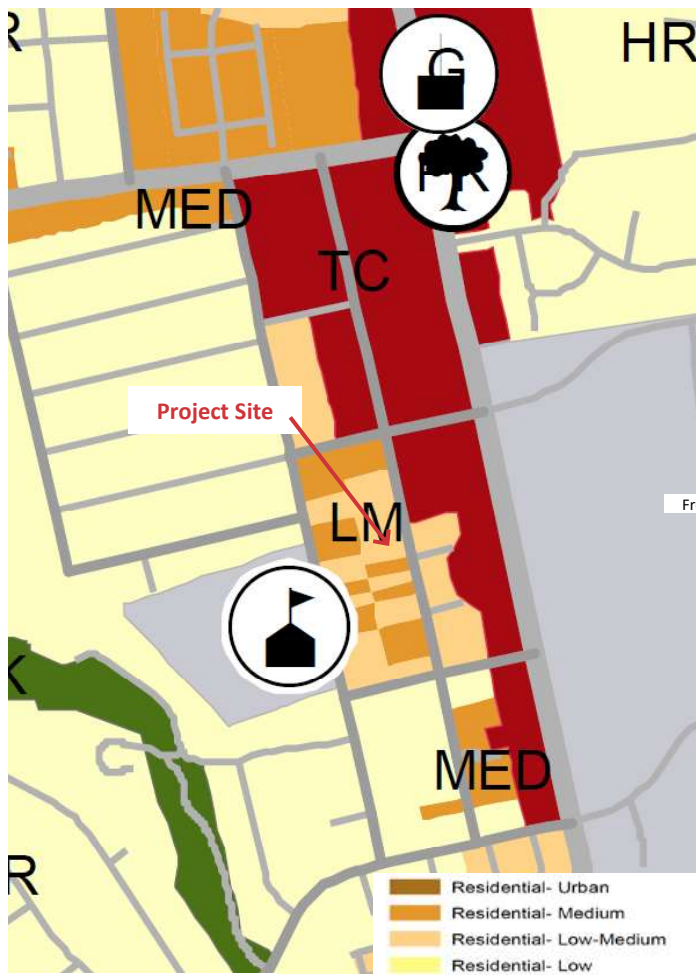
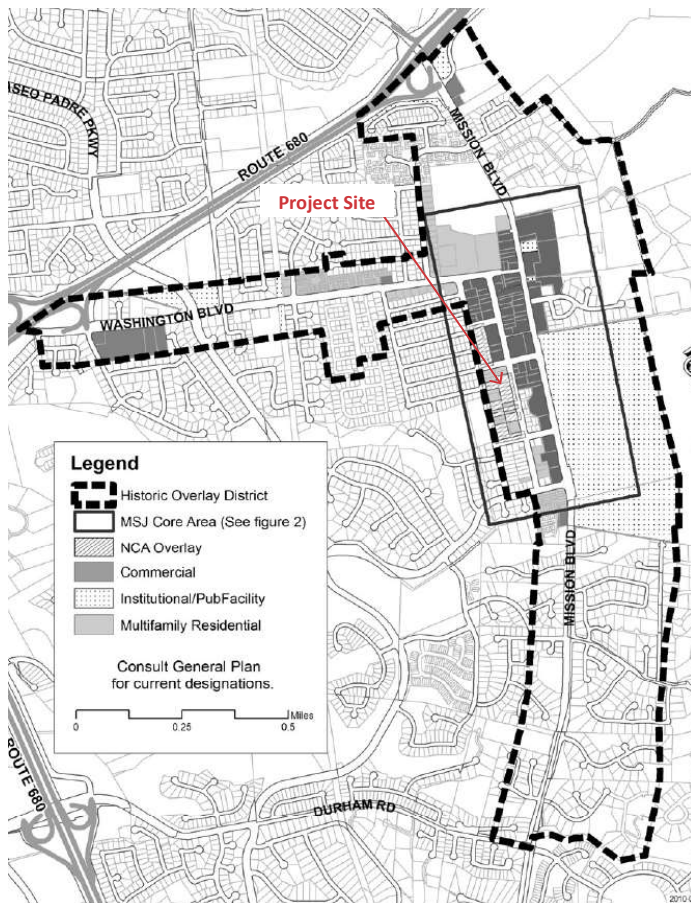
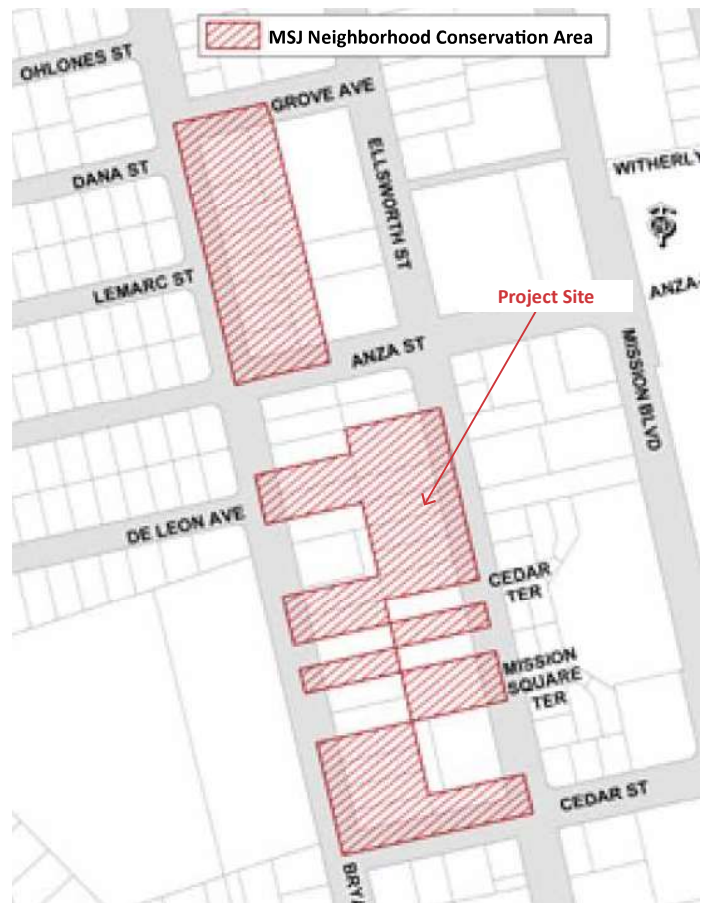


Figure 2
General Plan and Zoning

Source: City of Fremont, General Plan Land Use Diagram as amended through 12/2019, and Zoning Atlas as updated 4/21/2021



3A: Mission San Jose Historic Overlay District



3B: Mission San Jose Neighborhood Conservation District

Figure 3
Mission San Jose Historic Districts

Source: City of Fremont, Mission San Jose Historic Overlay District Design Guidelines and Regulations, as of May 2010

Unit types appropriate for this neighborhood include detached single-family dwellings and two-unit (duplex) dwellings. Detailed Neighborhood Compatibility guidelines and regulations are intended to promote design solutions for future residential development that emphasize smaller-scale buildings, coherent front yard setbacks, semi-private mid-parcel outdoor areas, and enclosed parking spaces with minimum visual impact. The guidelines and regulations are applicable to alterations and additions to existing single-family residential properties, as well as to new construction.

Planning and Zoning Regulations

Zoning District: The Project site is zoned R-2, designating a residential district that permits duplex and two-family residences (see prior **Figure 2B**). Pursuant to Chapter 18.90 of the Fremont Municipal Planning and Zoning Code (FMC), the purpose of the City's residential districts is to establish locations primarily devoted to stabilizing and protecting their predominantly residential characteristics. Residential districts are also intended to promote and encourage new infill developments. Residential districts may incorporate related housing types, services and accessory uses that generally serve the area or the community as a whole. The specific purpose of the R-2 (Duplex and Two-family Residential) District is to promote and maintain duplex/two-family home neighborhoods in order to increase housing opportunities for both ownership and rental homes.

Historical Overlay District: The Project site is located within a designated Historical Overlay District (HOD), as shown on prior Figure 3A. Pursuant to FMC Chapter 18.135, the purpose of Historic Overlay Districts is to identify those areas of the city that possess a unique historical character, and to retain, enhance, promote and expand the cultural and historical identities, character and environments of such areas through the adoption and application of appropriate standards and guidelines. These standards and guidelines are used to review exterior alterations on existing development as well as new construction. Historical architectural review and approval is required within an HOD for projects that include but are not limited to: new buildings and structures; on-site and adjacent off-site street and streetscape improvements; alteration, addition or modification to the exterior of an existing structure; and variances or exceptions to standard zoning requirements. Historical architectural review is required to determine whether proposed changes are compatible with the HOD.

Hillside Combining District: The Project site is also located within a designated Hillside Combining District (H-I), as also shown on prior Figure 2B. Pursuant to FMC Section 18.130.010, the purpose of the Hillside Combining District is to promote and encourage the orderly and safe development of hillside areas of the city, by the application of regulations and requirements established to meet the particular problems and challenges associated with development of hillside areas. Within the H-I district there may be lands on which development capacity is limited because of detrimental conditions potentially including soil instability, groundwater conditions, landslide or slope instability, steep slopes, and access over or across constrained lands. Lot area and width requirements, and other development standards unique to such hillside areas apply.

Historic Resources Ordinance: FMC Chapter 18.175 provides for the identification, protection, enhancement, and appropriate use of historic resources within the City. Historic resources are defined as those building, structure or objects that are listed on the California Register and/or the Fremont Register of Historic Resources. The Fremont Register consists of those historic resources listed in the General Plan, and those additional historic resources designated for listing by resolution of the City Council. There are other "potential historic resources" in the City that may be eligible for listing on the California Register or the Fremont Register, but that may not yet have been identified, evaluated or registered. In order to identify historic resources before their historic integrity may be destroyed through demolition or relocation, no permit will be issued for a building, structure or object that is 50 years old or older until it has been assessed for historic significance. If this assessment concludes that the building, structure or object is a Potential Register Resource, the Planning Manager shall notify the applicant in writing. Any proposed relocation or demolition of a Potential Register Resource may be reviewed and approved by the Fremont Architectural Review Board (ARB), while any proposed relocation or

demolition of a Fremont Register Resource shall require a recommendation by the ARB and final discretionary action by the City Council.

Design Review: The City’s Design Review process (FMC Chapter 18.235) is intended to implement the General Plan’s land use and aesthetic goals and policies, and to ensure compliance with adopted development standards, design rules and guidelines. Ministerial (i.e., non-discretionary) Design Review is generally required for those single-family homes that would not cause the primary building to exceed 7,500 square feet. Discretionary Design Review applies to projects that do exceed 7,500 square feet, require a separate discretionary permit from the Planning Commission, projects that are not consistent with adopted design rules, or projects that may affect a “Potential” or “Designated” Historic Register resource requiring review by the Historical Architectural Review Board (HARB).

Project Site

The Project site is at 43531 Ellsworth Street, on the west side of Ellsworth Street between Cedar and Anza Streets. The site is a single rectangular parcel (Assessor’s Parcel Number 513-061-0600) of 7,500 square feet, with a 50-foot frontage onto Ellsworth Street. This lot was established in 1868, as part of a plat named the “Town of Mission San Jose”.

The Project site previously contained an approximately 910 square-foot single-family residence that was built circa 1890 (see **Figure 4A**). According to an historic resource assessment conducted in June of 2007,² the building was a one-story, wood-frame, vernacular single-family house with a saltbox roof. The building was considered unique for its rustic character, saltbox design, and for its deep setback from the street. According to that 2007 assessment, “the building appeared eligible for the California Register of Historic Resources for its local significance as a resource associated with events that have made a significant contribution to the broad patterns of local or regional history. The building was thought to be the first residence constructed in the first speculative residential subdivision in the Mission San Jose District of Fremont, and representative of early residential development in Mission San Jose.” Also according to this 2007 assessment, the building appeared to be in good condition, it had been well preserved, and it had retained a high degree of historic integrity.

On July 11, 2023, the property owner applied for and received a permit to construct a small addition and interior remodel to this historic residence. However, according to the Project’s application materials, the residence was “damaged during renovation due to structural issues”.³ Without obtaining a demolition permit or undergoing environmental review, the residence was demolished and cleared (see **Figure 4B**).

² State of California Department of Parks and Recreation, *Primary Record for 43531 Ellsworth Street*, recorded by Page & Turnbull, Inc., June 2007

³ Sandeep Dhankhar, Owner, *Proposed Development Plans for 43531 Ellsworth Street*, prepared by Yel Design, August 10, 2003



4A: Prior to Partial Demolition

Source: GoogleEarth, image dated 2023



4B: After Partial Demolition

May of 2024

Figure 4
Photos of Project Site

Alternative Baseline

CEQA Guidelines Section 15125 provides that, “where existing conditions change, and where necessary to provide the most accurate picture practically possible of a project’s impacts, a lead agency may define existing conditions by referencing historic conditions that are supported with substantial evidence.” The City of Fremont finds it reasonable to consider use of such an alternative historic baseline to assess the environmental consequences of the Project. This alternative baseline is defined as the pre-existing condition, prior to unauthorized demolition, when the entire historic structure at 43531 Ellsworth Street still existed. Use of this alternative baseline does not enable consideration of retention of the former historic building or an off-site relocation alternative, but is still an appropriate means of conducting CEQA review that considers the entirety of the proposed new residence.

Detailed Project Description

CEQA Guidelines and the Fremont Planning Code are both clear that all components of a proposed development project shall be considered concurrently, rather than segmented into components. For the Project, all components of the proposed new residence includes the prior damage and demolition of the former historic structure and demolition of the remaining elements of this residence, as a pre-requisite for construction of the now-proposed residence. The structural damage that has already occurred precludes the City from timely environmental review on the entirety of the project, as a substantial portion of the historic building no longer exists. However, the City does not have the opportunity to consider action on a demolition permit for the remainder of the building that still stands, and has the responsibility under CEQA to consider the full environmental consequences of the Project when considering whether to approve the new residence.

Demolition

The Project’s application materials indicate that the applicant seeks a permit for, “retrospective demolition of the structure at 43531 Ellsworth Street.”⁴ The Fremont Municipal Code does not have any provisions for such a retrospective demolition permit. Rather, FMC Section 18.175.200 indicates that it is the City’s goal to prospectively seek to retain historic resources in their original context and setting. Should retention of an historic resource in its original context and setting prove infeasible or be disproportionate to its historical significance and functional value, the City will evaluate (in order of preference) any development project involving historic resources as follows:

- Consider on-site relocation of an historic resource retaining as much of the original setting as possible; then
- Consider off-site relocation to a site possessing as appropriate a setting as possible; and only then
- Consider demolition as a last resort.

Although the City does not have the opportunity to consider preservation of the historical resource or other relocation options, it still has the responsibility under CEQA to consider the full environmental consequences of an action to approve the new residence, including the “de facto” demolition of a substantial portion of the building that has already been lost, and demolition of the remains of the former historic residence.

New Construction

The Project applicant seeks to construct a new detached single-family home on this site. The new house is proposed as a split-level, 2-story house of 2,810 square feet, with an attached 615 square-foot garage and a 910 square-foot basement (see **Figures 5 and 6**).

⁴ Sandeep Dhankhar, Owner, *Proposed Development Plans for 43531 Ellsworth Street*, Scope of Work, page 1

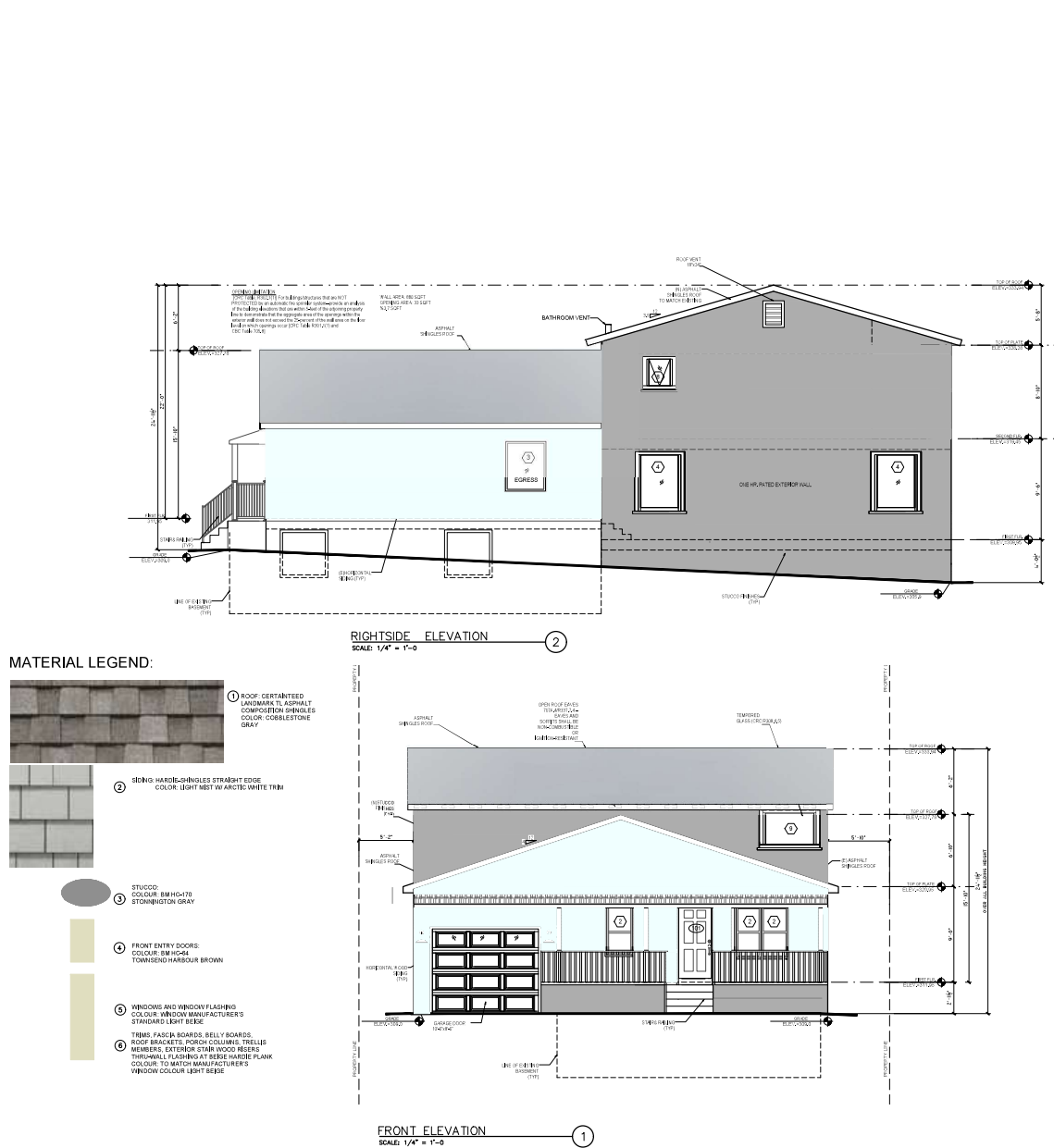


Figure 6
Project Elevations

Source: Project Plans, Sheet A-6.1, 08/02/2023

Details regarding the proposed new home include the following:

- The total 2,810 square-foot house includes 1,842 square feet on the first floor, containing a living/dining room, 1 bedroom, a full bath, a family room with gas fireplace, and kitchen. The 977 square-foot second floor would contain a master bedroom/bath, two additional bedrooms and an additional full bath. The 910 square-foot basement would include a half-bath and storage space.
- The proposed house footprint would occupy 2,456 square feet, inclusive of the 1,824 square-foot first floor and the 615 square-foot garage, resulting in a lot coverage of nearly 33 percent of the 7,500 square-foot parcel.
- Additional exterior space includes a 94 square foot (3.5' by 26') front porch, a small 34-square foot rear porch, and a 310 square foot (8' by 38') rear terrace at the second floor.
- The Project also includes a 405 square foot (20' by 20') concrete driveway at the southerly frontage onto Ellsworth Street, and a 105 square foot entry walkway constructed of permeable brick pavers. Two new street trees would be planted at the front of the house.
- Landscaping of the rear yard would include planning of several new trees and a lawn area covering most of the rear yard.

The Project's Site Survey drawings show an existing 800 square foot basement at approximately 8 feet deep (237 cubic yards). The Project proposes to enlarge and partially relocate this basement to 910 square feet by approximately 8 feet deep, resulting in a new 270 CY basement (see prior Figure 5). A portion of the cut for the new basement would be used to fill a similarly sized portion of the existing basement, with a net cut of 33 cubic yards of soil requiring off-haul.

The Project also proposes to replace the existing small shed that remains near the rear of the lot with a new, 10' by 10' accessory shed structure.

Project Approvals Required

The Project requires certain discretionary actions and approvals from the City of Fremont prior to its construction, including:

- certification of the Environmental Impact Report (EIR) prepared for the Project
- Historical Architectural review and approval, and
- potentially, approval of a "retrospective" demolition permit for the former Potential Register Resource

Pursuant to FMC Section 18.175.040, the Historical Architectural Review Board (HARB) has the responsibility to review development projects located within a Historic Overlay District; to review demolition, alteration, relocation and development proposals pertaining to Register Resources and Potential Register Resources; to review and consider environmental impact reports and other CEQA documents involving historic resources; and to conduct public hearings relative to these duties.

Single-family or two-family dwelling are not typically subject to Historical Architectural Review unless they involve a Register Resource, a Potential Register Resource, or if the dwelling is located in a portion of a Historic Overlay District with City Council-approved guidelines that require such review. The MSJ Guidelines and Regulations apply to single-family homes that are within a Neighborhood Conservation Area. The former building at the Project site was a Potential Register Resource, and the Project is located within a Conservation Area. Therefore, Historical Architectural Review by the HARB is required to determine if the Project is compatible with the MSJ Guidelines and Regulations.

Pursuant to FMC Section 18.175.160, HARB also has the responsibility to review and consider approval of any proposed relocation or demolition of a Potential Register Resource. Under Planning Code regulations, HARB may approve a demolition permit for a Potential Register Resource after making a finding that:

- the historic resource does not actually meet the standards for listing on the Fremont Register; or
- retention of the Potential Register Resource (or in this case, the remaining portion of the Potential Register Resource) would cause immediate and substantial hardship to the property owners because rehabilitation or restoration would be infeasible from a technical, mechanical, or structural standpoint, disproportionately great in relation to its historical significance and functional value, or leave the property with no reasonable economic value; or
- the historic resource may create an immediate or potential hazard to other buildings

Alternatively, the Planning Code provides that HARB may deny a demolition permit for a Potential Register Resource after making a finding that:

- the Potential Register Resource could be relocated without substantial damage to it; or
- the Potential Register Resource could be retained at its present location, and that the expense of restoration or rehabilitation is not disproportionate to its historical significance and functional value

The Fremont Municipal Code does not have any provisions for a “retrospective” demolition permit, and HARB may not be able to make the findings necessary to either approve or deny such a demolition permit. Furthermore, approval of a demolition permit may be moot, in that substantial demolition has already occurred. Nevertheless, this CEQA review does consider the environmental effects associated with demolition of the former structure on the Project site.

FRM Section 18.175.380 requires that every person in possession or control of a Register Resource or a property that has been determined to be eligible for the California Register shall maintain and keep the designated resource in good repair. Further, Section 18.175.390 provides that any person who violates this requirement may be subject to enforcement and penalty provisions that might include:

- reconstructing the building to its appearance or setting prior to the violation, consistent with historic reconstruction guidelines,
- monetary sanctions in an amount deemed equivalent to the loss to the community, or
- an order that all building, zoning and/or use permits may be denied for a period not to exceed five years

These potential enforcement and penalty provisions will be further addressed pursuant to the Alternatives chapter of the EIR for this Project.

The Project will also require subsequent administrative permits for work within and close to the public right-of-way. It will also require subsequent administrative permits for any further grading, stormwater control and building permits required of the Project.

III – Abbreviated Infill Development Checklist

Section 21084 of the Public Resources Code requires the CEQA Guidelines to include a list of classes of projects that have been determined not to have a significant effect on the environment and that are therefore exempt from the provisions of CEQA. In response to that mandate, CEQA Guidelines Article 19 Section 15300 includes a list of classes of project that the Secretary for Resources finds to not have a significant effect on the environment, and they are declared categorically exempt from the requirement for the preparation of environmental documents. Among these classes of categorically exempt projects are those projects defined pursuant to CEQA Guidelines Section 15332 as Infill Development. If a project meets the definitional criteria as an Infill Development, and no exceptions to a categorical exemption as defined pursuant to CEQA Guidelines Section 15300.2 are present, that project is presumed to not have a significant effect on the environment.

The Introduction to this document clearly indicates that the City of Fremont has already determined that the Project does have a significant effect on the environment, and that an EIR shall be prepared for the Project to assess impacts related to historic resources. The following abbreviated Infill Development Checklist has been prepared as an Initial Study to assess whether the Project may have other significant environmental effects that would further preclude a categorical exemption. If the Project does not meet the definitional criteria as an Infill Development, or if the Project would have additional exceptions to a categorical exemption, those factors would also need to be addressed in the EIR for the Project. However, if the Project does meet all definitional criteria for an Infill Development, and no other exceptions to a categorical exemption as defined pursuant to CEQA Guidelines Section 15300.2 are present (other than historic resources), the Project is presumed not to have any further significant effects on the environment, and the Project's EIR can be focused only on the Project's effects on historic resources.

Environmental Factors Potentially Affected

The environmental factors checked below would be affected by the Project, involving at least one impact that is a potentially significant impact.

Qualifications for an Infill Exemption

- | | |
|---|--|
| ☐ General Plan and Zoning Inconsistency | ☐ Site Location Criteria |
| ☐ Endangered, Rare or Threatened Species Habitat | ☐ Transportation |
| ☐ Noise | ☐ Air Quality |
| ☐ Water Quality | ☐ Utilities and Public Services |

Potential Exceptions to a CEQA Exemption

- | | |
|---|---|
| ☒ Cumulative Impacts (historic resources, only) | ☒ Unusual Circumstances (prior partial demolition of a historic resource, only) |
| ☐ Damage to Scenic Resources | ☐ Cortese List Property |
| ☒ Historic Resources | |

Standard Development Requirements

The City of Fremont has adopted as regulation of the Fremont Municipal Code (Section 18.218) certain Standard Development Requirements (SDRs) to address resource protection. The purpose of these SDRs is to ensure universal application of standard development requirements to those development projects that have the potential to adversely disturb or impact special-status species, cultural resources and air quality due to construction activities. Over time, these SDRs have been amended to include standard development requirements addressing tribal cultural resources, geology and soils, hazardous materials, and noise impacts during construction. Pursuant to other provisions of its Municipal Code, the City of Fremont also regulates a number of other development-related activities including requirements for grading permits, building permits, erosions control, stormwater management, and tree protection.

The City of Fremont's SDRs are incorporated into new and changed projects as conditions of approval, regardless of a project's environmental determination. The SCAs incorporate policies and standards from various adopted plans, policies, and ordinances, which have been found to mitigate environmental effects to a substantial degree. When a project is approved by the City, all applicable SDRs are adopted as conditions of approval and required, as applicable, to be implemented during project construction and operation.

As required pursuant to FMC Section 18.218.050 (c), the Project applicant and/or general contractors must submit a Construction Management Plan (CMP) for review and approval by the Planning and Building Divisions and other relevant city departments, prior to the issuance of the first construction-related permit for the Project. The CMP must include all applicable SDRs intended to minimize potential construction impacts and all other standard measures of the FMC that are established as construction-related conditions of approval. The Project's required CMP must provide Project-specific information including descriptive procedures, approval documentation, and drawings that specify how potential construction impacts will be minimized and how each construction-related requirement will be satisfied throughout construction of the Project. These SDRs and other FMC requirements are adopted as enforceable conditions of approval and would be incorporated and required as part of the Project if approved, so they are not listed as mitigation measures.

Qualifications for an Infill Development Exemption

<u>Is the Project:</u>	<u>Yes</u>	<u>No</u>	<u>Standard Development Requirements</u>	<u>Level of Significance</u>
a) Is the project consistent with the applicable general plan designation and all applicable general plan policies, as well as with applicable zoning designation and regulations?	☒	☐	-	Complies
b) Does the proposed development occur within city limits, on a project site of no more than five acres, substantially surrounded by urban uses?	☒	☐	-	Complies
c) Can the site be adequately served by all utilities and public services?	☒	☐	-	Complies
<u>Does/Would the Project:</u>	<u>No</u>	<u>Yes</u>		
d) Does the project site have any value as habitat for endangered, rare or threatened species?	☒	☐	-	LTS
e) Would Project approval result in any significant effects relating to transportation?	☒	☐	-	LTS
f) Would Project approval result in any significant effects relating to noise?	☒	☐	Construction Hours – Limitations, FMC 18.160.010 Construction Noise, FMC 18.218.050(g)	LTS
g) Would Project approval result in any significant effects relating to air quality?	☒	☐	Construction Related Emissions, FMC 18.218.050(a)	LTS
h) Would Project approval result in any significant effects relating to water quality?	☒	☐	Grading, Erosion and Sediment Control, FMC 18.205 Site Design Measures for Non-Regulated Projects, FMC 18.210.160	LTS

a): General Plan, Zoning and Design Regulation Consistency**General Plan Land Use Consistency**

The General Plan land use classification of Residential - Low to Medium Density (LM) applies to the Project site, permitting a mix of single-family homes and small multi-unit buildings. As a single-family home, the Project is consistent with the Fremont General Plan's land use designation for the property.

The General Plan's expected net residential density in the LM land use classification ranges from 8.8 to 14.5 units per acre, corresponding to site density of 3,000 to 5,000 square feet per dwelling unit. The Project is one

dwelling unit on an approximately 7,500 square-foot lot, consistent with and well below the maximum permitted density.

The General Plan also provides broad policy direction regarding Fremont’s Historic Overlay Districts and Neighborhood Conservation Overlay Districts. The Project’s consistency with the policy provisions of the General Plan that address the compatibility of new buildings in areas with existing historic buildings and historic character is more fully addressed under the following heading of Mission San Jose Design Guidelines and Regulations.

Consistency with the Mission San Jose Historic District Design Guidelines and Regulations

The purpose of the Mission San Jose Historic District Design Guidelines and Regulations (MSJ Design Guidelines and Regulations) is to conserve the existing character of the broader Mission San Jose Historic Overlay District, and specifically within the Neighborhood Conservation Area bounded by Ellsworth, Grove, Cedar and Bryant Street (see prior Figure 3). These MSJ Design Guidelines and Regulations describe and illustrate building design and landscape that is considered appropriate to the historic village context.

The MSJ Design Guidelines and Regulations are not intended to create non-conforming uses or structures, but do augment and may supersede other ordinances, requirements and procedures of the City of Fremont. For example, where the MSJ Design Guidelines and Regulations may require or permit certain standards that are inconsistent with the provisions of the zoning ordinance, the requirements of the MSJ Design Guidelines and Regulations prevail. The MSJ Design Guidelines and Regulations apply to future alterations, additions and new development except for single family homes, unless the single-family home is a Fremont Register Resource or is within a Conservation District. The Project site is located within a Conservation District, and therefore the MSJ Design Guidelines and Regulations do apply. The MSJ Design Guidelines and Regulations are specific to this neighborhood, where the standard parcel generally measures 50 feet by 150 feet.

Objective Design Standards

Program 17 of the City’s 2023-2031 Housing Element requires the City to clarify its existing design guidelines to provide a predictable basis to review housing projects. The City has developed Objective Design Standards from the City’s existing design guidelines, with the intent to facilitate implementation of the City’s existing MSJ Design Guidelines and Regulations. These Objective Design Standards are mandatory standards that must be satisfied by all residential development, including the residential component of a mixed-use development.

A comparison of the Project with the Mission San Jose Objective Design Standards for Residential Properties within the MSJ Neighborhood Conservation Area is addressed in **Table 1**, below.

Table 1: Comparison of Project to Objective Design Standards for properties within the MSJ Neighborhood Conservation Area

<u>Objective Design Standard</u>	<u>Project</u>	<u>Consistency</u>	<u>Comments</u>
1. Maximum building height, as measured to the top of the ridge: 25 feet	25 feet	Yes	From the front elevation, the ground is at 309 feet and the peak of the 1-story roof is at 327.8 feet, for a height of 18.8 feet. From the front elevation, the ground is at 309 feet and the peak of the 2-story roof is at 334 feet, for a height of 25 feet.
2. Maximum number of stories: 2	2 stories	Yes	The Project is proposed as a 2-story split-level structure with a one-story portion to the front, and the 2-story portion to the rear.
3. Maximum lot coverage: 2,500 square feet	2,456 sf	Yes	The Project's building coverage (or house footprint, inclusive of the attached garage) is 2,456 square feet
4. Minimum lot width: 50 feet	50 feet	Yes	The Project site has a 50-foot frontage onto Ellsworth Street
5. Minimum lot depth: 150 feet	150 feet	Yes	The Project site is 7,500 square feet, with a 150-foot lot depth
6. Minimum front-yard setback: 20 feet* * Parking or storage of motor vehicles within the front-yard setback is prohibited	20 feet	Yes	The Project's front yard setback is 20 feet as measured from the front property line to the front wall of the house, and to the front wall of the garage. An approximately 3.4-foot wide front porch extends into this front setback for the width of the house (excluding the garage)
7. Minimum side-yard setback: 5 feet	5 feet min.	Yes	The Project's proposed home does not site parallel to the side property lines, so its interior side yard setbacks vary. At its closest points to the southerly (left) property line, the front setback is 5 feet. At its closest points to the northerly (right) property line, the rear setback is 5 feet.
8. Minimum rear-yard setback for residential structures: 15 feet	66 feet	Yes	The Project provides for a 66-foot rear yard from the rear of the house to the back property line.
9. Minimum rear-yard setback for parking structures: 3 feet* * If a residential structure on an adjoining property already exists within 15 feet of that property's rear property line, then the required minimum rear-yard setback for a parking structure shall be 15 feet.	84 feet	Yes	The rear wall of the Project's garage is approximately 18 feet inward from the rear wall of the proposed home, making it 84 feet from the rear lot line
10. Mid-parcel outdoor areas: 1,000 square feet* * This standard is required when a parcel accommodates more than one detached residential unit.	N/A	N/A	The Project does not propose more than one detached residential unit and does not include a mid-parcel outdoor area.

11. Parking: 2 enclosed spaces per dwelling unit*	2 spaces, tandem	Yes	The Project includes a two-car garage with dimensions of 12'- 6" width, and 41'- 7" depth, adequate to tandem-park two cars within the garage structure
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* Tandem parking within structures or enclosed parking areas is permitted to satisfy this requirement.

Source: Mission San Jose Historic Overlay District Design Guidelines and Regulations, Table 4, as amended November 14, 2023 by Adoption of Council Resolution 2023-52, Adopting Objective Design Standards

The consistency determinations presented in Table 1 are further described, below.

- **Density:** *Future residential development in this Neighborhood Conservation Area is expressly intended to accommodate both expansion of existing dwelling units and construction of new dwelling units to a maximum of two units per parcel.*

The Project involves construction of one new dwelling unit, at less than the maximum density of two units per parcel, and is therefore consistent with this regulation.

- **Building Height:** *Buildings shall not exceed two stories or 25 feet in height, as measured to the highest point of the roof.*

The Project is proposed as a 2-story split-level structure with a one-story portion to the front, and the 2-story portion to the rear. From the front elevation, the ground is at 309 feet and the peak of the 1-story roof is at 327.8 feet, for a height of 18.8 feet. Also from the front elevation, the ground is at 309 feet and the peak of the 2-story roof is at 334 feet, for a height of 25 feet. The Project is consistent with this building height regulation.

Alternatively, from the right or northerly elevation, a plane that is parallel to the ground is at elevation of approximately 305 feet at grade, directly below the peak of the second story roof. The peak of the roof is at 334 feet, for a height of 29 feet. As measured at the side elevation, the Project exceeds the 25-foot maximum regulation for building height.

- **Building Coverage:** *The maximum allowable building coverage on any standard parcel in this neighborhood, including any structure or area designated to accommodate parking or storage of motor vehicles, shall be 2,500 square feet. For this neighborhood, a standard parcel measures 50 feet by 150 feet.*

The Project's building coverage (or house footprint, inclusive of the attached garage) is 2,456 square feet, representing a lot coverage of approximately 33%. This building coverage is less than the maximum allowable building coverage of 2,500 square feet, and the Project meets this regulation.

- **Front Yard Setback:** *The minimum front yard setback shall be 20 feet measured from the front property line to the front wall of the residential building. Allowable improvements within front yard setbacks include lawns, landscaping, patios, decks, courtyards or other, similar types of areas designed for active use; walls, fences and screens erected in conjunction with such improvements, and not exceeding four (4) feet in height, are allowed. Parking or storage of motor vehicles within setback is prohibited.*

The Project's front yard setback is 20 feet as measured from the front property line to the front wall of the house, and to the front wall of the garage. An approximately 3.4-foot wide front porch extends into this front setback for the width of the house (excluding the garage), consistent with allowable improvements within front yard setbacks. The Project meets this front yard setback regulation.

- *Side Yard Setback:* *The minimum side yard setback shall be five (5) feet, measured from the side property line to the nearest wall of a residential building or parking structure.*

The Project's proposed home does not site parallel to the side property lines, so its interior side yard setbacks vary (i.e., the proposed home is closer to the southerly property line toward the front to the home, and closer to the northerly property line at the rear of the home). At its closest points to the southerly (left) property line, the front setback is 5 feet, at the mid-point of the house the setback is 6.23 feet, and at the rear of the house the setback is 7.1 feet. At its closest points to the northerly (right) property line, the front setback is 5.9 feet, at the mid-point of the house the setback is 5.1 feet, and at the rear of the house the setback is 7.1 feet. The Project meets the minimum interior side yard regulation.

- *Rear Yard Setback:* *For residential buildings, the required minimum rear yard setback shall be 15 feet, measured from the rear wall of the residential building to the rear property line. Allowable improvements within the rear yard setback include lawns, landscaped areas, patios, decks, courtyards or other, similar types of areas for active use. Walls, fences and screens erected in conjunction with such improvements shall not exceed six (6) feet in height.*

The Project provides for a 66-foot rear yard from the rear of the house to the back property line, meeting the rear yard regulation. The Project does propose to relocate a small shed into the rear yard, placed as close at 2.5 feet from the rear property line. This shed is not an "area for active use" such as a patio, decks or courtyard that is permitted within the setback, and should be set back to 15 feet to meet the standard.

- *Mid-Parcel Outdoor Areas:* *Whenever a parcel accommodates more than one detached residential unit, mid-parcel outdoor areas amounting to not less than 1,000 square feet are required. Private balconies and screened outdoor spaces of individual residential units do not satisfy this requirement.*

The Project does not propose more than one detached residential unit, so no mid-parcel outdoor areas are required. The MSJ standard for mid-parcel outdoor areas does not apply.

- *Entries:* *The front entry to a residential building should be a well-defined, prominent element of a building's front façade. Whenever a front entry is visible from the street, a porch element can accentuate and significantly enhance the character of both the front entry and the front façade. A porch element of a front entry may encroach a maximum of four (4) feet into a required front yard setback.*

The Project design includes a well-defined front porch element with stairs, railings and corner columns. The front façade also includes 3 windows that enhance the character of the front entry. The Project meets these entry standards.

- *Parking or Storage of Motor Vehicles:* *For each dwelling unit, two enclosed parking spaces are required. Tandem parking within structures or enclosed parking areas is permitted to satisfy this requirement.*

The Project includes a two-car garage with dimensions of 12'- 6" width, and 41'- 7" depth, adequate to tandem-park to cars within the garage structure. The Project meets the enclosed parking requirements of the MSJ Regulations.

As demonstrated above, the Project appears to meet all requirements and standards of the MSJ Design Guidelines and Regulations.

Zoning Consistency

The Project is located within the Duplex and Two-family Residential (R-2) zoning district, which specifically permits single-family residences. As a single-family residential use, the Project is consistent with Fremont's R-2 zoning district classification for the property. Consistent with the purpose of the R-2 zoning designation, the Project would maintain the predominantly residential character of the surrounding neighborhood.

As noted above, the MSJ Design Guidelines and Regulations augment and may supersede other ordinances, requirements and procedures of the City of Fremont. Where the MSJ Design Guidelines and Regulations may be inconsistent with the provisions of the zoning ordinance, the requirements of the MSJ Design Guidelines and Regulations prevail. The following **Table 2** provides a comparative summary of the Project's consistency with those residential development standards of the R-2 zoning district, as found in FMC Section 18.90.040. Where the MSJ Design Guidelines and Regulations supersede these otherwise applicable R-2 development standards, the comparison of the Project to those R-2 standards are indicated as not applicable (N/A).

Table 2: Comparison of Project to Applicable Development Standards of Zoning Code

	R-1-6	R-2 ¹	Project	Consistent?
Minimum lot area	6,000 sf	6,000 sf	7,500 sf	Yes
Minimum street frontage	35'	35'	50'	Yes
Minimum lot width	55'	70'	50'	N/A
Minimum lot depth	100'	100'	150'	N/A
Minimum front yard setback	20'	25'	20'	N/A
Minimum rear yard, 2-story	25'	25'	66'	N/A
Minimum interior side yard, 1 st story	5'	7'	5' (front)	N/A
Total, both sides	12'	16'	11.3'	N/A
Minimum interior side yard, 2nd story	6'	8'	5' (rear)	N/A
Total, both sides	15'	20'	12.1'	N/A
Maximum building height, 1 story	17'	17'	19'	N/A
Maximum building height, 2 story	30'	30'	25'	N/A
Maximum height above grade for finish floor level	28"	28"-	36" (front) 48" (rear)	No ²
Roof pitch (minimum)	3:12	3:12	3.5:12	Yes
maximum	7:12	7:12	3.5:12	Yes
Max lot coverage for first story	40%	40%	33%	N/A
Maximum size of second story (percent of 1 st story, or maximum total, whichever is less)	50% or 1,000 sf max	50% or 1,000 sf max	40%, or 968 sf	Yes

Source: Fremont Planning and Zoning Code, Table 18.90.040: R-1 and R-2 District Development Standards

Notes:

- Standards listed under R-2 zoning district are for development of duplex units. Single-family residences may utilize R-1-6 standards (as also shown); however, this may preclude subsequent duplex development.
- Front Elevation (Sheet A-5.0) shows grade at 309' and first floor elevation at 312', or 3' (36") height above grade for finish floor level

As demonstrated in Table 2 above, the Project is consistent with those applicable development standards of the R-2 zoning district that are not otherwise augmented or superseded by the Objective Design Standards of the MSJ Design Guidelines and Regulations, with the exception of the following.

Finish Floor above Grade

The Project is proposed with a basement level that is approximately 6 feet below grade at the front of the house. The finish floor level of the house is approximately 9 feet above the basement level, or approximately 3 feet above grade. To reach the finish floor level, the Project includes a 5-step staircase from grade level to the front door. Per the zoning standard for either the R-2 or R-1-6 zone, the maximum height above grade for the finish floor level is 28 inches. At 3 feet (or 36 inches) above grade, the house sits approximately 8 inches higher above grade at the front of the house than the zoning standard permits.

Historic Overlay District

The Project site is located within an area where the City Zoning map has established a Historic Overlay District (HOD). Pursuant to FMC Section 18.135.010, the purpose of a Historic Overlay District is to identify the areas of the City that possess a unique historical character, and to retain, enhance, promote and expand the cultural and historical identities, character and environments of such areas. Use of properties within an HOD is to be consistent with the rights of the owners and occupants of property within the HOD to use their property for the purposes permitted by the underlying zoning, while maintaining and enhancing the value of other property.

Per FMC Section 18.135.060, a single-family or two-family dwelling is not subject to historical architectural review unless it is a Register Resource, a Potential Register Resource, or if it is located in a portion of an HOD with City Council-approved guidelines (e.g., the MSJ Design Guidelines and Regulations) that require such review. The former structure that was located on the Project site was a Potential Register Resource, and the Project site is located within the area that is specifically addressed by the MSJ Design Guidelines and Regulations. Accordingly, the Project shall be subject to Historical Architectural Review and approval to assess its compatibility with the historic district in terms of siting, massing, scale, size, material, texture and color.

Conclusion

The proposed new development pursuant to the Project appears to be generally consistent with the applicable General Plan designation, and with applicable General Plan policies. The proposed new development pursuant to the Project also appears to be consistent with the Objective Design Standards of the MSJ Design Guidelines and Regulations and with the majority of other applicable provisions of the R-2 zoning district. Accordingly, the proposed new development pursuant to the Project qualifies under this criterion as an Infill Development pursuant to CEQA Guidelines Section 15332.

However, the prior demolition and clearing of a substantial portion of the former residence on the site, a Potential Register Resource, was not conducted in a manner consistent with the standards and regulations of FMC Chapter 18.175 pertaining to historic resources.

b): Site Location Criteria

The Project would occur within the Mission San Jose Historic District of the City of Fremont. The Project involves one parcel comprising an area of only 7,500 square feet (about 0.17 acres), substantially less than the 5-acre maximum site area to qualify for an Urban Infill Exemption.

The Project site is surrounded by other urban land uses. The Project site is located central to the city block bounded by Ellsworth, Anza, Cedar and Bryant Street, which is one of the oldest residential blocks in the area. It is developed with a mix of small, one-story single-family homes dating from the late 19th century through the

early 20th century, as well as newer triplexes and other multi-family housing. The Ohlone College is one block to the east on the opposite side of Mission Boulevard, a commercial corner is at the intersection of Ellsworth and Anza, and the Mission San Jose Elementary School is one block west on the opposite side of Bryant Street.

Accordingly, the Project would occur within city limits, on a project site of no more than five acres, and on a site that is substantially surrounded by urban uses. The Project qualifies under this criterion as an Infill Development pursuant to CEQA Guidelines Section 15332.

c): Habitat for Endangered, Rare or Threatened Species

The Fremont General Plan EIR identifies three distinct physical areas of the City that contain ecological habitats, corresponding to vegetative cover and biotic features. These three areas are the Baylands, the Bay Plain and the Hill Area. While habitat types within these areas have been altered over time by urban development, each of these areas still include habitat characteristics that support a diversity of plant and animal species.⁵

The Project site is not located within any of these primary ecological habitat areas. The nearest of these ecological habitat types is the Hill Area, characterized by grassland, shrublands and woodlands. Mill Creek, Mission Creek, Alameda Creek and several other smaller streams descend from the hills and traverse through the more urban flatlands toward the Bay. The Hill Area can generally be describes as having a westerly edge along the toe-of-slope of the Fremont hillsides. This toe-of-slope (as defined on the General Plan Land Used Diagram) is approximately one-half mile to the east of the Project site, and the nearest identified riparian corridors are smaller drainages that flow to Mission Reservoir, westerly of the Ohlone College, also about one-half mile away.

The urban/suburban and remaining historic landscape within the Mission San Jose historic neighborhood supports a combination of native and non-native vegetation, and wildlife species that may be present in the area are generally those that have become accustomed to human disturbance. The Project site does not provide habitat for endangered, rare or threatened species. The Project qualifies under this criterion as an Infill Development pursuant to CEQA Guidelines Section 15332.

d) Transportation

In compliance with Senate Bill (SB) 743 and CEQA Guidelines Section 15064.3, the City of Fremont amended the Mobility Chapter of the General Plan to replace Level of Service (LOS) with Vehicle Miles Traveled (VMT) as the criteria to be used for transportation analysis under CEQA, effective July 1, 2020.⁶ Consistent with the California Office of Planning and Research Technical Advisory for Evaluating Transportation Impacts under CEQA,⁷ the City relies on screening thresholds to “screen out” VMT impacts of certain types of projects based on size, transit availability, areas known to have low VMT ratios, and/or the provision of affordable housing. These screening thresholds provide that projects that generate or attract fewer than 110 vehicle trips per day may be assumed to cause a less than significant VMT impact. As one single-family residence, the Project would not exceed this screening threshold, and its VMT impact would be less than significant.

The Project would not result in any significant effects relating to transportation, and the Project qualifies under this criterion as an Infill Development pursuant to CEQA Guidelines Section 15332.

⁵ City of Fremont, Fremont General Plan Update Draft EIR (SCH #201082060), July 2011, page 4-294

⁶ City of Fremont, Fremont General Plan Mobility Element, as amended July 2020, page 3-3

⁷ California Office of Planning and Research, Technical Advisory for Evaluating Transportation Impacts under CEQA, April 2018

e) Noise

Operational Noise

Operational noise associated with a new single-family home in a residential neighborhood is not considered a potentially significant effect. FMC Chapter 9.25 provides general prohibitions on loud, unnecessary or unusual noise that disturbs the peace and quiet of any neighborhood, or that causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area. There is nothing about the Project that would suggest it would not, or could not, comply with these prohibitions.

Construction-Period Noise

The Project's construction activity would not include a substantial component of major noise generating construction activities such as might be generated by removal of existing pavement or large structures, or substantial site grading, excavation or paving. Construction of the Project will primarily include relatively minor grading for a realigned basement, followed by framing, carpentry, plumbing and electrical work, and landscaping. Construction noise would be localized to the area within 100 to 200 feet from the Project's construction activities, where residents would be intermittently exposed to construction noise that might elevate ambient noise levels by 15 to 20 dBA.

Standard Development Requirements

The City of Fremont has adopted by ordinance (FMC Chapter 18.218) universally applied Standard Development Requirements of all construction projects. The following Standard Development Requirements as found in FMC Chapters 18.160 and Section 18.218.050(g) would apply as conditions of approval of the Project to reduce its potential construction-period noise effects:

- ❖ **Construction Hours – Limitations** (FMC 18.160.010): Construction activity for development projects in any zoning district and on any property within 500 feet of one or more residences, lodging facilities, nursing homes or inpatient hospitals shall be limited as follows:
 - a) Construction activity shall be limited to the weekday hours of 7:00 a.m. to 7:00 p.m., and Saturday or holiday hours of 9:00 a.m. to 6:00 p.m. No Sunday construction is allowed.
 - b) Resident homeowners and their uncompensated volunteer workers performing construction activity on their own single-family detached home shall be limited to the weekday hours of 7:00 a.m. to 8:00 p.m. and the weekend hours of 8:00 a.m. to 8:00 p.m.
- ❖ **Construction Noise** (FMC 18.218.050(g)): To reduce the potential for noise impacts during construction, the following requirements shall be implemented:
 - a) Construction equipment shall be well maintained and used judiciously to be as quiet as practical.
 - b) Construction, excavating, grading, and filling activities (including the loading and unloading of materials, truck movements, and warming of equipment motors) shall be limited as provided in Section 18.160.010.
 - c) All internal combustion engine-driven equipment shall be equipped with mufflers, which are in good condition and appropriate for the equipment.
 - d) The contractor shall utilize "quiet" models of air compressors and other stationary noise sources where technology exists.
 - e) Loading, staging areas, stationary noise generating equipment, etc., shall be located as far as feasible from sensitive receptors.

- f) The contractor shall comply with Air Resource Board idling prohibitions of unnecessary idling of internal combustion engines.
- g) Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a contact number for the project sponsor in the event of noise complaints. The applicant shall designate an on-site complaint and enforcement manager to track and respond to noise complaints.
- h) Temporary noise barriers, such as solid plywood fences, shall be installed around construction sites adjacent to operational businesses, residences or noise-sensitive land uses, unless an existing wall or other barrier provides equivalent noise attenuation.

Limiting the construction period per FMC section 18.160 will mitigate most construction-period noise impacts of the Project. Implementation of the additional best practice per FMC section 18,218.050(g), as applicable to the Project site, would further reduce the temporary construction noise from this individual Project to levels considered less than significant.

Although the Project's construction noise could result in the temporary exposure of the nearest residences to noise levels in excess of the City's standards, implementation of these standard development requirements would reduce construction noise levels, limit construction hours, and minimize disruption and annoyance from construction-period noise to the degree feasible. With implementation of these noise controls, and recognizing that noise generated by construction activities would occur intermittently and over a temporary period, the temporary increase in ambient noise levels during construction would be a less than significant impact.

The Project would not result in any significant noise impacts, and the Project qualifies under this criterion as an Infill Development pursuant to CEQA Guidelines Section 15332.

f) Air Quality

Construction-Period Criteria Air Pollutants

The Bay Area Air Quality Management District (BAAQMD) has developed screening thresholds for projects of smaller size, and that are unlikely to result in generation of construction-related criteria air pollutants or precursor emissions that exceed the thresholds of significance. The BAAQMD's screening threshold for construction of single-family homes is 254 homes.⁸ At only 1 new home, the Project's construction-period criteria air pollutants would be far lower than this threshold, and presumed to be less than significant.

Standard Development Requirements

Irrespective of this CEQA conclusion, the City of Fremont's SDRs provide an effective means for reducing cumulative criteria pollutant emissions from all construction projects within the City, and would apply to the Project:

- ❖ **Construction Related Emissions (FMC 18.218.050(a)):** The following construction measures, as periodically amended by BAAQMD, are required for all proposed development projects to reduce construction-related fugitive dust and exhaust emissions:
 - a) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times daily.
 - b) All haul trucks transporting soil, sand, or other loose material off site shall be covered.

⁸ Bay Area Air Quality Management District (BAAQMD), 2022 CEQA Guidelines, Table 4-1

- c) 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.
- d) All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
- e) 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.
- f) 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 (CCR)). Clear signage shall be provided for construction workers at all access points.
- g) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- h) A publicly visible sign shall be posted with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 48 hours. BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

With implementation of these City of Fremont SDRs, the Project's emissions of criteria pollutants during construction would be further reduced, and these emissions would be less than significant. The Project would not trigger implementation of "Supplemental Measures" of the SDRs, which apply to construction projects that do exceed the thresholds of significance for construction criteria air pollutants.

Operational Criteria Air Pollutants

The Bay Area Air Quality Management District (BAAQMD) has developed screening thresholds for projects of smaller size, and that are unlikely to result in generation of operations-related criteria air pollutants or precursor emissions that exceed the thresholds of significance. The BAAQMD's operational screening threshold for single-family homes is 421 homes.⁹ At only 1 new home, the Project's operations impacts related to criteria air pollutants would be far lower than this threshold, and presumed to be less than significant.

Approval of the Project would not result in any significant effects relating to air quality, and the Project qualifies under this criterion as an Infill Development pursuant to CEQA Guidelines Section 15332.

h) Water Quality

The Project site is located in a developed portion of the City. The nearest locations of open water include the Saber Cat Creek channel about 0.25 miles to the southwest, drainage channels that flow from the Fremont Hills Area to Mission Reservoir westerly of the Ohlone College about 0.5 miles to the east, and the open channel of Mill Creek about 0.5 miles to the north. The Project will have no direct effects on surface water or surface water quality in these more distant waters. However, runoff from the Project site is collected within the City's stormdrain system, which eventually drains to the Bay.

Construction-Period Effects on Water Quality

Construction associated with the Project would involve certain ground-disturbing activities that may increase the potential for erosion and sedimentation. Ground-disturbing and grading activities for the Project include expansion and partial relocation of the existing basement cut, establishing a finish grade that slopes 6-inches within the first 10 feet away from building to route stormwater away from the structure, and establishing a

⁹ Bay Area Air Quality Management District (BAAQMD), 2022 CEQA Guidelines, Table 4-1

uniform 5 percent grade in the rear yard, sloping toward the rear lot line. Construction equipment used for these construction activities could contribute pollutants to stormwater runoff in the form of sediment and other pollutants such as fuels, oil, lubricants, hydraulic fluid or other contaminants. If mobilized during construction, sediment and silt could be transported to downstream receiving waters such as creeks, lakes and eventually the Bay, and degradation of downstream receiving water quality could occur.

Regulatory Setting

A Municipal Regional Stormwater Permit was issued by the California Regional Water Quality Control Board - San Francisco Bay Region to multiple jurisdictions and entities throughout Alameda, Contra Costa, San Mateo, Santa Clara and Solano Counties, to implement the provisions of the federal Clean Water Act. This permit is known as the San Francisco Bay Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit.¹⁰ This NPDES Permit regulates stormwater discharges from municipal separate storm sewer systems, stormwater discharges associated with industrial activity (including construction activities), and designated stormwater discharges that are considered significant contributors of pollutants to waters of the United States. Provisions C.6 of the NPDES permit requires local agency review of construction-period erosion control plans for consistency with local requirements before issuing grading permits for projects.

- Construction projects disturbing 1 acre or more of land must also file a Notice of Intent for permit coverage under the Construction Stormwater General Permit.
- Construction projects requiring coverage under the Construction Stormwater General Permit must also prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) that includes seasonally appropriate and effective best management practices (BMPs) for erosion and pollution control.
- Fremont Municipal Code Section 18.210.110 provides that any person subject to a Construction Activity General NPDES stormwater permit shall comply with all provisions of such permit.

Standard Development Requirements

The Project is located on a small, 7,500 square-foot parcel, and its grading and ground-disturbing activities will not reach the 1-acre threshold for requiring coverage under the Construction Stormwater General Permit or preparation and implementation of a Stormwater Pollution Prevention Plan. However, the City of Fremont's SDRs do provide an effective means for reducing cumulative water quality impacts from construction projects, specifically construction projects with grading operation on slopes of greater than 4 percent. The Project site is at elevation 310 feet at the Ellsworth Street frontage and at elevation 303 feet at the rear property line, with a rise of 7 feet over 150 feet of run, or 4.7 percent. Whereas the Project would involve grading on land with a natural slope of more than 4 percent, the following SDRs of the FMC would apply to the Project:

❖ **Grading, Erosion and Sediment Control (FMC 18.205):** Among the primary purposes of these code requirements is the protection of water quality by avoiding pollution of watercourses with nutrients, sediments or other earthen materials generated on, or caused by surface runoff on or across private property. Provisions of the Grading, Erosion and Sediment Control Ordinance require drawings and specifications that show the following:

- Detailed plans of all drainage devices, walls, cribbing, dams or other protective devices to be constructed in connection with or as part of the proposed work, together with a map showing the drainage areas and the computed runoff of the area served by any drainage devices; and

¹⁰ California Regional Water Quality Control Board, San Francisco Bay Region (SFBRWQCB) - *Municipal Regional Stormwater NPDES Permit* (Order #R2-2022-0018, NPDES Permit #CAS612008), Construction Site Controls, May 11, 2022, page C.6-1

- Landscaping and erosion control plans and specifications of soil erosion control areas; any required interim or final erosion control plans prepared in accordance with measures and techniques and approved by the City Engineer

Project Plans Pursuant to SDR/Code Requirements

The Project application materials (Sheet A-1.2) include a Sediment Control Plan that illustrates the placement of fiber roll as a sediment barrier around the construction area, as well as detail sheets pertaining to the protection of catch basin inlets, temporary construction entrance and exit controls, and silt fences. These Project application materials also include a copy of the City of Fremont’s “Clean Bay Blue Print”, which indicate the Project applicant’s intent to ensure compliance with City of Fremont requirements pertaining to the following construction activities:

- materials storage and spill cleanup
- vehicle and equipment maintenance and cleaning
- earthwork and contaminated soils
- dewatering operations, and
- paving/asphalt work

These plans are subject to review and approval by the City Engineer prior to issuance of a grading permit, and/or initiation of any grading or construction activity at the site. With implementation of an approved Grading, Erosion and Sediment Control Plan, the Project construction-period effects on water quality can be reduced to levels of less than significant.

Operational Period Effects on Water Quality

Stormwater discharge from developed sites such as the competed Project can be a source of pollutants that can contribute to cumulative impairment of water quality. Pollutants of concern in discharges from developed areas include certain heavy metals, excessive sediment, petroleum hydrocarbons, certain pesticides, excessive nutrient loads, and trash. Development sites such as the Project can also increase impervious surfaces (rooftops, asphalt and paving, etc.). New Impervious surface created and/or replaced by the Project will not absorb stormwater water or remove pollutants, as do natural or vegetated soils. New impervious surfaces can also create increased pollution by bringing higher levels of aerially deposited car emissions, car maintenance wastes, pesticides, household hazardous wastes, pet wastes and trash, which can all be washed into the storm sewer.

Regulatory Setting

Provision C.3 of the NPDES permit requires local agencies (e.g., the City of Fremont) to use their planning authority to require appropriate source control, site design and stormwater treatment measures in new development and significant redevelopment projects. These C.3 provisions require local agency review to address on-going stormwater runoff pollutant discharges, and to prevent increases in runoff flows from new development and redevelopment projects.¹¹

- New development or redevelopment projects that fall under the planning and building authority of a permittee (e.g., the City of Fremont) and that create 5,000 square feet or more of impervious surface, are considered Regulated Projects, and subject to C.3 provisions.

¹¹ SFBRWQCB - Municipal Regional Stormwater NPDES Permit, New Development and Redevelopment, May 11, 2022, page C.3-1

- Additionally, detached single-family home projects that create or replace 10,000 square feet or more of impervious surface but that are not part of a larger development that is otherwise regulated, are also considered Regulated Projects and subject to C.3 provisions.
- Regulated Projects are required to treat stormwater runoff from the site with low-impact development (LID) treatment measures such as infiltration, evapotranspiration and biotreatment. The extent of stormwater treatment systems provided for Regulated Projects must meet established hydraulic sizing design criteria.

Standard Development Requirements

The Project will result in an increase of impervious surfaces at the Project site. The proposed house footprint, porches, patios and terraces amount to 2,896 square feet of impervious surface. New impervious surfaces will also include City-required street improvements along the property frontage on Ellsworth Street, which require new curb, gutter, a 6-foot wide sidewalk, and a driveway ramp, or an estimated 400 square feet of additional impervious surface. This represents a total of approximately 3,200 square feet of impervious surfaces attributed to the Project. The extent of new or replaced impervious surfaces does not exceed 5,000 square feet (or 10,000 square feet for a single-family home that is not otherwise regulated), is therefore not a Regulated Project and is not subject to the C.3 provisions of the NPDES Permit. However, City of Fremont's SDRs do provide an effective means for reducing cumulative water quality degradation from smaller projects.

❖ ***Site Design Measures for Non-Regulated Projects (FMC 18.210.160):*** All new development and redevelopment projects subject to planning, building, development or other comparable reviews by the City, but not meeting the definition of "Regulated Project," are required to include adequate site design measures that include minimizing land disturbance and impervious surfaces. These may include:

- clustering of structures and pavement
- directing roof runoff to vegetated areas
- use of micro-detention, including distributed landscape-based detention of stormwater, and/or
- restoration of riparian areas or wetland as project amenities

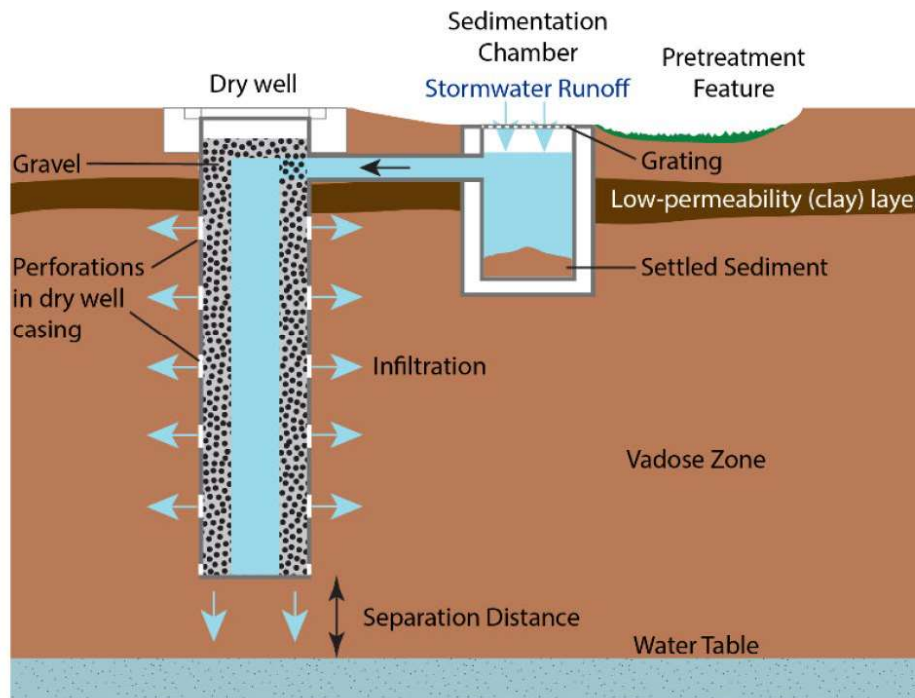
Project Plans Pursuant to SDR/Code Requirements

The Project application materials (Sheet A-1.1) include a Storm Drainage and Utilities Plan that illustrates the Project's intent to implement certain Low Impact Development elements, including use of permeable pavers at its walkway and driveway. This Storm Drainage Plan also notes that site runoff will be routed through infiltration trenches, flow-thru planters or tree wells prior to off-site discharge; that all roof downspouts will drain directly into landscaping or green areas; and that site runoff will also be diverted to a drywell located in the rear yard.

According to a California Drywell Guidance document, drywells can provide a means to bypass those layers of near-surface soils that are less infiltrative, and infiltrate water into deeper subsurface soil horizons with higher infiltration capacity.¹² Infiltration is a natural process that provides critical groundwater recharge. Drywells can help to restore this natural process, and reduce post-development stormwater flow to approximate pre-

¹² Geosyntec Consultants, prepared for the California Water Resources Control Board, California Drywell Guidance, March 2020

development conditions. A typical drywell contains a vegetated pre-treatment feature, a structural sedimentation chamber, and a drywell (see **Figure 7** below).¹³



Source: americangeosciences.org

Figure 7: Drywell Design Guidance

California Water Resources Control Board, *California Drywell Guidance*, March 2020

The Project's plans for its proposed drywell are subject to review and approval by the City Engineer prior to issuance of a grading permit, and/or initiation of any grading or construction activity at the site. With implementation of an approved Storm Drain Plan, the Project operations-period effects on water quality can be reduced to levels of less than significant.

Approval of the Project would not result in any significant effects relating to water quality, and the Project qualifies under this criterion as an Infill Development pursuant to CEQA Guidelines Section 15332.

h): Utilities and Public Services

The Project site is located in a developed portion of the City that is served by all utilities and public services. The prior residence on the Project site was provided by all utilities (electrical, water, sewer and natural gas) and the Project will rely on these existing utility services, and does not require or propose any new utility services for its

¹³ Per applicable NPDES regulations for "infiltration devices", include any structure that is deeper than wide, and designed to infiltrate stormwater into the subsurface, bypassing the natural groundwater protection afforded by surface soil. These devices include dry wells, injection wells, and infiltration trenches (includes French drains). NPDES Provision C.3.d establishes limits on the use of stormwater treatment systems that function primarily as infiltration devices. The intent of the Provision is to ensure that the use of infiltration devices, where feasible and safe from the standpoint of structural integrity, must also not cause or contribute to the degradation of groundwater quality at the project sites.

operations. The Project site can be adequately served by all utilities and public services, and the Project qualifies under this criterion as an Infill Development pursuant to CEQA Guidelines Section 15332.

Potential Exceptions to a CEQA Exemption

Pursuant to CEQA Guidelines Section 15300, a CEQA exemption would not apply to the Project if the Project would trigger any of the exceptions to categorical exemptions based on site-specific environmental criteria. According to these CEQA Guidelines, a categorical exemption shall not be used for a project under the following circumstances:

<u>Would the Project:</u>	<u>Yes</u>	<u>No</u>	<u>Standard Development Requirements</u>	<u>Level of Significance</u>
a-1) Would the cumulative historic impact of successive projects of the same type in the same place, over time be significant?	☒	☐	-	Significant: Cumulative loss of historic resources and character-defining elements of an historic district
a-2) Would other cumulative impacts of successive projects of the same type in the same place, over time be significant?	☐	☒	Site-Specific Geotechnical Report (FMC Chapter 18.130)	LTS
b) Is there a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances?	☒	☐	-	Significant: prior unauthorized demolition of former historic structure
c) Might the project result in damage to scenic resources including but not limited to trees, historic buildings, rock outcroppings or similar resources within a highway officially designated as a state scenic highway?	☐	☒	-	LTS
d) Is the project is located on a site that is included on any list compiled pursuant to Section 65962.5 of the Government Code?	☐	☒	-	LTS
e) Would the project cause a substantial adverse change in the significance of a historical resource?	☒	☐		Significant; Project results in unavoidable adverse change to an historic resource

a): Cumulative Impact of Successive, Similar Projects

Cumulative Historic Impacts

The Mission San Jose District was the first European settlement in Alameda County, and was a discrete village with the Mission at its heart. The core area of this District likely retains enough intact historic buildings and resources of significance to qualify for nomination as a National Historic District. The residential neighborhood bounded by Ellsworth, Anza, Cedar and Bryant Street is one of the oldest residential blocks in the District, originally developed with small, one-story single-family houses dating from the late 19th century through the

early 20th century. During the last 20 to 30 years, many of these original houses have been demolished and replaced with newer shopping centers and other multi-family housing, eroding the historic neighborhood character.¹⁴

The Project represents a further erosion of this historic neighborhood and contributes to the cumulative loss of the character-defining elements of this historic district. The Project contributes to a cumulative loss of historic resources and character-defining elements of an historic district, and presents an exception to a CEQA exemption pursuant to CEQA Guidelines Section 15300.2(a).

Cumulative Geologic Impacts

The Project site is located within a portion of the City that has been designated as a Hillside Combining District (H-I), where there may be lands with cumulative development constraints related to soil instability, groundwater conditions that may affect or be affected adversely by new construction, landslides and other slope instability concerns. The H-I Combining District includes the hillside areas located above the toe-of-slope as designated on the General Plan Land Use Diagram, as well as areas located below the toe-of-slope and generally located easterly of Mission Boulevard and westerly of I-680, including the Project site (see **Figure 8**). Cumulative development within these geologically constrained areas can further exacerbate these geologic conditions.

Standard Development Requirements

Whereas the Project involves grading and development on land within an area known for having cumulative geological constraints, the following standard development requirements of the FMC would apply to the Project:

- ❖ ***Site-Specific Geotechnical Report (FMC Chapter 18.130):*** Based on a detailed site-specific geotechnical report, the City Engineer or Building Official may find that site-specific geological constraints are capable of reasonable mitigation, such that development of the Project may occur. Such a site-specific geotechnical report shall be prepared by a California licensed professional, and the scope of such report determined by the City Engineer or Building Official based on the type of development or construction proposed and the constraints to the land. Development projects shall also be reviewed according to the architectural and site design standards as established pursuant to FMC Section 18,130.050, inclusive of standards pertaining to grading outside the structure's foundation, building height, foundation walls, decks and retaining walls.

The regulations and standard development requirements applicable within the H-I Combining District are intended to promote and encourage the orderly and safe development of hillside areas of the City, they apply to all cumulative development located within this Combining District zone, and serve to reduce an individual project's contribution to cumulative geologic effects to levels considered less than significant. With implementation of the recommendations of a site-specific geotechnical report, the Project would not make a significant contribution to cumulative geological impacts. An exception under CEQA Guidelines Section 15300.2(a) pertaining to geologic constraints would not apply to the Project.

¹⁴ City of Fremont, Mission San Jose Historic Overlay District Design Guidelines and Regulations, 1998 and as amended through 2010, page 35

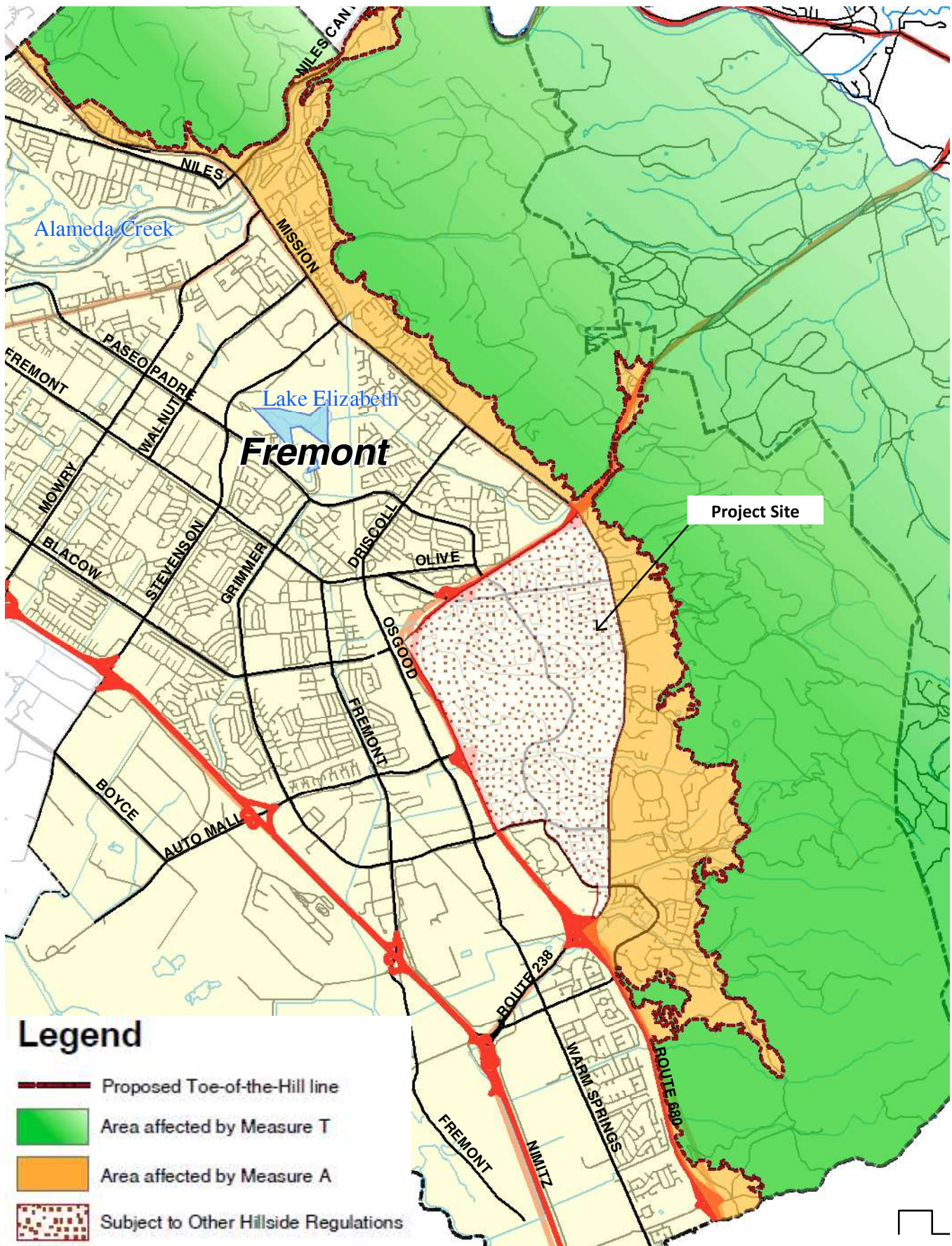


Figure 8
Extent of Lands Affected by the 2002 Hill Area Initiative

Source: City of Fremont, PLN2004-00030, Exhibit A, 2005

Other Cumulative Impacts

The Project's individual impacts under the topics of traffic, water quality, noise and air quality (as evaluated above) are assessed in relation to the combined cumulative effects of other approved, pending and reasonably foreseeable future projects of generally the same type, and in the same general vicinity as the Project. These Project effects have been found to be less than significant, and would not make a considerable contribution to any cumulative effects. Implementation of applicable Standard Development Requirements of FMC Chapter 18.218 serve to reduce the Project's individual contribution to potential cumulative effects to less than significant. An exception under CEQA Guidelines Section 15300.2(a) pertaining to other cumulative effect (other than historic resources) does not apply to the Project.

b): Unusual Circumstances

Pursuant to a prior administrative permit to construct a small addition to a then-existing residence, the former historic residence was structurally damaged. The entire historic residence was demolished and the property was cleared of all debris. No demolition permit was applied for, and no demolition permit was approved for this action. The manner in which this historic resource was lost is an unusual circumstance resulting in a significant and unavoidable impact to an historic resource that is peculiar to the Project and its site. This significant effect poses an exception under CEQA Guidelines Section 15300.2(b) to any CEQA exemptions that might otherwise apply to the Project.

No other unusual circumstance are associated with this Project.

c): Damage to Scenic Resources

The Mission Hills are the primary backdrop to the Fremont area, and form a continuous ridgeline from I-680 south through to Milpitas. The Project would not materially affect any public views or vistas of the Mission Hills.

The California Scenic Highway Mapping System classifies the following officially designated Scenic Highways through the Mission Hills and in the vicinity of the Project:

- I-680 between Mission Boulevard (SR-262) in Fremont and the junction with SR 24 in Walnut Creek is an officially designated Scenic Highway. The California Scenic Highway Mapping System identifies wooded hillsides and valleys as the scenic attributes of the I-680 corridor.
- State Route 84 from Mission Boulevard (SR 238) east to I-680 near Sunol is identified as being eligible for Scenic Highway designation ¹⁵

The Project site is approximately 0.8 miles south of I-680 at Mission Boulevard. Any distant views of the Project site from this nearest Scenic Highway segment are fully obstructed by intervening topography and other existing buildings. The Project does not result in any significant change or damage to scenic resources as seen from a highway officially designated as a State Scenic Highway, and an exception under CEQA Guidelines Section 15300.2(c) does not apply to the Project.

d): Section 65962.5 of the Government Code (i.e., Cortese List)

Hazardous materials sites compiled pursuant to Government Code Section 65962.5 are known as the 'Cortese List'. This list is comprised of identified sites with suspected and/or confirmed releases of hazardous materials to

¹⁵ Caltrans, California Scenic Highway Mapping System, accessed at: <https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways>

the sub-surface soil and/or groundwater that may create a significant hazard to the public or the environment, and is a compilation of data from the following sources:

- the California Department of Toxic Substances Control (DTSC) portion of the Hazardous Waste and Substances Sites List, available on the DTSC EnviroStor database;
- the California State Water Resources Control Board (SWRCB)/or San Francisco Regional Water Quality Control Board (RWQCB) list of leaking underground storage tanks (LUSTs), underground storage tanks (UST), and Spills, Leaks, Investigations and Cleanup (SLIC) sites as listed on the SWRCB GeoTracker database;
- solid waste disposal sites identified by SWRCB with waste constituents above hazardous waste levels outside the waste management unit;
- “Active” Cease and Desist Order (CDO) and Cleanup and Abatement Order (CAO) sites from the SWRCB, and
- hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code, as identified by DTSC and listed on the EnviroStor database

Based on a review of the DTSC EnviroStor database website, the Project site is not on the list of Hazardous Waste and Substances Sites, nor is it a hazardous waste facility subject to corrective action. There are no Cortese List sites identified on the DTSC EnviroStor website within 1 mile of the Project site.¹⁶

Based on a review of the SWRCB GeoTracker database website, the Project site does not have an active Cease and Desist Order (CDO) or Cleanup and Abatement Order, and is not a solid waste disposal site. The Project site is not an “active” or “open case” on the SWRCB list of leaking underground storage tanks, underground storage tanks, or Spills, Leaks, Investigations and Cleanup sites, nor is it listed as a former leaking underground storage tank (LUST) site. The nearest active or open case on the Geotracker website is an open case related to a dry cleaners within the Ohlone Shopping Center, about 500 feet to the north and on the opposite side of Anza Street.¹⁷

An exception under CEQA Guidelines Section 15300.2(d) for sites included on any list compiled pursuant to Section 65962.5 of the Government Code does not apply to the Project.

e): Historic Resources

A California Resources Agency Department of Parks and Recreation Primary Record for 43531 Ellsworth Street was prepared in 2007.¹⁸ According to that Primary Record, the former residence at this site appeared eligible for the California Register for local significance, as a resource associated with events that have made a significant contribution to the broad patterns of local or regional history. The building was thought to be the first residence constructed in the first speculative residential subdivision in the Mission San Jose District of Fremont, and representative of early residential development in Mission San Jose. The building also appeared eligible for the California Register for local significance as a building that embodied the distinctive characteristics of a type and period. The building was a well-preserved, representative example of an early vernacular house in the Town of

¹⁶ California State Water Resources Control Board (SWRCB) GeoTracker database, accessed at: <https://geotracker.waterboards.ca.gov/map/?CMD=runreport&myaddress=Ellsworth+Street%2C+Fremont>

¹⁷ California Department of Toxic Substances Control (DTSC), EnviroStor database accessed at: <https://www.envirostor.dtsc.ca.gov/public/map/?myaddress=Ellsworth+Street%2C+Fremont>

¹⁸ State of California Department of Parks and Recreation, Primary Record for 43531 Ellsworth Street, recorded by Page & Turnbull, Inc., June 2007

Mission San Jose, and the house's small scale, simple materials and gabled roof were characteristic of small houses built in agricultural areas during the late-nineteenth century. As of 2007, the house had been well preserved and retained a high degree of integrity of design, materials and workmanship, and expressed the character of vernacular architecture in the early development of the Town of Mission San Jose.

As a pre-requisite for construction of the proposed new residence, the proposed Project requires completion of the partial demolition to this historic resource that has already occurred, which resulted from structural damage during construction of a small addition. That partial demolition has already occurred, and has resulted in a substantial adverse change in the significance of this historical resource. The full environmental consequences of any action to approve the proposed Project would result in total removal of the remaining portions of this building.

his significant effect poses an exception under CEQA Guidelines Section 15300.2(e) to any CEQA exemptions that might otherwise apply to the Project.

IV – CEQA Determination

On the basis of this initial evaluation:

- ☐ I find that the proposed project could not have a significant effect on the environment, and a Negative Declaration will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A Mitigated Negative Declaration will be prepared.
- ☐ I find that the proposed project may have a significant effect on the environment, and an Environmental Impact Report is required.
- ☒ I find that the proposed project may have a significant effect on the environment. An Environmental Impact Report is required, but that Environmental Impact Report may be focused on the following topics as analyzed in this abbreviated CEQA Infill Development Exemption Checklist:
 - Historic Resource Impacts
 - Cumulative Historic Resource Impacts
 - Unusual Circumstances related to Historic Resources
- ☐ I find that the proposed project may have a potentially significant impact on the environment, but at least one effect has been adequately analyzed in an earlier document pursuant to applicable legal standards, and has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Scott Gregory
Signature Consultant at Lamphier-Gregory

12-09-24
Date

Sources

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